

**Professional Indemnity
Policy Wording
Civil Liability**

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About Arch

The insurers of this insurance are the underwriters of Arch Syndicate 2012 at Lloyd's ("We", "Us" or "Our").

Arch Underwriting at Lloyd's (Australia) Pty Ltd ABN 27 139 250 605 AFSL 42674 (AUALA) has been authorised by the insurers to act on their behalf to deal in and provide general advice and handle and settle claims in relation to this insurance. AUALA is an Australian Financial Services Licensee authorised to deal in and provide general advice on general insurance products.

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

Introduction

Please read the Policy wording carefully to ensure that it meets Your requirements. It is written on a claims made and notified basis, so it will respond only to claims first made against You and notified to Us during the Policy period (subject to the continuity clause). Various words bear specific meanings as provided in the Policy wording. The important notices You received prior to purchasing the Policy have been attached at the back of this document for Your reference including Our contact details. We will provide insurance in accordance with the terms of this Policy.

SECTION A. WHAT IS COVERED BY THE POLICY?

The covers, including automatic covers and optional extensions, set out in this Section A are subject to the:

- other terms and conditions of the Policy;
- relevant Limit of Indemnity, Sub Limit(s) of Indemnity and Aggregate Limit of Indemnity shown in the Schedule, as applicable to the cover and, which We will never pay more than;
- the Excess(es),

unless expressly specified otherwise.

Any Claim or loss covered under the Insuring Clauses of this Policy must be first made against You or arise (as appropriate) during the Period of Insurance and be notified in writing to Us during the Period of Insurance unless expressly specified otherwise.

AUTOMATIC COVERAGE

Insuring Clause 1. Civil Liability

We will indemnify You against any Claim first made against You during the Period of Insurance which You notify to Us in writing during the Period of Insurance in respect of any civil liability incurred in Your conduct of the Professional Business.

Insuring Clause 2. Defence Costs

In addition, We will pay Defence Costs incurred with Our prior written consent in the defence or settlement of any such Claim, provided if a payment in excess of the amount of indemnity available under this Policy is to be made to dispose of a Claim, Our liability for such Defence Costs shall be such proportion thereof as the amount of indemnity available under this Policy in respect of that Claim bears to the amount paid or payable to dispose of that Claim.

Insuring Clause 3. Defamation

We will indemnify You against any Claim first made against You during the Period of Insurance which You notify to Us in writing during the Period of Insurance, for Your unintentional defamation by reason of words written or spoken in connection with Your conduct of the Professional Business.

Insuring Clause 4. Dishonesty of Employees

Notwithstanding exclusion 2 of this Policy, We will indemnify You against any Claim first made against You during the Period of Insurance which You notify to Us in writing during the Period of Insurance, which is brought about or contributed to, by the dishonest, fraudulent, criminal, reckless or malicious act or omission of Your Employee.

But We will not indemnify any person committing or condoning such dishonest, fraudulent, criminal, reckless or malicious act. This coverage excludes any Claim for loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes.

Insuring Clause 5. Consumer Protection Legislation

We will indemnify You against any Claim first made against You during the Period of Insurance which You notify to Us in writing during the Period of Insurance for civil liability for compensation resulting from Your breach of statutory duty under the Competition and Consumer Act 2010 (Cth), Corporations Act 2001 (Cth), National Consumer Credit Protection Act 2009 (Cth) or similar legislation enacted for consumer protection within any Australian jurisdiction.

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However there is no cover for any Claim or Defence Costs:

- (a) arising out of, or in connection with, deliberate or fraudulent conduct;
- (b) made pursuant to the penal or criminal provisions of the said legislation;
- (c) otherwise excluded under this Policy.

Insuring Clause 6. Loss of Documents

We will indemnify You for damage to or loss or destruction of any Documents within the territorial limits of the Commonwealth of Australia, New Zealand and Papua New Guinea, during the Period of Insurance provided:

- (a) You shall within 30 days after discovery thereof, give Us written notice that any Documents have been destroyed, or damaged, or lost, or mislaid, and after diligent search cannot be found;
- (b) the amount claimed shall be supported by invoices or accounts which shall be subject to approval by a competent person to be nominated by Us with Your approval, but failing approval, a competent person will be appointed by the current President of The Institute of Arbitrators & Mediators of Australia;
- (c) there is no cover for loss, damage or destruction arising from or connected with wear, tear, vermin, mould or mildew or any other gradual operating cause;
- (d) You shall subrogate to Us Your right of prosecution against any other person(s) for the recovery of the Documents or any such loss;
- (e) We will not indemnify You against any liability, costs or expenses for which You are entitled to an indemnity under any other part of this Policy.

Insuring Clause 7. Intellectual Property Rights

We will indemnify You against any Claim first made against You during the Period of Insurance which You notify to Us in writing during the Period of Insurance, arising from Your **unintentional**:- breach, or infringement of privacy, or use of confidential information, trademarks, trade secrets, patents, copyright, registered designs or the system or programs of others committed in Your conduct of the Professional Business.

However, no indemnity shall be afforded to any of You who intentionally commit, assist or condone such conduct.

Insuring Clause 8. Continuity

We will indemnify You for known matters as follows:

- (a) in the absence of any fraudulent non-disclosure or misrepresentation and subject to sub-paragraphs (b) and (c) below, where:
 - (i) a Claim is first made against You or You notify a circumstance in writing to Us, during the Period of Insurance, in respect of civil liability in connection with Your conduct of the Professional Business which arises from a circumstance or occurrence known by You prior to the commencement of the Period of Insurance;
 - (ii) We were Your professional indemnity insurers from the time when You first became aware of that circumstance or occurrence which subsequently gave rise to the Claim or notification;
 - (iii) We have from that time, to the time when the Claim is made or the notification is given, continued without interruption to be Your professional indemnity insurers;then, in respect of such Claim or notification, notwithstanding anything to the contrary contained in this Policy, We agree to indemnify You in respect of that Claim or notification in accordance with all other provisions of this Policy;
- (b) We reserve the right to reduce Our liability in respect of any Claim or notification under this coverage to the extent that Our interests are prejudiced as a result of the late notification of the Claim or circumstance;
- (c) where sub-paragraphs (a) and (b) apply, We will not deny indemnity for the Claim or notification as a consequence of a non-fraudulent non-disclosure or misrepresentation on Your part with respect to the Claim or circumstance;
- (d) for the purpose of sub-paragraphs (a) (ii) and (iii) above, references to "We" includes Resource Underwriting Pacific Pty Ltd (acting on behalf of certain Underwriters at Lloyd's).

