Architects and engineers
Professional indemnity insurance

Policy wording

AVIVA
Syndicates

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IMPORTANT NOTICES

About Aviva Syndicates Pacific

Aviva Syndicates (Pacific) Pty Ltd (ASPL) ABN 82 663 993 244 AFSL 545082 has an authority from the Insurer to arrange, enter into, bind and administer this policy (including handling and settling claims) on behalf of the Insurer as if it were the Insurer. ASPL acts as an agent for the Insurer and not for the Insured (also referred to in these Important Notices as "you" and "your").

Your duty of Disclosure

Before you enter into an insurance contract, you have a duty to tell us of anything that you know, or could reasonably be expected to know, that may affect our decision to insure you and on what terms. You have this duty until we agree to insure you.

You have the same duty before you renew, extend, vary, replace, or reinstate an insurance contract. If you have made a statement and this changes before the end of the above relevant time, you must tell us about this change before the time ends.

You do not need to tell us anything that:

- reduces the risk we insure you for;
- is of common knowledge;
- we know or should know as an **Insurer**; or
- we waive your duty to tell us about.

If You do not tell Us something

If you do not meet the duty, to the extent permitted by law, we may reject or not fully pay your claim. We may also, or as an alternative, cancel your insurance or if the failure to meet the duty was fraudulent, treat it as if it never existed.

Claims made and notified

Policy Section 1 – Professional Indemnity of this insurance is issued on a 'claims made and notified' basis. This means that the **Policy** covers Claims that are first made against you and notified to us during the **Policy Period**.

Where your **Policy** has an extended or additional reporting period, subject to the terms of the **Policy**, you may have:

- an additional period to tell us about Claims first made against you during the Policy Period; and/or
- cover for Claims first made against you during the extended reporting period and which you tell us about during the extended reporting period – provided the **Claim** is based on an act, error, or omission alleged to have been committed prior to the expiry of the **Policy Period**.

Policy Section 1 – Professional Indemnity of this **Policy** doesn't cover facts or circumstances of which you first became aware prior to the **Policy Period**, and which you knew or ought reasonably to have known had the potential to give rise to a Claim against you, subject to any 'Continuous Cover' extension which may, subject to its terms, provide an exception to this.

If a **Retroactive Date** is applied or shown on the **Policy Schedule**, the **Policy Section** 1 – Professional Indemnity also doesn't cover **Claims** arising directly or indirectly from any acts, errors, omissions, or events actually or allegedly occurring before that date.

The above is only a high-level overview. You must refer to the **Policy** for full terms and conditions that apply to you.

Written notification of facts

By reason only of the operation of section 40(3) of the Insurance Contracts Act 1984 (and not as a term of the **Policy**), if you give us notice in writing of facts that might give rise to a Claim against you as soon as reasonable after you became aware of those facts but before the insurance cover provided by the **Policy** expired, we are not relieved of liability under the **Policy** in respect of the claim, when made, by reason only that it was made after the expiration of the **Policy Period**. Any such rights arise under the legislation only and not the **Policy** terms.

General Insurance Code of Practice

The Insurance Council of Australia Limited has developed the General Insurance Code of Practice (Code), which is a voluntary self-regulatory code. The Code aims to raise the standards of practice and service in the insurance industry. Lloyd's has adopted the Code on terms agreed with the Insurance Council of Australia. For further information on the Code, please visit www.codeofpractice.com.au The Code Governance Committee (CGC) is an independent body that monitors and enforces insurers compliance with the Code. For more information on the Code Governance Committee (CGC) go to www.insurancecode.org.au

Complaints and Disputes

If you have any concerns or wish to make a complaint in relation to this Policy, our services or your insurance claim, please let us know and we will attempt to resolve your concerns in accordance with our Internal Dispute Resolution procedure.

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Please contact ASPL in the first instance:

Complaints Officer
Aviva Syndicates (Pacific) Pty Ltd
Telephone: 1300 001 492
Email: AusComplaints.syndicates@aviva.com
Post: Level 13, 60 Carrington St Sydney NSW 2000

We will acknowledge we have received your complaint and aim to resolve the complaint to your satisfaction.

A complaint decision will be provided to you within 30 calendar days. If we are unable to meet this timeframe we will inform you of the reason for the delay.

If your complaint is not resolved to your satisfaction, or you do not receive a complaint decision within 30 calendar days of the date on which you first made the complaint, you can refer your complaint to the Australian Financial Complaints Authority (AFCA).

AFCA can be contacted as follows:
Telephone: 1800 931 678
Email: info@afca.org.au
Post: GPO Box 3 Melbourne VIC 3001
www.afca.org.au

AFCA services are provided to you free of charge. Your complaint must be referred to AFCA within 2 years of the complaint decision, unless AFCA considers special circumstances apply. If your complaint is not eligible for consideration by AFCA, you may have access to other external dispute resolution options.

Service of Suit

The Underwriters participating in this Insurance agree that:

(i) if a dispute arises under this Insurance, this Insurance will be subject to Australian law and the Underwriters will submit to the jurisdiction of any competent Court within the Commonwealth of Australia;

(ii) service of any originating process upon the Lloyd's Underwriters may be effected upon:
Lloyd's Underwriters' General Representative in Australia
Post: PO Box R1745, Royal Exchange NSW 1225
Email: serviceofsuitaus@lloyds.com

who has authority to accept service on the Lloyd's Underwriters' behalf until the appointment of another agent for service which is notified to the insured;

(iii) if a suit is instituted against "Certain Underwriters at Lloyd's subscribing this policy", it is binding on all Lloyd's Underwriters participating in this Insurance as if they had each been individually named as a defendant.

In the event of a claim arising under this Insurance immediate notice should be given to:
AusClaims.syndicates@aviva.com

Privacy Statement

In this Statement:

- "We", "Our" and "Us" means Aviva Syndicates (Pacific) Pty Ltd and the Lloyd's Underwriters we act on behalf of.
- "You" and "Your" refers to anyone using Our services or providing Personal Information.

We are committed to protecting Your privacy in accordance with the requirements of the Privacy Act 1988 (Cth) ("Privacy Act") and the Australian Privacy Principles (APPs), as amended, replaced or superseded from time-to-time.

This Statement is a summary of Our Privacy Policy and provides an overview of how We collect, hold, use and disclose Personal Information. Our Privacy Policy may change from time to time and where this occurs, the updated Privacy Policy will be posted to Our website at syndicates.aviva.com/privacy-policy-pacific/

Personal Information

Information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- whether the information or opinion is true or not;
- whether the information or opinion is recorded in a material form or not.

It includes Sensitive Information as defined in the Privacy Act which includes, amongst other things, information about an individual's racial or ethnic origin, political opinions, membership of a political organisation, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual orientation or practices, criminal record, health information about an individual, genetic information, biometric information or templates.

Why We collect, hold, use and disclose Your Personal Information

The primary purpose for collecting, holding, using and disclosing Your Personal Information is to enable Us to provide Our insurance services to You or where reasonably necessary for or directly related to one or more of our insurance functions and activities (including but not limited to deciding whether to issue a **Policy**, determine the terms and conditions of the **Policy**, compiling data to help develop and identify

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other products and services that may interest clients, and handling claims). Sometimes We may use Your Personal Information for Our marketing campaigns and research, in relation to new products, services or information that may be of interest to You.

If You do not provide the personal information requested and/or do not provide Us with Your consent to collecting, holding, using or disclosing Your Personal Information as set out in this Privacy Statement, We may not be able to provide our insurance services (for example, Your insurance application may not be accepted) or You may be in breach of Your duty regarding disclosure to insurers.

How We obtain Your Personal Information

We collect Your Personal Information at various points including, but not limited to, when You are applying for, changing, or renewing an insurance **Policy** with Us or when We are processing a claim or handling any complaint. Personal Information is usually obtained directly from You, but sometimes via a third party such an insurance intermediary or your broker or Your employer (e.g. in the case of a group insurance **Policy**). Please refer to Our Privacy Policy for further details.

When information is provided to Us via a third party, We use that information on the basis that You have consented or would reasonably expect Us to collect Your Personal Information in this way. We take reasonable steps to ensure that You have been made aware of how We handle Your Personal Information.

When do We disclose Your Personal Information?

We may disclose the information We collect to third parties where it is reasonably necessary for, or directly related to, the services we provide to You.

This can include the policyholder (where the insured person is not the policyholder, i.e. group policies) to joint policyholders, our related companies (and persons they rely on to provide their services), our agents or contractors, insurers, their agents and others they rely on to provide their services and products (e.g. reinsurers), premium funders, other insurance intermediaries, insurance reference bureaus, loss adjusters or assessors, medical service providers, credit agencies, lawyers and accountants, prospective purchasers of our **Business** and our alliance and other **Business** partners. They are prohibited from using Your Personal Information except for the specific purpose for which We supply it to them and We take such steps as are reasonable to ensure that they are aware of the provisions of Our Privacy Policy in relation to Your Personal Information.

These third parties which may be located outside of Australia (such as in the UK). These entities and their locations may change from time-to-time. Please contact Us, if You would like a full list of the countries in which these third parties are located. When we send information overseas, in some cases we may not be able to take reasonable steps to ensure that overseas providers do not breach the Privacy Act and they may not be subject to the same level of protection or obligations that are offered by the Act. By proceeding to acquire our services and products you agree that you cannot seek redress under the Act or against us (to the extent permitted by law) and may not be able to seek redress overseas. If you do not agree to the transfer of your personal information outside Australia, please contact us.

