



IMALIA

My Partnership
Protection Cover

Policy



PARTNERSHIP PROTECTION

Management Liability Insurance Policy

London Australia Underwriting Pty Ltd

Level 9, 140 Arthur Street
North Sydney, NSW 2060

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www.lauw.com.au

IMPORTANT INFORMATION

This Policy

This policy is an important document. The policy wording and schedule together set out the cover provided, the amount insured and the terms and conditions of your Insurance. Please read it carefully and keep it in a safe place.

London Australia Underwriting Pty Ltd (LAUW), ABN 40 114 962 435, is a coverholder for certain Underwriters at Lloyd's of London. LAUW has the authority to bind this policy on the Underwriters behalf.

Claims Made

This policy is issued by LAUW on a claims made and notified basis. This means that the policy provides cover for claims first made and notified during the insurance period, subject to the terms and conditions of the policy.

The policy does not provide cover in relation to any known matters or facts nor any actual or alleged act, error, omission or event that occurred before the retroactive date (if any) specified in the policy.

Where you give notice in writing to LAUW and/or the Underwriters of any facts that might give rise to a claim against you (as soon as reasonably practicable after you become aware of those facts but before the expiry of the insurance period), you may have rights under Section 40(3) of the Insurance Contracts Act 1984 to be indemnified in respect of any claim subsequently made against you arising from those facts notwithstanding that the claim is made after the expiry of the insurance period. Those rights are in addition to any rights that you may have under the policy.

Your Duty of Disclosure

Before you enter into an insurance contract, you have a duty to tell LAUW anything that you know, or could reasonably be expected to know, may affect LAUW's decision to insure you and on what terms.

You have this duty until LAUW agrees to insure you.

You have the same duty before you renew, extend, vary or reinstate an insurance contract.

You do not need to tell LAUW anything that:

- (i) reduces the risk they insure you for; or
- (ii) is common knowledge; or
- (iii) LAUW know or should know as an insurer; or
- (iv) LAUW waive your duty to tell them about.

If You Do Not Tell Us Something

If you do not tell LAUW anything you are required to, LAUW may cancel your contract or reduce the amount they will pay you if you make a claim, or both.

If your failure to tell LAUW is fraudulent, they may refuse to pay a claim and treat the contract as if it never existed.

Privacy Notice

LAUW and the Underwriters are committed to compliance with the provisions of the Australian Privacy Principles and the Privacy Act 1988 (Cth). In order for LAUW and the Underwriters to assess the risk of, and provide you with, insurance products and assess and manage any claims under those products, it is necessary to obtain personal information from you. If you do not provide that information, it may prevent LAUW and the Underwriters from providing you with the products or services sought.

If you provide LAUW and/or the Underwriters with information about someone else, you must obtain their consent to do so. LAUW and the Underwriters may disclose your information to other insurers, their reinsurers, an insurance reference service or other advisers used by the Underwriters (or LAUW on behalf of the Underwriters) such as loss adjusters, lawyers or others who may be engaged to assist in claims handling, underwriting or for the purpose of fulfilling compliance and/or regulatory requirements. These third parties will all be contractually required to adhere to LAUW's and the Underwriter's privacy obligations.

LAUW's privacy policy contains information about how you can:

- (i) access the information that LAUW holds about you;
- (ii) ask LAUW to correct that information;
- (iii) make a privacy related complaint.

You can obtain a copy of LAUW's privacy policy at <http://lauw.com.au/privacy-policy.php>

Should you require access to your personal information, LAUW may be contacted directly on (02) 8912 6400.

General Insurance Code of Practice

LAUW and the Underwriters, through Lloyd's, proudly support and agree to comply with the Insurance Council of Australia's General Insurance Code of Practice (except in relation to any claims adjusted outside Australia). The terms of the Code require us to be open, fair and honest in our dealings with you.

Any enquiry or complaint relating to this policy should be referred to LAUW in the first instance. If this does not resolve the matter or you are not satisfied with the way a complaint has been dealt with, you should write to the Lloyd's Underwriters' General Representative in Australia, Level 9, 1 O'Connell Street, Sydney, NSW 2000, who will refer your dispute to the Policyholder and Market Assistance Department at Lloyd's of London. Complaints that cannot be resolved by the Assistance Department may be referred to an appropriate external dispute resolution service. Further details will be provided at the appropriate stage of the complaints process.

Australia Terrorism Insurance Act 2003 Notice (NMA2984)

The Underwriters have treated this Insurance (or part of it) as an insurance to which the Australia Terrorism Insurance Act 2003 (ATIA) applies.

ATIA and the supporting regulations made under the Act deem cover into certain policies and provide that the terrorism Exclusion to which this Insurance is subject shall not apply to any “eligible terrorism loss” as defined in ATIA.

Any coverage established by ATIA is only in respect of any “eligible terrorism loss” resulting from a “terrorist act” which is a “declared terrorist incident” as defined in ATIA. The terrorism Exclusion to which this Insurance is subject applies in full force and effect to any other loss and any act or event that is not a “declared terrorist incident”.

All other terms, conditions, insured coverage and Exclusions of this Insurance including applicable limits and deductibles remain unchanged.

