

Combined Professional Indemnity, Public and Products Liability

Combined Professional Indemnity, Public and Products Liability Insurance

Wording Document

Berkley Insurance Australia
| a Berkley Company

1300 800 772
berkleyinaus.com.au

Berkley Insurance Australia
| a Berkley Company

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Combined Professional Indemnity, Public and Products Liability Insurance

Important Information

Please read the following information

A. Your Duty of Disclosure

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

You have this duty until we agree to insure you.

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

You do not need to tell us anything that:

- reduces the risk we insure you for; or
- is common knowledge; or
- we know or should know as an insurer; or
- we waive your duty to tell us about.

If you do not tell us something

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

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

B. Claims Made Policy

Section 2 Professional Indemnity of this policy is issued on a 'Claims made and Notified' basis. This means that the policy responds to:

(a) claims first made against the insured during the policy period and notified to us during the policy period, provided that the insured was not aware at any time before policy inception of facts, matters or circumstances which would have put a reasonable person in the insured's position on notice that a claim may be made against the insured; and

(b) written notification of facts, matters or circumstances pursuant to section 40(3) of the Insurance Contracts Act 1984. The facts, matters or circumstances the insured may decide to notify are those which might give rise to a claim against the insured. Such notification must be given as soon as reasonably practicable after the insured becomes aware of the facts, matters or circumstances and before expiry of the policy period. If the insured gives this written notification, the policy will respond even though a claim arising from those facts, matters or circumstances is made against the insured after the policy has expired.

After the policy period expires, no new notification of facts, matters or circumstances or claims may be made on the expired policy even though the event giving rise to the claim against you may have occurred during the policy period. An exception to this is where an extended reporting period applies to the policy. If an extended reporting

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period applies, then cover may be available for notifications of facts, matters, circumstances or claims made up to expiry of the extended reporting period.

When completing the proposal the insured is required to provide full details of all facts, matters and circumstances of which they are aware and which a reasonable person in the insured's position would consider may give rise to a claim. It is important that the insured make proper disclosure. Refer to the Duty of Disclosure above to understand the insured's disclosure obligations.

C. Retroactive Date

This policy does not provide cover for claims arising from or in connection with an act, error, omission or event occurring or alleged to have occurred before the policy's retroactive date, where such a date is specified in the schedule.

D. Subrogation Agreements

Where another person would be liable to compensate you for any loss or damage otherwise covered by the insurance, but you have agreed with that person either before or after the loss or damage occurred that you would not seek to recover any monies from that person, the Insurer will not cover you under the insurance for such loss or damage.

E. Average Position

Section 4 of the policy provides that if the Insured's liability for any Claim is for an amount in excess of the amount of the Indemnity Limit, then Berkley Insurance Australia's liability for such Defence Costs will be in the same proportion as the Indemnity Limit bears to the sum required to dispose of that Claim.

F. Privacy Statement

We are a member of the W. R. Berkley Corporation, which We refer to as WRBC.

We take privacy seriously and are committed to handling and protecting your personal information in accordance with the Privacy Act 1988 (Cth) and Australian Privacy Principles (APPs). This Privacy Statement explains how We collect, hold, use and disclose your personal information and who We share it with. It should be read with Our Privacy Policy which provides more information about Our privacy practices.

Our Privacy Policy is available at www.berkleyinaus.com.au. Alternatively, you can use the details in Contact Us at the end of this Privacy Statement to request a copy of Our Privacy Policy.

Consent

You agree to Us collecting, holding, using and disclosing your personal information as set out in Our Privacy Policy when you: (i) provide Us with your personal information; or (ii) apply for, use or renew any of Our products and services.

Personal information about others

If you provide Us with personal information about another person, then you must: (i) have their consent to do so; and (ii) tell them that you are disclosing their personal information to Us and provide them with a copy of this Privacy Statement.

How we collect your personal information

We collect your personal information directly from you, your agents and through others including the parties listed in Our Privacy Policy. This includes Our agents and service providers. We will use a variety of methods to collect your personal information from these parties, including written forms, telephone calls and electronic delivery.

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Not giving us your personal information

You may choose not to give Us your personal information. However, this may affect Our ability to provide you with any, some or all of the features of Our products or services, including processing a claim.

How we handle your personal information

We will use your personal information for the purposes We collected it. This usually includes: (i) providing you with assistance, a product or service you have requested; (ii) handling claims and complaints you have made; and (iii) facilitating Our business functions and operations.

Your personal information may also be used for other purposes that are set out in Our Privacy Policy.

We may disclose your personal information to other members of WRBC, agents or service providers (either yours or Ours), other insurers, reinsurers, persons involved in a claim and other parties set out in Our Privacy Policy. These disclosures will be for the same purposes described above or as otherwise permitted by law.

Overseas Disclosure

Sometimes We need to provide your personal information to, or get personal information about you from, persons or organisations located overseas. We will do this for the same purposes as in the 'How we handle your personal information' section above.

The complete list of countries is contained in Our Privacy Policy.

From time to time, We may need to disclose your personal information to, and collect your personal information from, persons and organisations located in countries that are not on the list.

Marketing

Every now and then We might let you know – including via email, telephone or online - about news, products and services that We think may be of interest to you.

We will engage in marketing unless you tell Us otherwise. We want you to be able to exercise your marketing preferences. Accordingly, you can contact Us to update your marketing preferences by using the details in Contact Us below. Alternatively, you can simply follow the unsubscribe instructions in the relevant communication. More information about Our marketing practices can be found in Our Privacy Policy.

Access, correction and complaints

You have the right to request access and correct your personal information held by Us. Our Privacy Policy provides information about how you can: (i) access your personal information; (ii) ask Us to correct your personal information; and (iii) complain about a breach of the APPs and how We will deal with such a complaint.

Contact Us


www.berkleyinaus.com.au


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Combined Professional Indemnity, Public and Products Liability Insurance

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Combined Professional Indemnity, Public and Products Liability Insurance

Section 1. Preamble

In consideration of the Insured having agreed to pay the premium shown in the Schedule, We agree to indemnify the Insured, subject to the terms, conditions, exclusions and limitations of this policy.

Section 2. Professional Indemnity

THIS IS A CLAIMS MADE AND NOTIFIED SECTION OF THE POLICY

2.1 INSURING CLAUSE APPLICABLE TO SECTION 2

We will indemnify the Insured, up to the Indemnity Limit, against civil liability for compensation including the claimant's legal costs and expenses arising from any Claim first made against the Insured during the Policy Period arising out of the conduct of the Professional Business.

2.2 AUTOMATIC EXTENSIONS APPLICABLE TO SECTION 2

We will provide the following cover but only under Section 2 of this policy, PROVIDED ALWAYS THAT:

a) the cover provided by each Automatic Extension is subject to the Schedule, Insuring Clauses, Claims Conditions, General Conditions, Exclusions, Definitions and Interpretations and any other terms of the policy (unless otherwise expressly stated); and

b) the inclusion of any Automatic Extension will not increase the Indemnity Limit. Where a sub-limit is stated in respect of any Automatic Extension, such sub-limit shall form part of and not be in addition to the Indemnity Limit.

2.2.1 Competition and Consumer Act and other Legislation

Insuring Clause 2.1 provides cover for any Claim which arises out of conduct in contravention of the Competition and Consumer Act 2010 (Cth), Australian Securities and Investments Commission Act 2001 (Cth), Corporations Act 2001 (Cth), National Consumer Credit Protection Act 2009 (Cth) or any State or Territory Fair Trading Act but only where such conduct:

2.2.1.1 constitutes a contravention of such statute because it:

i. is misleading or deceptive or likely to mislead or deceive;

ii. is the making of a false or misleading representation;

iii. is unconscionable; or

iv. is in breach of a warranty implied into a contract for the provision of services by any of the above Acts; and

2.2.1.2 is not intentional.

Exclusion 2.4.11 shall not apply to this extension.

2.2.2 Loss of or Damage to Documents

We will indemnify the Insured for reasonable and necessary costs and expenses incurred by the Insured (although not the Insured's own time) in replacing, restoring or reconstituting Documents due to a physical loss of or damage to such Documents that are the property of the Insured or are in the Insured's care, custody or control in the conduct of the Professional Business and where such loss or damage is discovered and is notified to Us during the Policy Period.

The cover provided by this extension is not subject to Insuring Clause 2.1 or General Exclusion 6.6.

The maximum aggregate amount payable under this extension is $500,000.

