

IMALIA

My Findeminity Cover

Policy



FINDEMUNITY PRODUCT
PRODUCT DISCLOSURE STATEMENT AND POLICY WORDING

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GENERAL INFORMATION

The General Information set out below is provided for **Your** information only. It does not form part of the insurance contract with **You**, and is not part of the policy.

Nothing contained in the General Information imposes contractual obligations on **You**, or creates contractual rights. These are contained in the policy and any endorsement.

CLAIMS MADE

INSURING CLAUSES 1, 2 (SECTIONS A, B and C only), 3 of the policy operate on a 'claims made and notified' basis. This means that these INSURING CLAUSES cover **You** for claims (as defined in the relevant INSURING CLAUSE):

- first made against (or in the case of INSURING CLAUSE 2, SECTION C, discovered by) **You**; and
- notified to us, during the period of the policy.

These INSURING CLAUSES do not provide cover in relation to:

- acts, errors or omissions actually or allegedly committed prior to the Retroactive Date of the policy (if such a date is specified);
- claims made after the expiry of the period of the policy even though the event giving rise to the claim may have occurred during the period of the policy;
- claims notified or arising out of facts or circumstances notified (or which ought reasonably to have been notified) under any previous policy;
- claims made, threatened or intimated against **You** prior to the commencement of the period of the policy;
- facts or circumstances of which **You** first became aware prior to the period of the policy, and which **You** knew or ought reasonably to have known had the potential to give rise to a claim under the applicable INSURING CLAUSE;
- claims arising out of circumstances noted on the proposal form for the current period of the policy or on any previous proposal form. Excluding claims which have already been accepted by Underwriters.

Where **You** give notice in writing to us 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 period of the policy, and provided the claim would otherwise be covered under the policy, **You** have rights under Section 40(3) of the Insurance Contracts Act 1984 (Cth) 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 period of the policy. Any such rights arise under the legislation only. The terms of the policy section and the effect of the policy section is that **You** are not covered for claims made against **You** after the expiry of the period of the policy.

ABOUT THIS PRODUCT DISCLOSURE STATEMENT

This Product Disclosure Statement (PDS) which incorporates the **policy** wording is an important document that contains details of the **policy**.

This PDS contains important information required under Australian legislation.

It seeks to help **You** to:

- decide whether the insurance cover will meet **Your** needs; and
- compare it with other products **You** may be considering.

You should read it carefully before making a decision to purchase an insurance product. **You** will also need to read the **policy** wording for the relevant product **You** are considering to ensure **You** have a full understanding of the terms and conditions (including the limits and exclusions) of the insurance **policy**.

Please note that any recommendation or opinion in this document is of a general nature only and does not take into account **Your** objectives, financial situation or needs.

The **policy** provides a number of covers which may or may not be provided to **the insured** as a retail client under the Corporations Act 2001 (Cth) depending on their circumstances. Only the parts of the **policy** document relevant to cover provided to **the insured** as a retail client and any other documents which **We** tell **the insured** are included, make up the PDS for the purposes of the Act.

Dated 31 October 2022

ABOUT THE INSURERS

The insurers of this product are certain underwriters at Lloyd's Syndicate 1414 of whose definitive numbers and the proportions underwritten by them, will be supplied on application. In consideration of the premium specified in the **schedule**, the said underwriters are hereby bound, severally and not jointly, each for his own part and not one for another, their executors and administrators, to insure in accordance with the terms and conditions contained herein or endorsed hereon (referred to as "**We**", "**Us**", "**Our**" and "**insurers**").

ABOUT IMALIA PTY LIMITED

Imalia Pty Limited (ABN 41 147 857 878, AFSL 451867) ("Imalia") is an Australian Financial Services Licensee authorised to deal in and provide general advice on general insurance products. Imalia has been authorised by **us** to act on **our** behalf to deal in and provide general advice and handle and settle claims in relation to this insurance.

Imalia has a binding authority which means it can enter into, vary or cancel this insurance and handle and settle claims without reference to **us** provided it acts within the binding authority. When providing these services, Imalia acts for **Us** and does not act on **Your** behalf.

Imalia can be contacted as follows:

IMALIA Pty Ltd, Suite 1802, 45 Clarence Street Sydney NSW 2000 Telephone: 1300 302 952

Mobile 0438 630 315

Email: cap@imalia.com.au

SUMMARY OF BENEFITS

The **policy** does not provide cover for **property damage**.

The cover for Cyber liability in this policy is limited to cover for **Your liability to others** and only to the extent provided by INSURING CLAUSE 2: CYBER Section A. **You** are not covered for loss or damage that occurs to you or your systems from a Cyber event or hacking.

Please note that this is a limited summary only and not a full description of the covers. Each cover noted is subject to terms, conditions, exclusions and limitations that are not listed in the summary. **You** need to read the cover sections and the **policy** in full to properly understand the cover provided.

You are insured under each **INSURING CLAUSE** that is specified as applicable in the **schedule**.

INSURING CLAUSE	SUMMARY OF COVERS (See relevant INSURING CLAUSE and SECTION for details, relevant limits, and specific conditions and exclusions that apply)
INSURING CLAUSE 1: ERRORS & OMISSIONS	This INSURING CLAUSE has five cover types included: SECTION A: Professional Liability SECTION B: Breach Of Contract SECTION C: Fidelity Of Employees SECTION D: Loss Of Documents SECTION E: Payment Of Withheld Fees
INSURING CLAUSE 2: CYBER & PRIVACY	This INSURING CLAUSE has six cover types included: SECTION A: Cyber Liability SECTION B: Privacy Liability SECTION C: Privacy Breach Notification Costs SECTION D: System Damage SECTION E: System Business Interruption SECTION F: Threats Or Extortion
INSURING CLAUSE 3: MULTIMEDIA LIABILITY AND ADVERTISING INJURY	This INSURING CLAUSE has four cover types available: SECTION A: Defamation SECTION B: Intellectual Property Rights Infringement SECTION C: Invasion Of Rights Of Privacy SECTION D: Content Liability
INSURING CLAUSE 4: COMMERCIAL GENERAL LIABILITY	This INSURING CLAUSE has six cover types included: SECTION A: Bodily Injury And Property Damage Liability caused to others SECTION B: Products And Completed Operations Liability SECTION C: Pollution Liability SECTION D: Tenants' Legal Liability
INSURING CLAUSE 5: COURT ATTENDANCE COSTS	Reasonable costs incurred to attend court or any tribunal, arbitration, adjudication, mediation or other hearing as a witness in connection with a claim, loss or damage covered under any INSURING CLAUSE of the policy which is shown as covered in the schedule .
INSURING CLAUSE 6: LOSS MITIGATION	Reasonable costs necessarily incurred by You in respect of measures taken by You for the sole purpose of mitigating a claim, potential claim, loss or damage for which You would be entitled to indemnity under the policy had these measures not been taken.
INSURING CLAUSE 7: REPUTATION AND BRAND PROTECTION	Costs reasonably incurred for the services of a public relations consultancy for the purpose of averting or mitigating damage to Your reputation or brand caused by a claim, loss or damage that is covered under any INSURING CLAUSE of the policy which is shown as covered in the schedule and where an event has been publicised through the media.

HOW BENEFITS ARE PROVIDED UNDER THIS INSURANCE

Where **We** agree to enter into a **policy** it is a contract of insurance between **us** and **You**.

The benefits provided under the **policy** may be extended to persons who meet the specified criteria subject to the terms and conditions of the **policy** (see the definition of the '**You**' in the "Definitions" section and each cover section to see who cover may be extended to.) **We** refer to such persons as "eligible persons".

If any eligible person suffers a loss of the type covered by the **policy** during the **period of the policy**, they have a right to recover the amount of their loss from **us** in accordance with the **policy**. Eligible persons can make a claim for the benefits detailed in this document but do not enter into any agreement with **us** and are not charged by **us** for the right to make a claim for those benefits.

Eligible persons have no right to cancel or vary the **policy** or its cover – only **We** or the **insured** can do this. If **We** cancel or vary the **policy** or its cover, **We** do not need to obtain an eligible person's consent to do so.

We do not have to provide any notices in relation to this insurance to eligible persons as they are not a contracting party to the **policy**. **We** only send notices to **You** which is the only party to whom **We** contractual obligations to under the **policy**.

Eligible persons are not obliged to accept any of the benefits of this insurance, but if they wish to make a claim under the **policy** then they will have the same obligations to **us** as the eligible persons would have if they were **insured**. **We** will have the same rights against the eligible persons as **We** would have against the **insured**.

The insurance cover is subject to the terms and conditions (including limits and exclusions) set out in the **policy**.

Neither **We** nor the **insured** hold anything on trust for, or for the benefit or on behalf of, eligible persons under this insurance arrangement. The **insured** does not:

- act on **our** behalf or an eligible person's in relation to the insurance;
- have any authorisation to provide any financial product advice, recommendations or opinions about the insurance; and
- receive any remuneration or benefits from **us**.

Any person who may be eligible should consider obtaining advice as to whether the benefits are appropriate or useful for their personal needs from a person who is licensed to give such advice. No advice is provided by **us** or the **insured** that the benefits are appropriate or useful for any person's needs. Nothing prevents such persons from entering into other arrangements regarding insurance.

OUR AGREEMENT WITH YOU

Where **We** agree to enter into a **policy** it is a contract of insurance between **us** and **You**. The contract is based upon the information **You** gave **us** when **You** applied for the insurance, and any subsequent information which **You** have supplied.

You must pay the premium, including government taxes and charges, for the relevant **period of the policy** and comply with all the **policy** terms and conditions.

Where **We** agree to issue a **policy**, the **policy** will consist of:

1. This document which sets out information on the insurance and the standard terms and conditions (including any limits and exclusions) that apply.

We may need to update this document from time to time if certain changes occur where required and permitted by law. **We** will issue a new version of this PDS on our website.

You can get a paper copy free of charge by contacting **us** at:

IMALIA Pty Ltd, Suite 1802, 45 Clarence Street Sydney NSW 2000 Telephone: 1300 302 952

Mobile 0438 630 315

Email: cap@imalia.com.au

2. The relevant **schedule** issued by **us**.

The **schedule** is a separate document **We** issue when the **policy** is entered into, which shows the insurance details relevant to **You**. It may include additional terms and conditions (including any limits and exclusions) relevant to **You** that amend the standard terms of this document.

We will provide cover for the Sections and Benefits for which an **amount insured** or **limit of liability** is specified in the **schedule** or for those additional benefits contained within the **policy** that are automatically provided.

When the **policy** is changed or renewed, **We** will give **You** a new **schedule**.

3. Any other change to the terms of the **policy** otherwise advised by **us** in writing (such as an endorsement or Supplementary PDS).

These written changes may vary or modify the above documents.

These are all important documents and should be carefully read together and kept in a safe place for future reference.

WHEN DOES THE POLICY BEGIN AND END?

The **policy**:

- is entered into with **You** and begins on the date and at the time shown on the **schedule** as the commencement of the **period of the policy**, subject to payment of applicable premium; and
- continues for the **period of the policy** or until the **policy** otherwise ends in accordance with its terms or the law (whichever occurs first).

COOLING OFF AND CANCELLATION RIGHTS

You may cancel the **policy** by advising **us** within 7 days of the Inception Date of the **period of the policy**, provided that **You** have not exercised any of **Your** rights or powers under the **policy** (for example, if **You** made a claim). If the **insured** cancels during the Cooling Off Period **We** will provide the **insured** with a full refund of any premium paid for the **policy** less any government charges, taxes or duties **We** cannot recover.

After the cooling off period has ended, **You** still have cancellation rights, however **We** may deduct a pro rata proportion of the premium for time on risk, plus any reasonable administrative costs and any government taxes or duties **We** cannot recover (refer to “Conditions - Cancellation ” for full details).

