



SureDirection Management Liability Policy Wording



360 Commercial Limited **NZBN** 9429032530889
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Important Information

About the Policy

This policy is a legal contract between the **insured** and the **Insurer**. This policy is made up of this policy wording, the **schedule**, any endorsements and any application/proposal **you** complete; they should all be read together.

Please read this policy wording together with any endorsements and the **schedule** very carefully. **Your schedule** will show what optional insuring sections **you** have purchased and the limits of indemnity as well as any special limits of indemnity. If anything is not correct or **you** need to change anything, **you** should ask **your** insurance intermediary to tell the **Insurer**. If a prospective **insured** does not understand any part of this notice, it should obtain independent advice.

In this Section: About the Policy, “**we**”, “**our**” and “**us**” means the **Insurer** (and 360 Commercial Limited on their behalf to administer this insurance). “**You**” and “**your**” means the person(s) or **entity** named in the **schedule** as ‘**Insured**’. **We** may also use the word ‘**Insured**’ to describe **you**.

There are specific conditions, specific exclusions and specific definitions that only apply to a specific insuring section. In addition, there are general conditions, general exclusions, general claims conditions and general definitions that are part of this policy and apply to each policy section. Words shown in **bold** are defined terms.

Claims Made and Notified Coverage

Section B of this policy contains coverage on a claims-made and notified basis.

This means that this section of the policy only covers **claims** first made during the **policy period** and notified to the **Insurer** in writing during the **policy period**.

This policy does not provide cover for any **claims** made against **you** during the **policy period** if at any time prior to the commencement of the **policy period** **you** became aware of facts which might give rise to those **claims** being made against **you**.

Duty of Disclosure

The insureds duty of disclosure

Before entering into a contract of insurance with the **Insurer**, each prospective **insured** has a duty to disclose to the **Insurer** information that is material to the **Insurer’s** decision whether to accept the insurance and, if so, on what terms. This includes material information about the **insured**, any other people and all property and risks **insured** under the policy. Information may be material whether or not a specific question is asked.

There is the same duty to disclose material information to the **Insurer** before renewal, extension, variation or reinstatement of a contract of insurance with the **Insurer**. The **insured** should also provide all material information when they make a claim or if circumstances change during the term of the contract of insurance.

It is important that each prospective **insured** understands all information provided in support of the application for insurance and that it is correct, as each prospective **insured** will be bound by the answers and by the information it has provided.

The duty of disclosure continues after the application for insurance has been completed up until the time the contract of insurance is entered into.

Consequences of non-disclosure

If an **insured** fails to comply with its duty of disclosure, the **Insurer** may be entitled, without prejudice to its other rights, to reduce its liability under the contract in respect of a claim or refuse to pay the entire claim. The **Insurer** may also have the right to avoid the contract from its beginning. This means the contract will be treated as if it never existed and no claims will be payable.

Fair Insurance Code

The **Insurer** is a member of the Insurance Council of New Zealand (ICNZ) and a signatory to ICNZ’s Fair Insurance Code (**the Code**). The Code and information about the Code is available at www.icnz.org.nz and on request.



Financial Strength Rating

At the time of print, the **Insurer** has an A (Strong) **Insurer** financial strength rating given by Standard & Poor’s (Australia) Pty Ltd.

The rating scale is:

AAA Extremely Strong	AA Very Strong	A Strong
BBB Good	BB Marginal	B Weak
CCC Very Weak	CC Extremely Weak	
SD or D Selective Default or Default	R Regulatory Action	NR Not Rated

The rating from ‘AAA’ to ‘CC’ may be modified by the addition of a plus (+) or minus (-) sign to show relative standings within the major rating categories. A full description of the rating scale is available on the S & P Global Ratings www.spglobal.com.

The **Insurer’s** rating is reviewed annually and may change from time to time, so please refer to the **Insurer’s** website for the latest financial strength rating.

Privacy Statement

This statement is a summary of **our** privacy policy and provides an overview of how **we** collect, disclose and handle **your** personal information.

We are committed to protecting **your** privacy. **We** collect, use and retain **your** personal information in accordance with the requirements of *New Zealand's Privacy Act*, as amended or replaced from time to time.

Personal information handling practices

When does the Insurer collect the insured's personal information?

The **Insurer** (and 360 Commercial Limited on the **Insurer's** behalf) collects **your** personal information (which may include health information) from **you** when **you** interact with the **Insurer**, including when **you** are applying for, changing or renewing an insurance policy with the **Insurer** or when the **Insurer** is processing a claim, complaint or dispute. The **Insurer** may also (and **you** authorises the **Insurer** to) collect **your** personal information from other parties such as brokers or service providers, as detailed in the **Insurer's** privacy policy.

Purpose of Collection

The **Insurer** will collect and hold the information to offer products and services to **you**, including to assess applications for insurance, to provide and administer insurance products and services, and to handle any claim, complaint or dispute that may be made under a policy.

If **you** do not provide the **Insurer** with this information, the **Insurer** may not be able to provide **you** or **your** organisation with insurance or to respond to any claim, complaint or dispute, or offer any other products and services to **you** or **your** organisation.

Sometimes, the **Insurer** may also use **your** personal information for the **Insurer's** marketing campaigns and research, to improve **our** services or in relation to new products, services or information that may be of interest to **you**.

Recipients of the Information and Disclosure

The **Insurer** may disclose the information collected to third parties, including:

- + contractors and contracted service providers engaged by **us** to deliver **our** services or carry out certain business activities on **our** behalf (such as actuaries, loss adjusters, claims investigators, claims handlers, professional advisers including lawyers, doctors and other medical service providers, credit reference bureaus and call centres);
- + intermediaries and service providers engaged by **you** (such as current or previous brokers, travel agencies

- and airlines);
- + the policy holder (where **you** are not the policy holder);
- + insurance and reinsurance intermediaries, other **Insurers**, the **Insurer's** reinsurers, marketing agencies; and
- + government agencies or organisations (where the **Insurer** is required to by law).

These third parties may be located outside New Zealand. In such circumstances the **Insurer** also takes steps to ensure **your** personal information remains adequately protected.

From time to time, the **Insurer** may use **your** personal information to send **you** offers or information regarding the **Insurers** products that may be of interest to **you**. If **you** does not wish to receive such information, please contact **our** Privacy Officer using the contact details provided below.

Rights of Access to, and Correction of Information

If **you** would like to access a copy of **your** personal information, or to correct or update **your** personal information, want to withdraw **your** consent to receiving offers of products or services from **us** or persons **we** have an association with, please contact the Privacy Officer by posting correspondence to:

Email. admin@360commercial.co.nz
Telephone. 0800 867 677
Post: 360 Commercial Limited
PO Box 9521, Waikato Mail Centre, Hamilton 3240

How to Make a Complaint

If **you** have a complaint or would like more information about how **we** manage **your** Personal Information, please review **our** Privacy Policy for more details, or contact **our** Privacy Officer at the details above.

You also have a right to address **your** complaint directly to the Privacy Commissioner by telephoning 0800 803 909, emailing enquiries@privacy.org.nz or using the online form available on the Privacy Commissioner's website at www.privacy.org.nz.

Complaints and Dispute Resolution

Complaint handling arrangements

We take the concerns of our customers very seriously and we have detailed complaint handling and dispute resolution procedures that you may access, at no cost to you. To assist us with your enquiries, please provide us with your claim or policy number (if applicable) and as much information as you can about the reason for your complaint or dispute.

The complaints and dispute procedures are as follows:

Stage 1 – Complaint handling procedure

If you have a complaint in respect of this Policy, including any claim made on this Policy, the complaint may be addressed to:

Email. admin@360commercial.co.nz
Telephone. 0800 867 677
Post: 360 Commercial Limited
PO Box 9521, Waikato Mail Centre, Hamilton 3240

We will acknowledge your complaint within five business days, provide you with the name and contact details of the person handling the complaint, have the matter fully investigated by a suitably experienced person not previously involved in the case, and inform you of the progress or outcome of the matter within 10 business days.

Where further information, assessment or investigation is required we will agree reasonable time frames with you for its completion.

We will update you at least once every 20 business days, or at another interval agreed with you, until the complaint is resolved.

Stage 2 – Dispute resolution procedure

If you are dissatisfied with the Insurer's response to your complaint, you can advise that you wish to take your complaint to Stage 2 and refer to the Insurer's dispute resolution committee. The Insurer's internal dispute resolution committee can be contacted via:

Email. customerfeedbacknz@aig.com
Post. AIG Internal Dispute Resolution Committee
The Chairperson IDRC
AIG Insurance New Zealand Limited
The AIG Building
PO Box 1745
Auckland 1140

Stage 3 – External dispute resolution

If the Insurer cannot resolve your complaint to your satisfaction through the internal dispute resolution process within 2 months of when you first lodged it with the Insurer, they will explain their reasons to you in writing and provide you with a 'deadlock' letter so that you can take your complaint to Financial Services Complaints Limited (FSCL), their independent external disputes resolution scheme.

FSCL is a free and independent body approved by the Ministry of Consumer Affairs. The Insurer will comply with any decision made by FSCL.

Contact details for FSCL are:

Email. info@fsc.org.nz
Telephone. 0800 347 257
Post. Financial Services Complaints Limited (FSCL)
PO Box 5967, Wellington, 6101
Web. www.fsc.org.nz

Use of the FSCL scheme does not preclude you from subsequently exercising any legal rights which you may have and if you are still unhappy with the outcome, we strongly recommend that you obtain independent legal advice.

If your complaint does not fall within the Terms of Reference of FSCL, we recommend you to seek independent legal advice about options that may be available to you.

If you feel your human rights have been breached you can contact the Human Rights Commission on 0800 496 877 or through its website: www.hrc.co.nz.

The complaints handling arrangements above are without prejudice to your rights in law.

Definitions

In this policy the following words in **bold** shall have the definitions that follow under all policy sections unless stated otherwise:

Accidental Death means:

Death resulting from an accident caused by sudden, violent, external and visible means and occurring solely and directly and independently of any other cause including any pre-existing physical or congenital condition; or exposure to the elements. **Accidental death** does not include death as a result of a sickness or disease.

Advisory panel means:

The solicitors appointed from time to time by the **Insurer** or **360 Commercial Limited** as currently listed in Appendix 1.

Aircraft means:

A **vehicle** designed to be used primarily in the air and to be supported by the dynamic reaction of the air upon the **vehicle's** wings or rotor-blades, and/or by the **vehicle's** buoyancy in the air, but excludes missiles, spacecraft and the ground support or **control** equipment used therewith.

Aircraft Products means:

1. **aircraft** and any ground support or **control** equipment used therewith;
2. any **entity's product** installed in **aircraft** or used in connection with **aircraft**;
3. any tooling used for the manufacture of 1. or 2. above;
4. any ground handling tools and equipment used in connection with 1. or 2. above including training aids, navigational aids, instruction or manuals;
5. blueprints, engineering or other **data** furnished by the **insured** in connection with the above; and
6. any advice, service and/or labour furnished by the **insured** in connection with the above.

Applicable Courts means:

The courts of competent jurisdiction in those countries stated as the **applicable courts** in the **schedule**.

Asset and Liberty Proceeding means:

Any proceeding brought against any **insured person** by any **official body** seeking:

1. confiscation, assumption of ownership or **control**, suspension or freezing of rights of ownership of real **property** or personal assets of an **insured person**;
2. a **charge** over real **property** or personal assets of such **insured person**;
3. a temporary or permanent prohibition on such **insured person** from holding the office of or performing the function of a **governor**;
4. a restriction of such **insured person's** liberty to a specified domestic residence or an official detention; or
5. deportation of an **insured person** following revocation

of otherwise proper, current and valid immigration status for any reason other than such **insured person's** conviction of a crime.

Bail Bond and Civil Bond Premium means:

The reasonable premium (but not collateral) for any bond or other financial instrument to guarantee an **insured person's** contingent obligation for a specified amount required by a court hearing a **claim**.

Bodily Injury and/or Property Damage means:

Bodily injury, sickness, disease, death or emotional distress of any natural person; or damage to, destruction, impairment or **loss** of use of any **property**.

This definition does not apply to sections Policy A – General Liability, and B – Employers Liability.

Breach of Duty means:

Any actual or alleged **breach of duty**, negligent act, error, misstatement, breach of confidentiality or omission in the performance or failure to perform **professional services**.

Business means:

All of the usual activities and operations of the **entity** as stated in the **schedule** and:

1. the ownership, tenancy or occupation of **premises** of the **entity**;
2. private work carried out with the consent of the **entity** for any **governor** of the **entity** by an **employee**;
3. the provision or management by or on behalf of the **entity** of canteen, social or sports organisations for the **employees**; and
4. the provision of the **entity's** own internal fire, first aid, medical, security and ambulance services.

Charge means:

A **charge** arising under section 9 of the *Law Reform Act 1936 (New Zealand)*, section 6 of the *Law Reform (Miscellaneous Provisions) Act 1946 (New South Wales)*, section 206 of the *Civil Wrongs Act 2002 (ACT)*, sections 26 to 29 of the *Law Reform (Miscellaneous Provisions) Act 1956 (Northern Territory)* and/or any other legislative provision of similar effect.

Cheque Forgery means:

The **forgery** or **fraudulent alteration** of any cheque or similar written promise by the **entity** to pay a sum representing **money** drawn upon the **entity's** account at any bank at which the **entity** maintains a current or savings account;

1. the **fraudulent alteration** of, on or in any cheque or draft:
 - a. drawn upon by any bank; or
 - b. drawn upon by any corporation upon itself;

2. the **fraudulent alteration** of, on or in any cheque or written order or direction to pay a sum representing **money** drawn by any public body upon itself, or any warrant drawn by any public body which the **entity** shall receive at any of its **premises** in payment or purported payment for:

- a. tangible **property** sold and delivered; or
- b. services rendered.

Claim means:

1. a. a written demand;
 - b. a civil, regulatory, mediation, administrative or arbitration proceeding, including a counter-**claim**, seeking compensation or other legal remedy; or
 - c. a criminal proceeding;
- for a specified act, error or omission;
2. an **investigation** or **critical regulatory event**;
 3. an extradition proceeding; or
 4. an **asset and liberty proceeding**.

Cloud Provider means:

Any **entity** providing hardware or software services to the **entity** over the **internet**, including the provision of software as a service, infrastructure as a service or platform as a service.

Communicable Disease means:

Any disease which can be transmitted by means of any substance or agent from any organism to another organism where:

1. the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
2. the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
3. the disease, substance or agent can cause or threaten **bodily injury**, illness, emotional distress, damage to human health, human welfare or **property damage**.

Computer means:

Any **computer**, **data** processing equipment, media or part thereof, or system of **data** storage and retrieval, or communications system, network, protocol or part thereof, or storage device, microchip, integrated circuit, real-time clock system, or similar device or any **computer** software, firmware or microcode. **Computer** shall also include its components available to its users, including but not limited to memory, bandwidth, processor time, use of communication facilities and any other **computer**-connected equipment.

Computer Fraud means:

The **theft** of the **entity's** assets under the direct or indirect **control** of a **computer** by manipulation of **computer** hardware or software programmes or systems by any **third party** who is not authorised by the **entity** to access that **computer**.

Computer Malicious Act means:

Any malicious act committed against the **entity's computer system**, or malicious access to or hacking of the **entity's computer system**, for the purpose of creating, deleting, taking, collecting, altering or destroying **data** or services, without involving any physical damage to the **entity's computer system**. **Computer malicious act** includes the introduction of any malware, programs, files or instructions of a malicious nature which may disrupt, harm, impede access to, including a distributed denial of service attack, or in any other way corrupt the operation of the **entity's computer system** or **data** or software within, including, but not limited to malicious code, ransomware, cryptoware, virus, trojans, worms and logic or time bombs.

Computer System means:

Any **computer** network, hardware, software, information technology and communications system, including any email, intranet, extranet or website.

Computer Virus means:

Any programme or code that causes **loss** or damage to any **computer system** and/or prevents or impairs any **computer system** from performing and/or functioning accurately and/or properly.

Consumer Redress Fund means:

A sum of **money** which the **entity** is legally obligated to deposit in a fund as equitable relief for the payment of consumer claims due to an adverse judgment or settlement of a **regulatory proceeding**. **consumer redress fund** shall not include any sums paid which constitute taxes, fines, penalties, injunctions or sanctions.

Continuity Date means:

The applicable date specified as such in the **schedule**.

Control means:

The securing of the affairs of the **entity** by means of:

1. controlling the composition of the board of directors or management board of the **entity**;
2. controlling more than half of the shareholder or equity voting power of the **entity**;
3. holding more than half of the issued share or equity capital of the **entity**; or
4. any event or circumstance analogous to the matters described at 1. to 3. above.