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2.2.3 Dishonesty of Insured Persons

Insuring Clause 2.1 provides cover for any Claim brought about, or contributed to, by any dishonest, fraudulent, criminal or malicious act or omission of any Insured person, PROVIDED ALWAYS THAT:

2.2.3.1 We will not indemnify the Insured in respect of any loss sustained in consequence of any act or omission occurring after the date of discovery of, or the reasonable cause for suspicion of, dishonest or fraudulent conduct on the part of the person concerned;

2.2.3.2 We will not indemnify the Insured in respect of any loss of negotiable instruments, bearer bonds or coupons, stamps, coins, bank or currency notes;

2.2.3.3 We will not indemnify any person committing or condoning such dishonest, fraudulent, criminal or malicious act or omission;

2.2.3.4 We will not indemnify the Named Insured where any person committing or condoning such dishonest, fraudulent, criminal or malicious act or omission is a sole principal or director of the Named Insured;

2.2.3.5 We will not indemnify the Named Insured where all principals, partners or directors of the Named Insured are persons committing or condoning such dishonest, fraudulent, criminal or malicious act or omission;

2.2.3.6 the Insured will, at Our request and expense take all reasonable steps to obtain reimbursement from any person committing or condoning such dishonest, fraudulent, criminal or malicious act or omission;

2.2.3.7 We will deduct from any amount payable under this extension any monies which but for such dishonest, fraudulent, criminal or malicious act or omission would be due from the Insured to the person committing such act, or any monies held by the Insured and belonging to such person;

2.2.3.8 We will only be liable to indemnify the Insured for the balance of loss sustained in excess of the amounts recoverable from the person(s) committing such dishonest, fraudulent, criminal or malicious act or omission or their estates or legal personal representatives;

2.2.3.9 Dual Sign Off was required for any withdrawal of funds from any bank or trust account operated by the Insured at the time the dishonest or fraudulent act or omission occurred;

2.2.3.10 if the dishonest or fraudulent act or omission is in connection with a trust account then the Insured's trust account must have been independently audited on an annual basis at the time of the dishonest or fraudulent act or omission; and

2.2.3.11 nothing herein will preclude Us from exercising any right of subrogation against any person committing or condoning such dishonest, fraudulent, criminal or malicious act or omission.

"Dual Sign-Off" in this extension means that any cheque payment or electronic money transfer receives prior approval by at least two approved signatories; and that the person reconciling the Insured's bank statements being a different person to the one that operates those bank accounts.

The cover provided by this extension is not subject to Exclusion 2.4.10.

2.2.4 Fiduciary Duty

Insuring Clause 2.1 provides cover for any Claim in direct consequence of a breach of fiduciary duty owed by the Insured to a client or customer of the Named Insured.

2.2.5 Infringement of Copyright or Patents

Insuring Clause 2.1 provides cover for any Claim made as a direct consequence of any inadvertent infringement or alleged inadvertent infringement of any copyright, patents or other intellectual property rights arising out of the conduct of the Professional Business.

The cover provided by this extension is not subject to Exclusion 2.4.12.

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2.2.6 Newly Created or Acquired Subsidiaries

We will indemnify, in the same manner and to the same extent as the Named Insured, any entity or subsidiary acquired or created by the Named Insured during the Policy Period, PROVIDED ALWAYS THAT:

2.2.6.1 the Policy Period applicable to such cover will be the period commencing on the date of such acquisition or creation and expiring twenty-eight (28) days after that date or on the expiry of the Policy Period (whichever is the earlier);

2.2.6.2 the retroactive date applicable to such cover will be the date of acquisition or creation of the entity or subsidiary; and

2.2.6.3 the Claim arises out of the exercise and conduct of the entity or subsidiary's business which is the same as or substantially similar to the Named Insured's Professional Business.

Note: The Named Insured may apply to Us within twenty-eight (28) days of this extension being triggered to vary the policy to continue the cover provided by this extension until the expiry date of the Policy Period by notifying Us of the acquisition or creation of the entity or subsidiary and providing all information requested by Us. Any such variation will only be offered by Us at Our sole and absolute discretion and subject to any additional terms imposed including the charging of any additional premium which it considers appropriate having regard to the nature of the risk to be assumed by Us.

In the event the Insured does not accept the terms offered or the amount of any additional premium, the Insured may cancel the policy in accordance with clause 9.3.

2.2.7 Fines and Penalties

We will indemnify the Insured for Fines or Penalties arising from any Claim first made against the Insured during the Policy Period, PROVIDED ALWAYS THAT:

2.2.7.1 the conduct giving rise to the Claim was not intentional, wilful, reckless or deliberate;

2.2.7.2 indemnification is permitted at law;

2.2.7.3 We will not indemnify the Insured for Fines and Penalties imposed in connection with any requirement to pay taxes, rates, duties, levies, charges, fees or other revenue charge or impost; and

2.2.7.4 the maximum aggregate amount payable under the policy in respect of all Claims for Fines and Penalties and Defence Costs in connection with such Claims is $250,000.

The cover provided by this extension is not subject to Exclusion 2.4.7 or General Exclusion 6.1.

2.2.8 Appointed Sub-Consultants

2.2.8.1 Insuring Clause 2.1 provides cover for any Claim against the Named Insured in respect of the Named Insured's civil liability directly arising out any act, error or omission of any appointed sub-contractor, sub-consultant or agent in the conduct of the Professional Business.

2.2.8.2 We will indemnify any appointed sub-contractor, sub-consultant or agent as if they were an employee of the Insured, PROVIDED ALWAYS THAT:

i. at least 90% of such sub-contractor, sub-consultant or agent's income in the previous twelve (12) months to the inception date of this policy, or reasonably anticipated in the next twelve (12) months, is derived from the Named Insured;

ii. such sub-contractor, sub-consultant or agent, at the time the conduct that gave rise to the Claim was acting under the direct control of a principal, partner, director or employee of the Named Insured and in accordance with the Named Insured's standard operating and risk management procedures; and

iii. cover afforded under this extension will only apply in respect of an act, error or

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omission of the sub-consultant in the conduct of the Professional Business.

2.2.9 Contractual Liability

Insuring Clause 2.1 provides cover for any Claim against the Insured in respect of any Contractual Liability in the conduct of the Professional Business.

Note: General Exclusion 6.7 limits the cover provided for Contractual Liability in certain circumstances.

2.2.10 Joint Venture/Consortium

We will indemnify the Insured for:

2.2.10.1 any Claim against the Insured arising out of the acts, errors or omissions of the Insured in the conduct of the Professional Business as part of any joint venture; and

2.2.10.2 the Insured's civil liability, to pay compensation, whether jointly or severally, arising from a Claim against any joint venture entity in respect of whose conduct the Insured is legally liable;

PROVIDED ALWAYS THAT:

i. such conduct would have been covered by Section 2 of this policy if it had been the conduct of the Insured;

ii. such conduct occurred whilst the Insured was a member of the joint venture or consortium;

iii. the Named Insured has specifically declared in writing to Us, prior to entering into this policy (whether in response to a specific question in the proposal form or otherwise), its membership of the joint venture or consortium together with the turnover/fees of the joint venture or consortium (not just the Insured's proportion); and

iv. We have specifically agreed in writing to cover the Insured's civil liability in respect of the joint venture.

2.2.11 Claim Preparation Costs

We will indemnify the Insured for reasonable and necessary costs and expenses incurred with Our prior written consent (not to be unreasonably withheld) for the preparation of any Claim that is covered under Section 2 of this policy, PROVIDED ALWAYS THAT:

2.2.11.1 cover afforded under this extension will not include any Defence Costs; and

2.2.11.2 the maximum aggregate amount payable under this extension is $25,000.

2.2.12 Costs of Court Attendance

In the event of any of the under-mentioned persons attending court as a witness in connection with any Claim in respect of which the Insured is entitled to indemnity under Section 2 of this policy, We will pay to the Named Insured court attendance costs at the following rates per day for each day on which attendance is required:

2.2.12.1 any principal, partner or director of the Named Insured - $650.00; and

2.2.12.2 any employee of the Named Insured - $250.00.

2.2.13 Public Relations Expenses

Where a Claim has been made against the Insured for which cover is available under Section 2 of this policy (or where the Insured has notified facts which may give rise to a future Claim), and in the reasonable belief of the Insured the Insured's reputation has been or will be significantly

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impaired, then We will reimburse the Insured for any reasonable and necessary costs and expenses of a public relations consultant retained by the Insured with Our prior written consent to design and implement a reasonable and necessary publicity campaign approved by Us with the object of preventing or mitigating damage to the reputation of the Insured in consequence of such Claim or anticipated Claim.

We will not unreasonably withhold or unreasonably delay Our consent or approval required under this extension.

The maximum aggregate amount payable under this extension is $50,000. The Excess payable by the Insured is costs inclusive for any Claim made under this extension.