THE OBLIGATION TO COMPLY WITH THE POLICY TERMS AND CONDITIONS

You are required to comply with the terms and conditions of the **policy**. Please remember that if **You** do not comply with any term or condition, **We** may decline or reduce any claim payment and/or cancel the **policy** (to the extent permitted by law).

If more than one person is insured under the **policy**, a failure or wrongful action by one of those persons may adversely affect the rights of any other person insured under the **policy**.

HOW WE CALCULATE YOUR PREMIUM

The amount of the premium is determined by taking a number of different matters into account. **You** can seek a quote at any time.

It is important for **You** to know in particular that the premium varies depending on the information **We** receive from **You** when **You** apply for insurance about the risk to be covered by **us**. The higher the risk is (e.g. high claims experience), the higher the premium will be. Based on **our** experience and expertise as **insurers**, **We** decide what factors increase **our** risk and how they should impact on the premium.

Some factors impacting premiums include:

- the nominated **amount insured, limit of liability, aggregate limit of liability** and **combined aggregate limit of liability**;
- the nature of **Your** business;
- **Your** prior claims experience; and
- the **INSURING CLAUSES**, cover **SECTIONS** and benefits requested by **You**.

The premium also includes amounts that take into account **our** obligations concerning any relevant compulsory government charges, taxes or levies (e.g. Stamp Duty, GST,) in relation to the **policy**. These amounts will be set out separately in the **schedule** as part of the total premium payable.

When the **insured** applies for this insurance, the **insured** will be advised by **us** or their intermediary of the total premium amount payable, when it needs to be paid and how it can be paid. This amount will be set out in the **schedule**, which will be sent to the **insured** after the entry into the **policy**. If the **insured** fails to pay **We** may reduce any claim payment by the amount of premium owing and/or cancel the **policy**.

PAYING YOUR PREMIUM

The **insured** must pay the premium by the due date. If **We** do not receive the premium by this date or the payment is dishonoured, **We** may reduce or refuse to pay a claim and cancel the **policy** in accordance with the law.

RENEWAL PROCEDURE

Before the **policy** expires **We** will advise the **insured** via their intermediary whether **We** intend to offer renewal and if so on what terms. This document also applies for any offer of renewal **We** may make, unless **We** tell the **insured** otherwise.

It is important that **You** check the terms of any renewal offer before renewing to satisfy them that the details are correct. In particular, check the **amount insured, limit of liability, aggregate limit of**

liability, combined aggregate limit of liability and deductible(s) applicable and to ensure the levels of cover are appropriate.

Please note that **You** need to comply with the duty of disclosure before each renewal (see below).

DUTY OF DISCLOSURE

Your Duty of Disclosure

Before **You** enter into a **policy** with **us**, **You** have a duty to tell **us** anything **You** know, or could reasonably be expected to know, that may affect **our** decision whether to insure **You** and on what terms.

This duty applies until **We** agree to insure **You** and continues in respect of any alteration of the risk **We** insure

You have the same duty before **You** renew, extend, vary or reinstate this **You** don't need to tell **us** anything that:

- reduces **our** risk,
- is common knowledge,
- **We** know or should know as an insurer, or
- **We** tell **You** **We** don't need to know.

If You do not tell us something

If **You** fail to comply with **Your** duty of disclosure to **us**, **We** may cancel the **policy** and/or reduce the amount **We** pay for a claim. If fraud is involved **We** will cancel **Your** **policy** from its beginning.

PRIVACY STATEMENT

Unless the context otherwise provides, in this Privacy Statement '**we**', '**our**' or '**us**' means **We** and Imalia and their authorised representatives, related companies, and third parties who provide services to **us** or on **our** behalf.

Personal information is essentially any information or an opinion about an identified individual, or an individual who is reasonably identifiable. See the Privacy Act for full details of what constitutes personal information.

This privacy notice details how **We** collect, disclose and handle personal information.

Why We collect Your personal information

We collect personal information (including sensitive information) so **We** can:

- identify **You** and conduct necessary checks;
- determine what service or products **We** can provide to **You** e.g. offer **our** insurance products;
- issue, manage and administer services and products provided to **You** or others, including claims investigation, handling and settlement; and
- improve **our** services and products, e.g. training and development of **our** representatives, product and service research and data analysis and business strategy development.

What happens if You don't give us Your personal information?

If **You** choose not to provide **us** with the information **We** have requested, **We** may not be able to provide **You** with **our** services or products or properly manage and administer services and products provided to **You** or others.

How We collect Your personal information

Collection can take place through websites (from data input directly or through cookies and other web analytic tools), email, by telephone or in writing.

We collect it directly from **You** unless **You** have consented to collection from someone other than **You**, it is unreasonable or impracticable for **us** to do so or the law permits **us** to.

If **You** provide **us** with personal information about another person **You** must only do so with their consent and agree to make them aware of this privacy notice.

Who We disclose Your personal information to

We share **Your** personal information with third parties for the collection purposes noted above.

The third parties include: **our** related companies and **our** representatives who provide services for **us**, other insurers and reinsurers, Lloyd's Regulatory Division, **our** claim management partner(s), **Your** agents, brokers, **our** legal, accounting and other professional advisers, data warehouses and consultants, investigators, loss assessors and adjusters, other parties **We** may be able to claim or recover against, and anyone either of **us** appoint to review and handle complaints or disputes and any other parties where permitted or required by law.

We may need to disclose information to persons located overseas who may be located in the United Kingdom. Who they are may change from time to time. **You** can contact **us** for details or refer to **our** Privacy Policy available at **our** website. In some cases **We** may not be able to take reasonable steps to ensure they 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.

More information, access and correction or complaints

For more information about **our** privacy practices including how **We** collect, use or disclose information, how to access or seek correction to **Your** information or how to complain in relation to a breach of the Australian Privacy Principles and how such a complaint will be handled, please refer to **our** Privacy Policy. It is available at **our** website imalia.com.au or by contacting Imalia (contact details are provided on page 5).

Your choices

By providing **us** with personal information, **You** and any person **You** provide personal information for, consent to these uses and disclosures unless **You** tell **us** otherwise. If **You** wish to withdraw **Your** consent, including for things such as receiving information on products and offers by **us** or persons **We** have an association with please contact **us**.

GENERAL INSURANCE CODE OF PRACTICE

The Insurance Council of Australia Limited has developed the General Insurance Code of Practice ("the 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. Please contact IMALIA Pty or ToPAz Claims management Pty Ltd in the first instance:

Imalia Pty Ltd

Carole-Anne Priest

Telephone: 1300 302 952

Mobile 0438 630 315

Email: cap@imalia.com.au

ToPAz Claims Management Pty Ltd

Mike Roberts, Head of claims

Telephone: 02 8289 5305

Mobile: 0418 169960

Email: mjr@tpaoz.com.au

We will acknowledge receipt of **Your** complaint and do our utmost to resolve the complaint to **Your** satisfaction within 10 business days.

If **We** cannot resolve **Your** complaint to **Your** satisfaction, **We** will escalate **Your** matter to Lloyd's Australia who will determine whether it will be reviewed by their office or the Lloyd's UK Complaints team. Lloyd's contact details are: Lloyd's Australia Limited

Email: ldraustralia@lloyds.com

Telephone: (02) 8298 0783

Post: Suite 1603 Level 16, 1 Macquarie Place, Sydney NSW 2000

A final decision will be provided to **You** within 30 calendar days of the date on which **You** first made the complaint unless certain exceptions apply.

You may refer **Your** complaint to the Australian Financial Complaints Authority (AFCA), if **Your** complaint is not resolved to **Your** satisfaction within 30 calendar days of the date on which **You** first made the complaint or at any time. AFCA can be contacted as follows:

Telephone: 1800 931 678

Email: info@afca.org.au

Post: GPO Box 3 Melbourne VIC 3001

Website: www.afca.org.au

You complaint must be referred to AFCA within 2 years of the final decision, unless AFCA considers special circumstances apply. If **You** complaint is not eligible for consideration by AFCA, **You** may be referred to the Financial Ombudsman Service (UK) or **You** can seek independent legal advice. **You** can also access any other external dispute resolution or other options that may be available to **You**.

The Underwriters accepting this Insurance agree that:

- (i) if a dispute arises under this Insurance, this Insurance will be subject to Australian law and practice and the Underwriters will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
- (ii) any summons notice or process to be served upon the Underwriters may be served upon:

Lloyd's Underwriters' General Representative in Australia

Suite 1603

Level 16

1 Macquarie Place

Sydney NSW 2000

who has authority to accept service on the Underwriters' behalf;

- (iii) if a suit is instituted against any of the Underwriters, all Underwriters participating in this Insurance will abide by the final decision of such Court or any competent Appellate Court.

In the event of a claim arising under this Insurance immediate notice should be given to:

ToPAz Claims Management Pty Ltd

Mike Roberts, Head of claims

Telephone: 02 8289 5305

Mobile: 0418 169960

Email: mjr@tpaoz.com.au

[LMA5544 17 May 2021]

GST

If **You** are not registered for GST, in the event of a claim **We** will reimburse **You** the GST component in addition to the amount that **We** pay.

If **You** are registered for GST the amount that **We** are liable to pay under the **policy** will be reduced by the amount of any input tax credit that **You** are or may be entitled to claim for the supply of goods or services covered by that payment. Therefore the value and limits of liability noted in the **schedule** are exclusive of any input tax credit which **You** are or would be entitled to claim.

If **You** are liable to pay a deductible under the **policy**, the amount payable will be calculated after deduction of any input tax credit that **You** are or may be entitled to claim on payment of the deductible.

If **You** are entitled to an input tax credit for the premium they have paid, **You** must inform **us** of the extent of that entitlement at or before the time **You** make a claim under the **policy**. **We** will not

indemnify **You** for any GST liability, fines or penalties that arise from or are attributable to **Your** failure to notify **us** of their entitlement (or correct entitlement) to an input tax credit on the premium.

If **You** are unsure about the taxation implications of the **policy**, **You** should seek advice from **Your** accountant or tax professional.

AGENCY ARRANGEMENTS AND AGENT'S REMUNERATION

If the **policy** has been issued through **our** agent, or a broker who is acting under a binder agreement with **us**, then they are acting as **our** agent and not as **Your** agent.

If the **policy** has been issued by a broker, other than a broker acting under an agency/binder arrangement with **us**, then the broker is acting as **Your** agent.

When the **policy** has been arranged through an agent or broker, remuneration (such as commission) is payable by **us** to them for arranging the insurance. **You** can ask them for more information.

FURTHER INFORMATION AND CONFIRMATION OF TRANSACTIONS

If **You** require further information about this insurance or wish to confirm a transaction, please contact **us**.

POLICY WORDING

Subject to the **insured's** payment of, or agreement to pay the Premium, to **us We** agree to provide the cover as set out below in accordance with and subject to all the terms, conditions, limits and exclusions of the **policy**.

IMPORTANT NOTICE – CLAIMS MADE AND NOTIFIED COVER

INSURING CLAUSES 1, 2 (SECTIONS A, B and C only) and 3 only provide cover on a “claims made and notified basis”.

Under these **INSURING CLAUSES** a **claim** (or in the case of **INSURING CLAUSE 2, SECTION C** an actual or potential breach of **privacy obligations**) must be:

- first made against (or in the case of **INSURING CLAUSE 2, SECTION C**, discovered by) **You**; and
- notified to **us**, during the **period of the policy** to be covered.

To the extent permitted by law these **INSURING CLAUSES** do not cover any **claim** arising out of any actual or alleged **wrongful act** (or in the case of **INSURING CLAUSE 2, SECTION C** an actual or potential breach of **privacy obligations**) occurring before the date specified as the Retroactive Date in the **schedule** or any **claim** (or in the case of **INSURING CLAUSE 2, SECTION C** an actual or potential breach of **privacy obligations**) that **You** notify **us** of after the **period of the policy** has expired.