Corporate Card Fraud means:

The fraudulent use of any corporate credit, debit or **charge** card issued to the **entity** or any **insured person** for **business** purposes where such card is **forged** or is the subject of **fraudulent alteration** provided that the **entity** or **insured person** has complied fully with the provisions, conditions and other terms under which the card was issued and provided the **entity** is legally liable for such **direct financial loss**.

Counterfeit or Counterfeiting means:

The imitation of an authentic negotiable instrument such that the **entity** is deceived on the basis of the quality of the imitation to believe that the said item is the authentic original negotiable instrument.

Fictitious instruments which merely contain fraudulent misrepresentations of fact and are genuinely signed or endorsed are not **counterfeit**.

Credit Arrangement means:

Any credit agreement, extension of credit or hire purchase agreement, loan or **transaction** in the nature of a loan, lease or rental agreement, invoice, account, agreement or other evidence of debt, payments made or withdrawals from any customer's account involving items which are not finally paid for any reason.

Criminal Damage means:

Any violent or forcible act which results in destruction or damage to **property** (excluding safes and vaults) which constitutes a criminal offence in the jurisdiction where the offence was committed.

Crisis Event means:

Any of the following unforeseen events occurring during the **policy period** where, in the reasonable opinion of the chief **governor** officer of the **entity**, the event has the potential to make a material impact on the consolidated annual revenues or the reputation of the **entity** if left unmanaged:

1. the sudden, unexpected death or disability of any **governor**;
2. the criminal conviction of any **governor**;
3. **loss** of a major customer, contract or credit facility;
4. **employee** workplace violence;
5. the first apparent unauthorised intrusion into the **entity's computer** facilities;
6. a recall or boycott of any product;
7. a man-made disaster; or
8. any criminal or fraud **investigation**.

Crisis event does not include an event that affects the **entity's** industry or geography in general; rather than the **entity**, specifically.

Critical Regulatory Event means:

1. a raid on, or on-site visit to, the **entity** which first takes place during the **policy period** by any regulator that involves the production, review, copying or confiscation of files or interviews of any **insured person**; or
2. a public announcement relating to the foregoing.

Cyber Extortion Damages means:

Money, including cryptocurrency(ies), paid by the **entity**, where legally allowed and insurable, to terminate or end a **cyber threat**.

If **cyber extortion damages** are paid in a currency, including cryptocurrency(ies), other than the local currency from where this policy is issued or the British Pound Sterling, then payment under this policy will require submission of proof of the calculation of the applicable rate of exchange used to convert such other currency to the local currency from where this Policy is issued or the British Pound Sterling on the date that the **cyber extortion damages** were actually paid.

Cyber Threat means:

Any threat from a **third party** to:

1. damage, destroy or corrupt the **entity's computer system**, programmes or data the **entity** holds electronically, or any programmes or **data** for which the **entity** is responsible, including by specifically introducing a virus; or
2. disseminate, divulge or use any electronically held commercial information which
 - c. the **entity** is responsible for;
 - d. is not in the public domain; and
 - e. will cause commercial harm if made public;

following any unauthorised external electronic access by that **third party**.

Damages means:

Means compensatory **damages**, any award of prejudgment or post-judgment interest and settlements which the **entity** becomes legally obligated to pay on account of any **privacy liability**, **network security liability**, or **media liability claim** first made against the **insured** during the **policy period**.

Damages shall not include:

1. any amount for which the **entity** is not legally obligated to pay;
2. matters uninsurable under the laws pursuant to which this Policy is construed;
3. the cost to comply with any injunctive or other non-monetary or declaratory relief, including specific performance, or any agreement to provide such relief;
4. the **entity's loss** of fees or profits, return of fees, commissions or royalties, or re-performance of services by the **entity** or under the **entity's** supervision;

5. disgorgement of any profit, remuneration or financial advantage; and
6. any amounts other than those which compensate solely for a **loss** caused by **privacy liability**, **network security liability** or **media liability**.

Data means:

Any information, facts or programs stored, created, used, or transmitted on any hardware or software. **Data** includes any information or programs that allow a **computer** and any of its accessories to function, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, **data** processing devices or any other media that are used with electronically controlled equipment or other electronic backup facilities. **Data** does not constitute the actual hardware or tangible **property**.

Data Subject means:

Any natural person who is the subject of **personal data**.

Defamation means:

Defamation including but not limited to belittling of a product or work (whether completed or not) of others.

Defence Costs means:

1. reasonable fees, costs and expenses incurred by or on behalf of an **Insured** either as emergency costs under *General Conditions applying to all Insuring Sections Extension 4 'Emergency Costs'*, or with the **Insurer's** prior written consent, after a **claim** is made in the **investigation**, defence, settlement or appeal of such **claim**; or
2. reasonable fees, costs and expenses of accredited experts retained through defence counsel to prepare an evaluation, report, assessment, diagnosis or rebuttal of evidence in respect of a **claim** specified in **1.** above.

Direct Financial Loss means:

Direct financial loss, including but not limited to **loss** of **money**, **negotiable instruments** or other **property**, sustained by the **entity** or a **third party** or other organisation under *Section B - Crime Protection - Cover 5. Care, Custody and Control*.

Discovered means:

Knowledge of any act, omission or event which could reasonably be seen to give rise to a **direct financial loss** by any of the **entity's** **responsible persons**.

Discovery Period means:

A period immediately following expiry of the **policy period** during which written notice may be given to the **Insurer** of:

1. any **direct financial loss discovered** during such period of time in connection with any act committed prior to the end of the **policy period**, provided any

applicable additional premium required by the **Insurer** is paid within 30 days of expiry of the **policy period**; or

2. a **claim** first made during such period or the **policy period**:
 - a. with respect to an act, error or omission occurring prior to the expiry of the **policy period**; or
 - b. in the case of an **investigation**, extradition proceedings or **asset and liberty proceedings**, matters which occurred prior to the expiry of the **policy period**.

Documents means:

All **documents** of any nature whatsoever including **computer** records and electronic or digitised **data**; but does not include any currency, **negotiable instruments** or records.

Electronic and Computer Crime means:

Any one of the following:

1. **computer fraud**; or
2. **funds transfer fraud**.

Employee means:

1. any natural person full-time, part-time, seasonal or temporary worker of the **entity** who works under a contract of service with the **entity**, or who is undertaking work experience, whom such **entity** has the right to govern and direct in the performance of such services, and whom the **entity** compensates by way of salary, wages and/or commissions;
2. any natural person independent contractor, natural person volunteer or any natural person seconded to the **entity**, if such individual is under the direction and supervision of the **entity** and the **entity** provides indemnification to such individual in the same manner as is provided to the **employees** referred to in **1.** above; or
3. with respect to *Policy Section B – Crime Protection* only, any natural person employed by an organisation to which the **entity** outsources any normal administrative function under a written contract of engagement with such organisation.

Employment Practices Liability means:

Any liability arising from any actual or alleged act, error or omission with respect to:

1. any employment of any past, present or future **employee** or **insured person** of the **entity**; or
2. any prospective employment of any person.

Employment-Related Benefits means:

1. perquisites and fringe benefits;
2. payments due under any **employee** benefit plan or superannuation scheme;

3. stock or share options or any other right to purchase, acquire or sell stock or shares of the **entity** or analogous rights or interests; or
4. incentive or deferred compensation.

Entity means:

The organisation specified in the **schedule**.

Entity Contract means:

That part of any contract or agreement pertaining to the **entity's business** under which the **entity** assumes the tort liability of another party to pay for **personal injury** or **property damage** to a third person or organisation arising out of the performance by the **entity** of such contract and for which that other party is vicariously liable. However, the **personal injury** or **property damage** must arise out of an **occurrence** that takes place subsequent to the execution of the **entity contract**. Tort liability means a liability that would be imposed by law upon the other party in the absence of any contract or agreement.

Entity Liability means:

Any liability arising from any actual or alleged act, error or omission of an **entity**, except with respect to any **employment practices liability** or **third party discrimination**.

Entity's Product means:

Any goods or products (after they have ceased to be in the **entity's** possession or under the **entity's control**) which is or is deemed (whether by law or otherwise) to have been manufactured, constructed, grown, extracted, treated, imported, exported, produced, processed, assembled, erected, installed, repaired, serviced, sold, supplied or distributed by the **entity**. **Entity's products** includes any packaging or containers, designs, formulae or specifications thereof, directions, instructions or advice given or omitted to be given in connection with such things other than a **vehicle** or vending machine.

Forgery or Forged means:

The signing or endorsing of the name of a genuine person or a copy of the said person's signature without authority and with intent to deceive. A signature may be hand-written or mechanically or electronically produced or reproduced. It does not include the signing in whole or in part of one's own name, with or without authority, in any capacity, for any purpose.

Fraudulent Act means:

1. **cheque forgery**;
2. **corporate card fraud**; or
3. **imitation fraud**.

Fraudulent Alteration means:

A material alteration to an instrument for a fraudulent purpose.

Funds Transfer Fraud means:

The **theft** of the **entity's** funds from an account maintained by the **entity** at a financial institution (from which the **entity** or a person or organisation authorised by the **entity** may request the transfer, payment or delivery of funds), following fraudulent electronic, telegraphic, tested facsimile, tested telex, telephone or written instructions to debit such account and to transfer, pay or deliver funds from such account and which instructions purport to have come from the **entity** or a person or organisation authorised by the **entity** to issue such instructions, but which are fraudulently transmitted, issued, or are **forged** or have been the subject of **fraudulent alteration** by any **third party**.

Fungus(i) means:

Any plants or organisms belonging to the major group **fungi**, lacking chlorophyll, and including **moulds**, rusts, mildews, smuts and mushrooms.

Governor means:

A duly elected or validly appointed director or trustee (other than a trustee of an insolvent **entity**) or **governor** or **governor** officer of the **entity** in each case appointed to the management board of the **entity** or person with duties equivalent with any of the foregoing but not an external auditor or insolvency office-holder of the **entity**.

Grounding means:

The withdrawal of one or more **aircraft** from flight operations or the imposition of speed, passenger or load restrictions on such **aircraft**, by reason of the existence of or alleged or suspected existence of any defect, fault or condition in such **aircraft** or any part thereof sold, handled or distributed by the **Insured** or manufactured, assembled or processed by any other person or organisation according to the **Insured's** specifications, plans, suggestions, orders or drawings or with tools, machinery or other equipment furnished to such persons or organisations by the **insured**, whether such **aircraft** so withdrawn are owned or operated by the same or different persons, organisations or corporations.

A **grounding** will be deemed to commence on the date of an **occurrence** which discloses such condition or on the date an **aircraft** is first withdrawn from service on account of such

Hacker means:

Anyone, including an **employee**, who maliciously targets the **entity** and gains unauthorised access to or unauthorised use of the **entity's computer system** or data held electronically by the **entity** or on the **entity's** behalf, solely by circumventing electronically the security systems in place to protect against such unauthorised access or unauthorised use.

Hacker Event means:

That a **hacker** inflicted a **computer malicious act** against the **entity's computer system** and as a result caused the damage, destruction, altering, corruption, **loss**, copying, or **theft** of the **entity's data** or of **data** that the **entity** had a legal duty to maintain and/or protect.

Hovercraft means:

Any vessel, craft or device made to float on or in or travel on or through the atmosphere or water on a cushion of air provided by a downward blast.

Imitation Fraud means:

1. the **forgery** or **fraudulent alteration** of any **money** or **negotiable instruments** or instruction; or
2. the **counterfeiting** of any **money** or **negotiable instruments**, upon which the **entity** has acted or relied.

Infringement means:

An **infringement** of any intellectual **property** right of a **third party**, other than patents and **trade secrets**.

Insured means:

The **entity**, or any **subsidiary** named by way, and to the extent, of a Deemed **insured** Endorsement and/or **insured person**.

Insured Executive means:

Any natural person who is, at the time of his or her **accidental death**:

1. aged between 18 years and 70 years; and
2. was duly elected or validly appointed director or trustee (other than a trustee of an insolvent **entity**) or **governor** or **governor** officer of the **entity** in each case appointed to the management board of the **entity** or person with duties equivalent with any of the foregoing.

Insured Person means:

Any natural person who was, is or during the **policy period** becomes:

1. a **governor** or **insured executive**;
2. an **employee** or natural person committee member of the **entity**;
3. a shadow director or de facto director of the **entity**; or
4. an **outside entity director**;

but only when and to the extent that such **Insured Person** is acting for and on behalf of the **entity** in any of the capacities referred to in 1. to 3. above.

Insured person is extended to include:

- a. the spouse or domestic partner (including same sex relationship civil partnerships, if applicable); and
- b. the administrator, heirs, legal representatives, or executor of a deceased, incompetent insolvent or bankrupt estate;

of the **insured person** referred to in a. to b. above with respect to the acts, errors or omissions of such **insured person**.

Insurer means:

The **Insurer** named in the **schedule**.

Internet means:

Via the **entity's** website or via use of the world wide web, **internet** or electronic mail from the **entity's** controlled **computer**, mobile device or network.

Investigation means:

Any hearing, examination, **investigation** or inquiry by an **official body** into the affairs of the **entity** or **outside entity**, or an **insured person** of such **entity**, once an **insured person** receives written documentation during the **policy period**:

1. requiring them to attend before or produce **documents** to, or answer questions by or attend interviews with, the **official body**; or
2. identifying them as a target in writing by an investigating **official body** as a target of the hearing, examination, **investigation** or inquiry.

An **investigation** shall be deemed to be first made when the **insured person** is first so required or so identified.

Investigation Costs means:

The reasonable fees, costs and expenses incurred by or on behalf of an **insured person** with the **Insurer's** prior written consent for the principal purpose of preparing for, responding to, or attending an **investigation**. However, **investigation costs** shall not include the remuneration of any **insured person**, cost of their time or costs or overheads of the **entity**.

Limit of Liability means:

The applicable sum specified in the policy **schedule**.

Loss means:

1. in respect of *Policy Section B – Entity Liability Extension 5 Intellectual Property* any amount that an **insured** shall be legally liable to pay to a **third party** in respect of judgments rendered against an **Insured**, or for settlements which conform with the consent requirements set out in *General Conditions applying to all Insuring Sections, Claims Condition 6 'Consent'* and **defence costs**, but shall not include any:
 - a. non-compensatory **damages**: including punitive, multiple, exemplary or liquidated **damages**;
 - b. restitutionary relief;
 - c. the cost and expenses of complying with any order for, grant of or agreement to provide injunctive or other non-monetary relief; and
2. in all other cases, any amount which the **insured** is legally liable to pay resulting from a **claim** made against an **Insured**, including **defence costs**, **investigation costs** and all other costs and expenses payable under this policy, awards of **damages** (including punitive and exemplary **damages**), awards of costs or settlements (including claimant's legal costs and expenses), pre- and post- judgment interest on a covered judgment or award, and the multiplied portion of multiple **damages**. **Loss** includes any

amount covered under any Extension applicable to the Cover purchased. Provided that with respect to *Policy Section A – General Liability* only, **loss** shall not include **investigation costs** or punitive or exemplary **damages**.

Loss shall not include:

1. any fines and penalties except to the extent covered under *Policy Section B – Statutory Liability*;
2. taxes;
3. remuneration, cost of the time of any **insured person**, or costs or overheads of the **entity**, except with respect to *General Conditions applying to all Insuring Sections Extension 2 'Court Attendance'*; or
4. amounts which are uninsurable under the applicable law of the **claim**.

Additionally, with respect to any **claim** in connection with **employment practices liability** or **third party discrimination** only, **loss** shall not include:

1. compensation payable in respect of contractual or statutory notice periods;
2. amounts payable in respect of a specified contractual obligation, except to the extent such obligation would have attached in the absence of such contract;
3. **employment-related benefits**;
4. any liability or costs incurred by any **insured** to modify any building or **property** in order to make the building or **property** more accessible or accommodating to a disabled person; or
5. any liability or costs incurred in connection with any educational, sensitivity or other corporate programme, policy or seminar relating to an **employment practices liability** or **third party discrimination claim** or the costs of reinstatement of any **employee**.

Management Liability means:

1. any liability arising from any actual or alleged act, error or omission of any **insured person** or arising solely because of any person's status as an **insured person**; or
2. with respect to *Policy Section B – Management Liability Cover 2 'Entity Reimbursement'* any liability arising from any **investigation, occupational health and safety incident** or extradition proceedings.