When You give Us Personal Information about other individuals

In such a case We rely on You to have made or make the individual aware that You will or may provide their personal information to Us and the types of other parties and service providers We may provide it to, the relevant purposes We and the other parties and service providers will use it for, and how they can access it. If You have not done or will not do either of these things, You must tell Us before You provide the relevant Personal Information to Us.

Your decision to provide Your Personal Information

In dealing with Us, You agree to Us collecting, using and disclosing Your Personal Information, which will be collected, stored, used and disclosed by Us as set out in this Privacy Statement and Our Privacy Policy.

Access to and correction of Your Personal Information

Please contact Us if You would like:

- a copy of Our Privacy Policy, or
- to cease to receive marketing offers from Us or persons with whom We have an association.
- to seek access to, update or correct Your Personal Information held by Us

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POLICY DETAILS

AGREEMENT WITH THE INSURED

This **Policy** is a legal contract between the **Policyholder** and the **Insurer** and is made up of this **Policy Wording** and the **Policy Schedule**. The Important Notices do not form part of the **Policy**. The **Policyholder** has agreed to pay the **Insurer** the **Premium** and the **Insured** may access the benefit of cover under the **Policy**, provided that the **Insured** meets the eligibility criteria at the time.

RETENTION

With respect to **Policy Section** 1 – Professional Indemnity, the **Insurer** shall only pay the amount of any **Loss** or **Direct Financial Loss** which is in excess of the **Retention,** unless specified otherwise under the relevant Extension or Optional Extension.

With respect to **Policy Section** 2 – Public Liability, the **Insurer** shall only pay for any **Public Liability** or associated **Defence Costs** which are in excess of the **Retention** applicable to **Policy Section** 2 of this **Policy**. A single **Retention** shall apply to **Public Liability** and associated **Defence Costs** arising from a single **Occurrence** (as detailed in the Related Occurrences condition).

The **Retention** is to be borne by the **Insured** and shall remain uninsured.

HOW MUCH THE INSURER WILL PAY

With respect to **Policy Section** 1 – Professional Indemnity, the most the **Insurer** will pay in respect of any single **Claim, Inquiry, Direct Financial Loss** or other **Loss** covered under the **Policy** is the **Limit of Liability** or any applicable **Sublimit** stated in the **Policy Schedule**. The most the **Insurer** will pay in the **Policy Period** is the **Aggregate Limit.**

With respect to **Policy Section** 2 – Public Liability, the **Insurer's** liability to pay compensation and/or claimant's costs and expenses shall not exceed the **Limit of Liability** shown on the **Schedule** for each **Occurrence.**

The **Limit of Liability** is inclusive of **Defence Costs**. **Sublimits** are part of, and not in addition to, the **Limit of Liability** or the **Aggregate Limit**.

The inclusion of more than one **Insured** under this **Policy** does not operate to increase the total amount payable by the **Insurer** under this **Policy**.

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DEFINITIONS

Some key words and terms used in this **Policy** have a special meaning. Wherever the following words or terms are used in the **Policy**, they mean what is set out below:

Word or term	Meaning
Advertising Liability	liability arising out of: a) defamation; b) infringement of copyright, title or slogan; c) unfair competition, misappropriation of advertising ideas or style of doing **Business**; or d) invasion of privacy. 'Advertising' shall mean any manner of communication given to the public including by way of any form of print media, telecommunication, radio or television broadcast, electronic mail, internet, world wide web or exhibit.
Aggregate Limit	the amount shown as the **Aggregate Limit** in the **Policy Schedule.**
Aircraft	any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space.
Bodily Injury	physical injury, sickness, disease, death, mental injury, mental anguish, nervous shock or emotional distress of any natural person.
Business	the business in connection with the **Policyholder's Professional Services** and includes the following activities incidental to such: a) ownership, tenancy, maintenance and repair of real property; b) **Good Samaritan Acts** and provision of first aid; and c) provision of fire and security services primarily for the protection of persons, or property owned or leased by the **Policyholder** or any **Subsidiary.**
Claim	the receipt of any writ, statement of claim, summons, application or other originating legal or arbitral process, cross-claim, counterclaim or third or similar party notice, or written demand, for compensation.
Claim Prevention Costs and Expenses	the reasonable and necessary direct costs and expenses incurred by the **Insured** for the rectification or mitigation of a potential **Claim** which the **Insured** has first become aware of during the **Policy Period**, following the notification of such potential **Claim** to the **Insurer** during the **Policy Period,** and which costs and expenses the **Insurer** consents to in writing and which the **Insurer** determines to be directly attributable to and reasonably incurred in the prevention of a **Claim** which, if made, would be covered by this **Policy**. **Claim Prevention Costs and Expenses** does not include: a) an **Insured's** loss of opportunity, revenue or profits; b) overheads, staff remuneration or management time of any **Insured**; c) damages, compensation or other payments made, or consideration given, to customers, clients or potential claimants; d) any amount once a **Claim** is made; e) any amount incurred before notification to the **Insurer** of the potential **Claim**; f) any amounts incurred which result in an increased quality from that specified in the relevant contract; or g) any other amounts which fall within the definition of **Loss**.
Computer System	any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or

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Word or term	Meaning
	microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, which is: a) owned or operated by the **Insured**, or b) operated by a **Third Party** pursuant to a written contract with the **Insured** in order to provide hosted computer application services or processing, storing or hosting of the **Insured's** electronic data.
Continuity Date	the continuity date specified in the **Policy Schedule**.
Cyber Incident	a) any error or omission involving access to, processing of, use of or operation of any **Computer System**; or b) any partial or total unavailability or failure to access, process, use or operate any **Computer System**.
Cyber Operation	any hostile act or series or related hostile acts at the direction, or under the control of a sovereign state to alter, disrupt, deny, degrade, manipulate or destroy information in a **Computer System** of or in another sovereign state.
Cyber Security Breach	a) unauthorised access or use of **Computer Systems**; b) a denial of service attack affecting **Computer Systems**; c) the infection of **Computer Systems** with malicious code or software; or d) the transmission of malicious code or software from a **Computer System.**
Damages	a) any amount an **Insured** is legally liable to pay to a **Third Party** as compensation arising from a judgment against an **Insured** including awards of a **Third Party's** legal costs or expenses; or b) any reasonable settlement paid to a **Third Party** for the resolution of a **Claim** or **Inquiry** with the **Insurer's** consent and in accordance with the *Claim Conditions* and *General Conditions* of this **Policy**.
Data	information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a **Computer System.**
Defence Costs	with respect to **Policy Section** 1 – Professional Indemnity only: the reasonable legal costs including reasonable appeal costs and other necessary expenses incurred in the investigation, defence, settlement and/or appeal of a **Claim** by the **Insured** or on the **Insured's** behalf with the **Insurer's** prior written consent. **Defence Costs** do not include the **Insured's** overheads or any salaries, wages, fees or benefits of **Insured Persons** with respect to **Policy Section** 2 – Public Liability only: the reasonable legal costs including reasonable appeal costs and other necessary expenses incurred by the **Insured** or on the **Insured's** behalf with the **Insurer's** prior written consent in the investigation, defence, settlement and/or appeal of any claim, writ, summons, or impending proceedings for which indemnity is available under **Policy Section** 2. **Defence Costs** do not include the **Insured's** overheads or any salaries, wages, fees or benefits of **Insured Persons**.
Direct Financial Loss	direct financial loss due to the loss of any currency, coins, bank notes, bullion, cheques, travellers' cheques, money orders, postal orders, precious metals, stamps, coupons, or securities owned by the **Policyholder** or any **Subsidiary**. **Direct Financial Loss** shall not include:

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Word or term	Meaning
	a) cryptocurrency, wages, salaries, or other remuneration or benefits paid by the Policyholder or any Subsidiary to its **Employees**, partners, principals, or directors; b) non-payment or default under any credit arrangement; or c) any costs, fees, or expenses incurred by the **Insured** in prosecuting or defending any demand, claim, or legal proceeding arising from a covered **Direct Financial Loss**.
Discovered	when any of the **Executive Officers** (who are not colluding with an **Employee** committing or attempting to commit a **Fraudulent Act**) first become aware of facts that would lead a reasonable person to assume that a **Direct Financial Loss** covered under this **Policy** has been or is likely to be incurred, even if the exact amount or details are unknown at that time. The first **Discovery** is considered **Discovery** by all **Insureds**.
Documents	any documents of any nature whatsoever, whether written, printed or reproduced by any method including computer records and electronic data material. Documents does not include bearer bonds or coupons, stamps, bank or currency notes or any other negotiable instrument.
Employee	a) any natural person employed under a contract of service or apprenticeship with any **Policyholder** or **Subsidiary**; b) any contractor or consultant acting under a written contract for the performance of **Professional Services** solely for and on behalf of any **Policyholder** or **Subsidiary**; or c) any natural person volunteer acting solely under the direct supervision of any **Policyholder** or **Subsidiary**.
Employment Practices Liability	any: a) discharge or termination, either actual or constructive, of an employment relationship; b) breach of any oral or written, express of implied, employment contract or quasi-employment contract; c) misleading representation or advertising relating to employment. d) failure to employ or promote; e) unfair deprivation of a career opportunity; f) unfair discipline; g) failure to grant tenure; h) negligent employee evaluation; i) workplace harassment of any kind (whether sexual or otherwise), including the alleged creation or permission of a harassing workplace environment; or j) employment-related: denial of natural justice, invasion of privacy; defamation; infliction of emotional distress; or discrimination on any legally prohibited basis.
Essential Service	a service that is essential for the maintenance of vital functions of a sovereign state including but not limited to financial institutions and associated financial market infrastructure, health services or utility services.
Executive Officer	Any partner, principal, director, chief executive officer, chief financial officer, chief operating officer, chief information officer, general counsel or equivalent position of any **Policyholder** or **Subsidiary**.
Fraudulent Acts	any fraudulent or dishonest act by an **Employee**, excluding volunteers, (acting alone or in collusion with others) with the primary intent to cause the **Policyholder** or any **Subsidiary** to suffer a **Direct Financial Loss**, resulting in the **Employee** or another intended individual or entity gaining improper financial benefits.