INSURING CLAUSES

INSURING CLAUSE 1: ERRORS & OMISSIONS

Our total liability under this **INSURING CLAUSE 1** shall not exceed:

- for all claims arising from any one event, the **limit of liability**; and
- for all claims, during the **period of the policy**, the **aggregate limit of liability**, stated in the **schedule** for this **INSURING CLAUSE 1**, or
- the remaining balance of the **combined aggregate limit of liability**, whichever is the lesser.

Any amount paid under this **INSURING CLAUSE 1** shall be included in, and reduce the amount payable under, the **combined aggregate limit of liability** applicable to **INSURING CLAUSES 1 to 4** and **6 to 8**.

Our total liability under **SECTIONS A - E** in this **INSURING CLAUSE 1**, shall not exceed:

- for all **claims** arising from any one event, the **limit of liability**; and
- for all **claims** during the **period of the policy**, the **aggregate limit of liability**, stated in the **schedule** for this **SECTIONS A, B C D, or E** or
- the remaining balance of the **combined aggregate limit of liability**, whichever is the lesser.

Any amount paid under and of the **SECTIONS A - E** in this **INSURING CLAUSE 1**, shall be included in, and reduce the amount payable under, the **combined aggregate limit of liability** applicable to **INSURING CLAUSES 1 to 3** and **5 to 7**.

We will also pay **costs and expenses** on **Your** behalf. **Costs and expenses** are included in, and not in addition to, the **limit of liability, aggregate limit of liability** and /or **combined aggregate limit of liability**.

SECTION A: PROFESSIONAL LIABILITY

We agree to pay on **Your** behalf all sums which **You** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim**:

- first made against **You**; and
- notified to **us**, during the **period of the policy** for any:
 - a) negligent act, error, omission, advice, misstatement or misrepresentation; or
 - b) breach of any contractual term implied by law concerning necessary quality, safety or fitness, or **Your** duty to use reasonable care and skill; or
 - c) dishonesty of **Your senior executive officers** or **employees** (provided that **We** maintain all rights of subrogation to the extent permitted by law against the **senior executive officer** or **employee** if they are found guilty of such a dishonest act); or
 - d) other act, error or omission giving rise to civil liability;

arising out of **Your business activities** performed for a **client**.

SECTION B: BREACH OF CONTRACT

We agree to pay on **Your** behalf all sums which **You** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim** by a **client**:

- first made against **You**; and
- notified to **us**, during the **period of the policy** arising out of any **breach of client contract**.

SECTION C: FIDELITY OF EMPLOYEES

We agree to reimburse **You** for **loss** first discovered during the **period of the policy** and incurred directly as a result of the dishonesty of **Your employees** where there was a clear intention of the **employee(s)** to cause **You loss** and obtain personal gain for themselves.

SECTION D: LOSS OF DOCUMENTS

We agree to pay on **Your** behalf all sums which **You** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim**:

- first made against **You**; and
- notified to **us**, during the **period of the policy** arising out of **damage to Your documents** or **documents** in **Your** care, custody or control.

SECTION E: PAYMENT OF WITHHELD FEES

We agree to pay **Your withheld fees** with **our** prior written agreement in the event that **Your client** brings or threatens to bring a **claim** against **You** during the **period of the policy** that would be

covered under **SECTIONS A or B** of this **INSURING CLAUSE 1** for an amount greater than **Your withheld fees** if **You** attempt to recover the **withheld fees** from them. It is a condition to **our** payment of **Your withheld fees** that **You** must obtain written confirmation from **Your client** that they will not bring a **claim** against **You** if **You** agree not to pursue them for **Your withheld fees** and provide it to **us**.

INSURING CLAUSE 2: CYBER & PRIVACY

Our total liability under this **INSURING CLAUSE 2** shall not exceed:

- for all claims arising from any one event, the **limit of liability**; and
- for all claims, during the **period of the policy**, the **aggregate limit of liability**, stated in the **schedule** for this **INSURING CLAUSE 2**, or
- the remaining balance of the **combined aggregate limit of liability**, whichever is the lesser.

Any amount paid under this **INSURING CLAUSE 2** and any of the **SECTIONS A-F** in this **INSURING CLAUSE 2**, shall be included in, and reduce the amount payable under, the **combined aggregate limit of liability** applicable to **INSURING CLAUSES 1 to 3** and **5 to 7**.

We will also pay **costs and expenses** on **Your** behalf. **Costs and expenses** are included in, and not in addition to, the **limit of liability** and/or **aggregate limit of liability** and /or **combined aggregate limit of liability**.

SECTION A: CYBER LIABILITY

Subject to the limits specified in the Schedule **We** agree to pay on **Your** behalf all sums which **You** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim**:

- first made against **You** ; and
- notified to **us**, during the **period of the policy** for any:
 - a) **third party** financial loss arising directly from a **hacking attack** or **virus** that has emanated from or passed through **Your computer systems**; or
 - b) **third party** financial loss arising directly from their inability to access **Your computer systems** in the way in which **You** have authorised them to as a direct result of **Your computer systems'** failure or impairment, due to a **hacking attack** or **virus**; or
 - c) **third party** financial loss arising directly from the loss or theft of **Your** data, or data for which **You** are responsible or held to be responsible, or **Your** data held by a **cloud computing provider**, arising directly from a **hacking attack** or **virus**; and

arising out of **media content**, **user generated content** and **Your business activities**.

SECTION B: PRIVACY LIABILITY

We agree to pay on **Your** behalf all sums which **You** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim**:

- first made against **You** ; and
- notified to **us**, during the **period of the policy** for any:

- a) breach of any individual privacy rights, unintentional disclosure of personal information, failure to maintain the security of personally identifiable data including credit card information for which **You** are responsible, violation of any legal obligation relating to the security of personal information, or failure to warn of an actual or potential theft of personal information; or
- b) breach of any rights of confidentiality, including a breach of any provisions of a non-disclosure agreement or breach of a contractual warranty relating to the confidentiality of data; or
- c) fines, penalties or contractual damages (but not punitive, exemplary, liquidated, aggravated or multiple damages) **You** are legally obliged to pay as a direct result of a breach of **privacy obligations** where insurable under the applicable law; or
- d) **claim** arising out of a)-c) above, which is due to the failure of **Your cloud computing provider's** systems;

arising out of **media content, user generated content** and **Your business activities**.

SECTION C: PRIVACY BREACH NOTIFICATION COSTS

We agree to reimburse **You** for **privacy breach costs** subject to **our** prior written agreement (such agreement not to be unreasonably withheld):

- a) that **You** are legally obliged to incur; or
- b) that **You** are not legally obliged to incur, but where the reimbursement of these **privacy breach costs** will effectively mitigate or avoid a **claim** for which **You** would have been entitled to indemnity under **SECTION B** of **INSURING CLAUSE 2** had such **privacy breach costs** not been incurred; or
- c) that **You** are not legally obliged to incur, but where the reimbursement of these **privacy breach costs** will effectively mitigate material damage to **Your** brand or reputation,

arising out of an actual or potential breach of **privacy obligations** in relation to **Your business activities**:

- first discovered by **You**; and
- notified to **us**, during the **period of the policy**.

SECTION D: SYSTEM DAMAGE

We agree to reimburse **You** for **rectification costs**, subject to **our** prior written agreement (such agreement not to be unreasonably withheld) which **You** incur:

- a) in retrieving, restoring or replacing any of **Your** computer programs or any other data media (or any other computer programs or any other data media for which **You** are responsible) that **You** first discover during the **period of the policy** have been **damaged**; or
- b) in repairing, restoring or replacing any of **Your computer systems** that **You** first discover during the **period of the policy** have been **damaged**;

as the direct result of any **cyber peril**, or a **cloud computing provider's** systems failure or impairment due to a **cyber peril**, or accidental **damage** to **Your** data, first discovered during the **period of the policy**.

SECTION E: SYSTEM BUSINESS INTERRUPTION

We agree to reimburse **You** for **Your loss of income** incurred as the direct result of any **cyber peril** or a **cloud computing provider's** systems failure or impairment due to a **cyber peril** first discovered during the **period of the policy**.

SECTION F: THREATS OR EXTORTION

We agree to reimburse **You** for **loss** due to threats received by **You**, either directly or indirectly, which **You** first discover during the **period of the policy** to:

- a) introduce any **hacking attack** or **virus** into **Your computer systems**; or
- b) disseminate, divulge or utilise information contained or once contained in **Your computer systems**; or
- c) damage, destroy or alter **Your computer systems**;

by any person who then demands ransom as a condition of not carrying out such threats only when it is the quickest and most effective resolution.

INSURING CLAUSE 3: MULTIMEDIA LIABILITY AND ADVERTISING INJURY

Our total liability under this **INSURING CLAUSE 3** shall not exceed:

- for all claims arising from any one event, the **limit of liability**; and
- for all claims, during the **period of the policy**, **aggregate limit of liability** stated in the **schedule** for this **INSURING CLAUSE 3**, or
- the remaining balance of the **combined aggregate limit of liability**, whichever is the lesser.

Any amount paid under this **INSURING CLAUSE 3** and any of the **SECTIONS A-D** in this **INSURING CLAUSE 3** shall be included in, and reduce the amount payable under, the **combined aggregate limit of liability** applicable to **INSURING CLAUSES 1 to 3** and **5 to 7**.

We will also pay **costs and expenses** on **Your** behalf. **Costs and expenses** are included in, and not in addition to, the **limit of liability**, **aggregate limit of liability** and /or **combined aggregate limit of liability**.

SECTION A: DEFAMATION

We agree to pay on **Your** behalf all sums which **You** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim**:

- first made against **You** ; and
- notified to **us**, during the **period of the policy** for any:
 - a) defamation, including but not limited to libel, slander, trade libel, product disparagement, injurious falsehood; or
 - b) emotional distress or outrage based on harm to the character or reputation of any person or entity,

arising out of **media content**, **user generated content** and **Your business activities**.

SECTION B: INTELLECTUAL PROPERTY RIGHTS INFRINGEMENT

We agree to pay on **Your** behalf all sums which **You** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim**:

- first made against **You** ; and
 - notified to **us**, during the **period of the policy** for any:
- c) infringement of any intellectual property rights, including, but not limited to, copyright, trademark, trade dilution, trade dress, design rights, domain name rights, moral rights, service mark or service name, but not including patent; or
 - d) misappropriation of a trade secret; or
 - e) act of passing-off, piracy or plagiarism or any misappropriation of content, concepts, designs, format rights or ideas or breach of a contractual warranty relating to intellectual property rights; or
 - f) breach of any intellectual property rights licence acquired by **You**; or
 - g) failure to attribute authorship or provide credit;

arising out of **media content**, **user generated content** and **Your business activities**.

SECTION C: INVASION OF RIGHTS OF PRIVACY

We agree to pay on **Your** behalf all sums which **You** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim**:

- first made against **You** ; and
 - notified to **us**, during the **period of the policy** for any:
- a) invasion, infringement or interference with rights of privacy or publicity, including false light, public disclosure of private facts, intrusion, breach of confidence and commercial appropriation of name or likeness; or
 - b) breach of agreement, breach of confidentiality or promissory estoppel, in connection with the failure to maintain the confidentiality of a source or materials furnished by a source or the failure to portray a source or a subject in a certain light;

arising out of **media content**, **user generated content** and **Your business activities**.

SECTION D: CONTENT LIABILITY

We agree to pay on **Your** behalf all sums which **You** become legally obliged to pay (including liability for claimants' costs and expenses) as a result of any **claim**:

- first made against **You** ; and
 - notified to **us**, during the **period of the policy** for any:
- a) negligent act, error, omission, advice, misstatement or misrepresentation; or
 - b) breach of any contractual term implied by law concerning necessary quality, safety or fitness, or **Your** duty to use reasonable care and skill; or

- c) dishonesty of **Your senior executive officers** or **employees** provided that **We** maintain all rights of subrogation against the **senior executive officer** or **employee** if they are found guilty of such a dishonest act; or
- d) other act, error or omission giving rise to civil liability;

arising out of **media content** or **user generated content**.