Insuring Clause 9. Acquisitions and Mergers

We will indemnify a firm conducting the same professional business as You which You acquire or merge with, and Claims arising from that firm's work completed before and during the Period of Insurance shall be considered in accordance with the provisions of this Policy provided:

- (a) You give Us written notice of the acquisition or merger with full information and We accept in writing;
- (b) any reasonable additional premium required was paid to Us for the increase in the number of partners and persons employed by You as a result of the acquisition or merger;
- (c) no other insurance is available;
- (d) this coverage shall not indemnify the merged or acquired firm in respect of any Claim arising out of any circumstance known by the merged or acquired firm before the merger or acquisition date and which the merged or acquired firm at the time knew could result, or should have reasonably expected may result, in a Claim against it in the future;
- (e) for the purpose of this coverage "firm" includes entity.

Insuring Clause 10. Privacy Remediation Expenses

We will pay Your Privacy Remediation Expenses incurred during the Period of Insurance in respect of a Privacy Breach provided:

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- (a) such Privacy Breach is reported to Us in writing immediately on discovery by You and prior to incurring such expenses;
- (b) We have given Our prior written consent to incurring such expenses (which shall not be unreasonably withheld or delayed);
- (c) We shall not pay any costs or expenses incurred in proving an entitlement to cover under this clause 10;
- (d) Our liability for all Privacy Remediation Expenses under this coverage shall not exceed a Sub Limit of Indemnity of \$50,000 in the aggregate;
- (e) an Excess of \$5,000 shall apply to each and every claim under this coverage;
- (f) the following additional definitions apply for the purpose of this coverage:

“Privacy Breach” means a breach of any privacy legislation applicable to the Professional Business including, but not limited to, the Privacy Act 1988 (Cth).

“Privacy Remediation Expenses” means costs and expenses reasonably incurred in advertising, or for electronic, printed, broadcast or telecast communications, to comply with any law, regulation or order requiring notification of any potential or actual unauthorised access or unauthorised use of an individual’s personal information in the conduct of the Professional Business, where that information is not publicly available.

Insuring Clause 11. Spouse Liability

We will indemnify Your Spouse where any Claim against You which is covered under this Policy is also made against Your Spouse solely by reason of:

- (a) his or her status as Your Spouse;
- (b) his or her ownership or other interest in property which is the object of the remedy sought by the person making the Claim.

Insuring Clause 12. Joint Venture Liability

We will indemnify You for Your proportionate civil liability in Your conduct of the Professional Business by reason of Your act, error or omission as a partner in any joint venture specified in the Schedule provided:

- (a) a Claim is first made and notified in writing to Us during the Period of Insurance;
- (b) the joint venture partner(s) shall not be indemnified;
- (c) such joint venture was disclosed to and accepted by Us as subject to this coverage;
- (d) such Claim is made by an independent third party.

Insuring Clause 13. Contractors and Sub-Contractors

We will indemnify You for Your civil liability for work performed on Your behalf by Your contractors and sub-contractors in the conduct of Your Professional Business, provided a Claim is first made against You during the Period of Insurance which You notify to Us in writing during the Period of Insurance. However, no indemnity is extended to those contractors and sub-contractors.

Insuring Clause 14. Public Relations Expenses

We will pay the reasonable fees, costs and expenses of any public relations consultant engaged by You for the sole purpose of protecting Your reputation that has been brought into question as a direct result of a Claim arising out of the conduct of the Professional Business, provided:

- (a) You shall notify Us in writing during the Period of Insurance and within 30 days of Your first awareness of Your reputation being brought into question together with full written details outlining the circumstances surrounding the event;
- (b) We have consented in writing to the retainer of such public relations consultant (such consent shall not be unreasonably withheld);
- (c) Our liability for all claims made under this coverage shall not exceed a Sub Limit of Indemnity of \$50,000 in the aggregate.

Insuring Clause 15. Emergency Defence Costs

Notwithstanding any contrary provision in this Policy, if it is not possible for You to obtain Our consent prior to incurring Defence Costs which are otherwise covered under this Policy, We shall waive such consent, provided Our consent is obtained within 30 days of the first of such Defence Costs being incurred. Our liability for all claims made under this coverage shall not exceed a Sub Limit of Indemnity of \$50,000 in the aggregate.

Insuring Clause 16. Free Legal Assistance

We shall pay for one free legal consultation up to a maximum of two hours during the Period of Insurance, from the practitioner(s) nominated in Appendix 1, on any matter notifiable under this Policy, provided:

- (a) You may not seek advice on this Policy or any indemnity issues;
- (b) We reserve the right to change the nominated practitioner(s) at Our discretion and any change will be notified on Your request;
- (c) You authorise Us to engage (at Our discretion) the nominated practitioner(s) to represent You and You authorise such engaged nominated practitioner(s) to disclose to Us any information obtained in the course of tendering advice to You and You waive (to the extent necessary) all rights to legal professional privilege as between You and Us.

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Insuring Clause 17. Compensation for Court Attendance

If You are compelled to attend a court of law during the Period of Insurance, as a witness in respect to a Claim notified under and covered by this Policy, We will compensate the Insured named in the Schedule, at the rate of \$250 per day for each day on which court was so attended. Our liability for all claims under this coverage shall not exceed a Sub Limit of Indemnity of \$10,000 in the aggregate. This coverage does not extend to Your consultants, locums or persons employed under a Contract for Service. No Excess shall apply.

Insuring Clause 18. Statutory Liability

Notwithstanding exclusion 9, We will pay Your Statutory Liability for any Claim first made against You during the Period of Insurance which You notify in writing to Us during the Period of Insurance, where that liability is incurred in Your conduct of the Professional Business, provided:

- (a) We may lawfully pay such Statutory Liability;
- (b) this coverage does not extend to Statutory Liability which arises directly or indirectly from or in connection with any:
 - (i) intentional or knowing violation or breach of law;
 - (ii) conduct on Your part which is grossly negligent or reckless;IF so established by Your admission or by judgment or other final adjudication against You;
- (c) subject to sub-paragraph (f) below, Our liability for all claims made under this coverage shall not exceed a Sub Limit of Indemnity of \$100,000 in the aggregate (including all costs and expenses incurred) minus the Excess;
- (d) should cover for Statutory Liability be excluded, also excluded are all costs and expenses;
- (e) for the purpose of this coverage "Claim" means:
 - (i) a civil proceeding brought against You for recovery of pecuniary penalties;
 - (ii) written notice from a relevant authority requiring payment of pecuniary penalties by You.
- (f) should claims be made under both this Insuring Clause 18 and Insuring Clause 19, then Our total liability for all claims made under both Insuring Clauses shall not exceed a Sub Limit of Indemnity of \$100,000 in the aggregate.

