



ABOUT THIS POLICY

This **Policy** is made up of this document, the **Schedule**, the **Proposal** and any Endorsements and they should all be read as one document.

This **Policy** is a package policy including the following Coverage Sections:

1. Directors and Officers Liability	1
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In addition, this **Policy** also has the following General Sections setting out Exclusions and Conditions which apply to all Sections of the **Policy**:

General Exclusions	35
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You are only insured for those Coverage Sections specified in the **Schedule**. The terms and conditions of each Coverage Section apply only to such Coverage Section and should be read in conjunction with the Definitions, General Exclusions and General Conditions Sections of this **Policy**. If the Exclusions and Conditions within a Coverage Section conflict with the General Conditions and General Exclusions, the terms and conditions within such Coverage Section will take priority.

The **Named Insured** agrees that the General Conditions, the **Policy** (for each and every purchased Coverage Section together with any appendices), including the **Proposal** and any endorsements, and the **Schedule** constitutes the entire agreement between them and the **Underwriters** or any of their agents relating to this insurance. In consideration of the premium charged, the **Underwriters** and the **Named Insured**, on behalf of all **Insureds** however defined under the **Policy**, agree as follows:

DIRECTORS AND OFFICERS LIABILITY COVERAGE SECTION

SECTION 1: INSURING AGREEMENT APPLYING TO DIRECTORS AND OFFICERS LIABILITY COVERAGE SECTION

1.1 The **Underwriters** will pay on behalf of any **Insured Person** the **Loss** arising from a **Claim** first made during the **Policy Period** (or Extended Reporting Period, if applicable) against such **Insured Person** for any **Wrongful Act**, unless the **Named Insured** has indemnified the **Insured Person** for such **Loss**.

No **Excess** applies to Insuring Agreement 1.1.

1.2 The **Underwriters** will pay on behalf of the **Named Insured** the **Loss** arising from a **Claim** first made during the **Policy Period** (or Extended Reporting Period, if applicable) against any **Insured Person** for any **Wrongful Act**, if the **Named Insured** pays such **Loss** to or on behalf of the **Insured Person**.

SECTION 2: AUTOMATIC EXTENSIONS APPLYING TO DIRECTORS AND OFFICERS LIABILITY COVERAGE SECTION

The following Extensions are included automatically, provided always that each Extension is to be read in conjunction with Section 1. Certain Extensions have specified **Sub-Limits of Liability** and **Specific Excesses** and these will apply unless specifically stated otherwise in the **Schedule**.

2.1 Additional Limit of Liability for Non-Executive Directors

- a** This Extension affords an **Additional Limit of Liability** for **Insured Persons** who are non-executive directors of the **Named Insured** that shall apply to the coverage provided by Insuring Agreement 1.1.
- b** The **Additional Limit of Liability** applies only after:
 - i** the **Limit of Liability** has been fully exhausted due to the payment of **Loss**; and
 - ii** the **Insured** has paid the applicable **Excess**; and
 - iii** any other insurance that responds to the claimed **Loss** has been fully exhausted.

2.2 Compensation for Attendance

The **Underwriters** will pay the **Insured** for the cost of attendance by any **Employee, Executive**, principal, partner or member of the **Named Insured** at a formal court hearing or formal interview conducted in connection with a **Claim** or **Circumstance** notified to the **Underwriters** where such attendance is considered by the **Underwriters** to be necessary or beneficial to reduce any claim under this **Policy**; provided that:

- a the **Underwriters** have given prior written consent to such attendance, such consent to be obtained from the **Underwriters** as a condition precedent to any entitlement to indemnity;
- b indemnity for such costs shall not exceed \$500 NZD per **Executive**, principal, partner or member per day and \$250 NZD per **Employee** per day; and
- c the total indemnity payable under this Automatic Extension shall be subject to the **Sublimit of Liability**.
- d No **Excess** shall apply to this Extension.

2.3 Continuous Cover

This Extension extends cover for any **Claim** arising out of, based upon or attributable to a **Circumstance** which could have been, but was not, notified by the **Insured** under any prior policy provided by the **Underwriters**, and which is first notified to the **Underwriters** during the **Policy Period**, provided that:

- a the failure by the **Insured** to notify such **Circumstance** under any such prior policy was not fraudulent; and
- b the **Underwriters** have the discretion to apply either the terms and conditions of this **Policy** or the terms and conditions of the prior policy in effect when the **Circumstance** first arose; and
- c the **Insured's** entitlement to indemnity will be reduced by the extent of any prejudice to the **Underwriters** as a result of the **Insured's** failure to notify such **Circumstance** under any such prior policy.

2.4 Emergency Costs

If the **Underwriters'** prior written consent cannot be obtained within a reasonable time prior to any **Defence Costs** or any **Reputation Costs** being

incurred by or on behalf of an **Insured**, the **Underwriters** shall retrospectively approve such **Defence Costs** or **Reputation Costs**, up to any applicable **Limit of Liability** or **Sublimit of Liability**; however, such approval shall be provided only for those **Defence Costs** or **Reputation Costs** incurred during the forty-eight (48) hour period commencing from the time such costs are first incurred by an **Insured**.

2.5 Estate Extension

This Extension affords coverage for any **Claim** for a **Wrongful Act** if such **Claims** are made against the estates, heirs, legal representatives or assigns of a deceased **Insured Person** or the legal representatives or assigns of an **Insured Person** who is incompetent, insolvent or bankrupt. Such coverage is afforded only to the extent such **Claim**, if made against the **Insured Person**, would have been covered by this **Policy** in the absence of such **Insured Person's** death, incompetence, insolvency or bankruptcy.

2.6 Extended Reporting Period: Retired Insured Persons

- a This Extension affords an Extended Reporting Period, for a period equal to any applicable statute of limitations, to any **Insured Person** who retires or resigns during the **Policy Period**, provided that this Coverage Section is neither renewed nor replaced with any other Directors and Officers liability cover.
- b This Extended Reporting Period shall apply solely to the coverage provided by Insuring Agreement 1.1, Automatic Extension 2.10 (Loss Mitigation) and Automatic Extension 2.16 (Reputational Costs). This Extended Reporting Period shall not be available to an **Insured Person** who: (i) retires or resigns due to an **Organisational Change**; or (ii) has been disqualified from holding his or her position with a **Named Insured**.
- c No additional premium is payable for this Extended Reporting Period.

2.7 Extradition

The **Underwriters** will pay on behalf of an **Insured Person**, subject to the **Sublimit of Liability**, to the extent permitted by law, **Extradition Costs** or **Bond Expenses**.

2.8 Health and Safety

The **Underwriters** will pay on behalf of an **Insured Person** any **Defence Costs** subject to the **Sublimit of Liability** arising from:

- a an official investigation or enquiry alleging a breach of the Health and Safety at Work Act 2015 or any amendment thereto; or
- b a Corporate Manslaughter Proceeding.

Exclusion 3.1 (Bodily Injury/Property Damage) of this Coverage Section shall not apply to this Extension.

Notwithstanding General Condition 20 (Limits of Liability), the **Sublimit of Liability** for this Extension shall be in addition to the **Limit of Liability**.

2.9 Investigation Costs

The **Underwriters** will pay on behalf of an **Insured Person** any **Investigation Costs** subject to the **Sublimit of Liability**.

2.10 Loss Mitigation

- a If an **Insured Person** reasonably determines during the **Policy Period** (or Extended Reporting Period, if applicable), that urgent action is needed in order to avoid or minimise the risk of a **Claim** covered under this Coverage Section, the **Insured** shall be entitled to retain a loss mitigation advisor to provide services in connection with avoiding or minimising such risk.
- b The **Underwriters** shall pay the **Insured** the reasonable fees, costs and expenses incurred by or on behalf of the **Insured**, with the **Underwriters'** prior written consent (such consent not to be unreasonably withheld or delayed), for such loss mitigation services.
- c All such fees, costs and expenses are subject to the **Sublimit of Liability**.

No **Excess** applies apply to Extension 2.10.

2.11 Marital and Domestic Partner

This Extension affords coverage for any **Claim** for a **Wrongful Act** made against an **Insured Person's** spouse or domestic partner solely by reason of that person's status as an **Insured Person's** spouse or domestic partner, or ownership interest in property which the claimant seeks as recovery for a **Wrongful Act**. Any amount which the **Insured**

Person's spouse or domestic partner becomes legally obligated to pay by reason of such **Claim** shall be treated as **Loss** which the **Insured Person** is legally obligated to pay.

2.12 Outside Directorship Extension

This Coverage Section affords coverage for **Claims** brought against an **Insured Person** who at the specific request or direction of a **Named Insured** acts as a director, officer, trustee, governor or equivalent thereof of an **Outside Entity**, but only while that person is acting in their capacity as such. Any such person shall be referred to herein as an "**Outside Entity Insured Person**".

2.13 Pecuniary Penalties

The **Underwriters** will pay on behalf of an **Insured Person**, subject to the **Sublimit of Liability**, to the extent permitted by law, any pecuniary penalties awarded against an **Insured Person** under the laws of Australia and New Zealand.

2.14 Pollution Defence Costs

Notwithstanding General Exclusion 6 (Pollution), the **Underwriters** shall pay on behalf of an **Insured Person** subject to the **Sublimit of Liability**, **Defence Costs** in respect of any **Claim** made against such **Insured Person** for any **Wrongful Act** in respect of the discharge, dispersal, release or escape of **Pollutants**.

2.15 Preservation of Right of Indemnity

In the event and to the extent that the **Named Insured** or an **Outside Entity** is permitted or required to indemnify any **Insured Persons** for **Loss** covered by this Extension, but for whatever reason fails to do so, then the **Underwriters** will pay the **Loss** on behalf of the **Insured Persons**. In such event, the **Excess** applicable to Insuring Agreement 1.2 shall be borne by the **Named Insured**. In the event of the **Named Insured** being placed in administration, receivership or liquidation (other than voluntary liquidation), no **Excess** shall apply.

2.16 Reputation Costs

- a The **Underwriters** will pay the **Reputation Costs** incurred by or on behalf of an **Insured Person**, with the **Underwriters'** prior written consent (such consent not to be unreasonably withheld or delayed), as a result of a negative public statement made about such **Insured Person**

by any regulator during the **Policy Period** (or Extended Reporting Period, if applicable).

- b All **Reputation Costs** are subject to the **Sublimit of Liability**.

No **Excess** applies to Extension 2.16.

2.17 Superannuation Trustees

The **Underwriters** will pay on behalf of an **Insured Person** any **Loss** arising from any **Claim** made against an **Insured Person** in their capacity as trustee of the **Named Insured's** own superannuation fund, pension fund or employee benefits programme.

2.18 Taxation Investigation

Where the **Named Insured** has received a **Tax Audit Notice** and has reported it to the **Underwriters** during the **Policy Period**, the **Underwriters** will pay for **Tax Audit Costs** up to the completion of the audit investigation.

SECTION 3: EXCLUSIONS APPLYING TO DIRECTORS AND OFFICERS LIABILITY COVERAGE SECTION

The **Underwriters** will not pay anything under this Coverage Section in respect of any claim:

3.1 Bodily Injury/Property Damage

arising out of or based upon bodily injury (other than emotional distress or mental anguish), sickness, disease, or death of any person, or damage to or destruction of any tangible property, including the loss of use thereof; provided, however, that this Exclusion shall not apply to a **Securities Claim** or Automatic Extension 2.8 (Health and Safety).

3.2 Personal Profit

arising out of, based upon or attributable to the gaining of any personal profit or financial advantage or improper or illegal remuneration by the **Insured**, if a final, non-appealable judgment or adjudication in the underlying action or any formal written admission by an **Insured Person** establishes that such **Insured** was not legally entitled to such profit or advantage or that such remuneration was improper or illegal.

SECTION 4: CONDITIONS APPLYING TO DIRECTORS AND OFFICERS LIABILITY COVERAGE SECTION

4.1 Other Insurance of Outside Entity

In connection with any **Claim** made against an **Outside Entity Insured Person**, this **Policy** shall apply specifically in excess of any indemnification from an **Outside Entity** and any other insurance coverage provided to an **Outside Entity** or its directors, officers, trustees or governors (or equivalent).

In the event such other insurance provided to an **Outside Entity** or its directors, officers, trustees or governors (or equivalent) is provided by the **Underwriters** (or would be except for the application of any **Excess**, exhaustion of a limit of liability or failure to submit notice of a claim) then the maximum **Limit of Liability** shall be reduced by the amount of the limit of liability of the other insurance provided to such **Outside Entity** or its directors, officers, trustees or governors (or equivalent) by the **Underwriters** as to any such **Claim**.

CORPORATE LIABILITY COVERAGE SECTION

SECTION 1: INSURING AGREEMENT APPLYING TO CORPORATE LIABILITY COVERAGE SECTION

- 1.1 The **Underwriters** will pay on behalf of a **Named Insured** the **Loss** arising from a **Securities Claim** first made during the **Policy Period** (or Extended Reporting Period, if applicable) against such **Named Insured** for a **Wrongful Act**.

SECTION 2: AUTOMATIC EXTENSIONS APPLYING TO CORPORATE LIABILITY COVERAGE SECTION

The following Extensions are included automatically, provided always that each Extension is to be read in conjunction with Section 1. The Extensions have specified **Sublimits of Liability** and **Specific Excesses** and these will apply unless specifically stated otherwise in the **Schedule**.

2.1 Crisis Response Costs

- a The **Underwriters** will pay the **Crisis Response Costs** incurred by or on behalf of a **Named Insured**, with the **Underwriters'** prior written consent (such consent not to be unreasonably withheld or delayed), as a result of a **Crisis**

Event that occurs during the **Policy Period** (or Extended Reporting Period, if applicable).

- b All **Crisis Response Costs** are subject to the **Sublimit of Liability**.

No **Excess** applies to Extension 2.1.

2.2 Emergency Costs

If the **Underwriters'** prior written consent cannot be obtained within a reasonable time prior to the **Defence Costs** or **Crisis Response Costs** being incurred by or on behalf of an **Insured**, the **Underwriters** will retrospectively approve such **Defence Costs** or **Crisis Response Costs**, up to any applicable **Limit of Liability** or **Sublimit of Liability**; however, such approval shall be provided only for those **Defence Costs** or **Crisis Response Costs** incurred during the forty-eight (48) hour period commencing from the time such costs are first incurred by an **Insured**.

SECTION 3: EXCLUSIONS APPLYING TO CORPORATE LIABILITY COVERAGE SECTION

The **Underwriters** will not pay anything under this Coverage Section in respect of any claim:

3.1 Anti-Trust

alleging, arising out of, based upon, or attributable to, or in consequence of any actual or alleged violation of any law, whether statutory, regulatory or common law, with respect to anti-trust, business competition, unfair trade practices or tortious interference in another's business or contractual relationship(s).

3.2 Breach of Contract

based upon, arising from, or in consequence of any actual or alleged liability of any **Insured** under any express contract or agreement; provided, however, that this Exclusion shall not apply to the extent that such **Insured** would have been liable in the absence of such contract or agreement.

3.3 Intellectual Property

alleging, arising out of, based upon, or attributable to, or in consequence of any actual or alleged plagiarism, infringement or violation of any copyright, patent, trademark or service mark or the misappropriation of intellectual property, ideas or trade secrets.