INSURING CLAUSE 4: COMMERCIAL GENERAL LIABILITY

Our total liability under this **INSURING CLAUSE 5** and any of the **SECTIONS A-D** in this **INSURING CLAUSE 4** shall not exceed:

- for all **claims** arising from any one event, the **limit of liability**; and
- for all **claims**, during the **period of the policy**, the **aggregate limit of liability**, stated in the **schedule** for this **INSURING CLAUSE 4**.

However, **We** will not make any payment on **Your** behalf under this **SECTIONS A - D** in respect of any **claim**:

- a) which is covered under any of **INSURING CLAUSES 1** or **3**, regardless of whether or not **INSURING CLAUSES 1** or **3** are shown as covered in the **schedule** and regardless of any exhaustion of the **limit of liability** of **INSURING CLAUSES 1** or **3** (where applicable); or
- b) arising directly or indirectly out of any **product**; or
- c) arising directly or indirectly out of any **pollution**.

We will also pay **costs and expenses** on **Your** behalf. **Costs and expenses** are included in, and not in addition to, the **limit of liability** and/or **aggregate limit of liability**.

SECTION A: BODILY INJURY AND PROPERTY DAMAGE LIABILITY

We agree to pay on **Your** behalf all sums which **You** become legally obliged to pay to a **third party** (including liability for claimants' costs and expenses) as a result of any **claim** arising out of **accidental bodily injury**, **personal injury** or **damage** occurring during the **period of the policy** in the course of **Your business activities**.

SECTION B: PRODUCTS AND COMPLETED OPERATIONS LIABILITY

We agree to pay on **Your** behalf all sums which **You** become legally obliged to pay to a **third party** (including liability for claimants' costs and expenses) as a result of any **claim** arising out of **accidental bodily injury** or **damage** occurring during the **period of the policy** in the course of **Your business activities** in connection with any **product**.

We will also pay **costs and expenses** on **Your** behalf. **Costs and expenses** are included in, and not in addition to, the **limit of liability** and/or **aggregate limit of liability**.

SECTION C: POLLUTION LIABILITY

We agree to pay on **Your** behalf all sums which **You** become legally obliged to pay to a **third party** (including liability for claimants' costs and expenses) as a result of any **claim** arising out of **accidental**

bodily injury or damage occurring during the **period of the policy** and caused by **pollution** in the course of **Your business activities** on condition that such **pollution**:

- a) was the direct result of a sudden, identifiable, unintended and unexpected incident occurring in its entirety at a specific time and place during the **period of the policy**; and
- b) was not the direct result of **You** failing to take reasonable precautions to prevent such **pollution**,

provided always that all such **pollution** that arises out of one incident shall be considered for the purposes of the **policy** to have occurred at the time such incident takes place.

SECTION D: YOUR LEGAL LIABILITY AS A TENANT

We agree to pay on **Your** behalf all sums which **You** become legally obliged to pay to a **third party** (including liability for claimants' costs and expenses) as a result of any **claim** arising out of **accidental damage to premises** leased to, hired by, on loan to or held in trust by **You** or otherwise in **Your** care, custody or control occurring during the **period of the policy** in the course of **Your business activities**.

INSURING CLAUSE 5: COURT ATTENDANCE COSTS

We agree to reimburse **You**, subject to **our** prior written agreement (such agreement not to be unreasonably withheld), for **Your** reasonable costs incurred to attend court or any tribunal, arbitration, adjudication, mediation or other hearing as a witness in connection with a **claim, loss or damage** covered under any **INSURING CLAUSE** of the **policy** which is shown as covered in the **schedule**.

Our total liability under this **INSURING CLAUSE 56** shall not exceed:

- for all **claims, loss or damage** arising from any one event, the **limit of liability**; and
- for all **claims, losses or damage** during the **period of the policy**, the **aggregate limit of liability**, stated in the **schedule** for this **INSURING CLAUSE 5** or
- the remaining balance of the **combined aggregate limit of liability**, whichever is the lesser.

Any amount paid under this **INSURING CLAUSE 5** shall be included in, and reduce the amount payable under, the **combined aggregate limit of liability** applicable to **INSURING CLAUSES 1 to 3** and **5 to 7**.

INSURING CLAUSE 6: LOSS MITIGATION

We agree to pay any reasonable costs necessarily incurred by **You** in respect of measures taken by **You** for the sole purpose of mitigating a **claim, potential claim, loss or damage** for which **You** would be entitled to indemnity under the **policy** had these measures not been taken, provided that:

- a) **You** have previously notified **us** of the **claim, potential claim, loss or damage**; and
- b) the costs in respect of measures to be taken or taken by **You** to mitigate the **claim, potential claim, loss or damage** are less than the expected value of the **claim, potential claim, loss or damage**; and
- c) the costs do not include any provision for salaries or other remuneration of **Your employees**, any provision for **Your** loss of profit or any provision for **Your** normal operating expenses; and

- d) the costs are incurred with **our** prior written agreement (such agreement not to be unreasonably withheld).

Our total liability under this **INSURING CLAUSE 6** shall not exceed:

- for all **claims**, potential **claims**, **loss** or **damage** arising from any one event, the **limit of liability**; and
- for all **claims**, potential **claims**, **losses** or **damage** during the **period of the policy**, the **aggregate limit of liability**, stated in the **schedule** for this **INSURING CLAUSE 6**, or
- the remaining balance of the **combined aggregate limit of liability**, whichever is the lesser.

Any amount paid under this **INSURING CLAUSE 6** shall be included in, and reduce the amount payable under, the **combined aggregate limit of liability** applicable to **INSURING CLAUSES 1 to 3** and **5 to 7**.

INSURING CLAUSE 7: REPUTATION AND BRAND PROTECTION

We agree to pay costs reasonably incurred, subject to **our** prior written agreement (such agreement not to be unreasonably withheld), for the services of a public relations consultancy for the purpose of averting or mitigating damage to **Your** reputation or brand caused by a **claim**, **loss** or **damage** that is covered under any **INSURING CLAUSE** of the **policy** which is shown as covered in the **schedule** and where an event has been publicised through the media, including but not limited to television, print, radio or the internet which might reasonably be considered to create a material threat to **Your** brand or reputation.

The public relations consultancy shall be chosen by **us** taking into account the nature of the **claim**, **loss** or **damage** and the cost and quality of the services that they can deliver, unless **You** have reasonable cause to request a different public relations consultancy and **We** and **You** mutually agree upon this company.

Our total liability under this **INSURING CLAUSE 7** shall not exceed:

- for all **claims**, **loss** or **damage** arising from any one event, the **limit of liability**; and
- for all **claims**, **losses** or **damage** during the **period of the policy**, the **aggregate limit of liability**, stated in the **schedule** for this **INSURING CLAUSE 7**, or
- the remaining balance of the **combined aggregate limit of liability**, whichever is the lesser.

Any amount paid under this **INSURING CLAUSE 7** shall be included in, and reduce the amount payable under, the **combined aggregate limit of liability** applicable to **INSURING CLAUSES 1 to 3** and **5 to 7**.

HOW MUCH WILL WE PAY

Subject always to the **aggregate limit of liability**, **combined aggregate limit of liability** or **limit of liability**, the maximum amount payable by **us** for all **claims**, **losses**, **damage** and **costs and expenses** shall not exceed the amounts shown in the **schedule** in respect of each **INSURING CLAUSE** or **SECTION** (as applicable) unless limited below.

The **combined aggregate limit of liability** is the maximum amount payable by **us** as stated in the **schedule** in respect of all **claims**, **losses** or **damage** under **INSURING CLAUSES 1 to 4** and **6 to 8** during the **period of the policy**. This means that any amount paid under **INSURING CLAUSES 1 to 4** and **6 to 8** shall be included in, and reduce the amount payable under, the **combined aggregate limit of liability** applicable to **INSURING CLAUSES 1 to 4** and **6 to 8**.

Where more than one **claim, loss or damage** arises from the same original cause or single source or event all those **claims or losses** shall be deemed to be one **claim, loss or damage** for the purposes of the **policy** regardless of whether one or more of **You** make a claim which arises from the same original cause or single source or event. Where there is more than one such **claim, loss or damage**, all such **claims, losses or damage** shall be deemed to have been first made, or to have first occurred, when the earliest **claim** was first made, or the event giving rise to the **loss or damage** first occurred.

We will not pay for any **claim, loss or damage** covered by the **policy** under more than one **INSURING CLAUSE** or **SECTION** of the **policy** unless the relevant **amount insured, limit of liability** or other amount payable has been paid out in full and **You** have not been fully indemnified for that **claim, loss or damage**, less any applicable **deductible**, for the **loss, damage** or liability.

In respect of **INSURING CLAUSES 1, 2 (SECTIONS A and B only), 3 and 5** We may at any time pay to **You** in connection with any **claim** the amount of the remaining balance of the **combined aggregate limit of liability (INSURING CLAUSES 1 to 4 and 6 to 8), the aggregate limit of liability or limit of liability** (after deduction of any amounts already paid). Upon such payment being made **We** shall relinquish the conduct and control of the **claim** and be under no further liability in connection with that **claim**.

YOUR DEDUCTIBLE

We shall only be liable for that part of each and every **claim, loss or damage** (which for the purpose of this **CLAUSE** shall be deemed to include all **costs and expenses** incurred) which exceeds the amount of the **deductible** stated in the **schedule**. If any expenditure is incurred by **us** which falls within the amount of the **deductible** stated in the **schedule**, then **You** shall reimburse that amount to **us** on **our** request.

Where more than one **claim or loss** arises from the same original cause or single source or event all such **claims or losses or damage** shall be deemed to be one **claim or loss or damage** and only one **deductible** will apply.

Where cover is provided under multiple **SECTIONS** or multiple **INSURING CLAUSES** only one **deductible** will apply to that **claim or loss or damage** and this shall be the highest applicable **deductible** payable under the **SECTIONS** or **INSURING CLAUSES** under which cover is provided.

DEFINITIONS

1. “**Accident / Accidental**” means a single, sudden and unexpected event, which occurs at an identifiable time and place during the **period of the policy**, and which directly and independently causes **damage, bodily injury** or death.
2. “**Accounts receivable**” means:
 - a) all sums due to **You** from **clients** or customers, provided **You** are unable to effect collection thereof as the direct result of **insured damage** to records of such sums; or
 - b) interest charges on any loan to offset impaired collections pending repayment of such sums made uncollectible by such **insured damage**; or
 - c) collection expense of such sums in excess of normal collection costs and made necessary because of **insured damage**,

but shall not include bad debts and prior uncollectable sums.

3. **“Administration”** means:

- a) informing **employees**, including their dependants and beneficiaries with respect to **Your employee benefit program**; or
- b) handling records in connection with **Your employee benefit program**; or
- c) effecting enrolment or termination of any **employee’s** participation in a plan included in **Your employee benefit program**; or
- d) selecting the plans to be included in **Your employee benefit program**.

“Administration” does not include the provision of any financial services or products whether a licence or authorisation is required under Chapter 7 of the Corporations Act 2001 (Cth) or not.

4. **“Aggregate limit of liability”** means:

the maximum amount payable by **us** as stated in the **schedule** in respect of all **claims**, potential **claims losses, damage, withheld fees**, or in respect of all **accidents** giving rise to **first aid** and/or **funeral expenses** under the relevant **INSURING CLAUSE** or **SECTION** of each **INSURING CLAUSE** (as applicable) during the **period of the policy**. The **aggregate limit of liability** under **INSURING CLAUSES 1 to 4** and **6 to 8** remains subject to the **combined aggregate limit of liability** applicable to those clauses.

5. **“Amount insured”** means:

the maximum amount payable by **us** as shown in the **schedule**.

