

General Liability

Certificate of Insurance

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Our Agreement

I. This Certificate is a legal contract between You and Us. You have paid, or agreed to pay Us the premium and We provide the cover specified in this Certificate and as set out in Your Schedule. The terms, conditions and provisions of the insurance We offer You are described in this Certificate.

II. LIMIT OF LIABILITY

We will not pay any more for any claim under this Certificate than the lesser of:

- a) The Limit of Liability or any Sub-limit less any Excess which is listed in the Schedule, or
- b) Any other limit less any Excess which is set out in this Certificate.

III. EXCESS

We will not pay the Excess which applies to any claim. The Excesses are set out in the Certificate. If a claim is capable of being covered under more than one section of this Certificate and more than one Excess applies, then the higher Excess will apply to that claim.

1. SECTION 1 -- Public & Products Liability

(This section is not included in the Certificate unless indicated in the Schedule).

1.1 INSURING CLAUSE

We will pay to You or on Your behalf all amounts which You shall become legally liable to pay for compensation in respect of:

- 1.1.1 Personal Injury; and/or
- 1.1.2 Property Damage; and/or
- 1.1.3 Advertising Injury;

which happens during the Period of Insurance, within the Geographical Limits, and is caused by an Occurrence in connection with the Business.

We will not pay more than the Limit of Liability stated in the Schedule for Public Liability for all claims or series of claims arising out of any one Occurrence.

We will not pay more than the Limit of Liability stated in the Schedule for Products Liability for all claims arising out of all or any of Your Products during any one Period of Insurance.

We will not pay more than the Limit of Liability stated in the Schedule for Advertising Injury for all claims or series of claims arising out of any one Occurrence.

1.2 DEFENCE AND OTHER COSTS

In addition to the Limits of Liability stated in the Schedule, We will:

- 1.2.1 defend in Your name and on Your behalf any claim or suit against You claiming any amounts for Personal Injury and/or Property Damage and/or Advertising Injury and seeking damages on account thereof, even if such claim or suit is groundless, false or fraudulent;
- 1.2.2 investigate, negotiate and settle any claim or suit as We deem expedient;
- 1.2.3 pay all expenses incurred by Us, all legal costs recoverable from You in any such suit;

1.2.4 pay all interest accruing after entry of judgment until We have paid, tendered, or deposited in court such part of such judgment as does not exceed Our Limit of Liability thereon;

1.2.5 reimburse You for all reasonable expenses other than Your loss of earnings, incurred with Our consent;

1.2.6 pay expenses incurred by You for first-aid to others at the time of any Personal Injury for which You are entitled to compensation (other than medical expenses prohibited by Section 126 of the Health Insurance Act 1973 or any amending legislation).

We will do this, provided that:

1.2.7 We shall not be obligated to pay any claim or judgment or to defend any suit after Our Limit of Liability has been exhausted by payment of judgments or settlements;

1.2.8 If a payment exceeding Our Limit of Liability has to be made to dispose of a claim Our liability to pay these additional payments in connection therewith shall be limited to such proportion of the additional payments as the Limit of Liability bears to the amount paid to dispose of the claim or suit.

Provided further that any costs and payments [as referred to in 1.2.1 to 1.2.6 above] incurred in connection with claims and/or suits instituted in North America shall form part of the Limit of Liability and will not be payable in addition to the Limit of Liability.

1.3 SPECIFIC EXCLUSION

In addition to Your Certificate Exclusions the following Specific Exclusion applies to this section.

1.3.1 Professional Advice

We shall not be liable for any claims in respect of the rendering of or failure to render professional advice or service by You or Medical Persons or any error or omission connected therewith, but this exclusion does not apply to:

- a) the rendering of or the failure to render professional medical advice by Medical Persons employed by You and to provide first-aid and other medical services on Your premises, or
- b) Personal Injury or Property Damage arising from such rendering of or failure to render professional advice or service.

1.4 Errors & Omissions Extension

1.4.1 INSURING CLAUSE

Notwithstanding anything to the contrary in Specific Exclusion 1.3.1 (Professional Advice) We will pay to or on behalf of You all sums which You shall become legally liable to pay by way of compensation, up to the Limit of Liability stated in the Schedule, as a result of a Claim or Claims for Financial Loss, first made against You and notified to Us during the Period of Insurance arising out of any act, advice, error or omission committed, or alleged to have been committed, subsequent to the Retroactive Date by or on behalf of You in connection with Your Business as specified in the Schedule.

For the avoidance of doubt, the expression "arising out of any act, advice, error or omission" shall include: any non-deliberate breach of Section 52, Section 53, Section 55, Section 55A or Section 71 of the Trade Practices Act 1974 or Section 18, Section 29, Section 33, Section 34, Section 54 or Section 55 of the Australian Consumer Law (Schedule 2 to the Competition and Consumer Act 2010(Cth)) or mirroring provisions of any State Fair Trading Act or similar statute.

1.4.2 DEFENCE COSTS

We hereby agree to pay all legal costs and other expenses incurred by You, or on Your behalf with Our consent, or by Us in the investigation, defence and/or settlement of any Claims; provided that Our total aggregate liability (including costs in the defence of a Claim) shall not exceed the Limit of Liability stated in the Schedule, notwithstanding the number of Claims made.

In the event You are a party to a demand, legal proceedings, inquiry or hearing which is covered only in part by this Extension, then, You and Us will use our best efforts to agree upon a fair and proper allocation of legal costs and/or expenses or any other amount insured under this Extension which relate solely to what is covered under this Extension.

In the event that an agreement cannot be reached, a Senior Counsel (to be mutually agreed upon by Us and You) shall, as an expert and not an arbitrator, determine a fair and proper allocation. Until the Senior Counsel has made a determination We may, in Our absolute discretion, pay such legal costs and/or expenses or any other amount insured under this Extension as We consider appropriate. The cost of obtaining such Senior Counsel's determination shall form part of Defence Costs.

The Excess stated in the Schedule shall be borne by You at Your own expense and Our liability shall only be in excess of this amount.

1.4.3 DEFINITIONS

For the purposes of this Extension only:

a) Claim and Claims

Means any:

- i) writ, summons, application or other legal or arbitral proceedings, cross-claim or counterclaim issued against or served upon You.
- ii) written or verbal demand alleging liability communicated to You under any circumstances and by whatever means.

b) Financial Loss

Means any loss which is economic in nature and not consequent upon Personal Injury or Property Damage.

c) Retroactive Date

Means the date specified in the Schedule.

1.4.4 SPECIFIC EXCLUSIONS

In addition to Your Certificate Exclusions the following Specific Exclusions apply to this Extension.

This insurance shall not apply to:

- a) i) any Claim or Claims first made against You prior to the inception of this Certificate;
- ii) any fact, situation or circumstance which You had become aware of prior to the inception of this Certificate, or which a reasonable person in Your position would have considered may give rise to a Claim or Claims under this or similar or like Certificates or Policies;
- iii) any Claim or Claims arising from any actual act, error or omission or conduct by or on behalf of You prior to the Retroactive Date shown in the Certificate Schedule.
- b) any Claim for which cover is provided for elsewhere in this Certificate;
- c) any Claim arising out of an act, error or omission committed or alleged to have been committed by a director or officer of Your's in the course of their duties in such capacity;
- d) any Claim arising out of an act, error or omission committed or alleged to have been committed by a director or officer of Your staff superannuation fund or funds in the course of their duties in such capacity;
- e) any Claim which is based on or is attributable to any failure or omission on the part of You to effect or maintain insurance;
- f) any Claim arising out of delays in the performance of services or the supply of products;
- g) any Claim arising out of any form of industrial action, whether such action is taken by Your employees or by others;

- h) any Claim arising from or in connection with advice including financial advice, design, consultancy, specification, formulae or supervision given or undertaken by You not in relation to Your Products.
- i) any Claim arising out of liability assumed under contract or agreement unless such liability would have attached in the absence of such contract or agreement.
- j) any Claim arising out of conspiracy, conversion, deceit, inducement, breach of contract or injurious falsehood.
- k) any Claim made, brought or maintained by or on behalf of:
 - i) any other person or entity who is insured by this Certificate; or
 - ii) any person or entity who or which is related to or associated with You, unless such person or entity is acting without any prior direct or indirect solicitation, cooperation or assistance from You.
 - iii) any of Your subsidiaries; or any company of which You have or have held a minimum of 20% financial interest or have or have had board representation.
- l) any Claim arising from, attributable to or in any way connected with any trading debt incurred by You or any guarantee given by You for any debt.
- m) any Claim first made or intimated subsequent to the date upon which You become insolvent provided always that this exclusion shall not apply where You establish, to Our satisfaction that the Claim would have arisen notwithstanding that You were insolvent.

been made during the Period of Insurance.

1.5 Medical Malpractice

(Applicable to First Aid treatment only)

We agree to indemnify You for injury caused by medical malpractice or by negligent act or omission in professional medical services rendered by You during the Period of Insurance in connection with the provision of first aid treatment but only insofar as such liability is not insured by any other malpractice insurance and provided that such liability does not arise out of any criminal act or any act committed while in violation of any law or ordinance or services rendered by any person who, to Your knowledge, is under the influence of intoxicants or narcotics.

1.4.5 CONDITIONS APPLICABLE TO ERRORS & OMISSIONS EXTENSION

a) Notification

You shall, as a condition precedent to Your right to be indemnified under this Extension, give to Us as soon as practicable notice in writing during the Period of Insurance of:

- i) any Claim or Claims made against You;
- ii) the receipt of notice from any person or entity of an intention to make a Claim against You.

b) Deeming

You shall give Us as soon as practicable, notice in writing during the Period of Insurance of any circumstances of which You shall become aware during the Period of Insurance, is likely to give rise to a Claim against You.

If, during the Period of Insurance, You become aware of any circumstances which might subsequently give rise to a Claim under this Extension and elect, during the Period of Insurance, to give written notice to Us of such circumstances, then any such Claim which might subsequently arise out of such circumstances will be deemed to have

2. SECTION 2 -- Statutory Liability

(This Certificate section is not included in the Certificate unless indicated in the Schedule).

2.1 In consideration of Your paying the premium to Us and in reliance upon the written statements and declarations contained in the proposal form or insurance broker's quotation submission, We agree to indemnify You in accordance with the following section wording.

2.2 NOTICE TO INSURED

This section provides cover on a **Claims made and notified basis, whereby:**

2.2.1 A Claim must be made against You during the Period of Insurance; and

2.2.2 You must notify Us in writing of such Claim during the Period of Insurance.

2.3 INSURING CLAUSE

Subject to the terms and conditions of the Certificate and this section, We will pay to or on behalf of You any Loss arising from any Claim in respect of a Wrongful Act that occurs after the Retroactive Date.