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Word or term	Meaning
Good Samaritan Acts	assisting at the scene of a medical emergency, accident or disaster provided by an **Insured** present either by chance, or in response to an S.O.S. call following a disaster or accident whilst at or in transit to or from the address of the **Business**.
Hovercraft	any vessel, craft or thing made or intended to float on or in or through the atmosphere or water.
Impacted State	a sovereign state where a **Cyber Operation** has a major detrimental impact on: a) the functioning of that sovereign state due to disruption to the availability, integrity or delivery of an **Essential Service** in that sovereign state; and/or b) the security or defence of that sovereign state.
Inquiry	an investigation, examination or inquiry by a Coroner, **Regulatory Authority** or disciplinary committee of any association or professional body of which the **Insured** is a member. Inquiry does not include any audit of the **Insured,** a **Royal Commission,** any inquiry into the industry as whole, or any routine supervision, inspection, compliance audit or similar review.
Insured	a) the **Policyholder** or any **Subsidiary**; and b) any **Insured Person**.
Insured Person	a) any **Executive Officer**; or b) any E**mployee**.
Insured's Product	any commodity, article or thing (after it has ceased to be in the possession or under the control of an **Insured**) which is or is deemed (whether by law or otherwise) to have been manufactured, constructed, grown, extracted, produced, processed, assembled, erected, installed, treated, altered, serviced, repaired, sold, handled, supplied or distributed by an **Insured** or by others trading under the name of the Insured, including any container thereof (other than a vehicle) in the course of the **Business**.
Insurer	the insurer specified as such in the **Policy Schedule**.
Limit of Liability	the amount shown as the **Limit of Liability** in the **Policy Schedule** for each applicable **Policy Section**.
Loss	a) **Damages** b) **Defence Costs** c) **Court Attendance Costs** pursuant only to the Court Attendance Costs Extension. d) **Inquiry Costs and Expenses** pursuant only to the Inquiry Costs and Expenses Extension. e) **Penalties** pursuant only to the Penalties Extension. **Loss** shall also include **Cyber Mitigation Costs** where such extension is provided for in the **Policy Schedule**. **Loss** does not include: a) taxes, fines, or penalties payable by the **Insured**; b) non-compensatory damages including exemplary, aggravated, punitive, multiple, or liquidated damages, or restitutionary relief; c) costs and expenses of complying with any order for, grant of or agreement to provide injunctive or other non-monetary relief; or d) any matters which may be deemed uninsurable under the law governing this **Policy** or the jurisdiction in which a **Claim** or **Inquiry** is brought.

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Word or term	Meaning
Medical Practitioner	a person with a doctor's qualification or higher who is registered under the *Health Practitioner Regulation National Law Act* 2009 to practice that profession in Australia.
Occurrence	an event, including continuous or repeated exposure to substantially the same general conditions, which results in **Personal Injury** or **Property Damage** neither expected nor intended from the standpoint of the **Insured**. All exposure to substantially the same general conditions shall be deemed one **Occurrence**.
Penalty	any civil penalty imposed by a **Regulatory Authority** or a disciplinary committee of any association or professional body of which the **Insured is** a member.
Personal Injury	death, physical injury, sickness or disease to any person, disability, shock, mental anguish or mental injury, false arrest, wrongful detention, false imprisonment or malicious prosecution, wrongful entry or eviction, and assault and battery not committed by or at the direction of an **Insured** unless committed for the purpose of preventing or eliminating danger to persons or property.
Policy Period	the period specified in the **Policy Schedule**, unless ending earlier in accordance with the **Policy** terms or relevant law.
Policy	this policy wording and the **Policy Schedule**, including any endorsements.
Policy Schedule	the schedule to this **Policy**, including any endorsements.
Policy Section	the separate sections of this **Policy** identified as **Policy Section** 1 – Professional Indemnity and **Policy Section** 2 - General Liability.
Policyholder	the policyholder named as such in the **Policy Schedule**.
Pollutant	any solid, liquid, gaseous, radiological, biological, or thermal irritant or contaminant including smoke, vapour, soot, fumes, acids, alkali, chemicals, germs, fibres, fungus, or waste including, but not limited to asbestos or toxic mould. Waste includes materials to be recycled, reconditioned or reclaimed.
Premium	the amount shown as premium in the **Policy Schedule.**
Product Liability	any legal liability arising out of or in connection with the **Insured's Products** or any representation or warranty made in relation to the **Insured's Products**.
Professional Services	the provision of the following professional services to a **Third Party** carried out under the direct control and supervision of a tertiary qualified engineer, architect, surveyor, or quantity surveyor: a) architecture b) town planning c) landscape design d) interior design e) drafting services f) quantity surveying g) land surveying h) civil engineering i) structural engineering j) mechanical engineering k) hydraulic engineering l) electrical engineering; and

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Word or term	Meaning
	m) project management. **Professional Services** excludes the performance or supervision of construction, manufacture, assembly, installation, erection, maintenance where such supervision would normally be undertaken by a building contractor, site supervisor, site manager, superintendent, or foreman.
Property Damage	a) physical damage to or loss of or destruction of tangible property including any resultant loss of use of that property; and for the purpose of **Policy Section** 2 – Public Liability only: b) loss of use of tangible property which has not been physically damaged, lost or destroyed provided such loss of use is caused by an **Occurrence**.
Public Liability	any legal liability which is not **Product Liability**.
Regulatory Authority	a person or entity appointed, constituted or acting under a delegation pursuant to any legislation for the purposes of enforcement of such legislation.
Retention	the amount shown as the retention in the **Policy Schedule.**
Retroactive Date	the retroactive date specified in the **Policy Schedule.**
Royal Commission	a royal commission or commission of inquiry.
Senior Counsel	a barrister in active practice who is entitled to use the post-nominals QC, KC, or SC in any one or more superior court.
Sublimit	any amount shown as a **Sublimit** of indemnity in the **Policy Schedule.**
Subsidiary	a company or entity of which the **Policyholder**: a) is the sole owner; or b) controls the composition of the board of directors; or c) controls more than half the voting power; or d) holds more than half of the issued share capital; as at the commencement of the **Policy Period**. Provided always that cover is only available under this **Policy** for a **Claim**, **Inquiry** or **Loss** which arises from the performance of **Professional Services** while such company or entity is a **Subsidiary** of the **Policyholder**.
Third Party	any entity or natural person other than: a) an **Insured**; or b) any entity or natural person which has a financial interest or executive role in the **Policyholder** or any **Subsidiary**.
Vehicle	any type of machine on wheels (other than a motorised wheelchair/scooter) or self-laid track made or intended to be propelled by other than manual or animal power and any trailer or other attachment made or intended to be drawn by any such machine.
War	war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition of or damage to property by or under the order of any government, public or local authority.
Watercraft	any vessel, craft or thing made or intended to float on or in or travel on or through water.

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POLICY SECTION 1 - PROFESSIONAL INDEMNITY

LEGAL LIABILITY AND DEFENCE COSTS

The **Insurer** agrees to pay the **Insured's** civil liability for **Loss** solely arising:

a) from any **Claim** first made against the **Insured** during the **Policy Period**; and
b) out of the performance of the **Professional Services** by the **Insured**.