3.4 Personal Profit

arising out of, based upon or attributable to the gaining of any profit or financial advantage or improper or illegal remuneration by the **Insured**, if a final, non-appealable judgment or adjudication in the underlying action or any formal written admission by an **Insured** establishes that such **Insured** was not legally entitled to such profit or advantage or that such remuneration was improper or illegal.

EMPLOYMENT PRACTICES LIABILITY COVERAGE SECTION

SECTION 1: INSURING AGREEMENT APPLYING TO EMPLOYMENT PRACTICES LIABILITY COVERAGE SECTION

- 1.1 The **Underwriters** will pay on behalf of any **Insured**, the **Loss** arising from a **Claim** first made during the **Policy Period** (or Extended Reporting Period, if applicable) against such **Insured** for any **Wrongful Act**.

SECTION 2: AUTOMATIC EXTENSIONS APPLYING TO EMPLOYMENT PRACTICES LIABILITY COVERAGE SECTION

The following Extensions are included automatically, provided always that each Extension is to be read in conjunction with Section 1. Certain Extensions have specified Sublimits and **Specific Excesses** and these will apply unless specifically stated otherwise in the **Schedule**.

2.1 Claims by Third Parties

The **Underwriters** will pay on behalf of any **Insured**, the **Loss** arising from a **Claim** first made during the **Policy Period** (or Extended Reporting Period, if applicable) against such **Insured** for a **Third Party Wrongful Act**, subject to the **Sublimit of Liability**.

2.2 Reinstatements and Injunctions

The **Underwriters** will pay on behalf of the **Insured** any **Defence Costs** incurred by the **Insured** from a **Claim** brought by any **Employee** seeking either an Injunction, Reinstatement or an order from the Complaints Review Tribunal, Employment Relations Authority, Employment Court or any other Court or Tribunal authorised to make orders under the

Human Rights Act 1993. However, the **Underwriters** will not pay the actual costs of complying with any Injunction, any order for Reinstatement or any order of any aforesaid Tribunal, Authority or Court.

SECTION 3: EXCLUSIONS APPLYING TO EMPLOYMENT PRACTICES LIABILITY COVERAGE SECTION

The **Underwriters** will not pay anything under this Coverage Section in respect of any claim:

3.1 Bodily Injury/Property Damage

for bodily injury (other than emotional distress or mental anguish), illness, disease, or death of any person, or damage to or destruction of any tangible property.

3.2 Employee Entitlements

arising out of, based upon or attributable to, resulting from or in connection with any payment to an **Employee** of any amount which the **Insured** was obligated (whether under any statute or any express or implied terms of any employment agreement, or otherwise) to pay such **Employee** prior to the **Wrongful Act** alleged in such **Claim** was committed.

3.3 Labour Disputes

alleging, arising out of, based upon or attributable to any lockout, strike, picket line, hiring of replacement workers, or other similar actions in connection with labour disputes or labour negotiations; provided, however, that this Exclusion shall not apply to any **Claim** for **Retaliation**.

3.4 Statutory Liability

arising out of, based upon or attributable to any obligation pursuant to any **Claim** regarding an injury for which cover is available under the Accident Compensation Act 2001, the Health and Safety at Work Act 2015 or any associated regulation or amendment or other equivalent occupational health and safety statute, law or regulation in any country or territory.

GENERAL LIABILITY COVERAGE SECTION

SECTION 1: INSURING AGREEMENT APPLYING TO GENERAL LIABILITY COVERAGE SECTION

1.1 The **Underwriters** will indemnify the **Insured** for amounts the **Insured** shall become legally liable to pay for loss in respect of **Personal Injury** or **Property Damage**.

1.2 Defence Costs

In addition to the **Limit of Liability** for this Coverage Section, the **Underwriters** will pay **Defence Costs** necessarily and reasonably incurred in relation to any claim against the **Insured** for which there is cover under this Coverage Section. The **Underwriters** may investigate, negotiate and settle any claim as they deem expedient; however, the **Underwriters** shall not be obligated to pay any claim or judgment or to defend any suit after the **Limit of Liability** has been exhausted by payment of judgments or settlements.

Provided that:

- a in the event that the **Underwriters** have paid the **Limit of Liability** in respect of any judgment or settlement, the **Underwriters'** liability in respect of any further **Defence Costs** shall cease; and
- b if the amount of compensation the **Insured** is legally required to pay to dispose of a claim exceeds the **Limit of Liability**, the liability of the **Underwriters** to pay **Defence Costs** in connection with such claim shall be limited to the same proportion of the **Defence Costs** as the **Limit of Liability** bears to the total amount of compensation paid to dispose of the claim.

SECTION 2: AUTOMATIC EXTENSIONS APPLYING TO GENERAL LIABILITY COVERAGE SECTION

The following Extensions are included automatically, provided always that each Extension is to be read in conjunction with Section 1. Certain Extensions have specified **Sublimits of Liability** and **Specific Excesses** and these will apply unless specifically stated otherwise in the **Schedule**.

2.1 Advertising Liability

The **Underwriters** will indemnify the **Insured** for all amounts that the **Insured** is legally liable to pay in respect of claims for **Advertising Injury** happening during the **Policy Period** in connection

with the **Insured's Business**, Provided that the **Underwriters** will not indemnify the **Insured** for any claim in respect of or alleging **Advertising Injury** arising out of:

- a statements made by the **Insured** or at the **Insured's** direction with knowledge that such statements are false;
- b the failure of performance of a contract, except for claims for unauthorised appropriation of advertising ideas contrary to an implied contract;
- c any incorrect description of the **Insured's Products** or services;
- d any mistake in the advertised price of the **Insured's Products** or service;
- e the failure of the **Insured's Products** or services to conform with advertised performance, quality, fitness or durability;
- f liability incurred by the **Insured** if the **Insured's Business** is advertising, broadcasting, publishing or telecasting.

This Extension is subject to the **Sublimit of Liability** and the **Specific Excess**.

2.2 Care, Custody or Control

Notwithstanding Exclusion 3.15 (Property in the **Insured's Care, Custody or Control**), the **Underwriters** will indemnify the **Insured** in respect of amounts they are legally liable to pay in respect of **Property Damage** while the property is in the care, custody or control of the **Insured**. This Extension is subject to the **Sublimit of Liability** and the **Specific Excess**.

2.3 Hazardous Substances Emergency

The **Underwriters** will indemnify the **Insured** for all amounts the **Insured** is legally liable to pay pursuant to section 47C (2) and (3) of the Fire Service Act 1975, in respect of attendance at a hazardous substances emergency which occurs within the **Territorial Limits** during the **Policy Period** and is caused by an **Occurrence** in connection with the **Insured's Business**. This Extension is subject to the **Sublimit of Liability** and the **Specific Excess**.

2.4 Landlord's Liability

The **Underwriters** will indemnify the **Insured** for amounts they become legally liable to pay in

respect of **Personal Injury** or **Property Damage** in connection with the **Insured's** legal ownership, but not physical occupation, of any premises.

2.5 Product Withdrawal Costs

Notwithstanding Exclusion 3.16 (Recall of Products), the **Underwriters** will indemnify the **Insured** for 80% of those costs incurred with the prior approval of the **Underwriters** in the withdrawal or recall from use in New Zealand of the **Insured's Products** that have the same defect as other **Insured's Products** that have already given rise to a claim in respect of which the **Insured** is entitled to indemnity under this Coverage Section.

Provided that this Extension is subject to:

- a the **Sublimit of Liability** in respect of all such withdrawals or recalls; and
- b the **Specific Excess**.

2.6 Professional Advice or Service

Notwithstanding Exclusion 3.14 (Professional Advice), the **Underwriters** will indemnify the **Insured** for amounts they become legally liable to pay in respect of **Personal Injury** or **Property Damage** arising out of:

- a The rendering of or failure to render professional medical advice by **Medical Persons** employed by the **Insured** to provide emergency first aid and routine medical services on the **Insured's** premises.

Provided that:

- i the **Insured** is not operating an ambulance service, hospital, healthcare clinic, long term care facility or other healthcare facility or institution; and
- ii such medical advice is not given for a fee; or
- b The rendering of professional advice or professional service by the **Insured**, or error or omission connected therewith, provided that such advice or service is not given for a fee.

2.7 Punitive or Exemplary Damages

Notwithstanding Exclusion 3.11 (Fines and Penalties), the **Underwriters** will indemnify the **Insured** for all sums that the **Insured** shall become legally liable to pay by way of punitive or exemplary damages awarded for **Personal**

Injury (for which coverage is determined to exist under the Accident Compensation Act 2001 or any amending or replacing legislation) where such **Personal Injury** happened in New Zealand during the **Policy Period**.

Provided that:

- a any liability arising from trespass to the person, assault, battery, false imprisonment, malicious prosecution, sexual harassment or sexual abuse is excluded;
- b any punitive or exemplary damages awarded by any court outside New Zealand are excluded;
- c the **Sublimit of Liability** applies to this Extension; and
- d **Defence Costs** related to punitive or exemplary damages will not reduce or exhaust the Sublimit in 2.7 (c) above, but they are subject to the **Sublimit of Liability**; and
- e the **Specific Excess** applies to this Extension.

2.8 Rectification of Faulty Workmanship

Notwithstanding Exclusion 3.6 (Damage to Insured's Products) and 3.10 (Faulty Workmanship), the **Underwriters** will indemnify the **Insured** for amounts they become legally liable to pay for **Rectification of Faulty Workmanship**.

Provided that this Extension will not apply where:

- a the **Insured** is (i) constructing new buildings; and/or (ii) undertaking concreting activities of a commercial nature; or
- b **Rectification of Faulty Workmanship** which is required as a result of a deliberate or reckless failure to follow standard or customary trade practices;

This Extension is subject to the **Sublimit of Liability** and **Specific Excess** which shall apply to each and every claim under this Extension.

2.9 Tenant's Liability

Notwithstanding Exclusion 3.15 (a) (Property in the Insured's Care, Custody or Control), the **Underwriters** will indemnify the **Insured** for amounts they are legally liable to pay in respect of **Property Damage** to premises (including landlord's fixtures and fittings) leased or rented, but not owned, by the **Insured**.

2.10 Underground Services

Notwithstanding Exclusion 3.17 (Underground Services) the **Underwriters** will indemnify the **Insured** for amounts they are legally liable to pay in respect of **Personal Injury** or **Property Damage** in New Zealand to existing underground services, cables, pipes or equipment.

Provided that:

- a prior to the commencement of any work, the **Insured** enquired of the relevant authority, corporation or company as to the location of such services; and
- b the **Insured** took all reasonable precautions to prevent **Personal Injury** or **Property Damage**; and
- c any liability arising out of work carried out more than five metres below ground level is excluded; and
- d any liability arising out of work carried out underground by directional drilling or by a thrusting or boring machine is excluded; and
- e a **Specific Excess** applies to this Extension.

2.11 Vehicle and Watercraft Service/Repair

Notwithstanding Exclusion 3.15 (b) (Property in the Insured's Care, Custody or Control), and Exclusion 3.18 (Vehicles), the **Underwriters** will indemnify the **Insured** for amounts they are legally liable to pay in respect of **Personal Injury** or **Property Damage** in New Zealand, occurring during the **Policy Period** and caused by an **Occurrence** in connection with the **Insured's Business** arising from the service, repair or modification by the **Insured** of any **Vehicle** or **Watercraft** capable of being transported by trailer and not exceeding eight metres in length, and/or its internal combustion engine, accessories or fittings.

Provided that:

- a the **Vehicle** or **Watercraft** is not owned, hired, leased, or rented by the **Insured**, and is in the care custody or control of the **Insured** for the purposes of the service, repair, modification or installation; and
- b the cost of rectifying defective workmanship in respect of the actual part or parts worked on is excluded; and
- c liability in respect of **Watercraft** during testing on water is excluded; and

- d the **Sublimit of Liability** and the **Specific Excess** apply to this Extension.

2.12 Vibration and Removal of Support

Notwithstanding Exclusion 3.19 (Vibration) the **Underwriters** will indemnify the **Insured** for amounts they are legally liable to pay in respect of **Personal Injury** or **Property Damage** occurring during the **Policy Period** and caused by an **Occurrence** in connection with the **Insured's Business** arising from vibration, or removing, weakening or interfering with, the support of land or buildings.

Provided that:

- a the land or buildings are not owned or occupied by the **Insured**; and
- b the **Personal Injury** or **Property Damage** arises from the actions of the **Insured**; and
- c the **Sublimit of Liability** applies to this Extension; and
- d the **Specific Excess** applies to this Extension.

2.13 Visits to any Non-Territorial Country

Notwithstanding General Condition 14 (Governing Law and Exclusive Jurisdiction) and General Exclusion 9 (Territorial Limits), the **Underwriters** will indemnify the **Insured** in respect of **Personal Injury** or **Property Damage** occurring during the **Policy Period** in any **Non-Territorial Country** arising solely out of the actions of non-resident directors, executives or salespersons temporarily visiting any **Non-Territorial Country** in the course of the **Insured's Business**.

Provided that:

- a the **Insured** has no premises, branch or subsidiary operation in the **Non-Territorial Country**; and
- b any work performed in, on or in connection with, the manufacture, assembly, repair, servicing, maintenance, amendment, alteration or enhancement to any of the **Insured's Products** in the **Non-Territorial Country** is excluded; and
- c any claim relating to the ownership, possession, control, or maintenance or use of any **Vehicle** or **Watercraft** is excluded.
- d In respect of **Personal Injury** or **Property Damage** occurring in the United States of America or Canada (including those territories to which the legal jurisdiction of the

United States of America or Canada extends or applies) the following additional provisions shall apply to this Extension:

- i The **Sublimit of Liability** as specified in the **Schedule**; and
- ii **Defence Costs** related to **Personal Injury** or **Property Damage** occurring in the United States of America or Canada (including those territories to which the legal jurisdiction of the United States of America or Canada extends or applies) will not reduce or exhaust the **Sublimit of Liability** in 2.13 (i) above, but they are subject to a separate **Sublimit of Liability**.

SECTION 3: EXCLUSIONS APPLYING TO GENERAL LIABILITY COVERAGE SECTION

The **Underwriters** will not pay anything under this Coverage Section in respect of any claim for:

3.1 Aircraft and Watercraft

Personal Injury or **Property Damage** directly or indirectly arising out of the ownership, possession, control, service and repair, maintenance, operation, loading, unloading or use by the **Insured** of:

- a any **Aircraft**; or
- b any **Watercraft** exceeding eight metres in length.

3.2 Aircraft Parts

Personal Injury or **Property Damage** directly or indirectly arising out of the **Insured's Products** that are used with the **Insured's** knowledge in any **Aircraft** or any aerial device.

3.3 Assault and Battery

Personal Injury or **Property Damage** caused by or arising directly or indirectly out of or in connection with assault and battery committed by the **Insured** or at the **Insured's** direction unless reasonably necessary for the protection of persons or property.

