

A photograph of a hand using a calculator on a desk. The desk is cluttered with papers, a pen, and a calculator. The image is partially obscured by a green diagonal overlay on the left side.

Professional Indemnity for Accountants

Policy Wording

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PART 1 - IMPORTANT INFORMATION

What You Need to Read and Understand

This document contains:

- this Part 1 - Important Information section which contains certain important notices, terms and other information;
- Part 2 – Policy Cover Sections which sets out the covers this insurance can provide (subject to eligibility) and the other standard terms and conditions which will apply to the covers (including any applicable limits and exclusions). It includes General Definitions which set out the special meaning We give to certain words used in the Policy. Other words may be specially defined in a Policy section, term or condition.

About Tasman Underwriting

This insurance is arranged and administered by Tasman Underwriting ABN 65 005 754 718 (Tasman) is a trading division of IBL Limited AFS Licence number 231203.

Agent of the Insurer:

Please note that in arranging the contract of insurance, **we** are acting under an authority given to **us** by the **insurer**, and **we** will be effecting the contract of insurance as agent of the **insurer**, and not as **your** agent.

Tasman's contact details are:

Level 21, 41 Exhibition Street
Melbourne, VIC 3000
Telephone: 1800 234 338

About the Insurers

This insurance is underwritten by Certain Underwriters at Lloyd's (referred to as We, Our, Us and Insurer).

Lloyd's and Lloyd's Underwriters have been involved in the insurance of Australian risks for over 150 years. Lloyd's Underwriters are authorised to carry on general insurance business under the Insurance Act 1973 (Cth). You can obtain further details of the syndicate numbers and the proportions of this insurance for which each of the Lloyd's Underwriters is liable by requesting them from Us. In the event of loss, each Lloyd's Underwriter (and their Executors and Administrators) is only liable for their own share of the loss. Refer to the Several Liability notice for more information on the specified Lloyd's Underwriter's liability.

You should contact Tasman in the first instance in relation to this insurance.

Lloyd's contact details are:

Lloyds Australia Limited
Level 16, Suite 1603, 1 Macquarie Place
Sydney, NSW 2000
Telephone: (02) 8298 0783

Assumed Liability and Waived Rights

If an Insured has entered into an agreement with another party:

- where the Insured is assuming a greater liability than would apply had the Insured not entered into that agreement; or
- which prevents the Insured from taking a recovery action for indemnity or contribution from that party,

it may adversely affect the Insured's rights to cover under the Policy.

See "When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim" for further information.

Claims Made and Notified Insurance

The Professional Indemnity Policy is issued on a claims made and notified basis. This means that the Policy responds:

- a) to claims first made against an Insured during the Period of Insurance and notified to Us during that Period of Insurance, providing that the Insured was not aware at any time prior to the Policy inception of circumstances which would have put a reasonable person in their position on notice that a claim might be made against them; and
- b) pursuant to section 40 sub-section 3 of the Insurance Contracts Act 1984 (Cth), which states: *"where the insured gave notice in writing to the insurer of facts that might give rise to a claim against the insured as soon as was reasonably practicable after the insured became aware of those facts but before the insurance provided by the contract expired, the insurer is not relieved of liability under the contract in respect of the claim, when made, by reason only that it was made after the expiration of the period of insurance provided by the contract"*.

When the Policy expires, no new notification can be made on the expired Policy even though the event giving rise to the claim against an Insured may have occurred during the Period of Insurance. An Insured will not be entitled to indemnity under Your new policy in respect of any claim arising out of circumstances of which an Insured was aware at any time prior to the Policy inception that would have put a reasonable person in their position on notice that a claim might be made against them.

Complaints and Dispute Resolution Process

If You have any concerns or wish to make a complaint in relation to the Policy, Our services or Your insurance claim, please let Us know and We will attempt to resolve Your concerns in accordance with Our Internal Dispute Resolution procedure. Please contact Tasman Underwriting in the first instance. If this does not resolve the matter or you are not satisfied with the way a complaint has been dealt with, you should contact:

Lloyd's Underwriters' General Representative in Australia

Email: ldraustralia@lloyds.com

Telephone: (02) 8298 0783

Post: Suite 1603, Level 16, 1 Macquarie Place
Sydney, NSW 2000

Who will refer your dispute to the Complaints Team at Lloyd's.

Complaints that cannot be resolved by the Complaints Team may be referred to the Financial Ombudsman Service (UK). Further details will be provided at the appropriate stage of the complaints process.

A final decision will be provided to You within 30 calendar days of the date on which You first made the complaint unless certain exceptions apply.

You may refer Your complaint to the Australian Financial Complaints Authority (AFCA), if Your complaint is not resolved to Your satisfaction within 30 calendar days of the date on which You first made the complaint or at any time. AFCA can be contacted as follows:

Australian Financial Complaints Authority

Post: GPO Box 3, Melbourne VIC 3001

Telephone: 1800 931 678

Email: info@afca.org.au

Website: www.afca.org.au

Your complaint must be referred to AFCA within 2 years of the final decision, unless AFCA considers special circumstances apply. If Your complaint is not eligible for consideration by AFCA, You may be referred to the Financial Ombudsman Service (UK) or You can seek independent legal advice. You can also access any other external dispute resolution or other options that may be available to You.

The Insurers accepting this insurance agree that:

- a) if a dispute arises under the Policy, the Policy will be subject to Australian law and practice and the Insurers will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
- b) any summons notice or process to be served upon the Insurers may be served upon:

Lloyd's Underwriters' General

Representative in Australia

Suite 1603, Level 16, 1 Macquarie Place

Sydney NSW 2000

who has authority to accept service on the Insurers' behalf;

- c) if a suit is instituted against any of the Insurers, all Insurers participating in the Policy will abide by the final decision of such Court or any competent Appellate Court.