Media Liability means:

A **claim** against the **entity** related to:

1. the **infringement** of any intellectual **property** rights;
2. **defamation**, including libel, slander, trade libel, product disparagement or malicious falsehood; or

Provided that the **claim** arises directly from the content of an **insured's** email, or the **entity's** intranet, extranet or website, including changes caused by a **hacker event**.

Misleading or Deceptive Conduct means:

Any actual or alleged **misleading or deceptive conduct** at law or under the *Fair Trading Act 1986* or the *Consumer Guarantees Act 1993*.

Money means:

Currency, coins, bank notes and bullion, cheques, travellers' cheques, registered cheques, postal orders and **money** orders.

Mould(s) means:

Any superficial growth produced on damp or decaying organic matter or on living organisms, and **fungi** that produce **moulds**.

Negotiable Instruments means:

All **securities**, instruments or contracts, including any note, stock, bond, debenture, evidence of indebtedness, share or other equity or debt security, representing either **money** or **property**, but does not include **money**.

Network Security means:

Those activities performed by the **entity**, or by others on behalf of the **entity**, to protect against a **computer malicious act** being inflicted on the **entity's computer system**.

Network Security Liability means:

Any error, misstatement, misleading statement, act, omission, neglect or **breach of duty** actually or allegedly committed or attempted by the **entity** resulting in a failure of **network security**, including the failure to deter, inhibit, defend against or detect any **computer malicious act**.

Occupational Health & Safety Incident means:

Any actual or alleged breach of an occupational health and safety law or regulation, including a law or regulation dealing with industrial or workplace deaths.

Occurrence means:

An event, including continuous or repeated exposure to substantially the same general conditions, which results in **personal injury** or **property damage** neither expected nor intended from the **insured's** standpoint.

All events of a series consequent on or attributable to one source or original cause shall be deemed one **occurrence**.

Official Body means:

Any regulator, disciplinary body, criminal authority, government body, government agency, official trade body, or any other person or body having legal authority to conduct an **investigation**.

Outside Entity means:

Any **entity**, including any not for profit **entity**, but other than an **entity** that:

1. is a **subsidiary**;
2. is incorporated or domiciled in the United States of America;

3. is a bank, clearing house, credit institution, undertaking for collective investment in **securities**, investment firm, investment advisor/manager, investment fund or mutual fund, private equity or venture capital company, stock brokerage firm, insurance company or similar **entity**; or
4. has its **securities** listed on any **securities** exchange; unless listed by endorsement to this policy as an **outside entity**.

Outside Entity Director means:

A natural person who did or does, or during the **policy period** begins to serve, at the specific request of the **entity** as a director, officer, trustee, **governor** or equivalent of an **outside entity**.

Personal Data means:

1. an individual's name, national identity number or national insurance number, medical or healthcare **data**, other protected health information, driver's licence number, state identification number, credit card number, debit card number, address, telephone number, email address, account number, account histories, or passwords; and
2. any other non-public personal information as defined in **privacy regulations**;

In any format if such information creates the potential for an individual to be uniquely identified or contacted.

Personal Injury means:

Subject to the proviso below:

1. death sickness or disease and shall include mental injury, mental anguish and shock;
2. false arrest, false imprisonment, wrongful eviction, wrongful detention, malicious prosecution and humiliation;
3. libel, slander, **defamation** of character or invasion of privacy; and
4. injury, sickness or disease or death sustained by a person resulting from such injury,
5. 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**.

and provided that in respect of *Policy Section B – Employer's Liability* only, **personal injury** shall be limited to paragraph 1. above and furthermore, disease shall be sustained only when the **employee** is first exposed to conditions in New Zealand out of which the disease arose.

Policy Period means:

The period from the inception date to the expiry date specified in the **schedule**.

Policy territory means:

New Zealand including the overseas activities of travelling **governors**, executives and salespeople on the **entity's business** who are non-resident in such countries.

Pollutant means:

Any solid, liquid, biological, radiological, gaseous or thermal irritant or contaminant whether occurring naturally or otherwise, including but not limited to, smoke, vapour, soot, fibres, **mould**, **spores**, **fungus**, germs, fumes, acids or alkalis of any sort, chemicals and waste. Waste includes but is not limited to, material to be recycled, reconditioned or reclaimed.

Pollution Condition means:

Any actual, alleged or threatened discharge, dispersal, release or escape of a **pollutant**; or any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise **pollutants**, nuclear material or nuclear waste.

Premises means:

The interior portion of any building owned or occupied by the **entity** and in which it conducts its **business**.

Privacy Breach means:

1. the unintentional breach of confidentiality or unintentional **infringement** of any right to privacy, including the alleged unintentional breach of the *Privacy Act 1993* or the *Privacy Act 2020* (as the case may be); or
2. the failure of the **entity** to handle, manage, **control** or maintain **personal data** which causes the unauthorised acquisition, access, use or disclosure of, or the **loss** or **theft** of **personal data**, and compromises the security or privacy of that **personal data** such that it poses a significant risk of financial harm to the **data subject**; or
3. the unintentional violation of any other **statute**, law or regulation that regulates **personal data**, including unintentional violations that trigger the **entity's** obligations to provide notification of the compromise of **personal data**.

Privacy Claims Expenses means:

1. reasonable and necessary legal counsel's' fees, expert witness fees and other fees and costs incurred by the **insured** with the **Insurer's** prior consent, in the **investigation** and defence of a covered privacy **claim**;
2. reasonable and necessary premiums for any appeal bond, attachment bond or similar bond, provided the **Insurer** shall have no obligation to apply for or furnish such bond;
3. **regulatory fines**; and
4. a **consumer redress fund**.

Privacy Forensic Costs means:

The reasonable and necessary costs incurred by the **entity**, with **Insurers** prior written agreement, to retain and utilize the services of a **third party computer** forensics firm to determine the cause and scope of the **entity's network security** failure. **Privacy forensic costs** do not include any costs, fees or expenses incurred to update or otherwise improve privacy or **network security** controls, policies or procedures to a level beyond that which existed prior to the **loss** event or to be compliant with any **statute**, law or regulation that regulates **personal data**.

Privacy Liability means:

A **claim** against the **entity** for an **insured's**:

1. breach, violation or **infringement** of any right to privacy, consumer **data** protection law, or other legal protection for **personal data**;
2. **breach of duty** to maintain the security or confidentiality of **personal data**;
3. breach of any duty of confidence, including in respect of any commercial information; or
4. breach of any contractual duty to maintain the security or confidentiality of **personal data**, including under a payment card processing agreement with any bank or payment processor or the **entity's** privacy policy.

Privacy Regulations means:

Laws, **statutes** or regulations associated with the care, custody, **control** or use of **personal data**.

Professional Liability means:

Liability arising from:

1. any **breach of duty** or **misleading or deceptive conduct** of the **Insured**;
2. any **infringement**;
3. **defamation** committed by the **insured**; or
4. fraudulent or dishonest conduct of any **insured person**
 - a. not condoned, expressly or implicitly, by the **entity**; and
 - b. that results in liability to the **entity**;

provided, however, that no cover is provided to the person committing the fraudulent or dishonest conduct;

provided also that **1.**, **2.**, **3.** and **4.** first takes place on or after the **retroactive date** and is solely in the performance of or failure to perform **professional services**.

Professional Services means:

Under insuring **Section B – Professional Liability for Not for Profits**, **professional services** means:

the following **professional services** provided by the **entity**:

1. advocacy and promotion of the **entity's** objectives and area of focus or interest, including publication or information in any media type;

2. registration, training and accreditation of members;
3. publication of professional or technical standards;
4. acting as an insurance intermediary for the purpose of distributing personal lines, general and/ or life insurance to members;
5. events for members and others that promote the **entity's** area of focus or interest; or
6. fundraising activities.

Professional services under insuring **Section B – Professional Liability for Not for Profits** does not mean:

1. the provision of legal, financial or investment advice; or
2. medical treatment, medical care or medical advice; or
3. the provision of other **professional services** where clients of the **entity** directly pay a fee for such services.

Under insuring **Section B – Professional Indemnity**, **professional services** means all **professional services** provided by the **entity** in the ordinary course of the **entity's business**.

Property means:

Physical **property**, excluding the **entity's** building and its fixtures and fittings, **money** and **negotiable instruments**.

Property Damage means:

1. physical damage to, destruction of or **loss** of tangible **property** including the **loss** of use thereof at any time resulting therefrom; or
2. **loss** of use of tangible **property** which has not been physically injured or destroyed, provided such **loss** of use is caused by physical damage to other tangible **property**.

Prosecution Costs means:

Reasonable fees, costs and expenses incurred, with the **Insurer's** prior written consent, by an **insured person**, to bring legal proceedings for a declaration and/or an injunction in connection with any **asset and liberty proceedings**.

Public Relations Consultants means:

Public relations consultants retained by the **insured** with the **Insurer's** prior written consent.

Public Relations Costs means:

The reasonable fees, costs and expenses incurred and paid by the **entity**, with the **insurer's** prior written consent, to procure **public relations services** to redress adverse publicity or reputational injury resulting directly from a **direct financial loss** covered under this policy.

Public Relations Services means:

Services provided by the **public relations consultants** to an **insured person** directly to mitigate the adverse effect or potential adverse effect on an **insured person's** reputation.

Registered Person means:

A person registered by the **entity** as a member of a professional body as part of the **entity's professional services**.

Regulatory Fines means:

Any civil monetary fine or penalty imposed by a government or regulatory body, including a federal, state, local or foreign governmental **entity** in such **entity's** regulatory or official capacity pursuant to its order under a **regulatory proceeding**. **Regulatory fines** shall not include any civil monetary fines or penalties that are not insurable by law, criminal fines, disgorgement of profits or multiple **damages**.

Regulatory Proceeding means:

A request for information, demand, suit, civil **investigation** or civil proceeding by or on behalf of a government agency, commenced by a service of a complaint or similar pleading alleging the violation of **privacy regulations** by the **insured** directly related to a covered **privacy breach** or **privacy liability**.

Responsible Person means:

Any **employee** acting in a directorial, managerial or supervisory capacity other than any person who has committed any acts of fraud or dishonesty.

Retention means:

The sum specified in the **schedule**.

Retroactive Date means:

The date stated as the **retroactive date** in the **schedule**. For any **subsidiary**, the **retroactive date** shall mean the later of the **retroactive date** shown in the **schedule** and the date the **entity** first took **control** of such **entity**, unless otherwise agreed by **us** in writing.

Schedule means:

The most recent **schedule** to this policy

Securities means:

Any security representing debt of or equity interests.

Senior Counsel means:

A senior lawyer to be mutually agreed upon by the parties, or in the absence of agreement, to be appointed by the head of the bar **entity**/law society (or equivalent organisation) in the jurisdiction in which the **loss** was incurred.

Sexual Misconduct Claim means:

Any **claim** arising out of, based upon, attributable to, directly or indirectly:

1. any actual or alleged sexual molestation or abuse, including any alleged direct sexual activity; or
2. any related allegation that the **entity** negligently employed, investigated, supervised or retained a

person who has committed or is alleged to have committed an act of sexual molestation or abuse; or

3. an alleged practice, custom or policy including without limitation, any allegation that the violation of a civil right caused or contributed to a **sexual misconduct claim**.

Spore(s) means:

Any dormant or reproductive body produced by or arising or emanating out of any **fungus(i)**, **mould(s)**, mildew, plants, organisms or micro-organisms.

Statute means:

An Act of the New Zealand Parliament and any subordinate legislation thereto.

Statutory Liability means:

Any fine, pecuniary penalty or reparation order made by a Court pursuant to any **statute** which an **insured** is legally liable to pay resulting from a **claim** made against the **insured**. **Statutory liability** shall not include:

1. any amounts representing **damages** or compensation or reparation save for orders for reparation arising from a breach of the *Health and Safety at Work Act 2015* which are made under the *Sentencing Act 2002* or *Sentencing Amendment Act 2014*;
2. any compliance costs; or
3. any amount which the **Insurer** is prohibited from paying by law.

Subsidiary means:

Any **entity** which the **entity** has **control** either directly or indirectly through one or more other entities on or before the inception date of this policy.

Cover under *Policy Section B – Crime Protection* for any for any **subsidiary** or any **insured persons** of such **subsidiary** shall only apply for any **fraudulent acts**, or acts, errors or omissions committed or occurring whilst such **entity** is a **subsidiary**.

Superannuation Fund means:

Any **superannuation fund**, pension plan, **employee** benefit, welfare benefit, share save or share option plan or charitable fund or foundation established and maintained by the **entity** for the benefit of the past, present or future **employees** of the **entity** or their respective beneficiaries, on or prior to the inception date of this policy.

Cover for any **entity's superannuation fund** shall only apply in respect of **direct financial loss** arising out of any act covered under this policy committed while such **entity** is a fund maintained by the **entity**.

Tax Status Costs means:

Reasonable and necessary fees, costs and expenses incurred by or on behalf of the **entity** with the **Insurer's** prior written consent to exercise any right of review or available remedy in connection

with a New Zealand Inland Revenue audit or Department of Internal Affairs or Charities Registration Board decision concerning the **entity's** tax or charitable status.

Terrorism means:

The use or threatened use of force or violence against person or **property**, or commission of an act dangerous to human life or **property**, or commission of an act that interferes with or disrupts an electronic or communication system, undertaken by any person or group, whether or not acting on behalf of or in connection with any organisation, government, power, authority or military force, when the effect is to intimidate or coerce a government, the civilian population or any segment thereof, or to disrupt any segment of the economy.

Terrorism shall also include any act which is verified or recognised by the government of any country in which the **entity** operates or exports products into, as an act of **terrorism**.

Theft means:

The unlawful taking of the **entity's money, negotiable instruments** or **property** occurring:

1. within the ownership, tenancy or occupation of **premises** of the **entity**;
2. within the interior of any banking **premises** or similar recognised place of safe deposit;
3. while in transit and in the care, custody and **control** of an **insured person** or **governor** of the **entity** following the actual or threatened use of force or violence; or
4. while in the care, custody and **control** of any security company or armoured motor **vehicle** company, duly authorised by the **entity** to retain such care, custody and **control**

and provided that the **Insurer** shall only be liable for the amount that is in excess of the amount of any other valid and collectible insurance or indemnity, contractual or otherwise, available to the security company or armoured motor **vehicle** company.

Third Party means:

Any **entity** or natural person; provided, however, **third party** does not mean:

1. any **insured**; or
2. any other **entity** or natural person having a financial interest in the operation of the **entity** or a **governor** of the **entity**;
3. someone who is acting in collusion with any **insured**;
4. any natural person providing services under any contract for services, written or implied, with any **insured**.

Third Party Discrimination means:

Any liability arising from any actual or alleged act, error or omission with respect to any harassment of or discrimination against any natural person **third party** who is not and has not been an **employee**.

Tools of Trade means:

Any **vehicle** which has attached as an integral part of such **vehicle** any equipment for mechanical digging, scraping, grading, slashing, mowing, drilling, lifting or levelling, whilst such equipment is being used for the purpose for which it was designed.

Trade Secrets means:

Information that derives independent economic value, actual or potential, from not being generally known and not being readily ascertainable through proper means by other persons who can obtain economic advantage from its disclosure or use.

Transaction means:

Any one of the following events:

1. the **entity** consolidates with or merges into or sells or transfers all or substantially all of its assets to any other person or **entity** or group of persons and/or entities acting in concert; or
2. any person or **entity**, or persons or entities acting in concert acquires **control** of the **entity**.

Unauthorised Material Use means:

Unauthorised taking for use of any advertising idea, material, slogan, style or title of others; and unauthorised use of names, domain names, trade names, trade addresses, service marks, service names, titles, slogans, formats, characters, character names, characterisations, plots, musical compositions, performances, logos, artwork, graphics, photographs or program materials.

Underground Services means:

All underground electricity, gas, water, steam, waste water (sewer, storm water), telecommunications plant, and liquid petroleum services and oil pipelines.

Vehicle means:

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

War means:

Any **war**, whether or not declared, or any act or condition incident to **war**. **War** includes civil **war**, insurrection, invasion, act of foreign enemy, civil commotion, factional civil commotion, military or usurped power, rebellion or revolution.

Watercraft means:

Any vessel or **watercraft** made to or intended to float on or in or travel on or through or under water.

Workmanship means:

Work done in the process of manufacturing, constructing, erecting installing, servicing, repairing or treating **property**.

Reserved Costs and Expenses

If any **loss** or liability covered by this policy is or may be subject to a **charge** then:

1. the **Insurer** shall not be obligated to advance any **defence costs** or **investigation costs** under any other section of this policy; and
2. the **Insurer** will indemnify the **Insured** for any **defence costs** or **investigation costs** solely under this Section.