If any or all of the Underwriters have reinsured this Insurance with the Australian Reinsurance Pool Corporation, then any such Underwriters will not be liable for any amounts for which they are not responsible under the terms of ATIA due to the application of a “reduction percentage” as defined in ATIA which results in a cap on the Underwriter’s liability for payment for “eligible terrorism losses”.

SCHEDULE

Policy Number:	LAUDO-000000
Item 1	The Firm :
	Principal Address:
Item 2	Insurance Period: From: 2016 To: 2017 at 4:00pm Local Standard Time at the Principal Address of the Firm
Item 3	Premium: As Agreed
Item 4	Limit of Liability: AUD \$
Item 5	Public Relations Costs: AUD \$
Item 6	Travel Costs: AUD \$
Item 7	Fines & Penalties: AUD \$
Item 8	Statutory Liability: AUD \$
Item 9	Cover for the Firm : AUD \$
Item 10	Retroactive Date: Unlimited, excluding known Claims and circumstances
Item 11	Deductible Amounts: AUD \$ Nil in respect of Loss payable under Insuring Clause 1.1.1, 1.1.2 and 1.1.3 AUD \$ in respect of Loss payable under Insuring Clause 1.1.4 AUD \$ in respect of Loss payable under Insuring Clause 1.2 (a) AUD \$ in respect of Loss payable under Insuring Clause 1.2 (b) AUD \$ in respect of Loss payable under Insuring Clause 1.2 (c)
Item 12	Notify Claims to: London Australia Underwriting Pty Ltd C/- Triton Level 4, 48 Hunter Street, Sydney NSW 2000 Email: LAU@triton-global.com
Item 13	Outside Companies: Other Insurance Policies:

Item 14 Underwriters: Certain Underwriters at Lloyd's of London under Binding Agreement UMR:

Item 15 Endorsements: 1.
2.
3.

IN WITNESS WHEREOF this Certificate has been signed at Sydney:

This day of 201

Company Stamp:

.....
Steve Walker
Director
London Australia Underwriting Pty Ltd

This is a "claims-made" insurance which covers only **Claims** notified to **Us** during the **Insurance Period**. The use of bold text in this **Insurance** indicates that the word or phrase in bold is defined under Section 3 Definitions hereof. The titles or sub-titles in this **Insurance** are for ease of reference only and shall not affect its interpretation

In consideration of the payment of premium stated in the **Schedule**, **We** agree to insure **You** and the **Firm** in accordance with the terms of this **Insurance**.

SECTION 1 INSURING CLAUSES

1.1 Cover for You

Subject to the terms and conditions of this **Insurance**, **We** will pay:

1.1.1 Loss as incurred by **You** in respect of any **Claim** made against **You** (and notified to **Us** in accordance with **Notification**) during the **Insurance Period** for a **Wrongful Act** or an **Employment Practices Wrongful Act**.

1.1.2 Costs as incurred by **You** (and notified to **Us** in accordance with **Notification**) for attendance by **You** at an official investigation or disciplinary inquiry or proceeding into the activities of **You**, the **Firm** or any **Outside Company** during the **Insurance Period**.

1.1.3 Loss as incurred by **You** or on **Your** behalf in respect of a **Claim** made against **You** (and notified to **Us** in accordance with **Notification**) during the **Insurance Period** in **Your** capacity as a director, officer, trustee or governor of any **Outside Company** in respect of a **Wrongful Act** or an **Employment Practices Wrongful Act** provided that:

- (a) **You** hold or held the position at the **Outside Company** in accordance with the **Firm's** policy on partner directorships; and
- (b) any cover provided under this Section 1.1.3 shall only apply in excess of any other insurance policy or indemnification available to **You**. If, however, such other insurance policy is provided by **Us**, then the total aggregate limit of liability for all **Loss** covered by this Section 1.1.3 shall be reduced by the amount of the limit of liability of or, amount paid under, such other insurance policy.

1.1.4 Loss as incurred by **You** or on **Your** behalf in respect of a **Claim** made against **You** (and notified to **Us** in accordance with **Notification**) during the **Insurance Period** or any full-time salaried employee of the **Firm** acting in the capacity of fiduciary or trustee of any partner or **Employee** pension scheme, **Employee** medical scheme, **Employee** dental scheme, **Employee** profit sharing plan, **Employee** life assurance plan or **Employee** accident insurance plan established for the benefit of Partners or **Employees** of the **Firm** or their estates, heirs, assigns or spouse (hereinafter described as the "Trust") in respect of a **Wrongful Act**.

We will also pay **Loss** as incurred by **You** or on **Your** behalf in respect of any **Claim** made against **You** or any full-time salaried employee of the **Firm** arising from a **Wrongful Act** resulting from the management and/or administration of the Trust.

The cover provided under this Section 1.1.4 does not apply to any **Claim** arising from or attributable to:

- (a) discrimination between or among the participants or beneficiaries of the Trust on the basis of race, creed, age, sex, disability or sexual orientation; or

- (b) benefits paid or payable to a participant or beneficiary of the Trust if such benefits are or may not lawfully be paid by the Trust; or
- (c) contributions paid or payable to the Trust pursuant to the **Firm's** obligation to fund the Trust.