In the event of a claim arising under the Policy immediate notice should be given to Tasman Underwriting.

Disclaimer

When You enter into the Policy You confirm and warrant that You have read the Policy documents provided to You.

Excess

If an Insured makes a claim under the Policy, they may be required to pay one or more Excesses. The descriptions of these Excesses and the circumstances in which they are applied are explained in this document, the Schedule and other documents forming the Policy.

When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim

We may refuse to pay or reduce the amount We pay under a claim to the extent permitted by law.

The situations in which We may refuse to pay or reduce the amount We pay under a claim under the Policy include (but are not limited to):

- a) when You apply for cover (this includes new business, variations and renewals) and You do not comply with Your obligations regarding pre contractual disclosures and representations to

Us under the Insurance Contracts Act 1984 (Cth) (including where applicable the Duty of Disclosure – see Your Duty of Disclosure below); or

- b) if You do not comply with or meet a term or condition (including where an exclusion applies or other limitation) of the Policy (All referred to as “terms” when used below) – See “If You do not comply with or meet any Policy term” below for more detail;
- c) if You make a fraudulent claim – See “Fraudulent Claims” below;
- d) where You have not or are not acting in accordance with Your duty of utmost good faith under the Insurance Contracts Act 1984 (Cth) – See “Duty of Utmost Good Faith” below.

The amount of any claim entitlement can also be affected and/or reduced by any limits (including any time limits) or Excess(es) that apply and recoveries You, an Insured or We might make relevant to a loss.

If You do not comply with or meet any Policy term

We will only rely on any rights We have regarding the operation of or breach of a term of the Policy to the extent permitted by law (including Our right to refuse or reduce a claim noted above). We provide some key examples below. You need to seek Your own advice regarding all relevant legal rights You may have.

Terms allowing Us to refuse to pay or reduce a claim (in whole or part) by reason of an act by You or some other person that occurred after the Policy was entered into

Subject to Our rights in relation to Fraudulent Claims explained below, by reason of section 54 of the Insurance Contracts Act 1984 (Cth), where the effect of the Policy (this includes all terms or conditions, including any exclusion or other limitation) is to allow Us to refuse to pay or reduce a claim (in whole or part) by reason of an act by You or some other person that occurred after the Policy was entered into, We will exercise Our rights under the Policy as explained below (Refer to the Insurance Contracts Act 1984 (Cth) for full details).

Under section 54, an “act” by You or some other person includes an omission and inaction and an act or omission that has the effect of altering the state or condition of the subject-matter of the Policy or of allowing the state or condition of that subject-matter to alter.

How We exercise Our rights where section 54 applies (unless there is a Fraudulent Claim)

- Where:
 - the act was necessary to protect the safety of a person or to preserve property;
 - it was not reasonably possible for You or the other person not to do the act; or
 - You prove no part of the loss that gave rise to the claim was caused by the act,We will not refuse to pay or reduce the claim by reason only of that act.
- Where the act:
 - could not reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy; or
 - could reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy but You prove that some part of the loss that gave rise to the claim was not caused by the act, We may not refuse to pay the claim, so far as it concerns that part of the loss but,We can reduce Our liability in respect of the claim by an amount that fairly represents the extent to which Our interests were prejudiced as a result of that act.
- Otherwise, where the act could reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy, We may refuse to pay the claim.

Terms allowing Us to refuse or reduce a claim because of pre-existing defects or imperfections existing before the Policy was entered into

Only where section 46 of the Insurance Contracts Act 1984 (Cth) is applicable to the Policy:

- where a claim is made in respect of a loss that occurred as a result, in whole or in part, of a defect or imperfection in a thing; and
- at the time when the contract was entered into You were not aware of, and a reasonable person in the circumstances could not be expected to have been aware of, the defect or imperfection,

We may not rely on any provision included in the Policy that has the effect of limiting or excluding Our liability under the contract by reference to the condition, at a time before the Policy was entered into, of the thing. This does not apply if the Policy is in an excluded class to which section 46 does not apply. (Refer to the Insurance Contracts Act 1984 (Cth) for full details).

Fraudulent Claims

In all cases, where a claim is made fraudulently under:

- the Policy; or
- the Insurance Contracts Act against Us by a person who is not You,

We may refuse payment of the claim to the extent permitted by law. Under section 56(2) of the Insurance Contracts Act 1984 (Cth) a court may, if only a minimal or insignificant part of the claim is made fraudulently and non-payment of the remainder of the claim would be harsh and unfair, order Us to pay, in relation to the claim, such amount (if any) as is just and equitable in the circumstances. (Refer to the Insurance Contracts Act 1984 (Cth) for full details).

Duty of Utmost Good Faith

- Section 13 of the Insurance Contracts Act 1984 (Cth) requires each party to the Policy to act towards the other party, in respect of any matter arising under or in relation to it, with the utmost good faith.
- Section 14 of the Insurance Contracts Act 1984 (Cth) provides that if reliance by a party to the Policy on a provision of the Policy would be to fail to act with the utmost good faith, the party may not rely on the provision.

(Refer to the Insurance Contracts Act 1984 (Cth) for full details).

Terms Apply to Extent Enforceable

A term (or part of a term) of the Policy will be applied to the extent enforceable under relevant law.

Duty of Disclosure

Before You enter into an insurance contract, You have a duty to tell Us of anything that You know, or could reasonably be expected to know, may affect Our decision to insure You and on what terms. You have this duty until We agree to insure You.