Conditions

1. Whether or not any **loss** or liability covered by this policy is or may be subject to a **charge** is at the sole and absolute discretion of the **Insurer**.
2. All **defence costs** or **investigation costs** paid, or to be paid, under this Section – *Reserved Costs and Expenses* shall:
 - a. be subject to the same terms, conditions and exclusions which would have applied had the **Insurer** made payment under the applicable section of this policy;
 - b. be subject to the **limit of liability** stated in the **schedule**; and
 - c. not include taxes other than an amount of GST for which an **Insured** is not entitled to an input tax credit.
3. The **limit of liability** that has been eroded by the payment of **defence costs** or **investigation costs** under this Section – *Reserved Costs and Expenses* shall be reinstated (without deduction or set-off) by an amount equivalent to such payment where:
 - a. upon the final determination of the existence and extent of any **charge** the **loss** (or any part of the **loss**) is determined not to be, or to have been, any longer subject to any **charge** and could, prior to any reinstatement, have been paid to the **insured** under any other section of this policy; or
4. if, prior to the final determination of the existence and extent of any **charge**, the **Insurer** (in its sole and absolute discretion) determines that any **loss** paid to the **Insured** under this Section – *Reserved Costs and Expenses* could, prior to any reinstatement, have been paid under any other section of this policy.
5. Where the **limit of liability** has been reinstated in accordance with *Condition 2* of this Section, the **limit of liability** of the section under which **defence costs** or **investigation costs** could have been paid in the absence of any **charge** shall be reduced by the amount of the sum reinstated.

Policy Section A – General Liability

In consideration of the payment of the premium or agreement to pay the premium, the **Insurer** and the **entity** agree as follows:

Cover

1. General Liability

The **Insurer** will indemnify the **insured** for **loss** arising from **personal injury** or **property damage** occurring within the **policy territory** during the **policy period** in connection with the **business**.

Extensions

1. Care, Custody and Control

The **Insurer** will indemnify the **insured** for **loss** arising from **property damage** occurring during the **policy period** in connection with the **business** to:

1. tangible **property** not owned by the **insured**, but in the physical or legal **control** of the **insured**; and
2. **vehicles** and their contents (not belonging to or used by or on behalf of the **insured**) in the **insured's** physical or legal **control** where such **property damage** occurs while any such **vehicle** is in a car park owned or operated by the **insured** unless the **insured** owns or operates a car park for reward.

Provided that:

- a. *Exclusion 11 – 'Property Owned or in the Insured's Physical or Legal Control'* and *Exclusion 12 – 'Vehicles'* of this insuring section shall not apply to this extension;
- b. the total amount payable under this extension is for any one **occurrence** and in the aggregate during the **policy period** as described in the **schedule**; and
- c. a **retention** as described in the **schedule** shall apply for each **occurrence**.

2. Innkeeper's Liability

The **Insurer** will indemnify the **insured** for any liability incurred by the **insured** under the *Innkeepers Act 1962* for **loss** of **property** or **property damage** occurring during the **policy period** in connection with the **business**.

Provided that:

1. *Exclusion 11 – 'Property Owned or in the Insured's Physical or Legal Control'* of this insuring section, shall not apply to this extension; and
2. cover under this extension is limited to:
 - a. guests' **property** in safe custody: \$20,000 per **occurrence**; and
 - b. guests' **property** not in safe custody: \$5,000 per **occurrence**.

3. Indemnity to Principals and Others

The **Insurer** will indemnify any person or organisation to whom the **entity** is obligated by a written **entity contract** to provide such insurance as is afforded by this *Policy Section A – General Liability*, but only for the vicarious liability of such person or organisation arising out of the performance by the **entity** of such written contract and for such coverage and **limit of liability** as provided by this *Policy Section A – General Liability* provided that this extension only covers **loss** arising out of operations conducted by the **insured** or on their behalf and shall not apply to any greater extent than required by the **entity contract**.

4. Landlord's Liability

The **Insurer** will indemnify the **insured** for **loss** arising from **personal injury** or **property damage** occurring during the **policy period** for **personal injury** and/or **property damage** in connection with the legal ownership, but not physical occupation, of any **premises** owned by the **insured**.

Exclusion 11 'Property Owned or in the Insured's Physical or Legal Control' of this insuring section shall not apply to this extension.

5. Product Withdrawal Expenses

The **Insurer** will indemnify the **entity** for 80% of the costs of recalling or withdrawing the **entity's products** from use in New Zealand, which have already given rise to a valid **claim** for **personal injury** or **property damage** under this *Policy Section A – General Liability*.

Provided that:

1. the prior approval of the **Insurer** was obtained prior to the recall or withdrawal of the **entity's products**;
2. the costs are incurred with the **Insurer's** written agreement;
3. *Exclusion 10 'Product Recall'* of this Insuring Section shall not apply to this Extension;
4. the total amount payable under this extension is for any one **occurrence** and in the aggregate during the **policy period** as described in the **schedule**; and
5. a **retention** as described in the **schedule** shall apply for each product withdrawal. The product withdrawal **retention** shall be paid in addition to any **retention** with respect to any **loss** or **claim** covered by this policy.

6. Punitive or Exemplary Damages

The **Insurer** will indemnify the **insured** for punitive and/or exemplary **damages** which the **insured** is legally obliged to pay as a result of a **claim** for **personal injury** in New Zealand that is covered under this *Policy Section A – General Liability*, in connection with the **business** of the **Insured**, or the **insured's** ownership, occupancy or tenancy of a building, structure or land.

Provided that:

1. the **claim** is made against the **insured** and reported to the **Insurer** during the **policy period**;
2. any punitive or exemplary **damages** awarded by any court outside of New Zealand are excluded;
3. the total amount payable under this extension is for any one **claim** and in the aggregate during the **policy period** as described in the **schedule**;
4. a **retention**, as described in the **schedule** shall apply to each and every **claim**;
5. *Exclusion 18 – 'Fines, Penalties and Damages'* shall not apply to this extension.

7. Service, Repair & Storage Liability – Motor Vehicles & Watercraft

The **insurer** will indemnify the **insured** for **loss** in respect of:

1. **loss** of or damage to the **vehicle** or **watercraft** being serviced or repaired;
2. **personal injury** or **property damage** arising from service and/or repair to a **vehicle** or **watercraft**; and
3. **personal injury** or **property damage** as a result of an accident whilst the **vehicle** is being driven on any public or private road or thoroughfare.

Provided that:

- a. the **loss**, damage, **property damage** or **personal injury** occurs during the **policy period** in connection with the business; and
- b. the **vehicle** or **watercraft** is or has been in the care, custody or **control** of the **Insured** for the purposes of service and/or repair;
- c. the **watercraft** does not exceed eight (8) metres in length;
- d. the total amount payable under this extension shall not exceed the sum described in the **schedule** for any one **occurrence** and in the aggregate during the **policy period**; and
- e. a **retention** as described in the **schedule** shall apply for each **occurrence**.

This extension of cover does not apply to:

- I. **personal injury** or **property damage** resulting from towing the **vehicle** or **watercraft**, except where it is being towed for the reason that it is either mechanically disabled or is designed to be towed in the course of its normal use;
- II. the cost of rectifying any defective **workmanship** in respect of the actual part or parts worked on by the **insured**. However, liability for **personal injury** or **property damage** resulting from defective **workmanship** is not excluded;

- III. liability arising out of any **occurrence** resulting from a **vehicle** or **watercraft** engaged in or being tested in preparation for racing, pace making speed testing, or any **occurrence** resulting from a **vehicle** engaged in any hill climbing test or being driven on any racetrack or speedway;
- IV. liability arising out of any **occurrence** resulting from the **vehicle** or **watercraft** being driven by a person with the **insured's** consent, who is under the influence of intoxicating liquor or drugs to the extent that an offence is committed under New Zealand law; or
- V. liability arising out of any **occurrence** resulting from a **vehicle** or **watercraft** being operated by a person with the **insured's** consent, who does not have the appropriate licence to operate the **vehicle** or **watercraft**.

8. Tenant's Liability

The **Insurer** will indemnify the **insured** for **loss** arising from **property damage** occurring during the **policy period** in connection with the **business** to:

1. **premises** (including the **insured's** fixtures and fittings) leased or rented by the **insured**; or
2. **property** in the **insured's** custody or **control** but not owned by the **insured**; or
2. **premises** that the **insured** temporarily occupy.

Provided that this extension does not cover:

- a. **loss insured** by the care custody and **control** extension of this insuring section; or
- b. legal liability arising in connection with the failure of the **Insured** to arrange insurance on the **property**.

9. Travelling in USA or Canada

The *General Conditions applying to all Insuring Sections – Exclusion 17 - USA or Canada* exclusion shall not apply to travelling **governors**, **employees** and sales people retained by or on behalf of the **entity**.

10. Underground Property Warranty

The **Insurer** will indemnify the **insured** for **loss** arising from **personal injury** or **property damage** occurring during the **policy period** in connection with the **business** in New Zealand to **property** or **underground services**.

Provided that:

1. prior to the commencement of any work the **insured** enquired of the relevant authority, corporation or company as to the location of such services;
2. the **insured** took all reasonable precautions to prevent **personal injury** or **property damage**;

3. the total amount payable under this extension shall not exceed the sum described in the **schedule** for any one **occurrence** and in the aggregate during the **policy period**;
4. a **retention** as described in the **schedule** shall apply for each **occurrence**.

11. Vibration and Removal of Support

The **Insurer** will indemnify the **insured** for **loss** arising from **personal injury** or **property damage** occurring during the **policy period** in connection with the **business** in New Zealand and arising from the actions of the **Insured** in removing, weakening or interfering with the support of land or buildings, other than those owned or occupied by the **insured**.

Provided that:

2. the total amount payable under this extension shall not exceed the sum described in the **schedule** for any one **occurrence** and in the aggregate during any one **policy period**; and
2. a **retention** as described in the **schedule** shall apply for each **occurrence**.

Optional Extensions

1. Defective workmanship

The **Insurer** will indemnify the **insured** for liability for the costs of rectifying defective or faulty **workmanship** including materials, consequent upon accidental damage to **property** on which the **insured** was working, where the damage is caused by the **insured's** faulty **workmanship**.

Provided that:

1. *Exclusion 16 – 'Faulty Workmanship'* and *Exclusion 17 – 'Property Worked Upon'* of this insuring section shall not apply to this extension;
2. the faulty **workmanship** is done or undertaken in New Zealand by any of the persons **insured** during the **policy period**; and
3. the total amount payable under this extension is for any one **occurrence** and in the aggregate during the **policy period** as described in the **schedule**; and
4. a **retention** as described in the **schedule** shall apply for each **occurrence**.

Exclusions

The **Insurer** shall not be liable for **loss** under *Policy Section A – General Liability* or the extensions of this insuring section:

1. Aircraft, Hovercraft and Watercraft

Arising out of the ownership, possession, maintenance, operation or use by or on behalf of the **insured**:

1. of any **aircraft** or **hovercraft**; or
2. of any **watercraft** or vessel exceeding eight (8) metres in length unless such **watercraft** is
3. in New Zealand territorial or inland waters and:
 - a. not owned by the **insured** but being used by the **insured** for **business** entertainment; or
 - b. hand propelled or sailing craft.

2. Aircraft Products

For the supply, distribution, sale or manufacture of **aircraft products** or reliance upon any representations or warranties made by the **Insured** with respect to **aircraft products** or arising out of the **grounding** of any **aircraft**.

3. Contractual Liability

Arising out of, based upon or attributable to any liability of the **insured** under any contract or agreement. This exclusion shall not apply to:

1. the **insured's** liability that would have attached in the absence of such contract;
2. liability under any warranty of goods implied by law or liability assumed under a warranty of fitness or quality as regards to the **entity's products**;
3. any written agreement for lease of real or personal **property** which does not impose upon the **insured** an obligation to insure such **property** or any liability regardless of fault;
4. any written contract with any **entity** for the supply of water, gas or electricity but only to the extent of indemnifying any such **entity** in respect of liability arising out of the **business** other than contracts for the performance of work or provision of services by the **insured**;
5. any written **entity contract** under which the **entity** is obligated to provide to any person or organisation such insurance as is afforded by this *Policy Section A – General Liability*, but only for the vicarious liability of such person or organisation arising out of the performance by the **entity** of such written contract and for such coverage and **limit of liability** as provided by this *Policy Section A – General Liability*.

4. Expected or Intended

For **personal injury** or **property damage** expected or intended by the **Insured**. However, this exclusion does not apply to:

1. **loss** caused by the use of reasonable force to protect persons or **property**; or
2. liability of the **Insured** for **loss** arising out of an act committed by an **employee** which results in **personal injury** or **property damage** expected or intended from the standpoint of the **employee**, provided such act

was not committed at the direction of the **entity** or a **governor**.

5. Internet Operations Exclusion

For **personal injury** or **property damage** arising directly or indirectly out of or caused by or in connection with the **insured's internet** operations, including but not limited to **business** conducted and/or transacted via the **internet**, intranet, extranet and/or via the **insured's** own website, **internet** site, web address and/or via the transmission of electronic mail or **documents** by electronic means.

6. Libel & Slander

Arising out of a libel or slander:

1. made prior to the **policy period**;
2. made by or at the **insured's** direction with knowledge of the falsity or defamatory character of the statement; or
3. related to advertising, broadcasting, publishing or telecasting activities including **internet** activity, conducted by the **insured** or on the **insured's** behalf.

7. Loss of Use

For **loss** of use of any tangible **property** which has not been physically injured or destroyed resulting from:

1. a delay in or lack of performance by the **insured** or on the **insured's** behalf of any contract or agreement; or
2. the failure of the **entity's products** to meet the level of performance, quality, fitness or durability express or implied, warranted or represented by the **insured**.

Provided that this exclusion does not apply to **loss** of use of other tangible **property** resulting from the sudden and accidental physical injury to or destruction of the **entity's products** after such products have been put to use by any person or organisation other than the **insured**.

8. Mould / Building Defect

For liability for any **personal injury** or **property damage** or any other **loss**, injury, damage, cost or expense, including, but not limited to, **losses**, costs or expenses related to, arising from or associated with clean-up, remediation, containment, removal or abatement, caused directly or indirectly, in whole or in part, by:

1. any **fungus(i)**, **moulds(s)**, mildew or yeast;
2. any **spore(s)** or toxins created or produced by or emanating from such **fungus(i)**, **mould(s)**, mildew or yeast;
3. any substance, vapour, gas, or other emission or organic or inorganic body or substance produced by or arising out of any **fungus(i)**, **mould(s)**, mildew or yeast, or

4. any material: or product, building component, building or structure, or any concentration of moisture, water or other liquid within such material, product, building component, building or structure, that contains, harbours, nurtures or acts as a medium for any **fungus(i)**, **mould(s)**, mildew, yeast, or **spore(s)** or toxins emanating there from:

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

9. Product Defect

For **property damage** to the **entity's products** arising out of such products or any part of such products.

10. Product Recall

For any cost or expense incurred or claimed for the withdrawal, inspection, repair, replacement, or **loss** of use of the **entity's products** or of any **property** of which such products form a part, if such products, or **property** are withdrawn from the market or from use because of any known or suspected defect or deficiency in the **entity's products**.

However, this exclusion does not apply to *Extension 5 'Product Withdrawal Expenses'* of this insuring section.

11. Property Owned or in the Insured's Physical or Legal Control

For **property damage** to:

1. **property** owned by, leased or rented to the **Insured**;
2. **property** belonging to the **insured** or in the care, custody or **control** of the **insured** or any **employee** of the **insured**; or
3. that particular part of any real **property** on which the **insured** or any contractors working directly or indirectly on the **insured's** behalf are performing operations if the **loss** or **property damage** arises out of those operations.

However, exclusion 1. and 2. above shall not apply with respect to *Policy Section A – General Liability*:

- a. *Extension 1 – Care, Custody and Control*;
- b. *Extension 2 – Innkeeper's Liability*;
- c. *Extension 7 – Service, Repair and Storage Liability – Motor Vehicles & Watercraft*;
- d. *Extension 8 – Tenant's Liability*.

12. Vehicles

For **personal injury** or **property damage** caused by or arising out of the ownership, possession, use of or operation by the **insured** of any **vehicle** which is registered or in respect of which insurance is required by virtue of any legislation.

Provided that this exclusion shall not apply to the **insured's** liability for **personal injury** or

property damage arising from:

1. the actual loading, unloading, delivery or collection of goods to or from any **vehicle**; or
2. the use of any **tools of trade** either on any site where the **insured** is undertaking work or at the **insured's premises**, but not whilst in transit or otherwise being used for transport or haulage.