INSURING CLAUSE CLARIFICATIONS

Subject to the Legal Liability and Defence Costs insuring clause, but without limiting its scope, the **Insurer** agrees to pay the **Insured's** civil liability for **Loss** from any **Claim**:

Artificial Intelligence	arising out of the use of any artificial intelligence software in the performance of **Professional Services**.
Consumer Protection Legislation	made under the Australian Consumer Law or the *Competition and Consumer Act 2010* (Cth) or any similar legislation enacted by any states or territories in Australia and New Zealand.
Cyber Risks	arising out of any **Cyber Security Breach** or **Cyber Incident.**
Defamation	made against the **Insured** for defamation, slander, or libel.
Fiduciary Duty	made against the **Insured** for a breach of fiduciary duty arising out of the performance of **Professional Services**.
Intellectual Property	made against the **Insured** for any unintentional infringement of copyright, trademark, registered design, plagiarism or breach of confidentiality.
Loss of Documents	made against the **Insured** for the unintentional destruction, damage, misplacement, deletion, or loss of **Documents** while in the **Insured's** physical custody or control and for which the **Insured** is legally responsible.
Privacy Complaints and Claims	in relation to actual or alleged breaches of confidentiality or privacy.
Vicarious Liability	made against the **Insured** arising out of the performance of **Professional Services** by any other person on behalf of the **Insured** for which the **Insured** is legally liable or is alleged to be legally liable.
Former Subsidiaries	made against the **Insured** arising out of the performance of **Professional Services** by a **Subsidiary** prior to the date of its acquisition by another entity.
Joint Venture	made against the **Insured** for that proportion of any legal liability arising out of the performance of the **Insured's Professional Services** in which **the Insured** is engaged as a joint venturer or as a partner, providing that the joint venture has been disclosed by the **Policyholder** to the **Insurer** prior to the inception of the **Policy**. No cover is provided to any associate or joint venture partner of the **Insured.**

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EXTENSIONS APPLICABLE TO POLICY SECTION 1

ADVANCEMENT OF DEFENCE COSTS & INQUIRY COSTS AND EXPENSES

If the **Insured** notifies the **Insurer** of a **Claim** or an **Inquiry**, **Insurers** will pay the **Insured's Defence Costs** or **Inquiry Costs and Expenses** as applicable after erosion of the **Retention**, prior to acceptance that coverage applies under this **Policy**, which the **Insured** incurs with a lawyer on the **Insurer's** legal panel up to the **Sublimit** while the **Insurer** determines whether or not the **Policy** responds, provided invoices are sent to the **Insurer** for payment. However, the **Insured** must repay the **Insurer** all payments of **Defence Costs** and **Inquiry Costs and Expenses** to the extent that such **Defence Costs** and **Inquiry Costs and Expenses** are determined to not be indemnified under the **Policy**.

The **Insurers** liability to indemnify the **Insured** under this extension shall not exceed the **Sublimit** stated in the **Policy Schedule**.

COLLATERAL WARRANTIES

The **Insurer** agrees to pay the **Insured's** civil liability for **Loss** arising out of the performance of **Professional Services** by the **Insured** and arising from any collateral warranties or similar agreements provided by the **Insured**, but only to the extent that the benefits of such warranties or agreements are not greater or longer lasting than those given to the party with whom the **Insured** originally contracted to provide the **Professional Services**, and only to the extent that such civil liability would have attached to the **Insured** in the absence of such contractual duty, term or agreement.

CONDUCT

Notwithstanding the Conduct Exclusion, the **Insurer** will pay the **Insured's** civil liability for **Loss** arising from any **Claim** for dishonest or fraudulent conduct by an **Insured Person** in the performance of **Professional Services** for the actual or alleged performance of Professional Services that are (a) criminal, dishonest, fraudulent, malicious or deliberately reckless; or (b) a deliberate breach of contract, professional duty or any law which, but for the Conduct Exclusion, would have been covered under this **Policy**, provided that no cover is provided to any **Insured** committing or acquiescing in the act or omission that would have otherwise caused the Conduct Exclusion to apply. For the purposes of this Extension, the conduct of any **Executive Officer** is imputed to the **Insured**.

CONTINUOUS COVER

Notwithstanding sub-paragraph (b) of the Prior or Pending Exclusion, the **Insurer** will pay the **Insured's** civil liability for **Loss** arising out of any **Claim** first made against the **Insured** during the **Policy Period** or reasonable legal costs and expenses resulting from the **Insured's** response or attendance at any **Inquiry** into the conduct of the **Insured's Professional Services** first commenced during the **Policy Period**, which arises out of facts or circumstances which ought to have been notified to the **Insurer** prior to the commencement of the **Policy Period** but weren't, where:

a) the **Insured** has been continuously insured by the **Insurer** since the date when the facts giving rise to the **Claim** or **Inquiry** should have been notified; or
b) the **Insured** first became aware of the facts that might give rise to the **Claim** or **Inquiry** after the **Continuity Date**;

Provided that:

a) the failure to notify the **Insurer** was not deliberate or fraudulent;
b) the **Claim** or **Inquiry** shall be dealt with in accordance with the policy limits, terms and conditions in force when the **Insured** was first aware of circumstances giving rise to the **Claim** or **Inquiry**; and
c) the **Insurer's** liability to indemnify the **Insured** is reduced to the extent of any prejudice suffered by the **Insurer** as a result of the late notification.

COURT ATTENDANCE COSTS

The **Insurer** will pay the amounts specified in the **Policy Schedule**, up to the relevant **Sublimits**, for **Court Attendance Costs** incurred by **Employees** or **Executive Officers** if they attend court as a witness in any **Claim** or **Inquiry** for which the **Insurer** has agreed to indemnify the **Insured**. The **Insured** does not have to pay any **Retention** under this Extension.

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EXTENDED REPORTING PERIOD

If this **Policy** is:

a) not renewed; or
b) cancelled (for any reason other than non-payment of premium);

then the **Insurer** will, subject to the full terms and conditions of this **Policy**, indemnify the **Insured** for any **Claim** first made within 60 days after the expiration or cancellation of this **Policy** and arising out of the performance of the **Professional Services** performed prior to the expiration or cancellation of this **Policy**. This additional benefit ceases once the **Insured** is insured under another professional indemnity insurance policy.

HEIRS AND ESTATES

In the event of the death or mental incapacity of any **Insured Person** the **Insurer** agrees to extend the definition of **Insured** to include their heirs, estate, legal representatives, or assignees.

INQUIRY COSTS AND EXPENSES

The **Insurer** will pay the **Insured's** reasonable legal costs and expenses, up to the **Inquiry Costs and Expenses Sublimit** stated in the **Policy Schedule**, resulting from the **Insured's** response or attendance at any **Inquiry** into the conduct of the **Insured's Professional Services**, where the **Insured** has been first served during the **Policy Period** with written notice requiring them to respond to, or attend, the **Inquiry**.

This extension does not include the **Insured's** overheads or any salaries, wages, fees or benefits of any **Insured Persons**.

LEGAL ADVISORY PANEL

The **Insurer** will pay for a consultation (of up to one hour) with a member of the **Insurer's** legal advisory panel on any matter related to the risks insured under the **Policy**, except in relation to the scope of the **Policy**. For more information, please see the **Insurer's** website or the relevant brochure.

NEWLY CREATED OR ACQUIRED SUBSIDIARIES

The **Insurer** will extend the definition of the **Insured** to include **Subsidiaries** created or acquired by the **Insured** during the **Policy Period.** The cover under this additional benefit:

a) ceases after 30 days from the creation or acquisition of that **Subsidiary**, unless we have agreed to insure that **Subsidiary** and **the Insured** have paid **the Insurer** any additional premium;
b) does not apply to **Claims, Inquiries** or **Loss** arising from acts, errors or omissions occurring prior to the acquisition of such **Subsidiary**; and
c) only applies to the same **Professional Services** as provided by the **Insured**.

PENALTIES

Notwithstanding the definition of **Loss**, the **Insurer** will indemnify the **Insured** for **Penalties** up to the **Penalties Sublimit**, which the **Insurer** is not prohibited by law from paying, arising out of a **Claim** first made or **Inquiry** first commenced during the **Policy Period**, arising out of the performance of the **Professional Services.** This Extension does not include **Loss** that would otherwise qualify for cover under the Optional Extension for **Cyber Mitigation Costs**.

PUBLIC RELATIONS EXPENSES

The **Insurer** will pay reasonable costs up to the **Public Relation Expense Sublimit** of a public relations consultant the **Insured** engages to protect the **Insured's** reputation from damage which may result in a **Claim** if an allegation has been made against the **Insured** about the performance of **Professional Services.** This Extension does not include **Loss** that would otherwise qualify for cover under the Optional Extension for **Cyber Mitigation Costs**.

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RUN OFF COVER

If the **Policyholder** ceases to exist or operate or is consolidated with, merged into or acquired by any other entity then the **Policy Period** may be extended for up to eighty-four (84) months with the **Insurer's** agreement, provided that:

a) any cover will only apply in respect of any **Claim, Inquiry** or **Loss** arising from the **Professional Services** undertaken prior to the effective date that the **Policyholder** ceased to exist or operate or was consolidated with, merged into or acquired by another entity;
b) additional premium, to be determined at sole discretion of the **Insurer**, is payable for any period by which the run off cover exceeds the original expiry date of the **Policy Period**, and must be paid to the **Insurer** within thirty (30) days of the effective date that the **Policyholder** ceased to exist or operate or was consolidated with, merged into or acquired by another entity; and
c) this Extension does not increase the **Limit of Liability** or the **Aggregate Limit.**

SEVERABILITY / NON-IMPUTATION / INNOCENT NON-DISCLOSURE

The **Insurer** agrees that where this **Policy** insures more than one **Insured**, where an **Insured Person**:

a) failed to comply with the duty of disclosure; or
b) made a misrepresentation to the **Insurer** before the **Policy** was entered into;

this shall not prejudice the right of any other **Insured Person** to indemnity as may be provided by this **Policy**.

Provided that:

a) the **Insured Person** was not aware of the failure or misrepresentations;
b) as soon as is reasonably practicable upon becoming aware of any such conduct, the **Insured Person** advises the **Insurer** in writing of all known facts in relation to such conduct; and
c) the conduct of any **Executive Officer** is imputed to the **Insured.**

OPTIONAL EXTENSIONS APPLICABLE TO SECTION 1

ASBESTOS

Notwithstanding the Asbestos or Pollution exclusions, the **Insurer** agrees to pay the **Insured's** civil liability for **Loss** arising out of the performance of **Professional Services** by the **Insured** and arising from any **Claim** in connection with, based upon or attributable to the presence or release of asbestos containing materials in whatever form or quantity.

