Construction Professionals Professional Indemnity and Broadform Liability Policy Wording

Contents

General Information & Important Notices

How We protect Your privacy

We use information provided by **Our** customers to allow **Us** to offer **Our** products and services. This means **We** may need to collect **Your** personal information, and sometimes sensitive information about **You** as well (for example, **Your** claims history). **We** will collect this information directly from **You** where possible, but there may be occasions when **We** collect this information from someone else.

We will only use **Your** information for the purposes for which it was collected, other related purposes and as permitted or required by law. **You** may choose not to give **Us Your** information, but this may affect **Our** ability to provide **You** with insurance cover.

We may share this information with companies within **Our** group, government and law enforcement bodies if required by law and others who provide services to **Us** or on **Our** behalf, some of which may be located outside of Australia.

By applying for, using or renewing any of **Our** products or services, or providing **Us** with **Your** information, **You** agree to this information being collected, held, used and disclosed as set out in this policy.

You can access **Our** privacy policy at www.pacificindemnity.com.au/privacy-policy.

You can access the Insurers privacy policies on their websites at either: CGU.com.au/privacy or zurich.com.au/important-information/privacy

General Insurance Code of Practice

We proudly support the General Insurance Code of Practice (Code). The purpose of the Code is to raise the standards of practice and service in the general insurance industry. The objectives of the Code are:

- to commit **Us** to high standards of service;
- to promote better, more-informed relations between **Us** and **You**;
- to maintain and promote trust and confidence in the general insurance industry;
- to provide fair and effective mechanisms for resolving complaints **You** make about **Us**; and
- to promote continuous improvement of the general insurance industry through education and training.

The Code Governance Committee is an independent body that monitors and enforces insurers' compliance with the Code.

Our service commitment

We are proud of **Our** service standards and support the General Insurance Code of Practice. In an unlikely event that **You** are not satisfied with the way in which **We** have dealt with **You**, as part of **Our** commitment to customer service, **We** have an internal dispute resolution process in place to deal with any complaint **You** may have.

Please contact **Us** if **You** have a complaint, including if **You** are not satisfied with any of the following:

- one of **Our** products;
- **Our** service;
- the service of **Our** authorised representatives;
- **Our** claims representatives; or
- **Our** decision on **Your** claim.

Our staff will help **You** in any way they can. If they are unable to satisfy **Your** concerns, they will refer the matter to their supervisor or manager. If the manager cannot resolve the matter, the manager will escalate the matter to **Our** Internal Dispute Resolution Department.

Details of **Our** internal dispute resolution process are available from **Our** office.

Intermediary Remuneration

Pacific Indemnity Underwriting Solutions Pty Ltd pays remuneration to insurance intermediaries when **We** issue, renew or vary a policy the intermediary has arranged or referred to **Us**. The type and amount of remuneration varies and may include commission and other payments. If **You** require more information about remuneration **We** may pay **Your** intermediary **You** should ask **Your** intermediary.

CGUA and Zurich

This **Policy** is jointly issued on a co-insurance basis whereby each insurer provides cover under the same terms and conditions but with a limited share of liability. CGU Australia Pty Ltd (CGUA), ABN 62 004 478 960 - AFSL No: 700014 provides cover for 75% of the liability under Policy A - Professional Indemnity Policy. Zurich Australian Insurance Limited, ABN 13 000 296 640 - AFSL No: 232507 (Zurich) provides cover for 25% of the liability under Policy A - Professional Indemnity Policy and 100% of the liability under Policy B - Broadform Liability Policy.

CGUA's contact details are:
Level 13, Tower Two, Darling Park,
201 Sussex Street,
Sydney NSW 2000
Telephone. 1800 045 517

Zurich's contact details are:
118 Mount Street,
North Sydney NSW 2060
Telephone. 132 687

In the first instance, **You** should contact Pacific Indemnity in relation to this insurance.

Pacific Indemnity

Pacific Indemnity Underwriting Solutions Pty Ltd, ABN 14 606 511 639 - AFSL No: 480863 (Pacific Indemnity) has developed this **Policy**, which is jointly underwritten by CGUA and Zurich.

Pacific Indemnity has authority from CGUA and Zurich, pursuant to a binder arrangement, to arrange, enter into/bind and administer this insurance (including handling and settling claims). This means that when issuing this **Policy**, Pacific Indemnity will be acting as an agent for CGUA and Zurich, not for **You**.

Pacific Indemnity's contact details are:
Level 3,
84 William Street,
Melbourne, VIC 3000

PO Box 2, Collins Street **We**st, Melbourne VIC 8007
Telephone. (03) 9042 3506

Wholesale only

Pacific Indemnity Underwriting Solutions Pty Ltd is only licensed to offer or provide General Insurance products or services to wholesale clients as defined by the *Corporations Act 2001* (Cth).

Part A - Professional Indemnity Policy

Insuring Clauses

We will pay to **You** or on **Your** behalf all awards of damages and awards of claimant's costs against **You** resulting from any **Claim** for **Civil Liability** arising from the provision of **Professional Services** by or on behalf of the **Named Insured**.

We do this only for **Claims** which:

a) are made against **You** during the **Period of Insurance**; and

b) **We** are told about in writing as soon as reasonably possible during the **Period of Insurance**; and

c) arise out of an act error or omission after the Retroactive Date, if any, specified in the **Schedule**.

We will also pay on **Your** behalf (and as needed advance) **Claim Investigation Costs** for **Covered Claims**. **We** are not however obliged to defend, or to continue to defend, any **Claim** or pay, or continue to pay, **Claim Investigation Costs**, once the **Policy Limit** (or the **Sub Limit**, as the case may be) has been exhausted.

All **Cover** provided under this **Policy** is subject to the Insuring Clauses and all the **Policy** terms, conditions, exclusions and limits contained in or endorsed on this **Policy** and the payment of the Gross Premium stated in the **Schedule**.

Insuring Clause clarifications

For clarity, and subject to the terms, conditions, exclusions and limits of the **Policy**, **Civil Liability Covered** by this **Policy** includes (but is not necessarily limited to) liability arising from the provision of **Professional Services** for the following:

- Breach of professional duty;
- Breach of confidentiality;
- Breach of privacy;
- Breach of fiduciary duty;
- Defamation;
- Loss of or damage to **Documents** (to the full **Policy Limit**);
- Liability for the dishonest, fraudulent, criminal or malicious acts or omissions of persons for whom **You** are responsible – vicarious liability (subject to the Additional Special Provisions for Misappropriation of Money, Dishonesty and Fraud);
- **Intellectual Property** breaches;
- Breaches of the consumer protection provisions of the Competition and Consumer Act 2010 (Cth) and corresponding consumer protection provisions of New Zealand and Australian state and territories Fair Trading legislation and any antecedents to any of this legislation (but not for criminal liability in respect of any such matters);
- Misleading and deceptive conduct breaches under Australian Securities and Investment Commission Act 2001 (Cth);
- Vicarious Liability;
- Unintentional breaches of warranty of authority.

Extensions

Each of the following extensions automatically applies unless otherwise stated in the endorsements or the **Schedule**. Each of the extensions is subject to the Insuring Clause and all other terms, exclusions, conditions and the **Policy Limit** of this **Policy** unless otherwise expressly stated.

Compensatory Penalties

Notwithstanding the Punitive & Exemplary & Liquidated Damages exclusion, **We Cover Claims** for **Compensatory Civil Penalties**. **Our** total liability for the payment of **Compensatory Civil Penalties** under the **Policy** shall not exceed $250,000 in the aggregate, which is included within and not in addition to the **Policy Limit**.

However, **We** will not be liable to **Cover You** for any **Compensatory Civil Penalty**:

a) that **We** are legally prohibited from indemnifying; or

b) based upon, attributable to or in consequence of any:

(i) wilful, intentional or deliberate failure to comply with any lawful notice, direction, enforcement action or proceeding under any legislation; or

(ii) gross negligence or recklessness; or

(iii) requirement to pay taxes, rates, duties, levies, charges, fees or any other revenue charge or impost.

A separate **Excess** will apply to each **Compensatory Civil Penalty** payable under this extension.

Costs of responding to third party claims for equitable relief

In so far as an action for equitable relief is brought against **You** while this **Policy** is in force (arising from the provision of **Professional Services** by or on behalf of the **Named Insured)** and **We** are told about this in writing as soon as reasonably possible while this **Policy** is in force, then **We** will also pay on **Your** behalf (and as needed advance) the **Claim Investigation Costs** of any such action.

Enquiries – legal costs Cover – including for regulatory, licensing, disciplinary or coronial enquiries

For those **Enquiries** of which **You** first become aware (and of which **We** are told about in writing as soon as reasonably possible) while this **Policy** is in force, **We Cover You** and **Your Employees** up to $250,000 in the aggregate in respect of **Claim Investigation Costs** for **Your** representation at any such **Enquiry**. This **Cover** does not extend to paying **Your** regular or overtime wages, salaries or fees, or those of **Your Employees**.

The **Excess** applicable to the **Cover** provided under this extension is the **Excess** stated in the **Schedule**.

Court Attendance Costs

For any person described in a) and b) below who is required to physically attend at Court for the purposes of giving evidence as a witness in connection with a **Covered Claim**, it is agreed that **Claim Investigation Costs** will include the following payments, per day on which attendance in court is required:

a) Payable to any **Principal** or **Former Principal -** $500

b) Payable to any **Employee -** $250

No **Excess** shall apply to the **Cover** provided under this extension.

Public Relations Cover

We will pay the reasonable and necessary fees, costs and expenses of a public relations consultant retained by **You** with **Our** prior written consent (which shall not be unreasonably delayed or withheld) to design and implement a **Publicity Campaign** approved by **Us**, which is designed to prevent or mitigate damage to **Your** reputation in consequence of a **Covered Claim** arising from the provision of **Professional Services**.

Our total liability for the payment of such fees, costs and expenses of a public relations consultant under the **Policy** shall not exceed a **Sub Limit** of $50,000 any one claim $100,000 in the aggregate, which is included within and not in addition to the **Policy Limit**.

The **Excess** applicable to the **Cover** provided under this extension is the **Excess** stated in the **Schedule** for each and every **Publicity Campaign**.

Privacy Remediation Expenses

We will pay, on **Your** behalf, **Privacy Remediation Expenses** in respect of a privacy breach event which is notified to **Us** during the **Period of Insurance**, subject to a **Sub Limit** of $100,000 any one privacy breach event and in the aggregate for all such privacy breach events.

Contractual Liability Defence Costs

Notwithstanding the Assumed duty or obligation exclusion within this **Policy**, **We** will **Cover You** for all **Claim Investigation Costs** which **We** consider reasonable and necessary in defending **You** against any **Claim** which:

a) is made against **You** while this **Policy** is in force; and

b) **We** are told about in writing as soon as reasonably possible while this **Policy** is in force; and

c) arise from an act, error or omission on or after the Retroactive Date as specified in the **Schedule** and which arise out of:

(i) a liability under a contractual warranty, guarantee or undertaking; or

(ii) a breach of an indemnity and/or hold harmless term of a written contract,

to the extent that such liability or breach resulted from **Your** act, error or omission in the performance or provision of **Professional Services**.