1.2 Cover for The Firm

Subject to the terms and conditions of this **Insurance**, **We** will pay **Loss** as incurred by the **Firm** in respect of:

- (a) any **Claim** made against **You** (and notified to **Us** in accordance with **Notification**) during the **Insurance Period** for a **Wrongful Act** or an **Employment Practices Wrongful Act** where the **Firm** pays **Loss** on behalf of **You**.
- (b) any **Claim** made against the **Firm** (and notified to **Us** in accordance with **Notification**) during the **Insurance Period** for a **Wrongful Act** or an **Employment Practices Wrongful Act**.
- (c) any legally required attendance by the **Firm** or on behalf of the **Firm** at any official investigation (notified to **Us** in accordance with **Notification**) during the **Insurance Period** which is a consequence of a **Wrongful Act** or an **Employment Practices Wrongful Act** into:
 - (1) the health and safety affairs of the **Firm**; or
 - (2) any employment related affairs of the **Firm**.

With regard to Section 1.2 (b) hereof, **Loss** for any **Claim** made against the **Firm** shall be limited to a maximum amount in respect of any one **Claim** and in the aggregate which shall not exceed the sub-limit specified in Item 9 of the **Schedule** (which limit shall be part of and not in addition to the **Limit of Liability**).

With regard to Section 1.2 (c) hereof, **Loss** shall be limited to **Costs** and shall not mean damages, judgement awards or settlement awards or any internal costs.

SECTION 2 ADDITIONAL COVER

2.1 Public Relations Costs

In the event that **You** or the **Firm** reasonably consider that the services of a public relations consultancy are required in order to prevent or minimise the risk of a **Claim** which would be covered under this **Insurance**, then **We** will, subject to **Our** prior written consent, reimburse reasonable fees and costs incurred as a result of **You** or the **Firm** instructing an appropriate consultancy up to a maximum limit of AUD \$200,000 in the aggregate for all such **Claims**.

This limit shall be in addition to the **Limit of Liability** stated in the **Schedule**.

Your or the **Firm's** entitlement to this additional cover is conditional on **You** or the **Firm** providing **Us** with full written details of the appropriate action taken no later than 30 days after **You** or the **Firm** first become aware of any occurrence that requires the services of a public relations consultancy.

2.2 Travel Costs

Subject to **Our** prior written consent, **We** will pay reasonable travel costs and living expenses incurred by **You** when giving evidence to defend a **Claim** subject to a maximum limit of AUD \$20,000 per individual and in the aggregate (which limit shall be part of and not in addition to the **Limit of Liability**).

2.3 Fines & Penalties

Notwithstanding Definition 3.10 (a) or Exclusion 4.12 (c) hereof, **We** will pay on behalf of **You** civil fines and civil penalties which **You** are ordered to pay as a result of any **Wrongful Act** giving rise to a **Claim** other than those which are otherwise recoverable from or payable by the **Firm**.

We will pay on behalf of **You** such civil fines and civil penalties subject to a maximum amount in respect of any one **Claim** and in the aggregate which shall not exceed the sub-limit specified in Item 7 of the **Schedule** (which limit shall be part of and not in addition to the **Limit of Liability**).

2.4 Pollutants Costs

Notwithstanding Exclusion 4.6 hereof, **We** will pay **Costs** up to a maximum limit of AUD \$500,000 in the aggregate for the **Insurance Period** (which limit shall be part of and not in addition to the **Limit of Liability**) for any **Claim** arising from or attributable to **Pollutants** provided, however, that on or before the earlier of:

- (a) the inception date of this **Insurance**; or
- (b) the date of the first insurance effected with **Us** and continually maintained with **Us** without interruption,

You, the **Firm** or any person insured under this **Insurance** did not know of nor could have reasonably foreseen that there existed any situation, circumstance or **Wrongful Act** which could give rise to a **Claim**.

2.5 Statutory Liability

We will pay on behalf of **You** and the **Firm** up to a maximum limit of AUD \$1,000,000 in the aggregate for the **Insurance Period** (which limit shall be part of and not in addition to the **Limit of Liability**) for any **Claim** for **Statutory Liability**.

We shall only be liable for the amount of **Statutory Liability** in respect of each **Claim** which is in excess of AUD \$5,000.

SECTION 3 DEFINITIONS

3.1 Claim means:

- (a) any written demand made against **You** or the **Firm** for monetary damages or other relief, including non-pecuniary relief; or
- (b) any allegation of a **Wrongful Act** or **Employment Practices Wrongful Act** communicated to **You** or the **Firm**; or
- (c) any criminal, civil or arbitration proceedings against **You** or the **Firm**; or
- (d) any regulatory or administrative proceedings or any other official investigation into **You** or the affairs of the **Firm**.
- (e) (for **Statutory Liability** only) receipt of a written or oral notice by **You** or the **Firm** that alleges, asserts or demands the payment of a fine or pecuniary penalty in respect of an alleged **Wrongful Act**.

All **Claims** which arise out of or are attributable to or are in any way connected with a single **Wrongful Act** or a single **Employment Practices Wrongful Act** shall constitute a single **Claim** for the purposes of this **Insurance**.

3.2 Costs means:

- (a) all reasonable fees, costs and expenses including disbursements, incurred by **You** or the **Firm** or incurred on their behalf in the investigation, mitigation, defence, adjustment and appeals of any **Claim**;
- (b) all reasonable fees, costs and expenses of any expert retained through defence counsel to prepare an evaluation, report, assessment or analysis or rebuttal of evidence in connection with the defence of a covered **Claim**; or
- (c) a reasonable premium paid for any appeal bond, or similar bond

provided that **We** have given **Our** prior written consent to **You** or the **Firm** before incurring such **Costs**. **We** will not unreasonably withhold that consent.