Insuring Clause 19. Representation at Inquiries and Judicial Review

We will pay Your reasonable costs and expenses of legal representation and defence, incurred with Our prior written consent, at any judicial review and any investigation, examination or inquiry by an official body or institution legally empowered to investigate Your professional conduct, (including, but not limited to, a statutory regulatory body, tribunal or legally constituted industry or professional board, or Royal Commission or coroner's court), in connection with Your Professional Business and which You are legally compelled to attend, provided:

- (a) subject to sub-paragraph (d) below, Our liability for all claims made under this coverage shall not exceed a Sub Limit of Indemnity of \$100,000 in the aggregate;
- (b) this coverage excludes:
 - (i) any parliament or parliamentary committee or other similar proceedings;
 - (ii) any of Your wages, salaries or fees, or any costs or expenses incurred in respect of any criminal proceedings where You are found guilty;
- (c) You have notified Us in writing during the Period of Insurance;
- (d) should claims be made under both this Insuring Clause 19 and Insuring Clause 18, then Our total liability for all claims made under both Insuring Clauses shall not exceed a Sub Limit of Indemnity of \$100,000 in the aggregate.

OPTIONAL EXTENSIONS

These Optional Extensions only apply if specified as applicable in the Schedule.

Insuring Clause 20. Fidelity

Notwithstanding exclusion 2, to the extent and in the manner set out below, We will indemnify You against any loss of money or of any other property whatsoever:

- (a) belonging to You;
 - (b) for which You are legally liable;
- which You, during the Period of Insurance, discover and give written notice to Us within 28 days after such discovery that You have sustained in consequence of any dishonest, or fraudulent act or omission of any Employee committed in the conduct of Your Professional Business, provided:
- (i) You must notify the police and a criminal action must be successfully concluded by conviction registered against the person(s) responsible for any loss under this extension before We are called on to indemnify You;
 - (ii) this coverage does not indemnify You against any loss:
 - for which You are entitled to an indemnity under any other part of this Policy;
 - brought about or contributed to by any dishonest or fraudulent act or omission on Your part, or of Your predecessors in the Professional Business (other than an Employee);
 - (iii) Our liability for all claims made under this coverage shall not exceed the Sub Limit of Indemnity specified in the Schedule for Fidelity minus any applicable Excess.

Insuring Clause 21. Previous Business

Notwithstanding exclusion 6, this Policy will have effect as if:

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- (a) (*Incoming Partners*)
after the words “in Your conduct of the Professional Business” in Insuring Clause 1, there were inserted the words “or in the conduct of any business which was substantially the same kind of business as the Professional Business, and which was conducted by You in a professional capacity before joining the Insured named in the Schedule, provided the events giving rise to the civil liability occurred after the Retroactive Date”;
- (b) (*Outgoing Partners*)
the definition of “You” includes any former partners who are named in the Schedule.

Insuring Clause 22. Seepage and Pollution

We will indemnify You for Claims first made against You during the Period of Insurance which you notify Us in writing during the Period of Insurance, arising out of Seepage and Pollution as a direct result of Your negligent act, error or omission in connection with the Professional Business, provided:

- (a) Our liability for all claims made under this extension shall not exceed, in the aggregate, the Sub Limit of Indemnity specified in the Schedule (minus the Excess) including all costs and expenses incurred;
- (b) this coverage is limited to the costs of rectifying only Your negligent acts, errors or omissions and specifically excludes any liability which attaches to You as a consequence of such acts, errors or omissions (referred to as “consequential losses”). For the purposes of this coverage, consequential losses include (but are not limited to) any loss of:- profits, anticipated profits, goodwill, reputation or production suffered by any third party, any costs incurred to clean up any Seepage or Pollution and any Bodily Injury or Property Damage;
- (c) for the purpose of this extension, “Seepage and Pollution” means the actual, alleged or threatened:- sudden, accidental and unintended discharge, dispersal, release or escape of Pollutants.

Insuring Clause 23. Third Party Data Security Breach & Client Network Infection

We will indemnify You for Damages and Defence Costs resulting from any Claim directly or indirectly arising out of or in connection with any Data Security Breach and any Client Network Infection, provided:

- (a) the Claim is first made against You during the Period of Insurance and You notify Us in writing during the Period of Insurance;
- (b) Our liability for all claims made under this coverage shall not exceed a Sub Limit of Indemnity of \$100,000 in the aggregate (including all costs and expenses incurred);
- (c) We may engage, at Our own expense, a computer forensics specialist or security specialist to investigate an alleged Data Security Breach or Client Network Infection, and You shall cooperate fully with such specialist’s investigation;
- (d) You have maintained:
 - (i) anti-virus and malware prevention solutions on Your computer systems and updated the protection at regular intervals;
 - (ii) firewalls on Your clients’ and Your computer systems;
 - (iii) and implemented ongoing patch management process to ensure timely patching of Your computer systems;
- (e) for the purpose of this extension the following definitions shall apply:

“Client Network Infection” means the actual or alleged transmittal from Your computer system to Your client’s computer system in connection with the Professional Business, of a computer virus or other electronic infection which causes damage to that client’s computer or computer network or disrupts that client’s business.

“Damages” means loss, judgments and settlements, but does not include fines, penalties, punitive or exemplary damages, or the return, withdrawal or reduction of professional fees or commissions, any equitable relief or any award of legal costs and expenses.

“Data Security Breach” means the actual or alleged breach, violation, unauthorised interception, unauthorised use, or misuse by any person of any security systems or procedures maintained by You for storage of Your client’s confidential information in connection with the Professional Business.

“Defence Costs” means all reasonable costs, charges, fees and expenses (including but not limited to legal costs and expenses) incurred in defending any Claim covered under this optional extension, but does not include Your wages, salaries or fees.