Our total liability for the payment of such legal costs and expenses under the **Policy** shall not exceed a **Sub Limit** of $100,000 in the aggregate, which is included within and not in addition to the **Policy Limit**.

Claim Prevention and Mitigation Costs (Sub Limited)

We will reimburse **You** the direct costs and expenses reasonably and necessarily incurred by **You** with **Our** prior written consent (which will not be unreasonably withheld) in taking reasonable and necessary steps to rectify or to mitigate the effects of any of **Your** acts, errors or omissions done or omitted in the provision of **Professional Services** by or on behalf of the **Named Insured** that would otherwise result in a **Claim Covered** by the **Policy**. Provided always that **You** first discover such act, error or omission during the **Period of Insurance** and as soon as reasonably possible notify **Us** of such act, error or omission during the **Period of Insurance**;

Our total liability under this extension shall not exceed in the aggregate $50,000, which is included within and not in addition to the **Policy Limit**.

Vicarious Liability

The performance of **Professional Services** by **You** includes, for the purpose of this **Policy**, acts, errors or omissions of **Your** agents or consultants while undertaking work pursuant to the contract with **You** which is reasonably incidental to **Your Professional Services** and for which **You** are liable. Such agents and consultants, however, are not **Covered** by this **Policy**.

Continuous Cover

We Cover You for any **Claim**, otherwise **Covered** by this **Policy**, arising from a **Known Circumstance** (notwithstanding the exclusion for **Claims** arising from **Known Circumstances** within this **Policy**) if:

a) there has been no fraudulent non-disclosure or fraudulent misrepresentation in respect of such **Known Circumstance**; and

b) **We** were **Your** professional liability insurer when **You** first knew of such **Known Circumstance**; and

c) **We** continued without interruption to be **Your** professional liability insurer up until this **Policy** came into effect; and

d) had **We** been notified by **You** of the **Known Circumstance** when **You** first knew of it, **You** would have been entitled to **Cover** under the policy in force at that time but are not now entitled to be **Covered** by that policy, and **You** would (but for the Claims or Facts Which May Give Rise To Any Claim or Loss or Liability or Enquiry exclusion of this **Policy**) otherwise be **Covered** under this **Policy**; and

e) neither the **Claim** nor **Known Circumstance** have previously been notified to **Us** or to any other insurer.

If **You** were entitled to have given notice under any other policy of insurance but did not (for whatever reason) and have therefore lost an entitlement to indemnity, then this Continuous Cover extension does not apply to provide indemnity under this **Policy** to the extent that indemnity would have otherwise been available to **You** had you provided the notice required under that other policy of insurance.

We may reduce the amount **We** pay out under this extension by an amount that fairly represents the extent to which **Our** interests were prejudiced in consequence of any delayed notification to **Us**.

The **Policy Limit** of the **Cover We** provide under this extension is the lesser available under the terms of the policy in force at the earlier time referred to in paragraph d) above, or under this **Policy**. The terms of this **Policy** otherwise apply.

Prior Corporate Entities and Former Subsidiaries - Run-off Cover

This **Policy** extends to **Cover** (as if they were **You**):

a) corporate entities through which the **Named Insured** previously traded, in the course of the provision of **Professional Services,** provided that those corporate entities are still owned by the **Named Insured**; and

b) any of **Your** former **Subsidiary** companies or other former incorporated entities,

provided that such **Cover** shall only apply in respect of:

(i) **Claims** arising from the provision of **Professional Services**; and

(ii) acts, errors or omissions which occurred after the Retroactive Date specified in the **Schedule** and prior to the date on which such **Subsidiary** ceased to be **Your Subsidiary** or ceased to trade.

This extension of **Cover**, however, is subject to receipt by **Us**, at the time of any such **Claim**, of an express written request from the **Named Insured** under the **Policy** to so extend the **Policy Cover**.

Mergers & Newly Acquired Subsidiaries

This **Policy** extends to **Cover** entities (practicing in the same professional discipline as **You**) in respect of **Claims** arising from the provision of **Professional Services** of substantially the same type as those **Covered** by this **Policy**, which are merged with or acquired by **You** while this **Policy** is in force. This **Cover** is only an interim **Cover** for a maximum of thirty days from the date of the merger or acquisition (or until the **Policy** expires if that is sooner). **We** may agree to extend this period (subject to additional premium) after receipt of a satisfactory underwriting submission in respect of the merged or acquired entity. The Retroactive Date for such **Cover** is deemed to be the date of the merger with or acquisition by **You** unless **We** otherwise agree in writing.

Run-off Cover until policy expiry date following mergers, acquisitions and winding up

In the event that a **Run-Off Event** occurs to **You** during the **Period of Insurance** specified in the **Schedule**, then the **Cover** provided by this **Policy** shall continue until the expiry date of this **Policy** but only in respect of any **Claim** otherwise **Covered** by this **Policy** arising from any act, error or omission prior to the date of the **Run-Off Event**.

Cover to Spouse, domestic partner, Estates, Administrators & Executors and Legal Representatives

If **You**, or anyone entitled to **Cover** under this **Policy**, dies or becomes legally incompetent or insolvent, **We Cover Your** spouse, domestic partner, estate, legal representative or assigns, or the party entitled to **Cover**, to the same extent as **Cover** would otherwise have been available to **You**, but only in respect of **Your** acts errors or omissions and not of the spouse, domestic partner, estate, administrator, executor, legal representatives or assigns.

Non-Renewal Extended Notification Period

a) In the event that this **Policy** is not renewed or is cancelled for any reason, other than fraud or non-payment of premium, then **You** have until such time that **You** effect another insurance policy which **Covers** substantially the same risk as this **Policy**, either with **Us** or any other insurer(s), or a period of thirty (30) days commencing on the day immediately following expiry/cancellation of this **Policy**, whichever is sooner, to notify **Us** of any **Claims** made against **You** while this **Policy** is in force.

b) **Cover** under this extension:

(i) does not reinstate or increase the **Policy Limit** or extend the **Period of Insurance**;

(ii) will only apply to acts, errors or omissions committed or alleged to have been committed by **You** before the end of the **Period of Insurance** or the cancellation date of this **Policy** where this **Policy** has been cancelled; and

(iii) is limited to **Claims** and **Enquiries** arising from an act, error or omission which occurred on or after the Retroactive Date specified in the **Schedule**.

Joint Venture

a) If the name of a **Joint Venture** is specified in the **Schedule**, then **We Cover You** for **Your** individual and joint liability in respect of that **Joint Venture** as otherwise **Covered** by this **Policy**.

b) If the name of the **Joint Venture** is not specified in the **Schedule** then **We Cover You** only for **Your** acts, errors or omissions arising from the provision of **Professional Services** as otherwise **Covered** by this **Policy**.

What is not Covered

We do not **Cover You** for or in respect of:

Claims or Facts Which May Give Rise To Any Claim or Loss or Liability or Enquiry

Claims, or facts which may give rise to any **Claim** or loss or liability or **Enquiry**:

a) known to **You** at the inception date of this **Policy**; or

b) arising from a **Known Circumstance**; or

c) directly or indirectly based upon, attributable to, or in consequence of any **Known Circumstance** or known **Claims,** losses, liabilities or **Enquiries**; or

d) disclosed in the **Proposal** or arising from or associated with facts or circumstances disclosed in the **Proposal**; or

e) where the **Policy** is endorsed or amended mid-term, arising from a **Known Circumstance** (from the effective date of the amendment or endorsement) to the extent that the **Claim** would not have been **Covered** by the **Policy** before such endorsement or amendment.

Foreign Courts

Claims:

a) first brought in or determined pursuant to the laws of, the United States of America or the Dominion of Canada, or their territories or protectorates; or

b) arising out of the enforcement of judgments, orders or awards obtained in or determined pursuant to the laws of the United States of America or the Dominion of Canada, or their territories or protectorates; or

c) where the proper law of the United States of America or the Dominion of Canada, or their territories or protectorates is applied to any of the issues in any **Claim** or **Covered Claim**, **Covered** by this **Policy**.

Assumed duty or obligation

Claims which:

a) allege a liability under a contractual warranty, guarantee or undertaking (unless the liability would have existed regardless of the contractual warranty, guarantee or undertaking); or

b) arise from circumstances where a right of contribution or indemnity has been given up by **You**; or

c) arise from circumstances where someone has done work or provided services under an arrangement or agreement with **You** which limits any potential right for **You** to receive contribution or indemnity from that person; or

d) arise from any **Civil Liability** which **You** agree to accept in connection with the provision of the **Professional Services** which is more onerous than that which **You** would otherwise have at common or statute law; or

e) arise from any business not conducted for or on behalf of the **Named Insured**.

Related parties

Claims against any of **You** brought by or on behalf of:

a) any other of **You**; or

b) any company in respect of which **You** or any person or party specified in a) above holds (beneficially or otherwise) more than 10% of the voting shares or rights and/or an executive role; or

c) any trust in respect of which **You** or any person or party specified in a) above is a trustee and/or beneficiary and/or has a direct or indirect financial interest; or

d) any other person, firm or incorporated body having control of over 10% or more of the voting shares or rights or an executive role in the operation of the **Named Insured**.

Refund of Professional Fees and Trading Debts

Claims:

a) for (or calculated by reference to) the refund of professional fees or charges (by way of damages, offset or otherwise); or

b) for the costs and expenses incurred by **You** or on **Your** behalf in complying with any contractual obligations or making good any faulty product; or

c) directly or indirectly arising from the provision of cost guarantees, estimates of probable costs, estimates of probable financial savings or contract price or cost estimates being exceeded; or

d) related to a liability to pay trading debts, or the repayment of any loan.

Profit

Any forgone or un-realised profit. In particular, there is no **Cover** under this **Policy** for any component of profit which would have been derived or derivable by **You** from the sale or supply of any goods, services or rights by **You** or on **Your** behalf.

Insolvency

Liability or loss directly or indirectly arising out of **Your** insolvency, bankruptcy or liquidation.

Goods & Workmanship

Claims directly or indirectly arising from:

a) the manufacture, maintenance, installation, assembly, processing, sale, supply or distribution of goods or products by **You** or on **Your** behalf; or

b) workmanship in manufacture, fabrication, construction, erection, installation, assembly, alteration, maintenance, servicing, remediation, repair, demolition or disassembly (including any materials, parts or equipment furnished in connection therewith) by **You** or on **Your** behalf; or from supervision of such workmanship by any of **You**.

Employers Liability, Directors' & Officers' Liability, Occupier's Liability, Motor, Marine, Aircraft

Claims:

a) directly or indirectly based upon, attributable to or in consequence of **Your** liability as an employer; or

b) for bodily injury (including mental anguish or emotional distress), sickness, disease or death of any employee, apprentice, contractor, volunteer or any worker who is under **Your** direction, control and/or supervision or for whose workplace safety **You** are responsible; or

c) arising out of or in respect of actual or alleged unlawful discrimination (or other unlawful act, error or omission) by any of **You** against any employee or employment applicant; or

d) arising out of or in respect of actual or alleged acts, errors or omissions of any of **You** who is a director or officer of any incorporated body and while acting in that capacity; or

e) arising from occupation (or alleged occupation) of land or buildings by any of **You**; or

f) arising from or in respect of **Your** liability as an owner or operator of any aircraft, marine craft or motor vehicles of any kind.