2.2.14 Mitigation Costs

We will indemnify the Insured for reasonable and necessary mitigation costs and expenses incurred or agreed to be incurred by the Insured;

2.2.14.1 as a result of a reasonable and necessary action taken by the Insured to reduce the amount of any potential Claim that would be covered under Section 2 of this policy; and

2.2.14.2 arising from a fact, matter or circumstance first discovered by the Insured during the Policy Period which might lead to the potential Claim that would be covered under Section 2 of this policy;

PROVIDED ALWAYS THAT:

i. such fact, matter or circumstance arises out of the conduct of the Professional Business;

ii. such fact, matter or circumstance is notified to Us soon as practicable upon being discovered by the Insured, during the Policy Period and prior to the Insured incurring any such mitigation costs or expenses;

iii. no admission of liability (whether by word, conduct or otherwise) is made by the Insured;

iv. We have given prior written consent (not to be unreasonably withheld or unreasonably delayed) to the incurring of, or agreement to incur, such mitigation costs or expenses;

v. We will not pay any costs or expenses incurred by the Insured in proving entitlement to coverage under this extension;

vi. cover afforded under this extension will not include any Defence Costs; and

vii. the maximum aggregate amount payable under this extension is $50,000.

The cover provided by this extension is not subject to Insuring Clause 2.1.

2.2.15 Defamation, Libel and Slander

Insuring Clause 2.1 provides cover for any Claim first made against the Insured during the Policy Period as a direct consequence of any inadvertent defamation, libel or slander by the Insured arising out of the conduct of the Professional Business.

2.2.16 Emergency Defence Costs

We will indemnify the Insured for any Defence Costs which are incurred pursuant to Section 4 of this policy, prior to obtaining Our consent, PROVIDED ALWAYS THAT:

2.2.16.1 such Defence Costs are incurred as a result of a sudden, urgent and unexpected occurrence or occasion requiring immediate action and it would not be considered reasonable in such a situation to obtain Our consent to the incurring of Defence Costs;

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2.2.16.2 Our written consent is obtained within thirty (30) days of the first of such Defence Costs being incurred;

2.2.16.3 We will only indemnify the Insured for that part of the Insured's liability in respect of such Defence Costs incurred above the Excess regardless of whether the Excess is Defence Costs exclusive; and

2.2.16.4 if We subsequently refuses to indemnify the Claim to which the Defence Costs relate, the Insured must reimburse Us for any Defence Costs that We have paid.

The maximum aggregate amount payable under this extension is $100,000.

2.2.17 Inquiry Costs

We will indemnify the Insured for the reasonable and necessary legal costs and expenses incurred with Our prior written consent (not to be unreasonably withheld or unreasonably delayed) for representation of the Insured at any regulatory inquiry or disciplinary proceeding arising out of the conduct of the Professional Business (other than in respect of a Claim) that the Insured first became aware of and was first initiated during the Policy Period.

The maximum aggregate amount payable under this extension is $250,000.

The cover provided by this extension is not subject to Insuring Clause 2.1.

2.2.18 Legal Panel

The Insured may contact Us to access Our professional indemnity legal panel during business hours for one complimentary session up to sixty (60) minutes of verbal advice in relation to matters which are covered under this policy. In the event of a Claim arising from the matter We agree to the appointment of any of Our professional indemnity legal panel firms to act on the Insured's behalf in respect of any Claim notified to Us providing there is no existing or potential conflict of interest, in which case We will refer the Insured to another member of the panel.

The cover provided by this extension is not subject to Insuring Clause 2.1.

2.2.19 Continuous Coverage

We will indemnify the Insured for any Claim arising from any fact, matter or circumstance known to the Insured, prior to the Policy Period, and which the Insured knew, or a reasonable person in the Insured's profession or position could, in the circumstances, be expected to know, might give rise to a Claim against the Insured, PROVIDED ALWAYS THAT:

2.2.19.1 We were the professional indemnity insurer of the Insured when the Insured first became aware of such fact, matter or circumstance;

2.2.19.2 We continued without interruption to be the professional indemnity insurer of the Insured from the time mentioned in paragraph 2.2.19.1 above up until the Policy Period;

2.2.19.3 had We been notified by the Insured of such fact, matter or circumstance when the Insured first became aware of it, the Insured would have been covered under the policy in force at that time but is not now entitled to be covered by that policy because it did not notify the fact, matter or circumstance;

2.2.19.4 neither the Claim nor the fact, matter or circumstance has previously been notified to Us or to any other insurer;

2.2.19.5 there is an absence of fraudulent noncompliance with the Insured's duty of disclosure and an absence of fraudulent misrepresentation by the Insured in respect of such facts or circumstances;

2.2.19.6 We may reduce its liability to the extent of any prejudice We may suffer in connection with the Insured's failure to notify the facts or circumstances giving rise to a Claim prior to the Policy Period;

2.2.19.7 if the Insured was entitled to have given notice under any other policy of insurance

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not issued by Us and thereby have an entitlement to indemnity, in whole or in part, then this Continuous Coverage extension does not apply; and

2.2.19.8 the Indemnity Limit provided for any Claim covered by this extension is the lesser available under the terms of the policy in force at the earlier time referred to in paragraph 2.2.19.3 above, or under Section 4 of this policy. The terms of Section 2 of this policy otherwise apply.

The cover provided by this extension is not subject to Exclusion 2.4.1.2.

2.2.20 Extended Reporting Period

In the event that Section 2 of this policy is not renewed then the cover provided by Insuring Clause 2.1 shall be extended to any Claim first made against the Insured and notified to Us within the Extended Reporting Period, PROVIDED ALWAYS THAT:

2.2.20.1 cover afforded under this extension will not reinstate or increase the Indemnity Limit or extend the Policy Period; and

2.2.20.2 cover afforded under this extension will only apply to an act, error or omission committed by the Insured prior to the end of the Policy Period.

"Extended Reporting Period" means the period commencing immediately following the end of the Policy Period and finishing sixty (60) days thereafter or when the Insured first effects another insurance policy providing professional indemnity insurance (whichever is the earlier).

The cover provided by this extension does not apply if this policy is cancelled.

2.2.21 Run-Off Cover

We agree that, in the event of:

2.2.21.1 the Named Insured entity ceasing to exist or operate or is consolidated with, merged into or acquired by any other entity; or

2.2.21.2 the Named Insured going into voluntary bankruptcy, receivership, liquidation or any other form of external administration, or an Insured failing to pay debts or breaching any other obligation which could give rise to the appointment of a receiver or bankruptcy or winding-up proceedings;

coverage under Section 2 of this policy will continue until the expiry of the Policy Period or cancellation of this policy, whichever is earlier, PROVIDED ALWAYS THAT such cover will only apply in respect of Claims arising out of acts, errors or omissions occurring prior to the date on which such event detailed in clause 2.2.21.1 or 2. 2.21.2 occurred, unless agreed in writing by Us.

2.2.22 Severability

Where the Insured comprises more than one entity, any conduct on the part of an Insured whereby such Insured:

2.2.22.1 failed to comply with the duty of disclosure in terms of the Insurance Contracts Act 1984 (Cth); or

2.2.22.2 made a misrepresentation to Us before this contract of insurance was entered into;

will not prejudice the right of any other Insured to indemnity as may be provided by Section 2 of this policy, PROVIDED ALWAYS THAT:

i. such other Insured is entirely innocent of and have no prior knowledge of any such conduct. The onus of proof in this regard will be upon such other Insured;

ii. such other Insured will, as soon as is reasonably practicable upon becoming aware of any such conduct, advise Us in writing of all known facts in relation to such conduct; and

iii. enquiry has been made by each Named Insured, before the contract of insurance was entered into of each other Named Insured and persons who

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make up the Insured for the purposes of complying with the duty of disclosure under the Insurance Contracts Act 1984 (Cth).

Note: This provision does not limit the duty of disclosure owed by the entities or persons that make up the Insured.

2.2.23 Estates and Legal Representatives

In the event of the death, mental disorder and/or other incapacity or insolvency or bankruptcy of the Insured, We will indemnify the estate, heirs, legal representatives or assignees of the Insured in respect of any civil liability of the Insured to the extent that the Insured would have been covered by Insuring Clause 2.1 and Section 4 of this policy if the Insured was alive, had capacity or was not insolvent or bankrupt PROVIDED ALWAYS THAT such persons will observe and be subject to all the terms conditions and exclusions of this policy insofar as they can apply.

2.2.24 Contractors

The Named Insured is indemnified for any Claim first made against the Named Insured which the Named Insured may become legally liable to pay arising out of the conduct of any contractor engaged by the Named Insured to perform work or service for or on behalf of the Named Insured, but only to the extent that such conduct by the contractor was for or on behalf of the Named Insured in the conduct of the Professional Business.

2.3 OPTIONAL EXTENSIONS APPLICABLE TO SECTION 2

We will provide the following cover but only under Section 2 of this policy, PROVIDED ALWAYS THAT:

a. each Optional Extension will only apply where it is specifically noted in the Schedule as included;

b. the cover provided by each Optional Extension is subject to the Schedule, Insuring Clauses, Claims Conditions, General Conditions, Exclusions, Definitions and Interpretations and any other terms of the policy (unless otherwise expressly stated); and

c. the inclusion of any Optional Extension will not increase the Indemnity Limit. Where a sub-limit is stated in respect of any Automatic Extension, such sub-limit shall form part of and not be in addition to the Indemnity Limit.