Our liability under this section in respect of all Losses arising out of all Claims covered by this section shall not exceed the Limit of Liability specified in the Schedule for any one Claim and in the aggregate in respect of all Claims made during the Period of Insurance.

All Losses arising out of any one Wrongful Act or series of Wrongful Acts with one common cause are deemed to be one Loss.

The Excess is the first amount for each and every Claim which is to be borne by You.

2.4 DEFENCE COSTS

We agree to pay all legal costs and expenses (excluding Your wages, salaries or other remuneration) incurred with Our prior written consent in connection with any Claim for which indemnity is available under this section, provided that such legal costs and expenses are included within the Limit of Liability applicable to this section.

Provided that We shall not be liable for legal costs and/or expenses where indemnity is not provided by this section.

2.5 DEFINITIONS

For the purpose of this section only:

2.5.1 Act

Means any Act of the Parliament of the Commonwealth of Australia and/or New Zealand and any Act of the Parliaments of the States or Territories of the Commonwealth of Australia, including any subordinate or delegated legislation made under those Acts; and any amendment, consolidation or re-enactment of any of the above Acts or legislation.

2.5.2 Business

Means the business conducted by You as defined in the Certificate of Insurance.

2.5.3 Claim

Means the receipt by You of any written or verbal notice which alleges a Wrongful Act and claims that You are liable to pay a Penalty.

2.5.4 Consumer Protection Act

Means any of the following:

- a) Fair Trading Act 1985 (VIC)
- b) Fair Trading Act 1987 (NSW)
- c) Fair Trading Act 1987 (SA)
- d) Fair Trading Act 1987 (WA)
- e) Fair Trading Act 1989 (QLD)
- f) Fair Trading Act 1990 (TAS)
- g) Fair Trading Act 1992 (ACT)
- h) Consumer Affairs and Fair Trading Act 1996 (NT)
- i) Trade Practices Act 1974 (Cth)
- j) And any amendment, consolidation or re-enactment of any of those Acts.

2.5.5 Employee

Means any person who was, is or may be employed by any organisation described in clause a) or b) of Definition 2.5.17 ("Your/Your") in this section wording.

2.5.6 Excess

Means the amount specified in the Schedule.

2.5.7 Joint Venture

Means any enterprise undertaken jointly by You and any other party.

2.5.8 Limit of Liability

Means the amount shown in the Schedule for which You have chosen to insure.

2.5.9 Loss

Means any Penalty and Defence Costs.

2.5.10 Officer

Means any natural person:

- a) who is a past, present or future director, officer, senior manager or company secretary (of any organisation described in clause a) or b) of Definition 2.5.17 ("You/Your") in this section) by whatever named called and whether or not validly appointed to occupy or duly authorised to act in such position;
- b) who by virtue of any applicable legislation, is deemed to be a director, officer, senior manager or company secretary of any organisation described in clause a) or b) of Definition 2.5.17 ("You/Your") in this section.

Officer does not mean a liquidator, external auditor, receiver, receiver and manager, official manager, administrator, trustee or person administering a compromise or scheme of arrangement with respect to any organisation (described in the Definition of "You/Your" of this section) or any employee of such person.

2.5.11 Outside Directorships

Means an executive position held by an Officer of Yours in connection with the Business at Your specific request in any corporation, Joint Venture, partnership, trust or other enterprise which is not included in clauses a) or b) of Definition 2.5.17 ("You/Your") in this section.

2.5.12 Penalty

Means any monetary sum payable by You to any Regulatory Authority pursuant to any Act for a Wrongful Act by You but excluding:

- a) Any amounts payable as compensation;
- b) Any compliance, remedial, reparation or restitution costs;
- c) Any damages, including any exemplary or punitive damages;
- d) Any consequential economic loss;
- e) Any legal costs and associated expenses.

Notwithstanding Sub-Clause 2.5.12 e), We will pay any reasonable legal costs and associated expenses payable by You to any Regulatory Authority upon the imposition of a Penalty covered by this section. Provided that where the proceedings that lead to the imposition of the Penalty also include proceedings in respect of any of the matters set out in Sub-Clauses 2.5.12 a) to 2.5.12 d), We will not be liable for that proportion of the legal costs and associated expenses that may be reasonably attributed to the proceedings in respect of those matters set out in Sub-Clauses 2.5.12 a) to 2.5.12 d).

2.5.13 Regulatory Authority

Means a person or entity appointed, constituted or acting under a delegation pursuant to any Act for the purposes of enforcement of such Act or another Act, including a person or entity authorised to collect monies payable to the Consolidated Revenue Fund, Consolidated Fund or any other such fund.

2.5.14 Retroactive Date

Means the date specified in the Schedule.

2.5.15 Territorial Limits

Means anywhere in Australia and/or New Zealand.

2.5.16 Wrongful Act

Means any act, error or omission which occurs in connection with the Business, within the Territorial Limits and after the Retroactive Date, whereby:

- a) You contravene an Act or are involved in the contravention of an Act;
- b) You commit an offence pursuant to an Act; or
- c) Such conduct is prohibited under an Act or is the subject of the imposition of a Penalty under an Act.

2.5.17 You/Your

Means:

- a) The organisation named as You in the Schedule;
- b) All present and future Subsidiary companies

(including subsidiaries thereof) of the organisation named in the Schedule:

- i) Incorporated within Australia or New Zealand (including their Mandated Territories and Protectorates);
 - ii) Controlled by You and over which You assume active management;
- c) any past, present or future Officer, Employee, work experience student or volunteer of an organisation described in clause 2.5.17 a) or 2.5.17 b) above but only whilst acting in the scope of their duties in such capacity;
 - d) Outside Directorship held by an Officer; Provided that:
 - i) Coverage shall not be extended to the outside organisation in which such Outside Directorship is held, or to any other director, officer, senior manager or company secretary or
 - ii) Coverage shall not apply to any part of any Loss covered by any indemnity given by such outside organisation or any contract of insurance taken out by or on behalf of that outside organisation or its directors, officers, senior managers, company secretary or employees.

2.6 SPECIFIC EXCLUSIONS

This Certificate does not provide indemnity in respect of any Claim:

2.6.1 Based upon, attributable to or in consequence of:

- a) Any wilful, intentional or deliberate Wrongful Act;
- b) Wilful, intentional or deliberate failure to comply with any lawful notice, direction, enforcement action or proceeding under any Act;
- c) Any Wrongful Act caused by Your recklessness;
- d) A dishonest, fraudulent or malicious act or omission by You, provided that cover is provided if You are innocent of and have no prior knowledge of such conduct. You shall as soon as practicable after becoming aware of such conduct, advise Us in writing of all relevant facts;
- e) Your gaining any personal profit or advantage or receiving any remuneration to which You were not legally entitled;
- f) Any Wrongful Act in connection with any strike, lockout, picket line, stand down or industrial dispute. This exclusion does not apply to Officers and Employees for Claims arising in the proper performance of their duties as Officers and Employees;
- g) A Wrongful Act of any Consumer Protection Act. This exclusion does not apply to Officers and Employees for Claims arising in the proper performance of their duties as Officers and Employees;

- h) Any Wrongful Act pursuant to sections 182, 183, 601FE or 601JD of the Corporations Act; and any amendment, consolidation or re-enactment of any of those sections;
 - i) A Wrongful Act in connection with a requirement to pay taxes, rates, duties, levies, charges, fees or any other revenue or impost;
 - j) A Wrongful Act relating to the regulation of vehicular, air or marine traffic;
 - k) Asbestos, asbestos products and/or products containing asbestos;
- 2.6.2 Made, threatened or in any way intimidated against You prior to the Period of Insurance;
- 2.6.3 Arising from any matter disclosed to any insurer, including Us, prior to the Period of Insurance as either a Claim or fact which may give rise to a Claim against You;
- 2.6.4 Arising from any facts of which You were aware prior to the commencement of the Period of Insurance and which You knew, or ought reasonably to have known, to be facts which may give rise to a Claim;
- 2.6.5 Arising from any Wrongful Act where You knew, or ought reasonably to have known, prior to the Period of Insurance that there had been such a Wrongful Act;
- 2.6.6 For any Loss or part of any Loss which is attributable to the period after You knew, or ought reasonably to have known, that such conduct was a Wrongful Act;
- 2.6.7 Deliberately or intentionally solicited by You. This exclusion does not apply to Officers and Employees where such Claims arise in the discharge of their duties as Officers and Employees;
- 2.6.8 Any Defence Costs incurred or paid before Our consent (which consent shall not be unreasonably delayed or withheld) has been given in accordance with the provisions of this section;
- 2.6.9 For any Loss or part of any Loss arising from or which is attributable to Your participation in any Joint Venture. Provided that this exclusion shall not apply to Outside Directorship as defined in this section;
- 2.6.10 For any Penalty:
- a) Imposed pursuant to any law of any country, state or territory outside the Territorial Limits;
 - b) Imposed within the Territorial Limits but arising out of any act or omission occurring outside the Territorial Limits, and any Defence Costs associated with such Penalty.

We shall not be liable to pay the amount of the Excess in respect of each Loss.

2.7 CONTINUOUS COVER

If You were aware of any facts that might give rise to a Claim prior to the commencement date of the Period of Insurance and had not notified Us of such facts prior to the commencement date of the Period of Insurance, then Specific Exclusions 2.6.4 and 2.6.5 will not apply to the notification of a Claim resulting from such facts, provided that:

- 2.7.1 The failure to notify such facts was not a fraudulent misrepresentation or fraudulent non-disclosure by You; and
- 2.7.2 We were Your Statutory Liability insurer when You first became aware of any such fact; and
- 2.7.3 We continued thereafter, without interruption, to be Your Statutory Liability insurer up until this Statutory Liability section came into effect; but
- 2.7.4 Indemnity will be considered under the terms and conditions of the Certificate including limits of liability and excess in force when You first became aware of such facts; and
- 2.7.5 We will reduce Our liability to the extent of any prejudice suffered as a result of Your failure to notify such facts giving rise to a Claim prior to the commencement date of the Period of Insurance.

2.8 SPECIAL CONDITIONS

The following Special Conditions apply to this Certificate section:

- 2.8.1 You must take all reasonable care and do and concur to do all things reasonably practicable to avoid or prevent a Wrongful Act, or diminish a Loss.
- 2.8.2 You shall not make any admission, offer, promise or payment in respect of any Claim, or agree to pay any Penalty or consent to any order directing You to pay any Penalty without Our prior written consent. We shall not be liable for any such Penalty incurred without Our consent, and such consent will not be unreasonably withheld or delayed by Us.
- 2.8.3 We shall be entitled, but not obligated, to take over the conduct in Your name of the investigation, defence (including appeal and resisting appeal) and settlement of any Claim. Any amount incurred by Us shall be deemed part of Defence Costs.
- 2.8.4 If We grant indemnity under this section in respect of any Claim, then We shall be subrogated to all Your rights of recovery in respect of such Claim whether or not payment has in fact been made and whether or not You have been compensated in full for Your loss. You must, at Your own cost, provide all reasonable assistance to Us (including, but not limited to giving information, signing documents and giving evidence) to help enforce those rights.