Punitive & Exemplary & Liquidated Damages

For punitive, aggravated or exemplary damages or liquidated damages or for fines or penalties. Further, this **Policy** does not provide **Cover** for any investigation or defence costs associated with such damages, fines or penalties.

Intentional or Dishonest Damage or Loss

Intentional or dishonest damage or loss:

a) arising from **Your** acts, errors, omissions or conduct, or acts, errors, omissions or conduct by a party otherwise entitled to **Cover** under this **Policy,** with the intention (or with reckless disregard for the consequences) of either:

   (i) causing loss, damage or injury (including mental or emotional damage); or

   (ii) depriving a third party (or another of **You**) of a tangible or intangible asset or thing to which they are entitled; or

b) arising from any wilful breach of any statute, contract or duty by **You**; or

c) arising from **Your** fraudulent or dishonest or criminal or malicious acts or omissions or conduct.

This exclusion does not restrict **Cover** otherwise provided under the **Policy** for vicarious liability for the dishonest, fraudulent, criminal or malicious acts or omissions of persons for whom **You** are responsible.

De-Registration

Claims arising from acts, errors or omissions by or on **Your** behalf which occurred at a time when a statutory registration or licence (which was required by law in order for **You** to be entitled to practice or provide the **Professional Services**) was not held, was cancelled or suspended or was otherwise not current or valid for the **Professional Services** provided.

Asbestos

Claims which would not have arisen but for the existence of asbestos.

Radioactivity & Nuclear Hazards

Claims arising from:

a) ionising radiations or contamination by radioactivity from any nuclear material; or

b) the hazardous properties of any nuclear explosive, assembly or component.

War & Uprisings

Claims arising directly from:

a) war, invasion, acts of foreign enemies, civil or military uprisings, hostilities (even if war is not declared), or government power being taken unlawfully; or

b) property being taken, damaged or destroyed by a government or public or local authority.

Terrorism

Claims directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with:

a) any act of **Terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the loss, damage, illness, injury, death, cost or expense; or

b) any action in controlling, preventing, suppressing, retaliating against, or responding to any act of **Terrorism**.

Sanctions

We will not be liable to provide any **Cover** or provide any benefit under this **Policy** (including any refund of premium), to the extent that such **Cover**, **Claim**, benefit or refund may contravene or expose **Us** to any sanction, prohibition or restriction under United Nations resolutions or any trade or economic sanctions, laws or regulations of any country.

Pollution

Claims arising directly or indirectly from any discharge, dispersal, release or permitting **Pollutants** to escape into or upon land, the atmosphere, or any water course or body of water by **You** or at **Your** direction or on **Your** behalf (Pollution). This exclusion however will not apply if the Pollution results from an error or omission in design and/or advice and/or specification in the provision of the **Professional Services** by **You**, or on **Your** behalf.

Limits & GST

Cover under this **Policy** shall not exceed the **Policy Limit** for any one **Claim** or series of **Claims** (including **Covered Claims**) arising from the same or interrelated acts, errors or omissions. For the purposes of this **Policy**, all such **Claims** shall be deemed to have been made against **You** in the earliest **Period of Insurance** in which such a **Claim** is first made against **You** (or during which **You** first become aware of facts that might give rise to a **Claim**).

Where the same **Claim** is made against more than one of **You** then the limit is not increased by reason of the number of persons against whom the **Claim** is made.

Aggregate Policy Limit

Subject to the above and the following qualifications, **We** will provide **Cover** to a maximum of twice the **Policy Limit** for all **Claims Covered** by this **Policy**.

Aggregate Limit qualifications

To the extent permitted by law, if there is other insurance **Cover** available to **You**, then subject to Section 45 of the Insurance Contracts Act 1984 (Cth), **Cover** in excess of one **Policy Limit** (up to a maximum of twice the **Policy Limit**) is only available for so much of the liability (otherwise **Covered** by this **Policy**) which is not **Covered** by such insurance.

Limit of Cover for Claim Investigation Costs

Where **Cover** is provided under this **Policy** for any **Claim**, then **Claim Investigation Costs** are payable in respect of that **Claim** in addition to the **Policy Limit** but only up to an amount equal to the **Policy Limit**. The aggregate amount **We** will pay in total for **Claim Investigation Costs** for or in respect of all **Claims Covered** by this **Policy** shall not exceed an amount equal to twice the **Policy Limit**.

Sub Limits

If this **Policy** or the **Schedule** indicates any **Sub Limits** for specific types of **Cover** under this **Policy**, then the applicable **Sub Limits** and not the **Policy Limit** apply only to these **Claims**. These **Sub Limits** are included within and not in addition to the **Policy Limit**.

GST Input Tax Credits

a) Where and to the extent that **We** are entitled to claim an Input Tax Credit for a payment made under the **Policy**, then any monetary limit in the **Policy** on **Our** obligation to make such a payment, shall be net of **Our** entitlement to the Input Tax Credit.

b) Where and to the extent that **You** are entitled to claim an Input Tax Credit for a payment required to be made by **You** as an **Excess**, then the amount of the **Excess** shall be net of **Your** entitlement to the Input Tax Credit.

c) Where payment is made under this **Policy** for the acquisition of goods, services or other supply, **We** will reduce the amount of the payment by the amount of any Input Tax Credit that **You** are, or will be, entitled to under A New Tax System (Goods and Services Tax) Act 1999 (Cth) in relation to that acquisition, whether or not that acquisition is made.

d) Where payment is made under this **Policy** as compensation instead of payment for the acquisition of goods, services or other supply, **We** will reduce the amount of the payment by the amount of any Input Tax Credit that **You** would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 (Cth) had the payment been applied to acquire such goods, services or other supply.

Claim Conditions

You have certain responsibilities that are set out in this section and in the **Policy**. These responsibilities also apply to any person that is **Covered** by the **Policy**.

If **You** do not meet these responsibilities, **We** may refuse to pay a **Claim** or **Covered Claim** or reduce **Cover** under the **Policy**. **We** may also decide to cancel the **Policy** if permitted in accordance with the provisions of the Insurance Contracts Act 1984 (Cth).

The course of action **We** take when **You** fail to do any of these things will be considered in each circumstance based on what impact or effect **Your** failure to do so caused or contributed to the **Claim** or **Covered Claim** or changes **Our** liability under the **Policy**.

Investigation, defence and settlement of Claims

We must be told about Claims

You must tell **Us** in writing about any **Claims** or losses as soon as reasonably possible and while this **Policy** is in force. If this is not done, **Your** right to **Cover** under this **Policy** may be affected.

Claims co-operation

Each of **You** must:

a) diligently do, and allow to be done, everything reasonably practicable to avoid or lessen **Your** liability in relation to a **Claim** (or **Covered Claim**) or loss otherwise **Covered** by this **Policy**; and

b) as soon as reasonably possible give to **Us** all the help and information that **We** may reasonably require to:

   (i) investigate, mitigate and defend a **Claim** or loss; and

   (ii) determine **Our** liability under this **Policy**.

   We will only request information and documents relevant to handling **Your** claim and **We** will explain why it is needed.

We can protect Our position

When **We** receive a notification of a **Claim**, or **Covered Claim**, then **We** can take whatever action **We** consider appropriate to protect **Our** position.

This does not, however:

a) indicate that any of **You** is entitled to be **Covered** under this **Policy**; or

b) prejudice **Our** rights under the **Policy** or at law.

We can manage the Claim (or Covered Claim) on Your behalf

We can:

a) take over and defend or settle any **Claim** (or **Covered Claim**) in **Your** name; and

b) claim in **Your** name, any right that **You** may have for contribution or indemnity.

We will act reasonably in exercising this right. **We** will keep **You** reasonably informed and updated with the progress of any such matter.

You must not admit liability for or settle any Claim (or Covered Claim)

You must not:

a) admit liability for, or settle any **Claim** (or **Covered Claim**); or

b) incur any **Claim Investigation Costs** without first obtaining **Our** written consent (which will not be unreasonably withheld). If **Our** prior written consent is not obtained, **Your** right to **Cover** under this **Policy** may be affected.

Your right to contest

If **You** elect not to consent to a settlement that **We** recommend **You** and want to contest or continue the dispute or legal proceedings, then **We** will only **Cover You** (subject to the **Policy Limit**) for:

a) the amount **We** could have settled the matter for; less

b) the relevant **Excess** specified in the **Schedule**; plus

c) the **Claim Investigation Costs** calculated to the date **You** elected not to consent to the settlement.

Senior Counsel

Unless a **Senior Counsel**, that **We** and **You** both agree to instruct, advises that the **Claim** or **Covered Claim** should be contested, then to the extent permitted by law (subject to Section 43 of the Insurance Contracts Act 1984 (Cth)) neither **We** nor **You** can require the other to contest any legal proceedings about a **Claim** if the other does not agree to do so.

In formulating his or her advice, **Senior Counsel** must be instructed to consider the economics of the matter, having regard to but not limited to:

a) the damages and costs likely to be recovered; and

b) the likely costs of defence; and

c) **Your** prospects of successfully defending the **Claim** or **Covered Claim**.

The cost of **Senior Counsel**'s opinion will form part of the **Claim Investigation Costs**.

If **Senior Counsel** advises that the matter should be or is appropriate to be settled and if the terms of settlement which **We** recommend are within limits which are reasonable (in **Senior Counsel**'s opinion and in the light of the matters he/she is required to consider), then **You**:

a) cannot (subject to the provisions herein under the heading "Your right to contest") object to the settlement; and

b) will be required to pay the relevant **Excess** specified in the **Schedule** as soon as reasonably possible.

Payments to settle potential Claims

Any money **We** pay to settle anything which might give rise to a **Claim (**or **Covered Claim)**, is taken to be:

a) a payment to settle a **Claim (**or **Covered Claim)**; and

b) a payment for the purpose of calculating the total of all **Claims (**or **Covered Claims)** under this **Policy**.

Recovering money from Employees

We will not recover any amount paid out in respect of a **Claim** or loss under this **Policy** from any of **Your Employees** or former **Employees** unless the **Claim (**or **Covered Claim)** arose from dishonest, fraudulent, criminal or malicious acts or omissions of such **Employee** or former **Employee**.

Offsetting of costs & expenses You owe Us against what We owe You

If **We** incur costs or expenses above **Our** liability under the **Policy** for **Claim Investigation Costs**, then **You** will be required to pay whatever amount is above that liability as soon as reasonably possible after **We** ask for it.

We can offset that payment due from **You** against (and deduct that amount from) any amount **We** must pay to or on behalf of **You** under this **Policy**.