3.4 Building Defects

Personal Injury or **Property Damage** which is directly or indirectly caused by or contributed to or arises from:

- a moisture or water or the penetration of external moisture or water (save where the **Personal Injury** or **Property Damage** is caused by a sudden, identifiable, unexpected and unintended happening and takes place in its entirety at a specific time and place); or
- b the action or effects of mould, fungi, mildew, rot, decay, micro-organisms, bacteria, protozoa or any similar or like forms, or the costs or expenses arising out of abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralising, remediating or disposal of, or in anyway, responding to or assessing the effects of mould, fungi, mildew, rot, decay, micro-organisms, bacteria, protozoa or any similar or like forms.

3.5 Contractual Liability

Liability assumed by the **Insured** under any contract or agreement except to the extent that such liability would have been implied by law. This includes a contractual obligation that excludes or limits the **Insured's** rights of recovery from a third party.

This exclusion shall not apply to:

- a any contracts designated in the **Schedule**;
- b liability assumed by the **Insured** under a warranty of fitness or quality in respect of the **Insured's Products**, or
- c liability assumed by the **Insured** under any lease or hire of real or personal property.

3.6 Damage to Insured's Products

Property Damage to the **Insured's Products** if such damage is attributable to any defect therein or the harmful nature or unsuitability thereof.

3.7 Defamation

Personal Injury directly or indirectly arising out of the publication or utterance of any defamatory material.

3.8 Employer's Liability

- a **Personal Injury** to any employee of the **Insured** arising out of or in the course of employment of such person in the **Insured's Business**.
- b Any obligation for which the **Insured** may be held liable under the Accident Compensation Act 2001, or any amending or replacement legislation.

- c Any liability in respect of which the **Insured** is entitled to seek compensation under any policy of insurance required to be taken out pursuant to any legislation relating to workers' compensation whether or not the **Insured** has effected such a policy, arising out of or based upon or attributable to any injury.

3.9 Expected or Intended

Personal Injury or **Property Damage** expected or intended from the standpoint of the **Insured**; provided, however, this Exclusion does not apply to:

- a **Personal Injury** or **Property Damage** resulting from the use of reasonable force to protect persons or property; or
- b liability of the **Insured** for compensation as the result of an act committed by an employee of the **Insured** which results in **Personal Injury** or **Property Damage** expected or intended from the standpoint of the employee of the **Insured**, provided such act was not committed at the direction of the **Insured**.

3.10 Faulty Workmanship

The cost of performing, completing, correcting or improving any work undertaken by the **Insured**.

3.11 Fines and Penalties

Aggravated, punitive or exemplary damages, fines, penalties, performance warranties or liquidated damages.

3.12 Information Technology Hazards

- a **Personal Injury** or **Property Damage** caused by or arising, directly or indirectly, out of, or in any way involving the **Insured's Internet Operations**.
- b damage to, loss of, or loss of control over electronic data or software and their storage media arising directly or indirectly out of or caused by, through or in connection with:
 - i the use of any computer hardware or software;
 - ii the provision of computer or telecommunication services by the **Insured** or on the **Insured's** behalf; or
 - iii the use of any computer hardware or software belonging to any third party, whether authorised or unauthorised

including damage caused by any computer virus, malware, denial of service attack, trojan horses, worms, logic bombs, spy ware or spider ware.

3.13 Loss of Use

Loss of use of tangible property which has not been physically damaged or destroyed resulting from:

- a a delay in or lack of performance by or on behalf of the **Insured** of any contract or agreement; or
- b the failure of the **Insured's Products** to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by the **Insured**; however, this Exclusion does not apply to loss of use of other tangible property resulting from the sudden and accidental physical damage to or destruction of the **Insured's Products** after the **Insured's Products** have been put to use by any person or entity other than the **Insured**.

3.14 Professional Advice

The rendering of or failure to render professional advice or professional service by the **Insured** or any error or omission connected therewith.

3.15 Property in the Insured's Care, Custody or Control

Property Damage to:

- a real property, or property owned, hired, leased or rented by or to the **Insured**; or
- b property in the physical or legal control of the **Insured**.

3.16 Recall of Products

Damages, costs or refunds claimed for the recall, withdrawal, removal, inspection, repair, modification, replacement or loss of use of the **Insured's Products**, or of any property of which those **Insured's Products** form a part, or work undertaken by or for the **Insured**, if those **Insured Products** or property of which the **Insured's Products** form part of are withdrawn from the market or from use, or such work is required because of any defect or deficiency therein or because of any Government or statutory ban, order or notice.

3.17 Underground Services

Personal Injury or **Property Damage** to underground services, cables, pipes or equipment.

3.18 Vehicles

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, however, this exclusion shall not apply to the **Insured's** liability for **Personal Injury** or **Property Damage** arising from:

- a the actual, loading, unloading, delivery or collection of goods to or from any **Vehicle**; or
- b the use of any **Tool of Trade** either on any site where the **Insured** is undertaking work or at the **Insured's** premises, provided that this does not extend cover to the use of any **Tool of Trade**, whilst in transit or whilst being used for transport or haulage.

3.19 Vibration

Personal Injury or **Property Damage** arising from vibration, or removing, weakening or interfering with, the support of land or buildings.

SECTION 4: CONDITIONS APPLYING TO GENERAL LIABILITY COVERAGE SECTION

4.1 Adjustment of Premium

Where premium has been calculated on estimates furnished by the **Insured**, the **Insured** shall, within thirty (30) days after the expiry of each **Policy Period**, furnish to the **Underwriters** such information as the **Underwriters** may require to adjust the premium for the expired **Policy Period**. Any difference in premium shall be paid by, or allowed, to the **Insured**. The **Insured** shall allow the **Underwriters** to inspect the **Insured's** records of such information.

4.2 Inspection of Property

The **Underwriters** are permitted but not obligated to inspect the **Insured's** property and operations at any time. Neither the **Underwriters'** right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of, or for the benefit of, the **Insured**, or others,

to determine or warrant that such property or operations are safe.

4.3 Limits of Liability

Unless otherwise specified in the **Schedule**:

The **Underwriters'** maximum liability in respect of any one **Occurrence**, irrespective of the number of claims arising therefrom, shall not exceed the **Per-Occurrence Limit of Liability** in Item 3A of the **Schedule** for this Coverage Section. All **Personal Injury** or **Property Damage** in respect of continuous or repeated exposure to substantially the same general conditions shall be construed as arising out of one **Occurrence**.

Any **Sublimit of Liability** of this **Policy**: (i) shall be part of, and not in addition to, the applicable **Limit of Liability** set forth in Item 3A of the **Schedule**; and (ii) is the maximum liability of the **Underwriters** for all amounts covered by such **Sublimit of Liability**.

The **Underwriters'** total aggregate liability during any one **Policy Period** for all claims arising out of the **Insured's Products** shall not exceed the **Aggregate Limit of Liability** in Item 3A of the **Schedule**.

Defence Costs are not part of, and are in addition to, the **Limits of Liability** and **Sublimits of Liability** and payment by the **Underwriters** of **Defence Costs** shall not reduce any such **Limits of Liability** or **Sublimits of Liability**.

EMPLOYERS LIABILITY COVERAGE SECTION

SECTION 1: INSURING AGREEMENT APPLYING TO EMPLOYERS LIABILITY COVERAGE SECTION

1.1 The **Underwriters** will indemnify the **Insured** for **Damages** the **Insured** becomes legally liable to pay for a **Claim** by an **Employee**:

- a for **Personal Injury** sustained by such **Employee** in New Zealand and that arose out of, and in the course of, such **Employee's** employment in the **Insured's Business**; and
- b for which the **Employee** is not covered under the Accident Compensation Act 2001, provided always that:
 - i the **Claim** is first made during the **Policy Period**;
 - ii the **Personal Injury** arose out of an event,

circumstance or accident that occurred on or after the **Retroactive Date** and before the expiry of the **Policy Period**.

1.2 The **Underwriters** shall pay the **Defence Costs** arising out of any **Claim** covered by this Coverage Section.

SECTION 2: AUTOMATIC EXTENSIONS APPLYING TO EMPLOYERS LIABILITY COVERAGE SECTION

The following Coverage Extensions are included automatically, provided always that each Extension is to be read in conjunction with Section 1. Certain Extensions have specified sublimits and **Specific Excesses** and these will apply unless specifically stated otherwise in the **Schedule**.

2.1 Continuous Cover

Notwithstanding General Exclusion 7 (Prior Knowledge Exclusion), Extension 2.1 extends cover for any **Claim** arising out of, based upon or attributable to a circumstance which could have been, but was not, notified by the **Insured** under any prior policy issued by the **Underwriters** and which is first notified to the **Underwriters** during the **Policy Period**, provided always that:

- a the failure by the **Insured** to notify such circumstance under such prior policy was not fraudulent; and
- b the **Underwriters** have the discretion to apply either the terms and conditions of this **Policy** or the terms and conditions of the policy that was in effect when the circumstance first arose; and
- c the **Insured's** entitlement to indemnity will be reduced by the extent of any prejudice to the **Underwriters** as a result of the **Insured's** failure to notify such circumstance under such prior policy.

2.2 Compensation for Attendance

The **Underwriters** will indemnify the **Insured** for the cost of attendance by any **Employee**, director, principal or partner of the **Named Insured** at a formal court hearing or formal interview conducted in connection with a **Claim** notified to the **Underwriters** where such attendance is considered by the **Underwriters** to be necessary to reduce liability which may result in a payment under this **Policy**, provided that:

- a the **Underwriters** have given prior written consent to such attendance, such consent to be obtained from the **Underwriters** as a condition precedent to any entitlement to indemnity;
- b indemnity for such costs shall not exceed NZD \$500 per partner, director, principal or member per day and NZD \$250 per **Employee** per day; and
- c the total indemnity payable under this Extension shall be subject to the **Sublimit of Liability**.

No **Excess** applies to Automatic Extension 2.2.

SECTION 3: EXCLUSIONS APPLYING TO EMPLOYERS LIABILITY COVERAGE SECTION

The **Underwriters** will not pay anything under this Coverage Section in respect of any claim:

3.1 Defamation

for liability in any way arising out of defamation or injurious falsehood.

3.2 Fines, Wages and Contractual Obligations

- a for fines, penalties, reparations, court costs, prosecution witness expenses or solicitors' costs ordered to be paid by the **Insured** upon conviction of an offence;
- b for unpaid wages or other benefits due to any **Employee**; or
- c for any contractual obligation in the nature of a performance warranty or claim for liquidated damages.

3.3 Health and Safety at Work Act

as a result of an **Employee** sustaining **Personal Injury** that arose out of the failure by the **Insured** to comply with any improvement, prohibition or suspension notice issued to the **Insured** or its **Employees** under the Health and Safety at Work Act 2015 or any amending or replacing legislation.

3.4 Intentional Acts

in any way arising out of any allegation of intentional wrongdoing or recklessness on the part of the **Insured**, including but not limited to allegations of intentional infliction of harm, trespass to the person, assault, battery, false imprisonment, malicious prosecution, sexual harassment or sexual abuse.

3.5 Other Activities

made as a result of the **Insured** directing an **Employee** to undertake activities otherwise than in the course of, or in connection with, the usual activities of the **Insured's Business**.

STATUTORY LIABILITY COVERAGE SECTION

SECTION 1: INSURING AGREEMENT APPLYING TO STATUTORY LIABILITY COVERAGE SECTION

- 1.1 The **Underwriters** will pay on behalf of the **Insured** any **Fine**, any **Order for Reparation**, and any **Defence Costs**
 - a arising out of a **Claim** made against the **Insured**; provided always that:
 - b the **Insured** first became aware of the **Claim** during the **Policy Period**; and
 - c the **Claim** arises from an **Event** occurring on or after the **Retroactive Date**.

SECTION 2: AUTOMATIC EXTENSIONS APPLYING TO STATUTORY LIABILITY COVERAGE SECTION

The following Coverage Extensions are included automatically, provided always that each Extension is to be read in conjunction with Section 1. Certain Extensions have specified sublimits and **Specific Excesses** and these will apply unless specifically stated otherwise in the **Schedule**.

2.1 Compensation for Attendance

The **Underwriters** will indemnify the **Insured** for the cost of attendance by any **Insured Person** at a formal court hearing or formal interview conducted in connection with a **Claim** notified to the **Underwriters** where the **Underwriters** consider the attendance necessary to reduce liability which may result in a payment under this **Policy**, provided that:

- a the **Underwriters** have given prior written consent to such attendance, such consent to be obtained from the **Underwriters** as a condition precedent to any entitlement to indemnity;
- b indemnity for such costs shall not exceed NZD \$500 per partner, director, principal or member per day and NZD \$250 per employee per day; and
- c the total indemnity payable under this

extension shall be subject to the **Sublimit of Liability**.

No **Excess** applies to Automatic Extension 2.1.

2.2 Legal Prosecution Defence Costs Extension

The **Underwriters** will indemnify the **Insured Persons** for **Defence Costs** only that are incurred in defending any **Claim** alleging an offence under any **Act of Parliament** arising from acts or omissions performed in the course of the **Insured Person's** employment with the **Named Insured**.

Exclusion 3.5 (Excluded Acts) will not apply to any **Claim** under this Extension.

In addition to the existing Exclusions under the **Policy**, this Extension shall not cover any **Defence Costs** in connection with any **Claim**:

- a where the **Insured Person** has been charged with any similar offence in the seven years before the **Insured Person** obtained cover under this **Policy**;
- b where (i) the **Insured Person** is intending to plead guilty; or (ii) the **Insured Person** intends to plead not guilty, but this plea is not reasonable, and not based on the evidence and the law;
- c arising directly out of, based upon or attributable to any alleged breaches of professional duty or duty as a director, trustee or power of attorney;
- d arising directly out of, based upon or attributable to any agreement under which the **Insured Person** has agreed to accept liability that the **Insured Person** would not otherwise have had;
- e arising directly out of, based upon or attributable to any dispute concerning a will, bequest, contract to leave assets in a will, probate, Testamentary Promises claim, Family Protection claim, inheritance or gift;
- f arising directly out of, based upon or attributable to any employment disputes;
- g arising directly out of, based upon or attributable to any legal dispute whatsoever between the **Insured Person** and the **Insured Person's** spouse, ex-spouse, de facto partner or ex-de facto partner;
- h arising directly out of, based upon or attributable to any offence alleged to have been committed whilst in breach of any order

made under the Domestic Violence Act 1995 or its amendments or under Fisheries legislation;

- i arising directly out of, based upon or attributable to any offence alleged to have been committed in breach of the Land Transport Act 1998, except where the **Insured Person** is:
 - i over 24 years old at the date of the alleged offence and is liable to be disqualified from driving if convicted; or
 - ii liable to be imprisoned for more than three months if convicted.

The maximum liability of **Underwriters** under this Extension in respect of each **Claim** shall be subject to the **Sublimit of Liability**.

SECTION 3: EXCLUSIONS APPLYING TO STATUTORY LIABILITY COVERAGE SECTION

The **Underwriters** will not pay anything under this Coverage Section in respect of any claim:

3.1 Commerce Act

for any pecuniary penalty, restitution, compensation or order for payment imposed upon the **Insured** by a court pursuant to Part 6 of the Commerce Act 1986.

3.2 Compliance Costs

- a for payment of any **Fine** (or part of a **Fine**) which is a penalty imposed for failing to comply with any enforcement order or remedial order or enforceable undertaking; or
- b for the cost incurred by the **Insured** in complying with any enforcement or remedial order or enforceable undertaking.