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

You do not need to tell Us anything that:

- reduces the risk We insure You for;
- is of common knowledge;
- We know or should know as an insurer; or
- We waive Your duty to tell Us about.

If You do not tell Us something

If You do not tell Us anything You are required to, We may cancel Your contract or reduce the amount We will pay You if You make a claim, or both.

If Your failure to tell Us is fraudulent, We may refuse to pay a claim and treat the contract as if it never existed.

General Insurance Code of Practice

The Insurance Council of Australia Limited has developed the General Insurance Code of Practice ("the Code"), which is a voluntary self-regulatory code for use by all insurers. The Code aims to raise the standards of practice and service in the general insurance industry.

Lloyd's Australia Limited has adopted the Code on terms agreed with the Insurance Council of Australia.

For further information on the Code, please visit www.codeofpractice.com.au

The Code Governance Committee (CGC) is an independent body that monitors and enforces insurers' compliance with the Code. For more information on the Code Governance Committee (CGC) go to <https://insurancecode.org.au>

Goods and Services Tax (GST)

The amount payable by You for the Policy includes an amount for GST.

When We pay a claim, your GST status will determine the amount We pay.

The amount that We are liable to pay under the Policy will be reduced by the amount of any Input Tax Credit (ITC) that you are or may be entitled to claim for the supply of goods or services indemnified by that payment.

You must advise Us of Your correct Australian Business Number (ABN) and Taxable Percentage. Taxable Percentage is Your entitlement to an ITC on Your premium as a percentage of the total GST on that premium. Any GST liability arising from Your incorrect advice is payable by You.

Where the settlement of a claim is less than the applicable Limit of Liability or the other limits applicable to the Policy, We will only pay the GST (less your ITC) applicable to the settlement. This means that if these amounts are not sufficient to cover the whole claim, We will only pay the GST relating to Our share of the settlement for the whole claim.

We will pay the claim by reference to the GST exclusive amount of any supply made by any business of yours which is relevant to the claim.

GST and ITC have the same meaning as given to those words or expressions in A New Tax System (Goods and Services Tax) Act 1999 (Cth) and related or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable).

Our Contract with You

Where We agree to enter into a Policy with You it is a contract of insurance between Us and You.

If We issue You with a Policy, You will be given a Schedule. The Schedule sets out certain additional terms applicable to the Policy and other matters specific to the Policy such as the cover issued and the Limit(s) of Liability.

The Schedule must be read together with this document and any other documents We agree with You will form part of the Policy that We issue. Any new or replacement Schedule We may send You detailing changes to the Policy or the Period of Insurance, will become the current Schedule, which You should carefully read and retain.

Where We agree, documents other than this document and the Schedule will form part of the Policy (often called endorsements), any such documents will be dated and will include a statement identifying them as part of the Policy.

Together they form Your Policy/contract with Us. These are all important documents and should be carefully read together and kept in a safe place for future reference.

The Policy also extends cover to certain persons or entities who are not contracting parties but are entitled to access cover by reason of section 48 of the Insurance Contracts Act 1984 (Cth) as third party beneficiaries.

They are persons other than the "You" set out in the definition of "Insured" in the General Definitions Section.

No insurance is provided in relation to the interest of any persons not specified as being entitled to benefit under the Policy under the definition of "Insured".

Privacy Statement

In this Privacy Statement the use of "We", "Our" or "Us" means IBL Ltd trading as Tasman Underwriting and the Insurers unless specified otherwise.

In this Privacy Statement the use of "personal information" includes sensitive information.

We are committed to protecting the privacy of the personal information You provide to Us.

The Privacy Act 1988 contains the Australian Privacy Principles which require Us to tell You that We collect, handle, store and disclose Your personal and sensitive information for the specific purpose of:

- deciding whether to issue a policy,
- determining the terms and conditions of Your Policy,
- compiling data to help develop and identify other products and services that may interest clients, and
- handling claims.

Personal information is information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- a) whether the information or opinion is true or not;
- b) whether the information or opinion is recorded in a material form or not.

Sensitive information includes, amongst other things, information about an individual's racial or ethnic origin, political opinions, membership of a political organisation, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual orientation or practices, criminal record, health information about an individual, genetic information, biometric information or templates.

You have given Us Your consent to collect, use and disclose Your personal and sensitive information in order to provide You with the relevant services and/or products.

When You give Us personal information about other individuals, We rely on You to have made or make the individual aware that You will or may provide their personal information to Us and the types of other parties and service providers We may provide it to, the relevant purposes We and the other parties and service providers will use it for, and how they can access it. If You have not done or will not do either of these things, You must tell Us before You provide the relevant personal information to Us.

We will protect Your information using physical, technical, and administrative security measures to reduce the risks of loss, misuse, unauthorised access, disclosure and alteration. Some of the safeguards that We use are firewalls and data encryption, physical access controls to Our data centres, and information access authorisation controls.

We disclose personal information to other parties and service providers whom We believe are necessary to assist Us and them in providing the relevant services and/or products. For example, in handling claims, We may have to disclose Your personal and other information to other parties and service providers such as Our claim management partner, other insurers, reinsurers, loss adjusters, external claims data collectors, investigators and agents, facilitators, assessors or other parties as required by law. We limit the use and disclosure of any personal information provided by Us to them to the specific purpose for which We supplied it.

We may disclose Your personal information to Our insurers, reinsurers, related entities and service providers overseas where it is reasonably necessary for, or directly related to, the functions, services or activities we provide to you. When we transfer Your information to other countries, including countries which may not have data protection laws that provide the same level of protection that exists in Australia, We will protect the information as described in this Privacy Policy.