Costs does not mean overhead or benefit expenses associated with **Your** salary, wages or fees.

3.3 Deductible means:

the amount(s) stated in the **Schedule**. For the purposes of determining the applicable **Deductible** under Section 1.2 (a) hereof, the **Firm** shall be deemed to have indemnified **You** to the extent that it is permitted and able to do so.

3.4 Employee means:

any natural person who was or is or may hereafter be acting under a contract of service, training apprenticeship or work experience with the **Firm** including, but not limited to, any part time, seasonal or temporary worker.

Employee does not mean any consultant or sub-contractor or independent professional adviser or agent or any person who falls within Definition 3.21 (a), (b) or (c) hereof or any person providing services to any entity except the **Firm**.

3.5 Employment Practices Wrongful Act means:

any actual or alleged unfair or wrongful dismissal, termination or discharge of employment (either actual or constructive, including breach of an implied contract), employment-related misrepresentation, wrongful failure to employ or promote, failure to grant tenure, discrimination, harassment, retaliation (including lockouts), employment-related humiliation, defamation, invasion of privacy, wrongful deprivation of career opportunity, wrongful demotion or negligent employment evaluation (including the provision of negative or defamatory statements in connection with an employment reference) which relate solely to the **Firm's** past, present or prospective:

- (a) **Employees**; or
- (b) Partners; or
- (c) directors or officers or the equivalent in any other jurisdiction; or
- (d) board members (not being Partners or **Employees**) or the equivalent in any other jurisdiction.

3.6 Firm means:

the firm named in the **Schedule** and includes each service or administration company or trust connected with the **Firm** and any **Subsidiary** thereof. Provided that coverage for any service or administration company or trust applies only to the extent that its activities are carried out exclusively in connection with the activities of the **Firm**.

3.7 Insurance means:

this wording and the **Schedule** and all endorsements appended hereto.

3.8 Insurance Period means:

the period of time specified in Item 2 of the **Schedule** or any other period agreed in writing by the **Firm** and **Us** and, if applicable, a Discovery Period as referred to in Section 9 hereof.

3.9 Limit of Liability means:

the amount stated in Item 4 of the **Schedule**.

3.10 Loss means:

damages, judgements, awards, settlements, **Costs** and **Statutory Liability**.

For the avoidance of doubt, **Loss** also means any punitive or exemplary damages awarded for libel and slander, a breach of privacy or the misuse of confidential information or protected data.

Loss does not mean:

- (a) civil or criminal fines or penalties (other than as provided by Additional Cover 2.3 hereof); or
- (b) taxes; or
- (c) punitive or exemplary damages (other than as provided by this Section 3.10); or
- (d) employment-related benefits, share options, perquisites, deferred compensation or any other type of compensation other than salary, wages or bonus compensation; or
- (e) any liability incurred to adapt any building or property for a disabled person or any liability relating to any educational, sensitivity or other corporate programme.

3.11 Notification means:

written notice of any **Claim** given to **Us** by **You** or the **Firm** within the **Insurance Period** or, if applicable, during a Discovery Period as referred to in Section 9 hereof.

3.12 Outside Company means:

- (a) any entity other than the **Firm** that **We** have specifically agreed in writing and have listed in Item 13 of the **Schedule**; or
- (b) any not for profit entity.

3.13 Pollutants means:

any substance, solid, liquid, gaseous or thermal irritant or contaminant including, but not limited to smoke, vapours, soot, fumes, acids, alkalis, chemicals and waste materials. Waste materials include, but are not limited to, recycled, reconditioned or reclaimed materials.

3.14 Schedule means:

the document so-entitled which is appended to this **Insurance**.

3.15 Statute means:

any act, regulation or other legislative instrument enacted under the laws of the Commonwealth of Australia, any Australian State or Australian Territory or New Zealand.

3.16 Statutory Liability means:

any fine or pecuniary penalty pursuant to any **Statute** which **You** or the **Firm** are legally liable to pay and which **We** are permitted by law to pay and the **Firm** is permitted by law to insure which result from any **Wrongful Act** giving rise to a **Claim**.

Statutory Liability shall not include any amounts representing damages, compensation or any compliance, remedial, reparation or restitution costs.

Statutory Liability does not mean any criminal fine, criminal penalty or any fine or pecuniary penalty arising out of any:

- (a) vehicle, air or marine traffic;
- (b) ownership, possession or use of any motor vehicle, trailer, aircraft, spacecraft, watercraft or hovercraft;
- (c) contract, contractual agreement, express guarantee or express contractual penalty or any acceptance of liability for liquidated damages, except where liability would exist in the absence of same;
- (d) reckless or grossly negligent conduct or any deliberate or intentional violation of any law;
- (e) violation of any law or regulation with respect to:
 - (1) taxes, rates, duties, levies, charge or impost or any other revenue charge; or
 - (2) charges, fees, benefits or payments.

3.17 Subsidiary means:

any company which the **Firm** or a **Subsidiary** controls:

- (a) through holding a majority of the voting rights; or
- (b) through having the right to appoint or remove the majority of its board of directors; or
- (c) pursuant to a written agreement with other shareholders or members, a majority of the voting rights.