You must not do anything that may prejudice Our position or Your potential or actual rights of recovery against any party. Any amounts recovered by Us shall be allocated in the following order - recovery costs, uninsured loss, Limit of Liability and Excess.

- 2.8.5 Where We recommend to You to pay any Penalty, consent to any directing You to pay any Penalty or otherwise settle or resolve any Claim, and You do not agree to do so, then We are entitled to reduce the liability to You to the extent of any prejudice suffered by Us by reason of Your failure to so agree.
- 2.8.6 If You continue to defend a Claim where We have refused to provide consent under this section to pay Defence Costs and You are successful in respect of that Claim, then consent under this section shall be deemed to have been given at the time it was first requested by You.
- 2.8.7 This Certificate shall be interpreted in accordance with the laws of Australia or any State or Territory as applicable, and all claims for indemnity under this Certificate shall be decided in accordance with those laws.
- 2.8.8 You shall comply with any lawful notice or direction received from, or any enforcement action taken by any appropriate Regulatory Authority under any Act within the time specified or, if no time is specified, within a reasonable time.

3. SECTION 3 -- Professional Indemnity

(This section is not included in the Certificate unless indicated in the Schedule).

- 3.1 In consideration of Your paying the premium to Us and in reliance upon the written statements and declarations contained in the Proposal Form or insurance broker's quotation submission, We agree to indemnify You in accordance with the following section wording.
- 3.2 **NOTICE TO INSURED**
This section provides cover on a **Claims made and notified basis, whereby:**
- 3.2.1 A Claim must be made against You during the Period of Insurance; and
- 3.2.2 You must notify Us in writing of such Claim during the Period of Insurance.
- 3.3 **INSURING CLAUSE**
We will pay to or on behalf of You any Loss, up to the Limit of Liability stated in the Schedule, arising from any Claim in respect of civil liability incurred by You in the conduct of the Professional Services.
- 3.4 **DEFENCE COSTS**
We will pay for Defence Costs in respect of any Claim, or applicable to any extension, that is covered under this section as they are incurred and prior to the final resolution of any Claim, provided that:
- 3.4.1 We have not denied indemnity for the Claim; and
- 3.4.2 Our written consent has been obtained prior to You incurring such Defence Costs (such consent not to be unreasonably withheld or delayed).
- We may not refuse to advance Defence Costs by reason only that We consider that any conduct as

referred to in Specific Exclusion 3.9.6 (Fraud & Dishonesty) has occurred, until such time as there is a formal written admission by You or a final adjudication by a judicial or arbitral tribunal which establishes that such conduct has occurred.

However, You shall repay to Us all payments of Defence Costs incurred on Your behalf if and to the extent that it is established that such Defence Costs are not insured under this section, unless We agree in writing to waive recovery of such Defence Costs.

3.5 LIMIT OF LIABILITY

Our limit of liability under this section in respect of any one Claim, and in the aggregate for all Claims made during any one Period of Insurance, (inclusive of Defence Costs) will not exceed the Limit of Liability applicable to this section as stated in the Schedule.

If a sub limit of liability is shown in the Schedule for a particular extension then Our total liability under that extension is limited to the amount of that sub limit of liability (inclusive of Defence Costs) and not the Limit of Liability applicable to this section.

3.6 EXCESS

The Excess stated in the Schedule shall be borne by You at Your own expense and Our liability shall only be in excess of this amount.

3.7 AUTOMATIC EXTENSIONS

3.7.1 We agree to provide cover under these extensions, for no additional premium; provided that, unless stated to the contrary in any of the following extensions:

- a) the indemnity provided is subject to the Certificate Exclusions, Certificate Conditions, Specific Exclusions, Special Conditions and all other terms of this section; and
- b) the inclusion of any extension shall not increase the Limit of Liability applicable to this section.

3.7.2 Breach of Confidentiality

We will pay to or on behalf of You any Loss arising from any Claim in respect of civil liability incurred by You in the conduct of the Professional Services alleging a breach of confidentiality by You.

3.7.3 Continuous Cover

If You were aware of any facts, situation or circumstances that might give rise to a Claim prior to the commencement date of the Period of Insurance and had not notified Us of such facts, situation or circumstances prior to the commencement date of the Period of Insurance, then Specific Exclusion 3.9.13 b) (Prior Known Claims and Circumstances) will not apply to the notification of a Claim resulting from such facts, situation or circumstances, provided that:

- a) The failure to notify such facts, situation or circumstances was not a fraudulent misrepresentation or fraudulent non-disclosure by You; and

- b) We were Your Professional Indemnity insurer when You first became aware of any such fact, situation or circumstance; and
- c) We continued thereafter, without interruption, to be Your Professional Indemnity insurer up until this Professional Indemnity section came into effect; but
- d) Indemnity will be considered under the terms and conditions of the section including limits of liability, sub limits of liability and excess in force when You first became aware of such facts, situation or circumstances; and
- e) We will reduce Our liability to the extent of any prejudice suffered as a result of Your failure to notify such facts, situation or circumstances giving rise to a Claim prior to the commencement date of the Period of Insurance.

3.7.4 Defamation

Notwithstanding Certificate Exclusion 5.1.8 (Advertising Injury) and Specific Exclusion 3.9.12 (Personal Injury or Property Damage), We will pay to or on behalf of You any Loss arising from any Claim in respect of civil liability incurred by You in the conduct of the Professional Services alleging any libel, slander or defamation by You.

3.7.5 Extended Reporting Period

If We cancel or do not renew this section, other than for non payment of the premium, You will have the right, upon payment of an additional premium of 100% of the expiring annual premium for this section, to an extended reporting period of 12 months following the date of cancellation or expiry in which to give Us notice of any Claim made against You.

The cover provided under this extension will only apply to any Claim arising from acts, errors or omissions committed or alleged to have been committed by You before the date of cancellation or expiry and not before the Retroactive Date.

You must make any request for the 12 months extended reporting period in writing, and pay the additional premium, within 30 days after the date of cancellation or expiry (as the case may be).

The extended reporting period shall not apply if this section or its cover has been replaced by a Professional Indemnity insurance policy or section effected with Us or some other insurer.

3.7.6 Fraud and Dishonesty

Notwithstanding Specific Exclusion 3.9.6 (Fraud & Dishonesty), We will pay to or on behalf of You Loss arising from any Claim in respect of civil liability incurred by You in the conduct of the Professional Services alleging any of the conduct referred to in Specific Exclusion 3.9.6 (Fraud & Dishonesty) by any past, present or future principal, partner, director or Employee of

the Named Insured or any Subsidiary Company.

Provided that there is no cover under this extension in respect of:

- a) any person committing or condoning such conduct.
- b) any Loss sustained as a result of such conduct occurring after the date on which You first discover, or have reasonable cause for suspicion of, any such conduct on the part of any person.
- c) any Claim arising from or in any way connected with loss, destruction of or damage to Money.

3.7.7 Implied Warranties and Conditions

Notwithstanding Certificate Exclusion 5.4 (Contracts & Agreements) and Specific Exclusion 3.9.2 (Contractual Liability), We will pay to or on behalf of You Loss arising from any Claim in respect of civil liability incurred by You in the conduct of the Professional Services alleging a breach of warranty or condition as to merchantable quality, due skill and care or fitness for purpose implied in a contract under common law and/or the terms of the Competition and Consumer Act 2010 (Cth), the Trade Practices Act 1974 (Cth) or any similar legislation enacted by the States or Territories of the Commonwealth of Australia or by the Dominion of New Zealand.

3.7.8 Intellectual Property Rights

We will pay to or on behalf of You Loss arising from any Claim in respect of civil liability incurred by You in the conduct of the Professional Services alleging any infringement of Intellectual Property Rights by You.

3.7.9 Investigation Costs

We agree to pay Investigation Costs.

Provided that:

- a) We shall be entitled, at Our discretion, to appoint legal representation to represent You in the Investigation;
- b) the notice of intended Investigation is served upon You during the Period of Insurance and is notified to Us during the same Period of Insurance;
- c) in the event that a Claim for payment of Investigation Costs is withdrawn or indemnity under this extension is subsequently withdrawn or denied, We shall cease to advance Investigation Costs and You shall refund to Us any Investigation Costs advanced by Us to the extent that You were not entitled to such Investigation Costs, unless We agree in writing to waive recovery of such Investigation Costs; and
- d) the maximum aggregate amount payable by Us under this extension during any one Period of Insurance is \$250,000.

3.7.10 Interference with Privacy

We will pay to or on behalf of You Loss arising from any Claim in respect of civil liability incurred by You in the conduct of the Professional Services alleging unlawful interference with privacy by You.

3.7.11 Joint Ventures

We will pay to or on behalf of You Loss arising from any Claim in respect of civil liability incurred by You in the conduct of the Professional Services made against You in Your capacity as a joint venture partner but only to the extent of Your own liability as a joint venture partner.

We will only pay for Defence Costs incurred by You in respect of any such Claim solely in respect of Your own liability as a joint venture partner.

3.7.12 Loss of Documents

Notwithstanding Certificate Exclusion 5.6 (Electronic Data) and Specific Exclusion 3.9.12 (Personal Injury or Property Damage), if any Documents the property of or entrusted to You have been destroyed, damaged, lost or mislaid and, after diligent search and attempt to recover the Documents the Documents cannot be found, We will cover You for:

- a) Your legal liability which is based on or attributable to such Documents having been lost, destroyed, damaged or mislaid; and
- b) costs and expenses of whatsoever nature incurred by or on behalf of You in replacing or restoring such Documents.

Provided that:

- i) You first discover that the Documents have been destroyed, damaged, lost or mislaid during the Period of Insurance and You notify Us in writing as soon as reasonably practicable after the date of discovery (but never beyond the expiry date of the Period of Insurance).
- ii) such costs and expenses are supported by accounts approved by a competent person nominated by Us and agreed to by You.
- iii) We will not pay for any loss, destruction or damage resulting from wear and tear or gradual deterioration.
- iv) the maximum aggregate amount payable by Us under this extension during any one Period of Insurance is \$250,000 (inclusive of Defence Costs).

3.7.13 New Subsidiaries

We agree to include in clause a) of Definition 3.8.20 ("You/Your/Insured") any Subsidiary Company created or acquired by the Named Insured during the Period of Insurance for a period of up to 45 days (but never beyond the expiry date of the Period of Insurance) from the date of such creation or acquisition.