If You do not provide the personal information requested and/or do not provide Us with Your consent to the use and disclosure of Your personal information as set out in this Privacy Statement, Your insurance application may not be accepted, or We may not be able to administer Your Policy, or You may be in breach of Your duty of disclosure, the consequences of which are set out under the heading Duty of Disclosure in this document.

We will notify you as soon as possible if Your personal information is involved in a data breach that is likely to result in serious harm to You.

If You would like a copy of Our Privacy Policies, would like to seek access to or correct Your personal information, opt out of receiving materials We send, complain about a breach of Our privacy or You have any query on how Your personal information is collected or used, or any other query relating to Our Privacy Policies, please contact Us.

Sanctions

We shall not provide cover and We shall not be liable to pay any claim or provide any benefit under the Policy to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose Us, Our parent company or Our 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, the Commonwealth of Australia, United Kingdom or the United States of America.

Several Liability

The Liability of an Insurer under this contract is several and not joint with other Insurers party to the Policy. An Insurer is liable only for the proportion of liability it has underwritten.

An Insurer is not jointly liable for the proportion of liability underwritten by any other Insurer. Nor is an Insurer otherwise responsible for any liability of any other Insurer that may underwrite the Policy.

The proportion of liability under the Policy underwritten by an Insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the Lloyd's Underwriters of the syndicate taken together) is shown in the Schedule.

In the case of a Lloyd's syndicate, each Lloyd's Underwriter of the syndicate (rather than the syndicate itself) is an Insurer.

Each Lloyd's Underwriter has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the Lloyd's Underwriters of the syndicate taken together). The liability of each Lloyd's Underwriter of the syndicate is several and not joint with any other Lloyd's Underwriter.

A Lloyd's Underwriter is liable only for that Lloyd's Underwriter's proportion.

A Lloyd's Underwriter is not jointly liable for any other Lloyd's Underwriter's proportion. Nor is any Lloyd's Underwriter otherwise responsible for any liability of any other Insurer that may underwrite this contract. The business address of each Lloyd's Underwriter is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each Lloyd's Underwriter of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

Although reference is made at various parts in this clause to "this contract" in the singular, where the circumstances so require this should be read as a reference to contracts in the plural.

The Insurers bind themselves each and for their own part and not one for another. Each Insurer's liability under the Policy shall not exceed that percentage or amount of the risk shown against that Insurer's name.

PART 2 – POLICY COVER SECTIONS

GENERAL DEFINITIONS

Some key words and terms used in the Policy have a special meaning that appear below when the word starts with a capital letter in this document. Other words may be specially defined to have a meaning when used in relation to a Policy section, term or condition.

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

Communicable Disease means any disease which can be transmitted by means of any substance, medium or agent from any organism to another organism where:

- i) the substance, medium 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
- ii) 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
- iii) the disease, substance or agent can cause or threaten damage to human health or human welfare or can cause or threaten damage to, deterioration of, loss of value of, marketability of or loss of use of property.

Claim means:

- i) the receipt by the Insured of any written notice of demand for compensation made by a third party against the Insured; or
- ii) any writ, statement of claim, summons or other application issued against or served upon the Insured,

in connection with the Practice.

Computer System means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, Data storage device, networking equipment or back up facility owned or operated by You or any other party.

Cyber Act means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any Computer System.

Cyber Incident means:

- a) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any Computer System; or
- b) any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any Computer System.

Data means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a Computer System.

Data Protection Law means all applicable Data protection and privacy legislation or regulations in any country, province, state, territory or jurisdiction which govern the use, confidentiality, integrity, security and protection of personal Data and any guidance or codes of practice relating to personal Data issued by any Data protection regulator or authority from time to time (or as amended, updated or re-enacted from time to time).

Employee means any person employed under a contract of service or apprenticeship with the Insured at any time during or prior to commencement of the Period of Insurance provided that in the case of an incorporated body a director shall in no case be deemed to be an employee of such incorporated body.

Excess means the amount specified in the Schedule payable by the Insured in respect of each claim including claimants' costs. Should any claim made against the Insured involve more than one act, error or omission then the Excess shall separately apply to each such act, error or omission or causally related series of acts, errors or omissions. The Excess(es) will be advised to You before You enter into a Policy with Us.

Firm means the firm from time to time constituted carrying on the Practice.

Insured means:

- a) You, including Your predecessors in business; and
- b) any person who is, becomes, was or ceases to be a principal, partner, director or Employee of the Practice (including each person who is a consultant or associate with the business) solely in respect of work carried out within the scope of their duties for or on behalf of You or Your predecessors in the business; and
- c) the estate and/or the legal representatives of any insured person(s) in the event of the death or incapacity of such insured person(s); and
- d) former partners and directors, their executors, administrators or assigns as though they comprised part of You.

Limit of Liability means the limit of liability specified in the Schedule.

Lloyd's means the society of that name incorporated by the Act of the United Kingdom known as Lloyd's Act 1871.

Lloyd's Underwriter means an underwriting member of Lloyd's.

Partner means any person who is from time to time a partner of the Firm.

Period of Insurance means the period of insurance specified in the Schedule, unless the Policy ends earlier in accordance with its terms or law, in which case the period of insurance ends at that earlier time.