For the avoidance of doubt, coverage is provided to **You** for any company which, prior to the date of inception of this **Insurance**, was a **Subsidiary** but is no longer a **Subsidiary** at the date of inception of this **Insurance**.

Coverage for any **Subsidiary** will cease as at the effective date of the sale or dissolution of the **Subsidiary** for any **Wrongful Act** or **Employment Practices Wrongful Act** committed after that date.

3.18 USA Claim means:

- (a) any **Claim** brought in the jurisdiction and courts of the United States of America, its territories, possessions and any state or political sub-division thereof; and
- (b) any actual or attempted enforcement or upholding against **You** or the **Firm** by any court or arbitrator or tribunal outside the United States of America for any damages or compensatory or monetary awards or judgments or orders or settlements or costs or expenses made within the United States of America, its territories, possessions and any state or political sub-division thereof; and
- (c) any **Claim** brought as a consequence of the operations or activities of any **Outside Company** in the United States of America, its territories, possessions and any state or political sub-division thereof.

3.19 We or Us or Our means:

certain Underwriters at Lloyd's of London.

3.20 Wrongful Act means:

any actual or alleged act, libel, slander, error, misstatement, misleading statement, misrepresentation, omission, neglect, breach of duty, breach of warranty of authority or act attempted or committed by **You** or any other matter claimed against **You** solely by reason of **You** acting or serving in the capacity referred to in Definition 3.21 hereof.

Wrongful Act does not mean an **Employment Practices Wrongful Act**.

3.21 You or Your means:

any natural person who is, was or, during the **Insurance Period**, becomes:

- (a) a partner, member or qualifying participant in the **Firm**; or
- (b) a director or officer of the **Firm** or the equivalent in any other jurisdiction; or
- (c) a member of the board of the **Firm** (not being a partner or **Employee**) or the equivalent in any other jurisdiction; or
- (d) a member of any committee (whether or not they are a partner or **Employee**) of the **Firm**; or
- (e) an **Employee** of the **Firm** who carries out a managerial or supervisory function for the **Firm**; or
- (f) an **Employee** of the **Firm** who is joined as a party to any **Claim** against any person defined in this Section 3.21 (a) to (e); or

- (g) the legal representatives, heirs, assigns or estates of a person defined in this Section 3.21 (a) to (f) in the event of that person's death, incapacity, insolvency or bankruptcy; or
- (h) the lawful spouse of a person defined in this Section 3.21, where recovery is sought solely because joint property is held or owned by or on behalf of the spouse (the spouse, however, is not insured under this **Insurance** in his or her own right).

You or Your does not mean any external auditor, receiver, liquidator or administrator of the **Firm**.

SECTION 4 EXCLUSIONS

We shall not be liable for **Loss** on account of any **Claim**:

4.1 arising from or attributable to any claim or circumstance notified to any insurance policy which inception prior to the inception of this **Insurance** or which arise from matters substantially the same as alleged or established in such claim or circumstance.

4.2 arising from or attributable to proceedings which existed prior to or were pending at the earlier of:

- (a) the inception date of this **Insurance**; or
- (b) the date of the first insurance effected with **Us** and continually maintained with **Us** without interruption,

which **Claims** arise from matters substantially the same as alleged or established in such proceedings.

4.3 arising from or attributable to:

- (a) any criminal or dishonest act or omission; or
- (b) the gaining of any personal profit, remuneration or advantage to which **You** or the **Firm** were not legally entitled.

This Exclusion shall only apply if the act, omission or profit is established by admission or by a court, tribunal or any other final, non-appealable adjudication.

4.4 for bodily injury, sickness, mental anguish or emotional distress or disturbance, disease or death of any person howsoever caused (provided that this Exclusion shall not apply to any **Claim for Statutory Liability**) or damage to or destruction of any tangible property, including loss of use thereof.

In relation to an **Employment Practices Wrongful Act** only, this Exclusion shall not apply to a **Claim** in respect of mental anguish or emotional distress or disturbance.

4.5 arising from or attributable to:

- (a) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting from or arising there from or any consequential loss; or
- (b) any legal liability of whatsoever nature;

directly or indirectly caused by or contributed to by or arising from:

- (1) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- (2) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

4.6 arising from or attributable to:

- (a) the actual, alleged or threatened discharge, dispersal, release or escape of **Pollutants** into or upon land, the atmosphere or any water course or body of water, whether such discharge, dispersal, release or escape is intentional or accidental; or
- (b) any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise **Pollutants**.

4.7 based upon, attributable to, involving, contributed to by, or which arise directly from **You**, the **Firm** or any person insured under this **Insurance** carrying out, or failing to carry out, professional services for clients.

4.8 of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to **Loss**:

- (a) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- (b) any act of terrorism.

For the purposes of this Exclusion, an act of terrorism means an act, including but not limited to, the use of force or violence and/or the threat thereof, of any person or group of persons, whether acting alone or on behalf of or in connection with any organisation or government, committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This Exclusion also excludes any **Loss** on account of any **Claim** of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to the acts described in this Section 4.8 (a) or (b).

In the event that any portion of this Exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

- 4.9** for any actual or alleged contractual liability of the **Firm** under any express or implied contract or agreement.