The Excess

a) **We** only provide **Cover** (up to the **Policy Limit**) for that part of the **Covered Claim** above the **Excess** specified in the **Schedule**;

b) There is no **Excess** for **Claim Investigation Costs** when **We Cover You** for the **Covered Claim**;

c) Only one **Excess** is payable for any one **Claim** or series of **Claims** (including **Covered Claims)** arising from the same or interrelated acts, errors or omissions.

Advancement of Claim Investigation Costs

If **We** elect not to take over and conduct the defence or settlement of any **Claim**, then **We** will pay all reasonable and necessary **Claim Investigation Costs** provided that:

a) **We** have not already denied indemnity under the **Policy**; and

b) **Our** written consent is obtained prior to **You** incurring such **Claim Investigation Costs** (such consent not to be unreasonably withheld).

We reserve the right to recover any **Claim Investigation Costs** paid under this provision from **You**, in the event and to the extent that:

a) **You** make an admission in writing of any fraudulent, dishonest, malicious or intentional conduct; or

b) it is subsequently established, directly or indirectly, by admission, judgment or other final adjudication, that **You** were not entitled to **Cover** under this **Policy**.

Allocation

a) If a **Claim** includes both matters which are **Covered** and matters which are not **Covered** by this **Policy,** then both **You** and **We** will allocate (based upon **Your** relative legal and financial exposures to matters **Covered** and matters not **Covered** by this **Policy**) any amounts which have been incurred by **You** or on **Your** behalf.

b) If both **You** and **We** cannot agree on an allocation of such amounts incurred by **You** or on **Your** behalf then:

   (i) **We** will advance such portion of the **Claim investigation Costs** which **We** deem to be **Covered** under this **Policy**, unless and until a different and final allocation is mutually agreed upon between **You** and **Us** or is judicially determined.

   (ii) **We** may, in **Our** sole discretion, pay amounts (other than amounts for **Claim Investigation Costs**) which **We** deem to be **Covered** under this **Policy**, unless and until a different and final allocation is mutually agreed upon between **You** and **Us** or is judicially determined.

   (iii) any allocation of damages, **Claim Investigation Costs** or other amounts which are mutually agreed upon between **You** and **Us** or judicially determined in accordance with this provision will be applied retroactively to such amounts notwithstanding any prior payment or advancement, as the case may be, to the contrary.

   (iv) any allocation or advancement of **Claim Investigation Costs** will not apply to or create any presumption with respect to the allocation of amounts in respect of a **Claim,** other than in respect of **Claim Investigation Costs**.

Disclosure of information to Us in respect of the Cover and the Claim (or Covered Claim)

The solicitors instructed by **Us** for any **Claim** (or **Covered Claim**) can disclose to **Us** any information that they may receive in that capacity, wherever and from whomsoever they obtain it and notwithstanding that they may also be representing **You** in respect of the notified circumstance or **Covered Claim**. By claiming under this **Policy**, **You** (and any person entitled to indemnity under this **Policy**) authorise such solicitors to disclose this information to **Us**.

Additional Special Provisions for Misappropriation of Money, Dishonesty and Fraud

When the **Claim** under this **Policy** involves the theft or misappropriation of **Money** (excluding the theft or misappropriation from a trust account operated by the **Named Insured**):

a) the **Cover** is subject to the **Policy Limit** for all such **Claims**; and

b) the **Cover** is subject to the **Policy** terms and conditions for **Claim Investigation Costs**, including the Limit of Cover for Claim Investigation Costs; and

c) for any **Claim**, or **Claims** (including **Covered Claims**) arising from one act, error or omission, the aggregate **Cover** under this **Policy** for **Claims** involving or arising from the theft or misappropriation of **Money** shall not exceed the **Policy Limit**; and

d) the **Named Insured** will be required to pay only one **Excess** inclusive of **Claim Investigation Costs** for all **Covered Claims** involving or arising from the theft or misappropriation of **Money** arising from the one act, error or omission.

When the **Claim** under this **Policy** involves theft or misappropriation of money from a trust account operated by the **Named Insured**, then **We** only provide **Cover**, if:

a) the trust account was audited at least annually by a qualified independent accountant; and

b) all cheques prepared on that trust account are required to be signed by a **Principal** or two authorised people; and

c) all electronic fund transfers are required to be authorised by a **Principal** and accounts which are accessible on line are reviewed at least weekly.

You must take and continue to take all reasonable precautions to prevent any **Claim** arising from fraud or dishonesty and continue to perform all the supervision, controls, checks and audits reasonably practicable to avoid or lessen a **Claim** arising from fraud or dishonesty.

We deduct from any money **We** pay for a **Claim** or loss arising from fraud or dishonesty:

a) the amount of any money which **You** would have paid to the fraudulent, dishonest, criminal or malicious person the subject of **Cover** under this **Policy**, if they had not been fraudulent, dishonest, criminal or malicious; and

b) the amount of any money of, or to which the person referred to in paragraph a) above is entitled, which **You** hold (if **We** can do so by law).

Notwithstanding express **Cover** extensions for vicarious liability arising from fraud or dishonesty of **Employees**, there is no **Cover** under this **Policy** to any person or entity the subject of **Cover** under this **Policy**, for any **Claim** or loss directly or indirectly based upon, or attributable to, or in consequence of any dishonest, fraudulent, criminal or malicious acts or omissions or conduct of which:

a) any such person or entity had knowledge, or had reason to suspect, at or prior to the time of such acts or omissions; and

b) failed to take any reasonable action to prevent.

There is no **Cover** under this **Policy** to any person who was a participant in any fraudulent or dishonest or criminal or malicious acts or omissions or conduct for any **Claim** arising from such acts or omissions or conduct.

For the purpose of this **Policy**, **Money** means local or foreign currency, coins, bank notes, cheques, travellers cheques, registered cheques, postal orders, money orders, negotiable instruments, bearer bonds or coupons, stamps and bullion.

General Provisions - Part A

Premium Payment

The **Cover We** provide in this **Policy** is subject to full payment of the Gross Premium as stated in the **Schedule**. Otherwise, any outstanding premium or part thereof may be deducted from the amount **We** pay **You**.

Cover Beneficiaries

In so far as **Cover** is extended under this **Policy** to individuals and entities who are not a contracting party under this **Policy**, such **Cover** is subject to those individuals and/or entities (as the case may be) agreeing in writing within a reasonable time of notification to **Us** of the **Claim** or **Covered Claim**:

a) to be bound by the terms, conditions, exclusions and limits of this **Policy**; and

b) to be bound by obligations of utmost good faith as if they were a contracting party; and

c) to be liable individually, and together with **You**, for paying the **Excess** (or any other payment due to **Us** under this **Policy**) in respect of any **Cover** provided to them under this **Policy**.

Loss Prevention

You shall, as a condition to **Cover** under this **Policy**, take all reasonable steps to prevent any act, error, omission or circumstance which may cause or contribute to any **Claim** or loss which may be **Covered** under this **Policy**.

Other Insurance Which May Cover The Risk

This **Policy** shall apply in excess of and shall not contribute to any policy arranged by any other party which has been endorsed to name **You** as a beneficiary of cover under that policy and where **You** are a non-contracting party to that policy.

You must as soon as reasonably possible advise **Us** in writing of any insurance already affected or which may subsequently be affected covering, in total or in part and whether absolutely or contingently, the liability, **Claim**, loss or **Claim Investigation Costs**, or any part of them, **Covered** by this **Policy**.

Responsibilities and notification of change of material risk

a) **You** must as soon as reasonably possible advise **Us** in writing of a material change in the risk, including but not limited to notifying **Us** if any of the following occurs during the **Period of Insurance**:

   (i) undertaking activities that are materially different from the **Professional Services**;

   (ii) any cancellation or suspension, or loss of or condition imposed, upon any licence, registration or other authority required by **You** to conduct the **Professional Services**; or

   (iii) **You** being insolvent, bankrupt or in liquidation; or

   (iv) a **Run-Off Event**.

b) When **We** receive notification of a change, **We** may decide to either:

   (i) continue **Cover** with no change to the premium payable;

   (ii) reduce the premium payable and return any refund to the **You**;

   (iii) charge **You** an additional premium (**You** can cancel the policy if the additional premium is not acceptable); or

   (iv) cancel the **Policy** if permitted in accordance with the provisions of the Insurance Contracts Act 1984 (Cth).

c) It is important for **You** to know that **We** may make changes to this **Policy** as a result of a change in information. When there is a change, **We** will inform **You**.

d) If **You** do not notify **Us** of a material change, **We** may refuse to pay a **Claim** or **Covered Claim** or reduce **Cover** under the **Policy**. **We** may also decide to cancel the **Policy** if permitted in accordance with the provisions of the Insurance Contracts Act 1984 (Cth).

e) The course of action **We** take when **You** fail to notify **Us** of a material change will be considered in each circumstance based on what impact or effect **Your** failure to do so caused or contributed to the **Claim** or **Covered Claim** or changes **Our** liability under the **Policy**.

The Proposal – Severability and Non-imputation

The **Proposal We** were given by or on **Your** behalf before this **Policy** commenced, is taken to be a separate **Proposal** for each natural person or entity **Covered** under this **Policy**.

If there is any incorrect fact or misstatement in the **Proposal** that relates to one of **You** who is a natural person then, for the purposes of this **Policy**, **We** do not attribute it to any other of **You** who was not aware of the incorrect fact or misstatement.

Authority to accept notices & to give instructions

The persons or entity first listed as the **Named Insured** in the **Schedule** is appointed as agent of:

a) each of **You**; and

b) any person or entity who is entitled to a benefit under this **Policy** (when they request **Cover** or suffer a loss under this **Policy**)

in all matters relating to this **Policy**, and to **Claims** or **Covered Claims** which are (or are to be) **Covered** by the **Policy**.

In particular (but without limitation) the person or entity first listed in the **Schedule**, as the **Named Insured**, is the agent for the following purposes:

   (i) to give and receive notice of **Policy** cancellation, to pay premiums and to receive any return premiums that may become due under this **Policy**; and

   (ii) to accept endorsements or other notices provided for in this **Policy**; and

   (iii) to give instructions to solicitors or counsel that **We** appoint or agree to, and to receive advice from them and to act on that advice; and

   (iv) to consent to any settlement that **We** recommend; and

   (v) to do anything that **We** or **Our** legal advisers think might help with the procedures set out in this **Policy** for settling and defending **Claims** or **Covered Claims**; and

   (vi) to give **Us** information relevant to this **Policy**, which **We** can rely on when **We** decide whether to accept the risk, and set the **Policy** terms or the premium.

De-registration

You must tell **Us** as soon as reasonably possible in writing if **Your** statutory registration or licence, (which you are legally required to hold to provide **Professional Services)** is cancelled, suspended or terminated or has had conditions imposed during the **Period of Insurance** specified in the **Schedule**.

Payment in Australian dollars in Australia

All premiums and **Claims** must be paid in Australian dollars in Australia.

Law of the Policy

This **Policy** is governed by the law of the Territory or State where the **Policy** was issued (which is specified in the **Schedule**). The courts of that place have jurisdiction in any dispute about or under this **Policy**.