Provided that:

- a) this extension will only apply in respect of any Claim against the Subsidiary Company arising from any act, error or omission occurring on or after the date of creation or acquisition of the Subsidiary Company; and
- b) the professional services conducted by such Subsidiary Company are the same as the Professional Services conducted by the Named Insured.

You may apply to Us, within the above 45 day period, to vary this section to continue to the cover provided by this extension until the expiry date of the Period of Insurance. You shall supply Us with such additional information relating to the new Subsidiary Company and pay any reasonable additional premium as may be required by Us.

3.7.14 Reinstatement of Limit of Liability

If the Limit of Liability for this section is exhausted or partially exhausted due to a payment made by Us of Loss under this section, We agree to reinstate the Limit of Liability for this section by the amount by which it is exhausted provided that:

- a) the reinstatement will not apply to any Claim made that occurred prior to the effective date of the reinstatement;
- b) the aggregate amounts reinstated during the Period of Insurance will be limited to an amount equal to the Limit of Liability for this section applicable at the start of the Period of Insurance;
- c) the Limit of Liability for this section reinstated will represent Our total liability for all Claims made during the time from the effective date of the reinstatement until the expiry of the Period of Insurance; and
- d) if You have effected any other insurance that operates in excess of this section, then the reinstatement of the Limit of Liability under this section will not apply until any such excess insurance is exhausted, but before any similar reinstatement provisions as may be contained in any such excess insurance take effect.

3.7.15 Severability

Notwithstanding, Certificate General Condition 7.9 ("Joint Insureds"), We agree that where any Insured:

- a) failed to comply with the duty of disclosure contained in the Insurance Contracts Act 1984 (Cth); or
- b) made a misrepresentation to Us before this section was entered into; or
- c) fail to comply with any condition of this section or of this Certificate;

the right of any other Insured to indemnity under this section will not be prejudiced

thereby.

Provided always that this extension shall only apply when:

- i) such other Insured shall be entirely innocent of and have no prior knowledge of any such conduct; and
- ii) such other Insured as soon as is reasonably practicable upon becoming aware of any such conduct, advises Us in writing of all known facts in relation to such conduct.

Notwithstanding the above, any fact or knowledge possessed by any past or present partner, principal, director, chairman, chief executive officer, chief operating officer, chief financial officer, company secretary, chief legal officer or the holder of any similar or equivalent positions shall be imputed to the Named Insured.

3.7.16 Spouses, Estates and Representatives

We will cover:

- a) in the event of the death, incapacity or bankruptcy of any Insured any Claim brought against his or her estate, heirs, assigns, executors, administrators or legal representatives; or
- b) any Claim brought against his or her lawful spouse or domestic partner;

as if the Claim had been made against such Insured.

No cover is provided under this extension for any actual or alleged act, error or omission by any such estate, heirs, assigns, executors, administrators, legal representatives, lawful spouse or domestic partner.

3.7.17 Trade Practices

We will pay to or on behalf of You Loss arising from any Claim in respect of civil liability incurred by You in the conduct of the Professional Services for any unintentional breaches of the Australian Competition and Consumer Act 2010 (Cth), the Trade Practices Act 1974 (Cth) or any similar legislation enacted by the States or Territories of the Commonwealth of Australia or by the Dominion of New Zealand.

Provided that no indemnity is granted under this extension in respect of any criminal provisions of such legislation.

3.7.18 Vicarious Liability for Consultants, Sub Contractors and Agents

The conduct of the Professional Services shall be deemed to include acts, errors or omissions of consultants, sub contractors or agents of the Named Insured or any Subsidiary Company, while undertaking work in connection with the conduct of the Professional Services and for which You are liable.

Provided that We will not be liable under this extension for the consultant's, sub contractor's

or agent's own liability.

3.8 DEFINITIONS

For the purposes of this Section only:

3.8.1 Claim

Means:

- a) any written or verbal demand for compensation made by a third party communicated to You under any circumstances and by whatever means.
- b) any writ, statement of claim, summons, application or other legal or arbitral proceedings, cross-claim, counterclaim or third or similar party notice issued against or served upon You which seeks compensatory relief made by a third party against You.
- c) for the purpose of the Extension 3.7.12 (Loss of Documents) only, any losses as described in that extension arising from the destruction, damage, loss or mislaying of any Documents.
- d) for the purpose of Extension 3.7.9 (Investigation Costs) only, any attendance and/or the provision of documents or information by You at any Investigation.

3.8.2 Defence Costs

Means reasonable legal costs and other expenses incurred by or on behalf of You with Our written consent (such consent not to be unreasonably withheld or delayed), or by Us solely for Your benefit, in the investigation, defence, settlement or appeal of any Claim. Defence Costs shall not mean any internal or overhead expenses incurred by You or the costs of Your time.

3.8.3 Documents

Means deeds, wills, agreements, maps, plans, books, letters, policies, certificates, forms and documents of any nature whatsoever, whether written, printed or reproduced by any method including computer records and electronic data material. Documents does not include bearer bonds or coupons, stamps, bank or currency notes or negotiable instruments.

3.8.4 Employee

Means any person employed under a contract of service or apprenticeship.

3.8.5 Excess

Means the amount specified in the Schedule.

3.8.6 Family Member

Means:

- a) any spouse, domestic partner or companion;
- b) any parent, or parent of the spouse, domestic partner or companion; or
- c) any sibling, child, adopted child or any child living with the person as if the child were a member of the person's family.

3.8.7 Intellectual Property Rights

Means all existing and future intellectual property rights in whatever media, whether registered or unregistered and whether or not capable of registration, including but not limited to all copyright, moral right (under the Copyright Act 1968 (Cth)), patents, trademarks, service marks, trade names, domain names, brand names, slogans, logos, emblems and designs (and all applications or renewals for protection or registration of these rights) together with all confidential information including trade secrets, know-how, formulae, methods, routines and other proprietary technology.

3.8.8 Investigation

Means any official investigation, examination or enquiry, which expression shall include but is not limited to any investigation, examination or enquiry:

- a) by way of a Royal Commission or Coronial Enquiry, or conducted by any regulatory authority.
- b) conducted by any disciplinary committee of any association, industry or professional body of which You are a member.

3.8.9 Investigation Costs

Means reasonable legal costs and other expenses incurred by or on behalf of You with Our prior written consent (such consent not to be unreasonably withheld or delayed) or by Us arising out of any attendance and/or the provision of documents or information by You at any Investigation where such attendance relates to the conduct of the Professional Services and such Investigation may lead to a recommendation or finding which might give rise to a Claim.

3.8.10 Joint Venture

Means any enterprise undertaken jointly by You and any other party.

3.8.11 Limit of Liability

Means the amount shown in the Schedule for which You have chosen to insure.

3.8.12 Loss

Means the amount which You become legally obligated to pay on account of any covered Claim for:

- a) awards of damages or orders made by any court or tribunal to pay compensation;
- b) Defence Costs;
- c) Investigation Costs;
- d) sums payable in respect of settlements to which We have consented;
- e) awards of claimant's costs, fees and expenses;
- f) post-judgment interest.

3.8.13 Money

Means shares, bonds, currency, coins, bank notes, bullion, precious metals, gems, jewellery, coupons, stamps, cheques, travellers' cheques,

registered cheques, postal orders and money orders.

3.8.14 Named Insured

Means any person, partnership, company or other entity specified as the Named Insured in the Certificate Schedule.

3.8.15 Professional Services

Means the professional services provided for a fee by You as described in the Certificate Schedule.

3.8.16 Proposal Form

Means the written proposal made by You to Us containing particulars and statements which, together with other information provided by You, are considered as incorporated herein.

3.8.17 Retroactive Date

Means the date specified in the Certificate Schedule.

3.8.18 Senior Counsel

Means a barrister in active practice who is entitled to use the post-nominals QC or SC in any one or more superior court in the Commonwealth of Australia or the Dominion of New Zealand.

3.8.19 Subsidiary Company or Subsidiary Companies

Means:

- a) any entity which by virtue of any applicable legislation or law is deemed to be a subsidiary of the Named Insured (where the Named Insured is a company); or
- b) any entity over which a Named Insured (where the Named Insured is a company) is in a position to exercise effective direction or control;

either before or at the commencement date of the Period of Insurance.

3.8.20 You/Your/Insured

Means each of the following:

- a) the Named Insured and any of its Subsidiary Companies (as defined in this section).
- b) any past, present or future principal, partner, director or Employee of the Named Insured or any of its Subsidiary Companies (as defined in this section), but only in relation to Professional Services conducted for or on behalf of the Named Insured or any of its Subsidiary Companies whilst they are a principal, partner, director or Employee of the Named Insured or any of its Subsidiary Companies.

3.9 SPECIFIC EXCLUSIONS

In addition to Your Certificate Exclusions the following Specific Exclusions apply to this section.

This insurance shall not apply to:

3.9.1 Claims covered elsewhere in this Certificate

any Claim for which cover is provided for elsewhere in this Certificate.

3.9.2 Contractual Liability

any Claim arising out of liability assumed:

- a) under contract or agreement, unless such liability would have attached in the absence of such contract or agreement.
- b) under any guarantee or warranty.

3.9.3 Directors and Officers Liability or Trustees Liability

any Claim arising out of an act, error or omission committed or alleged to have been committed by any directors, officers, company secretary or trustees of the Insured in the course of their duties in such capacity, unless that liability would have arisen even if such person had not held that position as director, officer, company secretary or trustee.

3.9.4 Employers Liability

any Claim arising out of Personal Injury to any Worker or damage to or destruction of any property belonging to any Worker, including loss of use of property, arising out of, or in the course of, their employment.

For the purpose of Specific Exclusion 3.9.4 only, the term "Worker" means any person employed by, or is deemed to be employed by, You pursuant to any Workers' Compensation Law.

3.9.5 Failure to effect or maintain insurance

any Claim which is based on or is attributable to any failure or omission on the part of You to effect or maintain insurance.

3.9.6 Fraud & Dishonesty

any Claim arising out of any:

- a) dishonest, fraudulent, criminal or malicious act or omission;
- b) wilful breach of any statute, contract or duty; or
- c) conduct with a reckless disregard for the consequences thereof;

by You.

Provided always that Specific Exclusion 3.9.6) will not apply until such time as there is a formal written admission by You or a final adjudication by a judicial or arbitral tribunal which establishes that any of the conduct referred to in Specific Exclusions 3.9.6 a), 3.9.6 b) or 3.9.6 c) has occurred.

3.9.7 Insolvency

any Claim first made or intimated subsequent to the date upon which You become insolvent provided always that this exclusion shall not apply where You establish, to Our satisfaction, that the Claim would have arisen notwithstanding that You were insolvent.

3.9.8 Licensing Inquiries

any Claim arising from any prosecution, inquiry, hearing, commission or other investigation in relation to You failing to be properly licensed, registered or accredited to

provide Professional Services as required by any law or regulation including industry codes of practice.