This exclusion shall not apply with respect to *Policy Section A – General Liability - Extension 1.2. – ‘Care, Custody and Control’*.

13. Workers Compensation, employer's liability and matters insured elsewhere

For liability or **loss**:

1. for **personal injury** sustained by an **employee** which arises out of or in the course of their employment by the **insured**; or
2. for liability imposed by industrial award, agreement or determination, or the provisions of any, workers' compensation legislation, accident compensation legislation or any similar legislation; or
3. **insured** under any other insuring section of this policy.

14. Professional Liability

Arising from the rendering of or failure to render professional advice or services by the **insured** or any error or omission connected therewith. This exclusion shall not apply to the **insured's** liability for **personal injury** or **property damage** arising out of:

1. the rendering of, or failure to render, medical advice or service by medical persons employed by the **insured** to provide first aid on the **insured's premises**; or
2. other professional advice or service not given for a fee.

15. Efficacy

Arising out of or in any way connected with the failure of any of the **entity's products** to fulfil a particular purpose or intended function or meet a particular level of performance, where the **insured** has expressly or impliedly warranted or represented that the **entity's products** will fulfil such purpose, function or meet such level of performance, and where that purpose, function or level of performance is curing, alleviating, preventing, monitoring, detecting, eliminating or retarding **personal injury** or **property damage**.

16. Faulty Workmanship

In respect of the cost to rectify faulty **workmanship**, provided that this exclusion shall not apply to **personal injury** or **property damage** resulting from such faulty **workmanship**.

17. Property Worked Upon

For **property damage** to **property** on which the **insured** is or has been working if the **property damage** is caused directly by that work.

This exclusion shall not apply with respect to *Policy Section A – General Liability Extension 7 – Service, Repair & Storage Liability – Motor Vehicles and Watercraft*.

18. Fines, Penalties and Damages

In respect of fines, penalties, punitive, exemplary, liquidated or aggravated **damages**.

19. Waiver of Rights

Where the **insured** has agreed with another person or company, who would otherwise be liable to compensate the **insured** for the **loss** or contribute towards any **loss**, that the **insured** will not seek to recover such **loss** or contribution to **loss** from that person or company, except where the **insurer** has approved in writing such agreement.

Policy Section B - Statutory Liability

In consideration of the payment of the premium or agreement to pay the premium, the **Insurer** and the **entity** agree as follows:

Cover

1. Statutory Liability

The **Insurer** will indemnify the **insured** for any **loss** due to a **claim** first made against the **insured** during the **policy period** or any **discovery period** for **statutory liability**.

Exclusions

The **Insurer** shall not be liable for any **loss** under *Policy Section B – Statutory Liability* for:

1. Deliberate or Intentional Conduct

An act or omission that is alleged to have been deliberate, intentional or reckless, unless the **insured** is subsequently acquitted in direct relation to this act or omission.

2. Specific Acts

1. any of the following **statutes**: *Arms Act 1983; Aviation Crimes Act 1972; Crimes Act 1961; Land Transfer Act 2017; Land Transport Act 1988; Proceeds of Crime Act 1991; Summary Offences Act 1981; Transport Act 1962; Transport (Vehicle and Driver Registration and Licensing) Act 1986;*
2. any violation of any law or regulation with respect to vehicular, air or marine traffic;
3. any violation of any law or regulation with respect to tax, rate, duty, levy, **charge**, fee or any other revenue **charge** or impost; or
4. any violation of any law or regulation with respect to any anti-trust, **business** competition, unfair trade practices or tortious interference in another's **business** or contractual relationships.

3. Defence Costs

Defence costs arising from appealing, or otherwise challenging, an **infringement** notice given under the *Health and Safety at Work Act 2015*.

4. Business

Any **claim** relating to acts or omissions which do not directly arise out of the **business**.

5. Territorial Limit

Any **claim** arising out of an act or omission which takes place outside the territory of New Zealand.

Policy Section B - Employer's Liability

In consideration of the payment of the premium or agreement to pay the premium, the **Insurer** and the **entity** agree as follows:

Cover

1. Employers Liability

The **Insurer** will indemnify the **entity** for **loss** due to a **claim** first made against the **insured** during the **policy period** or any **discovery period** for **personal injury** sustained by an **employee**.

Exclusions

The **Insurer** shall not be liable for **loss** under *Policy Section B – Employers Liability* for:

1. Fine or Penalty

Any fine or penalty levied against the **entity**, except by way of punitive or exemplary **damages**.

2. Indirect Activities

Any **claim** arising from an **employee** engaged in any activity or occupation not directly part of the **business** of the **entity**.

3. Jurisdiction

Any **claim** as a result of any judgment entered in any court other than a New Zealand court having jurisdiction to deal with the dispute and applying the law of New Zealand, or any debt incurred by the **entity** as the result of such a judgment.

4. Non Compliance

Any **claim** directly or indirectly caused by or alleged to be caused by or contributed to, in whole or in part, by the **entity** failing to take all reasonably practicable precautions to comply with all statutory obligations to prevent **personal injury**.

5. Defence Costs

Defence costs arising from appealing, or otherwise challenging, an **infringement** notice given under the *Health and Safety at Work Act 2015*.

6. Business

Any **claim** relating to acts or omissions which do not directly arise out of the **business**.

7. Territorial Limit

Any **claim** arising out of an act or omission which takes place outside the territory of New Zealand.

8. Termination of Employment or Unlawful Discrimination

Any **claim** arising out of any termination of employment or unlawful discrimination against an **employee**.

9. Prosecutions

Any **claim** arising out of any prosecution or proceeding for breach of any **statute** or the law of any country.

Policy Section B - Management & Entity Liability

Management Liability

In consideration of the payment of the premium or agreement to pay the premium, the **Insurer** and the **entity** agree as follows:

Covers

1. Individuals

The **Insurer** shall indemnify each **insured person** for **loss** arising from **management liability**, except to the extent that the **insured person** has been indemnified by the **entity** for such **loss**.

2. Entity Reimbursement

The **Insurer** shall reimburse the **entity** for any **loss** for which it has indemnified an **insured person** arising from **management liability** as permitted or required by law.

Extensions

1. Assets and Liberty Costs

The **Insurer** shall pay:

1. any **bail bond** and **civil bond premium**;
2. **prosecution costs**; and
3. the reasonable fees, costs and expenses incurred by any **insured person** arising from any **asset and liberty proceeding**.

2. Criminal Prosecution Costs

The **Insurer** shall pay the reasonable and necessary fees, costs and expenses incurred by or with the prior written agreement of the **Insurer** by or on behalf of an **insured person** in the defence of a criminal prosecution under an otherwise excluded Act of Parliament arising out of the **insured person's** role with the **entity**.

Provided that:

1. the criminal prosecution is made against the **insured person** and reported to the **Insurer** during the **policy period**;
2. the total amount payable under this extension is for any one criminal prosecution and in the aggregate during the **policy period** as described in the **schedule**;
3. a **retention**, as described in the **schedule** shall apply to each and every **claim**; and
4. this Extension is not available to an **insured person** against whom there is an allegation of fraud or dishonesty or actual or alleged sexual misconduct.

3. Extradition Proceedings

The **Insurer** shall pay:

1. the reasonable fees, costs and expenses incurred by any **insured person** arising from any extradition proceeding; and

2. up to an aggregate amount as stated in the **schedule** for the reasonable fees, costs and expenses incurred by any **governor** for each of **a.** and **b.** below:

- a.** an accredited crisis counsellor and/or tax advisor retained by an **insured person** approved by the **Insurer** in connection with extradition proceedings brought against such **insured person**; and
- b.** **public relations consultants** approved by the **Insurer** to provide **public relations services** in connection with extradition proceedings brought against such **insured person**.

4. Investigations

The **Insurer** shall pay the **investigation costs** of each **insured person** arising from an **investigation**.

5. Occupational Health & Safety

The **Insurer** shall pay the **defence costs** and **investigation costs** of any **insured person** arising from an **occupational health and safety** incident.

6. Outside Entity Directors

The **Insurer** shall pay the **loss** of each **outside entity director** arising from **management liability**, except to the extent that the **outside entity director** has been indemnified for such **loss**.

The cover under this Extension shall be in excess of any assets or insurances of the **outside entity**.

7. Public Relations Services

The **Insurer** shall pay, up to an aggregate amount as stated in the **schedule** for reasonable fees, costs and expenses of **public relations consultants** to provide **public relations services** in connection with a covered **claim**, **critical regulatory event** or **investigation**, where such **public relations services** are not otherwise specifically covered elsewhere in this policy.

8. Run-off for Retired Insured Persons

The **Insurer** will provide:

1. an unlimited **discovery period** for any **insured person**; or
2. a **discovery period** of twelve (12) years for any superannuation trustee;

who retires or resigns prior to or during the **policy period**, other than by reason of a **transaction**, and provided that:

- a.** the cover purchased under this policy is not renewed or replaced; or
- b.** where the cover purchased under this policy is renewed or replaced, such renewal or replacement policy does not provide an extended discovery provision of at least six (6) years for such person.

9. Superannuation Schemes

With respect to *Policy Section B – Management Liability* only, **insured person** is extended to include any fiduciary capacity held by an **insured person** acting for or on behalf of the **entity** in the operation, administration or sponsorship of any superannuation, profit sharing or **employee** benefits programme.

Exclusions

The **Insurer** shall not be liable for **loss** under *Policy Section B – Management Liability*:

1. Statutory Liability and Employment Practices Liability

For any **claim** arising out of, based upon or attributable to **statutory liability** or **employment practices liability**. This exclusion shall not apply to:

1. any **claim** for emotional distress with respect to **employment practices liability** or **third party discrimination**; or
2. *Policy Section B – Management Liability Extension 2 ‘Criminal Prosecution Costs’* and
3. *Policy Section B – Management Liability Extension 5 ‘Occupational Health & Safety’*; and
4. *General Conditions applying to all Insuring Sections - Extension 5 ‘Regulatory Crisis Response’*.

2. Professional Services Exclusion

For any **claim** arising out of, based upon or attributable to any **professional services**.

Entity Liability

In consideration of the payment of the premium or agreement to pay the premium, the **Insurer** and the **entity** agree as follows:

Covers

1. Entity Liability

The **Insurer** will indemnify the **entity** for **loss** arising from **entity liability**.

2. Accidental Death

In the event of the **accidental death** of an **insured executive** during the **policy period**, and subject to the aggregate amount stated in the **schedule**, the **Insurer** will pay the **entity** the amount stated in the **schedule** for each **insured executive**.

Extensions

1. Breach of Contract

The **Insurer** shall pay, up to an aggregate amount as stated in the **schedule**, the **defence costs** of the **entity** arising from any **claim** regarding an alleged breach by the **entity** of any express (written or oral) contract or agreement.

2. Crisis Event

The **Insurer** shall pay, up to an aggregate amount as stated in the **schedule**, the **entity’s** reasonable fees, costs and expenses of **public relations consultants** to mitigate the adverse effect or potential adverse effect on the **entity’s** reputation with respect to a **crisis event**.

3. Disappearance of Insured Executive

If, after 24 months and after all reasonable searches and undertakings, including notifying all relevant authorities by the **entity**, it is agreed by the **Insurer** that the **insured executive** has in all likelihood suffered an **accidental death**, the **Insurer** will pay to the **entity** the benefit specified under *Policy Section B – Entity Liability - Cover 2 ‘Accidental Death’*.

This cover is subject to receiving a signed undertaking from the **entity** that any such benefit shall be refunded if it is later demonstrated that the **insured executive** did not in fact suffer **accidental death**.

4. Identity Fraud

If any party other than an **insured person** enters into any agreement with any **third party entity** fraudulently representing themselves as the **entity**, then the **Insurer** shall pay, up to an aggregate amount as stated in the **schedule**, any reasonable fees, costs and expenses incurred by the **entity** in establishing that such fraudulent misrepresentation has occurred, should the **third party entity** seek to enforce such agreement against the **entity**.

5. Intellectual Property

The **Insurer** will pay on behalf of the **insured** any **loss** resulting from any **claim** for any **infringement**.

6. Internet Liability

The **Insurer** will indemnify the **entity** for **loss** due to a **claim** made against the **entity** for:

1. **privacy breach** on the **internet**;
2. transmission of a **computer virus** (whether by the **internet** or otherwise);
3. **unauthorised material use** on the **internet**; or
4. **defamation** over the **internet**.

7. Sexual Misconduct

Notwithstanding the definition of **loss**, the **Insurer** will indemnify the **entity** in respect to any **sexual misconduct claim** for:

1. **investigation costs** and/or **defence costs**; and
2. punitive and/or exemplary **damages** awarded to, or on behalf of, a person who has suffered **personal injury** in New Zealand in connection with the **business** of the **insured**.

Provided that:

- a. this extension does not apply to any **sexual misconduct claim** against any **insured person**;
- b. the **sexual misconduct claim** is made against the **entity** and reported to the **Insurer** during the **policy period**;
- c. any punitive or exemplary **damages** awarded by any court outside of New Zealand are excluded;
- d. the total amount payable under this extension is for any one **claim** and in the aggregate during the **policy period** as described in the **schedule**;
- e. a **retention**, as described in the **schedule** shall apply to each and every **claim**.

8. Tax Status Costs

The **Insurer** shall pay as **defence costs**, up to an aggregate amount as stated in the **schedule**, any **tax status costs** if the **entity** retains a qualified accountant or registered tax agent to manage its tax affairs.

Exclusions

The **Insurer** shall not be liable for **loss** under *Policy Section B - Entity Liability*

1. Contract

Arising out of, based upon or attributable to any liability of the **entity** under any contract or agreement. This exclusion shall not apply to:

1. any **entity liability** that would have attached in the absence of such contract; and
2. insuring *Section B – Entity Liability Extension 1 ‘Breach of Contract’*.

2. Patent/Trade Secret

Arising out of, based upon or attributable to the breach of any licence concerning **infringement** of, or misappropriation of patents, copyrights or **trade secrets**.

3. Specified Accidental Death

For the **accidental death** of an **insured executive** which arises out of the **insured executive**:

1. engaging in any aerial activity, except as a passenger (and not as a pilot or crewmember) in any **aircraft** licensed to carry passengers;
2. committing suicide, or a criminal or illegal act;
3. being pregnant, or giving birth or having a miscarriage;
4. having Acquired Immune Deficiency Syndrome (A.I.D.S.) disease or Human Immunodeficiency Virus (H.I.V.) infection;
5. training for or participating as a professional in any sport;
6. racing in or on any motor powered device;
7. being in **control** of any motor powered device whilst having a blood alcohol level over the prescribed legal limit or being under the influence of any other drug, unless it was prescribed by a legally qualified medical practitioner; or
8. being exposed to radioactive materials in any form whatsoever whether occurring naturally or otherwise.

4. Statutory Liability, Employment Practices Liability & Third Party Discrimination

For any **claim** arising out of, based upon or attributable to **statutory liability**, or **employment practices liability**, or **third party discrimination**. This exclusion shall not apply to:

1. any **claim** for emotional distress with respect to **employment practices liability** or **third party discrimination**; or
2. *Policy Section B – Entity Liability, Extension 7 ‘Sexual Misconduct’*; or
3. *General Conditions applying to all Insuring Sections – Extension 5 ‘Regulatory Crisis Response’*.

5. Professional Services Exclusion

For any **claim** arising out of, based upon or attributable to any **professional services**.

6. Trading Debt

Based upon, arising from or in consequence of any trading or **business** debt incurred by the **entity**.

7. Products Liability

Based upon, arising from or in consequence of any goods manufactured, distributed, supplied, installed, treated, assembled or processed by or on behalf of the **entity**.

Policy Section B - Employment Practices Liability

In consideration of the payment of the premium or agreement to pay the premium, the **Insurer** and the **entity** agree as follows:

Covers

1. Employment Practices Liability

The **Insurer** will indemnify the **entity** for **loss** arising from **employment practices liability**.

2. Third Party Discrimination

The **Insurer** will indemnify the **entity**, up to an aggregate amount as stated in the **schedule**, for **loss** arising from any harassment of or discrimination against any natural person **third party** who is not an **employee**.

3. Insured Person Employment Practices Liability

The **Insurer** will indemnify each **insured person** for **loss** arising from **employment practices liability**.

Exclusions

The **Insurer** shall not be liable for **loss** under *Policy Section B – Employment Practices Liability*.

1. Benefits

Arising out of, based upon or attributable to any law or obligation pursuant to any workers' compensation, disability benefits, redundancy or unemployment benefits or compensation, unemployment insurance, retirement benefits, social security benefits, superannuation benefits or any similar law or obligation whatsoever that the **entity** would have been contractually or legally responsible for in the absence of the **employment practices liability claim**.