3.3 Continuing Fine

for payment of any **Fine** (or part of a **Fine**) which is imposed in relation to a period of time after the **Insured** first received notice from the prosecuting body of the intention to commence a prosecution in relation to the offence.

3.4 Damages and Non-Criminal Penalties

for payment of money arising directly or indirectly from a breach of a legal obligation (including an obligation owed pursuant to an **Act of Parliament**) other than consequent upon the **Insured's**

conviction for an offence. In particular, but without limitation, this **Policy** does not cover any proceeding seeking:

- a damages, including punitive, aggravated, liquidated, multiple or exemplary damages;
- b compensation for injury suffered, including physical or mental injury, humiliation, distress or damage to reputation; or
- c civil pecuniary penalties under any **Act of Parliament**.

3.5 Excluded Acts

arising out of, based upon, attributable to, or in any way involving, directly or indirectly, any of the following **Acts of Parliament**:

- a Arms Act 1983;
- b Aviation Crimes Act 1972;
- c Crimes Act 1961;
- d Criminal Investigations (Bodily Samples) Act 1995;
- e Misuse of Drugs Act 1975;
- f Criminal Proceeds (Recovery) Act 2009;
- g Summary Offences Act 1981; or
- h Land Transport Act 1998.

3.6 Health and Safety at Work Act

for any **Fine** or infringement fee ordered to be paid by the **Named Insured** and/or **Insured Person** under the Health and Safety at Work Act 2015.

3.7 Intentional or Deliberate Disregard

arising out of or based upon, attributable to, or in any way involving any **Insured's** intentional or reckless disregard of the provisions of any **Act of Parliament**.

3.8 Monetary Amounts Paid or Offered before Sentence

for any sum paid, or offered to be paid, by the **Insured** without the prior written consent of the **Underwriters**, to or for a complainant prior to imposition of sentence by the Court, as reparation or otherwise, following an occurrence under any **Act of Parliament**.

3.9 Other Activities

arising directly or indirectly out of activities that

are not in the course of, or in connection with, the **Insured's Business**.

3.10 Reparation

for any monetary amount ordered to be paid by the **Insured** by way of an order for reparation imposed by a Court following conviction under any **Act of Parliament**, except an **Order for Reparation**.

3.11 Taxes

for the payment of any tax, including any **Fine** or penalty resulting from the failure to pay any tax.

CRIME COVERAGE SECTION

SECTION 1: INSURING AGREEMENT APPLYING TO CRIME COVERAGE SECTION

1.1 Computer Fraud

The **Underwriters** will reimburse the **Insured** for loss of, or for loss from damage to, **Money, Securities** or **Property**, resulting directly from **Computer Fraud**.

1.2 Credit Card Fraud

The **Underwriters** will reimburse the **Insured** for loss sustained by an **Insured** resulting directly from **Credit Card Fraud**.

1.3 Employee Theft of Company Property

The **Underwriters** will reimburse the **Insured** for loss of, or for loss from damage to, **Money, Securities** and **Property**, resulting directly from **Theft** or **Forgery** committed by an **Employee**, whether identified or not, acting alone or in collusion with other persons.

1.4 Employee Theft of Client Property

The **Underwriters** will reimburse the **Insured** for loss of, or for loss from damage to, **Money, Securities** and **Property** sustained by a **Client**, resulting directly from **Theft** or **Forgery** committed by an identified **Employee**.

1.5 Fiduciary Theft of Plan Property

The **Underwriters** will reimburse the **Insured** for loss of, or for loss from damage to, **Money, Securities** and **Property** that belongs to a **Sponsored Plan**, resulting directly from **Theft** or **Forgery** committed by a **Fiduciary**,

whether identified or not, acting alone or in collusion with other persons.

1.6 Forgery or Alteration

The **Underwriters** will reimburse the **Insured** for loss resulting directly from **Forgery** or alteration of any written **Financial Instruments**, committed by a **Third Party**.

1.7 Funds Transfer Fraud

The **Underwriters** will reimburse the **Insured** for loss of **Money** and **Securities** contained in a **Transfer Account** on deposit at a financial institution resulting directly from **Funds Transfer Fraud** committed by a **Third Party**.

1.8 Inside the Premises Coverage

- a The **Underwriters** will reimburse the **Insured** for loss resulting directly from:
- i **Robbery, Safe Burglary**, or unlawful taking of **Money** or **Securities**, committed by a **Third Party**; or
 - ii actual destruction or disappearance of **Money** or **Securities**;

within the **Premises** or **Banking Premises** of an **Insured**.

- b The **Underwriters** will reimburse the **Insured** for loss resulting directly from:
- i loss of or damage to **Property** by **Robbery**
 - ii or attempted **Robbery** within the **Premises**;
 - iii loss of or damage to **Property** contained within any safe which results from **Safe Burglary** or attempted **Safe Burglary** within the **Premises**;
 - iv damage to a locked safe, cash drawer, cash box or cash register within the **Premises** by felonious entry or attempted felonious entry or loss by felonious abstraction of such container from within the **Premises**; or
 - v damage to the **Premises** resulting from **Safe Burglary** or **Robbery**;

committed by a **Third Party**.

1.9 In Transit Coverage

- a The **Underwriters** shall reimburse the **Insured** for loss resulting directly from:
- i **Robbery**, or unlawful taking of **Money** or

Securities, committed by a **Third Party**; or

- ii actual destruction or disappearance of **Money** or **Securities**;

while **In Transit**, or while temporarily within the home of an **Employee**.

- b The **Underwriters** shall reimburse the **Insured** for loss resulting directly from:
- i damage to **Property** by **Robbery** while **In Transit**; or
 - ii loss by the unlawful taking of **Property** temporarily within the home of an **Employee** or a partner of the **Insured**;

committed by a **Third Party**.

1.10 Money Orders and Counterfeit Currency Fraud

The **Underwriters** shall reimburse the **Insured** for loss sustained by an **Insured** resulting directly from **Money Orders and Counterfeit Currency Fraud** committed by a **Third Party**.

SECTION 2: AUTOMATIC EXTENSIONS APPLYING TO CRIME COVERAGE SECTION

The following Extensions are included automatically, provided always that each Extension is to be read in conjunction with Section 1. The Extensions have specified **Sublimits of Liability** and **Specific Excesses** and these will apply unless specifically stated otherwise in the **Schedule**.

2.1 Contractual Penalties

The **Underwriters** will indemnify the **Insured**, subject to the **Sublimit of Liability**, for any contractual penalty assumed by and enforced against the **Insured** under a written contract resulting directly from loss covered by this Coverage Section, provided that the maximum aggregate amount payable for all contractual penalties under this Extension is limited to 10% of the **Single Loss** limit.

2.2 Extortion

The **Underwriters** will indemnify the **Insured**, subject to the **Sublimit of Liability**, for any loss resulting directly from **Extortion** committed by an **Employee**.

2.3 Interest Receivable or Payable

The **Underwriters** will reimburse the **Insured**, subject to the **Sublimit of Liability**, for any interest

actually lost or paid by the **Insured** directly resulting from loss covered by this Coverage Section provided that the **Underwriters'** liability under this Extension shall be calculated by applying the average of the Reserve Bank of New Zealand base rate in force between the time that the loss was sustained and the date of **Discovery** of the loss.

2.4 Investigation Costs

The **Underwriters** will reimburse the **Insured**, subject to the **Sublimit of Liability**, for **Investigation Costs** which are directly related to a loss under this Coverage Section.

2.5 Restoration Expenses

The **Underwriters** shall reimburse the **Insured**, subject to the **Sublimit of Liability**, for **Restoration Expenses** that an **Insured** incurs to **Restore** its **Computer System** if damaged or destroyed by a **Computer Violation**. Such damage or destruction must be **Discovered** during the **Policy Period** and resulting directly from a **Computer Violation** which occurs as part of a **Single Loss** which is otherwise covered under Insuring Agreements 1.1 (Computer Fraud), 1.3 (Employee Theft of Company Property), 1.4 (Employee Theft of Client Property) or 1.5 (Fiduciary Theft of Plan Property)

Reimbursement of **Restoration Expenses** will be made to the **Insured** once all processes have been completed to **Restore** the **Computer System**, and the **Insured** has provided the **Underwriters**, in writing, of a description and accounting of all **Restoration Expenses**, together with such detail as the **Underwriters** may require.

SECTION 3: EXCLUSIONS APPLYING TO CRIME COVERAGE SECTION

The **Underwriters** will not pay anything under this Coverage Section in respect of any claim for:

3.1 Collusion Exclusion

loss sustained by a **Client** due to **Theft** or **Forgery** committed by an **Employee** acting in collusion with the **Client** or the **Client's** employee.

3.2 Consequential Loss Exclusion

indirect or consequential loss of any kind, provided, however, that this Exclusion shall not

apply to otherwise covered **Restoration Expenses** under Automatic Extension 2.5.

3.3 Credit Card Forgery and Alteration

loss under Insuring Agreement 1.2 (Credit Card Fraud) for loss caused by any forgery or alteration of, on or in any written instrument; provided, however, that this Exclusion shall not apply if:

- a the provisions, conditions and other terms under which the involved credit card was issued were fully complied with; and
- b the **Insured** is legally liable to the issuer of such credit card for such loss.

3.4 Custody Exclusion

loss of or damage to **Money, Securities** or **Property** while in the custody of any bank, trust company, similar recognised place of safe deposit, armoured motor vehicle company or any person who is duly authorised by the **Insured** to have custody of the property.

3.5 Data Expenses

expenses incurred:

- a as a result of the reconstitution of **Data** if the **Insured** knowingly used or uses illegal copies of programs; or
- b to render the **Data** usable by replacement processing equipment; or
- c to design, update or improve software or programs or to perfect their operation or performance; or
- d as a result of an alteration in **Data** held on magnetic media due to the effect of magnetic fields, their incorrect use or the obsolescence of the **Computer System**.

3.6 Discovery Exclusion

loss sustained by the **Insured** prior to the termination of this Coverage Section unless such loss is first **Discovered** during the **Policy Period** and the **Insured** provides written notice thereof to the **Underwriters** within the time limitations provided in Condition 4.7 (Proof of Loss).

3.7 Forgery and Alteration Collusion Exclusion

loss under Insuring Agreement 1.6 (Forgery or Alteration) for loss due to **Forgery** or **Alteration** of:

- a any **Financial Instrument** committed by any **Third Party** in collusion with any **Employee**; or
- b any registered or coupon obligations issued or purported to have been issued by the **Insured**, or any coupons whether attached or detached.

3.8 Fine and Penalties Exclusion

finest or penalties, or for multiplied or punitive damages.

3.9 Fire Exclusion

loss resulting directly or indirectly from fire; provided however that this Exclusion shall not apply to:

- a loss of **Money** or **Securities**; or
- b damage to any safe or vault caused by the application of fire thereto for the purposes of **Safe Burglary**.

3.10 Income Exclusion

loss of income, whether or not earned or accrued, including interest and dividends, not realised as the result of a loss covered under this Coverage Section.

3.11 Inventory & Computation Exclusion

loss, or that portion of any loss, sustained by the **Insured** which results from an unexplained inventory shortage, including loss, the proof of which its existence or amount is dependent upon an inventory computation or a profit and loss computation; provided however, that if the **Insured** can establish, wholly apart from such computations, that it has sustained a loss, then the **Insured** may offer its inventory records and actual physical count of inventory in support of the amount of loss claimed.

3.12 Partner Exclusion

loss resulting directly or indirectly from any **Theft**, **Forgery**, fraudulent, dishonest or criminal action committed by an **Insured**, or by an owner if the **Insured** is a sole-proprietorship, a partner if the **Insured** is a partnership, or by a member or manager if the **Insured** is a limited liability

company or corporation, whether acting alone or in collusion with others; provided, however, that this Exclusion shall not apply to loss otherwise provided under Insuring Agreement 1.4 (Employee Theft of Client Property) .

3.13 Post Knowledge Exclusion

loss caused by an **Employee**, which is sustained by an **Insured** after any other **Employee** with managerial or supervisory responsibility, or an **Executive**, not in collusion with the **Employee** becomes aware of a **Theft**, **Forgery**, or other fraudulent or dishonest act committed by such **Employee** while employed with the **Insured** or prior to the inception of the **Employee's** employment with the **Insured**, involving **Money**, **Securities** or **Property** in an amount in excess of one thousand dollars (\$1,000 NZD).

3.14 Proprietary Information Exclusion

loss resulting directly or indirectly from the unauthorised use or disclosure of trade secrets, patents or other intellectual property, confidential processing methods, customer lists, or other confidential information of any kind; provided however, that this Exclusion does not apply to loss otherwise covered under Insuring Agreements 1.1 (Computer Fraud), 1.3 (Employee Theft of Company Property), 1.4 (Employee Theft of Client Property) or 1.5 (Fiduciary Theft of Plan Property).

3.15 Trading Exclusion

loss resulting directly or indirectly from any authorised or unauthorised trading of **Money**, **Securities** or **Property**, whether or not in the name of the **Insured** and whether or not in a genuine or fictitious account; provided, however, that this Exclusion shall not apply to loss caused by **Theft** or **Forgery** which results in an improper financial gain to an **Employee**. Such improper financial gain shall not include salary, bonuses, commissions, incentive payments, fees or other compensation, including but not limited to promotions and raises associated with employment, earned time off including vacations, and the costs of any retirement benefits.

3.16 Voluntary Surrender Exclusion

loss due to the **Insured** knowingly having given or surrendered **Money**, **Securities** or **Property** in any exchange or purchase with a **Third Party** not

in collusion with an **Employee**; provided, however, this Exclusion shall not apply to **Money Orders and Counterfeit Currency Fraud** or Insuring Clause 1.1, Computer Fraud.

SECTION 4: CONDITIONS APPLYING TO CRIME COVERAGE SECTION

4.1 Concealment, Misrepresentation or Fraud

This Coverage Section is void in any case of fraud by the **Insured** as it relates to this Coverage Section at any time. This Coverage Section is also void if any **Insured**, or any person authorised to act on behalf of an **Insured**, at any time intentionally conceals or misrepresents a material fact concerning:

- a this Coverage Section, in the **Proposal** for this Coverage Section or in any materials submitted therewith;
- b **Money, Securities or Property**;
- c the Insured's interest in **Money, Securities or Property**; or
- d a claim under this Coverage Section.
- e General Condition 27 (Representations and Severability) does not apply to this Coverage Section.

4.2 Excess

The **Underwriters** will not reimburse the **Insured** for loss resulting directly from a **Single Loss** unless the amount of loss exceeds the applicable **Excess** shown in Item 4 of the **Schedule**. The **Underwriters** will then reimburse the amount of loss in excess of the **Excess**, up to the applicable **Limit of Liability**.

If a **Single Loss** is covered under more than one Insuring Agreement of this Coverage Section, then only the highest **Single Loss Excess** shall be applied.

If a **Single Loss** is covered under both Insuring Agreement 1.1 (Computer Fraud) and Automatic Extension 2.5 (Restoration Expenses), then only the **Excess** and **Limit of Liability** under Insuring Agreement 1.1 shall apply.

General Condition 10 (Excess) shall not apply to this Coverage Section.