The **Insurers** liability to indemnify the **Insured** under this extension shall not exceed the **Sublimit** stated in the **Policy Schedule**.

CYBER MITIGATION COSTS

If there is any actual, alleged or suspected breach of privacy in relation to personal information collected during the performance of **Professional Services** arising from **Cyber Security Breach** or a **Cyber Incident** first discovered and reported during the **Policy Period** the **Insurer** will pay:

a) the reasonable costs incurred by the **Insured** to notify any client, **Third Party** or regulator in accordance with the **Insured's** legal or regulatory duties; and
b) any **Penalties** under the Privacy Act 1988 (Cth), notwithstanding the Definition of **Loss;** and
c) the reasonable costs of a public relations consultant the **Insured** engages to protect the **Insured's** reputation from damage.

This Optional Extension:

a) is valid regardless of whether a **Claim** has been made against the **Insured;**
b) does not cover the **Insured's** overheads or the salaries, wages, fees, or benefits of any **Insured Person.**
c) does not cover any forensic investigation costs arising from a **Cyber Security Breach** or a **Cyber Incident;**
d) does not cover costs to comply with any injunctive relief; and
e) is subject to the **Sublimit** stated in the **Policy Schedule** for **Cyber Mitigation Costs**.

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FIDELITY

Notwithstanding the Conduct exclusion to the extent applicable to **Employees**, the **Insurer** will indemnify the **Policyholder** or any **Subsidiary** for its **Direct Financial Loss** resulting from **Fraudulent Acts** committed after the **Continuity Date**, provided these are **Discovered** during the **Policy Period** and reported to the **Insurer** as required by this **Policy**.

The **Insurers** liability to indemnify the **Policyholder** or **Subsidiary** under this extension shall not exceed the **Sublimit** stated in the **Policy Schedule**.

For the purposes of this extension the following exclusions are added to the **Policy**:

This **Policy** shall not cover any **Direct Financial Loss** arising out of, based upon, attributable to or in any way connected with:

a) the accessing or dissemination of any confidential information including, but not limited to, trade secrets, computer programs, customer information, patents, trademarks, copyrights or processing methods;
b) any indirect or consequential loss of any nature, including any loss of income such as interest and dividends;
c) any fraudulent or dishonest activities involving collusion or complicity of any **Executive Officer**;
d) any actual or attempted extortion or kidnap and ransom;
e) any **Cyber Security Breach** or **Cyber Incident**, except to the extent any **Fraudulent Acts** include an **Employees** unauthorised access or use of **Computer Systems**;
f) any fees, costs or other expenses incurred in establishing the existence or amount of any **Direct Financial Loss**;
g) any **Direct Financial Loss** arising from the time any **Executive Officer** (not colluding with the **Employee** to commit a **Fraudulent Act**) had actual knowledge or suspicion that the **Employee** had committed or was suspected of committing a **Fraudulent Act**;
h) any **Direct Financial Loss** that can only be proven through (i) a profit and loss computation, or (ii) a comparison of inventory records with an actual physical count. However, subject to identification of a specific **Employee** responsible for causing a **Direct Financial Loss**, then inventory records and actual physical counts may be used as partial evidence to support proof of the **Direct Financial Loss**; or
i) any failure by the **Insured** to ensure that at least one **Executive Officer** plus one authorised signatory sign any cheques or approve funds transfer instructions.

MITIGATION COSTS

The **Insurer** shall indemnify the **Policyholder** for **Claim Prevention Costs and Expenses** incurred with the **Insurer's** prior written consent.

The **Insurers** liability to indemnify the **Insured** under this extension shall not exceed the **Sublimit** stated in the **Policy Schedule**.

POLLUTION

Notwithstanding the Pollution exclusion, the **Insurer** agrees to pay the **Insured's** civil liability for **Loss** arising from the sudden or accidental discharge, dispersal, release, migration or escape of **Pollutants** other than asbestos, nuclear or radioactive material, arising directly out of the performance of **Professional Services** by the **Insured.**

The **Insurers** liability to indemnify the **Insured** under this extension shall not exceed the **Sublimit** stated in the **Policy Schedule**.

PRINCIPAL'S INDEMNITY

The **Insurer** will pay on behalf of the **Principal** civil liability for **Loss** resulting from any **Claim** made against the **Principal** as a result of an act, error, omission or other conduct of the **Insured** arising directly out of the performance of **Professional Services** by the **Insured**, provided always that such **Claim** would be covered under this **Policy** had such **Claim** been made against an **Insured**.

For the purpose of this extension, **Principal** shall mean the entity nominated by endorsement to this **Policy**.

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EXCLUSIONS APPLICABLE TO SECTION 1

The **Insurer** will not be liable to make any payment under this **Policy Section** (including under any Extension or Optional Extension) arising from, based upon, attributable to, or in consequence of:

ANTI-COMPETITIVE CONDUCT

any restraint of trade or other restrictive trade practices, anti-trust, predatory pricing, price manipulation or fixing, tortious interference in a **Third Party's** business including a **Third Party's** contractual arrangements. This includes but is not limited to any such conduct in breach of any competition, consumer or fair trading legislation of Australia, or its states or territories, or any similar such legislation which may be applicable anywhere else in the world.

ASBESTOS

a) any physical injury, sickness, disease or death resulting from the presence or release or possible release of asbestos or asbestos containing materials in whatever form or quantity; or
b) any asbestos inspection carried out by or on behalf of an **Insured**.

BODILY INJURY AND PROPERTY DAMAGE

Bodily Injury and/or **Property Damage** except to the extent that the **Loss** arises out of the performance of the **Professional Services** by the **Insured**.

CONFLICT OF INTEREST

any actual or alleged;

a) conflict of interest; or
b) beneficial or financial ownership or interest.

However, this exclusion shall not apply where an **Insured** has declared the above in writing to a claimant **Third Party**.

CONSTRUCTION

a) any defect in raw material;
b) the physical act of manufacture, construction, installation, maintenance, or demolition by you or on your behalf, including any defective workmanship; or
c) the supervision of the physical act of manufacture, construction, installation, maintenance, or demolition.

CONTRACTUAL LIABILITY

any liability assumed under a contract or agreement or guarantee (including but not limited to an indemnity and liquidated damages) or warranty which the **Insured** has agreed to give in the course of the **Professional Services** unless such liability would have attached in the absence of such contract or agreement.

EXCLUDED ACTIVITIES

the performance of **Professional Services** in connection with any of the following:

a) environmental engineering or audits, the design of pollution control equipment, waste disposal or treatment;
b) bridges or tunnels;
c) dams greater than 6 metres in depth;
d) any geological or mineralogical estimates used as part of a feasibility study or published in any prospectus document;
e) mineral extraction or processing;
f) oil and gas extraction, refining or pipelines;
g) marine surveys;
h) nuclear or atomic engineering;
i) chemical engineering; or
J) pre-purchase building inspections.

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FORCE MAJEURE

fire, smoke, explosion, solar flare, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, or act of God, however caused.

INFRASTRUCTURE FAILURE

any failure, interruption, or malfunction of financial securities, stock exchanges or clearing houses, power, water, oil, gas, electrical, sewage, telecommunications, internet, satellite, other utilities, or mechanical infrastructure or services not under the operational control of the **Insured.**

INTELLECTUAL PROPERTY

any deliberate infringement of copyright, trademark, registered design, plagiarism, breach of confidentiality or any other intellectual property.

JURISDICTIONAL LIMITS

any **Claim** or **Inquiry** brought within the territorial limits of the United States of America or the Dominion of Canada or their territories or protectorates; or arising out of the enforcement of any judgment, order or award obtained within, or determined pursuant to the laws of the United States of America or the Dominion of Canada or their territories or protectorates; or which the **Insurer** is prohibited from paying by law in the jurisdiction concerned.

LICENSING

any **Insured** actually or allegedly not being licenced, registered, or accredited to provide the **Professional Services.**

NON-COMPLIANT CLADDING

any external insulation and finishing system, wall panelling, cladding or façade material which is not compliant, or does not conform, with any standard(s) set by the Australian Commonwealth Government or State or Territory Government of Australia, including any authority or government agency acting on their behalf. This exclusion shall also apply to the failure to follow any such standard in the method of installation, application or use of such external insulation and finishing system, wall panelling, cladding or façade material. A reference to any standard includes but is not limited to the Building Code of Australia, the National Construction Code and the Australian Standards and any successor code or standard.

OBLIGATIONS TO EMPLOYEES

a) **Bodily Injury** of any **Insured Person;** or
b) damage to or destruction of any property of any **Insured Person** including loss of use of property, arising out of, or in the course of their employment with the **Insured**; or
c) any dispute in connection with employment.

POLLUTION

a) the threatened, actual or alleged discharge, release or escape of any **Pollutant**.
b) any direction, request or effort to:
    i. test for, monitor, clean up, remove, contain, treat, detoxify or neutralise **Pollutants**; or
    ii. respond to or assess the effects of **Pollutants**.