- (f) for the purpose of this extension, in addition to the exclusions set out in section C, or restrictions to the cover provided under this Policy, We shall not be liable for any claim under this extension directly or indirectly arising out of or in connection with:
 - (i) any Claim arising from the actual or alleged intentional release or disclosure of confidential information by You which is alleged to be in violation of any statute, regulation, ethical rule, court or arbitral order, or confidentiality agreement;
 - (ii) any Claim arising from Your actual or alleged intentional transmittal of a computer virus or other electronic infection;
 - (iii) the costs of repairing, replacing, or modifying Your data security system or clearing Your computers or network of viruses and electronic infections, either preventatively or in response to a Claim against You;
 - (iv) war, riot, civil commotion, insurrection, or usurpation of governmental power;
 - (v) any governmental authority seizing or gaining access to Your computer or computer network;
 - (vi) any proceedings against You before a governmental agency in connection with a Data Security Breach or Client Network Infection, including any audit or other investigation by such governmental agency;

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- (vii) any Claim, Damages or Defence Costs for which You are entitled to an indemnity under any other part of this Policy.

SECTION B. DEFINITIONS

The following words used in the Policy have these special meanings unless otherwise specified.

Act of Terrorism means an act, including, but not limited to, the use of force or violence or the threat thereof, of any person or group(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 or to put the public, or any section of the public, in fear.

Aggregate Limit of Indemnity means the amount so specified in the Schedule.

Bodily Injury means bodily injury, sickness, disease, emotional distress, or any other mental, psychiatric, emotional or physical injury, or death of any person.

Certificate of Insurance means the document evidencing insurance cover provided by Us and incorporating the Schedule.

Claim means:

- (a) any Writ, Summons, Application or other originating legal or arbitral process, cross-claim, or counter-claim served upon any of You alleging a breach of professional duty in the conduct of the Professional Business;
- (b) any demand alleging any breach of professional duty by You in Your conduct of the Professional Business communicated to You by whatever means.

All Claims arising from the same act error or omission, or consequent upon or attributable to one source or original cause, shall be deemed to be a single Claim.

Defence Costs means all reasonable costs, charges, fees and expenses (including but not limited to legal counsel's fees and expert's fees) incurred in defending any Claim in respect of any alleged breach of duty by You in the conduct of the Professional Business. Defence Costs do not include Your wages, salaries or fees.

Documents means deeds, wills, agreements, magazines, maps, plans, records, books, letters, contracts of insurance, policies, computer tapes, computer discs, forms and documents of any nature whatsoever (other than bearer bonds, coupons, stamps, banknotes, currency notes, cheques and negotiable instruments) whether written, printed or capable of being reproduced by any other method, (but excluding any computer or electronic data which is destroyed or damaged, lost or mislaid by manual, electronic or mechanical act, error or omission), provided such items are:

- (a) the property of (or entrusted to) You or Your predecessor in the Professional Business;
- (b) now or hereafter (or are believed by You to be) in Your hands or in the hands of any other party or parties to or with whom such items have been entrusted, lodged or deposited by You in the ordinary course of the Professional Business.

Employee means:

- (a) any person who was, is, or shall be under a contract of service or apprenticeship with the Insured named in the Schedule, provided such definition shall include a person whose position is terminated during the Period of Insurance;
- (b) contractors and subcontractors (whether incorporated or otherwise) engaged to provide professional services to the Insured named in the Schedule, provided such contractors and subcontractors earn more than 80% of their annual total income from fees received from that Insured;
- (c) any students or volunteer workers under the Insured's supervision, control and direction in the ordinary course of the Professional Business.

Excess means the amount(s) so specified in this Policy Wording, the Schedule and any endorsement.

Family Member means:

- (a) an Insured person's spouse, domestic partner or companion;
- (b) a parent, sibling, or child of an Insured person, or of the Insured person's spouse, domestic partner or companion.

Financial Interest means a financial interest of greater than 10% of the issued capital in a company or more than 10% of the value of any other business or asset.

Financial Service

'provision of a Financial Service' has the same meaning as that expression is given by Chapter 7 of the Corporations Act 2001 (Cth) but includes the referral and introduction of any person to another person or entity offering to provide a Financial Service

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and in which You have a direct or indirect financial interest or from whom You receive or are entitled to receive a fee or payment for or benefit from such a referral or introduction.

Insured means:

- (a) the person(s), principal(s), members of the partnership, directors, company or corporation, statutory authority, association or the legal entity specified in the Schedule and Employees thereof being the basis of this Policy, and their predecessors in the Professional Business;
- (b) any person who becomes, during the Period of Insurance, a partner, director, or Employee of the Insured, but in each case solely in respect of work carried out for or on behalf of the Insured and in the conduct of the Professional Business;
- (c) the estate, heirs, legal representatives and assigns of any deceased Insured person.

Limit of Indemnity means the maximum amount We will pay up to for any one Claim or loss and in the aggregate for all Claims or loss under specified Insuring Clauses. The Limit of Indemnity will be specified in the Schedule. The Limit of Indemnity includes and is subject to any applicable Sub Limits of Indemnity specified in this Policy Wording and in the Schedule. The Limit of Indemnity is in excess of any applicable Excess (except where expressly specified otherwise). In the event of any Claim or loss being covered under multiple Insuring Clauses, We will never pay more than the lowest Limit of Indemnity (or applicable Sub Limit of Indemnity) that applies to the relevant Claim or loss, to the extent such limit has not been exhausted.

Period of Insurance means the period so specified in the Schedule.

Policy means the contract between Us and the Insured named in the Schedule made up of this Policy Wording, the Certificate of Insurance and Schedule, any agreed endorsements and the Proposal, questionnaire or insurance broker's quotation submission. These are all important documents and should be carefully read together and kept in a safe place for future reference.

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 (including material to be recycled, reconditioned or reclaimed).

Premium means the amount so specified in the Schedule.

Professional Business means the business of the Insured as specified in the Schedule.

Property Damage means:

- (a) physical injury or damage to or defect, impairment or destruction or loss of tangible property including consequential loss or the loss of use of that property;
- (b) consequential loss relating to, or loss of use of, tangible property which has not been damaged as defined in sub-paragraph (a) above.

For the purpose of this definition, "consequential loss" includes (but is not limited to) any loss of:- profits, anticipated profits, revenue, business opportunity, goodwill, reputation and production costs.

Proposal means the written proposal form (including any addenda) together with all other documents and statements provided by You or Your representatives in the process of applying for the Policy or any previous policy issued by Us of which the Policy is a replacement or renewal.