4.3 Limits of Liability

The **Underwriters'** maximum liability for a **Single Loss** shall not exceed the applicable **Limit of**

Liability, as in Item 3A of the **Schedule**, regardless of the number of Insureds who have incurred loss.

If a **Single Loss** is covered under more than one Insuring Agreement of this Coverage Section, the maximum amount payable under this Coverage Section shall not exceed the largest applicable **Limit of Liability** of any one such Insuring Agreement.

With regard to the **Aggregate Limit of Liability**:

- a If Item 3A of the **Schedule** indicates an **Aggregate Limit of Liability** for this Coverage Section, then the **Underwriters'** maximum aggregate liability for all loss under this Coverage Section which is Discovered during the **Policy Period** and all **Restoration Expenses**, shall not exceed such **Aggregate Limit of Liability**. If the **Aggregate Limit of Liability** is exhausted by the payment of loss or **Restoration Expenses** by the **Underwriters**, the **Underwriters** will have no further liability to make any payments under this Coverage Section.
- b If Item 3A of the **Schedule** does not indicate an **Aggregate Limit of Liability** for this Coverage Section, then the payment of loss under any one Insuring Agreement by the **Underwriters** shall not reduce or exhaust the **Single Loss Limit of Liability** under any other Insuring Agreement. However, in no event shall the **Underwriters** be liable to reimburse the **Insured**, in total, more than the amount in Item 5 of the **Schedule** for **Restoration Expenses**, under Automatic Extension 2.5.

Clause 20 (Limits of Liability) of the General Conditions shall not apply to this Coverage Section.

4.4 Non-accumulation of Liability

When there is more than one **Insured**, the maximum liability of the **Underwriters** for loss sustained by one or all **Insureds** shall not exceed the amount for which the **Underwriters** would be liable if all losses were sustained by any one **Insured**.

Regardless of the number of years this Coverage Section remains in effect and the total premium amounts due or paid, neither the **Limits of Liability** nor the amount the **Underwriters** shall reimburse for any loss shall be cumulative from year-to-year or from **Policy Period to Policy Period**.

4.5 Ownership

The **Underwriters'** liability under this Coverage Section will apply only to the **Money, Securities** or **Property** owned by the **Insured** or for which the **Insured** is legally liable, or held by the **Insured** in any capacity whether or not the **Insured** is liable; provided that:

- a the **Underwriters** will not be liable for damage to the **Premises** unless the **Insured** is the owner of the **Premises** or is liable for such damage; or
- b except solely with respect to Insuring Agreement 1.2 (Credit Card Fraud), the **Underwriters'** liability will not apply to **Money, Securities** or **Property** of a **Client**.

For the purposes of Insuring Agreement 1.2, the **Underwriters'** liability under this Coverage Section will apply only to the **Money, Securities** or **Property** of a **Client** which is held by the **Insured** in any capacity or for which the **Insured** is legally liable.

4.6 Other Insurance

If the **Insured** or any other party with an interest in any loss covered by this Coverage Section has any bond, indemnity or other insurance which would cover such loss in whole or in part in the absence of this Coverage Section, then this Coverage Section shall be null and void to the extent of the amount recoverable or received under such other bond, indemnity, or insurance; but this Coverage Section shall cover such loss, subject to its exclusions, conditions and other terms, only to the extent of the amount of such loss in excess of the amount recoverable or received under such other bond, indemnity or insurance.

General Condition 23 (Other Insurance) shall not apply to this Coverage Section.

4.7 Proof of Loss

It is a condition precedent to coverage under this Coverage Section that, upon **Discovery**, the **Insured** shall:

- a provide written notice to the **Underwriters** as soon as practicable and in no event later than ninety (90) days after such **Discovery**;
- b furnish sworn Proof of Loss with full particulars to the **Underwriters** within six (6) months of such **Discovery**, including:
 - i production of all relevant records and documents as the **Underwriters** shall request; and

- ii submit to examination under oath at the **Underwriters'** request; and cooperate completely with the **Underwriters** in all matters pertaining to the claim.

The **Insured** may offer a comparison between the **Insured's** inventory records and actual physical count of its inventory to prove the amount of loss, but only where the **Insured** establishes wholly apart from such comparison that it has sustained a covered loss, caused by an identified **Employee**.

Section 21 (Notification) of the General Conditions shall not apply to this Coverage Section.

4.8 Records

The **Insured** must keep records of all **Money, Securities**, and **Property** under this Coverage Section so the **Underwriters** can verify the amount of any loss.

4.9 Sponsored Plan

Solely with respect to any **Sponsored Plan**, payment by the **Underwriters** for covered loss to the **Insured** shall be held by the **Insured** for the use and benefit of the **Sponsored Plan** incurring such loss.

The **Limit of Liability** applicable to any **Sponsored Plan** shall equal either ten percent (10%) of the **Sponsored Plan's** assets as of the beginning of such **Sponsored Plan's** fiscal year, or \$500,000 NZD, whichever is less ("Amended Limit of Liability"); provided, however, that the following additional conditions shall also apply with respect to such coverage:

- a Loss Involving one **Sponsored Plan**:
 - i if the applicable **Limit of Liability** is less than the "Amended Limit of Liability", then the applicable **Limit of Liability** shall be the "Amended Limit of Liability"; or
 - ii if the applicable **Limit of Liability** equals or exceeds the "Amended Limit of Liability", then the applicable **Limit of Liability** shall be the **Limit of Liability** or
- b Loss Involving more than one **Sponsored Plan**:
 - i if the applicable **Limit of Liability** is less than the "Amended Limit of Liability" as calculated for each **Sponsored Plan**, then the applicable **Limit of Liability** for each **Sponsored Plan** shall be the "Amended Limit of Liability" as calculated for each **Sponsored Plan**; or if

the applicable **Limit of Liability** equals or exceeds the “Amended Limit of Liability” as calculated for all such **Sponsored Plans**, then the applicable **Limit of Liability** for all such **Sponsored Plans** combined shall be the **Limit of**.

No **Excess** shall apply to loss solely sustained by a **Sponsored Plan**.

4.10 Valuation and Foreign Currency

The **Underwriters** shall reimburse:

- a loss of **Money** but only up to and including its face value, and at the **Insured’s** option, reimburse for loss of **Money** issued by any country other New Zealand:
 - i at face value in the **Money** issued by that country; or
 - ii in New Zealand equivalent determined by the rate of exchange published by the Reserve Bank of New Zealand at 3pm on the day on the day the loss was **Discovered**.
- b loss of **Securities** but only up to and including their value at the close of business on the day the loss was **Discovered**. The **Underwriters** may, at the **Underwriter’s** option:
 - i reimburse the market value of such **Securities** or replace them in kind, in which event the **Insured** must assign to the **Underwriters** all the **Insured’s** rights, title and interest in and to those **Securities**; or reimburse the cost of any lost Securities Bond required in connection with issuing duplicates of the **Securities**. However, the **Underwriters** will be liable only for the payment of so much of the cost of the bond as would be charged for a bond having a penalty not exceeding the lesser of the value of the **Securities** at the close of business on the day the loss was **Discovered**.
- c Loss of, or loss from damage to, **Property** or **Premises** including its exterior for the replacement cost without deduction for depreciation; provided the **Underwriters** will not reimburse more than the least of the following:
 - i the cost to replace the lost or damaged **Property** with **Property** of comparable material and quality and used for the same purpose; the amount the **Insured** must

actually spend that is necessary to repair or replace the lost or damaged **Property**; or

- ii the **Single Loss Limit of Liability** applicable to the lost or damaged **Property**.

The **Underwriters** will not reimburse the **Insured** on a replacement cost basis for any loss or damage until such **Property** is actually repaired or replaced, and unless the repairs or replacement are made as soon as reasonably possible after the loss or damage. If the lost or damaged **Property** is not repaired or replaced, the **Underwriters** will reimburse the **Insured** the actual cash value of the **Property** on the day the loss was **Discovered**.

CONSEQUENTIAL LOSS COVERAGE SECTION

SECTION 1: INSURING AGREEMENT APPLYING TO CONSEQUENTIAL LOSS COVERAGE SECTION

- 1.1 The **Underwriters** will indemnify the **Insured** for **Consequential Loss** resulting from a **Covered Event** during the **Policy Period** in respect of which the **Underwriters** have accepted indemnity.

SECTION 2: EXCLUSIONS APPLYING TO CONSEQUENTIAL LOSS COVERAGE SECTION

The **Underwriters** will not pay anything under this Coverage Section in respect of any claim:

2.1 Business Records

for the costs of rewriting and reconstructing business records not otherwise covered under this **policy**.

2.2 Financial Loss

for financial loss covered under a Fire or Material Damage or Business Interruption or Consequential Loss Insurance Policy.

2.3 Fines, Penalties and Compliance Costs

for fines, penalties, liquidated damages or the additional costs incurred in complying with any Act of Parliament, Regulation, Order in Council, By-law, New Zealand or International Standard, or any other industry or professional code of practice or compliance standard

2.4 Property Damage

for the costs of repairing or replacing loss or damage to real or personal property.

SECTION 3: CONDITIONS APPLYING TO CONSEQUENTIAL LOSS COVERAGE SECTION

3.1 Basis of Settlement

In assessing **Consequential Loss**, the **Underwriters** will make all adjustments which, in their discretion, fairly reflect trends, variations or other special circumstances in the **Insured's Business**, which would have affected the **Insured's Business** anyway either before or after the **Covered Event** so that the adjusted figures represent, as closely as is reasonably practicable, the financial performance of the **Insured's Business** which would have been obtained during the **Indemnity Period** but for the **Covered Event**.

3.2 Change of Business Circumstances

The cover under this Coverage Section ceases immediately if the **Insured**:

- a is put into receivership or liquidation;
- b commits an act of bankruptcy or is adjudicated bankrupt;
- c ceases to own or control the **Insured's Business**.

3.3 Limit of Indemnity

In no case will the **Underwriters'** liability exceed 90% of the sum insured in the **Schedule** and in the aggregate for the **Policy Period**.

The maximum amount payable by the **Underwriters** in respect of any claim is 40% of the sum insured during any 3-month period, or pro rata for different periods.

The maximum amount of any claim payable by the **Underwriters** shall be 90% of the actual loss or 90% of the sum insured whichever is the lesser amount. The **Insured** shall be deemed to be its own insurer for the remaining 10%.

3.4 Progress Payments

At the **Insured's** request, the **Underwriters** will make progress payments to the **Insured** during the **Indemnity Period**, provided that the

requested progress payment is supported by the accountant or other representative appointed by the **Underwriters**.

DEFINITIONS

SECTION 1: GENERAL DEFINITIONS

The terms defined in this General Definitions section have the meaning provided for such terms in all Coverage Sections of this **Policy**.

1.1 **"Additional Limit of Liability"** means the additional limit of liability set out at Item 5 of the Directors and Officers Liability **Schedule**.

1.2 **"Aggregate Limit of Liability"** means the aggregate limit of liability set out in Item 3A of the **Schedule** for that Coverage Section.

1.3 **"Circumstance"** means an incident, occurrence, fact, matter, act, error or omission which in the opinion of a reasonable insured is likely to give rise to:

- a a **Claim** against the **Insured**; or
- b any other claim covered under this **Policy**.

1.4 **"Defence Costs"** means:

- a fees, costs, charges or expenses incurred by the **Underwriters** on behalf of the **Insured** in the handling, investigation, defence, settlement or appeal of a **Claim** or any claim covered under this **Policy**; or
- b reasonable and necessary fees, costs, charges or expenses incurred by the **Insured** with the prior written consent of the **Underwriters** in the handling, investigation, settlement, defence or appeal of a **Claim** or any claim covered under this **Policy**.

For the purposes of the General Liability Coverage Section only, **"Defence Costs"** also includes:

- c expenses incurred by the **Insured** for first aid to others at the time of any **Personal Injury** for which the **Insured** is liable and entitled to be indemnified under that Coverage Section.

For the purposes of the Employers Liability Coverage Section only, **"Defence Costs"** also includes:

- c the costs of an application by the **Insured** to the Court to determine whether a **Personal Injury** is properly the subject of coverage

under the Accident Compensation Act 2001;
and

- c any amount required to be paid by the **Insured** as security for costs in any legal proceeding covered by that Coverage Section.

“Defence Costs” does not include, with regard to any Coverage Section:

- i any compensation or benefits or overhead expenses of any **Insured**;
- ii any fees, costs, charges or expenses incurred by the **Insured** prior to the date a **Claim** or any claim covered under this **Policy** is first reported to the **Underwriters**, except as otherwise provided under Directors and Officers Liability Coverage Section 2.4 (Emergency Costs) or Corporate Liability Coverage Section 2.2 (Emergency Costs); or
- iii costs associated with the time spent by the **Insured** in assisting the **Underwriters** or appointed lawyers or experts with the conduct of any claim;
- iv or any charges or reimbursement for time spent by directors, officers, partners or employees of the **Insured**

1.5 **“Excess”** means the applicable **Excess** for the Coverage Section set out at Item 4 of the **Schedule** and is inclusive of GST.

1.6 **“Executive”** means any:

- a past, present or future director or officer of the **Named Insured**; or
- b past, present or future chief legal officer, controller, “de facto” director, shadow director, trustee, governor, management committee member or member of the board of managers, risk manager or director of investor relations of a **Named Insured** or any other person in a functionally equivalent or comparable position.

For the purposes of the Crime Coverage Section only, **“Executive”** means any natural person who is a duly elected or appointed director, officer, general counsel, risk manager, partner, general partner, owner (in the case of a sole proprietorship), member of the board of managers or a management committee member of the **Insured**; or any natural person holding a functionally equivalent position in any **Insured** chartered in any other jurisdiction anywhere in the world.

1.7 **“Insolvency”** means the appointment of an

administrator, receiver, liquidator, trustee or similar official to control, supervise, manage or liquidate an entity.

1.8 **“Insured’s Business”** means the business and undertakings of the **Insured**, as stated in Item 1C of the **Schedule**, including any change in the activities undertaken by the **Insured** provided that the **Insured** has given prior written notice of such activities and has received confirmation of coverage from the **Underwriters**.

1.9 **“Limit of Liability”** means the applicable Limit of Liability for the Coverage Section set out at Item 3A of the **Schedule**.

1.10 **“Management Control”** means:

- a controlling the composition of the board of directors of an entity;
- b controlling more than half of the shareholder or equity voting power of an entity; or
- c holding more than half of the issued share or equity capital of an entity.

1.11 **“Named Insured”** means:

- a the entity/entities named in Item 1A of the **Schedule**; and
- b any **Subsidiary**.

Provided however that for the purposes of the Employer’s Liability Coverage Section and the Statutory Liability Coverage Section only, any such entity shall be a **“Named Insured”** only if domiciled in the **Territorial Limits**.

1.12 **“Organisational Change”** means:

- a the entity named in Item 1A of the **Schedule** consolidates with, merges into, or sells more than fifty percent (50%) of its assets to any other person or entity or group of persons or entities acting in concert such that the entity named in Item 1A of the **Schedule** does not continue to trade in substantially the same way as it did prior to the consolidation, merger or sale; or
- b any person or entity, or group of persons or entities, acting in concert acquire more than 50% of the assets or voting rights of the entity named in Item 1A of the **Schedule**; or
- c the **Insolvency** of the **Named Insured**.