2.3.1 Reinstatement of the Indemnity Limit

If the Indemnity Limit is partially reduced or exhausted by any Claim, Claims and/or Defence Costs then We will reinstate the Indemnity Limit for any subsequent Claims covered by Insuring Clause 2.1 and Defence Costs covered by Section 4 of this policy, PROVIDED ALWAYS THAT:

2.3.1.1 such reinstatement shall only apply to subsequent Claims and Defence Costs that are totally unrelated or unconnected to the Claim, Claims and/or Defence Costs that reduced or exhausted the Indemnity Limit; and

2.3.1.2 We will be liable for no more than twice the Indemnity Limit in the aggregate in respect of all Claims and Defence Costs (other than Defence Costs which are stated to be "in addition" as per Section 4 of this policy).

2.3.2 Fidelity

We will indemnify the Named Insured for loss of negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes belonging to the Named Insured or for which the Named Insured is legally liable where any such loss is sustained in consequence of any dishonest or fraudulent act or omission of any Insured person, PROVIDED ALWAYS THAT:

2.3.2.1 such loss is first discovered by the Named Insured during the Policy Period and is notified in writing to Us within twenty-eight (28) days of the date of such discovery (but never beyond the expiry of the Policy Period);

2.3.2.2 We will not indemnify the Named Insured for any loss sustained in consequence of

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any act or omission occurring after the date of discovery of, or the reasonable cause for suspicion of, dishonest or fraudulent conduct on the part of the person concerned;

2.3.2.3 We will not indemnify any person committing or condoning such dishonest, fraudulent, criminal or malicious act or omission;

2.3.2.4 the Named Insured will, at Our request and expense take all reasonable steps to obtain reimbursement from such person committing or condoning such dishonest, fraudulent, criminal or malicious act or omission;

2.3.2.5 any monies which but for such dishonest, fraudulent, criminal or malicious act or omission would be due from the Named Insured to the person committing such act, or any monies held by the Named Insured and belonging to such person, will be deducted from any amount payable under this insurance;

2.3.2.6 We will only indemnify the Named Insured for the balance of loss sustained in excess of the amounts recoverable from the person committing such dishonest, fraudulent, criminal or malicious act or omission or their estates or legal personal representatives;

2.3.2.7 one cost inclusive Excess shall apply to each and every loss incurred by the Named Insured;

2.3.2.8 nothing herein will preclude Us from exercising any right of subrogation against any person committing or condoning such dishonest, fraudulent, criminal or malicious act or omission; and

2.3.2.9 the maximum aggregate amount payable under this extension is $50,000.

The cover provided by this extension is not subject to Insuring Clause 2.1 or Section 4 of this policy or Exclusion 2.4.10.

2.3.3 Extended Continuity Cover

Where:

2.3.3.1 a Named Insured held a professional indemnity insurance policy for a period of twelve (12) months immediately preceding this Policy Period (the Preceding Policy); and

2.3.3.2 the Preceding Policy was issued by an insurance company which was fully authorised under the Insurance Act 1973;

2.3.3.3 then, for the purposes of Automatic Extension 2.2.19 “Continuous Coverage”, We will treat the Preceding Policy as if it were a policy issued by Us.

2.3.4 Multi Year Run-Off

In the event that, during the Policy Period, a Named Insured entity merges with or is taken over by another entity, or is sold or wound up, then We may, at our discretion, make available to such Named Insured entity (and any person who is or was a principal, partner, director or employee of such Named Insured prior to the effective date of such merger, takeover, sale or winding up) an extension to the Policy Period, but only in respect to Section 2 of this policy, for a period of up to an additional six (6) years PROVIDED ALWAYS THAT:

2.3.4.1 such Named Insured shall give Us written notice of such merger, takeover, sale or winding up as soon as reasonably practicable and during the Policy Period;

2.3.4.2 Our offer to extend cover may be subject to such additional terms, conditions and premium as We may reasonably impose;

2.3.4.3 such extension of the Policy Period will not take effect until Our offer is accepted by such Named Insured; and

2.3.4.4 such extension will only apply to Claims arising out of a breach of professional duty in the exercise and conduct of the Professional Business which occurred prior to the effective date of such merger, takeover, sale or winding up.

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Note: The Indemnity Limit is not increased by this extension notwithstanding the extended Policy Period.

In the event the Insured does not accept the terms offered or the amount of any additional premium, the Insured may cancel the policy in accordance with clause 9.3.

2.4 EXCLUSIONS APPLICABLE TO SECTION 2

Under Section 2 of this policy, We shall not be liable to indemnify the Insured in respect of any claim, Claim, liability, loss, cost, expense, Fine or Penalty directly or indirectly arising out of, related to, or in connection with:

2.4.1 Previously Known Claim or Circumstance

any:

2.4.1.1 Claim made upon the Insured prior to the inception of this policy;

2.4.1.2 fact, matter or circumstance known to the Insured, at any time prior to the inception of this policy, and which the Insured knew or a reasonable person in the Insured's profession could, in the circumstances, be expected to know or have known might give rise to a Claim against the Insured;

2.4.1.3 fact, matter or circumstances which were disclosed by the Insured to Us prior to the inception of this policy, whether in the proposal or otherwise; or

2.4.1.4 fact, matter or circumstance which was notified by the Insured to any prior insurer.

2.4.2 Trading Losses and Insolvency

2.4.2.1 any trading losses or trading liabilities or debts incurred by any business managed or carried on by the Insured; or

2.4.2.2 the insolvency of the Insured.

2.4.3 Liability arising out of Employment

bodily injury, mental injury (including but not limited to mental stress and mental anguish), harassment, bullying, invasion of privacy, disease or death of any employee of the Insured or damage to or destruction of any property of any employee, including loss of use, arising out of, or in the course of, their employment or any dispute in connection with employment.

2.4.4 Liability Involving Transport or Property Owned by the Insured

the ownership, possession or use by or on behalf of the Insured of any:

2.4.4.1 Aircraft, Watercraft, Hovercraft, Vehicle or any trailer; or

2.4.4.2 buildings, structures, premises or land or that part of any building leased, occupied or rented by the Insured or any property of the Insured.

2.4.5 Personal Injury and/or Property Damage unless in Breach of a Professional Duty

Personal Injury and/or Property Damage unless such Claim arises directly out of any breach of a professional duty owed by the Insured in the conduct of the Professional Business.

2.4.6 Product

any Product.

2.4.7 Pollution or Contamination

any discharge, dispersal, release or escape of Pollutants.

2.4.8 Directors' and Officers' Liability

any conduct or alleged conduct of the Insured in the capacity of a director, secretary or officer of

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a body corporate or any breach or alleged breach by the Insured of a duty owed in that capacity.

2.4.9 Trustee Liability

any services provided by the Insured in the capacity of a trustee provided always that this exclusion will not apply where the Insured acts as a stakeholder, custodian or trustee where such activities are undertaken incidentally to the provision of other professional services in the conduct of the Professional Business.

2.4.10 Fraud, Dishonest, Criminal or Intentional Loss Damage or Injury

any act, error or omission of any Insured which is dishonest, fraudulent, criminal or malicious or which is intended by that person to cause loss, damage or injury or to deprive a third party of a right to which they would otherwise be entitled (or which is done or omitted to be done with reckless disregard for the consequences) or is a wilful or reckless breach of statute, contract or duty.

2.4.11 Certain Legislation

the Competition and Consumer Act 2010 (Cth), Australian Securities and Investments Commission Act 2001 (Cth) or any State or Territory Fair Trading Act.

2.4.12 Infringement of Intellectual Property Rights

any infringement or alleged infringement of any copyright or patents or other intellectual property rights.

2.4.13 Payments or Benefits Received

any fees, charges, disbursements, expenses, costs, taxes, commissions or other payments or benefits of whatsoever kind received or retained by, or paid or payable to, the Insured in connection with the Professional Business.

2.4.14 Associated Companies

made against the Insured by any firm, company, partnership or other entity in which the Insured or any director, partner or principal of the Insured has a financial or executive interest or which has a financial or executive interest in the Insured unless solely emanating from an independent and unrelated third party.

2.4.15 Retroactive Date

the conduct of the Professional Business prior to the retroactive date (if any) specified in the Schedule.

2.4.16 Deliberate Defamation

any deliberate or intentional libel, slander or defamatory statements

To the extent that any parts of the above exclusions are found to be invalid or unenforceable, the remainder of each exclusion and all other exclusions will remain in full force and effect.

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Section 3. Public and Products Liability

THIS IS AN OCCURRENCE BASED SECTION OF THE INSURANCE POLICY

3.1 INSURING CLAUSE APPLICABLE TO SECTION 3

We will indemnify the Insured up to the Indemnity Limit in respect of all sums which they shall become legally liable to pay for Compensation arising from;

3.1.1. Personal Injury;

3.1.2. Property Damage; or

3.1.3. Advertising Injury;

first happening during the Period of Insurance, caused by or resulting out of an Occurrence within the Territorial Limits; and

i. in connection with the Insured's Business; or

ii. caused by any Product.