Territorial & Jurisdiction Limits

Cover under this **Policy** is not restricted by where anything giving rise to the **Claim** occurred. However, **Our Cover** is restricted in accordance with the Foreign Courts exclusion in this **Policy**.

Schedule must be included

This **Policy** is only legally enforceable if it includes a **Schedule** issued by **Us**.

Cancelling the Policy - Part A

You can cancel the Policy

You are entitled to cancel this **Policy** with effect from the date **We** receive a written request to cancel the **Policy**, provided that any such cancellation is subject to the following terms:

a) if a **Claim** has been paid under the **Policy** or if **You** have notified a **Claim** or facts which may give rise to a **Claim**) under the **Policy** then no return premium is payable.

b) if there has been no **Claim** made or notified under the **Policy** then **We** will be entitled to retain premium for pro-rata 'time on risk' plus applicable statutory charges.

We can cancel the Policy

a) **We** may cancel this **Policy** at any time in accordance with the relevant provisions of Section 60 of the Insurance Contracts Act 1984 (Cth), by giving notice in writing to **You** of the date from which cancellation is to take effect.

b) **We** may deliver this notice to **You** personally, or post it by certified mail (to **Your** broker or to the address **You** last gave **Us**). Proof that **We** mailed the notice is sufficient proof that **You** received the notice.

c) Under Section 60 of the Insurance Contracts Act 1984 (Cth), **We** may cancel this **Policy** at any time where:

    (i) it is in force by virtue of Section 58 of the Insurance Contracts Act 1984 (Cth); or

    (ii) it is an interim contract of general insurance.

After cancellation pursuant to this Clause, **We** will refund the premium for the time remaining on the **Policy**, less any non-refundable duties.

How to read Part A of this Insurance Policy

Words with special meanings

Some of the words in this **Policy** wording have special meanings. These meanings can be found in Definitions. If a word has a special meaning, it appears in this **Policy** in bold type and with a capital letter. These words may appear without bold type in endorsements in the **Schedule**.

Policy Interpretation

Except where the context otherwise requires it:

(i) the singular includes the plural and the plural includes the singular;

(ii) if a word or phrase is defined, its grammatical forms have a corresponding meaning;

(iii) words importing a gender include every other gender.

Paragraph Headings

The paragraph headings in this **Policy** are included for the purpose of references only and do not form part of this **Policy** for interpretation purposes.

References to legislation

References to legislation in this **Policy** includes any amendment, replacement, re-enactment, successor, equivalent or similar legislation.

Definitions

Whenever the following words are used in this **Policy** in bold type and with a capital letter, they have the special meanings set out below. These words may appear without bold type in endorsements in the **Schedule**.

Civil Liability

Liability for the compensatory damages, costs and expenses which a civil court orders **You** to pay on a **Claim** (as opposed to criminal liability or penalties). It includes the legal costs of the person making the **Claim**, for which **You** become liable.

Claim (or Claims)

The receipt by **You** of:

a) any originating process (in a legal proceeding or arbitration), cross claim or counter claim or third party or similar notice claiming compensation against **You**; or

b) any written or verbal demand from a third party claiming compensation against **You**.

Claim Investigation Costs

The reasonable and necessary legal costs and expenses (other than regular or overtime wages, salaries or fees of any of **You**) incurred by or on **Your** behalf with **Our** prior approval (which **We** will not unreasonably withhold) in the investigation, defence or settlement of any **Claim** or **Covered Claim** which is **Covered** by this **Policy** at the time the legal costs and expenses arise.

Compensatory Civil Penalties

Pecuniary penalties awarded in and under the laws of the jurisdictions of Australia and New Zealand, against:

a) **You** for any civil offence; or

b) **You** for a strict liability offence in connection with a breach of occupational health and safety law or regulation ("OH&S"),

but solely resulting from the conduct of the **Professional Services**.

Cover (and 'Covered')

Indemnity under this **Policy**, which shall not include any component of profit

Covered Claim

The:

a) **Claims**, liabilities, losses, costs; or

b) facts which may give rise to a **Claim,**

which **We** may **Cover** or agree to **Cover** under this **Policy**.

Documents

Documents of any nature including the electronically stored data, software or computer programs for or in respect of any computer system; but not including bearer bonds, coupons, bank notes, currency notes or negotiable instruments.

Loss or damage to Documents does not include:

a) loss or damage (including rearrangement) to such electronically stored data, software or computer programs arising from any computer virus or malware or from any design or programming defect in any computer program or computer operating system;

b) normal wear and tear or the action of insects or rodents or other gradual process;

c) documents lost, damaged or mislaid outside of Australia or New Zealand.

Employee

A natural person who is not a **Principal**, but who is or was, at the time the relevant act, error or omission giving rise to the **Claim**, a person who:

a) is a party to a contract of service with the **Named Insured** and is or was remunerated by the **Named Insured** for that service; or

b) is neither a party to a contract of service with the **Named Insured**, nor an independent contractor, but a party to a contract for services with the **Named Insured** for the provision of services to the **Named Insured** for reward; or

c) a volunteer worker; or

d) a student,

and in respect of a), b), c) and d) above is (or was) at the time of the act, error or omission which gave rise to the **Claim** under **Your** direct control and supervision in the provision of **Professional Services**.

Enquiry (or Enquiries)

Any legal or quasi legal enquiry including coronial enquiry (into a matter arising out of the provision of **Professional Services** and such matter is the subject of and is not excluded from **Cover** under this **Policy**) in respect of which **You** are legally required to participate by reason of the fact that the body conducting the enquiry (including a regulatory, licensing or statutory body) has legal jurisdiction over **You** or any of **You** (either by reason of a statutory power or by reason of **Your** membership of a professional association which has the power to discipline its members).

Excess

The part **You** will be required to pay of each **Covered Claim**.

Former Principal

A person who has been, but is no longer:

a) a **Principal** of **You**; or

b) the **Principal** of any firm or incorporated body declared in the **Proposal**, which previously conducted the **Professional Services** which is now being conducted by the **Named Insured**.

Intellectual Property

Copyright, design, patent, trade mark or moral right, including false attribution of authorship under the Copyright Act 1968 (Cth).

Joint Venture

An undertaking (regardless of what it is called) which the **Named Insured** carry on together with someone else who is not otherwise **Covered** under this **Policy**.

Known Circumstance

Any fact, situation or circumstance which:

a) any of **You** was aware of at any time before this **Policy** began or before this **Policy** was amended or endorsed; or

b) a reasonable person in **Your** professional position would have thought, at any time before this **Policy** began or before this **Policy** was amended or endorsed,

might result in someone making an allegation against any of **You** in respect of a liability or loss that might be **Covered** by this **Policy** or any amendment or endorsement of this **Policy**.

Named Insured

Any person or entity expressly identified in the **Schedule** as the **Named Insured**.

Period of Insurance

The 'Period of Insurance' specified in the **Schedule** – being the period between the inception date of this **Policy** and the expiry date of this **Policy** at 4.00 PM. The time being determined at the place where the **Policy** was issued.

Policy

The insurance contract made up of:

a) this document;

b) the **Schedule**; and

c) the endorsements, if any, contained or referred to in the **Schedule**.

Policy Limit

The 'Policy Limit' specified in the **Schedule**.

Pollutants

Any solid, liquid, gases or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalines, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

Principal

A sole practitioner, a partner of a firm, or a director of a company, which firm or company is **Covered** by this **Policy**.

Privacy Remediation Expenses

Reasonable and necessary expenses for:

a) advertising or other media services;

b) broadcast, electronic, printed, telecast or telephonic announcements, communications or notices; or

c) public relation services,

that are incurred solely to comply with a law, ordinance or regulation concerning the notification of others consequent upon the potential or actual unauthorised access to or unauthorised use by another person of an individual's personal information which is not publicly available.

Professional Services

The Professional Services undertaken by or on **Your** behalf and which are specified in the **Schedule** as **Covered** by this **Policy**. The performance of Professional Services by **You** includes, for the purpose of this **Policy**, acts, errors or omissions of **Your** agents or consultants while undertaking work which is reasonably incidental to the conduct by **You** of the Professional Services and for which **You** are liable. Such agents and consultants, however, are not **Covered** by this **Policy**.

Proposal

The written proposal form (the date of which is specified in the **Schedule**) together with any other material which was given to **Us** by or on **Your** behalf, and relied on by **Us** to effect this **Policy**.

Publicity Campaign

A publicity and/or public relations campaign designed and implemented by a public relations consultant.

Run-Off Event

Any **Named Insured** which, during the **Policy Period**, ceases to exist or operate, or which is disposed of or merged with or acquired by another entity.

Schedule

The schedule to this **Policy** wording, which is issued by **Us**.

Senior Counsel

means a barrister in active practice who is entitled to use the post-nominals KC or SC in any one or more superior court in the Commonwealth of Australia.

Sub Limit(s)

The limit of **Cover** for each of the matters referred to in this **Policy** as being subject to a Sub Limit of **Cover**. If this **Policy** indicates any Sub Limits for specific types of **Cover** under this **Policy**, then the applicable Sub Limits and not the **Policy Limit** apply only to these **Claims**. These Sub Limits are included within and not in addition to the **Policy Limit**.

Subsidiary

Any company or other incorporated entity which, at the commencement of the **Period of Insurance**, and by virtue of Australian law was, or is, either directly or indirectly a subsidiary of any incorporated body identified in the **Schedule**.

Terrorism

Any act, or preparation in respect of action, or threat of action designed to influence the government, whether de jure or de facto, of any nation or any political division thereof, or in pursuit of political, religious, ideological, or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and which:

a) involves violence against one or more persons; or

b) involves damage to property; or

c) endangers life other than that of the person committing the action; or

d) creates a risk to health or safety of the public or a section of the public; or

e) is designed to interfere with or to disrupt an electronic system.

You / Your

Each of the following, individually and jointly:

a) each person, firm or incorporated body identified in the **Schedule** as a **Named Insured** and each **Principal** or **Former Principal** of any such firm or incorporated body; and

b) any entity which is engaged in the provision of **Professional Services** and which is created and controlled, while this **Policy** is in force, by anyone identified in the **Schedule** as a **Named Insured**; and

c) anyone who becomes a **Principal** of the **Named Insured** while this **Policy** is in force (but only in respect of work undertaken for or on behalf of the **Named Insured** firm or incorporated body).

d) any person, firm or incorporated body who is entitled to **Cover** under the terms of this **Policy** (as a beneficiary); and

e) any **Employee** or former **Employee**.

We or Us or Our

CGU Australia Pty Ltd (CGUA), ABN 62 004 478 960 - AFSL No: 700014, Zurich Australian Insurance Limited, ABN 13 000 296 640 - AFSL No: 232507 (Zurich) and Pacific Indemnity Underwriting Solutions Pty Ltd, ABN 14 606 511 639 - AFSL No: 480863 (Pacific Indemnity) acting as agent for CGUA and Zurich.