Retroactive Date means the date so specified in the Schedule.

Schedule means the Schedule on the Certificate of Insurance.

Spouse in relation to another person means a person who is legally married to that other person and includes a person in a de facto relationship with that other person and who live with each other as spouses although not legally married to each other.

Statutory Liability means pecuniary penalties awarded against You in the jurisdictions, and pursuant to the laws, of Australia and New Zealand for a strict liability offence in connection with:

- (a) a breach of environmental laws of those jurisdictions;
- (b) the discharge, release, dispersal or escape of Pollutants;
- (c) a breach of occupational health and safety laws or regulations.

AND in respect to this definition:

- (i) sub-paragraph (a) above, the Property Damage exclusion contained in exclusion 18 shall not apply;
- (ii) sub-paragraph (b) above, exclusion 16 shall not apply;
- (iii) sub-paragraph (c) above, the Bodily Injury exclusion contained in exclusion 18 shall not apply.

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Sub Limit of Indemnity means a sub limit of indemnity which is set out in the Schedule and/or in this Policy Wording and which is applicable to any one Claim or loss under a specified Insuring Clause. Any Sub Limit of Indemnity is included in and does not apply in addition to the Limit of Indemnity and is also subject to the Aggregate Limit of Indemnity.

We, Us or Our means the underwriters of Arch Syndicate 2012 at Lloyd's, whose definitive numbers and the proportions underwritten, will be supplied on application.

Wrongful Act means any error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed, attempted, or allegedly committed or attempted by an Insured person individually or otherwise.

Wrongful Employment Act means any Wrongful Act committed by You in connection with Your employment of a person including but not limited to: wrongful dismissal; denial of natural justice relating to wrongful termination; discharge or termination of employment; breach of any oral or written employment contract or quasi-employment contract; employment discrimination laws (including workplace and sexual harassment); wrongful failure to employ or promote; wrongful discipline; wrongful deprivation of a career opportunity; negligent evaluation of that person's performance; invasion of that person's privacy; and employment-related defamation of that person (including by way of an advertisement).

You/Your means the Insured.

SECTION C. WHAT IS EXCLUDED FROM COVER?

We will not be liable to indemnify You for any claim made under this Policy which arises directly or indirectly from, or in connection with:

1. any act, error or omission committed or alleged to have been committed prior to the **Retroactive Date**.
This exclusion extends to and includes any Claim or loss relating to or in any way connected with the original subject matter or conduct giving rise to such Claim or loss including any repetition or continuation of any such act, error or omission occurring after the Retroactive Date.
2. (a) any **dishonest, fraudulent, criminal, reckless or malicious act or omission** of any of You or of :
 - (i) any company, person or entity which has a beneficial interest in the Insured named in the Schedule;
 - (ii) any of Your consultants, contractors, sub-contractors, or agents;(b) any willful breach of any statute, contract or duty, or any act or omission committed or omitted or alleged to have been committed or omitted with a reckless disregard for the consequences by any of You or Your consultants, contractors, sub-contractors, or agents;
except to the extent covered under Insuring Clauses 4 or 20.
3. any **contractual liability, warranty or guarantee** which You have assumed or provided, except if You would have been liable in the absence of the contractual liability, warranty or guarantee.
4. (a) work carried out within, or for persons in, the **United States of America** or the **Dominion of Canada** and their Territories, Dependencies or Protectorates;
(b) Claims or actions brought within the United States of America or the Dominion of Canada and their Territories, Dependencies or Protectorates;
(c) the enforcement of any award, order or judgment arising from any Claim or action described in sub-paragraph (b) above.
5. any liability for which You are, or would be, entitled to any indemnity under any **other insurance required by law** to be in effect or to any contribution or protection from any statutory, mutual, fidelity or contribution fund or arrangement of any description.
6. any **act, error or omission** of any of You **prior to becoming an Employee, proprietor**, director, or partner of the Insured named in the Schedule.
If cover for any Incoming Partners' Previous Business is specified in the Schedule, this exclusion does not apply to the person(s) covered by that extension in respect of Claim(s) made against them and Defence Costs, arising out of acts, errors or omissions, committed or alleged to have been committed prior to their joining the Insured named in the Schedule and in the conduct of substantially the same kind of business as the Professional Business provided such acts, errors or omissions occurred after the Retroactive Date.
7. any Claim made **prior** to the commencement of the Period of Insurance, or in respect of any **Claim or circumstances**:
 - (a) notified under any previous contract or policy;

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- (b) known to You at the commencement of the Period of Insurance and which You considered or which a reasonable person in Your position would or might have considered may give rise to a Claim;
- (c) stated in any proposal, questionnaire, submission or declaration in relation to this Policy or any earlier contract or policy.

This exclusion relates to all Claims, and Defence Costs, arising out of the act, error or omission which gives rise to the excluded circumstance irrespective of how that circumstance is reported, discovered, notified or expressed.