6. **“Bodily injury”** means:

accidental death, bodily injury, mental injury, illness or disease of or to any person.

7. **“Breach of client contract”** in **INSURING CLAUSE 1 Section B** means:

Your unintentional breach of a contract relating to the performance of **Your business activities** for a **client**.

8. **“Business activities”** means:

- a) in respect of **INSURING CLAUSES 1 to 3**, the Business Activities, as stated in the **schedule**, but not including the dissemination of **media content** or **user generated content**; or
- b) in respect of all other **INSURING CLAUSES**, the Business Activities, as stated in the **schedule** and shall include, for the purpose of those Business Activities:
 - i) the ownership, repair and maintenance of **Your** property; and
 - ii) provision and management of canteen, social, sports and welfare organisations for the benefit of **Your senior executive officers** or **employees** and **first aid**, firefighting, and security services; and
 - iii) attendance at conferences and tradeshows as either an exhibitor or visitor, but shall not include the dissemination of **media content** or **user generated content**.

9. **“Claim”** means:

- a) a writ, statement of claim, summons, application or other originating legal or arbitral process, cross claim, counter claim or similar notice for compensation or non-monetary relief;
- b) a written assertion of a right to, or a demand for, compensation or non-monetary relief; or

- c) a threat or initiation of a suit seeking injunctive relief (including a temporary restraining order or a preliminary or permanent injunction) or declaratory relief; or
- d) a formal administrative proceeding including any arbitration, mediation, conciliation or alternative dispute resolution proceeding;
- e) a disciplinary action, regulatory investigation or proceeding brought by any professional body, occupational health and safety body or regulator.

10. **“Client”** means:

any **third party** with whom **You** have a contract in place for the supply of **Your business activities** in return for a fee, or where a fee would normally be expected to be paid.

11. **“Cloud computing provider”** means:

- a) **third party** provider of hosted computing services accessed across the internet including infrastructure, platform and application level services.

12. **“Combined aggregate limit of liability”** means:

the combined maximum amount payable by **us** as stated in the **schedule** in respect of all **claims, losses or damage** under **INSURING CLAUSES 1 to 3 and 5 to 7** during the **period of the policy**.

13. **“Computer systems”** means:

all electronic computers including operating systems, software, hardware and all communication and open system networks and any data or websites (wheresoever hosted), including **cloud computing providers**, off-line media libraries and data back-ups.

14. **“Contents of every description”** means:

contents which are owned by **You** or for which **You** are legally responsible and which are held for use in the course of **Your business activities**, including:

- a) computer and ancillary equipment (including VDUs, keyboards, printers and software), television and video equipment, photographic, photocopying, surveying and telecommunications equipment; or
- b) **documents**, briefs, manuscripts, plans, business books, **computer systems**, records and programs; or
- c) goods held in trust, stock and samples; or
- d) wines, spirits and tobacco kept for entertainment purposes; or
- e) works of art or precious metals; or
- f) fixed glass in windows, doors and fanlights, glass showcases, glass shelves, mirrors and sanitary fixtures and fittings; or
- g) heating oil for **Your premises** contained in fixed tanks in the open at the address shown in the **schedule**; or
- h) tenant's improvements, decorations, fixtures and fittings including, if attached to the **premises**, external signs, aerials and satellite dishes; or
- i) pipes, ducting, cables, wires and associated control equipment at the address shown in the **schedule** and extending to the public mains.

“Contents of every description” does not include **money** or the personal belongings of **Your senior executive officers or employees** or visitors to **Your premises**.

15. “**Corporate blogging**” means:

creating or editing a web log, discussion forum post, online comment, or other associated social media activity where the primary purpose of that activity is to promote **You** or the individual’s position within **Your** industry even if the nature of the content is not directly associated with **Your business activities**.

16. “**Costs and expenses**” means:

- a) in respect of **INSURING CLAUSES 1, 2 (SECTIONS A and B only)** and **3**:
 - i) **Your** reasonable legal costs and expenses in the defence or settlement of any **claim** made against **You**; and
 - ii) **Your** reasonable legal costs and expenses in the defence of any criminal claim made against **You**, provided that **We** maintain all rights of subrogation against any **senior executive officer** or **employee** if they are found guilty of such a criminal act; and
 - iii) **Your** reasonable legal costs and expenses incurred in quashing or challenging the scope of any subpoena or witness summons ordering **You** to disclose or produce any information or material which was created, produced or disseminated by **You**; and
 - iv) interest on that part of any judgment **We** pay that accrues after entry of the judgment and before **We** have paid, offered to pay, or deposited in court the part of the judgment that is within the **limit of liability**; and
- b) in respect of **INSURING CLAUSES 2 (SECTIONS D and E only)** the reasonable costs and expenses incurred by **You** or on **Your** behalf in establishing that **You** have sustained a **loss** or **damage** and the quantum of such **loss** or **damage** or the costs and expenses incurred by **You** or on **Your** behalf in mitigating any such **loss** or **damage**; and
- c) in respect of **5, Your legal costs and expenses** in the defence or settlement of any **claim** made against **You**.

Subject to all **costs and expenses** being incurred with the Claims Managers’ written agreement (such agreement not to be unreasonably withheld).

Costs and expenses are always included in the **limit of liability, amount insured, aggregate limit of liability** and /or **combined aggregate limit of liability** (as applicable) in respect of all **INSURING CLAUSES** .

17. “**Cyber peril**” means any:

- a) **hacking attack** or **virus**; or
- b) malicious damage to **Your computer systems** by an **employee**; or
- c) failure of a **cloud computing provider** or other **third party** hosting **Your computer systems** as a direct result of (a) or (b) above.

18. “**Damage/damaged**” means:

damage to, or destruction of, or loss of possession of, property. In respect of **INSURING CLAUSES 1, 2 (SECTIONS A and B only), 3 and 4** damage does not include damage to or destruction of, or loss of possession of, or loss of use of, or corruption of, data.

- 19. “**Deductible**” means: the amount of money specified in the **schedule** that **You** must contribute as the first payment of any claim. A separate deductible applies to each of **You** making a claim, and/or every claim made, which arises out of any one event.
- 20. “**Direct costs**” means: the amounts that can be completely attributed to the production of specific goods or services.

21. **“Documents”** means:
deeds, wills, agreements, maps, plans, records, books, letters, certificates, forms, computer programs or any other data media and documents of any nature whatsoever, whether written, printed or reproduced by any other method (other than bearer bonds, coupons, bank notes, currency notes and negotiable instruments).
22. **“Employee”** means any:
- a) any natural person who is a past present or prospective employee of the **insured**, or any **subsidiary**, including any full time, part time, casual, secondee or volunteer ; or
 - b) any natural person undertaking study or work experience or a **Youth** training scheme with the **insured**, or any **subsidiary**.
23. **Employee** does not include:
- a) any **senior executive officer** of the **insured**, or any **subsidiary**; or
 - b) independent contractors, consultants, or agents of the **insured**, or any **subsidiary**, or their respective employees, including employees of labour hire companies.
24. **“Extra expense”** means:

the necessary and reasonable extra costs and expenses **You** incur in order to continue **Your business activities** during the **indemnity period**.
25. **“Hacking attack”** means:

any malicious or unauthorised electronic attack including but not limited to any fraudulent electronic signature, brute force attack, phishing, denial of service attack, that has been initiated by any **third parties** or by any **employees** and that is designed to **damage**, destroy, corrupt, overload, circumvent or impair the functionality of **computer systems**.
26. **“Indemnity period”** means:

the period beginning at the date of the **damage**, or the date the restriction is imposed, and lasting for the period during which **Your income** or expenditure is affected as a result of such **damage** or restriction, but for no longer than the number of months shown in the **schedule**.
27. **Insured (You)** means:
the person(s) shown as the Insured on the **schedule** with whom **We** have entered into the **policy**. They are the contracting insured.
28. **“Limit of liability”** means:

the maximum amount payable by **us** as stated in the **schedule** in respect of all **claims**, potential **claims**, **loss**, **damage**, (as applicable) arising out of any one event.
29. **“Loss”** means:

direct financial loss sustained by **You**.
30. **“Media content”** means:

any content regardless of the nature or form of such content, including, but not limited to, content disseminated through books, newspapers, magazines, television, radio, advertising, websites,

chat rooms, bulletin boards, databases, blogs or mobile phones or any other means which is created or disseminated by **You** or on **Your** behalf.

- a **Media content** does not include advertisements created by **You** for a **third party** in return for fee, or where a fee would normally be expected to be paid.

31. **"Money"** means:

cash, bank and currency notes, cheques, bankers drafts, shares or bond certificates.

32. **"Period of the policy" or "Policy Period"** means:

the period between the Inception Date shown in the **schedule** and the Expiry Date shown in the **schedule**, unless ending earlier in accordance with the **policy** terms and conditions or law.

33. **"Personal injury"** means:

- a) false arrest, detention or imprisonment; or
- b) malicious prosecution; or
- c) wrongful entry into, or eviction of a person from, a room, dwelling or premises that the person occupies.

34. **"Policy"** means:

this document, the **schedule** and any other documents **We** tell the **insured** form part of the terms and conditions of **our** contract with the **You** (such as a Supplementary PDS or any special conditions or Endorsements issued to **You** in written form).

35. **"Pollution"** means:

pollution or contamination of the atmosphere, or of any water, land, buildings or other tangible property.

36. **"Premises"** means:

- a) building (including any outbuildings) occupied in connection with **Your business activities**.

37. **"Privacy breach costs"** means:

any sums reasonably required to:

- a) fulfil any obligation **You** have to notify **third parties** of an actual or suspected breach of privacy in relation to any personal information; or
 - b) establish an incident response service or identity theft helpline; or
 - c) conduct an independent security audit of **Your computer systems** to identify the source and scope of the privacy breach,
- but shall not include costs associated with notification to a Privacy regulator or other governing body of a breach of **privacy obligations**.

38. **"Privacy obligations"** means:

Your legal obligations arising directly from:

- a) any privacy statement or privacy policy governing the collection, use, disclosure or handling of personal information on **Your computer systems**; or
- b) any written contract between **You** and a **third party** governing the processing and storage of personal information or credit card information on **Your computer systems**; or
- c) any implied contractual duty to use reasonable care and skill in the handling of personal information or credit card information (including breaches of the Payment Card Industry Data

- Security Standard); or
 - d) any legal obligation to notify individuals of an actual or potential breach of their private or confidential data; or
 - e) statutory data protection regulations in the country or countries where **You** operate, including industry specific data protection and security regulations (e.g. the Health Insurance Portability and Accountability Act 1996 (US)) as they currently exist and as amended.
39. **“Product”** means:
any tangible property (including containers, packaging, labelling or instructions,) after it has left **Your** custody or control which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered, processed, cleaned, renovated or repaired by **You** or on **Your** behalf in the course of **Your business activities**.
- “Product”** does not include any software, data, or source code whether incorporated into another **product** or not.
40. **“Project delay costs”** means:
any additional costs and expenses incurred by **You** as a direct result of a delay to a project, including the interest charges incurred from any reasonable loan required as a result of a delayed milestone payment.
41. **“Research and development expenditure”** means:
Your expenditure on research and development, less the cost of reusable materials, consumed for the purposes of the research and development.
42. **“Schedule”** means:
the schedule document that **We** give **You** that attaches to and forms part of the **policy**.
43. **“Subsidiary”** means:
any company which the **insured** controls through:
- a) holding 50% or more of the voting rights; or
 - b) having the right to appoint or remove 50% or more of its board of directors; or
 - c) controlling alone, pursuant to a written agreement with other shareholders or members, 50% or more of the voting rights therein.
44. **“Third party”** means:
- a) any person who is not **You** or **employee Yours**, or any **subsidiary**;
 - b) any person other than **You** or any **subsidiary**; or
 - c) any person who is not a past, present or future officer, committee member, member of **Your business** canteen, social, sports, first aid, fire fighting, security services or welfare organisations but only while acting within the scope of their duties in such capacity.
45. **“User generated content”** means:
any digital content including, but not limited to, content disseminated through websites, social networks, chat rooms, bulletin boards, databases, blogs or mobile phones which is not created by **You** or on **Your** behalf but for which **You** are deemed to be responsible.
46. **“Virus”** means:
any malicious software code including but not limited to any logic bomb, trojan horse or worm that has been introduced by any **third parties** or by any **employees** and that is designed to **damage**, destroy, corrupt, overload, circumvent or impair the functionality of **computer systems**.