1.13 **“Per-Occurrence Limit Of Liability”** means the limit of liability for each **Occurrence** covered and set out at Item 3A of the **Schedule** for that Coverage Section.

- 1.14 **“Policy”** means this policy wording, the **Schedule**, the **Proposal** and any Endorsement attaching to and forming part of the **Policy** either at commencement or during the **Policy Period**.
- 1.15 **“Policy Period”** means the period of time from the Inception Date in Item 2A of the **Schedule** to the Expiry Date in Item 2B of the **Schedule** or the effective date of cancellation of this **Policy**.
- 1.16 **“Pollutants”** means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fibres, mould, spores, fungus, fumes, acids, alkalis, chemicals and waste. Waste includes, but is not limited to, materials to be recycled, reconditioned or reclaimed.
- 1.17 **“Proposal”** means the written proposal form submitted by the **Insured** to the **Underwriters**, including any related documents and statements that have been submitted or provided by the **Insured** to the **Underwriters** in connection with the underwriting of this **Policy**.
- 1.18 **“Related Claims”** means all **Claims** arising out of, based upon or attributable to:
- a the same acts, errors or omissions;
 - b a series of related acts, errors or omissions; or
 - c the same matter or transaction.
- All **Related Claims** shall be considered a single **Claim** for the purposes of the **Policy**. All such **Claims** shall be considered first made at the earliest time that any such **Claim** is first made against the **Insured**.
- 1.19 **“Retroactive Date”** means the date in Item 6 of the **Schedule**.
- 1.20 **“Schedule”** means the schedule issued by the **Underwriters**.
- 1.21 **“Specific Excess/es”** means the applicable **Excess** set out at Item 5 of the **Schedule** and is inclusive of GST.
- 1.22 **“Sublimit of Liability”** means the applicable Sublimit of Liability set out at Item 5 of the **Schedule**.
- 1.23 **“Subsidiary”** means any entity of which, prior to the Inception Date in Item 2A of the **Schedule**, the entity named in Item 1A of the **Schedule** has **Management Control**.
- 1.24 **“Territorial Limits”** means the Territory as specified in Item 9 and item 10 of the **Schedule**.

- 1.25 **“Underwriters”** means the underwriter(s) named in Item 13 of the **Schedule**.

SECTION 2: DEFINITIONS APPLYING TO DIRECTORS AND OFFICERS LIABILITY COVERAGE SECTION

The terms defined in this section will have the meaning provided for such terms in the Directors and Officers Liability Coverage Section for the purposes of determining coverage under that Coverage Section only.

- 2.1 **“Bond Expenses”** means a reasonable fee or premium necessary to obtain a bond or other similar form of financial guarantee, in respect of obligations as to a specific security or collateral placed upon the **Insured Person** by a civil or criminal court in connection with an **Extradition**, and excluding any form of actual security or collateral itself.
- 2.2 **“Claim”** means any:
- a written demand;
 - b judicial, administrative or regulatory proceeding, whether civil or criminal;
 - c arbitration or mediation proceeding commenced against an **Insured**;
 - d **Investigation**; or
 - e official request for **Extradition**, or the execution of a warrant for the arrest of any **Insured Person** where such execution is an element of **Extradition**.
- 2.3 **“Corporate Manslaughter Proceeding”** means a criminal proceeding against an **Insured Person** for manslaughter in their capacity as an **Executive** and directly related to the business of the **Named Insured**.
- 2.4 **“Employee”** means any natural person who was, now is or shall be a full-time, part-time, seasonal or temporary employee of the **Named Insured**.
- “Employee”** shall not include any **Executive**, principal, partner or shareholder of the **Named Insured**.
- 2.5 **“Employment Practices Breach”** means any:
- a breach of employment laws or any other legal provisions or duties whether arising under statutory law, common law or otherwise, relating to any natural person’s actual or prospective employment relationship with a **Named Insured**; or

- b discrimination or harassment of any natural person who is a customer, client, vendor, supplier, creditor, tenant or service provider or other business invitee of a **Named Insured**.
- 2.6 “**Extradition**” means any formal process under the Extradition Act 1999 or any amendments thereto requesting or seeking to extradite an **Insured Person** from one country to another country for trial or otherwise to answer any accusation, including but not limited to any related appeal, any judicial review applications challenging the designation of a territory for the purposes of extradition law, any challenge or appeal of any extradition decision by the responsible governmental authority or similar court.
- 2.7 “**Extradition Costs**” means any reasonable legal fees, costs and expenses incurred by an **Insured Person** with the prior written consent from the **Underwriters** (not to be unreasonably withheld) to obtain legal advice or to bring or defend proceedings including by way of judicial review or other challenge to the decision to order **Extradition** and to pursue appeals.
- 2.8 “**Insured**” means any **Named Insured** and any **Insured Person**.
- 2.9 “**Insured Person**” means any:
- a **Executive**;
 - b **Employee**, but only during such time as the **Claim** against such **Employee** is also made against an **Executive**
 - c natural person serving as a representative or a director of a **Named Insured**;
 - d past, present or future trustee of a superannuation fund, pension fund or employee benefits programme established for the sole benefit of an **Employee**;
 - e prospective director of a **Named Insured** named in any listing particulars, prospectus or similar offering document; or
 - f **Outside Entity Insured Person** in accordance with Automatic Extension 2.12
- 2.10 “**Investigation**” means any formal civil, criminal, administrative or regulatory investigation into the conduct of an **Insured Person** in their capacity as an **Insured Person** of the **Named Insured**, which is commenced by the filing or issuance of a notice of charges, subpoena or formal investigative order.
- 2.11 “**Investigation Costs**” means any reasonable fees, costs, charges and expenses (other than remuneration payable to any **Insured Person** or the cost of their time or the costs or overhead of any **Named Insured**) incurred with the **Underwriters’** written consent, such consent not to be unreasonably withheld or delayed, by or on behalf of an **Insured Person** directly in connection with such **Insured Person** preparing for an **Investigation**.
- 2.12 “**Loss**” means any amount for which the **Insured** is legally liable as:
- a damages, settlements or judgments;
 - b pre-judgment or post-judgment interest;
 - c costs or fees awarded in favour of the claimant;
 - d punitive or exemplary damages;
 - e **Defence Costs**; and
 - f any amounts for which cover is provided pursuant to Section 2, Automatic Extensions.
- “**Loss**” does not include:
- i fines or penalties imposed by law, except as otherwise provided by (d) above and Automatic Extension 2.13;
 - ii taxes, except as provided by Section 15 (GST) of the General Conditions;
 - iii the multiple portion of any multiplied damage award; and
 - iv amounts deemed uninsurable in law.
- 2.13 “**Outside Entity**” means any:
- a not-for-profit entity; and
 - b other entity listed as such by endorsement to this **Policy**.
- “**Outside Entity**” does not include the **Named Insured**.
- 2.14 “**Reputation Costs**” means the reasonable fees, costs and expenses charged by any public relations firm, crisis management firm or law firm retained by or behalf of an **Insured Person**, to mitigate the adverse effects to such **Insured Person’s** reputation as a result of a negative public statement made about him or her by a regulator.
- 2.15 “**Securities Claim**” means a **Claim**, except any administrative or regulatory proceeding against, or investigation of, a **Named Insured**, alleging a breach of any laws (statutory or common), rules or regulations regulating securities, including but

not limited to, the purchase or sale, or offer or solicitation of an offer to purchase or sell securities which is brought:

- a by any person or entity alleging, arising out of, based upon or attributable to the purchase or sale, or offer or solicitation of an offer to purchase or sell, any securities of a **Named Insured**;
- b by a security holder of a **Named Insured** with respect to such security holder's interest in securities of such **Named Insured**; or
- c derivatively on behalf of a **Named Insured** by a security holder of such **Named Insured**.

Notwithstanding the foregoing, "**Securities Claim**" shall include any administrative or regulatory proceeding against a **Named Insured**, but only if and only during the time that such proceeding is also commenced and continuously maintained against an **Insured Person**.

2.16 "Tax Audit Costs" means any necessary and reasonable fees, charges or disbursements of a chartered accountant or registered tax agent or any other consultant who is engaged by the **Named Insured** with the prior written consent of the **Underwriter** for work undertaken in response to a **Tax Audit Notice**.

2.17 "Tax Audit Notice" means any notification from the Inland Revenue Department of a tax audit investigation of the **Named Insured**.

2.18 "Wrongful Act" means any:

- a actual or alleged act, error, omission, neglect, breach of duty, breach of trust, misstatement, or misleading statement by an **Insured Person**;
- b actual or alleged **Employment Practices Breach** by an **Insured Person**; or
- c matter claimed against an **Insured Person**.

SECTION 3: DEFINITIONS APPLYING TO CORPORATE LIABILITY COVERAGE SECTION

The terms defined in this section shall have the meaning provided for such terms in the Corporate Liability Coverage Section for purposes of determining coverage under that Coverage Section only.

3.1 "Claim" means any:

- a written demand;
- b judicial, administrative or regulatory proceeding, whether civil or criminal; or

c arbitration or mediation proceeding commenced by service of a demand for arbitration or mediation.

3.2 "Crisis Event" means any of the following, provided that in the good faith opinion of an **Executive**, the event has or may result in **Loss** for which coverage would be provided under this Coverage Section and significant adverse media coverage for the **Named Insured**:

a **Data Breach**: The threat, attempt or actual unauthorised intrusion into a **Named Insured's** computer systems for the purpose of obtaining confidential, private or secret information or any 'cyber attacks' leading to the denial of service to customers seeking to access such systems.

b **Mass Tort**: The public announcement or accusation that a **Named Insured** has caused the bodily injury, sickness, disease, death or emotional distress of a group of persons, or widespread damage to or destruction of property, including the loss of use thereof.

c **Debt Default**: The public announcement that a **Named Insured** has defaulted or intends to default on its debt, or intends to engage in a debt restructuring.

d **Insolvency**: The public announcement of the actual or anticipated liquidation, insolvency or bankruptcy of a **Named Insured**.

e **Loss of Key Personnel**: The public announcement of the death or resignation of one or more key **Executives**; or the lay-off or redundancy of a significant number of **Employees** (i.e., the elimination of multiple jobs within a **Named Insured** without regard to employee performance).

f **Regulatory Crisis**: The public announcement of the commencement, or threatened commencement, of litigation, administrative or other proceedings against a **Named Insured** by any governmental or regulatory body.

3.3 "Crisis Response Costs" means the reasonable fees, costs and expenses charged by a public relations firm, crisis management firm or law firm retained by an **Executive** in performing **Crisis Response Services**.

3.4 "Crisis Response Services" means the services performed by a firm which the **Underwriters** at their sole discretion have provided prior written approval for the **Named Insured** to retain in

order to advise the **Named Insured** on minimising potential harm to a **Named Insured** arising from a **Crisis Event**, including but not limited to maintaining and restoring investor confidence in a **Named Insured**.

3.5 “Employee” means any natural person who was, now is or shall be a full-time, part-time, seasonal or temporary employee of the **Named Insured**.

“**Employee**” shall not mean any **Executive**, principal or partner of the **Named Insured**.

3.6 “Insured” means any **Named Insured**.

3.7 “Loss” means any amount for which the **Insured** is legally liable as

- a damages, settlements or judgments;
- b pre-judgment or post-judgment interest;
- c costs or fees awarded in favour of the claimant;
- d punitive or exemplary damages;
- e **Defence Costs**; and
- f any amounts for which cover is provided pursuant to Section 2, Automatic Extensions.

“**Loss**” does not include:

- i fines or penalties imposed by law, except as otherwise provided by (d) above;
- ii taxes, except as provided by Section 15 (GST) of the General Conditions;
- iii the multiple portion of any multiplied damage award; and
- iv amounts deemed uninsurable under applicable law.

3.8 “Securities Claim” means a **Claim**, being any administrative or regulatory proceeding against, or investigation of, a **Named Insured**, (but only if and only during the time that such proceeding is also commenced and continuously maintained against an **Executive**) alleging a violation of any laws (statutory or common), rules or regulations regulating securities, including but not limited to, the purchase or sale, or offer or solicitation of an offer to purchase or sell securities which is brought:

- a by any person or entity alleging, arising out of, based upon or attributable to the purchase or sale, or offer or solicitation of an offer to purchase or sell, any securities of a **Named Insured**;

- b by a security holder of a **Named Insured** with respect to such security holder’s interest in securities of such **Named Insured**; or

- c derivatively on behalf of a **Named Insured** by a security holder of such **Named Insured**.

3.9 “Wrongful Act” means any actual or alleged act, error, omission, neglect, breach of duty, misstatement or misleading statement by a **Named Insured**, but solely with respect to a **Securities Claim**.

SECTION 4: DEFINITIONS APPLYING TO EMPLOYMENT PRACTICES LIABILITY COVERAGE SECTION

The terms defined in this section shall have the meaning provided for such terms in the Employment Practices Coverage Section for purposes of determining coverage under that Coverage Section only.

4.1 “Benefits” means fringe benefits, deferred compensation or payments (including insurance premiums) in connection with any employee-related plan.

“**Benefits**” does not include salary, wages, bonuses or non-deferred cash incentive compensation.

4.2 “Claim” means any:

- a written demand;
- b judicial, administrative or regulatory proceeding, whether civil or criminal; or
- c arbitration or mediation proceeding commenced by service of a demand for arbitration or mediation.

“**Claim**” shall not include any arbitration or other proceeding pursuant to a collective bargaining agreement.

4.3 “Discrimination” means any violation of employment discrimination laws, including but not limited to any actual, alleged or constructive employment termination, dismissal, or discharge, employment demotion, denial of tenure, modification of any term or condition of employment, any failure or refusal to hire or promote, or any limitation or segregation of any **Employee** or applicant for employment by the **Named Insured** in any way that would deprive any person of employment opportunities based on such person’s race, colour, religion, creed, age, sex, disability, marital status, national origin, pregnancy, HIV status, sexual orientation or

preference, or any other status that is protected by law.

- 4.4 “Employee”** means any natural person who was, now is or shall be a full-time, part-time, seasonal or temporary employee of the **Named Insured**, as defined under the Employment Relations Act 2000.

“**Employee**” shall not mean any **Executive**, principal, partner, member or any person providing services for labour only under a contract for services to the **Insured**.

- 4.5 “Harassment”** means:

- a** sexual harassment, including unwelcome sexual advances, requests for sexual favours, or other conduct of a sexual nature that is made a condition of employment with, used as a basis for employment decisions by, interferes with performance or creates an intimidating, hostile or offensive working environment within the **Named Insured**; or
- b** workplace harassment, including work-related harassment of a non-sexual nature that interferes with performance or creates an intimidating, hostile or offensive working environment within the **Named Insured**.

- 4.6 “Insured”** means any **Named Insured** and any **Insured Person**.

- 4.7 “Insured Person”** means any **Executive** or **Employee**.

- 4.8 “Loss”** means any amount for which the **Insured** is legally liable as:

- a** damages, settlements or judgments;
- b** pre-judgment or post-judgment interest;
- c** costs or fees awarded in favour of the claimant;
- d** punitive or exemplary damages; and
- e** **Defence Costs**.