- 8. any **trading debt or loss of profit** incurred by any of You.
- 9. any **punitive**, aggravated, multiple or exemplary **damages**, or **finest or penalties** imposed by law or any investigation or Defence Costs arising as a consequence thereof, except to the extent covered under Insuring Clause 18.
- 10. any **bankruptcy**, insolvency or liquidation of any of You.
- 11. any Claim:
 - (a) by any **other Insured**, or any **Family Member**;
 - (b) involving any **entity**, trust (including discretionary trust), facility or arrangement of any description which, at the date the Claim is made against You, or at the time the events giving rise to the Claim occurred:
 - (i) was **managed** or controlled wholly or in part by the Insured, or any nominee(s) of the Insured, or any Family Member;
 - (ii) in which the Insured or any Family Member had a direct or indirect **Financial Interest**.
- 12. any **fees** or disbursements claimed back by a client of Yours or which have been refunded to a client of Yours due, or allegedly due to non-performance of Your contractual obligations to that client. Any waivers of such fees or disbursements, or costs incurred relating to a dispute as to fees or disbursements, are also excluded.
- 13. **goods, products or merchandise** (including containers thereof), manufactured, produced, processed, treated, sold, supplied, distributed, assembled, installed, serviced, handled or dealt with in any way, by You or on Your behalf.
- 14. (a) **nuclear weapons materials**;
(b) ionising radiations or contamination by radioactivity from any **nuclear** fuel or from any nuclear waste from the combustion of nuclear fuel. Combustion shall include any self-sustaining process of nuclear fission.
- 15. any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:
 - (a) **war**, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power;
 - (b) any **Act of Terrorism**.
Damage, loss, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to sub-paragraphs (a) or (b) above is also excluded.
- 16. (a) any actual, alleged or threatened discharge, release, escape or disposal of **Pollutants** into or on real or personal property, water or the atmosphere;
(b) any direction or request that the Insured test for, monitor, **clean up**, remove, contain, treat, detoxify or neutralise Pollutants, or any voluntary decision to do so;
including but not limited to any Claim for financial loss to You, Your security holders or Your creditors based upon, arising from, or in consequence of the matters described in sub-paragraphs (a) or (b) above, except to the extent covered under Insuring Clause 22 (if specified in the Schedule).
- 17. any duty or obligation assumed by You which is **not** assumed in the **normal conduct** of the Professional Business.
- 18. **Bodily Injury or Property Damage** (this includes any consequential claim for apportionment, contribution or indemnity, howsoever formulated, in connection with any **Bodily Injury**, or **Property Damage**):-
 - (a) unless such Bodily Injury or Property Damage arises out of any design, specification, or formula devised by You in connection with the Professional Business;
 - (b) except to the extent covered under Insuring Clause 6.
- 19. Bodily Injury of any person occurring in the course of their employment either as Your Employee or as a contractor or sub-contractor, or Property Damage to any property of any such Employee or contractor or sub-contractor, arising out of or in the course of their **employment** and including any statutory recovery or subrogation action by the Victorian WorkCover Authority pursuant to Section 138 of the Accident Compensation Act 1985, or by any like Authority under

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any similar legislation in Victoria or any other Australian State or Territory, or the Commonwealth of Australia, in respect to any payments of whatsoever nature made by any such Authority.

20. Bodily Injury, or Property Damage in any way relating to:
 - (a) mining, processing, transport, distribution or storage of **asbestos**;
 - (b) manufacture of asbestos products or processing materials containing asbestos;
 - (c) any process of decontamination, treatment or control of asbestos.
Sub-paragraph (c) above also applies to loss of use of property due to the presence of asbestos.
21. any act, error or omission on Your part in connection with the **effecting** of or maintenance of any, or any adequate, **insurance**.
22. any actual or alleged **Wrongful Employment Act**.
23. the provision of any **Financial Service** no matter when provided and even if by virtue only of the Corporations Regulations, Your conduct was taken not to be the provision of a Financial Service.
24. any actual or alleged **investment advice, service or representation** whatsoever, including but not limited to:
 - (a) projected or estimated returns on any financial product or investment of any nature;
 - (b) the performance of any financial product or investment;
 - (c) tax matters pertaining to but not limited to the effects of depreciation, depression, negative gearing or positive gearing;
 - (d) financial planning activities.
25. work performed by **contractors** or sub-contractors for You or on Your behalf, unless the contractors or sub-contractors earn more than 80% of their annual total income from fees received from You.
26.
 - (a) the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any **fungi, moulds, spores or mycotoxins** of any kind;
 - (b) any action taken by any party in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, moulds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, moulds, spores or mycotoxins;
 - (c) any governmental or regulatory order, requirement, directive, mandate or decree that any party take action in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, moulds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, moulds, spores or mycotoxins.
27. any **infringement of copyright**, trademark, trade secrets, registered design or patent, or any plagiarism, or breach of confidentiality, or breach of or infringement of privacy except to the extent covered under Insuring Clause 7.
28. Your functions and duties as a **director or officer** of the Insured named in the Schedule or any legal entity, corporation or other incorporated body.
29. the **occupation** (or alleged occupation) of **land or buildings** by You.
30. Your liability as an owner or operator of any aircraft, marine craft or motor **vehicles of any kind**.
31. any loss or claim made under this Policy which would expose any of Us to any **sanction, prohibition or restriction** under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

SECTION D. CONDITIONS

1. Each subscribing **Underwriter's obligations** under this Policy to which he or she subscribes is **several** and not joint and is limited solely to the extent of his or her individual subscription. No subscribing Underwriter is responsible for the subscription of any co-subscribing Underwriter who for any reason does not satisfy all or part of his or her obligations.
2. **Our liability** under this Policy **shall not exceed**:
 - (a) for each Claim, the Limit of Indemnity minus any Excess;
 - (b) for all claims made under this Policy, the Aggregate Limit of Indemnity minus any Excess(es), but subject to all applicable Sub Limits of Indemnity (inclusive of all costs and expenses incurred) specified in this Policy.