47. **“We/Our/us/Insurers”** means:

the Underwriters named in the **schedule** acting through their agent Imalia.

48. **“Withheld fees”** means: any contractually due fee that **Your client** refuses to pay **You**, but excludes any part of the fee that represents **Your** profit or mark-up or liability for taxes.

49. **“Workmanship”** means:

any physical workmanship in manufacture, fabrication, construction, erection, installation, assembly, alteration, servicing, remediation, repair, demolition or disassembly (including any materials, parts or equipment furnished in connection therewith) by **You**.

50. **“Wrongful act”** means: any act or event the subject of **INSURING CLAUSES 1 to 3** of the **policy** which is shown as covered in the **schedule** other than a breach of contract.

51. **“You/Your”** means:

- a) the **insured**, or any **subsidiary**; and
- b) any past, present or future **senior executive officer** or **employee** of the **insured** or any **subsidiary**, but only while acting within the scope of their duties in such capacity; and
- c) any past, present or future officers, committees and members of **Your** canteen, social, sports, **first aid**, fire fighting, security services and welfare organisations but only while acting within the scope of their duties in such capacity

EXCLUSIONS

The **policy** does not cover any loss, damage, liability, claim, costs or expenses directly or indirectly caused by, contributed to or arising from:

EXCLUSIONS RELATING TO SPECIFIC RISKS:

1. **Motor vehicle** the ownership, possession or use by **You** or on **Your** behalf of any motor vehicle or trailer, other than **bodily injury** or **damage**:
 - a) caused by the use of any tool or plant forming part of or attached to or used in connection with any motor vehicle or trailer; or
 - b) occurring beyond the limits of any carriageway or thoroughfare and caused by the loading or unloading of any motor vehicle or trailer; or
 - c) arising out of the use of any motor vehicle or trailer temporarily in **Your** custody or control for the purpose of parking; or
 - d) occurring beyond the limits of any carriageway or thoroughfare and caused by the use of any unlicensed vehicle, including but limited to snowmobiles and all terrain vehicles, in the course of **Your business activities**, provided always that **We** will not make any payment on **Your** behalf or incur any **costs and expenses** in respect of any legal liability for which compulsory insurance is required by legislation (regardless of whether such insurance is effected or not), a statutory compensation scheme is provided for, or for which a government or other authority has accepted responsibility.
2. **Motor vehicle use without owner's consent** the use by **You** of any motor vehicle or trailer without the consent of the owner.

3. **Commercial passenger vehicles** the use by **You** of a commercial passenger vehicle or any other vehicle containing 9 or more people, including, but not limited to, a coach, bus or minibus.
4. **Design liability** in respect of **INSURING CLAUSE 6** only, any actual or alleged product design, industrial design, architectural design or architectural services.
5. **Directors and officers liability**
 - a) any personal commitment, obligation, guarantee, debt or liability, whether financial or otherwise, provided by **You** including directors and officers if you are a corporate entity when they are acting in that capacity or on **Your** behalf; or
 - b) any statement, representation or information provided by **You** regarding **Your** business contained within any prospectus or other fund raising document, accounts, reports, financial statements, stock exchange releases or other similar documents.
6. **Employment practices**
 - a) wrongful refusal to employ, dismissal, discharge or termination of employment;
 - b) workplace or sexual harassment;
 - c) discrimination on any ground including but not limited to sex, age, religion, disability, race, colour, sexual orientation, marital status or pregnancy;
 - d) verbal or written publication of material that slanders or libels an employee or violates or invades an employee's right of privacy;
 - e) breach of any verbal, written or implied employment contract (past or present) or misrepresentation as to terms of employment;
 - f) demotion, failure to promote, deprivation of employment opportunities, refusal of tenure, unfair performance evaluation or disciplinary action.
7. **Employers' liability bodily injury to You or Your employees.**

However, this **EXCLUSION** shall not apply to **employees** on whose behalf contributions are required to be made by **You** under the provisions of any Workers' Compensation Law and in respect of whom liability has been fully denied by any Workers' Compensation authority.
8. **Errors and omissions** any actual or alleged breach of **Your** professional duty, unless specifically covered under **INSURING CLAUSES 1 or 3** where these are shown as covered in the **schedule**.
9. **General liability**

in respect of **INSURING CLAUSES 1, 2 (SECTIONS A to C only) and 3**, arising directly or indirectly out of **bodily injury, damage or pollution** that did not occur directly as a result of **media content, user generated content and Your business activities** (as applicable).
10. **Marine and aviation** from the ownership, possession or use by **You** or on **Your** behalf of any aircraft, hovercraft, offshore installation, rig, platform or watercraft.
11. **Other insurance**

or in respect of which **You** are entitled to indemnity under any other insurance policy, to the extent permitted by law, except for any additional sum which is payable over and above such other insurance policy.
12. **Personal injury** any **personal injury** unless specifically covered under **INSURING CLAUSE 4**, where this is shown as covered in the **schedule**.
13. **Product guarantee** for costs incurred in the repair, alteration, reinstatement, inspection, reconditioning or replacement of any **product** or part thereof and any financial loss

consequent upon the necessity for such repair, alteration, reinstatement, inspection, reconditioning or replacement, other than in respect of **INSURING CLAUSE 1** when **You** are legally obliged to pay these sums to a **client**.

14. **Product recall** from the recall of any **product** or part thereof except for **claims** made under **INSURING CLAUSE 1** where **You** are legally liable for these costs to a **third party** as the direct result of a **wrongful act** committed or alleged to have been committed by **You**.
15. **Products liability** in respect of **INSURING CLAUSES 1, 2 (SECTIONS A to C only)** and **3**, any **bodily injury, damage** or **pollution** caused by a **product**.
16. **Workmanship** in respect of **INSURING CLAUSES 1, 2 (SECTIONS A to C only)** and **3**, arising directly or indirectly out of **bodily injury, damage** or **pollution** caused by **workmanship**.

EXCLUSIONS RELATING TO THE CONDUCT OF YOUR BUSINESS:

17. **Benefit laws**
arising out of **Your** failure to comply with the mandatory provisions of any law concerning benefits under an **employee benefit program**.
18. **Cease and desist notice compliance**
Your actual or alleged wilful, dishonest, deliberate, or reckless failure to comply with any legally binding cease and desist notice received by **You** in relation to any **Media Content**; or
a) **Your** actual or alleged wilful, dishonest, deliberate, or reckless failure to comply with any legally binding blocking order imposed upon **You**.
19. **Chargebacks**
any chargeback, liability or fee incurred by **You** as a result of a merchant service provider, including any credit card company or bank, wholly or partially reversing or preventing a payment transaction, unless specifically covered under **INSURING CLAUSE 1, SECTIONS B and C** where these are shown as covered in the **schedule**.
20. **Circumstances known at inception**

any circumstances or occurrences which could give rise to a **claim**, potential **claim, loss, damage, withheld fee** or in respect of each **accident** giving rise to **first aid** or **funeral expenses** (as applicable) under the **policy** of which **You** was aware, or ought reasonably to have been aware, prior to the Inception Date of the **policy** whether notified to **us** or under any other insurance or not.
21. **Collection of private data without consent**
arising directly or indirectly from **Your** actual or alleged failure to comply with **privacy obligations** before collecting, storing or disclosing any of **r** personal information, including but not limited to internet search history and internet browsing habits of any individual, unless specifically covered under **INSURING CLAUSE 2**, where this is shown as covered in the **schedule**.
22. **Child Protection Laws**
Your actual or alleged failure to comply with the requirements of any child protection laws in any applicable jurisdiction relating to the security, safety protection or privacy of minors or use of their personal information.

23. **Core internet infrastructure failure** in respect of **INSURING CLAUSE 2, SECTIONS D and E** only, any failure of any core element of the internet infrastructure that results in a countrywide or global outage of the internet, including a failure of the core DNS root servers or the IP addressing system.
25. **Faulty workmanship damage to Your property or premises** as a result of misuse, inadequate or inappropriate maintenance, faulty **workmanship**, defective design, the use of faulty materials or whilst being cleaned, worked on or maintained.
26. **Hazardous devices** any **product** which with **Your** knowledge is intended for incorporation into the structure, machinery or controls of any aircraft, other aerial device, military vehicle, hovercraft, waterborne craft or any medical equipment.
27. **Hired or leased vehicles exclusions** in respect of **INSURING CLAUSE 4 (SECTION A only)**, where **You** are in possession of use a leased or hired vehicle any:
- a) **damage** to tyres, mechanical failure or breakdown of any part of the vehicle or by rusting, corrosion, wear and tear, freezing or explosion within the combustion chamber; or
 - b) **damage** to contents of trailers; or
 - c) **damage** occurring after theft of the vehicle by any person residing in the same **premises** as **You**; or
 - d) **damage** caused by any **employee** engaged in the maintenance or repair of the vehicle.
28. **Inadequate server capacity** in respect of **INSURING CLAUSE 2, SECTION E** only for any business interruption **loss** incurred as a result of **Your** servers not having the sufficient capacity to process all of the requests placed upon them solely because the demand for **Your** websites is larger than the servers are designed to process, unless the reason for such levels of demand is due to a **cyber attack** on, or malicious denial to, **Your** service levels.
29. **Legal action** where action for damages is brought in a court of law outside the territories specified in the **schedule**, or where action is brought in a court of law within those territories to enforce a judgment made outside of those territories whether by way of reciprocal agreement or otherwise.
30. **Damages, service credits and penalty clauses** any punitive, exemplary, liquidated, aggravated or multiple damages, service credits, or penalty clauses.
31. **Long term leased vehicles** arising out of or relating directly or indirectly to any vehicle or trailer hired or leased by **You**.
33. **Misleading advertising** any actual or alleged advertisement promoting **Your business activities** which is false or misleading in any respect.
34. **Patents** the actual or alleged infringement of any patent or conduct inducing the infringement of any patent.
35. **PCI implementation** in respect of **INSURING CLAUSE 2** only, as a result of fees, fines or penalties imposed by **Your** acquiring bank as a result of **Your** actual or alleged failure to implement security measures in accordance with the PCI Data Security Standards and any associated implementation timetable where a data breach has not occurred.
36. **Programming errors** in respect of **INSURING CLAUSE 2, SECTIONS D and E** only, any computer programming error, software bug, software implementation or upgrade error.

37. **Retroactive Date** in respect of **INSURING CLAUSES 1, 2 (SECTIONS A and B only) and 3** only, arising out of any event or actual or alleged **wrongful act** occurring, in whole or in part, before the date specified as the Retroactive Date in the **schedule**.

38. **Telephone system hacking** in respect of **loss** arising directly out of a **hacking attack** to **Your** telephone system that has been initiated by any **third party**.

39. **Unjust enrichment** in respect of **INSURING CLAUSE 1** and **3** only, for that part of any **claim** that results in **You** being in a better financial position as a direct result of **Your wrongful act** than **You** would have been if **You** had not committed the **wrongful act**.

However, in respect of **INSURING CLAUSE 3 SECTION C**, and notwithstanding the agreement to pay claims **CONDITION**, **We** shall pay **costs and expenses** on **Your** behalf unless and until this **EXCLUSION** is determined to apply to all or any part of a **claim** (including by judgment, arbitral award, settlement or agreement between **You** and **us**).