Policy B - Broadform Liability Policy

The Cover We provide

We will pay to or on **Your** behalf all sums provided by the **Policy** which **You** shall become legally liable to pay as compensation for:

a) **Personal Injury**;

b) **Property Damage**; or

c) **Advertising Liability**,

caused by an **Occurrence** during the **Period of Insurance** within the **Geographical Limits** as specified in the **Policy** and happening in connection with **Your** Business.

All cover provided under this **Policy** is subject to 'The Cover We Provide' clause and all the **Policy** terms, conditions, exclusions and limits contained in or endorsed on this **Policy** and the payment of the **Gross Premium** stated in the **Schedule**.

Supplementary Payments

We will pay in addition to the applicable **Policy Limit**:

a) all expenses incurred by **Us**, all costs taxed against **You** in any suit **We** defend, and all interest on the entire amount of any judgement which occurs after the entry of the judgement and before **We** have paid or tendered or deposited in Court that part of the judgement which does not exceed the limit of **Our** liability thereon; and

b) reasonable expenses incurred by **You** at **Our** request in assisting **Us** in the investigation or defence of any claim but excluding loss of earnings; and

c) expenses incurred by **You** for the first aid to others at the time of an **Occurrence** for **Personal Injury** covered by this **Policy**.

We shall have the right and duty to defend any suit against **You** seeking compensation on account of such **Personal Injury** or **Property Damage** or **Advertising Liability** even if the allegations of the suit are groundless, false or fraudulent and may make such investigation and settlement of any claim or suit as **We** consider reasonably necessary. **We** shall not be obliged to pay any claim or judgement or to defend any suit after **We** have paid the **Policy Limit**.

Limit of Liability

Our liability in respect of any one **Occurrence** shall not exceed the **Policy Limit** stated in the **Schedule** for **Public Liability**, **Products Liability** and **Advertising Liability**. All **Personal Injury**, **Property Damage** and **Advertising Liability** arising out of continuous or repeated exposure to substantially the same general conditions will be construed as arising out of one **Occurrence** and deemed to occur at the time of the first relevant event. **Our** total aggregate limit during any one **Period of Insurance** for all claims arising out of **Products Liability** and **Advertising Liability** only shall not exceed the **Policy Limit**. Provided that the **Policy Limit** in respect of **Occurrences** in **North America** will be inclusive of Supplementary Payments and will apply in the aggregate to all claims in any one **Period of Insurance**.

What is Not Covered

We shall not be liable to indemnify **You** in respect of:

Advertising Liability

Liability for **Advertising Liability** arising from:

a) offences committed prior to the **Period of Insurance**;

b) offences made at the direction of **You** with knowledge of the illegality or falsity thereof;

c) breach of contract, other than misappropriation of advertising ideas under an implied contract;

d) incorrect description of the price of **Your Products**, goods or services, infringement of trade mark, service mark or trade name by use thereof as the trade mark, service mark or trade name of **Your Products**, goods or services sold, offered for sale or advertised, but this exclusion does not apply to titles or slogans;

e) failure of **Your Products**, goods or services to conform with advertised performance, quality, fitness or durability; or

f) any of **You** whose business is advertising, broadcasting, publishing or telecasting.

Agreement Limiting Rights

Any claim under the **Policy** if **You** have entered into any agreement which excludes or limits a right which **You** may have against any party. Subject to the Insurance Contracts Act, 1984 (Cth), **We** will not be liable for any claim under the **Policy** to the extent of such exclusion or limitation.

Aircraft and Watercraft

Liability for **Personal Injury** or **Property Damage** arising from the ownership, possession, operation, use or legal control by **You** of:

a) any **Aircraft**; or

b) any **Watercraft** or vessel exceeding eight (8) metres in length.

Aircraft Products

Any liability arising out of the selling, leasing, hiring or manufacture and/or supply of parts and/or products that are used with **Your** knowledge in **Aircraft** or any aerial device.

Asbestos

Liability for **Personal Injury**, **Property Damage** or **Advertising Liability** caused by, arising out of, or in connection with, the use or presence of asbestos.

Contractual Liability

Liability for **Personal Injury** or **Property Damage** or **Advertising Liability** to the extent such liability has been assumed under an agreement unless such liability:

a) would have attached in the absence of such agreement; or

b) is specifically allowed by **Our** written endorsement; or

c) is assumed by **You** under a warranty of fitness or quality, or is implied by law, in respect of **Your Products**.

Cyber Risks

Liability for loss, damage or destruction arising, directly or indirectly, out of or in any way connected with or contributed to, or from a **Cyber Event**.

However, this exclusion will not apply to the extent any liability, loss, damage or destruction arises, directly or indirectly, out of or is in any way connected with or contributed to, or from **Your Internet Operations** where **Personal Injury** or **Property Damage** arises out of any material:

a) which is already in print in support of **Your Products**, including but not limited to product use and safety instructions or warnings; and

b) which is also published by **You** via **Your Internet Operations**.

Notwithstanding the above, **We** shall not be liable to indemnify **You** in respect of **Personal Injury** or **Property Damage** arising out of any other advice or information published by **You**, via **Your Internet Operations**, that is used for the purpose of attracting customers.

Damage to Your Products

Liability for:

a) physical damage to or destruction or loss of **Your Products** or any part of **Your Products** arising out of them or any part of them; or

b) loss of use of any tangible property caused by physical damage to or destruction or loss of **Your Products** or any part of **Your Products** arising out of them or any part of them.

This exclusion does not apply to **Your Products** repaired, serviced or treated by **You** after **Your Products** were originally sold, supplied or distributed by **You**.

Electromagnetic Fields

Any liability of whatsoever nature directly or indirectly caused by, in connection with or contributed to by or arising from electromagnetic fields (EMF) or electromagnetic interference (EMI).

Electronic Data

loss of, damage to or destruction of any electronic data.

Employer's Liability

a) Liability for **Personal Injury** to any of **Your Employees** arising out of, or in the course of their employment in **Your Business**;

b) Liability for **Personal Injury** to any person who is deemed to be **Your Employee** pursuant to any legislation relating to workers' compensation;

c) Liability for claims which **You** are entitled to seek indemnity under any policy of insurance required to be taken out pursuant to any legislation relating to workers' compensation, whether or not **You** are a party to such policy of insurance;

d) Liability imposed by the provisions of any workers' compensation legislation or any industrial award or agreement or determination;

e) Any liability howsoever or whatsoever for claims related to or arising from **Employment Practices**.

Provided that exclusions a), b) and c) above do not apply to the extent that **Your** legal liability would not be covered under any such policy of insurance or fund set up pursuant to or required by any legislation relating to workers' compensation had **You** complied with **Your** obligations pursuant to such law.

Faulty Workmanship

Any liability for the cost of performing, completing, correcting or improving any work done or to be undertaken by **You**.

Fines and Punitive Damages

Liability for fines, penalties, liquidated damages, punitive damages, exemplary damages, or aggravated damages.

Libel and Slander

Liability arising out of the publication or utterance of a libel or slander:

a) made prior to the **Period of Insurance**; or

b) made at **Your** direction with the knowledge of the falsity thereof; or

c) related to advertising, publishing or printing, broadcasting or telecasting activities conducted by or on behalf of **You**.

Loss of Use

The loss of use of property which has not been physically damaged or destroyed flowing from:

a) a delay in or lack of performance by or on **Your** behalf of any contract; or

b) the failure of any products to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by **You**.

Motor Vehicles

Liability for:

a) **Personal Injury** arising out of the ownership, operation or use of any **Vehicle** where such **Personal Injury** occurs in circumstances in which such **Vehicle** is required by law to have compulsory insurance against such **Personal Injury**, or where such insurance cover is in force; or

b) **Property Damage** arising out of the ownership, operation or use by **You** of any **Vehicle** that is registered.

Provided that this exclusion shall not apply to **Vehicles** whilst being operated or used by **You** as a **Tool of Trade**.

North American Jurisdiction

a) Legal proceedings brought within the **North America**; or

b) The enforcement of any judgment or award obtained within or determined pursuant to the laws of the **North America**; or

c) Legal proceedings in which the laws of the **North America** are applicable even if only in a limited respect.

This exclusion does not apply to:

(i) overseas business visits by any of **Your** directors, partners, officers, executives or employees, who are non-resident in **North America**, but not where they perform manual work in **North America**.

(ii) **Products** exported to **North America** without **Your** knowledge.

Other Insurance

Claims or losses for which cover is provided or available under the accompanying 'Part A - Professional Indemnity Policy' of this **Policy**.

Nuclear

Liability for **Personal Injury** or **Property Damage** of whatsoever nature directly or indirectly caused or contributed to by or arising from ionising radiation, or contamination by radioactivity from nuclear fuel or from any nuclear waste. For the purpose of this Exclusion combustion shall include any self-sustaining process of nuclear fission.

Pollution

a) Liability for **Personal Injury**, **Property Damage** or **Advertising Liability** caused by or arising directly or indirectly out of the actual, alleged or threatened discharge, dispersal, release or escape of smoke, vapours, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials or other irritants, contaminants or pollutants into or upon any property, land, the atmosphere or any watercourse or body of water (including groundwater) but this exclusion does not apply if the actual discharge, dispersal, release or escape:

   (i) is neither reasonably expected nor intended by **You**;

   (ii) occurs outside of **North America**; and

   (iii) is the consequence of a sudden and instantaneous cause which takes place at a clearly identifiable point in time during the **Period of Insurance**.

b) Liability for any costs or expenses incurred in the preventing, removing, nullifying, or cleaning up any discharge, dispersal, release or escape as described in a) above, unless such costs or expenses are consequent upon an unexpected, unintended sudden and instantaneous cause which occurs outside of **North America** and takes place at a clearly identifiable point in time during the **Period of Insurance** and results in **Personal Injury**, **Property Damage** or **Advertising Liability** and is not otherwise excluded by this **Policy**; or provided that **Our** total aggregate liability during any one **Period of Insurance** in respect of all claims arising out of such **Personal Injury**, **Property Damage** or **Advertising Liability** or such costs or expenses shall not exceed the **Policy Limit** stated in the **Schedule**.

Product Recall

Any costs incurred in withdrawing or recalling any products (including any costs involved in inspecting, repairing or replacing) because of any known or suspected defect or deficiency.

Product Recall and Repair

Liability for damages claimed for the withdrawal, inspection, repair, replacement or loss of use of **Your Products**.

Professional Errors and Omissions Liability

Liability for the rendering of or failure to render professional advice or service by **You** or error or omission connected therewith, but this exclusion does not apply to the rendering or failure to render professional medical advice by **Medical Persons** employed by **You** to provide first aid and other medical services on **Your** premises.