3.9.9 Medical Persons

any Claim arising from the rendering of or failure to render professional medical advice or service by Medical Persons employed by you.

3.9.10 North America

any Claim:

- a) brought in a court of law within the territorial limits of North America;
- b) arising out of the enforcement of any judgment, order or award obtained within, or determined pursuant to, the laws of North America; or
- c) arising from any act, error or omission occurring within the territorial limits of North America.

3.9.11 Occupiers Liability

any Claim arising from liability incurred or alleged to have been incurred as a result of the occupation, control, management or ownership of any real property by You.

3.9.12 Personal Injury or Property Damage

any Claim for Personal Injury or Property Damage.

3.9.13 Prior Known Claims and Circumstances

- a) any Claim or Claims first made against You prior to the inception date of this section;
- b) any fact, situation or circumstance which You had become aware of prior to the inception date of this section, which a reasonable person in Your position would have considered may give rise to a Claim or Claims under this or similar or like sections or insurance policies.

3.9.14 Related Parties

any Claim brought or maintained by or on behalf of:

- a) any Insured; or
- b) any person who, at the time of the act, error or omission giving rise to the Claim, is a Family Member of any Insured, unless such person is acting without any prior or indirect solicitation or cooperation by any Insured; or
- c) any entity operated or controlled by:
 - i) any Insured;
 - ii) or Family Member of any Insured, unless such person is acting without any direct solicitation or cooperation by any Insured.

3.9.15 Retroactive Date

any Claim or Claims arising from any Professional Services conducted by or on behalf of You prior to the Retroactive Date shown in the Schedule.

3.9.16 Trading Debts

any Claim arising from, attributable to or in any way connected with:

- a) any trading debt incurred by You or any guarantee given by You for any debt; or
- b) the refund of Your professional fees or charges (by way of damages or otherwise).

3.9.17 Watercraft, Aircraft & Motor Vehicles

any Claim arising out of the ownership, lease, maintenance, operation, possession or use by or on behalf of You of any watercraft, aircraft, motor vehicle or trailer.

3.10 SPECIAL CONDITIONS

3.10.1 Notification

You shall, as a condition precedent to Your right to be indemnified under this section, give to Us as soon as practicable notice in writing during the Period of Insurance of:

- a) any Claim or Claims made against You;
- b) the receipt of notice from any person or entity of an intention to make a Claim against You.

3.10.2 Defence and Settlement

We shall be entitled, but not obligated, to take over the conduct in Your name of the investigation, defence (including appeal and resisting appeal) and settlement of any Claim. Any amount incurred by Us shall be deemed part of Defence Costs.

3.10.3 Allocation

In the event You are a party to a legal demand, legal proceedings or an Investigation which is covered only in part by this section, then, You and Us will use our best efforts to agree upon a fair and proper allocation of Loss and any other amount insured under this section which relates solely to what is covered under this section.

In the event that an agreement cannot be reached, a Senior Counsel (to be mutually agreed upon by Us and You) shall, as an expert and not an arbitrator, determine a fair and proper allocation. Until the Senior Counsel has made a determination We may, in Our absolute discretion, pay such Loss or any other amount insured under this section as We consider appropriate.

The Cost of obtaining such Senior Counsel determination shall form part of Defence Costs.

3.10.4 Senior Counsel Clause

We will not require You to contest a Claim unless a Senior Counsel (to be mutually agreed upon by Us and You) advises that such Claim should be contested.

In formulating such advice, Senior Counsel shall take into consideration the economics of the matter, the damages and costs which are likely to be recovered by the plaintiff, the likely Defence Costs and the prospects of You successfully defending the Claim.

The cost of such Senior Counsel's opinion shall form part of Defence Costs.

3.10.5 Your Right to Contest

In the event that We recommend a settlement in respect of any Claim and You do not agree that such Claim should be settled, then You may elect to contest such Claim. Provided always that Our liability in connection with such Claim shall not exceed the amount for which the Claim could have been so settled plus the Defence Costs incurred with Our written consent up to the date of such election, less the Excess.

3.10.6 Multiple claims

- a) All acts, errors or omissions which have a common causal connection shall jointly constitute a single act, error or omission under this section.
- b) Where a single act, error, or omission gives rise to more than one Claim, all such Claim(s) shall jointly constitute one Claim under this section.

4. Australia Terrorism Insurance ACT 2003 notice

We have treated this Insurance (or part of it) as an Insurance to which the Australia Terrorism Insurance Act 2003 (ATIA) applies. ATIA and the supporting regulations made under the Act deem cover into certain policies and provide that the Terrorism exclusion to which this Insurance is subject shall not apply to any "eligible terrorism loss" as defined in ATIA.

Any coverage established by ATIA is only in respect of any "eligible terrorism loss" resulting from a "terrorist act" which is a "declared terrorist incident" as defined in ATIA. The Terrorism exclusion to which this Insurance is subject applies in full force and effect to any other loss and any act or event that is not a "declared terrorist incident". All other terms, conditions, insured coverage and exclusions of this Certificate including applicable limits and deductibles remain unchanged.

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

5. Exclusions

Unless stated elsewhere in the Certificate, all exclusions herein are to apply to the entire Certificate.

We shall not be liable for claims in respect of:

5.1 ADVERTISING INJURY

- 5.1.1 resulting from statements made at Your direction with knowledge that such statements are false.
- 5.1.2 resulting from failure of performance of contract but this exclusion shall not apply to claims for unauthorised appropriation of advertising ideas contrary to an implied contract.
- 5.1.3 resulting from infringement of trade mark, service mark or trade name.
- 5.1.4 resulting from any incorrect description of Your Products or services.
- 5.1.5 resulting from any mistake in advertised price of Your Products or services.
- 5.1.6 resulting from failure of Your Products or services to conform with advertised performance, quality, fitness or durability.
- 5.1.7 incurred by any Insured whose principal occupation or business is advertising, broadcasting, publishing or telecasting.
- 5.1.8 Resulting from statements made prior to the commencement date of this Certificate.

5.2 AIRCRAFT HOVERCRAFT & WATERCRAFT

Personal Injury or Property Damage caused by or arising out of:

- 5.2.1 the ownership, maintenance, legal possession, legal control or use by You or the use on Your behalf of any;
 - a) Aircraft; or
 - b) Hovercraft; or
 - c) Watercraft exceeding 8 metres in length, except where such Watercraft are owned or operated by others and used by You for business entertainment.
- 5.2.2 the selling or manufacturing of Aircraft or the manufacture, assembly and/or supply of any products for maintaining an Aircraft in flight or moving upon the ground or used in the construction of an Aircraft hull or machinery which to Your knowledge are incorporated in an Aircraft.
- 5.2.3 the leasing, hiring or chartering of Aircraft to or from You; or
- 5.2.4 the repair, service or maintenance of Aircraft or Aircraft products or the installation of any products into Aircraft;

5.3 ASBESTOS

Personal Injury or Property Damage caused by or arising directly or indirectly out of or in connection with:

- 5.3.1 any mining, handling, processing, manufacturing, sale, transportation, distribution, storage or use of asbestos, asbestos products or asbestos contained in any products,
- 5.3.2 any process of decontamination, treatment, handling, sale, installation, removal, disposal or control of asbestos or materials containing asbestos;

5.4 CONTRACTS & AGREEMENTS

Liability assumed by You under any contract or agreement except to the extent that such liability would have been implied by law. This exclusion shall not apply to:

- 5.4.1 the written contracts specified in the Schedule;
- 5.4.2 liability assumed by You under a warranty of fitness or quality as regards Your Products;
- 5.4.3 liability assumed by You under any lease or agreement of real or personal property other than a provision which obliges You to effect insurance in respect of the subject matter of that contract;
- 5.4.4 any written contract made or entered into with any authority or entity responsible for the supply of electricity, fuel, gas, natural gas, air, steam, water, sewerage reticulation control systems, waste disposal facilities, telephone and communication services or other essential services, except those contracts in connection with work done for such authorities or entities;
- 5.4.5 any written contract with any railway authority for the loading, unloading and/or transport of Your Products, including contracts relating to the operation of railway sidings.

5.5 DUE CARE

Personal Injury or Property Damage arising out of the deliberate, conscious, and intentional disregard by You of the need to take reasonable steps to prevent claims.

5.6 ELECTRONIC DATA

Property Damage to Electronic Data or caused by or arising directly or indirectly out of the total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of Electronic Data or any error in creating, amending, entering, deleting Electronic Data or a total or partial inability or failure to receive, send, access or use Electronic Data for any time at all or any consequential loss resulting therefrom.

5.7 EMPLOYERS LIABILITY

5.7.1 Liability for Personal Injury to any Worker, provided that if You:

- a) are required by law to insure or otherwise fund, whether through self insurance statutory fund or other statutory scheme, all or part of any common law liability (whether limited in amount or not) for such Personal Injury; or
- b) are not required to so insure or otherwise fund such liability by reason only that the Personal Injury is to a person who is not a Worker or employee within the meaning of the relevant Workers' Compensation Law or the Personal Injury is not a Personal Injury which is subject to such law;

then this Certificate will respond to the extent that Your liability would not be covered under any such fund, scheme, certificate of insurance or self insurance arrangement had You complied with Your obligations pursuant to such law.

5.7.2 any liability imposed by any Workers' Compensation Law.

5.7.3 any liability imposed by the provisions of any industrial award or agreement or determination or any contract of employment or workplace agreement where such liability would not have been imposed in the absence of such industrial award or agreement or determination or contract.

For the purpose of this Exclusion only:

- 5.7.4 'Worker' means any person employed by You or deemed to be employed by You pursuant to any workers' compensation law.
- 5.7.5 'Workers' Compensation Law means any law relating to compensation for Personal Injury to Workers or employees.

5.8 EMPLOYMENT PRACTICES

Liability for or in respect of Employment Practices.

5.9 ERECTION & ALTERATION TO BUILDINGS

Claims in respect to the erection, demolition of and/or alteration or addition to buildings or structures by You or on Your behalf except where the completion value of such work does not exceed \$100,000 unless some other sub-limit is stated in the Schedule.

5.10 FAULTY WORKMANSHIP

The cost of performing, completing, correcting or improving any work undertaken by You.

5.11 FINES AND PENALTIES

Any fines, penalties, liquidated damages, aggravated, exemplary, punitive damages or criminal damages.

5.12 FRAUDULENT AND INTENTIONAL CONDUCT

Caused by or arising directly or indirectly out of or in connection with

- 5.12.1 dishonest and fraudulent conduct by You or anyone acting on Your behalf or with Your knowledge or connivance;
- 5.12.2 wilful breach of statute by You or anyone acting on Your behalf or with Your knowledge or connivance;

If You or anyone acting on Your behalf or with Your knowledge is charged with a criminal offence arising from any action in 5.12.2 We have discretion to not make any payments under this Certificate until final adjudication or judgment is made in relation to the criminal offence or offences.