2. Redundancy

Arising out of, based upon or attributable to any redundancy. However this exclusion shall not apply if, in regard to the redundancy, the **insured**:

1. instructed an external solicitor qualified in employment law; and
2. obtained legal advice from that solicitor; and
3. complied with that advice; and
4. undertook all reasonable steps to mitigate the **loss** and/or likelihood of a **claim** arising.

3. Bodily Injury and/or Property Damage

For **bodily injury** and/or **property damage**. This exclusion shall not apply to any **claim** for emotional distress.

4. Intellectual Property Rights

In connection with any **claim** made for any actual or alleged plagiarism, misappropriation, **infringement** or violation of copyright, patent, trademark, trade secret or any other intellectual **property** rights.

Policy Section B - Crime Protection

In consideration of the payment of the premium or agreement to pay the premium, the **Insurer** and the **entity** agree as follows:

Covers

1. Fraud or Dishonesty

The **Insurer** will indemnify the **entity** for **direct financial loss** resulting from any acts of fraud or dishonesty committed by any **insured person** (acting alone or in collusion with others).

2. Third Party Crime

The **Insurer** will indemnify the **entity** for **direct financial loss** resulting from any **theft** or **fraudulent act** committed by any **third party**.

3. Electronic and Computer Crime

The **Insurer** will indemnify the **entity** for **loss** resulting from any **electronic and computer crime** committed by a **third party**.

4. Destruction and Damage of Money or Negotiable Instruments

The **Insurer** will indemnify the **entity** for **direct financial loss** directly resulting from the physical **loss** of or damage to or actual destruction or disappearance of the **entity's money** or **negotiable instruments** including damage to or actual destruction of safes or vaults at the **insured's premises** or at the registered financial institution(s) used by the **insured** for financial services.

5. Care, Custody and Control

The **Insurer** will indemnify the **entity** for any **loss** arising from any **claim** against the **entity** by any **third party** or other organisation, provided:

1. the **entity** had in its care, custody or **control** the **money, negotiable instruments** or other **property** belonging to that **third party** or other organisation; and
2. the **entity** is liable to that **third party** or other organisation for such **direct financial loss**.
3. such **direct financial loss** is caused by an **employee**, acting either alone or in collusion with a **third party** who is unrelated to the **third party** claiming the **loss**.

6. Criminal Damage to Property

The **Insurer** will indemnify the **entity** for **direct financial loss** resulting from **criminal damage** where such **direct financial loss** occurs within the **premises**.

7. Erroneous Funds Transfer

The **Insurer** will indemnify the **entity** for **direct financial loss** resulting from unlawful taking by a **third party** of **money** or **negotiable instruments** erroneously directed or erroneously transferred by the **entity**.

This Cover (Erroneous Funds Transfer) is provided on the proviso, and to the extent that any such recovery is unsuccessful, that the **entity** exhausts every reasonable course of action to secure recovery of such **money** or **negotiable instruments**.

Extensions

1. Interest

The **Insurer** will indemnify the **entity** for the amount of any interest which would have been receivable by the **insured** but for a **direct financial loss** covered under this policy, or which becomes payable by the **entity** resulting directly from a **direct financial loss** covered under this policy.

The **Insurer's** liability for interest receivable or payable shall be calculated by applying the daily average of the Westpac Banking Corporation (or such other leading financial institution as selected by the **Insurer**) base rate in force between the time of sustaining such **direct financial loss** and the time such **direct financial loss** is **discovered**.

2. Investigative Specialist Fees

The **Insurer** will indemnify the **entity**, up to an aggregate amount as stated in the **schedule**, for the reasonable fees, costs and expenses incurred in retaining a fraud investigator, engaged by the **Insurer** in writing, to investigate, prove and report a covered or potentially covered **direct financial loss**. The investigative specialist must not have a conflict of interest concerning such retainer.

No **retention** shall apply to **Extensions 1** and **2** and any such amounts are payable in addition to the **limit of liability**.

3. Public Relations Costs

The **Insurer** will indemnify the **entity** for **public relations costs** up to an aggregate amount as stated in the **schedule**.

4. USA or Canada

The *General Conditions applying to all Insuring Sections – Exclusion 17 - USA or Canada* exclusion shall not apply to *Policy Section B – Crime Protection*.

Exclusions

The **Insurer** shall not be liable under *Policy Section B – Crime Protection* for:

1. Agent Acts

Any act, error or omission of any independent contractor (other than an **employee**), broker, merchant, external solicitor or external accountant, or other similar agent or representative. This exclusion shall not apply to any organisation to which the **entity** has outsourced any normal administrative function under a written contract of engagement with such organisation.

2. Benefits

Salaries, commissions, fees and bonuses, promotions, awards, profit sharing, superannuation or other **employee** benefits paid by the **entity** where earned in the normal course of employment.

3. Confidential Information

Loss of or damage to proprietary information, intellectual **property**, **trade secrets**, confidential processing methods, or other confidential information of any kind.

4. Consequential Loss

Indirect or consequential **loss** of any nature, or the creation of a liability to a **third party**.

Provided however that this Exclusion shall not apply to *Policy Section B – ‘Crime Protection’ - Extension 1 – ‘Interest’*.

5. Credit Risks

Direct financial loss resulting from the complete or partial non-payment of or default upon any **credit arrangement**.

Provided however that this Exclusion shall not apply to *Policy Section B – ‘Crime Protection’ – Cover 1 – ‘Fraud or Dishonesty’*.

6. Direct Financial Loss Sustained After Knowledge

Direct financial loss sustained after any **responsible person** of the **entity** first becomes aware that a **third party** or **insured person** has committed, whether during or prior to the **policy period**, an act of dishonesty or fraud for which that **third party** or **insured person** could be charged with a criminal offence.

7. Dual Control

Direct financial loss or any payment in connection with any **fraudulent acts** arising out of, based upon or attributable to:

1. the **entity** failing to ensure that at least two (2) **governors** sign or authorise any cheques, **securities** or funds transfer instructions;
2. the **entity**'s bank accounts being reconciled by any person who has authority to operate those bank accounts;
3. any failure by the **entity** to ensure that at least two (2) **governors** authorise any refund of **money** or return of goods.

8. Failure to maintain computer

Any **direct financial loss** arising out of the **entity**'s failure to make and keep back-up copies of any **data**, file or program at regular intervals; or arising out of any shortcoming in an **entity**'s **computer** which an **entity** knew about or ought reasonably to have known about and did not rectify in a timely manner.

9. Fines, Penalties and Damages

Fines, penalties and **damages** of any type for which the **entity** is legally liable, except direct compensatory **damages**.

Provided however that this Exclusion shall not apply to *Policy Section B – ‘Crime Protection’ – Extension 1 – ‘Interest’*.

10. Fire

Direct financial loss or damage caused by fire, other than **loss** of or damage to **money**, **negotiable instruments**, safes or vaults covered under *Policy Section B – ‘Crime Protection’ – Cover 4 ‘Destruction and Damage of Money or Negotiable Instruments’*.

11. Forcible and Violent Theft

Direct financial loss occurring following forcible or violent entry to any **premises** occupied by an **entity** by any **third party** other than where covered under *Policy Section B – ‘Crime Protection’ – Cover 4 ‘Destruction and Damage of Money or Negotiable Instruments’*.

12. Premises and Property Damage

Damage or destruction to any:

1. **premises** or buildings, however caused;
2. contents, fixtures or fittings within the **premises**: or
3. **loss** resulting from fire, flood or earthquake.

Provided however that this Exclusion shall not apply to *Policy Section B – ‘Crime Protection’ – Cover 4 – ‘Destruction and Damage of Money or Negotiable Instruments’* or *Policy Section B – ‘Crime Protection’ - Cover 6 – ‘Criminal Damage to Property’*.

13. Profit, Loss or Inventory Computation

Direct financial loss which can only be proved by:

1. a profit and **loss** computation or comparison; or
2. a comparison of inventory records with an actual physical count.

14. Trading Losses

Direct financial loss resulting from or amounting to any dealing or trading in **securities**, commodities, futures, options, foreign or federal funds, currencies, foreign exchange and the like unless such **direct financial loss**:

1. is committed by an **insured person** (acting alone or in collusion with others) and covered under *Policy Section B – ‘Crime Protection’ – Cover 1 – ‘Fraud or Dishonesty’*; and
2. results in an improper financial gain to such **insured person** or for any other individual or organisation intended by such **insured person** to receive such benefit (where improper financial gain shall not include any salaries, commissions, fees and bonuses, promotions, awards, profit sharing, pensions or other **employee** benefits paid by an **entity** to such **insured person**).

Provided however that this Exclusion shall not apply to Policy *Section B – ‘Crime Protection’ – Extension 3 – ‘Public Relations Costs’*.

15. Voluntary Exchange or Purchase

Arising out of the voluntary giving or surrendering (whether or not such giving and surrendering is induced by deception) of **money**, **negotiable instruments** or other **property** in any exchange or purchase, unless the **entity** has taken reasonable steps to prevent such **direct financial loss**.

16. Legal Proceedings

Fees, costs or expenses incurred or paid by an **insured** in prosecuting or defending any legal proceeding or **claim**.

17. Insured Advantage

Direct financial loss sustained by an **insured** to the advantage of any other **Insured**.

18. Loss of Income

Direct financial loss of income as the result of any **loss** covered under this policy section.

19. Forgery

Direct financial loss sustained as a result of the alteration of **money** or **negotiable instruments**.

20. Mail

Direct financial loss sustained as a result of **loss** of **money** or **negotiable instruments** while in the mail or in the custody of a carrier for hire other than an armoured motor **vehicle** company.

21. Kidnap

Direct financial loss sustained as a result of a kidnap, ransom or other extortion payment (as distinct from **theft**) surrendered to any person as a result of a threat to do bodily harm to any person or a threat to do damage to any **property**.

2. the actual cash value of other **property** (not referred to in (1) above) at the close of **business** on the day the **direct financial loss** was first **discovered**, or the actual cost of replacing the **property** with **property** of like quality or value, whichever is less;
3. the cost of blank books, blank pages or other materials plus the cost of labour and **computer** time for the actual transcription or copying of **data** furnished by the **entity** in order to reproduce books of account or other records; or
4. the cost of labour for the actual transcription or copying of electronic **data** furnished by the **entity** in order to reproduce such electronic **data**.

2. Use of Investigative Specialist

In reporting and investigating **direct financial loss** in accordance with *Policy Section B – Crime Protection - Extension 2 – ‘Investigative Specialist Fees’*, the investigative specialist shall also advise as to when and how the **entity’s** controls were or may have been breached and summarise recommendations which may prevent future similar **direct financial loss**.

The **Insurer** has the right to attend the initial meeting between the **entity** and the investigative specialist.

There shall be no cover for the costs and expenses of an investigative specialist unless the investigative specialist is engaged by the **Insurer** in writing.

General Provisions

1. Basis of Valuation

In no event shall the **Insurer** be liable for more than:

1. the actual market value of **negotiable instruments**, **money** or precious metals at the close of **business** on the day the **direct financial loss** was first **discovered** (determined by the value published in the New Zealand Herald), or the actual cost of replacing the **negotiable instruments**, **money** or precious metals, whichever is less;

Policy Section B - Cyber



In consideration of the payment of the premium or agreement to pay the premium the **Insurer** and the **entity** agree as follows:

Covers

The Entity's own losses

1. Privacy Breach Costs

If the **Insured** discovers or reasonably suspects a **privacy breach** has occurred, the **Insurer** will indemnify the **entity** for all reasonable and necessary:

1. **privacy forensic costs**;
2. outside legal counsel's fees and costs incurred by the **entity** with the **Insurer's** prior written agreement for the **investigation** and defence of a covered **privacy breach**;
3. costs the **entity** incurs to notify **data subjects** affected by the **privacy breach**;
4. costs the **entity** incurs to notify any regulatory body of the **privacy breach** where the **entity** is required by any law or regulation to do so.

Provided that:

- a. the **entity** discovers or reasonably suspects that the **privacy breach** has occurred during the **policy period** and notifies the **Insurer** in accordance with the terms and conditions of this policy; and
- b. the **privacy breach** or suspected **privacy breach** is the result of a failure of **network security**; and
- c. any costs are incurred with the **Insurer's** prior written agreement.

2. Hacker Event

The **Insurer** will indemnify the **entity** for all reasonable and necessary expenses, incurred with the **Insurer's** prior written agreement, to:

1. recover or reconstruct any **data** that has been damaged, compromised or lost as a result of the **hacker event**; or
2. repair or restore software or applications on the **entity's computer system** but only if necessary to restore the **entity's computer system** to the same or equivalent condition or functionality as existed before the **hacker event**.

Provided that:

- a. the **hacker event** occurs during the **policy period** and is notified to the **Insurer** in accordance with the terms and conditions of this policy; and
- b. the **hacker event** is the result of a failure of **network security**; and
- c. the costs to recover or reconstruct the **data** is only available up and until a reasoned determination has been made by the **third party** forensics firm retained

to recover the lost **data**, that the **data** cannot be recovered or reconstructed; and

- d. any costs are incurred with the **Insurer's** prior written agreement; and
- e. any additional costs to update, upgrade, replace or improve the damaged or compromised software or applications on the **entity's computer system** or the **data**, to a newer or improved standard, condition, functionality, or version beyond the level at the time of the **privacy breach**, network failure, **hacker event** or cyber extortion shall be payable by the **entity**.

3. Cyber Extortion

If the **entity** receives a **cyber threat** during the **policy period**, the **Insurer** will indemnify the **entity** for:

1. reasonable and necessary expenses to hire a **third party** consultant for the sole purpose of handling the negotiation and payment of **cyber extortion damages** to terminate or end a **cyber threat**; and **cyber extortion damages**.

Provided that:

- a. **cyber threat** shall not include any threats or connected series of threats made, approved or directed by a Chief Finance Officer, Chief Executive Officer, General Counsel, Risk Manager, Chief Information Officer, Chief Information Security Officer, Chief Technology Officer, **Data** Protection Officer, Insurance Representative, or the organisational equivalent of any of those positions of the **entity**; and
- b. the **entity** made all reasonable efforts to determine that the **cyber threat** was not a hoax.

Claims against you

4. Privacy Liability

The **insurer** will indemnify the **entity** for **damages** and **privacy claims expenses** arising from:

1. **privacy liability**;
2. **network security liability**;
3. a **regulatory proceeding**.

5. Media Liability

The **insurer** will indemnify the **entity** for **damages** arising from **media liability**.

Exclusions

Insurers will not make any payment for any **claim** or part of a **claim** (including **damages**) or any **privacy claims expenses**, **privacy breach**, **regulatory proceeding**, **hacker event**, **cyber threat** or interruption directly or indirectly due to:

1. Breach of Professional Duty

any **claim** under 'Claims Against You: 4. Privacy Liability and Investigations' by any individual or **entity** to whom or which the **entity** has provided professional advice or services.

2. Destruction of Tangible Property

any **loss**, **theft**, damage, destruction or **loss** of use of any tangible **property**.

3. Discrimination

Discrimination or employment practices alleging, based upon, arising out of or attributable to any:

1. discrimination of any kind; or
2. humiliation, harassment or misconduct based upon, arising out of or related to any such discrimination.

4. Failure by Service Providers

Any failure or interruption of service provided by an **internet** service provider, telecommunications provider, **third party cloud provider** that is not hosting or storing the **entity's data**, or other utility provider.

This exclusion does not apply where the **entity** provides such services as part of its **business** and the outage is the direct failure of **network security**.

5. Hack by Director or Partner

any individual **hacker** within the definition of **governor** or a **third party hacker** hired, directed or controlled by a **governor**.

6. Insured v. Insured

brought or maintained by **you**, or on **your** behalf, or any other natural person or **entity** for whom or which **you** are legally liable, arising out of a **privacy breach**, **privacy liability** or **media liability**. However, this exclusion shall not apply to a **privacy liability** brought by an **employee** of the **entity** against the **entity**.

7. Intellectual Property

any actual or alleged **loss**, **theft** or **infringement** of **intellectual property**, but only to the extent that the same falls outside of the scope of **media liability**.

8. Media Liability Claims by Employees

any **claim** against **you** by any current or former **employee** including any freelancer or independent contractor.

9. Non-specific Privacy Investigations

any **regulatory proceeding** or **regulatory fines** alleging, based upon, arising out of or attributable to any routine regulatory supervision, enquiry or compliance review, any internal **investigation** or any **investigation** into the activities of the **entity's** industry which is not related to an alleged breach of privacy by any **insured**.