3.2 AUTOMATIC EXTENSIONS APPLICABLE TO SECTION 3

We will provide the following cover, PROVIDED ALWAYS THAT:

a. the cover provided by each Automatic Extension is subject to the Schedule, Insuring Clauses, Claims Conditions, General Conditions, Exclusions, Definitions and Interpretations and any other terms of the policy (unless otherwise expressly stated); and

b. the inclusion of any Automatic Extension will not increase the Indemnity Limit. Where a sub-limit is stated in respect of any Automatic Extension, such sub-limit shall form part of and not be in addition to the Indemnity Limit.

3.2.1 Cross Liabilities

If the Insured comprises more than one party, We will provide indemnity to each such Insured in the same manner and to the same extent as if a separate policy had been issued to each of them, PROVIDED ALWAYS THAT nothing in Automatic Extension shall increase the liability of Us to pay any amount exceeding the Indemnity Limit of each Section, regardless of the number of persons claiming to be indemnified.

3.2.2 Costs of Court Attendance

In the event of any of the under-mentioned persons attending court as a witness at Our request in connection with a Claim in respect of which the Insured is entitled to indemnity under Section 3 of this policy, We will reimburse the Named Insured at the following rates per day for each day on which attendance is required:

3.2.2.1 any director or partner of the Named Insured - $650.00; and

3.2.2.2 any Employee - $250.00.

3.2.3 Indemnity to Others

We will also indemnify:

3.2.3.1 any Principal of the Named Insured in respect of such Principal's vicarious liability for the acts or omissions of the Named Insured in the performance by the Named Insured of work for that Principal, but only to the extent required by the contract or agreement between the Named Insured and such Principal; and

3.2.3.2 any office bearer or member of social and sporting clubs, canteen and welfare organisations and first aid, fire and ambulance services formed with the Named Insured's consent (other than any Medical Practitioner in respect of the provision of or failure to provide any Health Care) in respect of claims arising from their duties connected with the activities of any such club, organisation or service;

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PROVIDED ALWAYS THAT

i. any parties specified above shall, as though they were the Insured, be subject to the terms conditions, exclusions and limitations of this policy insofar as they can apply; and

ii. nothing in this Automatic Extension shall increase Our liability to pay any amount exceeding the Indemnity Limit applicable to Sections 3 regardless of the number of parties claiming to be indemnified.

3.2.4 Newly Created or Acquired Subsidiaries

We will indemnify, in the same manner and to the same extent as the Named Insured, any entity or subsidiary acquired or created by the Named Insured during the Policy Period, PROVIDED ALWAYS THAT:

3.2.4.1 the Policy Period applicable to such cover will be the period commencing on the date of such acquisition or creation and expiring twenty-eight (28) days after that date or on the expiry of the Policy Period (whichever is the earlier); and

3.2.4.2 such entity or subsidiary's business is the same as or substantially similar to the Insured's Business.

Note: The Named Insured may apply to Us within twenty-eight (28) days of this extension being triggered to vary the policy to continue the cover provided by this extension until the expiry date of the Policy Period by notifying Us of the acquisition or creation of the entity or subsidiary and providing all information requested by Us. Any such variation will only be offered by Us at Our sole and absolute discretion and subject to any additional terms imposed including the charging of any additional premium which it considers appropriate having regard to the nature of the risk to be assumed by Us.

In the event the Insured does not accept the terms offered or the amount of any additional premium, the Insured may cancel the policy in accordance with clause 9.3.

3.3 EXCLUSIONS APPLICABLE TO SECTION 3

We shall not be liable to indemnify the Insured under Section 3 of this policy in respect of any claim, Claim, liability, loss, cost, expense, Fine or Penalty directly or indirectly arising out of, related to, or in connection with:

3.3.1 Advertising Injury

3.3.1.1 the failure of performance of any contract, but this exclusion does not apply to claims for unauthorised appropriation of ideas based upon breach of an implied contract;

3.3.1.2 any infringement of trade mark, service mark or trade name, but this shall not relate to titles or slogans;

3.3.1.3 any incorrect description of any good or product;

3.3.1.4 any mistake in advertised price;

3.3.1.5 any publication or utterance or testimonial used or made at the Insured's direction and with the Insured's knowledge of the inaccuracy or falsity of the publication, utterance or testimonial;

3.3.1.6 the failure of any Product or the Insured's services to conform with advertised performance, quality, fitness or durability; or

3.3.1.7 the Insured's Business if the principal business is advertising, broadcasting, publishing or telecasting.

3.3.2 Aircraft, Hovercraft or Watercraft

the ownership, maintenance, use or operation of:

3.3.2.1 any Aircraft; or

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3.3.2.2 any Watercraft whilst afloat or any Hovercraft.

PROVIDED THAT:

3.3.2.3 clause 3.3.2.1 above shall not apply with respect to inflatable balloons used for advertising purposes; and

3.3.2.4 clause 3.3.2.2 above shall not apply to:

i. Watercraft or Hovercraft not exceeding eight (8) metres in length; or

ii. Watercraft or Hovercraft operated by independent contractors.

3.3.3 Aircraft Products or Marine Products

any Products that are for:

3.3.3.1 use in or on any Aircraft or aero spatial device;

3.3.3.2 aviation or aero spatial purposes; or

3.3.3.3 use in the safety or navigation of any Watercraft or Hovercraft.

3.3.4 Airport, Aerodrome or Work on Aircraft or Spacecraft

3.3.4.1 any airport, aerodrome, Aircraft runways or any launch sites for spacecraft; or

3.3.4.2 the carrying out of any work or operation within the perimeter of any airport or aerodrome (other than in an area to which public access is permitted without a valid boarding card, or in retail or office premises), or any launch site for spacecraft or of any work or operation on or in any Aircraft or spacecraft which may affect the control, navigation or safety of such craft.

3.3.5 Construction and Manual Activities

any earthworks or construction or manual activities of any kind [including the construction, erection, demolition (whether partial or complete), alteration, addition or renovation of buildings, earthworks or structures] by or on behalf or under the direction or supervision of the Insured.

3.3.6 Cyber Liability

the alteration of, damage to, or a reduction in functionality, availability or operation of a Computer System as a result of the Insured's "e-activities.

For the purpose of this exclusion, "e-activities" shall mean any use of or Business undertaken by the Insured or by any person, persons, partnership, firm or company acting for or on behalf of the Insured in connection with electronic networks including the internet and private networks, intranets, extra-nets, electronic mail, worldwide web and similar medium

3.3.7 Defamation

the publication or utterance of defamatory or disparaging material.

3.3.8 Employer's Liability

3.3.8.1 with Personal Injury to any Employee or person arising out of and in the course of employment by the Insured where the Insured is indemnified or would be entitled to be indemnified (either in whole or in part) in accordance with insurance arranged or required to be arranged in respect of any workers' compensation law; or

3.3.8.2 caused by, arising out of or in connection with Personal Injury to any Employee for mental anguish, harassment, libel, slander, defamation, humiliation or discrimination whilst in the Insured's service or while employed by the Insured; or

3.3.8.3 imposed by the provisions of any workers' compensation law or accident compensation legislation or industrial award, agreement or determination.

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3.3.9 Faulty Workmanship

the cost of re-performing, correcting or improving any work undertaken by or on behalf of the Insured.

3.3.10 Loss of Negotiable Instruments

any loss of negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes belonging to the Insured or for which the Insured is legally liable.

3.3.11 Loss of Use

any loss of use of tangible property, which has not been physically damaged, lost or destroyed, caused by, arising out of or contributed to by:

3.3.11.1 a delay in or lack of performance by or on behalf of the Insured of any contract or agreement;

3.3.11.2 failure to supply or delay in supplying any Product or services by or on behalf of the Insured; or

3.3.11.3 the failure of any Product to perform its intended function or to meet the level of performance, quality, fitness or durability warranted, guaranteed or represented by or on behalf of the Insured.

PROVIDED THAT this clause 3.3.11.3 shall not apply to liability in respect loss of use of other tangible property arising out of the sudden and accidental physical damage to, loss or destruction of any Product or of property forming part of any work performed by or on behalf of the Insured after such Product or property have been put to use by any person or organisation other than the Insured.

3.3.12 Product Defect

any Property Damage to any Product if such damage is caused by or attributable to any defect therein or the harmful nature or unsuitability thereof.

3.3.13 Pollution

3.3.13.1 the actual, alleged or threatened discharge, dispersal, release or escape of Pollutants into or upon land, the atmosphere or any water course or body of water; or

3.3.13.2 in respect of the cost of removing, nullifying or cleaning up Pollutants.

PROVIDED THAT this exclusion shall not apply to liability in connection with any discharge, dispersal, release or escape:

3.3.13.3 occurring outside USA or Canada; and

3.3.13.4 caused by a sudden, identifiable, accidental, unintended and unexpected happening which takes place in its entirety at a specific time and place.