5.13 INFORMATION TECHNOLOGY, HAZARDS, COMPUTER DATA, PROGRAMME AND STORAGE MEDIA

5.13.1 Personal Injury or Property Damage arising, directly or indirectly, out of, or in any way involving Your Internet Operations, or

5.13.2 Property Damage to computer data or programmes and their storage media arising directly or indirectly out of or caused by, through or in connection with:

- a) the use of any computer hardware or software.
- b) the provision of computer or telecommunication services by You or on Your behalf.
- c) the use of computer hardware or software

belonging to any third party, whether authorised or unauthorised including damage caused by any computer virus.

But this exclusion does not apply to:

5.13.3 Personal Injury or Property Damage arising out of any material which is already in print by the manufacturer in support of its product, including but not limited to product use and safety instructions or warnings, and which is also reproduced on its site, or

5.13.4 liability which arises irrespective of the involvement of Your Internet Operations.

Nothing in this exclusion will be construed to extend coverage under this Certificate to any liability which would not have been covered in the absence of this exclusion.

5.14 LOSS OF USE

Loss of use of tangible property which has not been physically lost destroyed or damaged and results from:

5.14.1 a delay in or lack of performance by You or on Your behalf of any contract or agreement, or

5.14.2 the failure of Your Products to meet the level of performance, quality fitness or durability expressly or impliedly warranted or represented by You, but this exclusion 5.14.2 does not apply to loss of use of other tangible property resulting from the sudden or accidental physical loss, destruction of or damage to Your Products after such Products have been put to use by any person or organisation other than You;

5.15 MOULD / FUNGI

Personal Injury or Property Damage arising directly or indirectly out of, or resulting from or in any manner related to Fungi.

“Fungi” as utilised herein, shall mean any fungus or mycota or any by product or type of infestation produced by such fungus or mycota, including but not limited to mould, mildew, mycotoxins, spores or any biogenic aerosols.

5.16 NUCLEAR FUEL/WEAPONS

Personal Injury or Property Damage caused by or arising directly or indirectly out of, or resulting from:

5.16.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. For the purpose of this exclusion, combustion shall include any self-sustaining process of nuclear fission;

5.16.2 nuclear weapons material.

5.17 POLLUTION

5.17.1 Personal Injury or Property Damage directly or indirectly caused by or arising out of the discharge, dispersal, release or escape of Pollutants into or upon land, the atmosphere or any watercourse or body of water.

5.17.2 any costs and expenses incurred in the prevention, testing, monitoring, cleanup, removal, containment, treatment, detoxifying or

neutralising of such Pollutants.

5.17.3 the actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants caused by any Product that has been discarded, dumped, abandoned or thrown away by others.

Provided always that 5.17.1 and 5.17.2 shall not apply if such discharge, dispersal, release or escape is caused by a sudden, identifiable, unexpected and unintended happening and takes place in its entirety at a specific time and place.

5.17.4 the actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants in North America or in any country to which the laws of North America apply.

Our liability under 5.17.1 and 5.17.2 in respect of any one discharge, dispersal, release or escape of Pollutants which is caused by a sudden, identifiable, unexpected and unintended happening and takes place in its entirety at a specific time and respect of all such discharges, dispersals, releases or escapes of Pollutants during any one Period of Insurance will not exceed the Limit of Liability stated in the Schedule.

5.18 PRODUCT GUARANTEE

Liability arising out of any Product warranty or guarantee given by You or on Your behalf, but this exclusion shall not apply to the requirements of any Federal or State legislation as to product safety and information.

5.19 PRODUCT RECALL

Damages, costs or expenses claimed for the withdrawal, recall, inspection, repair, replacement or loss of use of Your Products or of any property of which such Products form a part if such Products or property are withdrawn from the market or from use because of any known or suspected defect or deficiency therein;

5.20 PROPERTY DAMAGE

5.20.1 Property owned by or leased or rented to You, or

5.20.2 Property not belonging to You but in Your physical or legal control.

This exclusion shall not apply to liability for Property Damage to:

5.20.3 Property not owned by you and in Your physical and legal control (excluding any Vehicle which is registered or which is required under any legislation to be registered) up to a maximum of AUD\$100,000 any one occurrence and in the aggregate unless some other sub-limit is stated in the Schedule.

However We shall not be liable for Property Damage to that part of any property upon which You are or have been working where such Property Damage arises from such work;

5.20.4 premises (including landlord's fixtures, fittings and contents) which are leased or rented to You for the purposes of carrying on Your Business provided the liability does not arise from Your failure to insure the premises as required in the lease or rental agreement;

5.20.5 premises (or to contents thereof) not owned, leased or rented by You but temporarily occupied by You for work therein or thereon.

But no indemnity is granted for liability in respect of physical damage to or destruction of that part of any premises or the contents thereof on which You are or have been working on if the physical damage or destruction arises from such work.

5.20.6 director's, employees' and visitors' personal property.

5.20.7 Vehicles (not owned or used by You or on Your behalf or liability for Vehicles not otherwise excluded by this Certificate) whilst in a car park owned or operated by You other than for reward;

5.21 PROPERTY DAMAGE TO YOUR PRODUCTS

Property Damage to Your Products if such damage is attributable to any defect therein or the harmful nature or unsuitability thereof;

5.22 SEXUAL ASSAULT OR MOLESTATION

Personal Injury or Property Damage arising directly or indirectly out of or in connection with any actual or alleged sexual assault, sexual abuse or molestation of any person.

5.23 TERRORISM

Personal Injury or Property Damage directly or indirectly caused by, resulting from or in connection with any Act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

This exclusion also excludes claims in respect of Personal Injury or Property Damage directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any Act of Terrorism. If We allege that by reason of this exclusion, any claim is not covered by this insurance the burden of proving the contrary shall be upon You.

5.24 TOBACCO

Any injury caused directly or indirectly by the inhalation or ingestion of or exposure to tobacco or tobacco smoke or any ingredient or additive present in any articles, items or goods which contain or include tobacco;

5.25 TRANSMISSIBLE DISEASE

Personal Injury sustained by any person arising out of or as a result of any communicable disease.

5.26 UNDERGROUND SERVICES

Liability caused by or arising directly or indirectly out of or in connection with Property Damage to any underground services except where You have contacted the appropriate authorities to verify the existence and location of underground services and have obtained from them a plan detailing the location of such services prior to commencement of work.

5.27 VEHICLES

Personal Injury or Property Damage arising out of the ownership, maintenance, possession or use by You of any Vehicle;

5.27.1 which is registered or which is required under any legislation to be registered, or

5.27.2 in respect of which compulsory liability insurance or statutory indemnity is required by virtue of legislation (whether or not that insurance is effected).

But Exclusions 5.27.1 and 5.27.2 shall not apply to:

5.27.3 Personal Injury where:

a) that compulsory liability insurance or statutory indemnity does not provide indemnity, and

b) the reason or reasons why that compulsory liability or statutory indemnity does not provide indemnity do not involve a breach by You of legislation relating to Vehicles.

5.27.4 Property Damage caused by the use of any tool or plant forming part of or attached to or used in connection with any Vehicle.

5.27.5 Property Damage caused by or arising from the operation or use of any Vehicle which is designed primarily for lifting, lowering, loading, unloading, while being operated or used by You or on Your behalf within the confines of Your premises.

5.27.6 Property Damage caused by or arising out of the use of:

a) any Vehicle whilst being used as a tool, or
b) plant forming part of Your Vehicle being used as a tool operating at any worksite;

but excluding Property Damage caused by or arising whilst the Vehicle is transporting or carting goods.

5.27.7 Property Damage to any bridge, weighbridge or road, or anything beneath such bridge, weighbridge or road caused by the weight of any Vehicle or of the load carried thereon.

5.27.8 Personal Injury or Property Damage arising from the delivery or collection of goods to or from any Vehicle provided that such Personal Injury or Property Damage occurs beyond the limits of any road, carriageway or thoroughfare.

5.27.9 Personal Injury or Property Damage arising from the loading or unloading of any Vehicle.

5.27.10 Property Damage to any Vehicle (not owned, leased or hired by, under hire purchase, on loan or rented to You) temporarily in Your custody or control for the purpose of parking and directly arising out of such parking.

5.28 WAR

Personal Injury or Property Damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

6. Claims Conditions

6.1 CLAIMS PROCEDURE

- 6.1.1 When an event occurs which could give rise to a claim You must:
- As soon as possible notify Us of the Occurrence;
 - Within 30 days of notifying Us, give Us a statement in writing with as much detail as You can about the claim;
 - Forward details and copies of any claim or legal proceedings including any prosecutions by any party brought against You to Us as soon as possible after receipt;
 - Preserve any property which may be needed as evidence in any claim against You and make it available for inspection by Us and Our representatives.
- 6.1.2 You must not make admissions, settle or attempt to settle or defend any claim against You without Our written consent.
- 6.1.3 We will take over the defence of any claim or legal proceedings brought against You. When We do so, We may settle or defend the claim or proceedings as We see fit. You must give Us any reasonable assistance and information that We require in the defence or settlement of any such claim.
- 6.1.4 We may at any time pay to You the Limit of Liability (after deduction of any sum or sums already paid) in respect of any claim(s) made against You or any lesser sum for which the claims(s) can be settled. Upon such payment, We will have no further liability under this Certificate in connection with that claim(s) except for costs, charges and expenses recoverable from You in respect of the period prior to the date of the payment, whether or not pursuant to an order made subsequently; and incurred by Us or by You with Our consent prior to the date of such payment.

6.2 GOODS AND SERVICES TAX (GST)

The amount of cover available under this Certificate excludes Goods and Services Tax (GST).

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

The amount that We are liable to pay under this Certificate will be reduced by the amount of any input tax credit that You are or may be entitled to claim for the supply of goods or services covered by that payment.

If You are entitled to an input tax credit for the premium You must inform Us of the extent of that entitlement at or before the time You make a claim under this Certificate. We will not indemnify You for any GST liability, fines or penalties that arise from or are attributable to Your failure to notify Us of Your entitlement (or correct entitlement) to an input tax credit on the premium.

If You are liable to pay an Excess under this Certificate, the amount payable will be calculated after deduction of any input tax credit that You are or may be entitled to claim on payment of the Excess.

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

7. General Conditions

7.1 ADDITIONAL ACTIVITIES

You must tell Us as soon as possible:

- if You are involved, or intend to be involved, in any way, in additional displays, demonstrations, events or outside activities;
- every change which substantially varies any of the material facts or circumstances existing at the commencement of each Period of Insurance and You shall (if reasonably requested) pay such reasonable additional premium as We may require.