Practice means the Professional Business undertaken by You or Your predecessors in business alone or with others including but not limited to:

- i) acting as trustees, receivers, liquidators, official managers, directors or secretaries or registrars of corporations; and/or
- ii) any activity declared by the ethical pronouncements or code of ethics of the Institute of Chartered Accountants in Australia and New Zealand and/or CPA Australia and/or the Institute of Public Accountants and/or the Association of Taxation and Management Accountants Limited and/or the National Tax & Accountants Association, to be appropriate to be undertaken as part of an Accountant's practice.

Professional Business means the advice given or services performed by or on behalf of the Insured where any fees or other income which accrue from such work are paid to the Insured, or alternatively if work is done without fee, then such work is undertaken in the name of or on behalf of the Insured.

Related Costs means all reasonable costs and expenses incurred with Our consent (such consent shall not be unreasonably withheld) in the investigation, defence or settlement of any Claim against the Insured. If a payment in excess of the Limit of Liability is made to dispose of a Claim, the Related Costs shall mean only the proportion of such reasonable costs and expenses incurred as the Limit of Liability bears to the amount of the payment made.

Schedule means the schedule of insurance, or any endorsement schedule We give You.

Senior Counsel means a barrister in active practice who is entitled to use the post nominals Queens Council (Q.C.) or Senior Council (S.C.) in any one or more superior court in Australia or New Zealand.

Systems Failure means an actual, alleged or suspected:

- a) failure of an infrastructure or utility supplier including without limitation a supplier of gas, water, electricity, telecommunications or internet services which impacts a Computer System; or
- b) unplanned or unintended failure of, or inability to access, use or operate a Computer System.

We, Us, Our, Insurer means certain Lloyd's Underwriters acting through their agent Tasman.

You, Your, Yours means the person or entity named as "the Insured" in the Schedule. They are the contracting insured.

SECTION ONE – THE COVER

Insuring Clause

We agree to indemnify the Insured up to an amount not exceeding the Limit of Liability and Related Costs for any Claim first made against the Insured during the Period of Insurance and which is notified in writing to Us as soon as reasonably practicable during the Period of Insurance, in respect of any civil liability incurred or alleged in the conduct of the Practice.

All Claims made against one or more Insured including Claims under any Additional Benefits to the Policy shall, unless they arise from acts or errors or omissions that are different and totally unrelated, be regarded as one aggregated claim and Our total liability under the Policy for the aggregated claim shall not exceed the Limit of Liability and Related Costs.

SECTION TWO – ADDITIONAL BENEFITS

A) Acquisitions and Mergers

- i) When any firm is acquired by or merged with the Insured that firm shall be included as an additional Insured and any Claim arising from their work completed after such merger or acquisition shall be treated in accordance with the terms and conditions of the Policy provided that:
 - a) notice of the acquisition or merger with full information has been given to and accepted by Us, and
 - b) any terms and conditions and premium required by Us as a result of the acquisition or merger have been agreed by You and Us,
before We will provide any cover for the acquired or merged firm under this Additional Benefit.
- ii) We will not cover any Claim arising out of any circumstance known by the merged or acquired firm at or before the merger or acquisition date and which the merged or acquired firm at the time knew, or should have reasonably expected, could result in a Claim at some time in the future.

B) Dishonesty of Partners or Employees

- i) Insured parties shall be protected, within the terms of the Policy for any Claim arising by reason of any alleged dishonesty, misstatement or fraud on the part of the Insured or its Partners or its Employees, unless a judgment or other final adjudication adverse to the Insured establishes that an act or acts of active or deliberate fraud or dishonesty committed by any Partner or Employee of the Insured with fraudulent or dishonest purpose and intent were material to the cause of action so adjudicated and notwithstanding that such acts were not disclosed within the proposal form.
- ii) There is no cover provided under this Additional Benefit for any Insured, Partner or Employee who commits the dishonest or fraudulent act.
- iii) In the event of a judgement or other final adjudication the Policy shall not indemnify any dishonest Partner or Employee and any monies of the dishonest Partner or Employee in the hands of the Insured that may legally be retained, withheld by, or otherwise awarded to the Insured shall be deducted from the amount otherwise payable by Us under this Additional Benefit.

C) Fidelity

If an amount is specified in the Fidelity sub-limit shown in the Schedule, We agree to cover the Insured up to that Fidelity sub-limit against any loss of money or any other property held as part of the Practice:

- i) that the Insured, during the Period of Insurance, discovers it has sustained in consequence of any dishonest or fraudulent act or omission of any Employee; and
- ii) which has been notified in writing to Us as soon as practicable following such discovery but still during the Period of Insurance.

Exclusion:

this Additional Benefit shall not indemnify the Insured against any loss brought about or contributed to by any dishonest or fraudulent act or omission of any current or former principal or Partner or director of the Insured.

Conditions:

1. the Insured shall give Us notice in writing of the discovery of any dishonest or fraudulent act or omission which gives rise, or may give rise, to a claim under this Additional Benefit within 30 days of the discovery.
2. in the event of a claim under this Additional Benefit, the Insured shall provide at their own cost (unless We agree otherwise) all necessary information and assistance that We reasonably require to quantify the loss and enable Us to sue for and recover from the Employee concerned or from their estate any monies paid or payable by Us.
3. Our aggregate liability under this Additional Benefit shall not exceed the Fidelity sub-limit shown in the Schedule during the Period of Insurance. Our liability under this Extension is part of and not in addition to the Limit of Liability.

Any monies which, but for an Employee's fraud or dishonesty, could have been payable to them by the Insured, and any monies of the Employee in the hands of the Insured that may legally be retained, withheld by, or otherwise awarded to the Insured shall be deducted from the amount otherwise payable by Us under this Extension.

The sub-limit for this Additional Benefit is payable in addition to, and not part of, the Limit of Liability.