3.3.14 Professional Liability

the rendering of or failure to render professional advice, design, specification or service for a fee but this exclusion shall not apply to claims arising out of:

3.3.14.1 the Insured providing or failing to provide first aid on their premises; or

3.3.14.2 advice given in respect of the use or storage of Products.

3.3.15 Property Damage

caused by, arising out of or in connection with Property Damage to property:

3.3.15.1 belonging to the Insured; or

3.3.15.2 in the physical or legal care, custody or control of the Insured or any Employee of the

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Insured, other than;

i. personal effects of any visitor, director, partner or Employee of the Insured;
ii. premises (including their fixtures and fittings) leased or rented to the Insured;
iii. premises and their contents not belonging to, leased or rented to the Insured, at which the Insured is conducting work as part of their usual Business;
iv. buildings (including contents therein) which are not owned leased or rented by the Insured but are temporarily occupied by the Insured for the purpose of maintenance alteration extension installation or repair;
v. vehicles (and their contents) on the Insured's premises, but not in any car parks owned or operated by the Insured for reward; or
vi. all other property up to a limit of $250,000 in the aggregate in any one Period of Insurance.

3.3.16 Recall & Re-performing

3.3.16.1 the cost of making any refund on the price paid for any Product;

3.3.16.2 the cost of performing, re-performing, completing, correcting or improving any work undertaken by the Insured;

3.3.16.3 the loss of use of any Product or of:

i. any property of which any Product forms a part; or
ii. any property containing or incorporating any Product;

3.3.16.4 if such Product or property is withdrawn from the market or from use;

i. any loss, cost or expense incurred by the Insured in relation to any withdrawal, recall, inspection, repair, replacement, removal or disposal of any Product; or
ii. liability caused by, arising out of, contributed to by, in respect of or in connection with any withdrawal, recall, inspection, repair, replacement, removal or disposal of:

3.3.16.5 any property of which any Product forms a part; or

3.3.16.6 any property containing or incorporating any Product.

3.3.17 Vehicles

the ownership, possession, operation or use of any Vehicle:

3.3.17.1 for which compulsory insurance or security is required under any legislation governing the use of the vehicle; or

3.3.17.2 where indemnity is provided by any other insurance effected by or on behalf of the Named Insured or the Insured.

PROVIDED THAT this exclusion shall not apply to liability caused by or arising from:

i. the use of vehicles whilst being operated as a Tool of Trade at the Insured's premises or on any site at which the Insured is working; or
ii. the loading or unloading of any vehicle or the bringing to or taking away of a load from any vehicle; or
iii. damage to any building, bridge, weighbridge, road or to anything beneath caused by vibration or by the weight of any vehicle or of its load.

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Section 4. Defence Costs

We will also indemnify the Insured for Defence Costs where such costs have been incurred with Our prior written consent (such consent not to be unreasonably withheld or unreasonably delayed).

If the Schedule states that the Defence Costs are "inclusive" then Defence Costs are part of the Indemnity Limit and will not be payable in addition to the Indemnity Limit.

If the Schedule states that the Defence Costs are "in addition" then Defence Costs are payable in addition to the Indemnity Limit, PROVIDED ALWAYS THAT if the Insured's liability for any Claim is for an amount in excess of the amount of the Indemnity Limit, then Our liability for such Defence Costs will be in the same proportion as the Indemnity Limit bears to the sum required to dispose of that Claim including the claimant's legal costs and expenses.

Section 5. Indemnity Limit

The Indemnity Limit in relation to Sections 2 and 3 of this policy apply to that Section only and, for the purposes of Section 2 and liability in connection with any Products in Section 3, the Indemnity Limit is to be applied as an aggregate limit in respect of the sum total of all:

(a) Claims first made against the Insured during the Policy Period, in respect of Section 2; and

(b) Personal Injury and/or Property Damage occurring during the Policy Period caused by an Occurrence in connection with any Products, in respect of Section 3.

All Claims arising from one or the same source or originating cause shall be deemed to constitute one Claim.

Under no circumstances will any Claim give rise to indemnity under both Section 2 and Section 3.

Section 6. General Exclusions Applicable to this Policy

The following exclusions apply to both Sections 2 and 3 of this policy.

We shall not be liable to indemnify the Insured in respect of any claim, Claim, liability, loss, cost, expense, Fine or Penalty directly or indirectly arising out of, related to, or in connection with:

6.1 Fines, Penalties, Punitive, Multiple or Exemplary Damages

any fines, penalties, punitive, liquidated exemplary or aggravated damages or any additional damages resulting from the multiplication of compensatory damages.

6.2 Nuclear Risks

6.2.1. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or

6.2.2. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

6.3 War and Terrorism

any of the following regardless of any other cause or event contributing concurrently or in any other sequence any of the following:

6.3.1. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, mutiny, revolution, rebellion, insurrection, uprising, military or usurped power, confiscation by order of any public authority or government de jure or de facto, martial law;

6.3.2. riots, strikes or civil commotion;

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6.3.3. any Act of Terrorism; or.

6.3.4. any action taken in controlling, preventing, suppressing, retaliating against or responding to or in any way relating to those things in 6.3.1 to 6.3.3 above.

6.4 Asbestos or Toxic Mould

asbestos or toxic mould.

6.5 USA/Canada

6.5.1. any action brought in any court of the United States of America, Canada or their dominions or protectorates or any judgement registered or lodged in any jurisdiction in connection with such an action; or

6.5.2. any work or activities undertaken by the Insured in the United States of America, Canada or their dominions or protectorates.

This exclusion shall not apply to Section 3 of this policy in respect of liability arising out of the temporary presence in the United States of America or Canada of any employee, director or partner of the Named Insured who is normally resident in Australia and who is not performing any manual or supervisory work whatsoever whilst in the United States of America or Canada.

6.6 Loss of Documents - Magnetic or Electrical Media

Property Damage to Documents which are stored on magnetic or electrical media unless such Documents have been duplicated on magnetic or electrical media with the intention that in the event of loss or damage the duplicate can be used as the basis for restoring the Documents to their original status.

6.7 Contractual Liability

any liability assumed by the Insured under any contract or agreement where such liability would not have existed in the absence of such a contract or agreement including, without limitation, any contractual term or agreement:

6.7.1. to pay liquidated damages or any penalty; or

6.7.2. in the nature of an indemnity, release, hold harmless, warranty or guarantee. PROVIDED THAT this clause 6.7.2 shall not apply to Section 3 of this policy but only in respect of:

liability under any warranty of goods implied by law or liability assumed by the Insured under a warranty of fitness or quality as regards any Product; or

liability assumed under any:

i. any written agreement for the lease of real property which does not impose upon the Insured any obligation to insure such property or any liability regardless of fault; or

ii. any written contract with any public supplier for the supply of water, gas or electricity, sewerage or waste removal services, telephone, telex or other communications services, except contracts with such suppliers for the performance of work by the Insured.

6.8 Molestation

with the molestation of or interfering with any person.

6.9 Listed Human Disease

a Listed Human Disease or any directly or indirectly related condition or threat or fear thereof (whether actual or perceived.

6.10 Cyber Liability & Social Engineering

6.10.1. the unauthorised access to or use of any Computer System owned, operated by or licensed to the Insured; or

6.10.2. Social Engineering Fraud.

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6.11 PFAS

6.11.1. the actual, alleged, threatened or suspected inhalation, ingestion, discharge, dispersal, handling, manufacture, distribution, transport, replacement, migration, seepage, sale, release or escape of, contact with, exposure to, existence of, or presence of, any "PFAS";

6.11.2. any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, study, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, any "PFAS"; or

6.11.3. any claim or "suit" by or on behalf of a governmental authority or any other person or organisation because of abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralising, remediating, disposing of, or in any way responding to, or assessing the effects of, any "PFAS".

6.12 Silica

any actual, alleged, or threatened exposure to or ingestion, inhalation, absorption or presence of silica or silica dust in any form.

To the extent that any parts of any of the above exclusions are found to be invalid or unenforceable, the remainder of each exclusion and all other exclusions shall remain in full force and effect. Except where stated to the contrary, the exclusions apply to all sections of cover, including any extensions to cover.

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Section 7. Definitions and Interpretations

The following definitions of each word, words or phrase appearing in the title are applicable to all Policy sections. All words appearing in the title also include the plural or singular of those words.

7.1 Act of Terrorism

Means an activity that:

7.1.1. involves a violent act or the unlawful use of force or an unlawful act dangerous to human life, tangible or intangible property or infrastructure, or a threat thereof; and

7.1.2. appears to be intended to:

7.1.3. intimidate or coerce a civilian population;

7.1.4. disrupt any segment of the economy of a government de jure or de facto, state or country;

7.1.5. overthrow, influence, or affect the conduct or policy of any government de jure or de facto by intimidation or coercion; or

7.1.6. affect the conduct of a government de jure or de facto by mass destruction, assassination, kidnapping or hostage taking.