7.2 CANCELLATION BY YOU

You may cancel this Certificate at any time. To do so You must tell Us in writing that You want to cancel the Certificate and the future date from which the cancellation is to apply.

7.3 CANCELLATION BY US

- We may cancel this Certificate by giving written notice to You if:
 - You failed to comply with:
 - The duty of utmost good faith, or
 - A provision of this Certificate, including a provision with respect to the payment of premium; or
 - before this Certificate was entered into You failed to comply with the duty of disclosure or made a misrepresentation to Us; or
 - You have made a fraudulent claim under this or any other Certificate of insurance with Us or any other insurer; or
 - You did not tell Us about anything which this Certificate required You to tell it.
- Cancellation by Us will take effect from the earlier of:
 - the day on which You arrange other insurance to replace this Certificate, or
 - 4.00pm on the third business day after the day on which notice of cancellation was given to You or any later date shown in the notice of cancellation.
- The cancellation will be effective unless You can prove that, through no fault of Yours, You did not receive the notice of cancellation.

7.4 CANCELLATION PREMIUM

In the event of cancellation by You or by Us, We will retain the premium which applies to the days this Certificate has been in force and an amount for our expenses of the cancellation, subject to minimum premium provisions. If cancellation is due to non-payment of premium the Certificate is cancelled with effect from inception and you will not be entitled to any refund of premium.

If the premium is subject to adjustment, cancellation will not affect Your obligation to supply to Us such information as is necessary to permit the premium

adjustment to be calculated and to pay the amount of the adjustment applicable up to the date of cancellation.

7.5 CANCELLATION BY PREMIUM FUNDING COMPANY

The Premium Finance Company may cancel the Certificate by advising Us within fourteen (14) days of a premium instalment date passing without payment. Under these circumstances, as long as there are no losses outstanding or paid on the Certificate, We will refund the Premium Finance Company the appropriate proportion of premium.

7.6 CROSS LIABILITY

Where You are comprised of more than one person or entity, each shall be considered as a separate legal entity. The words You and Your shall apply to each person or entity as if a separate Certificate had been issued to each. This Condition does not increase the Limit of Liability under this section in respect of any Occurrence or Period of Insurance.

7.7 FOREIGN CURRENCY

All amounts referred to in this Certificate are in Australian Dollars. If You incur liability to settle any claim for an amount stated in the local currency of any country or territory outside Australia, where an award is made or a settlement is agreed upon, the following rules will apply. The amount payable by Us shall be the value of such award or settlement together with costs awarded or payable to any claimant converted to Australian Dollars at the free rate of exchange published by Bloomberg on the date the award was made or settlement was agreed upon; subject always to the applicable Limit of Liability.

7.8 HOLD HARMLESS AGREEMENTS

You must not enter into an agreement with another person which excludes or reduces Your rights to make a claim against that person at any time without Our prior written consent. If You do, We may reduce the amount of any claim You make under this Certificate by the extent to which Your agreement prevents Us making a claim against that person under Our rights of subrogation.

7.9 JOINT INSURED

Where the Certificate covers the interest of more than one person or entity:

7.9.1 any information supplied to or withheld from Us in relation to entering into, renewing or extending this Certificate or any claim under the Certificate will be deemed to have been supplied or withheld by all persons or entities insured by this Certificate; but

7.9.2 an action or omission of one which increases the risk of Personal Injury, Property Damage or Advertising Injury will not prejudice the rights of the others, provided that immediately on becoming aware of the increase in the risk of Personal Injury, Property Damage or Advertising Injury, the others give Us written notice and pay any reasonable additional premium charged by Us.

7.10 JURISDICTION

All disputes arising out of or under this Certificate will be subject to determination by any Court of competent jurisdiction within Australia.

7.11 OTHER INSURANCE

You must tell Us in writing and supply copies to Us as soon as possible about any other insurance which covers the risks insured by this Certificate. Valid and collectable insurance includes any self insurance plan which would be applicable to the loss.

7.12 OUR RIGHTS OF INSPECTION

We shall be permitted, but not obligated, to inspect Your premises and operations at any reasonable time. Neither Our right to make inspections, nor Our failure to make inspections, nor the making of inspections, nor any report of an inspection shall constitute an undertaking, on behalf of or for the benefit of You or others, to determine or warrant that such premises or operations are safe or healthful or are in compliance with any law, rule or regulation.

We may examine and audit Your books and records at any time during the currency of this Certificate and within three (3) years after the final termination of this Certificate but only with regard to matters which in Our opinion are relevant to this Certificate.

7.13 REASONABLE PRECAUTIONS

7.13.1 You must take all reasonable precautions to:

- a) prevent Personal Injury or Property Damage or Advertising Injury;
- b) prevent the manufacture, sale or supply of defective Products.

7.13.2 You must at Your own expense, trace or recall or modify any of Your Products which contain any defect or deficiency of which You are aware or have reason to suspect.

7.13.3 You and Your employees, servants and agents must comply with the requirements of any statutory authority for the safety of persons and property.

7.14 SUBROGATION

7.14.1 We are entitled to pursue any claim to recover any amount paid to You or on Your behalf under this Certificate in Your name at Our expense and for Our benefit.

7.14.2 You must give Us all the reasonable assistance and information that We require in pursuing any such claim.

7.15 SUBROGATION WAIVER

We will not pursue any claim to recover any amount paid to You or on Your behalf under this Certificate against:

7.15.1 any entity (and its directors, officers, employees or servants) which is Your subsidiary, which You own or control or which co-owns any property insured by this Certificate;

7.15.2 any Insured (and its directors, officers, employees or servants) named or described in this Certificate.

7.16 INTERPRETATION

- 7.16.1 The singular includes the plural and vice versa, unless the context otherwise requires.
- 7.16.2 Headings are for convenience only and do not affect interpretation. Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

7.17 SERVICE OF SUIT AND APPLICABLE LAW

We agree that:

- 7.17.1 Should any dispute arise between You and Us regarding the interpretation or the application of this Certificate of Insurance We will, at Your request, submit to the jurisdiction of any competent Court in the State of New South Wales, Australia. Such dispute shall be determined in accordance with the law and practice applicable in such Court.

- 7.17.2 Any summons, notice or process to be served upon Us may be served upon:

*The Director
Coversure Pty Ltd
Suite 501. Level 5
1 Chandos St
St Leonards NSW 2065*

who have authority to accept service and to enter an appearance on Our behalf, and who are directed at Your request to give a written undertaking to You that they will enter an appearance on Our behalf.

- 7.17.3 If any suit is instituted against Us, We will abide by the final decision of such Court or any competent Appellate Court.

committed or alleged to have been committed in any Advertisement and arising out of any advertising activities conducted by You or on Your behalf in the course of carrying out Your Business.

8.4 AIRCRAFT

Means any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space, other than model aircraft.

8.5 BUSINESS

Means the business as described in the Schedule (and, where applicable, as further described in any more specific underwriting information provided to Us at the time when this insurance was negotiated), and shall also include:-

- 8.5.1 the ownership, occupation and maintenance of Your premises.
- 8.5.2 the tenancy of premises by You.
- 8.5.3 the provision of any sponsorships and charities.
- 8.5.4 the provision and management of first aid, medical, ambulance, fire or safety services.
- 8.5.5 private work undertaken by Your employees for any of Your directors, partners, proprietors, officers or executives.
- 8.5.6 the provision and management of canteens, social, sports, welfare organisations and child care facilities by You or on Your behalf for the benefit of Your employees.

8.6 CERTIFICATE

Means the Certificate of Insurance consisting of the Schedule, Our Agreement, Definitions, Sections 1,2 and 3 including Extensions, Exclusions, and Conditions which apply. All parts of the Certificate of Insurance wording, the Schedule and any Endorsements must be read as if they are one and the same document.

8.7 ELECTRONIC DATA

Means facts, concepts and information converted to a form useable for communications, display, distribution, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instruction for such equipment.

8.8 EMPLOYMENT PRACTICES

Means any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination in respect of Your employees or any prospective employee.

8.9 EXCESS

Means the amount which You must pay towards any claim under this Certificate, excluding costs and expenses incurred by You in the investigation, settlement or defence of any claim for compensation, which will be deducted before any amount is paid to You or paid on Your behalf.

8.10 GEOGRAPHICAL LIMITS

Means anywhere in the World except:

- 8.10.1 claims made or actions instituted within any country, state or territory (outside Australia) where the laws of that country, state or territory require insurance to be effected or

8. Definitions

The following words will have the meaning set out below wherever they appear in the Certificate.

8.1 ACT OF TERRORISM

Means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government.

8.2 ADVERTISEMENT

Means any manner of communication given to the public including by way of any form of print media, publication, telecommunication, radio or television broadcast, electronic mail, internet, world wide web or exhibit.

8.3 ADVERTISING INJURY

Means injury arising out of one or more of the following:-

- 8.3.1 defamation, or
- 8.3.2 infringement of copyright, title or slogan, or
- 8.3.3 unfair competition, piracy, misappropriation of advertising ideas or style of doing business; or
- 8.3.4 invasion of privacy;