40. **Unlawful surveillance** any actual or alleged unauthorised or unlawful eavesdropping, wiretapping, audio or video recording.

41. **Unsolicited communications** notwithstanding part a) of **EXCLUSION 44. Restrictive Trade Practices**, any actual or alleged violation of:

- a) the -SPAM Act 2003 (Cth) or any subsequent amendments to that Act; or
- b) the Do Not Call Register Act 2006 (Cth) or any subsequent amendments to that Act; or
- c) any other law, regulation or statute in the applicable jurisdiction relating to unsolicited communication, distribution, sending or transmitting of any communication via telephone or any other electronic or telecommunications device.

42. **Webscraping and data harvesting**

Your unauthorised use of any web scraping or data harvesting techniques including, but not limited to, the use of any unauthorised Application Programming Interface to automatically collect web based information, or the use of automated tools which directly contravene the target website's terms of use.

43. **Wilful or dishonest acts of You or your employees**

in respect of **INSURING CLAUSES 1, 2 and 3** only, any wilful, malicious, reckless or dishonest act or omission by any **You** or **Your employee**, unless such person had already ceased to be an **employee** and all **subsidiaries** at the time of their first wilful, malicious, reckless or dishonest act or omission, or unless specifically covered under **INSURING CLAUSE 1, SECTION A**, part (c) or **INSURING CLAUSE 3, SECTION D**, part (c) where these are shown as covered in the **schedule**. However, **We** will not provide any cover for **You** (including directors and officers if you are a corporate entity) where they or **You** who conduct, condones or ignores any such dishonesty.

GENERAL INSURANCE EXCLUSIONS

44. **Restrictive Trade Practices**

any actual or alleged violation of the Australian Consumer Law (except where the liability arises also for personal injury and **INSURING CLAUSE 4** responds to such a claim), Corporations Law

2001 (Cth) or any other applicable consumer protection or trade practices laws relating to cartel conduct, restraint of trade, unfair competition, false, misleading, deceptive, unconscionable or unfair trade practices, or false, misleading or deceptive advertising other than:

- a) where specifically covered under **INSURING CLAUSE 2** or **INSURING CLAUSE 3** where these are shown as covered in the **schedule**; or
 - b) any covered portion of any **claim** based on **Your** alleged unauthorised use of a **third party's** trademark.
45. **Asbestos** the manufacturing, mining, use, sale, installation, removal, distribution of, or exposure to asbestos, materials or products containing asbestos, or asbestos fibres or dust.
46. **Associated companies**
- a) any **claim** made by any company, firm, or partnership in which **You** have greater than a 10% executive or financial interest, unless such **claim** emanates from an independent **third party**; or
 - b) any **claim** made by any company, firm, partnership or individual which has greater than a 10% executive or financial interest in **You** or any **subsidiary**, unless such **claim** emanates from an independent **third party**; or
 - c) any of **Your** activities as a trustee, partner, officer, director or **employee** of any **employee** trust, charitable organisation, corporation, company or business other than **Yours** or any **subsidiary**; or
 - d) any **claim** made by or on behalf of **You** or any **subsidiary**.
47. **Electromagnetic fields** electromagnetic fields, electromagnetic radiation, electromagnetism, radio waves or noise.
49. **Fines** any fines, penalties, civil or criminal sanctions or punitive, exemplary, liquidated, aggravated or multiple damages, unless specifically covered under the applicable **INSURING CLAUSE** and these amounts are insurable under the applicable law.
50. **Insolvency**
Your insolvency or bankruptcy, or the insolvency or bankruptcy of any **third party**. Furthermore, no coverage is provided under **INSURING CLAUSE 2, SECTION E** if **You** are or become insolvent or bankrupt.

However, except as provided above **We** shall not be relieved of the payment of any other claims because of such bankruptcy or insolvency. In case of execution against **You** of any final judgment covered by the **policy** being returned "unsatisfied" by reason of such bankruptcy or insolvency, then an action may be maintained by the injured party or their representative against **us** in the same manner, and to the same extent as **You** but not in excess of the relevant **amount insured, limit of liability, aggregate limit of liability** and /or **combined aggregate limit of liability** applicable under the relevant **INSURING CLAUSE** or **SECTION** of the **policy**.

51. **Nuclear**

arising directly or indirectly from or contributed to by:

- a) ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

52. **Personal liability** or made against:

- a) **You** or any past, present or **employee** of **Yours** in or any **subsidiary**; or

- b) any past, present or future officers, committees and members of **Your** canteen, social, sports, **first aid**, fire fighting, security services and welfare organisations, unless:
 - i) that **claim** would have been covered under the **policy** if it had been made solely against the **insured** or any **subsidiary**; and
 - ii) the act or event which gave rise to the **claim** was committed by a **You** or an **employee** acting within the scope of their duties as an **employee** including **corporate blogging**, when the act or event was committed.
- 53. **Pollution damage** to **Your** property or **premises** caused by **pollution** except **damage** (which is not otherwise excluded).
- 54. **Organised Crime** for any actual or alleged violations of the Crimes Act 1914 (Cth) , the Criminal Code Act 1995 (Cth) and the Australian Crime Commission Act 2002 (Cth) and any amendments thereto, or equivalent laws in any applicable jurisdiction. .
- 55. **Corporations Act** for any actual or alleged violation of any of the provisions of the Corporations Law and any amendments thereto, or equivalent laws in any applicable jurisdiction.
- 56. **Toxic Mould / Fungus / Infectious disease** any loss, **bodily injury, damage or costs and expenses**, including, but not limited to, losses, **damage or costs and expenses** related to, arising from or associated with clean-up, remediation, containment, removal or abatement, caused directly or indirectly, in whole or in part, by:
 - a) any **fungus, mould**, mildew or yeast; or
 - b) any **spore** or toxins created or produced by or emanating from such **fungus, mould**, mildew or yeast; or
 - c) any substance, vapour, gas, or other emission or organic or inorganic body or substance produced by or arising out of any **fungus, mould**, mildew or yeast; or
 - d) any material, **product**, building component, building or structure, or any concentration of moisture, water or other liquid within such material, **product**, building component, building or structure, that contains, harbours, nurtures, or acts as a medium for any **fungus, mould**, mildew yeast, or **spore** or toxins emanating therefrom;
 - e) any **infectious disease**

regardless of any other cause, event, material, **product** or building component that contributed concurrently or in any sequence to that loss, **bodily injury, damage or costs and expenses**.

For the purposes of this **EXCLUSION** the following definitions are added to the **policy**:

Fungus includes, but is not limited to, any plants or organisms belonging to the major group Fungi, lacking chlorophyll, and including **moulds**, rusts, mildews, smuts and mushrooms.

Mould includes, but is not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and fungi that produced moulds.

Spore means any dormant or reproductive body produced by or arising from or emanating out of any **fungus, mould**, mildew, plants, organisms or microorganisms.

Infectious disease is a disease declared by the World Health Organisation to be a pandemic

- 57. **Coronavirus Exclusion** any claim in any way caused by or resulting from:
 - a) Coronavirus disease (COVID-19);

- b) Severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);
- c) Any mutation or variation of SARS-CoV-2;
- d) Any fear or threat of a), b) or c) above

58. **Trade debt** any trading losses or trading liabilities incurred by any business managed or carried on by **You**, or any **loss of Your** profit arising from the loss of any **client**, account or business.

59. **Trade sanctions**

to pay any claim or Provide any benefit hereunder to the extent that the provision of such cover, payment of such Claim or provision of such benefit would expose that insurer to any sanction, prohibition or restriction under any United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or United States of America.

60. **War and terrorism**

any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the **claim, loss, damage, costs and expenses** or **first aid or funeral expenses**:

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

For the purpose of this **EXCLUSION** an **act of terrorism** means an act, including but not limited to the use of force or violence 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 or to put the public, or any section of the public, in fear.

This **EXCLUSION** also excludes **claims, losses, damage, costs and expenses** or **medical expenses** 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 a) or b) above.

This **EXCLUSION** does not apply to any **claim, loss** or **costs and expenses** arising directly from a **hacking attack** or **virus**.

61. **Financial Services/Investment Advice** from financial advice, financial services, investment advice or financial products of any kind regardless of whether a licence or authorisation is required under Chapter 7 of the Corporations Act 2001 (Cth) or not.

62. **Professional Indemnity Cyber And Data Protection Law Exclusion**

- 1) This exclusion takes priority over any other provision in this contract, **except the cover provided in INSURING CLAUSE 2: CYBER & PRIVACY, SECTION A. CYBER LIABILITY**, and for the avoidance of doubt, excludes liability under this Policy for any liability except that specifically provided for in **INSURING CLAUSE 2: CYBER & PRIVACY, SECTION A. CYBER LIABILITY** which is cover for **Your** legal liability to others and not loss or damage to **Your** own property or systems.

- 2) Save as expressly provided in this endorsement, or by other restrictions in this contract specifically relating to the use of, or inability to use, a **Computer System**, no cover otherwise provided under this contract shall be restricted solely due to the use of, or inability to use, a **Computer System**.
- 3) This contract excludes any loss, damage, liability, claim, costs, expense, fines, penalties, mitigation costs or any other amount directly caused by, directly resulting from or directly arising out of:
 - a) a **Cyber Act**; or
 - b) any partial or total unavailability or failure of any **Computer System**;

provided the **Computer System** is owned or controlled by the insured or any other party acting on behalf of the insured in either case; or
 - c) the receipt or transmission of malware, malicious code or similar by the insured or any other party acting on behalf of the insured.
- 4) This Policy excludes any loss, damage, liability, claim, costs, expense, fines, penalties, mitigation costs or any other amount directly or indirectly caused by, directly or indirectly resulting from or directly or indirectly arising out of any failure or interruption of service provided:
 - a) to **You** or any other party acting on behalf of **You** by an internet service provider, telecommunications provider or cloud provider but not including the hosting of hardware and software owned by **You**;
 - b) by any utility provider, but only where such failure or interruption of service impacts a **Computer System** owned or controlled by **You** or any other party acting on behalf of **You**.
- 5) This contract excludes any loss, damage, liability, claim, costs, expense, fines, penalties, mitigation costs or any other amount for actual or alleged breach of **Data Protection Law** by **You** or any other party acting on behalf of **You**.
- 6) Any cover for costs of reconstituting or recovering lost, inaccessible or damaged documents owned or controlled by **You** or any other party acting on behalf of **You** in this Policy shall not apply to **Data**.

For the purposes of this exclusion the following definitions apply:

Computer System means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or 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.

Cyber Act means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof, involving access to, processing of, use of or operation of any **Computer System**.

Data means 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**.

Data Protection Law means any applicable data protection and privacy legislation or regulations in any country, province, state, territory or jurisdiction which govern the use, confidentiality, integrity, security and protection of personal data or any guidance or codes of practice relating to personal data issued by any data protection regulator or authority from time to time (all as amended, updated or reenacted from time to time).

CONDITIONS

1. What You must do in the event of a claim or loss

Should **You or Your employees** become aware of any **claim**, potential **claim**, **loss**, **damage**, **withheld fees** or **accident** giving rise to **first aid** and/or **funeral expenses** the following obligations must be complied with by **You**:

- a) **You** must not admit liability for or settle or make or promise any payment in respect of any **claim**, potential **claim loss**, **damage**, **withheld fees** or **accident** giving rise to **first aid** and/or **funeral expenses** which may be covered under the **policy**. **You** must not incur any **costs and expenses** in connection with such a **claim**, potential **claim loss**, **damage**, **withheld fees** or **accident** giving rise to **first aid** and/or **funeral expenses** without **our** written agreement.
- b) The Claims Managers, as specified in the **schedule**, must be notified as soon as is reasonably possible if during the **period of the policy**:
 - i) **You** suffer any **loss** or **damage** that could be covered by the **policy** or a **senior executive officer** becomes aware that a **claim** has been made against **You**, whether verbal or made in writing; or
 - ii) a **senior executive officer** discovers reasonable cause for suspicion of fraud or dishonesty whether this could give rise to a **claim** under the **policy** or not and **We** shall not be liable under the **policy** for any **claim** or **loss** sustained in consequence of any fraudulent or dishonest act or omission committed after the date of such discovery.