Property in Physical or Legal Control

Liability arising out of or in any way connected with **Property Damage** to property which **You** own, lease, hire, is loaned or rented to **You**, or is otherwise in **Your** physical or legal control other than:

a) premises or part of any premises (including the contents of such premises), leased or rented to **You**, or temporarily occupied by **You** for the purpose of the **Business**. This exclusion for "Property in Physical or Legal Control" does not extend to any liability where **You** have assumed the responsibility to effect or maintain insurance with respect to any premises referred to In this clause;

b) premises temporarily occupied by **You** (including the contents of such premises), for the purpose of carrying out work in connection with the **Business**. This exclusion for "Property in Physical or Legal Control" does not extend to liability for physical damage to or destruction of any premises or contents on which **You** were or are working, if such physical damage or destruction arises from such work;

c) any other property temporarily in **Your** possession for the purpose of being worked upon. This exclusion for "Property in Physical or Legal Control" does not extend to liability for physical damage to or destruction of that part of any property on which **You** were or are working, if such physical damage or destruction arises from such work;

d) any **Vehicle** (including its contents, spare parts and accessories while they are in or on a **Vehicle**), not belonging to or used by **You** while such **Vehicle** is in a car park owned or operated by **You**, provided that **You** do not operate the car park for reward as a principal part of the **Business**;

e) any other property not owned by **You** (and not referred to in a) - d) above), but temporarily in **Your** physical or legal care, custody or control, whether or not **You** have accepted or assumed legal liability for such property, subject to a maximum of $500,000, or other higher amount stated in the **Schedule**, for any one **Occurrence** and in the aggregate during any one **Period of Insurance**.

Sanctions

Liability in respect of which and to the extent that such cover, payment, service, benefit and/or any **Business** or activity of **Yours** would violate any applicable trade or economic sanctions, law or regulation.

Silica

Liability for **Personal Injury** or **Property Damage** of whatsoever nature directly or indirectly caused by, or alleged to be caused by or contributed to, in whole or in part, by or arising out of the presence, ingestion, actual, alleged, threatened or suspected inhalation or absorption of **Silica** or **Silica Related Dust**.

Specific Products and Substances

We will not be liable under this **Policy** in respect of any liability of whatsoever nature directly or indirectly caused by, in connection with or contributed to by or arising from the application or use of:

a) polychlorinated biphenyls including polychlorinated biphenyl generated dibenzofurans and dioxins;

b) per-and poly-fluoroalkyl substances (PFSA) including perfluorooctanoic acid (PFOA) and perfluorooctane sulphonic acid (PFOS); or

c) any product containing glyphosate, atrazine, dicamba, neonicotinoids, paraquat and chlorpyrifos.

Terrorism

Liability for **Personal Injury** or **Property Damage** directly or indirectly caused by or contributed to, by, or arising from or happening through or in connection with any act of Terrorism.

War

Liability for **Personal Injury** or **Property Damage** directly or indirectly caused by or in consequence of war, invasion, act of foreign enemy, hostilities (with or without the declaration of war), civil war, rebellion, insurrection, military or usurped power.

Claims Provisions - Part B

Claims Control

You must fully and promptly comply with all of **Our** reasonable requests for assistance and cooperation in relation to a claim on the **Policy**, including:

a) supplying **Us** with all information and assistance **We** may reasonably require;

b) allowing **Us** to negotiate, defend or settle a claim against **You**:

   (i) in **Your** name and on the **Your** behalf; or

   (ii) in the name of and on behalf of any other party covered by the **Policy**;

however, **We** will not settle any claim against any party covered by the **Policy** without the consent of that party, such consent not to be unreasonably withheld or delayed;

c) sending to **Us** any claim, writ, summons, or full details of other relevant legal or other proceedings such as an impending prosecution or inquest **You** receive or become aware of; and

d) as far as possible, preserve any product, appliance, plant or other items which might prove necessary or useful as evidence until **We** have had a reasonable opportunity of inspection.

You shall not, without **Our** prior written consent, which will not be unreasonably withheld or delayed, admit or repudiate liability, negotiate, or make any offer, promise or payment in connection with any claim against it or **Occurrence**.

We shall be entitled, but not obligated, to take over and conduct in **Your** name, the defence or settlement of any claim against **You** or to prosecute in **Your** name at **Our** own expense and for its own benefit any claim for indemnity or damages or otherwise against any persons.

We will, whenever reasonably practical, inform **You** of the progress of any defence or prosecution **We** have elected to take conduct of, and/or consult with **You** as to its interests or concerns in relation to any claim, defence or prosecution, but **You** agree that **We** will have ultimate discretion in the conduct and settlement of any proceedings or claim it has elected to take conduct of, save that **We** will not settle a claim against **You** without **Your** consent, such consent not to be unreasonably withheld or delayed.

Where **We** do not elect to take over conduct of the defence or settlement of any claim which is covered or, if sustained, would be covered, under the **Policy**, we have the right to:

a) be provided with all such information as we reasonably require;

b) be kept fully informed as to all matters relating to or concerning the investigation, defence or settlement of the claim and the right to receive copies of all relevant documentation relating thereto; and

c) associate effectively with **You** in the defence, investigation and the negotiation of any settlement. No settlement is to be entered into without **Our** prior written consent, such consent not to be unreasonably withheld or delayed.

Discharge of Liabilities

We may at any time pay to **You** in respect of all claims against **You** arising directly or indirectly from the one **Occurrence** the amount of the liability or such other amount specified in respect thereof (after deduction of any sum or sums already paid by **Us** which sum or sums would reduce the amount of **Our** unfulfilled liability in respect thereof) or any lesser sum for which the claim or claims can be settled and upon such payment, and notwithstanding anything else to the contrary, **We** shall relinquish conduct or control of and be under no further liability under the **Policy** in connection with such claim or claims except for costs charges or expenses recoverable from **You** in respect of the period prior to the date of such payment (whether or not pursuant to an order made subsequently) or incurred by **Us** or by **You** with **Our** written consent prior to the date of such payments.

Reasonable Care and Loss Risk Management

You shall:

a) take all reasonable precautions to:

   (i) prevent **Personal Injury**, **Property Damage** or **Advertising Liability**; and

   (ii) prevent the manufacture, sale or supply of defective products; and

   (iii) comply with all statutory obligations, by-laws or regulations imposed by any public authority for the safety of persons and property.

b) at **Your** own expense take reasonable action to trace, recall or modify any products containing any defect or deficiency which defect or deficiency **You** have knowledge of or has reason to suspect.

Cross Liabilities

Where more than one party comprises **You** each of the parties shall be considered as a separate and distinct unit and the word **You** shall be considered as applying to each of **You** in the same manner as if a separate policy had been issued to each of the said parties provided that nothing in this clause shall result in the increase of **Our** liability under this **Policy** in respect of any **Occurrence** or **Period of Insurance**.

Subrogation

In the event of payment under this **Policy** to or on behalf of **You**, **We** shall be subrogated to all **Your** rights of recovery against all persons and organisations and **You** shall execute and deliver instruments and papers and do all that is necessary to assist in the exercise of such rights. **We** will consider **Your** reasonable preferences as they relate to subrogated recovery and will act contrary to such preferences only in circumstances where it is reasonably necessary to protect **Our** legitimate recovery interests. **We** will pay the costs of prosecuting subrogated recovery claims which **We** institute.

Goods and Services Tax

Where **We** make a payment under this **Policy** for the acquisition of goods, services or other supply **We** will reduce the amount of the payment by the amount of any Input Tax Credit **You** are, or will be, or would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 (Cth), in relation to that acquisition, whether or not that acquisition is actually made. Where **We** make a payment under this **Policy** as compensation instead of payment for the acquisition of goods, services or other supply, **We** will reduce the amount of payment by the amount of any Input Tax Credit that **You** would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 (Cth) had the payment been applied to acquire such goods, services or other supply.

General Provisions - Part B

Alteration of Risk

a) **You** must as soon as reasonably possible, provide **Us** with written notice of every change which materially varies any of the facts or circumstances existing at the commencement of this **Policy** that comes to **Your** knowledge, which will also be deemed to include the knowledge of any person whose knowledge would in law be **Your** knowledge. This includes (but is not necessarily limited to):

   (i) if **Your** business changes;

   (ii) if **You** start doing anything that **You** were asked about when commencing or renewing **Your Policy** and **You** then replied that **You** did not;

   (iii) if there has been a loss or condition imposed upon any license or authority that **You** require to conduct **Your** business; or

   (iv) if **You** become insolvent or if any circumstances arise that make it more likely that **You** might become insolvent.

b) When **You** advise **Us** of a matter such as that set out above, **We** will advise **You** whether **We** are to provide additional cover or continue offering cover, and if so on what terms (for example, any endorsement, additional excess or special condition that may need to be applied) and for what additional premium (if any). This will be based on **Our** risk appetite and underwriting guidelines. If the change in risk means that the risk is no longer acceptable under **Our** risk appetite or underwriting guidelines, **We** may cancel the **Policy**. Any offer by **Us** to cover the changes in risk notified to **Us** is not effective until **We** receive **Your** written acceptance of **Our** offer. Until then, the changes notified are not covered. **You** are entitled to cancel the **Policy** at anytime, including where **We** do not offer to cover the changes that you notified, or if **You** do not accept **Our** offer to cover the changes. If a claim arises from the changes in risk which are not covered or **We** do not agree to provide cover, **We** may reduce or refuse to pay such claim to the extent it arises from the change in risk.

Inspection and Premium Adjustment

We are permitted, but not obligated, to inspect **Your** property and operations, subject to **Us** providing **You** with reasonable notice in advance of any such inspection. **We** may exercise this right for underwriting or claims management purposes. Neither **Our** right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of **You** or for **Your** benefit or others, to determine or warrant that such property or operations are safe.

We may examine and audit **Your** books and records, subject to **Us** providing **You** with reasonable notice in advance of any such inspection, during the **Period of Insurance** and extensions thereof and within three (3) years after the final termination of this **Policy**, as far as they relate to the subject matter insured. If the first or renewal premium for the **Policy** or part thereof shall have been calculated on estimates furnished by **You**, then **You** shall keep an accurate record containing all particulars relative thereto and shall, within a reasonable time following receipt of **Our** request, allow **Us** to inspect such records. The **Named Insured** shall within thirty (30) days after the expiry of each **Period of Insurance** furnish to **Us** such particulars and information as **We** may require. The premium for such period shall thereupon be adjusted and any difference paid or allowed to **You** as the case may be subject to receipt and retention of any minimum premium charged by **Us**.

Other Insurances

If **You** make a claim under this **Policy** in respect of an **Occurrence** recoverable under this **Policy** which **Occurrence** is or may be covered in whole or in part by any other insurance, then **You** must advise **Us** of the full details of such other insurance when making a claim under this **Policy**. Subject to the Insurance Contracts Act 1984 (Cth), **We** reserve the right to seek contribution from the other insurer(s).

Insurance Arranged By Principal

If **You** enter into an agreement with any other party (who for the purpose of this clause is called the "Principal") pursuant to which the Principal has agreed to arrange a policy of insurance which is intended to indemnify **You** for any loss or liability then **We** will (subject to the terms and conditions of this **Policy**) only indemnify **You** for loss or liability not covered by the policy of insurance provided by the Principal.