However, this Exclusion shall not apply to a **Claim** for an **Employment Practices Wrongful Act** to the extent the **Firm** would have had such liability in the absence of such contract or agreement.

- 4.10** arising from or attributable to:

- (a) any public sale or public issue of any shares or other securities or similar instruments of the **Firm**; or
- (b) the preparation or release of any prospectus, information memorandum or offering document relating to any public sale or public issue of any shares or other securities or similar instruments of the **Firm**.

- 4.11** arising from or attributable to any **USA Claim**.

- 4.12** arising from or attributable to:

- (a) intellectual property rights, including but not limited to, any actual or alleged plagiarism, misappropriation, infringement or violation of copyright, patent, trademark or trade secret; or
- (b) any actual or alleged breach of any law, whether statutory, regulatory or common law, relating to anti-trust, business competition, unfair trade practices or tortious interference in any other party's business or contractual relationships; or
- (c) fines or penalties (except as recoverable under Additional Cover 2.3 or 2.5); or
- (d) non-monetary relief.

This Exclusion shall only apply to the **Firm** in respect of any **Claim** for a **Wrongful Act**.

- 4.13** brought (in the name of the **Outside Company** or not) or instigated by or on behalf of or for the benefit of any person or entity holding beneficially or otherwise 25% or more of the share capital or securities (which include the right to vote for the election of board members) of any **Outside Company**.
- 4.14** arising from or attributable to any matters that are deemed uninsurable under the laws applicable to this **Insurance**.
- 4.15** or be liable to provide any benefit to the extent that the payment of such **Claim** or provision of such benefit would expose **Us** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, Australia, United Kingdom or United States of America.

SECTION 5 LIMIT OF LIABILITY

5.1 The **Limit of Liability** is the total aggregate limit of **Our** liability in respect of all **Loss** in respect of all **Claims** made during the **Insurance Period** with the exception of any payments made under the Public Relations Cover detailed in Additional Cover 2.1 hereof.

5.2 **We** are only liable to pay **Loss** as incurred by **You** or the **Firm** insofar as it exceeds the amount of the **Deductible**. However if:

- (a) there is a judgement which determines that no person or the **Firm** insured under this **Insurance** is liable and all avenues of appeal have been waived or exhausted; or
- (b) there is a dismissal of the proceedings without any payment being made by or on behalf of any person or the **Firm** insured under this **Insurance**;

then no **Deductible** will apply and **We** agree to reimburse any payments made in respect of the **Deductible** within 60 days.

SECTION 6 CLAIM REPORTING

6.1 With regard to **Our** liability under this **Insurance**, **You** and the **Firm** must provide **Notification**.

6.2 If during the **Insurance Period**, **You** or the **Firm** first become aware of a **Wrongful Act** or an **Employment Practices Wrongful Act** or first become aware of a situation that **You** or the **Firm** consider may become a **Claim**, **You** or the **Firm** must provide **Notification**, in which case any **Claim** that is subsequently made will be treated as having been made during the **Insurance Period**.

SECTION 7 DEFENCE AND SETTLEMENT

7.1 **We** will pay **Costs** prior to final determination or adjudication or up until the time that a **Claim** is withdrawn regardless of whether or not indemnity has been confirmed.

If at any time a **Claim** is deemed not to be covered under this **Insurance** or is found to be excluded, then all such **Costs** must be returned to **Us** on demand. To the extent that **Loss** is paid by **Us** which is subsequently deemed not to be covered under this **Insurance** or is found to be excluded, it will be deemed to erode the **Limit of Liability** until it is repaid to **Us**.

7.2 **You** and the **Firm** shall have the right and duty to defend and contest any **Claim**. **We** shall have the right to effectively associate with **You** and the **Firm** in the defence and settlement of any **Claim** that appears reasonably likely to involve **Us**. This will include, but not be limited to, effectively associating in the negotiation of any settlement.

7.3 Where a **Claim** appears reasonably likely to involve **Us, You** and the **Firm** shall not admit or assume any liability, enter into any settlement agreement, stipulate as to any judgement or incur any **Costs** without **Our** prior written consent. Only those settlements, stipulated judgements and **Costs** to which **We** have consented shall be recoverable as **Loss** under this **Insurance**. **Our** consent shall not be unreasonably withheld provided that **We** shall be entitled to effectively assess the defence and negotiation of any settlement of any **Claim** in order to reach a decision as to reasonableness.

7.4 **You** and the **Firm** shall give **Us** full co-operation and any information that **We** may reasonably require. In the event that a dispute arises as to whether or not to incur **Costs** or contest any legal proceedings, neither **We** nor **You** (or the **Firm**) shall be required to incur **Costs** or contest any legal proceedings unless a Senior Counsel or equivalent (to be mutually agreed upon) shall advise that the **Costs** should be incurred or proceedings should be contested.

We will bear the cost of obtaining the advice of the Senior Counsel or equivalent.