“**Loss**” does not include:

- i** fines or penalties imposed by law, except as provided by (d) above;
- ii** taxes, except as provided by Section 15 (GST) of the General Conditions;
- iii** the multiple portion of any multiplied damages award;
- iv** amounts deemed uninsurable under applicable law;

- v** **Stock Benefits** due or to become due or the equivalent value of such **Stock Benefits**; and any future compensation, including any **Stock Benefits**, for any person hired, promoted or reinstated pursuant to a judgment, settlement, order or other resolution of a **Claim**.

- 4.9 “Personal Grievance”** means a personal grievance as described in the Employment Relations Act 2000 or any equivalent legislation or amendment.

- 4.10 “Retaliation”** means retaliatory treatment of an **Employee** alleged to be on account of such individual:

- a** exercising their rights under any law;
- b** refusing to violate any law or opposing any unlawful practice;
- c** having assisted or testified in or cooperated with any legal proceeding or formal governmental investigation regarding alleged violations of law by any **Insured**;
- d** disclosing or expressing an intent to disclose to a superior or to any governmental agency any alleged violations of law; or
- e** filing or expressing an intent to file any claim against the **Named Insured** under any “whistle-blower” law.

- 4.11 “Stock Benefits”** means any offering, plan or agreement between the **Named Insured** and any **Insured Person** thereof, which grants stock or stock options or stock appreciation rights to such individual, including but not limited to stock options, restricted stock or any other stock grant, but not including employee stock ownership plans or employee stock purchase plans.

- 4.12 “Third Party”** means any natural person who is a customer, vendor, service provider or other business invitee of the **Named Insured**. “**Third Party**” shall not include an **Insured Person** or any applicant for employment with the **Named Insured**.

- 4.13 “Third Party Wrongful Act”** means any actual or alleged:

- a** discrimination against a **Third Party** based upon such **Third Party’s** race, colour, religion, creed, age, sex, disability, marital status, national origin, pregnancy, HIV status, sexual orientation or preference, or any other status that is protected by law; or

- b harassment, directed against a **Third Party**, including sexual harassment, unwelcome msexual advances, requests for sexual favours or other misconduct of a sexual nature.

4.14 “Workplace Tort” means any employment related:

- a misrepresentation, defamation (including libel and slander), false arrest, detention, imprisonment, invasion of privacy, negligent evaluation, wrongful discipline or wrongful deprivation of a career opportunity; or
- b negligent retention, supervision, hiring or training, wrongful infliction of emotional distress, mental anguish or humiliation or failure to provide or enforce consistent employment-related corporate policies and procedures.

4.15 “Wrongful Act” means any actual or alleged:

- a **Discrimination**;
- b **Harassment**;
- c **Retaliation**;
- d **Workplace Tort**; or
- e **Personal Grievance**,

committed by an **Insured** but only if alleged by or on behalf of an **Employee** or an applicant for employment with the **Named Insured**.

“**Wrongful Act**” shall also include a **Third Party Wrongful Act** committed by an **Insured**, but solely with respect to the coverage provided under Automatic Extension 2.1.

SECTION 5: DEFINITIONS APPLYING TO GENERAL LIABILITY COVERAGE SECTION

The terms defined in this section shall have the meaning provided for such terms in the General Liability Coverage Section for purposes of determining coverage under that Coverage Section only.

5.1 “Advertising Injury” means one or more of the following:

- a defamation arising out of defamatory statements or material made during the **Policy Period**;
- b infringement of copyright, title or slogan;
- c unfair competition, misappropriation of advertising ideas or style of doing business;

- d invasion of privacy committed or alleged to have been committed in any Advertisement and arising out of any advertising activities, provided that ‘Advertisement’ means any manner of communication to the public including by way of any form of print media, exhibit, publication, telecommunication, radio or television broadcast, e-mail, digital media, application, social media or performance.

conducted by the **Insured** or on the **Insured’s** behalf, in the course of carrying out the **Insured’s Business**.

5.2 “Aircraft” means any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space.

5.3 “Insured” means:

- a the **Named Insured**;
- b any director, executive officer, employee or partner of the **Named Insured**, but only whilst acting within the scope of their duties in such capacity;
- c any principal in respect of the vicarious liability of such principal arising out of the performance by the **Named Insured** of any contract or agreement for the performance of work for such principal to the extent required by such contract or agreement, but limited to the coverage provided by this **Policy**; and
- d any office bearer or member of social or sporting clubs or welfare organisations formed with the consent of the **Insured**, other than an **Insured** designated in (c) above, in respect of claims arising from duties connected with activities of any such club or organisation.

5.4 “Insured’s Products” means:

- a anything (after it has ceased to be in the possession of or under the control of the **Insured**) manufactured, constructed, erected, assembled, installed, repaired, serviced, grown, treated, sold, supplied or distributed by the **Insured** (including any container other than a vehicle); and
- b including, for the avoidance of doubt, buildings constructed or whose construction is supervised or managed by the **Insured**.

5.5 “Internet Operations” means:

- a use of electronic mail systems by the **Insured’s** employees, including part-time and

temporary staff and others within the **Insured's** organisation;

- b** access through the **Insured's** network to the worldwide web or a public internet site by the **Insured's** employees, including part-time and temporary staff and others within the **Insured's** organisation;
- c** access to the **Insured's** intranet (meaning internal company information and computing resources) which is made available through the world wide web for the **Insured's** customers or others outside the **Insured's** organisation; and
- d** the operation and maintenance of the **Insured's** website.

5.6 "Medical Persons" means qualified medical practitioners, dentists, nurses and first-aid attendants.

5.7 "Non-Territorial Country" means any country, territory or jurisdiction other than the **Territorial Limits**.

5.8 "Occurrence" means an event, including continuous or repeated exposure to substantially the same general conditions that results in **Personal Injury** or **Property Damage**.

5.9 "Personal Injury" means:

- a** bodily injury, illness or disease sustained by a person including death resulting from any of these at any time; or
- b** disability, shock, fright, mental anguish and mental injury including such injury arising from the following by the **Insured**:
 - i** false arrest, false imprisonment, wrongful eviction and wrongful detention; or
 - ii** invasion of rights of privacy; or
 - iii** 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.

Provided that the **"Personal Injury"**:

- i** occurs within the **Territorial Limits**; and
- ii** happens during the **Policy Period**; and
- iii** is caused by an **Occurrence** in connection with the **Insured's Business**.

5.10 "Property Damage" means:

- a** physical damage to, or destruction, or loss of, tangible property including the loss of use

thereof at anytime resulting therefrom; or

- b** loss of use of tangible property, which has not been physically damaged or destroyed, provided such loss of use is caused by an **Occurrence**. All such loss of use shall be deemed to occur at the time of the **Occurrence** that caused it,

Provided that the **"Property Damage"**:

- i** occurs within the **Territorial Limits**; and
- ii** happens during the **Policy Period**; and
- iii** is caused by an **Occurrence** in connection with the **Insured's Business**.

For the purposes of this insurance, electronic data is not tangible property. As used in this definition, "electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

5.11 "Rectification of Faulty Workmanship" means the rectifying, remedying, removal, repair, alteration, treatment or replacement of the **Insured's Products** or part thereof which have proven to be defective, harmful or fail to perform the function for which they were sold, supplied, manufactured or installed.

Provided that the **"Rectification of Faulty Workmanship"**:

- a** occurs within the **Territorial Limits**; and
- b** happens during the **Policy Period**; and
- c** is in connection with the **Insured's Business**.

5.12 "Tool 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 purposes for which it was designed.

5.13 "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.

5.14 "Watercraft" means any vessel, hovercraft, craft or thing made or intended to float on or in or travel on or through the water.

SECTION 6: DEFINITIONS APPLYING TO EMPLOYER'S LIABILITY COVERAGE SECTION

The terms defined in this section shall have the meaning provided for such terms in the Employer's Liability Coverage Section for purposes of determining coverage under that Coverage Section only.

- 6.1 "Claim"** means any:
- a** judicial, administrative or regulatory proceeding instituted against, and served upon, the **Insured**;
 - b** threat or intimation that a judicial, administrative or regulatory proceeding will be instituted against the **Insured**; or
 - c** circumstance that an **Insured** may reasonably believe may give rise to a claim against the **Insured** under **6.1(a)** or **(b)**.
- 6.2 "Damages"** means monetary compensation ordered to be paid or agreed to be paid pursuant to a judgment or settlement of any civil action brought, or capable of being brought, in a New Zealand court. **"Damages"** includes **Punitive and Exemplary Damages**.
- "Damages"** does not include any compensation payable pursuant to any remedy, relief or penalty provided pursuant to any New Zealand statute, whether by way of damages, fine, reparation or other order.
- 6.3 "Employee"** means any person who is employed by the **Insured** in connection with the **Insured's Business** and in respect of whose remuneration the **Insured** deducts pay-as-you-earn (PAYE) tax at source.
- 6.4 "Insured"** means any **Named Insured** and any directors thereof.
- 6.5 "Personal Injury"** means bodily injury, illness, disease or infection, including death resulting therefrom, and shall include disability, shock, fright, mental anguish or mental injury if arising therefrom.
- 6.6 "Punitive and Exemplary Damages"** means monies ordered to be paid as punitive or exemplary damages pursuant to a judgment of a New Zealand court in respect of a common law action brought by an **Employee** against the **Insured** in relation to **Personal Injury**.

SECTION 7: DEFINITIONS APPLYING TO STATUTORY LIABILITY COVERAGE SECTION

The terms defined in this section shall have the meaning provided for such terms in the Statutory Liability Coverage Section for purposes of determining coverage under that Coverage Section only.

- 7.1 "Act of Parliament"** means any Act of the New Zealand Parliament, including any amendments, re-enactments, replacements or Statutory Regulations of such Act.
- 7.2 "Claim"** means any:
- a** judicial, administrative or regulatory proceeding instituted against, and served upon, the **Insured**;
 - b** threat or intimation that a judicial, administrative or regulatory proceeding will be instituted against the **Insured**; or
 - c** circumstance that an **Insured** may reasonably believe may give rise to a claim against the **Insured** under **7.2(a)** or **(b)**.
 - d** All **Claims** connected to a single **Event** shall be considered a single **Claim** for the purposes of the **Policy**.
- 7.3 "Event"** means any act or omission done or omitted to be done by the **Insured** in connection with the **Insured's Business** that may result in an allegation that the **Insured** has committed an offence under an **Act of Parliament** punishable by conviction.
- 7.4 "Fine"** means any fine or costs for which any **Insured** is liable on conviction of any offence under an **Act of Parliament**. **Fine** does not include the cost or payment of any enforcement order, or compliance order, or any value of property subject to confiscation orders or forfeiture.
- 7.5 "Insured"** means any **Named Insured** and any **Insured Person**.
- 7.6 "Insured Person"** means any person who is currently, or was at the date of any **Event**, or becomes during the **Policy Period**, a partner, director, officer or employee of the **Named Insured**.
- 7.8 "Order for Reparation"** means an order for reparation imposed by the Court on sentencing following conviction of an **Insured** for an offence under the Health and Safety at Work Act 2015.

SECTION 8: DEFINITIONS APPLYING TO CRIME COVERAGE SECTION

The terms defined in this section shall have the meaning provided for such terms in the Crime Coverage Section for purposes of determining coverage under that Coverage Section only.

- 8.1 **“Banking Premises”** means the interior portion of a building occupied by, or the night depository chute or safe maintained by any bank, trust company or similar depository institution.
- 8.2 **“Client”** means a customer of an **Insured** to whom an **Insured** provides goods or services under a written contract or for a fee.
- 8.3 **“Computer Fraud”** means the use by a **Third Party** of any computer to fraudulently cause a transfer of **Money, Securities** or **Property**.
- 8.4 **“Computer Program”** means a set of related electronic instructions which direct the operations and functions of a **Computer System**, which enables the **Computer System** to receive, process, store, retrieve, send, create or otherwise act upon **Electronic Data**.
- 8.5 **“Computer System”** means a computer, including all input, output, processing, storage and communication equipment which is connected to such computer, and which the operating system or application software used by the **Insured** are under the direct operational control of the **Insured**. Off-line libraries are deemed to be part of such **Computer System**.
- 8.6 **“Computer Violation”** means an unauthorised:
- a entry into or deletion of **Electronic Data** from a **Computer System**;
 - b change to data elements or program logic of a **Computer System**, which is kept in machine readable format; or
 - c introduction of instructions, programmatic or otherwise, which propagate themselves through a **Computer System**;
- by a natural person and directed against an **Insured**, designed to damage or destroy a **Computer System**.
- 8.7 **“Counterfeit”** means an imitation of **Money** that is intended to deceive and to be taken as genuine.
- 8.8 **“Credit Card Fraud”** means the **Forgery** or alteration of, on or in, any written instrument required in connection with any credit card which is issued to any **Employee** at the request of the

Insured, other than a credit card issued by any **Insured**, provided that the Credit Card Fraud is committed by a **Third Party**.

- 8.9 **“Data”** means facts or information contained in records, accounts, microfilms, tapes or other records, whether or not contained in a **Computer System**.
- 8.10 **“Discover,” “Discovers,” “Discovery”** or **“Discovered”** means the point in time at which knowledge is acquired by an **Executive**, which would cause a reasonable person to believe that a covered loss has been sustained or an event has occurred that may subsequently result in a covered loss, even though the exact amount or details of such loss or event are unknown; provided that it shall not include knowledge acquired by an **Executive**, acting alone or in collusion with an **Employee**, who is a participant in the **Theft** or **Forgery**.
- 8.11 **“Electronic Data”** means facts or information converted to a form:
- a usable in a **Computer System**;
 - b which does not provide instructions or directions to a **Computer System**; and
 - c which is stored on electronic processing media for use by a **Computer Program**.
- 8.12 **“Employee”** means any:
- a natural person regularly performing services for an **Insured** in the ordinary course of such **Insured’s Business**, who is compensated by the **Insured** directly by salary, wages or commissions, and whose performance is controlled and directed by such **Insured**, including any part-time, seasonal, and temporary employee;
 - b natural person who is a volunteer and whose performance is controlled and directed by the **Insured** but only whilst performing acts within the scope of what would be an employee’s usual duties;
 - c natural person who is a trustee, fiduciary, administrator or officer of a **Sponsored Plan**; or
 - d **Executive**, while performing acts within the scope of the usual duties of an employee of the **Insured**.

“Employee” does not mean any broker, partner, investment advisor or investment manager, factor, commission merchant, consignee,

contractor or other agent or representative of the same general character.