D) Loss of Documents

If during the Period of Insurance the Insured first discovers and notifies Us in writing as soon as practicable thereafter but still during the Period of Insurance, that Document(s) which are the property of or entrusted to the Insured have been or may be destroyed, damaged, lost, or mislaid and after diligent search cannot be found, the Insured shall be covered against all reasonable costs, charges and expenses incurred by the Insured in replacing and/or restoring such document(s).

Definition:

in this Additional Benefit, Documents means deeds, wills, agreements, maps, plans, records, books, letters, certificates, documents and forms of any nature whether printed, written or reproduced by any other method including electronic data material (excluding, however, any bearer bonds or coupons, bank notes or currency notes or other negotiable instruments).

Provided that:

1. the amount of any claim for costs, charges and expenses as provided above shall be supported by bills and/or accounts which shall be subject to approval by some competent person to be nominated by Us with the approval of the Insured.
2. We shall not be liable for loss, damage, distortion or erasure of electronic data material:
 - a. whilst mounted in or on any machine for use of processing unless the loss, damage, distortion or erasure is caused by fire, lightning, explosion, impact of vehicles or water damage; or
 - b. resulting from wear, tear, vermin or gradual deterioration; or
 - c. caused by climatic or atmospheric conditions or extremes of temperature; or
 - d. due to the presence of magnetic flux or due to loss of magnetism unless caused by lightning.
3. Our liability in respect of all claims falling under this Additional Benefit is limited to \$50,000 any one claim and in the aggregate during the Period of Insurance.

SECTION THREE – CONDITIONS

Limit of Liability

1. Limit of Liability

- a) Our total liability under the Policy for any one Claim, including any Additional Benefits, shall not exceed the Limit of Liability specified in the Schedule or the applicable sub limit otherwise specified in the Policy, whichever is the lesser amount;
- b) Our total liability in the aggregate for all Claims, including any Additional Benefits, in any one Period of Insurance shall not exceed three (3) times the Limit of Liability specified in the Schedule;
subject to the provisions of Clause 2. Related Costs below.

2. Related Costs

We will pay, in addition to the Limit of Liability, Related Costs incurred with Our prior written consent in the investigation, defence or settlement of any Claim(s) covered by the Policy, provided always that if a payment in excess of the amount of cover available under the Policy is made to dispose of a Claim, Our liability for such Related Costs incurred with Our consent shall be such proportion thereof as the amount of liability available under the Policy bears to the amount paid to dispose of the Claim.

Excess

We are only liable for that part of each and every Claim, Additional Benefits, or Related Costs (as applicable) which exceed the amount of the Excess specified in the Schedule.

If this Insured has not paid or borne the Excess We will reduce any amount We are obliged to pay under the Policy by the amount of the Excess.

If We incur any expenditure, which by virtue of this Condition is the responsibility of the Insured, then the Insured shall reimburse Us.

Rights of Other Insureds

In the event that an Insured (where applicable):

- a) failed to comply with the duty of disclosure in terms of the Insurance Contracts Act 1984 (Cth);
or
- b) made a misrepresentation to Us before the Policy incepted; or
- c) failed to comply with any terms or conditions of the Policy,

We agree that such failure or misrepresentation will not prejudice the right of any other Insured(s) to cover under the Policy; provided always that such other Insured(s):

- i) are entirely innocent of and have had no prior knowledge of such failure or misrepresentation;
and
- ii) advise Us in writing as soon as reasonably practicable upon becoming aware of such failure or misrepresentation.

Cancellation

Cancellation by You

You may cancel the Policy at any time by notifying Us in writing. The cancellation will take effect from 4:00pm on the day We receive Your written notice of cancellation or such time as may be otherwise agreed between Us and You.

Cancellation by Us

We may cancel the Policy pursuant to any right at law and as set out in the Insurance Contracts Act 1984 (Cth) by giving You written notice to that effect. This includes where:

- i) You failed to comply with the duty of the utmost good faith;
- ii) You failed to comply with the duty of disclosure at the time the Policy was entered into;
- iii) You made a misrepresentation to Us during the negotiations for the contract but before it was entered into;
- iv) You failed to comply with a provision of the contract, including a provision with respect to payment of the premium; or
- v) You have made a fraudulent claim under the Policy or under some other contract of insurance (whether with Us or with some other insurer) that provides insurance cover during any part of the period during which the Policy provides insurance cover; or
- vi) You failed to notify Us of any specific act or omission or failure that has occurred after the Policy is entered into where notification is required under the terms of the Policy; or
- vii) the effect of the Policy is to authorise Us to refuse to pay a claim, either in whole or in part, by reason of an act or omission or failure of You or of some other person and, after the Policy was entered into, such an act or omission or failure has occurred.

When We cancel the policy, it will have effect from whichever of the following times is the earliest (unless We tell You otherwise):

- the time when another policy of insurance replacing the Policy is entered into; or
- 4pm of the third (3rd) business day after the day on which notice was given to You unless the Policy is in force because of section 58 of the Insurance Contracts Act 1984 (Cth), in which case the cancellation will have effect from 4 pm on the fourteenth (14th) business day after the day on which notice was given to You.

Effect of cancellation

Your Policy with Us ends from the time of cancellation. You will not have cover for claims occurring after that time.

However, cancellation of this insurance by Us or You does not affect the treatment of any claim that was notified to Us before cancellation.

Premium refund

If You or We cancel the Policy We may deduct:

- a pro rata proportion of the premium for any time for which You have been covered. For example, if Your Period of Insurance is 12 months and You have been covered for six (6) months, the deduction for the time You have been covered will be half the annual premium; and
- any government taxes or duties paid by Us in relation to Your Policy We cannot recover.