SECTION 8 GENERAL CONDITIONS

8.1 Automatic Acquisition

If the **Firm** creates or acquires a new **Subsidiary** during the **Insurance Period**, then cover hereunder shall include such newly created or acquired **Subsidiary** for any **Wrongful Act** or **Employment Practices Wrongful Act** (or any official investigation or disciplinary inquiry or proceeding into such newly created or acquired **Subsidiary**) committed after the effective date of the creation or acquisition provided that at the time the **Firm** creates or acquires the new **Subsidiary**:

- (a) the total assets of the new **Subsidiary** do not exceed 20% of the total consolidated assets of the **Firm** as stated in the most recent audited financial statements of the **Firm** as at the inception of this **Insurance**; and
- (b) the new **Subsidiary** is not domiciled in the United States of America, its territories, possessions nor any state or political sub-division thereof; and
- (c) the new **Subsidiary** has not had, does not have, nor intends to have its securities traded in the United States of America, its territories, possessions nor any state or political sub-division thereof; and
- (d) the new **Subsidiary** does not have an office or offices in the United States of America, its territories, possessions nor any state or political sub-division thereof.

8.2 Allocation

Where a **Claim** involves matters which give rise to **Loss** covered by this **Insurance** and matters which do not, then **We** will use **Our** best efforts to agree upon a fair and proper allocation of the proportion of the **Loss** covered under this **Insurance**. Only **Loss** incurred by **You** or the **Firm**, and in the case of **Costs** those which are directly attributable to both **Your** or the **Firm's** defence of such **Claim**, are covered, subject always to the terms and conditions of this **Insurance**.

If an allocation cannot be agreed then it shall be determined by a Senior Counsel to be mutually agreed. Such determination will be based upon written submissions only and will be final and binding. Pending that determination, **We** may at **Our** sole discretion meet the **Loss** on an interim basis. After the allocation has been determined, **You** or the **Firm** (whichever is appropriate) or both **You** and the **Firm** will refund to **Us** any **Loss** which **We** have paid that exceeds the entitlement under this **Insurance**.

We will bear the cost of obtaining the advice of the Senior Counsel.

8.3 Event

If the **Firm** is merged, consolidated with or acquired by another entity which thereby obtains ownership or control of more than 50% of the **Firm's** share capital or securities (which include the right to vote for the election of board members) or if a receiver, liquidator or administrator is appointed to the **Firm**, then this **Insurance** (including any Discovery Period offered by **Us** under Section 9.3 hereof) will only apply to any **Wrongful Act** or **Employment Practices Wrongful Act** committed or any official investigation or disciplinary inquiry or proceeding for acts committed prior to the effective date of such event.

8.4 Changes in the risk during the Insurance Period

If the **Firm** decides during the **Insurance Period** to make an offering of its securities in any jurisdiction, whether its securities are already traded or not, then, as soon as the information is available, the **Firm** shall provide **Us** with any prospectus, information memorandum or offering document for **Our** assessment of the increased exposure. **We** shall then be entitled to amend the terms of this **Insurance** and/or charge a reasonable additional premium reflecting the increase in exposure. At the **Firm's** request, **We** will assess the increased exposure and advise of all necessary amendments to the terms of this **Insurance** and the additional premium payable prior to the announcement of the offering. In this event and at the request of the **Firm**, **We** will enter into a confidentiality agreement relating to any information provided in relation to the proposed offering.

8.5 Termination/Cancellation

This **Insurance** shall terminate at the expiry of the **Insurance Period**.

The **Firm** may cancel this **Insurance** by giving notice in writing to **Us** at any time. If the **Firm** cancels this **Insurance**, **We** will retain the proportion of the premium calculated pro rata as at the date of cancellation plus thirty five percent (35%) of that amount.

We may cancel this **Insurance** due to non-payment of premium in accordance with the terms of this **Insurance** by giving 30 days written notice to the **Firm**.

If a receiver, liquidator or administrator cancels this **Insurance** on behalf of the **Firm** and **We** have not otherwise cancelled this **Insurance** due to non-payment of premium, it is agreed that the premium is not refundable and that the **Insurance** will remain in force until the expiry of the **Insurance Period**.

This **Insurance** may otherwise be cancelled in writing by mutual agreement of the **Firm** and **Us**.

8.6 Other Insurance

This **Insurance** shall apply only in excess of any other valid insurance policy, with the sole exception of any insurance policy written as specific excess insurance over the **Limit of Liability** provided by this **Insurance**.

8.7 Governing Law and Service of Suit

This **Insurance** shall be governed by and construed in accordance with the laws of the Commonwealth of Australia and it is agreed that the courts of the Commonwealth of Australia shall have exclusive jurisdiction to determine any disputes which arise in relation to this **Insurance**.

Any summons notice or process to be served upon **Us** may be served upon:

Lloyd's General Representative in Australia
Level 9, 1 O'Connell Street
Sydney NSW 2000

who has authority to accept service and to enter an appearance on **Our** behalf, and who is directed at the request of the **Firm** to give a written undertaking to the **Firm** that they will enter an appearance on **Our** behalf.

8.8 Assignment of Policy

This **Insurance** and any rights hereunder cannot be assigned without **Our** written consent.

8.9 Severability of Exclusions

For the purposes of determining coverage under this **Insurance**, no fact pertaining to or knowledge possessed by **You** or the **Firm** shall be imputed to any other **Firm** or person insured under this **Insurance** and vice versa.

8.10 Severability of Proposal

The Proposal for this **Insurance** shall be construed as a separate Proposal by each person insured under this **Insurance**. With respect to the declarations and statements contained in the Proposal, no statement in the Proposal or knowledge possessed by **You** shall be imputed to any other person insured under this **Insurance** and vice versa.