10. Patent or Trade Secret

any actual or alleged **infringement**, use, misappropriation or disclosure of a patent or trade secret.

11. Seizure and Confiscation

any confiscation, requisition, expropriation, appropriation, seizure or destruction of **property** by or under the order of any government or public or local authority, or any order by such authority to take down, deactivate or block access to the **entity's computer system**.

Policy Section B - Professional Liability for Not for Profits

In consideration of the payment of the premium or agreement to pay the premium, the **Insurer** and the **entity** agree as follows:

Cover

1. Professional Liability for Not for Profits

The **Insurer** will indemnify the **insured** for any **loss** arising from **professional liability**.

Extensions

1. Lost Documents

With respect to a **third party's documents**:

1. for which an **insured** is legally responsible; and
2. that, during the **policy period**, have been destroyed, damaged, lost, distorted, erased or mislaid solely in connection with the performance of **professional services**.

Loss shall also include costs and expenses reasonably incurred by the **insured** in replacing or restoring such **documents**, provided that:

1. such **loss** or damage is sustained while the **documents** are either:
 - a. in transit; or
 - b. in the custody of the **insured** or of any person to whom the **insured** has entrusted them;
2. the lost or mislaid **documents** have been the subject of a diligent search by or on behalf of the **insured**;
3. the incurring of such costs and expenses shall be subject to written approval by the **insurer**; and
4. the **Insurer** shall not be liable for any **claim** arising out of wear, tear and/or gradual deterioration, moth and vermin.
5. This extension will be subject to the **limit of liability** as stated in the **schedule**. A separate **retention** as stated in the **schedule** will apply to each **claim** covered under this extension.

2. Professional Liability Reinstatement Limit

Upon notification to the **Insurer** during the **policy period** of any **claim** made against the **insured** or of circumstances which are likely to give rise to a **claim** for **professional liability**, this policy shall be deemed to be reinstated for such amount, if any, as may ultimately be paid by the **Insurer** in respect of such **claim**, so as to remain in force during the **policy period** for the **limit of liability**, provided always that the aggregate of the amounts so reinstated shall not exceed an amount equal to the **limit of liability**.

3. Registration Decisions

Entity liability is extended to **defence costs** arising out of any challenge to a decision of the **entity** not to register or to remove from the register someone as a **registered person** in New Zealand.

The total of all payments under this extension will not exceed the amount as per **schedule** in the aggregate. A separate **retention** as per **schedule** will apply to each **claim** covered under this extension.

Exclusions

The **Insurer** shall not be liable for **loss** under *Policy Section B – Professional Liability for Not for Profits*:

1. General Liability and Matters Insured Elsewhere

For liability or **loss insured** under insuring *Section A – General Liability* or any other insuring section of this policy.

Policy Section B - Professional Indemnity

In consideration of the payment of the premium or agreement to pay the premium, the **Insurer** and the **entity** agree as follows:

Cover

1. Professional Liability

The **Insurer** will indemnify the **insured** for any **loss** arising from **professional liability**.

Extensions

1. Lost Documents

With respect to a **third party's documents**:

1. for which an **insured** is legally responsible; and
2. that, during the **policy period**, have been destroyed, damaged, lost, distorted, erased or mislaid solely in connection with the performance of **professional services**,

Loss shall also include costs and expenses reasonably incurred by the **insured** in replacing or restoring such **documents** provided that:

1. such **loss** or damage is sustained while the **documents** are either:
 - a. in transit; or
 - b. in the custody of the **insured** or of any person to whom the **insured** has entrusted them;
2. the lost or mislaid **documents** have been the subject of a diligent search by or on behalf of the **insured**;
3. the incurring of such costs and expenses shall subject to written approval by the **Insurer**; and
4. the **Insurer** shall not be liable for any **claim** arising out of wear, tear and/or gradual deterioration, moth and vermin.
5. This extension will be subject to a **limit of liability** as stated in the **schedule**. A separate **retention** as stated in the **schedule** will apply to each **claim** covered under this extension.

2. Professional Liability Reinstatement Limit

Upon notification to the **Insurer** during the **policy period** of any **claim** made against the **insured** or of circumstances which are likely to give rise to a **claim** for **professional liability**, this policy shall be deemed to be reinstated for such amount, if any, as may ultimately be paid by the **Insurer** in respect of such **claim**, so as to remain in force during the **policy period** for the **limit of liability**, provided always that the aggregate of the amounts so reinstated shall not exceed an amount equal to the **limit of liability**.

3. Registration Decisions

Entity liability is extended to **defence costs** arising out of any challenge to a decision of the **entity** not to register or to remove from the register someone as a **registered person** in New Zealand.

The total of all payments under this extension will not exceed the amount as per **schedule** in the aggregate. A separate **retention** as per **schedule** will apply to each **claim** covered under this extension.

Exclusions

The **Insurer** shall not be liable for **loss** under *Policy Section B – Professional Indemnity*:

1. General Liability and Matters Insured Elsewhere

For liability or **loss insured** under insuring *Section A – General Liability* or any other insuring section of this policy.

General Conditions applying to all Insuring Sections

In consideration of the payment of the premium the **Insurer** and the **entity** agree as follows:

Extensions

1. Access to Complimentary Legal Advice

The **Insurer** has arranged for the **advisory panel** to provide, at no extra **charge**, confidential legal advice of up to one (1) hour per enquiry deriving from the same or related facts of any **claim** or **occurrence**, to any **insured person** during the **policy period** with respect to any insuring section of this policy.

2. Court Attendance

The **Insurer** shall pay the following rates per day for each day on which attendance in a court by an **insured person** is required in connection with any covered **claim**, up to an aggregate amount of \$100,000:

1. for any **governor**; **outside entity director**; or any **employee**; of the **entity** acting in a managerial or supervisory capacity: \$500; and
2. for any other **insured person** not referred to in 1. above: \$250.

3. Discovery Period

The **entity** shall be entitled to a **discovery period** either

1. automatically of sixty (60) days if this policy is not renewed or replaced with a similar policy; or
2. 12 months at 100% of the full annual premium in effect at the expiry of the **policy period**; or
3. 24 months at 150% of the full annual premium in effect at the expiry of the **policy period**.

Provided that the **entity**:

- a. makes a request for such **discovery period** in writing prior to the expiry of the **policy period**;
- b. pays the additional premium required, no later than thirty (30) days after the expiry of the **discovery period**.

A **discovery period** is non-cancellable and shall not apply if a **transaction** occurs.

However, upon written request of the **entity**, the **Insurer** may quote a run-off **discovery period**. In considering such request, the **Insurer** shall be entitled to fully underwrite the exposure and to extend such offer on whatever terms, conditions and limitations that the **Insurer** reasonably deems appropriate.

4. Emergency Costs

If the **Insurer's** written consent cannot be obtained within a reasonable time before **defence costs** or **investigation costs** are incurred with respect to any **claim**, or costs are incurred with respect to a **crisis event**, then the **Insurer** shall allow retrospective approval for such costs up to a maximum, in the aggregate, of \$50,000.

5. Regulatory Crisis Response

In addition to **defence costs** and **investigation costs**, the **Insurer** will pay, up to an aggregate amount as stated in the **schedule**, for the reasonable fees, costs and expenses incurred by or on behalf of any **insured** in retaining legal advisers for the principal purpose of responding to a **critical regulatory event**.

Exclusions

The **Insurer** shall not be liable under any Policy Section:

1. Anti-Competitive Practices

In connection with any **claim** made for any actual violation of any law, whether statutory, regulatory or common law, with respect to any of the following activities: anti-trust, **business** competition, unfair trade practices or tortious interference in another's **business** or contractual relationships.

Provided that this exclusion does not apply to any **claim** made under the *Fair Trading Act 1986* or the *Consumer Guarantees Act 1993*.

2. Asbestos

For mesothelioma, asbestosis or for any death, disease, loss of use of property, damage to property (including consequential loss) arising directly or indirectly out of or in connection with or in consequence of:

1. inhaling, ingesting or physical exposure to asbestos or goods or products containing asbestos;
2. the use of asbestos in constructing or manufacturing any good, product or structure;
3. the removal of asbestos from any good, product or structure;
4. the manufacture, sale, transportation, storage or disposal of asbestos or goods or products containing asbestos; or the presence of asbestos in any building.

3. Benefits

Arising out of, based upon or attributable to any law or obligation pursuant to any workers' compensation, disability benefits, redundancy or unemployment benefits or compensation, unemployment insurance, retirement benefits, social security benefits, superannuation benefits or any similar law or obligation whatsoever.

This exclusion shall not apply to insuring *Section B – Employment Practices Liability*.

4. Bodily Injury and/or Property Damage for Bodily Injury and/or Property Damage.

This exclusion shall not apply to:

1. any **claim** for emotional distress with respect to **employment practices liability** or **third party discrimination**; or

2. mental anguish or distress where such **damages** solely stem from a covered **claim** for **defamation** or breach of privacy; or
3. Policy Sections:
 - a. *A – General Liability;*
 - b. *B – Management Liability - Extension 5 ‘Occupational Health & Safety’;*
 - c. *General Conditions applying to all Insuring Sections – Extension 4 ‘Emergency Costs’, Extension 5 ‘Regulatory Crisis Response’.*

5. Claims brought by a related party

For any **claim** brought by any person or **entity** within the definition of **Insured** or any party with a financial, **Governor** or managerial interest in the **entity**, including any parent company or any party in which any **insured** have a financial, **governor** or managerial interest.

This exclusion does not apply to coverage *Section B – Employment Practices Liability*.

6. Communicable Disease Exclusion

Notwithstanding any provision to the contrary within this policy, this policy does not cover all actual or alleged **loss**, liability, damage, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount, directly or indirectly and regardless of any other cause contributing concurrently or in any sequence, originating from, caused by, arising out of, contributed to by, resulting from, or otherwise in connection with a **Communicable Disease** or the fear or threat (whether actual or perceived) of a **Communicable Disease**.

For the purposes of this Exclusion, **loss**, liability, damage, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor or test for a **Communicable Disease**.

7. Conduct

Arising out of, based upon or attributable to:

1. the gaining of profit or advantage to which the **insured** was not legally entitled; or
 2. the committing of any dishonest or **fraudulent act**; or
 3. a deliberate, intentional or reckless act or omission
- in the event that any of the above is established by final adjudication of a judicial or arbitral tribunal or by any formal written admission by the **insured**.

8. Defamatory Statements

For or any statement a **governor** knew, or ought reasonably to have known, was defamatory at the time of publication.

9. Insolvency

Arising out of the insolvency of the **entity**.

10. Major Shareholders

For **claims** brought against any **insured** by, at the instigation of, or on behalf of, any past or present shareholder who had or has direct or indirect ownership of, or **control** over, 15% or more of the voting share capital of:

1. the **entity**; or
2. in the case of an **outside entity director**, any **outside entity**.

11. Nuclear Liability

For any **loss** or **claim** of whatsoever nature, directly or indirectly, caused by or contributed by or arising from:

1. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
2. the radioactive, toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component thereof.

12. Personal Injury Legislation

For any **claim** for any costs or compensation for which cover, to any extent is, provided by the *Accident Compensation Act 2001*, the *Accident Insurance Act 1998* or the *Accident Rehabilitation and Compensation Insurance Act 1992* or any amendment to or re-enactment of those Acts or would be provided by those Acts but for the **entity** being an exempt employer under the Acts.

13. Pollution

Arising out of, based upon or attributable to a **pollution condition** except where the **claim** arises from a sudden identifiable, unintended and unexpected event or **occurrence** which takes place in its entirety at a specific time and place and occurs outside of the United States of America, Canada and their respective protectorates and territories.

14. Prior Claims, Circumstances and Notifications

1. For **loss** or **direct financial loss** arising out of, based upon or attributable to any fact, matter, circumstance, **claim** or **occurrence**:
 - a. which has or ought to have been notified to any **insurer** under any other policy of insurance effected prior to the inception date of this policy; or
 - b. of which the **entity** or its **responsible persons** were aware prior to the inception date of this policy; or
 - c. occurring prior to the date upon which a **subsidiary** became an **insured**.
2. for any pending or prior civil, criminal, administrative or **regulatory proceeding**, **investigation**, arbitration or adjudication as of the **continuity date**, or alleging or deriving from the same or essentially the same facts as alleged in such actions.

15. Sexual Misconduct Exclusion

For any **sexual misconduct claim**.

This exclusion does not apply to *Policy Section B – Entity Liability – Extension 7 Sexual Misconduct*.

16. Silica

Loss directly or indirectly caused by or alleged to be caused by or contributed to, in whole or in part, by or arising out of the presence, ingestion, inhalation or absorption of or exposure to silica products, silica fibres, silica dust or silica in any form, or to any obligation of the **entity** to indemnify any party because of **bodily injury, property damage and/or personal injury** arising out of the presence, ingestion, inhalation or absorption of or exposure to silica products, silica fibres, silica dust or silica in any form.

17. USA or Canada

Acts or omissions committed or allegedly committed within Canada or the United States of America, or any legal action or litigation brought within Canada or the United States of America, its states, localities, territories or possessions or under any laws thereof.

18. War or Terrorism

Acts arising out of, based upon, attributed to or in any way connected with **war or terrorism**.

Claims

1. When to Notify Claims, Circumstances, and Direct Financial Loss

Cover under *Policy Section B* is provided on a claims made and notified basis.

Any **claim, direct financial loss**, or other event covered in the extensions to *Policy Section B* must be notified to the **Insurer** as soon as practicable after any **governor or responsible person** (or equivalent position) first becomes aware of such **claim, direct financial loss** or other event.

In all situations notification must be made to the **Insurer** in writing:

1. during the **policy period** or **discovery period**; or
2. within sixty (60) days after the end of the **policy period** or **discovery period** as long as notice is given to the **Insurer** within sixty (60) days after such **claim** was first made against the **insured** or such **direct financial loss** is first **discovered** by the **entity**.

Any **insured** may, during the **policy period** or **discovery period**, notify the **Insurer** of any circumstance reasonably expected to give rise to a **claim**. The notice must include the reasons for anticipating that **claim** and full relevant particulars as to dates, acts and the potential **insured** and claimant concerned.

If the **entity** notifies a **direct financial loss** to the **Insurer** the **entity** must provide to the **Insurer** as soon as practicable but no later than six (6) months after such **loss** is first **discovered**:

- a. affirmative proof of **direct financial loss**; and
- b. all requested information and **documents** and co-operation in all matters pertaining to **direct financial loss**.

2. When to Notify an Occurrence

Cover under *Policy Section A – General Liability* is provided on an **occurrence** basis.

Any **occurrence**, or other event covered in the extensions to *Policy Section A – General Liability* must be notified to the **Insurer** in writing as soon as practicable after the **Governor or responsible person** (or equivalent position) first becomes aware of such **occurrence** or other event.

3. When to Notify an Accidental Death

The **entity** must give written notice of an **accidental death** under *Policy Section B – Entity Liability*, including proof of identity and supporting medical evidence in the form required by the **Insurer**, within thirty (30) days of the **accidental death** of an **insured executive** or as soon thereafter as is reasonably possible.

4. Related Claims and Circumstances

If a **claim** or circumstance is notified under this policy, then any subsequent **claim**, alleging, arising out of, based upon or attributable to the facts or acts, errors or omissions alleged in that **claim** or described in or connected with that circumstance, shall be deemed to:

1. have first been made at the same time as that **claim** was first made or circumstance notified; and
2. notified to the **Insurer** on the date the notices were first provided.

Any **claim** arising out of, based upon or attributable to any **claim** or series of **claims** arising out of, based upon or attributable to continuous, repeated or related acts, errors or omissions, whether or not committed by more than one **Insured** and whether directed to or affecting one or more person or **Entity**, shall be considered a single **claim** for the purposes of this policy.

For the purpose of the **limit of liability** and applying the **retention**, any **direct financial loss** resulting from any single act, single omission, or single event, or series of related or continuous acts, omissions or events shall be considered a single **direct financial loss**.

5. Defence and Settlement

The **insured** must, at their own cost, render all reasonable assistance to the **Insurer** and take all reasonable measures to mitigate **loss** or potential payment under this policy.

The **Insurer** may undertake **investigations**, conduct negotiations and with the written consent of the **entity** settle any **claim** where settlement has been agreed to by the parties being indemnified or in the absence of agreement has been recommended by a **senior counsel**.

The **insured** shall have the obligation to defend and contest any **claim** made against them.

The **insurer** shall have the right, but not the obligation to participate fully in the defence and in the negotiation of any settlement that involves or appears reasonably likely to involve the **insurer**.