- secured with an insurer or organisation licensed in that country, state or territory to grant insurance.
- 8.10.2 claims that are made upon You outside Australia or New Zealand in any country where You are represented by a branch or company or firm or individual holding Your power of attorney.
- 8.10.3 claims made or actions instituted within North America.
- 8.10.4 claims and actions to which the laws of North America apply.
- Provided that clauses 8.10.3 and 8.10.4 shall not apply to:
- 8.10.5 claims and actions arising from the presence of any of your directors, partners, proprietors or employees, who are normally resident in Australia or New Zealand and who are not undertaking manual work or supervision of work of any kind.
- 8.10.6 Products exported to North America without your knowledge.
- 8.11 HOVERCRAFT**
Means any vessel or craft or thing made or intended to float on or in or travel on or through the atmosphere or water on a cushion of air provided by a downward blast.
- 8.12 INTERNET OPERATIONS**
Means:
- 8.12.1 transfer of computer data or programmes by use of electronic mail systems by You or Your employees, including part-time and temporary staff, contractors and others within Your organisation 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,
- 8.12.2 access through Your network to the world wide web or a public internet site by Your employees, including part-time and temporary staff, contractors and others within Your organisation;
- 8.12.3 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 organisation.
- 8.13 JOINT VENTURE**
Means any enterprise undertaken jointly by You with a third party or parties.
- 8.14 LIMIT OF LIABILITY**
Means the amounts shown in the Schedule for which You have chosen to insure.
- 8.15 MEDICAL PERSONS**
Means qualified medical practitioners, dentists, nurses and first-aid attendants.
- 8.16 NORTH AMERICA**
Means the United States of America, the Dominion of Canada and their territories and protectorates, and any other territory coming within the jurisdiction of the courts of the United States of America or the Dominion of Canada.
- 8.17 OCCURRENCE**
Means an event, including continuous or repeated exposure to substantially the same general conditions, which results in Personal Injury and/or Property Damage and/or Advertising Injury neither expected nor intended from Your standpoint.
With respect to Personal Injury and/or Property Damage, all events of a series consequent upon or attributable to one source or original cause shall be deemed to be one Occurrence.
All Advertising Injury arising out of the same injurious material or act regardless of the frequency of repetition or the number or kind of media used, or whether a claim is made by one or more persons, shall be deemed to arise out of one Occurrence.
- 8.18 PERIOD OF INSURANCE**
Means the period of insurance shown in the current Schedule.
- 8.19 PERSONAL INJURY:**
Means:
- 8.19.1 bodily injury, death, sickness, disease, disability, shock, fright, mental anguish and mental injury;
In the event of any claims, for Personal Injury arising from latent injury, latent disease or latent sickness, such injury, disease or sickness in respect of each claim shall be deemed to have first happened on the day such injury, disease or sickness was first medically diagnosed and to be covered under this Certificate, that diagnosis must first occur during the Period of Insurance;
- 8.19.2 false arrest, false imprisonment, wrongful eviction, wrongful detention, malicious prosecution and humiliation;
- 8.19.3 wrongful entry or wrongful eviction or other invasion of right to private occupancy of property;
- 8.19.4 libel, slander, defamation of character or invasion of right of privacy; and
- 8.19.5 assault and battery not committed by You or at Your direction unless committed for the purpose of preventing or eliminating danger to persons or property.
- 8.20 POLLUTANTS**
Means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.
- 8.21 PRODUCTS LIABILITY**
Means liability for Personal Injury or Property Damage arising out of Your Products; but only if the Personal Injury or Property Damage occurs away from Your premises or premises leased or rented to You and after physical possession of Your Products has been passed to others.

8.22 PROPERTY DAMAGE

Means:

- 8.22.1 physical loss, destruction of or damage to tangible property including the loss of use thereof at any time resulting therefrom; or
- 8.22.2 loss of use of tangible property which has not been physically lost, destroyed or damaged; provided such loss of use is caused by an Occurrence.

8.23 SUBSIDIARY

Means:

- 8.23.1 any entity which by virtue of any applicable legislation or law is deemed to be Your subsidiary (where You are a company), or
- 8.23.2 any entity over which You (where You are a company) are in a position to exercise effective direction or control.

8.24 VEHICLE

Means any type of machine on wheels or on self-laid tracks which is made or intended to be propelled by other than manual or animal power. Vehicle includes any trailer or caravan or other implement made or intended to be drawn by any such machine.

8.25 WATERCRAFT

Means any vessel or craft made or intended to float on or in or travel on or through water.

8.26 WE/OUR/US

Means the Underwriters of this Insurance being certain Underwriters at Lloyds.

8.27 YOU/YOUR

Means each of the following, to the extent set forth below;

- 8.27.1 the named Insured in the Schedule;
- 8.27.2 all present and future Subsidiary companies (including subsidiaries thereof) of the named Insured whose places of incorporation are within Australia and New Zealand (including their Mandated Territories and Protectorates);
- 8.27.3 any past, present or future director, executive officer, employee or partner or shareholder of the named Insured or of a company designated in 8.27.2 but only whilst acting in the scope of their duties in such capacity;
- 8.27.4 any principal in respect of the liability of such principal arising out of the performance by the named Insured or by a company designated in 8.27.2 of any contract or agreement for the performance of work for such principal to the extent required by such contract or agreement but limited to the coverage provided by this Certificate;
- 8.27.5 any office bearer or member of any canteen, social or sporting clubs, first aid, medical, ambulance or fire fighting services, welfare organisations or child care facilities formed with the consent of the Insured (other than an Insured designated

in 8.27.4 or 8.27.9) in respect of claims arising from duties connected with activities of any such club, service, organisation or facility.

- 8.27.6 any director or senior executive of the named Insured or of a company designated in clause 8.27.2 in respect of private work undertaken by Your employees for such director or senior executive.
- 8.27.7 any work experience student or volunteer whilst engaged for or on behalf of the named Insured or of a company designated in clause 8.27.2.
- 8.27.8 the legal personal representative of any person entitled to indemnity under this Certificate in circumstances giving rise to indemnity under this Certificate.
- 8.27.9 every partner, joint venturer, co-venturer or joint lessee of the named Insured but only:
 - a) if the named Insured assumes active control of, or is required to arrange insurance for the partnership, Joint Venture, co-venture or joint lease, and
 - b) with respect to liability incurred as the partnership, Joint Venture, co-venture or joint lease.

8.28 YOUR PRODUCT

Means anything or things (including the design, plan, formula or specifications and any packaging, containers, directions, markings, instructions, warnings or specifications) manufactured or deemed manufactured, (whether by law or otherwise), grown, extracted, produced, processed, assembled, constructed, erected, installed, altered, repaired, serviced, treated, imported, exported, sold, supplied, handled, resupplied or distributed by You or on Your behalf in the course of Your Business after physical possession has been passed to others.

Important Information

This Certificate wording is an important document and should be kept in a safe place. You should read this wording and any attachments We provide to You, so that You understand the insurance provided by this Certificate. It is important that You:

- a) read all of the Certificate to make sure that it gives You the protection You need
- b) are aware of the limits on the cover provided and the amounts We will pay You (including any Excess that applies)
- c) are aware of the definitions in Your Certificate. You will find definitions throughout Your Certificate.

You must comply with all provisions of this Certificate, otherwise We may be entitled to refuse to pay a claim or reduce the amount You are entitled to receive. The Certificate is in force for the Period of Insurance set out in Your Schedule or until cancelled. For the limits on the cover provided:

- a) some of these will be stated in the Certificate itself (these are Our standard Certificate limits); and
- b) the remainder will be stated in Your Schedule.

In some circumstances the terms and conditions of this Certificate may be amended by endorsement. If Your Certificate is endorsed You will receive notification of the endorsement. In issuing this Certificate to You, We have relied upon the proposal form You have already completed.

YOUR DUTY OF DISCLOSURE

Before You enter into a contract of general insurance with Us, You have a duty under the Insurance Contracts Act 1984 to tell Us everything that You know, or could reasonably be expected to know, is relevant to Our decision to insure You and the terms and conditions on which We insure You.

You have the same duty to tell Us those things before We issue cover, renew, extend, vary or reinstate a Certificate of insurance.

INFORMATION YOU DO NOT NEED TO GIVE.

You do not have to tell Us anything that:

- a) reduces the risk to Us of insuring You;
- b) is common knowledge;
- c) We already know or should know in the ordinary course of Our business;
- d) has been indicated by Us as not necessary to know.

NON DISCLOSURE

If You fail to comply with Your duty of disclosure, We may be entitled to reduce Our liability under the contract in respect of a claim and/or may cancel the contract. If Your non-disclosure is fraudulent, We may also have the option of avoiding the contract from its beginning.

CLAIMS MADE AND NOTIFIED BASIS OF COVER

Clause 1.4.1 - Errors and Omissions Extension, Section 2 - Statutory Liability and Section 3 - Professional Indemnity of the General Liability Certificate of Insurance are written on a "**claims made and notified basis**". That is, they only provide cover if:

1. a claim is made against You, by some other person, during the Period of Insurance and You notify Us of the Claim during the same Period of Insurance;

AND

2. the claim which is notified arises out of an occurrence which takes place after the commencement date of the Period of

Insurance or after the Retroactive Date stated in the Schedule, whichever is the earlier.

Section 40 (3) of the Insurance Contracts Act 1984 (Cth) applies to this type of Certificate of Insurance. That sub-section provides that if You become aware, during the Period of Insurance, of any occurrence or facts which might give rise to a claim against You by some other person, then provided that You notify the insurer of the matter before the Period of Insurance expires, the insurer may not refuse to indemnify You merely because a claim resulting from the matter is not made against You during the Period of Insurance. If You inadvertently or otherwise, do not notify the relevant occurrence or facts to the insurer before the expiry of the Period of Insurance You will not have the benefit of Section 40(3) and the insurer may refuse to pay any subsequent claim, notwithstanding that the occurrence giving rise to it took place during the Period of Insurance.

PRIVACY

Privacy legislation regulates the way private sector organisations can collect, use, keep secure and disclose personal information.

We are bound by the Privacy Act 1988 (Cth) and its principles when collecting and handling personal information. We have developed a privacy Certificate which explains what sort of personal information We hold about You and what We do with it.

We will only collect personal information from or about You for the purpose of assessing Your application for insurance and administering Your insurance Certificate, including any claims You make.

We may need to disclose personal information to the Lloyds underwriter located overseas, intermediaries, insurance reference bureaus, credit reference agencies, Our advisers and those involved in the claims handling process (including assessors and investigators), for the purposes of assisting Us and them in providing relevant services and products, or for the purpose of litigation.

By providing Your personal information to Us, You consent to Us making these disclosures. Without Your personal information We may not be able to issue insurance cover to You or process Your claim.

From time to time, We may use Your name and contact details to send You or Your firm offers or information regarding Our insurance services or promotions that may be of interest to You. Please let Us know if You no longer wish to receive this information.

A copy of Our privacy Certificate is available from the office of Coversure Pty Ltd or at www.coversure.com.au.

THE GENERAL INSURANCE CODE OF PRACTICE

Lloyd's is a signatory to the General Insurance Code of Practice. The Code aims to:

- a) promote more informed relations between insurers and their customers;
- b) improve consumer confidence in the general insurance industry;
- c) provide better mechanisms for the resolution of complaints and disputes between insurers and their customers; and
- d) commit insurers and the professionals they rely upon to higher standards of customer service.

IF YOU HAVE A DISPUTE

If You are dissatisfied with a decision We make, a claim settlement, Our service, or the service of others We appoint to discuss insurance matters with You, We have an Internal Dispute Handling Process to assist You. Contact Our office and ask for the Internal Dispute Handling Officer.

If You are not satisfied with Our response You may contact;

Lloyd's Australia Ltd
Suite 2, Level 21 Angel Place
123 Pitt Street
Sydney NSW 2000
tel 02 9223 1433
fax 02 9223 1466

Lloyd's Australia Ltd offer a no cost to You service. They will advise You on how to proceed with them in this matter. If they are unable to assist You, they will promptly advise You.

NEED FURTHER INFORMATION

Your Insurance Broker has arranged this insurance for You, on Your behalf. If You have any questions or need further information concerning Your insurances, You should contact them to assist You with Your enquiry.

CONTACTING US

You are represented by an Insurance Broker who deals directly with Us. You should direct all of Your correspondence to Us through this Broker, as he is Your Agent for this insurance. When We are dealing directly with You, for example with a claim, You may contact Us as shown on Our claim form or as indicated on this Certificate wording.