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3. You shall bear the **Excess** in respect of each claim at Your own risk and We shall only be liable to indemnify You in excess of such amount. Any Excess of \$10,000 or more shall also apply to Defence Costs. Should any claim under this Policy involve more than one act, error or omission, then the Excess shall apply to each such act, error or omission separately.
4. If any claim under this Policy shall be in any respect **fraudulent** or if any fraudulent means or devices are used by You, or anyone acting on Your behalf, to obtain any benefit under this Policy, We will have no liability to You.
5. This Policy will protect the interests of Your **innocent** members (other than in the case of sole traders), in that We will not void the Policy because of the failure of a person guilty of dishonesty of any description to disclose such dishonesty on the Proposal, questionnaire, submission or declaration.
6. If any payment is made under this Policy, **We** are thereupon **subrogated** to all Your rights of recovery in relation thereto. We will not exercise any such rights against any Employee of the Professional Business unless a loss has been brought about or contributed to by any dishonest, fraudulent, criminal, reckless or malicious act or omission of the Employee.
7. (a) (i) You shall not admit liability for, or settle, any Claim or incur any costs or expenses in connection therewith without Our written **consent** (not to be unreasonably withheld), and subject to sub-paragraph (iii) below, We shall be entitled to **take over the conduct** in Your name of the defence or settlement of any such Claim;
(ii) subject to sub-paragraph (iii) below, if You shall refuse to consent to or accept any proposed **settlement** or recommendation made by Us, or continue any legal proceedings in connection therewith, then Our liability to indemnify You shall be limited to the amount for which the Claim could have been so settled, plus the costs and expenses incurred up to the date of such refusal, minus the Excess;
(iii) neither We nor You shall be required to **contest** any legal **proceedings** unless a Senior Counsel (to be mutually agreed or failing agreement to be appointed by the current President of The Institute of Arbitrators & Mediators Australia) shall advise that such proceedings 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 (or other litigant), the likely Defence Costs under Insuring Clause 2 and Your prospects of successfully defending the Claim. The cost of Senior Counsel's opinion shall be regarded as part of Defence Costs under Insuring Clause 2;
(b) We may, if We believe that the **Claim will not exceed the Excess**, instruct You to conduct the defence of the Claim. In such circumstances, We will reimburse You for all reasonable defence costs in the event that any payment made to dispose of the Claim by way of damages exceeds the Excess. However, We reserve the right to take over conduct of the Claim as provided in sub-paragraph (a) above should it subsequently appear to Us that the Excess may be eroded.
8. **Allocation**
 - (a) If a claim covered by this Policy includes a loss or liability which is not covered by this Policy, We and You shall use our best efforts to agree upon a fair and proper allocation between the covered and uncovered loss or liability;
 - (b) If We and You cannot agree on an allocation of loss or liability, then together we may agree to submit the dispute to a Senior Counsel (to be mutually agreed or failing agreement to be appointed by the current President of The Institute of Arbitrators & Mediators Australia) whose decision shall be final and whose associated costs shall be regarded as Defence Costs under Insuring Clause 2;
 - (c) Any decision by Senior Counsel under sub-paragraph (b) above, or any judicially determined allocation of loss or liability, shall be applied retrospectively to all loss or liability relating to any claim under this Policy. Any allocation or advancement on account of any claim under this Policy shall not apply to or create any presumption with respect to the final allocation of loss or liability.
9. You shall take all reasonable practicable steps and precautions to avoid and **minimise** any liability or **loss** which may be or is the subject of a claim under this Policy.
10. In the event of any **other valid insurance** or indemnity available to You, or any self-insured amount, subject to the Insurance Contracts Act 1984, this Policy attaches as excess insurance.
11. **You may cancel this Policy** by giving Us 30 days' written notice and:
 - (a) if no Claim has been notified to Us under this Policy prior to the effective date of cancellation, We will make a pro-rata refund of Premium for the unexpired portion of the Period of Insurance less 30%;
 - (b) if any Claim has been notified to Us under this Policy prior to the effective date of cancellation, there will be no refund of Premium for the unexpired portion of the Period of Insurance.

We may cancel this Policy in accordance with the provisions of the Insurance Contracts Act 1984, in which event We will make a pro-rata refund of any paid Premium for the unexpired portion of the Period of Insurance.
12. You must give to Us **as soon as practicable, notice in writing of any Claim** made against You and must upon request give to Us such information as We may reasonably require to investigate the matter so reported, and We will be entitled

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to claim indemnity or contribution at any time, in Your name, from any party against whom You may have such rights. You must give all necessary information and assistance to enable Us to pursue and enforce such rights.

13. Irrespective of condition 12, You must, under Insuring Clause 4 (Dishonesty of Employees) and Insuring Clause 20 (Fidelity), give Us **notice in writing within 28 days:**

- (a) of the discovery of any loss or liability which gives rise, or may give rise, to a claim under this Policy;
- (b) of the discovery of reasonable cause for suspicion of fraud or dishonesty on the part of any of Your Employees, whether giving rise to a claim under this Policy or not.

We will not be liable for any loss sustained in consequence of any act or omission on the part of the Employee concerned after the date of such discovery.

14. In the event of a claim under Insuring Clause 4 (Dishonesty of Employees) or Insuring Clause 20 (Fidelity), You must give **all necessary information and assistance** to enable Us to sue for and obtain indemnity, contribution or reimbursement from the Employee concerned or from his estate of any moneys paid or payable by Us.

Any moneys which but for an Employee's fraud or dishonesty would have been payable to him by You, and any moneys of the Employee in Your hands, will be deducted from the amount otherwise payable by Us in respect of a claim arising from the fraud or dishonesty of the Employee.

15. **Notification: What? When? Where? Who? How?**

You must notify Us in writing of any Claim, loss or circumstances which may reasonably be expected to give rise to such a Claim or loss as soon as reasonably practicable within the Period of Insurance.

You must give the notice to Us in writing and must provide full particulars including relevant dates, events, circumstances and persons or entities involved, including the amount of the alleged or potential loss.

You and/or your insurance broker or intermediary must send the notice to the following address and all notifications to Us will be deemed given if so notified in writing to:-

**Arch Underwriting at Lloyd's (Australia) Pty Ltd
Level 8, 22 William Street
Melbourne VIC 3000**

Such notice shall be effective on the date of actual receipt at the above address.

16. **Service of Suit and Jurisdiction**

We agree that:

- (a) in the event of a dispute arising under this Policy, at Your request, We will submit to the jurisdiction of any competent Court in the Commonwealth of Australia. Such dispute shall be determined in accordance with the law and practice applicable in such Court;
- (b) any summons notice or process to be served upon Us may be served upon:

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

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

If a suit is instituted against any one of Us, then all of Us will abide by the final decision of such Court or any competent Appellate Court.

17. **Goods and Services Tax Neutrality**

We and You agree that, to the extent possible as between us, neither is to be adversely affected or advantaged by the operation of "GST". If any party requires a tax invoice or the assistance of any other party to obtain an input tax credit the other party will provide such invoice or assistance promptly upon being requested to do so.

For the purposes of this condition "GST" means tax payable under A New Tax System (Goods and Services Tax) Act 1999 and, unless the context otherwise requires, other expressions used in this section have the meanings given to those expressions in that Act.

18. **Valuation and Foreign Currency**

All premiums, limits, retentions, loss and other amounts under this Policy are expressed and payable in Australian currency. Except as otherwise provided, if judgment is rendered, settlement is denominated or another element of loss under this Policy is stated in a currency other than Australian dollars, payment under this Policy shall be made in Australian dollars at the cash rate of exchange for the purchase of Australian dollars published in the Australian Financial Review on the date the final judgment is reached, the amount of the settlement is agreed upon or the other element of loss is due, respectively.

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19. **Construction and Interpretation**

- (a) Clause headings and the use of bold print are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer;
- (b) unless the contrary intention appears in this Policy:
 - (i) words importing a gender include any other gender,
 - (ii) words in the singular include the plural and conversely;
- (c) references to:
 - (i) statutes include statutes amending, consolidating or replacing the statutes referred to and all regulations, orders-in-council, rules, by-laws, ordinances and statutory instruments made under those statutes,
 - (ii) sections of statutes or terms defined in statutes refer to corresponding sections or defined terms in amended, consolidated or replacement statutes.