PROJECT MANAGEMENT

a) the failure to effect or maintain any insurance, surety or bond;
b) the failure to procure or maintain finance;
c) any advice on financial, insurance or tax matters;
d) the insolvency of any party involved in any project, including any sub-contractor; or
e) any estimate of probable construction cost or cost estimate being exceeded, except where such estimates are compiled by a qualified quantity surveyor engaged by you.

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PROPERTY LIABILITY

any liability incurred or alleged to have been incurred as a result of occupation, control, management or ownership of any property by the **Insured** (including aircraft, real property, motor vehicles or watercraft).

REFUNDS OF FEES OR CHARGES

any return or refund of any professional fees, charges, commissions, or other remuneration received by, paid by or payable to the **Insured**.

RELATED OR ASSOCIATED ENTITIES

any **Claim**, **Inquiry** or other matter which may be subject to indemnity under this **Policy** brought or maintained by or on behalf of:

a) the **Insured;** or
b) any parent, successor or assign of any **Insured**, or
c) any entity in which an **Insured** or any **Executive Officer** has an executive or controlling interest, or such entity's successor or assign.

RETROACTIVE DATE

the performance of the **Professional Services** prior to the **Retroactive Date** stated in the **Policy Schedule**.

WARRANTY OR GUARANTEE

a) any express or implied warranty or representation regarding the efficacy, suitability, characteristics, performance or specifications of any design involving safety, mining or manufacturing process equipment;
b) any express guarantee, contractual penalty or liquidated damages;
c) any other duty or obligation assumed by you by way of contract to the extent that such liability exceeds the liability you would have incurred in the absence of contract.

CONDITIONS APPLICABLE TO SECTION 1

REINSTATEMENT

If the **Policy Schedule** provides for an **Aggregate Limit** which exceeds the **Limit of Liability**, then where the **Limit of Liability** is exhausted by payment of **Claims** covered under the **Policy** during the **Policy Period**, the **Insurer** will reinstate the **Limit of Liability** for a subsequent **Loss** during the **Policy Period** that is totally unrelated to all such paid **Claims**. The **Limit of Liability** shall be reinstated until exhaustion of the **Aggregate Limit,** provided always the most the **Insurer** will pay in the **Policy Period** is the **Aggregate Limit**.

If the **Policyholder** has in effect any excess layer policy or policies providing excess layer coverage for limits in excess of the **Limit of Liability** of this **Policy**, the reinstatements provided will become effective only after the total exhaustion of the limits of all such excess coverage by reason of the payment of **Claims**.

RELATED CLAIMS

For the purposes of applying any **Retention** or **Limit of Liability** or **Sublimit**, all **Loss** otherwise recoverable under this **Policy** resulting from or in connection with;

a) one and the same act error or omission; or
b) a series of acts errors or omissions arising out of or attributable to the same originating cause, or source,

shall be deemed to be one **Claim** or **Inquiry**.

RELATED DIRECT FINANCIAL LOSS

Direct Financial Loss resulting from a series of continuous, repeated or related **Fraudulent Acts** shall be considered a single **Direct Financial Loss.**

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RUN-OFF

If the **Policyholder** ceases to exist or operate or is consolidated with, merged into or acquired by any other entity for whatsoever reason including, but not limited to, its administration or liquidation, then this **Policy** shall continue up to the expiry of the **Policy Period** but any cover will only apply in respect of any **Claim, Inquiry** or **Loss** arising from the **Professional Services** undertaken prior to the effective date that the **Policyholder** ceased to exist or operate or was consolidated with, merged into or acquired by another entity.

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POLICY SECTION 2 - PUBLIC LIABILITY

PUBLIC LIABILITY

The **Insurer** will pay to or on behalf of the **Insured** all amounts which the **Insured** shall become legally liable to pay for **Public Liability** in respect of **Personal Injury** or **Property Damage** happening during the **Policy Period** caused by an **Occurrence** in connection with the **Business**.

DEFENCE COSTS

With respect to the indemnity provided by the Public Liability insuring clause, the **Insurer**:

a) will defend any suit against the **Insured** claiming compensation for **Personal Injury** or **Property Damage**, and seeking damages on account thereof, even if such suit is groundless, false or fraudulent;
b) may investigate, defend, negotiate and settle any action or suit as the **Insurer** deems expedient and subject to the *General Claims Conditions* in this **Policy**; and
c) pay **Defence Costs** incurred by the **Insured**, including all interest accruing after entry of any judgement until the **Insurer** has paid, tendered, or deposited in court such part of the judgement as does not exceed the **Insurer's Limit of Liability**.

EXCLUSIONS APPLICABLE TO POLICY SECTION 2

The **Insurer** will not be liable to make any payment under this **Policy Section** arising from, based upon, attributable to, or in consequence of:

ADVENTURE ACTIVITIES OR DISPLAYS

Personal Injury or **Property Damage** resulting from any person participating in any motor sports, contact sport, marathons or walkathons, adventure activity, cycling events, or display involving athletic, acrobatic, military or equestrian skill or the use of firearms, fireworks or pyrotechnics, missiles of any kind, explosives or combustibles.

ADVERTISING LIABILITY

any **Advertising Liability**.

AIRCRAFT AND WATERCRAFT

a) the ownership, maintenance, lease, operation or use of any **Aircraft**, **Watercraft**, or **Hovercraft** by an **Insured**;
b) the ownership of any **Aircraft** landing area or **Aircraft** hangar or airport; or
c) **Insured's Products** that are **Aircraft** component parts where such component parts affect the safety, flight controls or take-off or landing of an **Aircraft**.

ASBESTOS

the presence or release or possible release of asbestos or asbestos containing materials in whatever form or quantity.

ASSUMED DUTY OR OBLIGATION

any duty, liability or obligation assumed by an **Insured** by way of any contract, agreement, warranty, guarantee or indemnity to the extent that such liability exceeds the liability the **Insured** would have incurred in the absence of such contract or agreement.

However, this exclusion shall not apply to liability assumed by the **Insured** under any lease agreement for real or personal property other than a provision which obliges the Insured to effect insurance or provide indemnity in respect of the subject matter of that contract.

CONSTRUCTION

Personal Injury or **Property Damage** caused by or in connection with any land or site development and/or the erection, demolition, alteration and/or addition to buildings, structures or engineering works of any nature by or on behalf of the **Insured**.

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COMMUNICABLE DISEASE

a) any highly pathogenic avian or animal influenza in humans;
b) cholera, rabies and or any pandemic or epidemic as declared by the World Health Organisation; or
c) any disease determined to be a "listed human disease" under the *Biosecurity Act 2015* (Cth) as amended from time to time or any disease that is determined, listed or otherwise specified in an equivalent manner under any legislation that either replaces the *Biosecurity Act 2015* (Cth) or has an equivalent object or objects.

CYBER AND DATA

a) any **Cyber Security Breach** or **Cyber Incident** including any action taken in controlling, preventing, suppressing, or remediating any **Cyber Security Breach** or **Cyber Incident**; or
b) any loss of use, reduction in functionality, repair, replacement, restoration, reproduction, loss or theft of any **Data**, including any amount pertaining to the value of such **Data**, regardless of any other cause or event contributing concurrently or in any other sequence thereto.

DAMAGE TO INSURED'S PRODUCT

Property Damage to the **Insured's Product** if such damage is attributable to any defect, harmful nature or unsuitability, or inherent vice or inefficiency or ineffectiveness, of the **Insured's Product**.

DEFAMATION

any liability resulting from the publication or utterance of a defamation, libel or slander.

EMPLOYERS LIABILITY

any liability for **Personal Injury**:

a) for which the **Insured** is or would be entitled to indemnity under a fund, scheme, or **Policy** of insurance pursuant to or required by any worker's compensation law and whether or not such insurance has been taken out;
b) imposed by the provision of any industrial award, agreement or determination or any contract of employment or workplace agreement; or
c) arising out of or in respect of any **Employment Practices Liability**.

FAULTY WORKMANSHIP

the cost of performing, completing, correcting, or improving any work undertaken by the **Insured**.

FINES AND PENALTIES

punitive, aggravated or exemplary damages, fines or penalties, or any additional damages resulting from the multiplication of compensatory damages.

JURISDICTIONAL LIMITS

a) any **Claim** brought or compensation sought against the **Insured** in any country outside the Commonwealth of Australia;
b) any **Claim** brought or compensation sought in a court of law outside the territorial limits of the Commonwealth of Australia; or
c) the enforcement of any judgment, order or award obtained within, or determined pursuant to, the laws of any country other than the Commonwealth of Australia.

LOSS OF USE

any loss of use of tangible property which has not been physically damaged or destroyed resulting from a delay in or lack of performance by or on behalf of the **Insured** of any of its obligations assumed under a contract agreement, guarantee or warranty.

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MECHANICAL AMUSEMENT DEVICES

Personal Injury or **Property Damage** in connection with the use of mechanical amusement devices.

POLLUTION

Personal Injury or **Property Damage** in connection with the discharge, dispersal, release, seepage, migration or escape of **Pollutants** into or upon land, the atmosphere or any watercourse or body of water. The **Insurer** shall also not be liable to pay any costs and expenses incurred in the prevention, removal, testing, monitoring, treating, detoxifying, neutralising or clean-up of such **Pollutants**.

However, this exclusion shall not apply if such discharge, dispersal, release, seepage, migration or escape is caused by a sudden, unexpected and unintended happening that takes place in its entirety at a specific time and place during the **Policy Period**.