We have nominated Claims Managers to accept notice on **our** behalf. Due to the nature of the coverage offered by the **policy**, any unreasonable delay by **You** in notifying the Claims Managers of (i), or (ii) above could lead to the size of the **claim**, **loss** or **damage** increasing or to **our** rights being restricted. To the extent permitted by law **We** shall not be liable for that portion of any **claim**, **loss** or **damage** that is due to any unreasonable delay in **You** notifying the Claims Managers of any **claim**, **loss** or **damage** in accordance with this clause.

- c) **We** will expect **You** to provide **us** with full and accurate information about any matter that **You** notify to **us** under **Your** obligations set out above. Once notice has been made **You** must give the Claims Managers all the assistance and information that is reasonably required. **You** must follow their advice and do anything that they reasonably require **You** to do to avoid, minimise, settle or defend any **claim**, **loss** or **damage**.

If **You** think a crime has been committed, **You** must report it to the appropriate law enforcement authorities. **You** must also permit the Claims Managers and any **third party** that is appointed by the Claims Managers to notify the appropriate law enforcement authorities of any **claim**, **loss** or **damage** where this action is deemed necessary, and **You** must comply with the advice given by those authorities.

If any of **Your computer systems** are lost or stolen while they are temporarily removed from **Your premises**, to the extent permitted by law **We** may be entitled to reduce or refuse payment unless **You** report the **loss** to the police within 48 hours after **You** become aware of it.

2. **What You must do in the event of a circumstance which may give rise to a claim under Insuring Clauses 1-3, and 5-7, inclusive**

Should **You** become aware of:

- a) a situation that could give rise to a **claim**; or
- b) an allegation or complaint made or intimated against **You** that could give rise to a **claim**;

If **You** do not report the situation or allegation or complaint and **We** are thereby prejudiced **We** may not be liable for that portion of any subsequent **claim** that is greater than it would have been had **You** reported this circumstance.

If **You** report this circumstance, **You** must do so within the **policy period** and **We** will require **You** to provide full details of the circumstance, including but not limited to:

- a) the time, place and nature of the circumstance; and
- b) the manner in which **You** first became aware of this circumstance; and
- c) the reasons why **You** believe that this circumstance may or is likely to result in a **claim**; and
- d) the identity of the potential claimant; and
- e) an indication as to the size of the **claim** that could result from this circumstance.

Based on these details **We** will decide whether to accept this circumstance as one which could reasonably be expected to give rise to a **claim**. If **We** accept this circumstance, **We** will regard any subsequent **claim** that may arise as having been made and notified under **Insuring Clauses 1-3, and 5-7, inclusive of the Policy**.

3. **Cease and desist notices**

The receipt by **You** of any cease and desist notice does not constitute a **claim** or **loss** under the **policy** or, for the purpose of **CONDITION 2**, a circumstance that may give rise to a **claim** or **loss**. However, **You** must provide **us** with a full list of such notices upon **our** request and provide this list within 30 days of any such request.

4. **Continuous cover**

If **You** have neglected, through innocent error or oversight only, to report a **claim** made against **You** during the period of a previous policy that the **policy** is a renewal of, then provided that **You** have maintained uninterrupted insurance of the same type with **us** since the expiry of that earlier policy, then, notwithstanding **EXCLUSION 20 (Circumstances known at inception)**, **We** will permit the circumstance to be reported under the **policy** and will indemnify **You**, provided that:

- a) the indemnity will be subject to the applicable **combined aggregate limit of liability, aggregate limit of liability or limit of liability** of the earlier policy under which the matter should have been reported or and /or **combined aggregate limit of liability, aggregate limit of liability or limit of liability** of the **policy**, whichever is the lower; and
- b) to the extent permitted by law **We** may reduce the indemnity entitlement by the monetary equivalent of any prejudice which has been suffered by **us** as a result of the delayed notification; and

- c) the indemnity will be subject to all of the terms, **CONDITIONS, DEFINITIONS** and **EXCLUSIONS**, other than the **combined aggregate limit of liability, aggregate limit of liability** or **limit of liability** contained in the **policy**.

5. Fraudulent claims

If **You** notify **us** of any claim knowing that claim to be false or fraudulent in any way, then to the extent permitted by law **We** may refuse to pay that claim, cancel the **policy** or both.

6. Agreement to pay claims (duty to defend)

We have the right and duty to take control of and conduct in **Your** name the investigation, settlement or defence of any **claim**. **We** shall also pay on **Your** behalf **costs and expenses** incurred with **our** prior written agreement (subject to the **limits of liability** shown in the **schedule**) provided that **We** shall not pay for the **costs and expenses** of any part of a **claim** that is not covered by the **policy**. **Our** payment of **costs and expenses** shall not be prejudiced by **Your** refusal to reveal the identity of any confidential, newsgathering or other source.

We shall always endeavour to settle any **claim** through negotiation, mediation or some other form of alternative dispute resolution and shall pay on **Your** behalf the amount so agreed to by **us** and the claimant. If **We** cannot settle by such means, **We** shall pay the amount which **You** are found liable to pay either in court or through arbitration proceedings, subject always to the **limit of liability** shown in the **schedule**.

If **You** refuse to consent to a settlement **We** recommend and that the claimant will accept, **You** may continue the defence and investigation of that **claim**. However **our** liability for such claim including **costs and expenses** will not exceed the amount for which **We** could have settled and/or amount accrued as at the date such settlement was proposed in writing by **us** to **You**.

7. Innocent non-disclosure

We will not seek to avoid or cancel the **policy** or refuse or reduce any **claim** on the grounds of innocent non - disclosure or misrepresentation except where the non-disclosure or misrepresentation was reckless or fraudulent or **Your senior executive officers** failed to conduct a full inquiry prior to providing the information that forms the basis of this insurance.

8. Your duty to advise us of changes

If **You** becomes aware that any of the information that **You** has given **us** in the Application Form or at any other time in connection with the policy has materially changed then **You** must advise **us** as soon as is practicable. In this event, **We** reserve the right to cancel or amend the terms, conditions or premium of the **policy**. The change becomes effective when:

- a) **We** agree to it; and
 - b) **We** give **You** a new **schedule** detailing the change,
- provided **You** pay or agree to pay any additional premium **We** may require.

9. Risk management conditions

If **We** attach any additional conditions to the **policy** regarding any risk survey or risk management timetable or any other similar conditions then it is **Your** responsibility to ensure that these conditions are complied with by the deadlines shown in the conditions. Failure to comply with any condition may entitle **us** to reduce or refuse a claim.

10. Our rights of recovery

If any payment is made under the **policy** in respect of a **claim**, potential **claim**, **loss** or **damage** and there is available to **us** any of **Your** rights of recovery against any **third party** then **We** maintain all such rights of recovery. **We** shall not exercise these rights against **You** or any **employee** of **Yours** unless such payment is in respect of any wilful, malicious or dishonest acts or omissions.

You must do nothing to impair any rights of recovery. **You** must promptly provide evidence of any uninsured losses. At **our** request **You** will bring proceedings or transfer those rights to **us** and help **us** to enforce them. Any recoveries shall be applied as follows:

- a) first, to **us** up to the amount of **our** payment on **Your** behalf including **costs and expenses**, including those incurred in the recovery ;
- b) then to **You** as recovery of **Your deductible**, any uninsured loss or other amounts paid as compensation or **costs and expenses**; and
- c) any remaining amount thereafter will be retained by **us**.

Nothing in this condition shall prevent **You** and **us** entering into a "Subrogation Agreement" following a **claim**, potential **claim**, **loss** or **damage** agreeing to a different basis of sharing costs and expenses and the allocation of monies recovered.

11. Cancellation

You may cancel and return the **policy** at any time by contacting **us** in writing.

We have the right to cancel the **policy** where permitted by law. For example, **We** may cancel:

- a) if **You** fail to comply with their duty of disclosure; or
- b) where **You** have made a misrepresentation to **us** during negotiations prior to the issue of the **policy**; or
- c) where **You** have failed to comply with a provision of the **policy**, including any term relating to payment of premium; or
- d) where **You** have made a fraudulent claim under the **policy** or under some other contract of insurance that provides cover during the same period of time that the **policy** covers **You**,

and **We** may do so by giving **You** at least three business days' notice in writing of the date from which the **policy** will be cancelled.

If **You** or **We** cancel the **policy** **We** may deduct a pro rata proportion of the premium for time on risk, reasonable administrative costs related to the acquisition and termination of the policy **We** incur and any government taxes or duties **We** cannot recover. In the event that **You** have made a claim under the **policy** and **We** have agreed to pay the full **amount insured** or **limit of liability** (as applicable), no return of premium will be made for any unused portion of the premium.

In all cases where the **policy** is cancelled, the **policy** Administration Fee shall be deemed fully earned upon inception of the **policy** and no refund of this amount will be provided.

12. Additional insureds

We shall indemnify any **third party** as an additional insured person under the **policy**, but only in respect of sums which they become legally obliged to pay (including liability for claimants' costs and expenses) as a result of a **claim** arising solely out of a **wrongful act** committed by **You** or arising solely out of **accidental bodily injury** or **damage** caused by **You**, provided that:

- a) **You** contracted in writing to indemnify the **third party** for such a **claim** prior to the event giving rise to it occurring; and
- b) had the **claim** been made against **You**, then **You** would be entitled to indemnity under the **policy**.

As a condition to **our** indemnification of any additional insured person:

- i) they shall prove to **our** satisfaction that the **claim** arose solely out of a **wrongful act** committed by **You** or arose solely out of **accidental bodily injury** or **damage** caused by **You**; and ii) they shall fully comply with **CONDITION 1(a)** above as if they were **You**; and iii) they agree to be bound by all other applicable **policy** terms, conditions and exclusions.

Where a **third party** is indemnified as an additional insured person as a result of this **CONDITION**, it is understood and agreed that any **claim** made by that **third party** against **You** shall be treated by **us** as if they were a **third party**, not an additional insured person.

13. Prior subsidiaries

In respect of **INSURING CLAUSES 1, 2 (SECTIONS A and B only)** and **3**, should an entity cease to be a **subsidiary** after the Inception Date of the **policy**, cover in respect of such entity shall continue as if it was still a **subsidiary**, until the termination of the **policy**, but only in respect of any **claim** or **loss** that arises out of any **wrongful act** committed by that entity prior to the date that it ceased to be a **subsidiary**.

14. Mergers and acquisitions

During the **period of the policy**, if **You** or any **subsidiary**:

- a) purchases assets or acquires liabilities from another entity in an amount greater than 10% of **Your** assets as listed in its most recent financial statements; or
- b) acquires another entity whose annual revenues are more than 10% of **Your** annual revenues for their last completed financial year;

then **You** shall have no coverage under the **policy** for any **claim, loss** or **damage** that arises directly or indirectly out of the purchased or acquired entity unless the **insured** gives **us** written notice prior to the purchase or acquisition, obtains **our** written agreement to extend coverage to these additional entities, assets or exposures, and agrees to pay any additional premium required by **us**.

If during the **period of the policy** the **insured** consolidates or merges with or is acquired by another entity, then all coverage under the **policy** shall terminate at the date of the consolidation, merger or acquisition with no notice to **You** unless the **insured** gives **us** written notice prior to the consolidation merger or acquisition, obtains **our** written agreement to extend coverage, and agrees to pay any additional premium required by **us**.

15. Choice of law, jurisdiction

The **policy** is governed by the laws of Australia. Any dispute relating to the **policy** shall be submitted to the exclusive jurisdiction of an Australian Court within the State or Territory in which the **policy** was issued.