8.11 Subrogation and Assignment of Rights

If any payments are made under this **Insurance**, **We** shall be subrogated to all rights of recovery in respect of such payments. In addition, **You** or the **Firm** shall upon request execute all documentation that may be necessary to enable **Us** to bring an action or suit in **Your** name or that of the **Firm**. Any recovery received shall be applied first against any **Loss** insofar as it exceeds the **Limit of Liability**, then against any payment made by **Us**, and finally against the **Deductible**. **We** will not subrogate against any person insured under this **Insurance** unless that person is found to have committed a criminal or dishonest act.

8.12 Singular and Plural

Any reference to the singular shall include the plural and vice versa.

8.13 Authorisation of the Firm

The **Firm** shall act as agent on **Your** behalf in respect of all matters of any nature relating to or affecting this **Insurance**. **We** shall be entitled to treat the **Firm** as having such authority for all purposes connected with this **Insurance**.

SECTION 9 DISCOVERY PERIOD

- 9.1** If **We** refuse to offer to renew this **Insurance** for any reason other than non-payment of premium, then the **Firm** shall be entitled to purchase a Discovery Period of 12 months upon payment of an additional premium of 100% of the annual premium stated in Item 3 of the **Schedule**.

This Section 9.1 shall not apply if a Discovery Period under Section 9.2 or 9.3 hereof is invoked.

- 9.2** If **You** retire from the **Firm** during the **Insurance Period**, **You** shall be covered by this **Insurance** with respect to any **Claim** which shall be made against **You** during a Discovery Period of 84 months after the expiry of the **Insurance Period**.

This Section 9.2 shall only apply if **You** retired from your position with the **Firm** prior to the expiry date of the **Insurance Period** and this **Insurance** is neither renewed nor replaced by any other insurance policy affording similar cover.

This Section 9.2 shall not apply if a Discovery Period under Section 9.1 or 9.3 hereof is invoked.

- 9.3** If the **Firm** is merged, consolidated with or acquired by another entity which thereby obtains ownership or control of more than 50% of the **Firm's** share capital or securities (which include the right to vote for the election of board members), then the **Firm** shall be entitled to purchase a Discovery Period of up to 84 months on such terms and conditions and for such additional premium as **We** may reasonably require.

This Section 9.3 shall not apply if a Discovery Period under Section 9.1 or 9.2 hereof is invoked.

- 9.4** The provision of a Discovery Period under Section 9.1 or 9.2 or 9.3 hereof is conditional upon:

- (a) **You** or the **Firm** giving **Us** written confirmation that a Discovery Period is required within 30 days of the expiry of the **Insurance Period**; and
- (b) the payment of any additional premium within 60 days of the expiry of the **Insurance Period**; and
- (c) this **Insurance** not being replaced by any other insurance policy affording similar cover.

- 9.5 The cover granted under Section 9.1 and 9.2 and 9.3 hereof only extends to any **Wrongful Act** or **Employment Practices Wrongful Act** committed or any official investigation or disciplinary inquiry or proceeding for acts committed prior to the expiry of the **Insurance Period**.
- 9.6 Any offer by **Us** of renewal terms, conditions, limits of liability or premium different from those in this **Insurance** does not constitute a refusal to renew.
- 9.7 If a Discovery Period is effected, the **Limit of Liability** shall not be increased in any way.
- 9.8 A Discovery Period may not be cancelled and the additional premium for a Discovery Period is not refundable.

SECTION 10 DECLARATIONS

- 10.1 It is understood and agreed that all statements and declarations made to **Us** have been relied upon by **Us** and are the basis of this **Insurance** and shall be deemed to be incorporated into and form part of this **Insurance**.

SECTION 11 INSURER'S LIABILITY

11.1 Insurer's Liability Several Not Joint

The liability of an insurer under this contract is several and not joint with other insurers party to this contract. An insurer is liable only for the proportion of liability it has underwritten. An insurer is not jointly liable for the proportion of liability underwritten by any other insurer. Nor is an insurer otherwise responsible for any liability of any other insurer that may underwrite this contract.

The proportion of liability under this contract underwritten by an insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp. This is subject always to the provision concerning "signing" below.

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is an insurer. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion. Nor is any member otherwise responsible for any liability of any other insurer that may underwrite this contract. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

11.2 Proportion of Liability

Unless there is “signing” (see below), the proportion of liability under this contract underwritten by each insurer (or, in the case of a Lloyd’s syndicate, the total of the proportions underwritten by all the members of the syndicate taken together) is shown next to its stamp and is referred to as its “written line”.

Where this contract permits, written lines, or certain written lines, may be adjusted (“signed”). In that case a schedule is to be appended to this contract to show the definitive proportion of liability under this contract underwritten by each insurer (or, in the case of a Lloyd’s syndicate, the total of the proportions underwritten by all the members of the syndicate taken together). A definitive proportion (or, in the case of a Lloyd’s syndicate, the total of the proportions underwritten by all the members of a Lloyd’s syndicate taken together) is referred to as a “signed line”. The signed lines shown in the schedule will prevail over the written lines unless a proven error in calculation has occurred.

Although reference is made at various points in this clause to “this contract” in the singular, where the circumstances so require this should be read as a reference to contracts in the plural.