PROFESSIONAL SERVICES

any liability in connection with:

a) rendering or the failure to render professional service, advice or any connected act error or omission; or
b) professional services, treatment, advice or any act error or omission of a **Medical Practitioner**.

PROPERTY IN THE INSURED'S PHYSICAL OR LEGAL CONTROL

any **Property Damage** to:
a) property owned or leased or rented by the **Insured**; or
b) property in the physical or legal control of the **Insured**.

However, this exclusion shall not apply to liability for **Property Damage** to:

a) property in the physical or legal control of the **Insured** up to $250,000 any one **Occurrence** and in the aggregate during any one **Policy Period**. However, the **Insurer** shall not be liable for **Property Damage** for or to that part of any property upon which the **Insured** is or has been working where such **Property Damage** arises from such work;
b) premises which are leased or rented to the **Insured**;
c) **Employee's** personal property; or
d) **Vehicles** (not belonging to or used by or on behalf of the Insured) in the physical or legal control of the Insured where such **Property Damage** occurs whilst any such vehicle is in a car park owned or operated by the Insured, provided that the **Insured** as part of its **Business** does not own or operate a car park for reward.

SEXUAL ABUSE

any actual or alleged sexual abuse or misconduct by the **Insured** including; physical abuse, sexual assault, molestation, indecent interference, sexual harassment or coercion of any person or licentious or immoral behaviour or attempt thereat or their consequences.

TERRITORIAL LIMITS

Personal Injury or **Property Damage**:

a) in the United States of America or the Dominion of Canada or their territories or protectorates. However. this exclusion shall not apply to **Claims** arising from the presence of any person who is normally resident in Australia or New Zealand and who is not a manual worker or a supervisor of work;
b) where a **Claim** is made upon the **Insured** outside Australia or New Zealand in any country where the **Insured** is represented by a branch or company or firm or individual holding the **Insured's** power of attorney; or
C) Where such **Claim** is based on or attributable to, or in consequence of any contract entered into by the **Insured** under the terms of which work is to be performed outside Australia or New Zealand to the extent that such liability exceeds the liability the **Insured** would have incurred in the absence of such contract.

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VEHICLES

Personal Injury or **Property Damage** arising out of resulting from the ownership, maintenance, operation or use by the Insured of any **Vehicle**:

a) which is registered; or
b) in respect of which compulsory liability insurance or statutory indemnity is required by virtue of any legislation.

However, this exclusion shall not apply to **Personal Injury** or **Property Damage** arising from:

a) the delivery or collection of goods to or from any **Vehicle** where such **Personal Injury** or **Property Damage** occurs beyond the limits of any carriageway or thoroughfare; or
b) the loading of goods or unloading of goods from any **Vehicle**; or

Personal Injury where:

c) the compulsory liability insurance or statutory indemnity does not provide indemnity, and
d) the reason or reasons why the compulsory liability insurance or statutory indemnity does not provide indemnity do not involve a breach of legislation relating to any **Vehicle**

CONDITIONS APPLICABLE TO SECTION 2

BEST ENDEAVOURS

The **Insured** shall use their best endeavours to preserve any products or property to which no alteration or repair shall be made without the **Insurer's** consent which shall not be unreasonably withheld, or until the **Insurer** shall have had an opportunity of inspection.

CROSS LIABILITY

Where the **Insured** is comprised of more than one party each of the parties shall be considered as a separate legal entity and the word **Insured** shall apply to each party as if a separate policy had been issued to each party.

Nothing contained in this condition shall result in an increase to the **Limit of Liability**.

INSPECTION OF PROPERTY

The **Insurer** shall be permitted but not obligated to inspect the **Insured's** property and operations at any time. Neither the **Insurer's** right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of the **Insured** or others, to determine or warrant that such property or operations are safe.

REASONABLE PRECAUTIONS

In the event of an **Occurrence**, the **Insured** shall at its expense take all reasonable steps to:

a) prevent **Personal Injury** and **Property Damage**;
b) prevent manufacture, sale or supply of any defective **Insured's Product**;
c) comply and ensure that the **Insured's Employees**, servants and agents comply with all statutory obligations, by-laws or regulations imposed by a public authority in respect thereof for the safety of persons or property; and
d) trace or recall or modify any of the **Insured's Products** containing any defect or deficiency of which the **Insured** has knowledge or has reason to suspect.

RELATED OCCURENCES

All **Personal Injury** and **Property Damage** arising out of continuous or repeated exposure to substantially the same general conditions will be construed as arising out of one single **Occurrence** and the **Limit of Liability** and **Retention** shall apply accordingly.

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EXCLUSIONS APPLICABLE TO ALL POLICY SECTIONS

These exclusions apply to all sections of this **Policy** unless expressly stated otherwise. The **Insurer** will not be liable to make any payment under this **Policy** arising from, based upon, attributable to, or in consequence of:

CONDUCT

any:

a) criminal, dishonest, fraudulent, malicious or deliberately reckless act; or
b) deliberate breach of contract, professional duty or any law.

However, this exclusion shall only apply in the event such conduct is established by final adjudication by a court or tribunal or arbitrator, or a written admission by an **Insured**. In the event of such, the **Insured** shall reimburse the **Insurer** all **Loss** paid under this **Policy** in connection with such **Claim**, **Inquiry, Occurrence** or other matter which may be subject to indemnity under this **Policy**.

DIRECTORS AND OFFICERS

any **Insured** acting in the capacity of a director or officer of the **Insured**, a company, association, or other legal entity or in the capacity of a superannuation trustee.

PATENTS AND TRADE SECRETS

the actual or alleged breach of any patent or trade secret.

PRIOR OR PENDING

a) any **Claim**, **Inquiry, Loss, Direct Financial Loss** or other matter which may be subject to indemnity under this **Policy** made, threatened or intimated against the **Insured** prior to the **Policy Period**; or
b) any fact or circumstance:
   i. of which notice has been given, or ought reasonably to have been given, under any previous policy, or disclosed in a proposal form; or
   ii. of which the **Insured** first became aware prior to the **Policy Period**, and which the **Insured** knew or ought reasonably to have known had potential to give rise to a **Claim, Inquiry**, **Loss** or **Direct Financial Loss**.

PRODUCTS LIABILITY

a) any goods or products, sold, supplied, repaired, altered, treated, manufactured, constructed, installed, or maintained by the **Insured** or the **Insured's** consultants, sub-contractors or agents; or
b) withdrawing a good or product from sale or recalling any good or product.

NUCLEAR

ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste which is from the combustion of any nuclear fuel.

SANCTIONS

any **Claim**, **Inquiry, Direct Financial Loss, Occurrence** or other matter which may be subject to indemnity under this **Policy** where payment of such **Claim, Loss, Direct Financial Loss** or provision of any such benefit would expose the **Insurer** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, the United Kingdom, the United States of America, or Australia.

TERRORISM

any act of terrorism including, but not limited to any actual, or any threat of, force, violence or intimidation committed by any person or persons for any ideological, religious, political or similar purpose including with the intention to overthrow, influence or disrupt any government and or any policy of any government.

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TRADING DEBTS

a) any trading debt, liability or losses incurred by the **Insured**; or
b) any guarantee given by the **Insured** for a debt or the **Insured's** insolvency.

WAR & STATE CYBER OPERATIONS

a) a **War**;
b) a **Cyber Operation** carried out as part of, or the immediate preparation for a **War**; or
c) a **Cyber Operation** causing an **Impacted State**.

CLAIMS CONDITIONS

When making a claim, the **Insured** must have met and then continue to comply with the conditions of this **Policy**. If the **Insured** does not meet these conditions or make a fraudulent claim the **Insurer** may:

a) refuse to pay the **Insured's** claim or reduce what we pay for the **Insured's** claim to the extent that the **Insurer's** interests have been prejudiced;
b) cancel the **Policy** in accordance with *General Conditions - Cancellation* of the **Policy**.

ALLOCATION

Where a **Claim, Inquiry, Loss** or **Occurrence** is covered only in part by this **Policy** the **Insurer** and the **Insured** will use their best efforts to agree a fair and proper allocation of amounts that are covered and those that are not covered under this **Policy**. If the **Insurer** and the **Insured** cannot agree on a fair and proper allocation then the matter will be referred to **Senior Counsel** (to be mutually agreed upon by the **Insured** and the **Insurer**, or in the absence of agreement, appointed by the President of the relevant state or territory Law Society in the state or territory in which the **Claim** or **Inquiry** is made) whose opinion will be binding. In formulating their opinion, **Senior Counsel** shall take into consideration the respective legal exposures between the covered and uncovered elements of the **Claim**, **Inquiry, Loss** or **Occurrence,** as well as the economics of the matter, including the likely **Defence Costs** and the prospects of the **Insured** successfully defending the **Claim**. The **Insurer** and the **Insured** shall each have the opportunity, but not the obligation, to make a submission to **Senior Counsel** on the reasons for their respective position.

The costs of **Senior Counsel's** opinion will be regarded as part of **Defence Costs** or **Inquiry Costs and Expenses**.

Where the amounts covered under this **Policy** remain unagreed or undetermined, the **Insurer** shall only be liable to pay the proportion of any **Claim**, **Inquiry, Loss** or **Occurrence** which it considers covered under the **Policy** after a fair and proper allocation. Once such fair and proper allocation is agreed or determined, such allocation shall be retrospectively applied to all amounts incurred prior to such agreement or determination.