Notwithstanding the foregoing, the **insured** shall have the right to tender the defence of the **claim** to the **insurer**, which right shall be exercised in writing solely by the **entity** on behalf of all **insureds**:

1. this right shall terminate if not exercised within thirty (30) days of the date the **claim** is first made against an **Insured**.
2. the **Insurer** shall confirm the assumption of the defence of such **claim** to the **entity** in writing.
3. pending such acceptance by the **Insurer**, the **insureds** shall take no action, or fail to take any required action, that prejudices the rights of any **insured** or **Insurer** with respect to such **claim**.
4. the **Insurer** shall be obligated to assume the defence of such **claim** provided the **insureds** have complied with the foregoing.
5. the **Insurer** shall have no obligation to continue to defend such **claim** once the **limit of liability** has been exhausted.

The **Insured** consents to the appointment of any **advisory panel** member firm to act on behalf of the **insured** in respect of any **claim** defended in accordance with this policy.

All **insureds** shall at their own cost, render all reasonable assistance to and cooperate with the **Insurer** in the **investigation**, defence, settlement or appeal of a **claim** or circumstance, and provide the **Insurer** with all relevant information pertaining to any **claim** or circumstance, as the **Insurer** may reasonably require.

The **Insurer** will accept as necessary the **retention** of separate legal representation to the extent required by a material conflict of interest between any **insureds**.

If a **claim** is made against an **insured person** by the **entity** or **outside entity**, the **Insurer** shall have no duty or obligation to communicate with any other **insured person** or the **entity** in relation to that **claim**.

The applicable **insured** shall reimburse the **Insurer** for any payments which are ultimately determined not to be covered by this policy.

6. Consent

Only those settlements, judgments, and costs and expenses which have been consented to by the **Insurer** (which shall not be unreasonably delayed or withheld) shall be payable as **loss** under this policy.

Where there is a dispute between the **insured** and the **Insurer** as to whether a **claim** should be settled or should continue to be defended, within thirty (30) days after notice of such dispute, the **Insurer**, at its expense, shall refer the matter to a **senior counsel**

who shall determine whether the **insured** is likely to succeed in defending the **claim** to final resolution or whether the **claim** should be settled.

If the **senior counsel** determines that the **claim** should be settled, the **Insured** may elect to continue the defence of that **claim** without the **Insurer's** prior written consent provided that the **Insurer's** liability for all **loss** arising from that **claim** shall not exceed the amount for which that **claim** could have been settled plus the **defence costs** incurred to the date such determination was provided in writing to the **insured**.

The **senior counsel** shall determine the amount for which that **claim** could have been settled at the **Insurer's** expense, taking into account the economics of the matter, the **damages** and costs which are likely to be recovered by the plaintiff, the likely costs of defence and the prospects of the **insured** successfully defending the action.

7. Allocation

The **Insurer** will be liable only for **loss** to the extent it arises from a covered **claim**. If a **claim** involves both covered and uncovered matters or persons under this policy, then the **entity** or **insured person**, and the **Insurer** shall use commercially reasonable efforts to determine a fair and equitable allocation of **loss** covered under this policy, on the basis of established judicial allocation principles which take into account the legal and financial exposures, and the relative benefits obtained by the relevant parties.

If the **Insurer** and the **entity** or **insured person** cannot agree on allocation in accordance with this clause within fourteen (14) days of any allocation issue first notified in writing to the **insured** by the **Insurer**, then they agree to refer the determination to a **senior counsel**, whose decision shall be final and binding on all parties.

The **senior counsel** is to determine the fair and equitable allocation as an expert, not as an arbitrator. The relevant **insured** and the **Insurer** shall be entitled to make written submissions to **senior counsel**. The **senior counsel** is to take account of the parties' submissions, but the **senior counsel** is not to be fettered by such submissions and is to determine the fair and equitable allocation in accordance with his or her own judgment and opinion. The **senior counsel's** expenses in providing such determination will be paid by the **Insurer** and any such payments will not erode the **limit of liability**.

8. Advance Payment of Costs

Where the **Insurer** has not assumed the defence of a **claim** in accordance with *General Conditions applying to all Insuring Sections – Claims Conditions 5 'Defence and Settlement'*, the **Insurer** shall advance all **defence costs** and all other costs and expenses payable under this policy, within 21 days after sufficiently detailed invoices for those costs are received and accepted for payment by the **Insurer**.

The **Insurer** may not refuse to advance **defence costs** or other costs and expenses payable under this policy by reason only that the **Insurer** considers that conduct specified in the

General Conditions applying to all Insuring Sections Exclusion 7 'Conduct' has occurred, until such time as the condition to that exclusion is satisfied.

9. Subrogation

In the event of any payment under this policy, the **Insurer** shall be subrogated to the extent of such payment to all of the **insureds'** rights of recovery, contribution and indemnity and the **insured** will provide all reasonable assistance and will do nothing to prejudice such rights.

The **Insurer** will not exercise its rights of subrogation against an **insured person** in connection with a **claim**, unless it can establish that the *General Conditions applying to all Insuring Sections Exclusion 7 'Conduct'* applies to that **claim** and that **Insured Person**.

10. Continuity

Notwithstanding *General Conditions applying to all Insuring Sections Exclusion 14 – 'Prior Claims, Circumstances and Notifications'*, cover is provided under this policy for any **claim**, or circumstance, which could or should have been notified under any earlier policy, provided always:

1. the **claim**, or circumstance, could and should have been notified after the **continuity date**; and
2. the **claim** shall be dealt with in accordance with all terms, conditions, exclusions and limitations of the policy under which the **claim**, or circumstance, could and should have been notified but only where such earlier policy affords no broader cover in respect of the **claim** than the provisions of the policy, including the **limit of liability** after reduction by any payment for any **claim** that could or should have been notified under the earlier policy; and
3. if the **Insurer** is the **insurer** on risk for the policy in 2. above, the **Insured** agrees to **claim** on this policy only and to make no **claim** on such earlier policy.

Limit & Retention

1. Limit of liability

Aggregate limit of liability

If the **schedule** specifies an 'Aggregate limit of liability', the total amount payable by the **Insurer** under this policy shall not exceed this amount, other than with respect to:

1. *Policy Section B – Professional Liability for Not For Profits Extension 2 – 'Professional Liability Reinstatement Limit'*;
2. *Section B Professional Indemnity Extension 2 – 'Professional Liability Reinstatement Limit'*;
3. *Policy Section B – Crime Protection Extension 2 'Investigative Specialist Fees'*; and
4. *Policy Section A – General Liability*.

Separate limits of liability

If the schedule specifies 'separate limits of liability', a separate aggregate **limit of liability** shall apply to each policy Section. Each such **limit of liability** is the aggregate limit of the **Insurer's** liability with respect to all **loss / direct financial loss** arising under such Policy Section, other than with respect to:

1. *Policy Section B – Professional Liability for Not For Profits Extension 2 – 'Professional Liability Reinstatement Limit'*;
2. *Section B Professional Indemnity Extension 2 – 'Professional Liability Reinstatement Limit'*; and
3. *Policy Section B – Crime Protection Extension 2 'Investigative Specialist Fees'*.

Non Related Claims

Policy Section B – Professional Liability for Not For Profits Extension 2 – 'Professional Liability Reinstatement Limit' and *Section B Professional Indemnity Extension 2 – 'Professional Liability Reinstatement Limit'*, applies excess of the **limit of liability** for *Policy Section B – Entity Liability* for any **claim** that is not a related **claim** or circumstance as specified in *General Conditions applying to all Insuring Sections – Claims Condition 4 'Related claims and Circumstances'*.

The **Insurer** shall have no further liability in excess of all such limits, irrespective of the number of **Insureds** or amount of any **loss** or **direct financial loss**, including with respect to any **claim** as specified in *General Terms & Conditions applying to all Insuring Sections – Claims Condition 5 'Related claims and Circumstances'*.

Extensions

Optional Extensions only apply to **loss** or **direct financial loss** under each policy section shown as included under 'Insuring Sections' in the **schedule**.

Any amount specified in the policy or the **schedule** for any cover or extension is the most the **Insurer** will pay in the aggregate under this policy:

1. as **loss** under such cover or extension; or
2. regarding any single **direct financial loss** under such cover or extension.

Sub Limits

Any sub-limits identified in the **schedule** apply to the applicable extension and those sub-limits form part of, and are not in addition to, the **limit of liability**, except where expressly indicated. All provisions of this policy apply to the extensions, except where expressly indicated.

Policy Section A – General Liability

The **limit of liability** under *Policy Section A – General Liability* applies to each **occurrence**. In respect of the **entity's products** the **limit of liability** is in the Aggregate any one **policy period**.

The **Insurer's** liability in respect of any one **occurrence** shall not exceed the **limit of liability**. All **personal injury** and **property**

damage arising out of continuous or repeated exposure to substantially the same general conditions shall be construed as arising out of one **occurrence**.

With respect to *Policy Section A – General Liability* only, expenses incurred to defend or investigate any **claim** will be in addition to the applicable **limit of liability** provided that:

1. the **Insurer's** liability to pay these expenses shall cease upon the **limit of liability** having been exhausted by payment of judgements of settlements; and
2. In the event of any **claim** being made against the **entity** in any court or before any other legally constituted body in North America, the **limit of liability** shall apply to such **claim** inclusive of expenses to defend or investigate any **claim**.

All Sections

Regardless of the number of years this policy shall continue in force, the number of premiums paid and irrespective of whether it is or may be renewed, the limits of liability as specified in the **schedule** shall not accumulate from year to year or from **policy period** to **policy period**.

2. A single retention shall apply to all:

1. **loss** arising from any **claim** as specified in *General Conditions applying to all Insuring Sections – Claims Condition 4 'Related Claims and Circumstances'* (regardless of whether the **loss** or any part of it is payable under *Policy Section A* or *B* of this policy; or
2. **direct financial loss** as specified in *General Conditions applying to all Insuring Sections – Claims Condition 4 'Related Claims and Circumstances'*.

General Provisions

1. Assignment

Neither this policy nor any rights under it may be assigned without the prior written consent of the **Insurer**.

2. Cancellation

The **entity** may cancel this policy by providing 14 days written notice to the **Insurer** in which case the **Insurer** shall retain the pro-rata proportion of the premium plus 20% of that pro-rata proportion.

The **Insurer** may cancel this policy, or any policy section, by sending written notice to the **entity**, at the last address in the **Insurer's** records. The cancellation will take effect at 4 pm on the 30th day after the letter or email has been sent. The **Insurer** shall be entitled to retain the pro-rata proportion of the premium.

Cancellation of this policy does not extinguish any cover available under *Policy Section B – Management Liability Extension 8 'Run-off for Retired Insured Persons'*.

3. Changes in Risk

The **Insurer** shall not be liable for **loss** or **direct financial loss** arising out of, based upon or attributable to any:

1. **occurrence**, act, error or omission committed or allegedly committed; or
2. a matter which is the subject of an **investigation**, extradition proceeding or **asset and liberty proceeding**, occurring or arising;

after the effective date of a **transaction**.

Cover shall only apply to an **Insured** for any covered acts, errors or omissions occurring after that date on which such **Insured** became a covered **Insured**.

The **entity** shall notify the **Insurer** in writing within thirty (30) days of any material change to the **business** description as stated in the submission, application for insurance or the **schedule**. The **Insurer** reserves the right to accept or deny coverage at or after the time of such notification and to establish a separate rate and premium for any such change in the **business**.

4. Confidentiality

The **insureds** shall make all reasonable efforts not to disclose the existence of this policy to any person except to professional advisers or as required by law or court order and shall only state within the **entity's** annual report that the **entity** has agreed, or otherwise, to pay a premium for this policy but shall not publish the nature of the liability covered by this policy, the name of the **Insurer**, the **limit of liability** or the premium paid for this policy.

5. Governing Law

Any interpretation of this policy or issue relating to its construction, validity or operation shall be determined by the laws of New Zealand. Except as otherwise provided herein, the parties will submit to the exclusive jurisdiction of the New Zealand courts.

6. GST

All amounts indicated in this policy and the attached **schedule** are exclusive of Goods and Services Tax where payable by law.

However, all **Retentions** are inclusive of GST where payable by law.

7. Headings and Titles and Other References

The descriptions in the headings and titles of this policy are solely for reference and convenience and do not lend any meaning to this policy.

Words and expressions in the singular shall include the plural and vice versa.

In this policy, words in bold typeface shall have special meaning and are defined.

References to legislation shall include any subsequent amendments or re-enactments and the equivalent legislation in other jurisdictions.

A reference to “this policy” shall mean a reference only to those covers which are shown on the **schedule** as purchased.

8. Inspection

The **Insurer** (or its agents, representatives, **employees** or consultants) may inspect the **entity’s premises** and operations at any time.

The **Insurer** will use reasonable endeavours to give the **entity** reasonable notice of any intended inspection.

The **entity** shall provide all reasonable cooperation and assistance as the **Insurer** may require and provide access to its **premises** and other places of **business**, as well as facilitate enquiries and interviews of any **employee**.

The **Insurer** may give the **entity** reports on the conditions that the **Insurer** finds, including recommendations. However, such inspections are merely as to the insurability of the risk and the premium to be charged and are not safety inspections.

9. Non-Avoidance

For *Policy Sections B – Management Liability, B – Entity Liability, B – Professional Liability for Not for Profits, B – Employment Practices Liability, B – Cyber, B – Professional Indemnity, and Reserved Costs and Expenses only*:

1. subject to 2. below, these policy sections are not avoidable or rescindable in whole or in part with respect to any **insured person**, and the **Insurer** shall have no other remedy, with respect to any pre-inception misrepresentation or pre-inception non-disclosure by any **insured person** in connection with this policy; and
2. if the **Insurer** has a right to reduce its liability for any fraudulent misrepresentation or fraudulent non-disclosure of a matter or fact established by final adjudication of a judicial or arbitral tribunal, or any formal written admission by or on behalf of any **insured person**, the **Insurer** will only exercise such right against that **insured person**.

In respect of *Policy Sections A – General Liability, B – Statutory Liability, B – Employers Liability and B – Crime Protection* the **Insurer** retains all of its legal rights for any pre-inception misrepresentation or pre-inception non-disclosure by any **insured person** in respect of that Policy Section.

10. Notice and Authority

The **entity** shall act on behalf of each and every **insured** with respect to the giving of notice of any **claim** or **direct financial loss**, the payment of premiums and the receiving of any return premiums that may become due under this policy, the receipt and acceptance of any endorsements issued to form a part of this policy and the exercising or declining of any right to a **discovery period**.

11. Other Insurance and Indemnification

This policy shall always apply excess over any other valid and collectible insurance available to the **insured** (including without limitation any policy specified in an endorsement to this policy).

With respect to **outside entities**, insurance provided by this policy applies excess over:

1. any indemnification provided by an **outside entity**, and
2. any other collectible insurance issued to an **outside entity** for the benefit of its directors, officers, or **employees** (including without limitation any **outside entity** insurance policy specified to the **Insurer**).

12. Sanctions Clause

The **Insurer** shall not be deemed to provide cover and the **Insurer** shall not be liable to pay any **claim** or provide any benefit hereunder to the extent that the provision of such cover, payment of such **claim** or provision of such benefit would expose the **Insurer**, its parent company or its ultimate controlling entity 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, New Zealand or the United States of America.

13. Severable Nature of the Policy

Except in respect of *Policy Sections A – General Liability, B – Statutory Liability, B – Employers Liability and B – Crime Protection*, this policy is a severable policy covering each **insured** for their own individual interest and:

With respect to the *General Conditions applying to all Insuring Sections Exclusion 7 ‘Conduct’* and the contents of any proposal form or declaration submitted, or statements, warranties and representations made to the **Insurer** in connection with this policy, or any policy of which this policy is a renewal or replacement:

1. with respect to any **insured person**: no statements made by or on behalf of an **insured person**, or information or knowledge possessed by an **insured person**; nor any act, error or omission of an **insured person**, shall be imputed to any other **insured person**, for the purpose of determining whether any **insured person** is covered under this policy;
2. with respect to the **entity**: only the statements and knowledge of any **governor** or **responsible person** of the **entity**, or any person who signed the declaration or proposal form in connection with this policy or any policy of which this policy is a renewal or replacement; will be imputed to all **insureds**.

14. Terms and Conditions of Each Section

Unless otherwise stated:

1. the definitions, terms, conditions and exclusions set out in the *General Conditions applying to all Insuring Sections* apply to all Sections; and
2. the *definitions, terms, conditions* and *exclusions* of each policy section apply only to each respective section.

In the case of inconsistency or conflict, the specific insuring sections override the *General Conditions applying to all Insuring Sections*.





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