Cover Beneficiaries

In so far as cover is extended under this **Policy** to individuals and entities who are not a contracting party under this **Policy**, such cover is subject to those individuals and/or entities (as the case may be) agreeing in writing within a reasonable time of notification to **Us** of an **Occurrence**:

a) to be bound by the terms, conditions, exclusions and limits of this **Policy**;

b) to be bound by obligations of utmost good faith as if they were a contracting party; and

c) to be liable individually, and together with **You**, for paying the **Excess** (or any other payment due to **Us** under this **Policy**) in respect of any cover provided to them under this **Policy**.

The Proposal – Severability and Non-imputation

The **Proposal We** were given by **You** or on **Your** behalf before this **Policy** commenced, is taken to be a separate **Proposal** for each natural person or entity covered under this **Policy**.

If there is any incorrect fact or misstatement in the **Proposal** that relates to one of **You** who is a natural person then, for the purposes of this **Policy, We** do not attribute it to any other of **You** who is a natural person and who was not aware of the incorrect fact or misstatement at the time it was made.

Authority to accept notices & to give instructions

The person or entity first listed as the **Named Insured** in the **Schedule** is appointed as agent of:

a) each of **You**; and

b) any person or entity who is entitled to a benefit under this **Policy** (when they request cover or suffer a loss under this **Policy**),

in all matters relating to this **Policy**, and to **Occurrences** which are (or are to be) covered by the **Policy**.

In particular (but without limitation) the person or entity first listed in the **Schedule**, as the **Named Insured**, is agent for the following purposes:

(i) to give and receive notice of **Policy** cancellation, to pay premiums and to receive any return premiums that may become due under this **Policy**; and

(ii) to accept endorsements or other notices provided for in this **Policy**; and

(iii) to give instructions to solicitors or counsel that **We** appoint or agree to, and to receive advice from them and to act on that advice; and

(iv) to consent to any settlement that **We** recommend; and

(v) to do anything that **We** or **Our** legal advisers think might help with the procedures set out in this **Policy** for settling and defending claims or covered claims; and

(vi) to give **Us** information relevant to this **Policy**, which **We** can rely on when **We** decide whether to accept the risk, and set the **Policy** terms or the premium.

Premium Payment

The cover **We** provide in this **Policy** is subject to full payment of the Gross Premium as stated in the **Schedule**. If full payment of the Gross Premium is not made, there is no cover.

All Payments in Australian Dollars

All premiums and claims must be paid in Australian dollars in Australia.

Law of the Policy

This **Policy** is governed by the law of the Territory or State where the **Policy** was issued (which is specified in the **Schedule**). The courts of that place have jurisdiction in any dispute about or under this **Policy**.

Insurance Contracts Act

Nothing contained in this **Policy** shall be construed to reduce or waive either **Your** or **Our** privileges, rights or remedies available under the Insurance Contracts Act 1984 (Cth).

Schedule must be included

This **Policy** is only legally enforceable if it includes a **Schedule** issued by **Us**.

Cancelling the Policy - Part B

You can cancel the Policy

You are entitled to cancel this **Policy** with effect from the date **We** receive a written request to cancel the **Policy**. However, **We** will be entitled to retain premium for pro-rata 'time on risk', plus any non-refundable duties.

We can cancel the Policy

a) **We** may cancel this **Policy** at any time in accordance with the relevant provisions of section 60 of the *Insurance Contracts Act 1984* (Cth), by giving notice in writing to **You** of the date from which cancellation is to take effect.

b) **We** may deliver this notice to **You** personally, or post it by certified mail (to **You**r broker or to the address **You** last gave **Us**). Proof that **We** mailed the notice is sufficient proof that **You** received the notice.

c) Under section 60 of the *Insurance Contracts Act 1984* (Cth), **We** may cancel this **Policy** at any time where:

    (i) it is in force by virtue of section 58 of the *Insurance Contracts Act 1984* (Cth); or

    (ii) it is an interim contract of general insurance.

After cancellation pursuant to this Clause, **We** will refund the premium for the time remaining on the **Policy**, less any non-refundable duties.

How to read Part B of this Insurance Policy

Policy Interpretation

Except where the context otherwise requires it:

a) the singular includes the plural and the plural includes the singular;

b) if a word or phrase is defined, its grammatical forms have a corresponding meaning;

c) words importing a gender include every other gender.

Words With Special Meaning

Whenever the following words are used in Part B - Broadform Liability Policy of this **Policy** in bold type and with a capital letter, they have the special meanings set out below. These words may appear without bold type in endorsements in the **Schedule**.

Advertising Liability

means:

a) libel, slander or defamation;

b) infringement of copyright or of title or slogan;

c) piracy or unfair competition or idea misappropriation under an implied contract; or

d) invasion of privacy,

committed or alleged to have been committed during the **Period of Insurance** in any advertisement, publicity article, broadcast or telecast and arising out of **Your** advertising activities or any advertising activities conducted on **Your** behalf in the course of advertising **Your Products**, goods or services.

Aircraft

means any vessel, hovercraft, craft or thing designed to transport persons or property in or through the air or space.

Business

means the business stated in the **Schedule** and shall include the activities of any canteen, social, sports, welfare and /or child care organisation or first aid, medical, fire or ambulance services.

Computer Virus

means an executable program or computer code segment that is self-replicating, requires a host program or executable segment in which it can be contained, and which destroys or alters the host, program or other computer code or data, causing undesired program or computer system operation.

Cyber Event

means any Occurrence in any way connected with:

a) an IT Network; or

b) Computer Virus.

Employee

means any person engaged under a contract of service or apprenticeship with **You**, but does not include any person employed under such contract who is excluded from the definition of 'worker' under any workers' compensation legislation while working for **You** in connection with the **Business**.

Employment Practices

means any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination directly or indirectly related to or in respect of employment or prospective employment of any person or persons by **You**.

Excess

means the amount payable by **You** in respect to each **Occurrence** and includes all 'Supplementary Payments'.

Geographical Limits

means:

a) anywhere in the world except **North America**;

b) **North America**, but only with respect to:

   (i) overseas business visits by any of **Your** directors, partners, officers, executives or employees, who are non-resident in **North America**, but not where they perform manual work in **North America**.

   (ii) Products exported to **North America** without **Your** knowledge.

Internet Operations

means

a) transfer of computer data or programmes by use of electronic mail systems by **You** including for the purpose of this definition only, part-time and temporary staff, contractors and others within **Your Business** whether or not such data or programmes contain any malicious or damaging code, including but not limited to **Computer Virus**, worm, logic bomb, or trojan horse;

b) access through **Your** network to the world wide web or a public internet site by **You** including for the purpose of this definition only, part-time and temporary staff, contractors and others within **Your Business**;

c) access to **Your** intranet (meaning internal company information and computing resources) which is made available through the world wide web for **Your** customers or others outside **Your Business**; and

d) the operation and maintenance of **Your** website.

IT Network

means any computer hardware (or components thereof), software (or components thereof), communication system networks, **Internet Operations**, websites whosoever hosted, online or offline media libraries, data, or other peripheral devices.

Medical Persons

means medical doctors, medical nurses, dentists and first aid attendants.

Named Insured

means the entity or natural person specified in the **Schedule** as the Named Insured.

North America

means United States of America or Canada or their respective territories and protectorates.

Occurrence

means an event including continuous or repeated exposure to substantially the same general conditions, which causes **Personal Injury** or **Property Damage** or **Advertising Liability** none of which is expected or intended from **Your** standpoint.

Period of Insurance

means the duration of this **Policy** as stated in the **Schedule**.

Personal Injury

means:

a) bodily injury, death, sickness, disease, disability, shock, fright, mental anguish or mental injury;

b) false arrest, false imprisonment, malicious prosecution and humiliation;

c) libel, slander, defamation of character;

d) wrongful entry or wrongful eviction or other invasion of the right of private occupancy;

e) assault and battery not committed by or at **Your** direction unless committed for the purpose of preventing or eliminating danger to persons or property,

which occurs during the **Period of Insurance**.

Policy Limit

means the amount(s) specified as such in the **Schedule**.

Policy

means the insurance contract made up of:

a) this document; and

b) the **Schedule**; and

c) the endorsements, if any, contained or referred to in the **Schedule**.

Products Liability

means **Personal Injury** or **Property Damage**:

a) caused by any defect, or the harmful nature of any of **Your Products**; or

b) resulting from any defect or deficiency in any direction or advice given at any time or intended to be given by **You** concerning the use or storage of **Your Products**.

Property Damage

means:

a) physical damage to or destruction or loss of tangible property which occurs during the **Period of Insurance** and any loss of use of that property resulting there-from; or

b) loss of use of tangible property which has not been physically damaged or destroyed or lost which is caused by physical damage to or destruction or loss of other tangible property which occurs during the **Period of Insurance**.

Proposal

means the written proposal form (the date of which is stated in the **Schedule**) together with any other material that was given to **Us**, and relied on by **Us** to effect this **Policy**.

Public Liability

means liability covered by this **Policy** but does not include **Products Liability**.

Schedule

means new **Policy** schedule, renewal schedule or endorsement schedule issued by **Us**.

Silica

means silicon dioxide, occurring in crystalline, amorphous and impure forms, silica particles, silica dust or silica compounds.

Silica Related Dust

means a mixture or combination of **Silica** and other dust or particles.

Terrorism

means an act, which may include but is not limited to an act involving the use of force or violence and/or threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s) which from its nature or context is done for, or in connection with, political, religious, ideological or ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public, or any section of the public, to fear.

Tool of Trade

means any **Vehicle** which has a tool or plant forming part of or attached to or used in connection with it while such tool or plant is engaged on a work site, but does not include:

a) **Vehicles** whilst in transit to or from any worksite; or

b) **Vehicles** used for transport or haulage.

Vehicle

means any type of machine on wheels or on caterpillar tracks made or intended to be propelled other than by manual or animal power.

Watercraft

means any vessel, craft or thing made or intended to float on or in or travel on or through or under water.

We or Us or Our

Pacific Indemnity Underwriting Solutions Pty Ltd ACN 606 511 639 - on behalf of Zurich Australian Insurance Limited (Zurich), ABN 13 000 296 640 - AFSL No. 232507.

You or Your

means each of the following to the extent set forth below:

a) the **Named Insured**;

b) all subsidiary companies (now or hereafter constituted) of the **Named Insured** whose place of incorporation is within Australia and whose business falls within the definition of **Your Business**;

c) any director, executive officer, employee, partner or shareholder of the **Named Insured** or of any company designated in paragraph b) above, but only while acting within the scope of their duties in such capacity; and

d) any **Principal**, not being the **Named Insured**, but with whom the **Named Insured** has entered into a contract for work and provided their interests are required to be insured jointly by the **Named Insured** and then only to the extent required by such contract, and only in respect of work performed as part of the **Business**.

   For the purposes of this definition 'Principal' shall mean any person with whom the **Named Insured** has entered into a written contract or agreement to do any work or provide any services in connection with the **Business**.

Your Products

means anything, including any packaging or container thereof (after it has ceased to be in **Your** possession or control) manufactured, grown, extracted, produced, processed, assembled, constructed, erected, installed, repaired, serviced, treated, sold, supplied, resupplied or distributed by **You**.