To be valid, this Policy must have attached to it the Certificate of Insurance signed by an authorised officer of Arch Underwriting at Lloyd's (Australia) Pty. Ltd.

APPENDIX 1.

NOMINATED PRACTITIONERS (PURSUANT TO INSURING CLAUSE 16)

ALLENS LINKLATERS
101 Collins Street, Melbourne VIC 3000, Australia

Contact: Louise Jenkins
DL 03 9613 8785
M 0411 646 763

(IF not available, alternate contact:
Andrew Maher
DL 03 9613 8022
M 0421 917 959)

What do I do if I have a complaint about the nominated practitioner(s)?

Arch Underwriting at Lloyd's (Australia) Pty Ltd (AUALA) endeavours to provide an excellent and efficient service to all its customers. AUALA takes all complaints seriously and strives to resolve all complaints promptly and fairly.

If You have a complaint in relation to any of the nominated practitioners, please contact AUALA at Arch Underwriting at Lloyd's (Australia) Pty Ltd, Level 10, 61 York Street, Sydney NSW 2000. Please quote Your Policy number and/or claim reference, as appropriate, in your correspondence.

IMPORTANT NOTICES UNDER THE INSURANCE CONTRACTS ACT 1984

“Claims made and notified” general information

The information under this heading is provided for general information purposes only and does not:

- form part of the Policy
- impose any contractual obligations on any Insured or create contractual rights between us.

Certain insuring clauses in this Policy Wording operate on a “Claims made and notified” basis, which means that they:

- cover claims made against the relevant Insured and notified to Us in writing during the Period of Insurance.
- do not provide cover in relation to:
 - claims made against an Insured after the expiry of the Period of Insurance, even though the event giving rise to the claim may have occurred during the Period of Insurance (unless specified otherwise);
 - claims made against an Insured notified or arising out of facts or circumstances notified (or which ought reasonably to have been notified) under any previous policy;
 - claims made, threatened or intimated against an Insured prior to the commencement of the Period of Insurance;
 - facts or circumstances of which an Insured first became aware prior to the Period of Insurance, and which they knew, or ought reasonably to have known, had the potential to give rise to a claim under the Policy;
 - claims arising out of circumstances noted on the proposal for the current Period of Insurance or on any previous proposal form;
 - claims arising from civil, administrative, criminal or regulatory proceeding, investigation, arbitration or adjudication that existed prior to, or was pending before, the commencement of the Period of Insurance

If the Insured gives notice in writing to Us of any facts that might give rise to a Claim against them as soon as reasonably practicable after they become aware of those facts, but before the expiry of the Period of Insurance, they may have rights under Section 40(3) of the Insurance Contracts Act 1984 (the Act) to be indemnified in respect of any claim subsequently made against them arising from those facts, notwithstanding that the Claim is made after the expiry of the Period of Insurance. Such rights arise under the Act only. The terms of the Policy and the effect of the Policy is that the Insured is not covered for claims made against them after the expiry of the Period of Insurance, unless specified otherwise.

Duty of Disclosure

Before any person/s enter into an insurance policy with Us, they have a duty under the Insurance Contracts Act 1984 to disclose to Us every matter that they know, or could reasonably be expected to know, is relevant to Our decision whether to accept the risk of the insurance and if so, on what terms.

They have the same duty to disclose those matters to Us before they renew, extend, vary or reinstate the Policy.

The duty applies until the Policy is entered into, or where relevant, renewed, extended, varied or reinstated (Relevant Time). If anything changes between the time disclosures are made and the Relevant Time, the person/s need to tell Us.

What We do not need to know

A person does not need to tell Us about any matter that:

- diminishes Our risk;
- is of common knowledge;
- We know or should know in Our business as an insurer;
- We tell the person We do not need to know.

Who does the duty apply to?

The duty of disclosure applies in relation to everyone who is insured under the Policy.

What happens if the duty of disclosure is not complied with?

If the duty of disclosure is not complied with We may cancel the Policy and/or reduce Our liability under the Policy in respect of a claim. If fraud is involved, We may treat the Policy as if it never existed, and pay nothing.

Retroactive liability

The Policy does not provide cover in relation to events that occur before the commencement of the Policy, unless retroactive liability cover is requested in the proposal form AND THE POLICY IS EXTENDED accordingly.

Average provision and Allocation of loss between the Insured and Us

One of the Policy terms provides that if the Insured incur loss covered by the Policy with other loss that is not covered by the Policy, or if a claim is made against the Insured and it is impossible to identify whether loss is attributable exclusively or primarily to a covered cause, or the claim against the Insured, as appropriate, then the Insured together with Us shall use our best efforts to agree a fair and proper allocation of the loss between Us and the Insured. Please refer to the Policy wording for full details.

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The Policy may also provide that, where the amount required to dispose of a claim exceeds the limit of the sum insured in the Policy, We shall be liable only for a part of the total costs and expenses which shall be the same proportion of the total expenses as the Policy limit bears to the total amount required to dispose of the claim.

Liability assumed under agreement

Cover provided by this form of liability insurance does not cover liability which You have agreed to accept, unless You would have been so liable in the absence of such agreement.

Utmost good faith

The Policy is based on the utmost good faith requiring Us and the proposer/insured(s) (including third party beneficiaries after the Policy is entered into) to act towards each other with the utmost good faith in respect of any matter relating to the Policy. A failure to comply is a breach of the Insurance Contracts Act 1984.

Underwriters' sanction limitation and exclusion clause

We shall not be liable to pay or indemnify the Insured for any loss or claim made under the Policy which would expose any of Us to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

Notices

We will send all notices in relation to the Policy to:

- the Insured's nominated insurance intermediary, until We receive written notice to the contrary from the Insured named in the Schedule;
- if there is no nominated intermediary, the Insured named in the Schedule, acting on behalf of the Insureds.

About the Policy

Where We agree to enter into a Policy, it is a contract between Us and the Insured (see the definition of "Insured" for details of who is covered by this term). The Policy is entered into subject to the payment or agreement to pay Us the premium by the Insured, including government taxes and charges, and the Policy terms and conditions (including limits and the Excess/es).

The Policy is made up of this Policy Wording which sets out Our standard terms, the Certificate of Insurance and Schedule which We issue to confirm the issue of the Policy and which contain additional information specific to the Insured and the Policy, any agreed endorsements and the Proposal. These are all important documents and should be carefully read together and kept in a safe place for future reference.