7.2 Advertising Injury

shall mean any unintentional;

7.2.1. defamation;

7.2.2. breaches of the misleading and deceptive conduct provisions of the Competition and Consumer Act 2010 (Cth) or any State or Territory Fair Trading Act or similar legislation of any country, state or territory;

7.2.3. infringement of copyright or passing off of title or slogan;

7.2.4. unfair competition, piracy or idea misappropriation; or

7.2.5. invasion of a right to privacy;

committed or alleged to have been committed during the Period of Insurance in any advertisement, publicity article, broadcast, telecast or via an internet website, and caused by or arising out of the Insured's advertising activities in connection with the Business or Products.

7.3 Aircraft

Means any craft or object designed to transport persons or property through air or space.

7.4 Claim

Means:

7.4.1. any writ, application, summons or other originating legal process, cross claim or counter claim issued against or served on the Insured claiming damages or other compensatory relief;

7.4.2. the positive assertion in writing of a legal entitlement to damages or other compensatory relief in connection with an alleged civil liability on the part of the Insured, in terms evincing an intention to pursue such legal entitlement; or

7.4.3. for the purpose of Automatic Extension 2.2.7 applicable to Section 2 of this policy, any enforcement action or proceeding served on the Insured seeking to impose any Fine or Penalty; and

7.4.4. for the purpose of Sections 3 and 4 shall mean a claim by the Insured under this Policy.

7.5 Compensation

Means all sums which the Insured shall be legally liable to pay as compensation other than fines or penalties, punitive, exemplary or aggravated damages, or any additional damages resulting from the multiplication of compensatory damages. Compensation shall include claimants' costs and expenses.

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7.6 Computer System

Means an information technology system made up of one or more items of computer hardware, software or programmes and the electronic data stored thereupon that share a central storage system, and any other peripheral devices. Computer System shall also include any electronic devices and/or electrical equipment.

7.7 Contractual Liability

Means liability which attaches by virtue of a contract or agreement but only to the extent to which it would have attached in the absence of such contract or agreement.

7.8 Cooperate

Means that the Insured:

7.8.1. assists Us and Our duly appointed representatives to put forward the best possible defence of a Claim within the time constraints available;

7.8.2. will have adequate internal systems in place, which will allow ready access to material information; and

7.8.3. will at all times and at its own cost give to Us or Our duly appointed representatives all such information, assistance, signed statements or depositions as may properly be required to facilitate compliance with all applicable Court Rules and Practice Directions, recoveries and subrogation claims.

7.9 Defence Costs

Means all reasonable and necessary costs and expenses incurred in the investigation, reporting on, defence or settlement of any Claim in respect of which We are liable to indemnify the Insured under this policy. This also includes reporting in writing to Us on the investigation, defence or settlement of any Claim.

7.10 Documents

Means project models or displays, deeds, wills, agreements, maps, plans, records, photographs or negatives, written or printed books, letters, certificates or written or printed documents of any nature whatsoever and will include computer software and systems records (electronic data will be deemed to be physical property for the purposes of this insurance). This definition excludes bearer bonds, coupons, stamps, coins, bank or currency notes and other negotiable instruments.

7.11 Excess

Means that:

7.11.1. If the Schedule states that the Excess is Defence Costs “inclusive” then Excess means the sum shown in the Schedule unless otherwise stated in this insurance and will be the first amount payable of each Claim made against the Insured.

7.11.2. If the Schedule states that the Excess is Defence Costs “exclusive” then Excess means the sum shown in the Schedule unless otherwise stated in this insurance and will be the first amount payable of each Claim made against the Insured excluding Defence Costs.

The Excess shall be net of any input tax credit the Insured may be entitled to claim in relation to GST.

7.12 Fine or Penalty

Means:

7.12.1. a penalty imposed upon the Insured by any regulatory authority arising from any actual or alleged breach of any occupational health and safety or environmental legislation; or

7.12.2. any compensatory civil penalty.

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7.13 Health Care

Means any care, treatment, service or goods provided in respect of the physical or mental health of a person.

7.14 Hovercraft

Means any vessel, craft or thing designed to transport persons or property over land or water supported on a cushion of air.

7.15 Indemnity Limit

Means the sum shown in the Schedule which is available to indemnify the Insured in respect of:

7.15.1. all Claims first made against the Insured during the Policy Period, in respect of Section 2 of this policy, subject to Optional Extension 2.3.1;

7.15.2. all Personal Injury and/or Property Damage occurring during the Policy Period caused by an Occurrence in connection with any Products, in respect of Section 3 of this policy; or

7.15.3. any one Occurrence, except Occurrences referred to in clause 7.14.2 above, in respect of Section 3 of this policy.

7.16 Insured

Means:

7.16.1. the Named Insured;

7.16.2. any person who is, during the Policy Period, a principal, partner or director of the Named Insured but only in respect of work on behalf of the Named Insured;

7.16.3. any person who is, during the Policy Period, an employee of the Named Insured but only in respect of work performed while an employee of the Named Insured and on behalf of the Named Insured; and/or

7.16.4. any former principal, partner, director or employee of the Named Insured but only in respect of work performed while a principal, partner, director or employee of the Named Insured and on behalf of the Named Insured.

7.17 Insured's Business

Means the Professional Business as described in the Schedule and shall include:

7.17.1. the provision and management of catering, social, sports, educational, medical, dental and welfare services for the benefit of the Named Insured's employees; and

7.17.2. fire, security, first aid and ambulance services provided by the Insured for the benefit of the Insured's employees; and

7.17.3. the ownership, repair, maintenance and decoration of the Named Insured's premises; and

7.17.4. private work carried out by any employee of the Named Insured (with the consent of the Named Insured) for any director, partner or senior official of the Named Insured.

7.18 Listed Human Disease

Means:

7.18.1. any disease identified or listed at any time as a human disease under the Biosecurity Act 2015 (Cth) or its current equivalent, as amended or replaced from time to time, or

7.18.2. any disease identified or listed in a state of emergency, public health emergency or pandemic declared by any governmental authority or identified by the World Health Organisation or its current equivalent as amended or replaced;

regardless of when the disease is so listed or identified.

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7.19 Medical Practitioner

Means an individual registered or licensed as a medical practitioner under a State or Territory law that provides for the registration or licensing of medical practitioners.

7.20 Named Insured

Means the person(s), partnership, company, corporation or other entity named as the Named Insured in the Schedule.

7.21 Occurrence

7.21.1. means an event, including continuous or repeated exposure to substantially the same general conditions, which result in Personal Injury or Property Damage that is neither expected nor intended from the Insured's standpoint.

7.21.2. All events of a series consequent on or attributable to one source or original cause are deemed to be one Occurrence.

7.21.3. All Advertising Injury consequent on or attributable to one source or original cause is deemed to be one Occurrence.

7.22 Personal Injury

Means:

7.22.1. bodily injury, death illness, disease, or disability;

7.22.2. mental injury mental anguish or shock;

7.22.3. false arrest, false imprisonment, wrongful detention, malicious prosecution, or humiliation;

7.22.4. assault and battery not committed by or at the direction of the Insured, unless committed for the purpose of preventing or eliminating danger to persons or property;

7.22.5. wrongful eviction, entry or other invasion of privacy;

7.22.6. unintentional libel or slander;

7.22.7. racial, religious, sexual or age discrimination not committed by or at the direction of the Insured; or

7.22.8. loss of consortium resulting from any of the circumstances described in clauses (7.22.1) to (7.22.4) above.

7.23 PFAS

Means:

7.23.1. any perfluoroalkyl acids, perfluorooctanoic acid and its salts, perfluorooctane sulfonic acid, perfluoroalkane and its salts, perfluorononanoic acid, hexafluoropropylene oxide dimer acid and its ammonium salt, perfluorobutanesulfonic acid, perfluorohexane sulfonic acid, sulfonamides, perfluoroalkyl ether carboxylic acids, fluorotelomer substances, and perfluoroalkane sulfonamide substances; or

7.23.2. any polymers, oligomer, monomer, nonpolymer chemicals, fluorinated polymers, side-chain fluorinated polymers, fluoropolymers, perfluoropolyethers and side-chainfluorinated polymers;

including associated homologues, isomers, telomers, salts, esters, alcohols, acids, precursor chemicals and derivatives, and related degradation or by-products of any such constituent; or

7.23.3. any good or product, including containers, materials, parts or equipment furnished in connection with such goods or products, that consists of or contains any chemical or substance described in paragraphs 7.23.1. and 7.23.2. above.

7.24 Policy Period

Means the period shown in the Schedule.

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7.25 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.

7.26 Preceding Policy

Means an insurance policy providing professional indemnity insurance for a period of twelve (12) months immediately preceding, without interruption, the Policy Period.

7.27 Principal

Means any entity for which the Named Insured is carrying out a contract or agreement for the performance of work.