ASSISTANCE AND CO-OPERATION

The **Insured** must provide the **Insurer** with all reasonable assistance the **Insurer** requires when the **Insured** deals with the **Insurer** and the **Insured** will:

a) be truthful and frank;
b) not behave in a way that is abusive, dangerous, hostile, improper or threatening;
c) co-operate fully with the **Insurer**, even after the **Insurer** has paid a claim.

DEFENCE AND SETTLEMENT

The **Insurer** may:

a) instruct the **Insured** to conduct the defence of a **Claim** if the **Insurer** believes that it will not exceed the **Retention**, in which case the **Insured** will be responsible for the **Insured's** own **Defence Costs** and any settlement up to the amount of the **Retention**. In the event that any reasonable **Defence Costs** or payment made to dispose of the **Claim** exceeds the **Retention** the **Insurer** will reimburse the **Insured** those reasonable **Defence Costs**.
b) take over and conduct, in the **Insured's** name, the defence or settlement of any **Claim** at any time, in which case the **Insurer** will then have sole control of that **Claim**.

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The **Insured** agrees:

a) not to negotiate or settle any **Claim**, incur any **Defence Costs** or **Inquiry Costs and Expenses**, make any admission, offer or payment or otherwise assume any contractual obligation with respect to any **Claim** or **Loss** without the **Insurer's** written consent, provided that the **Insurer** shall not unreasonably withhold such consent;
b) that any information that is received by the **Insurer's** external lawyers in the course of investigating, defending or settling any **Claim** made against the **Insured** or **Inquiry** can be provided to the **Insurer** and relied upon by the **Insurer** in relation to any issue that may arise regarding the **Insurer's** liability to indemnify the **Insured.**

NOTIFICATION

The **Insured** must notify the **Insurer** during the **Policy Period** or where applicable in accordance with the Extended Reporting Period extension, as soon as the **Insured** becomes aware of a **Claim**, **Inquiry**, **Loss, Direct Financial Loss** or **Occurrence** under **Policy Section** 2**,** by contacting the **Insurer** in writing, using the address or email address shown the in the **Policy Schedule**. The **Insured** may also ask the **Insured's** financial services provider to notify the **Insurer** on the **Insured's** behalf. The **Insured** is responsible for ensuring the **Insured's** financial services provider complies with the notification provisions of this **Policy**. The **Insured** must provide the **Insurer** with:

a) all documentation in the **Insured's** possession; and
b) information the **Insured** is aware of;

which relates to the **Claim**, **Inquiry**, **Loss** or **Occurrence** the **Insured** has notified to the **Insurer**.

THE INSURED'S RIGHT TO CONTEST

In the event that the **Insurer** recommends a settlement in respect of any **Claim** and the **Insured** does not agree that such **Claim** should be settled, then the **Insured** may elect to contest such **Claim**, provided that the **Insurer's** liability in connection with such **Claim** shall not exceed the amount for which the **Claim** could have been so settled plus the **Defence Costs** incurred with the **Insurer's** written consent up to the date of such election, less the **Retention**.

SENIOR COUNSEL CLAUSE

The **Insurer** shall not require the **Insured** to contest any **Claim** unless a **Senior Counsel** (to be mutually agreed upon by the **Insured** and the **Insurer**) shall advise that such **Claim** should be contested. In formulating such advice, **Senior Counsel** shall take into consideration the economics of the matter, the damages and costs which are likely to be recovered by the claimant, the likely **Defence Costs** and the prospects of the **Insured** successfully defending the **Claim**. The cost of such **Senior Counsel's** opinion shall be regarded as part of **Defence Costs**.

GENERAL CONDITIONS

CANCELLATION

The **Policyholder** can cancel this **Policy** at any time by telling the **Insurer** in writing. Provided that no payment has been made under this **Policy**, the **Insurer** will refund the **Policyholder** the proportion of the premium for the remaining unexpired **Policy Period.**

The **Insurer** may cancel this **Policy** in any of the circumstances permitted by law by informing the **Policyholder** in writing. The **Insurer** will give the **Policyholder** notice in person or send it to the **Policyholder's** address (including by email address) last known to the **Insurer**. The cancellation shall be effective within 5 business days of the notification to the **Policyholder**. If the **Policyholder** has paid the premium in advance, the **Insurer** will refund the **Policyholder** the proportion of the premium for the remaining **Policy Period.**

CLAIMS MITIGATION AND CO-OPERATION

If the **Insured**, either prior to or during the **Policy Period,** become aware of a situation which could, if not rectified, lead to a **Claim** or increase the quantum of a **Claim**, the **Insured** must use due diligence and do all things reasonably practicable to avoid or diminish any **Loss** or any liability which might arise from an **Occurrence**.

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CONTRIBUTION

If at the time of any **Loss**, **Direct Financial Loss**, **Occurrence,** damage, or liability there is any other insurance (whether effected by the **Insured** or by any other person) which covers the same **Loss**, **Direct Financial Loss, Occurrence**, damage or liability the **Insured** must provide the **Insurer** with any reasonable assistance the **Insurer** requires to make a claim for contribution from any other **Insurer**(s).

DIRECT FINANCIAL LOSS MITIGATION

When the **Insured Discovers** a **Direct Financial Loss** involving an **Employee**, the **Insured** must immediately take all necessary steps to stop any further **Direct Financial Loss** being caused by the same identified **Employee**. Any further **Direct Financial Loss** caused by the same **Employee** after the date of **Discovery** will not be covered by this **Policy**.

GOVERNING LAW

This **Policy** is governed by the law of the Australian State or Territory in which this **Policy** is issued.

MATERIAL ALTERATION TO RISK

The **Insured** will give the **Insurer** notice in writing as soon as possible of any material alterations to the risk that is the subject of this **Policy** including but not limited to:

a) any change in the **Professional Services**;
b) any change in the **Business**;
c) the **Insured** going into bankruptcy receivership, liquidation or any other form of external administration.

If the **Insured** does not provide such notification before the happening of a **Claim**, **Inquiry** or any other matter which may be covered under this **Policy** then, subject to the *Insurance Contracts Act 1984* (Cth), the **Insurer** may refuse to pay a **Claim**, **Inquiry, Loss** or **Direct Financial Loss**, either in whole or in part.

NON-ACCUMULATION

In the event of a **Claim, Inquiry, Loss** or **Occurrence** in respect of which the **Insured** is entitled to indemnity under more than one **Policy Section** then:

a) the **Insured** is only entitled to indemnity under one **Policy Section** for each **Loss** or **Occurrence**;
b) notwithstanding the separate **Policy Sections,** the maximum liability of the **Insurer** under all **Policy Section**s shall be limited to the highest **Limit of Liability** under any one of the **Policy Section**s;
c) in no event shall the **Limit of Liability** under any one **Policy Section** be cumulative across more than one **Policy Section**; and
d) Where more than one **Retention** would otherwise apply, the highest applicable **Retention** shall be payable.

OTHER INSURANCE

The **Insurer** will only pay **Loss**, **Direct Financial Loss** or for liability arising from an **Occurrence** in excess of any other insurance cover that the **Insured** may have unless any such other insurance is written as a specific excess insurance over this **Policy**.

POLICY INTERPRETATION

a) The headings in this **Policy** do not form part of the **Policy Wording** and are for descriptive purposes only.
b) A reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes all consolidations, amendments, re-enactments and replacements thereof.
c) A word importing the singular includes the plural (and vice versa) and a word indicating a gender includes every other gender.
d) Bolded terms in the **Policy** may refer to a defined term in the Definitions section, or to a term stated in the **Policy Schedule**, or both.

REASONABLE CARE

The **Insured** must take reasonable care to prevent or minimise:

a) any **Loss** or any other payment under this **Policy** that might give rise to a **Claim** or **Inquiry** under this **Policy**

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b) any **Direct Financial Loss** which might arise from a **Fraudulent Act**.
c) any **Personal Injury** or **Property Damage** which may arise from an **Occurrence**.

At all times, the **Insured** must:

a) minimise the cost of any **Claim** or **Direct Financial Loss** under this **Policy**; and
b) comply with all laws.

RECOVERY ACTION AND UNINSURED LOSS

The **Insured** must not do anything, including but not limited to agreeing not to seek any compensation from any other person that is or is potentially liable to compensate the **Insured** for any **Loss, Direct Financial Loss** or **Occurrence**, that may prejudice the **Insurer's** rights of recovery against any **Third Party**. If the **Insurer** pays the **Insured's** claim, the **Insurer** may seek to recover the amount paid to the **Insured** from the **Third Party** who caused the **Loss, Direct Financial Loss** or **Occurrence**. The **Insurer** will do this in the **Insured's** name and the **Insured** must assist the **Insurer** with any reasonable requests.

If the **Insured** has suffered **Loss** or **Direct Financial Loss** which is not covered by this **Policy,** the **Insurer** may offer to attempt to recover this for the **Insured**. The **Insured** may specifically ask the **Insurer** to recover this for the **Insured**. The **Insured** will need to give the **Insurer** documents supporting the **Insured's** loss. Before the **Insurer** includes any uninsured loss in the recovery action the **Insurer** will also ask the **Insured** to agree to the basis on which the **Insurer** will handle the **Insured's** recovery action. The **Insured** may need to contribute to legal costs in some circumstances.

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