However, in the event that You have made a claim under the Policy and We have agreed to the claim no return of premium will be made.

Subrogation

If We provide cover under the Policy, You must allow Us to take legal action in Your name against another party to recover any payment We have made on a claim, whether or not We have paid Your claim in whole or in part.

You must provide Us all information and assistance We may reasonably require including:

1. providing all documents and information and assistance requested; and
2. doing everything reasonably necessary to secure and preserve such rights,

to enable Us to effectively bring suit in Your name to settle or defend claims or to recover from other parties any amount We have paid for a claim.

You must not enter into any arrangement or compromise which may prevent Us from defending any claim or making any recovery from any other party.

Governing Law

The Policy will be governed in accordance with the laws of the Commonwealth of Australia. Any disputes arising out of the Policy will be subject to determination by an Australian Court within the State or Territory in which the Policy was issued and according to the laws applicable to that jurisdiction.

Interpretation

In the Policy:

- a) headings are for convenience only and do not affect interpretation;
and unless the context indicates a contrary intention:
- b) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- c) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- d) "includes" in any form is not a word of limitations; and
- e) a reference to "\$" or "dollar" is to Australian currency.

SECTION FOUR – EXCLUSIONS

We shall not cover an Insured for any claim:

1. Asbestos and Toxic Mould

for any liability arising directly or indirectly out of or resulting from or in consequence of, or in any way involving:

- i) asbestos, or any materials containing asbestos in whatever form or quantity; or
- ii) the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, moulds, spores or mycotoxins of any kind; or
- iii) any action taken by any party in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, moulds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, moulds, spores or mycotoxins; or
- iv) any governmental or regulatory order, requirement, directive, mandate or decree that any party take action in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, moulds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, moulds, spores or mycotoxins.

2. Bodily Injury and/or Property Damage

arising from bodily injury or mental injury to, or death of, or damage to property of, any Employee(s) of the Insured arising out of or in the course of their employment with the Insured.

3. Communicable Disease

as a result of, or in any way connected, directly or indirectly with:

- a) a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease regardless of any other cause or event contributing concurrently or in any other sequence thereto;
- b) any action taken to control, prevent, isolate, quarantine, suppress, mitigate or in any way relating to any actual or suspected outbreak of any Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease; or
- c) instructions, orders, requests, restrictions or limitations given by any national or local government, regulatory or statutory body, health authority or organisation relating to any Communicable Disease.

4. Company Directorship

arising from the Practice in relation to an Insured person holding the office of or acting in the capacity of director or secretary of a Public Company.

“**Public Company**” means a public company as defined by section 9 of the Corporations Act 2001 (Cth).

5. Contracts

arising from a contract other than a contract to provide Professional Business services within the definition of the Practice.

6. Cyber and Data Protection

for any loss, damage, liability, claim, costs, expense, fines, penalties, mitigation costs, or any other amount arising out of:

- a) a Cyber Incident;
- b) a Cyber Act;
- c) a breach of Data Protection Law by You, or parties acting for You, involving access to, processing of, use of or operation of any Computer System or Data;
- d) You, or parties acting for You, notifying individuals following the actual or suspected access to or acquisition of personally identifiable information as a result of a Cyber Act or Cyber Incident. This also excludes, but is not limited to, the cost of crisis consultancy, legal advice and services, print and mailing, contact centre services, the provision of any identity/credit protection product or service;
- e) the restoration, recovery or replacement of any Computer Systems or Data that have been damaged, destroyed, deleted or corrupted as a result of a Cyber Act or Cyber Incident. This clause also excludes any ransom payment;
- f) defending any party against any claim made against them resulting from, arising out of or in connection with any exclusions above.

7. Dishonesty

other than as provided under Additional Benefit B) Dishonesty of Partners or Employees for any Claim made against an Insured brought about or contributed to by the dishonest, fraudulent, criminal or malicious act, error or omission of an Insured (and/or any corporation or entity which has a financial interest in the Insured) or their predecessors in business.

8. E-Commerce

for any liability arising from any design, consultation or advice given or related to any form of internet or electronic trading product or system or any liability including consequential losses arising directly or indirectly from any act, error or omission of the Insured.

This insurance also excludes all liability including any consequential losses arising from any third party using the Insured's Internet, Intranet or Extranet systems whether permission was given by the Insured to do so or not.

However, where the Insured would have had a liability in the absence of the business being 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, this Exclusion shall not apply.

For the purposes of this Exclusion the following definitions apply:

Internet shall mean the worldwide group of inter-connected networks accessible via service providers or online service providers using dial-up telephone service, digital subscriber lines, integrated service digital network lines, cable modem access or similar transfer mediums.

Intranet shall mean one or more inter-connected networks with restricted access to the Insured via service providers or online service providers using dial-up telephone service, digital subscriber lines, integrated service digital network lines, cable modem access or similar transfer mediums.

Extranet shall mean a restricted-access group of inter-connected networks accessible via service providers or online service providers using dial-up telephone service, digital subscriber lines, integrated service digital network lines, cable modem access or similar transfer mediums.

9. Fines/Penalties and Punitive Damages

in respect of any fines, penalties, punitive, aggravated, multiple or exemplary damages, however, this Exclusion shall not apply to compensatory civil penalties provided that the insurer will not pay or indemnify the insured for any amount:

- i. that the insurer is prohibited from insuring or indemnifying by any law of Australia;
- ii. for which the insured is prohibited from obtaining insurance or receiving the benefit of insurance by any law of Australia.