7.28 Product

Means any product or item (after it has ceased to be in the possession of the Insured) sold, supplied, erected, repaired, altered, treated, installed, processed, manufactured, tested, serviced, hired out, stored, transported or delivered by or through the Insured (including containers packaging or labelling thereof) in the course of the Business in or from the Territorial Limits and also includes:

7.28.1. any design, formula or specification of such Product; and

7.28.2. anything in respect of which the Insured is deemed to be the manufacturer by operation of a law of the Commonwealth of Australia or its external territories.

7.29 Professional Business

Means the professional services provided by or on behalf of the Insured as described in the Schedule.

7.30 Property Damages

Means:

7.30.1. physical damage to, physical loss of or physical destruction of tangible property including any loss of use arising therefrom; or

7.30.2. loss of use of tangible property which has not been physically damaged, physically lost or physically destroyed as long as such loss of use is caused by physical damage to, physical loss or physical destruction of some other tangible property. Such loss of use shall be deemed to have occurred at the point in time the physical damage to, physical loss or physical destruction of the other tangible property, which caused the loss of use, first occurred.

7.31 Schedule

Means the document entitled 'Schedule' that relates to this insurance.

7.32 Social Engineering Fraud

Means any fraudulent or dishonest instruction to the Insured or its agents which purports to be from a legitimate or trusted source authorised to make such instruction and which results in the Insured:

7.32.1. transferring, paying or delivering any money or securities from an account maintained by the Insured to another person or entity;

7.32.2. transferring or delivering any property to another person or entity;

7.32.3. revealing confidential information; or

7.32.4. changing or altering bank account or payment details of any person or entity.

7.33 Territorial Limits

Means anywhere in the world excluding the United States of America and Canada and their dominions or protectorates (with the exception of the temporary presence in the United States of America or Canada of

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any employee, director or partner of the Named Insured who is normally resident in Australia and who is not performing any manual or supervisory work whatsoever whilst in the United States of America or Canada).

7.34 Vehicle

Means any type of machine on wheels, skis or on self-laid tracks made or intended to be propelled other than by manual or animal power.

7.35 Watercraft

Means any vessel or craft or thing designed to float on or in or travel through water for the purpose of carrying persons or property.

7.36 We, Us, Our

Means Berkley Insurance Company (limited company incorporated in Delaware, USA) ABN 53 126 559 706 | AFSL 463129 t/as Berkley Insurance Australia.

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Section 8. Claims Conditions Applicable to this Policy

The following conditions apply to this insurance:

8.1 Discovery and Notice of a Claim

If during the Policy Period the Insured receives notice of any Claim that may be covered under this insurance the Insured will give notice to Us as soon as practicable and before the expiry of the Policy Period.

Notice of any Claim will be provided in writing to:

National Head of Claims

australiaclaims@berkleyinaus.com.au

Berkley Insurance Australia

PO Box Q296

QVB NSW 1230.

8.2 Admission of Liability

In the event of any Claim, the Insured will not admit liability and no admission, offer, settlement, promise or payment will be made by the Insured without Our prior written consent.

8.3 Conduct of Claims

Following notification of any Claim under this policy, We will be entitled to take over and conduct in the name of the Insured the investigation, defence or settlement of any such matter. The Insured will Cooperate with and give all such assistance as We may reasonably require.

8.4 Claim Settlements

We may at any time pay (or agree to pay) to the Insured in connection with any Claim or Claims the Indemnity Limit (less the Excess, any sums already paid and unpaid Defence Costs incurred with Our prior written consent) and upon such payment (or agreement to pay) We will not be under any further liability in respect of such Claim or Defence Costs except for Defence Costs incurred prior to such payment (or agreement to pay) with Our prior written consent.

In no circumstances will We be liable in respect of such Claim or Claims for an amount greater than otherwise provided for in this policy. In the event that:

8.4.1. We have made a payment in excess of the amount for which We would otherwise have been liable in accordance with the policy in respect of such Claim or Defence Costs, the Insured will refund to Us that proportion of the payment which exceeds the amount which We would otherwise have been liable for in accordance with the policy; and

8.4.2. We have agreed to pay an amount in excess of the amount which We would otherwise have been liable for in accordance with the policy in respect of such Claim or Defence Costs, Our liability in respect of such agreement will be limited to the amount which We would otherwise have been liable for in accordance with the policy.

8.5 Our and the Insured's Right to Defend

The Insured will not be required to contest any legal proceedings unless a Senior Counsel (to be mutually agreed upon by the Insured and Us or failing agreement to be appointed by the President of the Bar Association of the State or Territory of Australia where this policy is issued) advises that, taking due account of the interests of both Us and the Insured, the defence of such proceedings has reasonable prospects of being successful and should be contested having regard to the alternative to contesting the proceedings.

If the Insured wishes to continue to contest any Claim which We wish to settle, the Insured may do so. However, Our maximum liability in respect of that Claim will thereafter be limited to the amount for which

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the Claim could have been settled plus Defence Costs incurred with Our prior written consent up to the date upon which it would have reasonably settled the Claim, less any unpaid Excess or the final amount of the Claim including Defence Costs.

8.6 Excess

In respect of each Claim or loss covered by this policy the Insured is liable for the amount of any Excess stated in the Schedule and We will have no liability for the amount of any Excess.

8.7 Allocation

Where the Insured is entitled to indemnity pursuant to Section 4 Defence Costs in circumstances where a Claim for Compensation is made and part of that Claim arises out of, is in connection with or is related to facts or matters that are not covered by this policy then, Our liability under this policy is limited to that proportion of the Defence Costs which represents a fair and equitable allocation between the Insured and the Insurer, taking into account the relative legal and financial exposures attributable to covered allegations and allegations that are not covered under this policy

In circumstances where We and the Insured cannot agree on an allocation between covered allegations and allegations that are not covered, the dispute shall be submitted to binding opinion from a Senior Counsel agreed between the parties or, failing agreement, appointed by the President of the Bar Association of the State or Territory of Australia where this policy is issued. General Conditions Applicable to this Policy

Section 9. General Terms and Conditions

The following conditions apply to this insurance (for the purposes of these conditions any reference to Claim also includes reference to legal costs and expenses and a Fine or Penalty):

9.1 Jurisdiction and Service

In the event of a dispute arising under or in connection with this policy, We at the request of the Insured will submit to the jurisdiction of competent courts in the Commonwealth of Australia. The dispute shall be determined in accordance with the law and practice of that jurisdiction, as applied in those courts.

9.2 Terms of Payment

All premiums due to Us under this policy will be paid within thirty (30) days from the policy's inception.

9.3 Cancellation

The circumstances and manner in which We may cancel this insurance is governed by the Insurance Contracts Act 1984 (Cth).

The Insured may cancel this insurance at any time by giving fourteen (14) days' notice and provided there have been no notifications made by the Insured under this policy the Insured will be entitled to a pro rata refund. If the Insured has made a notification under the policy then the Insured is not entitled to any refund.

9.4 Subrogation

If any payment is made by Us, the Insured grants to Us all rights of recovery against any parties from whom a recovery may be made and the Insured will take all reasonable steps to preserve such rights

9.5 Alteration to Risk

The Insured will provide Us with written notice as soon as reasonably practicable of any material alteration to the risk during the Policy Period including but not limited to:

9.5.1. any material change in the nature of the advice or professional services offered by an Insured;

9.5.2. any cancellation or suspension, or loss of or condition imposed, upon any licence, registration or other authority required by the Insured to conduct the Professional Business; and/or

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9.5.3. an Insured going into bankruptcy, receivership, liquidation or any other form of external administration (whether or not it is voluntary), or an Insured failing to pay debts or breaching any other obligation which could give rise to the appointment of a receiver or bankruptcy or winding-up proceedings.

Where the Insured fails to notify Us as required under this clause or there is any material alteration to the risk during the Policy Period, We may be entitled to cancel this policy in accordance with the Insurance Contracts Act 1984 (Cth).

Where such notice is not provided by the Insured before the happening of a Claim or a notification giving rise to a Claim under this Policy, We may refuse to pay a Claim either in whole or in part or We may reduce our liability to pay a Claim in accordance with the Insurance Contracts Act 1984 (Cth).

9.6 GST

Where We are required to indemnify the Insured and the Insured is entitled to claim an input tax credit in relation to GST the amount of such input tax credit will be deducted from any amount payable by Us.

Where the Insured is entitled to claim an input tax credit in relation to GST for a payment required to be made by the Insured as an Excess, then the monetary limit of the Excess shall be deemed to be net of the Insured's entitlement to the Input tax credit.

9.7 Sanctions Limitation

We are not liable to make any payment under this Policy where such payment would be in violation of any sanction, prohibition or restriction in which We are required to comply, including but not limited to United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, Australia, United Kingdom or the United States of America.

9.8 Headings and Notes

Headings and notes are for information purposes only and are not to be construed as part of this insurance.