10. Insolvency

arising from the Practice where an Insured person holds the office of director or secretary, if at the commencement of the Period of Insurance stated in the Schedule, or at the time of appointment, such corporation of which the Insured is a director or secretary is trading unprofitably and/or does not have a surplus of shareholders' funds.

This Exclusion shall not apply when such an appointment is held by the Insured for the sole purpose of practising Professional Business relating to insolvency and reconstruction and when as a consequence is holding appointments such as liquidator, receiver, administrator, official manager or trustee.

11. Nuclear

directly or indirectly caused by or contributed to by or arising from:

- a) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, or
- b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

12. Performance Guarantee

arising out of any guarantee implied or otherwise by the Insured of a performance related function unless this results from a breach of a professional duty by the Insured.

13. Prior or Pending

- i) arising out of any claim or circumstance stated on the proposal form or declaration referred to in the Schedule; or
- ii) arising out of any claim or circumstance previously notified to any insurer/underwriter; or
- iii) arising out of any claim, or circumstance which may reasonably be expected to give rise to a claim, known to any Insured at the commencement of the Period of Insurance.

14. Refund of Professional Fees

to repay any monies charged by the Insured as fees and disbursements or for costs incurred in relation to any dispute as to the Insured's fees and disbursements.

15. Related or Associated Entities

- i) by any other Insured, shareholder of the Insured who holds a Financial Interest in the Insured, or any Family member of an Insured; or
- ii) involving any entity, facility or arrangement of any description which, at the date the Claim is made against the Insured or at the time the events giving rise to the Claim occurred:
 - a. was managed or controlled wholly or in part by the Insured or any nominee(s) of the Insured, a shareholder of the Insured who holds a Financial Interest in the Insured or any Family member of the Insured; or
 - b. in which the Insured, a shareholder or any Family member of the Insured had a direct or indirect Financial Interest; or
- iii) arising out of any conduct, act, error or omission in any way connected with any kind of loan, investment, investment vehicle, opportunity, entity used to hold or deposit assets for itself or others, or interest bearing account (other than a formal trust account used solely for Practice purposes) in which the Insured, a shareholder of the Insured who holds a Financial Interest in the Insured, or a Family member of an Insured had:
 - a. a managing or effectively controlling role either directly or through nominees; or
 - b. a beneficial Financial Interest;
 at the date the Claim is made against the Insured or at the time the events giving rise to the Claim occurred.

For the purpose of this Exclusion, the following words or expressions are defined as:

Family means the spouse (or other person who lives with the Insured as a domestic partner), parent, parent of the spouse, any sibling or any of the children of the Insured or spouse.

Financial Interest means any financial interest, other than a financial interest of less than 10% of the issued capital in a company or less than 10% of the value of any other enterprise.

16. Retroactive Date

arising from any act, error or omission committed or alleged to have been committed prior to the "Retroactive Date" specified in the Schedule.

17. Shareholder

by any shareholder of the Insured against any Insured in their capacity as a director of the Insured.

18. Tax Schemes

arising directly or indirectly from any scheme, arrangement or transaction which the Australian Taxation Office declares to be in breach of Part IVA of the Income Tax Assessment Act 1997.

19. Trading Debt

for the payment of any trading debt incurred by the Insured, other than debt incurred in the Insured's Professional Business as receiver, manager, administrator or liquidator, and to which the Insured is not entitled to indemnity from any other party.

20. War and Terrorism

for loss, damage, liability or Related Costs of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss, liability, Claim or Related Costs:

- a) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- b) confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority; or
- c) any Act of Terrorism.

This Exclusion also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to a), b) or c) above.

SECTION FIVE – CLAIMS

Reporting and Notice

An Insured shall give Us written notice as soon as practicable of any Claim made against them. Such written notice is to be given to Us during the Period of Insurance or within the relevant timeframe otherwise specified in the Policy.

Notice of any Claim shall be given in writing to Us, and delivered to:
Tasman Underwriting
Level 21, 41 Exhibition Street Melbourne 3000
Email: cm@tasmanuw.com.au

Claims Conditions

- a) The Insured shall not admit liability for or settle any Claim or incur any Related Costs in connection therewith without Our prior written consent, such consent not to be unreasonably withheld. We shall be entitled to take over and conduct in the name of the Insured the defence or settlement of any Claim.
- b) The Insured shall not be required to contest any Claim unless a Senior Counsel (to be mutually agreed upon by the Insured and Us) shall advise that such Claim should be contested. The costs of such Senior Counsel's advice shall be borne equally by the Insured and Us.
- c) The Insured shall be entitled to contest any Claim which in Senior Counsel's opinion should be compromised or settled. However, We shall not be liable for any amount beyond that which We would have been liable to pay to settle the Claim had the Insured not refused to compromise or settle such Claim.
- d) The Insured shall give Us such information and co-operation as We may reasonably require.
- e) The Insured shall use due diligence and do anything reasonably practicable to avoid or diminish any liability.

Tasman Underwriting

You can contact us at enquiries@tasmanuw.com.au or on 1800 234 338 or at; Level 21, 41 Exhibition Street Melbourne 3000.

<p>IBL Ltd Trading as Tasman Underwriting (ABN65 005 754 718) acts as an agent for Certain Underwriters at Lloyd's and is authorised to arrange, enter into/ bind and administer this insurance on their behalf.</p>	<p>Tasman Underwriting is a trading division of IBL Ltd ABN 65 005 754 718 AFSL231203</p>	<p>Thank you for receiving this document electronically. Tasman Underwriting supports positive initiatives for our environment.</p>
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