- 8.13 “Extortion”** means any threat to personally injure **Employees** or **Executives** or their family members, or to damage or destroy any **Property**, including any **Computer System**, owned by the **Insured** or for which the **Insured** is legally liable, provided that prior to surrender of any **Money**, **Securities** or **Property** the person receiving the threat has made a reasonable effort to report the threat to another **Employee** or **Executive**, and the **Insured** has made a reasonable effort to report the threat to the relevant authority.
- 8.14 “Fiduciary”** means any natural person who is a trustee, an officer, or an administrator of any **Sponsored Plan**; and any other natural person, including an **Employee** who is authorised to handle **Money**, **Securities** or **Property** that belongs to a **Sponsored Plan**.
- 8.15 “Financial Instrument”** means cheques, drafts or similar written promises, orders or directions to pay a sum certain in **Money**, that are made, drawn by or drawn upon an **Insured** or by anyone acting as an **Insured’s** agent, or that are purported to have been so made or drawn.
- 8.16 “Forgery”** means the signing of the name of another natural person with the intent to deceive, but does not mean a signature that includes one’s own name, with or without authority, in any capacity for any purpose. Mechanically or electronically produced or reproduced signatures shall be treated as hand-written signatures.
- 8.17 “Funds Transfer Fraud”** means fraudulent written, electronic, telegraphic, cable, teletype or telephone instructions issued by a **Third Party** to a financial institution directing such institution to transfer, pay or deliver **Money** or **Securities** from any account maintained by the **Insured** at such institution, without the **Insured’s** knowledge or consent. **Funds Transfer Fraud** does not include a **Forgery**.
- 8.18 “Insured”** means:
- a** the **Named Insured**;
 - b** a **Sponsored Plan**, solely under Insuring Agreement 1.5.
- 8.19 “In Transit”** means being conveyed outside the **Premises**, from one person or place to another, by the **Insured** within the custody of an **Employee** or a partner of the **Insured**, or a person authorised by the **Insured** to have custody of **Money**, **Securities** or **Property**. **In Transit** ends immediately upon delivery to the designated recipient or its agent.
- 8.20 “Investigation Costs”** means the reasonable and necessary fees and expenses incurred by the **Insured** to establish the amount of a loss (other than the remuneration payable to an **Employee** or **Executive** of the **Insured**, cost of their time or the overhead of any **Insured**) with the prior written consent of the **Underwriters** in connection with a covered loss to be paid under this Coverage Section where the loss exceeds the applicable **Excess**.
- 8.21 “Messenger”** means any **Executive**, or relative thereof, or any **Employee**, duly authorised, while having care and custody of covered property outside the **Premises**.
- 8.23 “Money”** means electronic funds, currency, coins, bank notes and bullion.
- 8.24 “Money Orders and Counterfeit Currency Fraud”** means the good faith acceptance:
- a** in exchange for merchandise, **Money** or services, of any post office or express money order, if such money order is not paid upon presentation; or
 - b** in the regular course of business, of **Counterfeit** New Zealand currency.
- 8.25 “Premises”** means the interior portion of a building which is occupied by the **Insured** in conducting its business.
- 8.26 “Property”** means tangible property, other than **Money** or **Securities**, that has intrinsic value.
- 8.27 “Restore”** means to complete the restoration or reproduction of **Computer Programs** and **Electronic Data** within the **Insured’s Computer System**, to bring such **Computer System** back to the level of operational capability that existed immediately preceding a **Computer Violation**.
- 8.28 “Restoration Expenses”** means reasonable costs incurred by an **Insured** to **Restore** its **Computer System**.
- Reimbursement of **Restoration Expenses** applies only:
- a** with respect to **Computer Programs** and **Electronic Data** which an **Insured** owns or for which an **Insured** is legally liable; and
 - b** if an **Insured** is unable to reproduce such **Computer Programs** or **Electronic Data**, either from back-up data copies or from some other form of back-up technology.

8.28 "Robbery" means the unlawful taking of **Money**, **Securities** or **Property** from the custody of an **Employee**, or other person (except a person acting as a watchman, porter or janitor) authorised by the **Insured** to have custody of such **Money**, **Securities** or **Property**, by violence or threat of violence.

8.29 "Safe Burglary" means the unlawful taking of **Money**, **Securities** or **Property** by forcible or violent entry evidenced by visible marks, from a locked vault or safe located within the **Premises**.

8.30 "Securities" means negotiable and non-negotiable instruments representing either **Money** or **Property**.

8.31 "Single Loss" means:

- a with respect to Insuring Agreements 1.1, 1.2 and 1.3, all loss resulting from:
 - i an individual act;
 - ii the combined total of all separate acts, whether or not related; or
 - iii a series of acts whether or not related;

committed by the same **Employee**, acting alone or in collusion with other persons, and regardless of whether or not such act or acts occurred during or before the **Policy Period**;

- b with respect to all other Insuring Agreements, all loss resulting from:
 - i an individual act or event; or
 - ii a series of related acts or events;

committed by the same **Third Party**, acting alone or in collusion with other persons, or in which the same **Third party** is implicated or involved;

whether or not such **Third Party** or **Third Parties** are identified, and regardless of whether or not such act(s) or event(s) occurred during or before the **Policy Period**; and further with regard to both paragraphs (a) and (b) above, regardless of the amount or number of losses, the number of **Insureds** incurring loss, or the number of **Financial Instruments** or documents or electronic transactions involved over any period of time.

8.32 "Sponsored Plan" means a superannuation fund, pension fund or employee benefits programme which is:

- a solely sponsored by the **Insured**; or operated solely by the **Insured** or jointly by the **Insured** and a labour organisation for the benefit of

the **Employees**, located anywhere in the world, and which existed on or before the Inception Date in Item 2A of the **Schedule** or which is created or acquired after such Inception Date; or

- b any other plan, fund, or program specifically included as a **Sponsored Plan** by Endorsement to this Coverage Section.

"**Sponsored Plan**" shall not include any multi-employer plan.

8.33 "Theft" means the unlawful taking of **Money**, **Securities** or **Property**.

8.34 "Third Party" means a natural person, other than an **Employee**.

8.35 "Transfer Account" means an account maintained by an **Insured** at a financial institution from which an **Insured** can initiate the transfer, payment or delivery of **Money** or **Securities**.

SECTION 9: DEFINITIONS APPLYING TO THE CONSEQUENTIAL LOSSES COVERAGE SECTION

9.1 "Consequential Loss" means

Loss of Gross Profit and/or Increased Costs, being:

- a The reduction in the **Income** that would normally have been earned during the **Indemnity Period** if there had been no **Covered Event**;
- b The additional expenses reasonably incurred during the **Indemnity Period** to avoid or minimise a reduction in **Income** resulting from the **Covered Event** or to resume or maintain normal business activities;
- c An equitable allowance for any financial loss suffered for a maximum period of 3 months after the **Indemnity Period** ends because the **Insured's** stocks have been used to maintain **Income** during the **Indemnity Period**;
- d The net loss resulting directly from the **Covered Event**, of collectable amounts owed to the **Insured** plus the reasonable costs incurred in establishing, tracing and recovering those debts; or
- e The reduction in value of undamaged stock, arising directly from the **Covered Event**, due solely to the **Insured's** inability to process or sell that stock normally, measured by the replacement cost of that stock, or if not

replaced its market value, less any savings that can be achieved.

Claims Preparation Costs, being:

- f Costs reasonably and necessarily incurred by an accountant appointed or approved by the **Underwriters** for the preparation of the claim.

From these amounts the **Underwriters** will deduct any savings made during the **Indemnity Period** in the business costs and expenses resulting from the **Covered Event**.

9.2 "Covered Event" means

an **Occurrence** or other covered event during the **Policy Period** in respect of which the **Underwriters**;

- a have accepted indemnity under the General Liability Coverage Section of this **Policy**; or
- b a **Claim** during the **Policy Period** in respect of which the **Underwriters** have accepted indemnity under the Statutory Liability Coverage Section of this **Policy**; or
- c a **Claim** during the **Policy Period** in respect of which the **Underwriters** have accepted indemnity under the Employers Liability Coverage Section of this **Policy**.

and which results in interruption or interference of the **Insured's Business**.

- #### 9.3 "Income" means revenue received or receivable in the course of the **Insured's Business** including revenue for goods sold, services rendered and rent and expenses from tenants, less the cost of goods sold and any other expenses of the **Insured's Business** that vary with production and/or revenue.

- #### 9.4 "Indemnity Period" means the period commencing at midnight on the day on which the **Insured** was first required to notify the **Underwriters** of the **Covered Event**, and expiring on the earlier of:

- a 12 months later or such other period as specified in the **Schedule**; or
- b when the **Insured's Business** returns to the level that the **Insured's Business** would have attained but for the **Covered Event**.

- #### 9.5 "Insured" has the meaning provided in the Coverage Section of this **Policy** under which the **Underwriters** have accepted indemnity for a **Covered Event**.

GENERAL EXCLUSIONS

The **Underwriters** will not pay anything under any Coverage Section in respect of any claim under this **Policy**:

1. Asbestos

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

- a the actual, alleged or threatened presence, discharge, dispersal, release, migration or escape of asbestos; or
- b any direction, request or effort to:
 - i test for, monitor, clean up, remove, contain, treat, detoxify or neutralise asbestos; or
 - ii respond to or assess the effects of asbestos.

2. Dishonesty and Fraud

arising directly or indirectly out of, based upon or attributable to any dishonest, criminal or fraudulent act by any **Insured**.

For the purposes of the Directors and Officers Liability, Corporate Liability and Employment Practices Liability Coverage Sections only, this Exclusion will not apply unless a final judgment or adjudication or any formal written admission by an **Insured** establishes that such act occurred.

This Exclusion does not apply to the Crime and Statutory Liability Coverage Sections.

3. Insured vs Insured

brought by or on behalf of any **Insured** against any other **Insured**; provided, however, that this Exclusion shall not apply to:

- a any claim made under this **Policy** brought by an **Insured** that is in the form of a cross-claim or third-party claim for contribution or indemnity which is part of, and results directly from, a **Claim** which is not otherwise excluded;
- b a shareholder derivative action, but only if such action is brought and maintained without the solicitation, approval, assistance, active participation or intervention of any **Insured Person**;
- c any **Claim** brought or maintained by or on behalf of a bankruptcy or insolvency trustee, examiner, receiver or similar official for the

Named Insured or any assignee of such trustee, examiner, receiver or similar official;

- d any **Claim** alleging an **Employment Practices Breach** brought by or maintain by an **Insured Person**; or
- e the General Liability Coverage Section.

4. Major Shareholder

brought by or on behalf of any shareholder holding or controlling (directly or beneficially) 15% or more of the voting rights or issued capital of the **Named Insured**.

5. Offering or Prospectus

arising out of, based upon or attributable to:

- a any public or private offering, sale, issue or transfer of ownership of shares, preference shares (redeemable or otherwise), debentures of whatever kind, promissory notes or any form of negotiable or non-negotiable security for the raising of capital by equity, debt or any other means; or
- b the issue of any prospectus, memorandum of information or similar document or the making of anywritten or oral representation in connection with (a) above.

6. Pollution

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

- a the actual, alleged or threatened presence, discharge, dispersal, release or escape of **Pollutants**; or
- b the testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralising **Pollutants**, whether or not any of the foregoing are or should be performed by the **Insured** or by others.

For the purposes of the General Liability Coverage Section only and except with respect to the United States of America or Canada (including those territories to which the legal jurisdiction of United States of America or Canada extends or applies), this Exclusion shall not apply if such discharge, dispersal, release or escape is caused by a sudden, identifiable, unexpected and unintended happening and takes place in its entirety at a specific time and place.

7. Prior Knowledge Exclusion

- a that was first threatened, made against, or intimated to, the **Insured** prior to the commencement of the **Policy Period**; or
- b that was notified under any previous policy of insurance; or
- c arising out of or connected with any facts or circumstances that the **Insured** knew or ought reasonably to have known prior to commencement of the **Policy Period** might or could give rise to a **Claim, Occurrence** or other claim under this **Policy**; or
- d arising out of, based upon or attributable to, as of the Continuity Date in Item 7 of the **Schedule**, any pending or prior: (a) litigation; or (b) civil, criminal, administrative or regulatory proceeding or investigation, of which any **Insured** had notice; or any **Claim** alleging or derived from the same or essentially the same facts or the same or related **Wrongful Act(s)** as alleged in such pending or prior litigation or civil, criminal, administrative or regulatory proceeding or investigation; or
- e arising out of, based upon or attributable to the same or essentially the same facts alleged, or to the same or related **Wrongful Act(s)** alleged or contained, in any claim which has been reported, or in any circumstances of which notice has been given prior to the Inception Date in Item 2A of the **Schedule**, under any policy, whether excess or underlying, of which this **Policy** is a direct renewal or replacement.

This Exclusion does not apply to the General Liability Coverage Section.

8. Radioactive Contamination and Explosive Nuclear Assemblies

for loss or destruction of, or damage to, any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss; or any legal liability of whatsoever nature, directly or indirectly caused by or contributed to by or arising from:

- a ionising radiations 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.

9. Territorial Limits

- a arising out of, based upon or attributable to any legal proceeding brought outside of the **Territorial Limits** or any legal proceeding brought to enforce a judgment obtained in any country or territory outside the **Territorial Limits** or any legal proceeding to which the proper law to be applied is that of a country outside the **Territorial Limits**;
- b arising out of a **Claim** or **Securities Claim** brought against the **Insured** outside the **Territorial Limits**; or
- c for **Personal Injury** or **Property Damage**
 - i occurring outside the **Territorial Limits**;
 - ii caused by or arising out of the **Insured's Products** that have been knowingly exported by the **Insured** or their agents to any country outside the **Territorial Limits**;
 - iii where claims are made upon the **Insured** outside the **Territorial Limits** in any country where the **Insured** is represented by a branch or company or firm or individual holding the **Insured's** power of attorney; or
 - iv where claims arise out of any contract entered into by the **Insured** under the terms of which work is to be performed outside the **Territorial Limits**.

10. Terrorism

of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

This Exclusion applies notwithstanding any provision to the contrary within this **Policy** or any endorsement thereto.

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

This Exclusion also applies to 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 any act of terrorism.

If the **Underwriters** allege that by reason of this Exclusion, any loss, damage, cost or expense is not covered by this **Policy**, the burden of proving the contrary shall be upon the **Insured**.

In the event any portion of this Exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

11. War and Civil War

of whatsoever nature directly or indirectly caused by, resulting from or in connection with war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of, or damage to, property by or under the order of any government or public or local authority.

GENERAL CONDITIONS

The terms and conditions in these General Conditions apply to all purchased Coverage Sections of this **Policy**.

If any of the terms or conditions in these General Terms and Conditions are inconsistent or in conflict with the definitions, terms and conditions of any specific Coverage Section, the definitions, terms and conditions of such Coverage Section shall take priority.

1. Address for Service

Delta Insurance New Zealand Limited, as agent for and on behalf of certain Underwriters at Lloyd's, will accept notification of any **Claims, Circumstances, Loss, Occurrences** or other claims under this **Policy** upon presentation to the address in the **Schedule**.

2. Alteration of Risk

The **Insured** must notify the **Underwriters** in writing as soon as practicable of any material alteration to the risk covered by this **Policy** that occurs during the **Policy Period**.

Following the receipt of such notice, the **Underwriters** shall have the right to either:

- a exclude coverage for this additional exposure by issuing an endorsement to this **Policy** specifically excluding such exposure; or

- b offer to provide coverage for this additional exposure by issuing a quote to the **Named Insured** for such coverage.

Coverage for any such additional exposure shall be provided by the **Underwriters** only if the **Named Insured**:

- i provides the **Underwriters** with full particulars of the event(s), as requested by the **Underwriters**, that materially alter the risk covered by this **Policy**;
- ii accepts in writing the terms, conditions and additional premium required by the **Underwriters** for such coverage; and
- iii pays such additional premium when due.

3. Assignment

This **Policy** and any and all rights hereunder are not assignable without the prior written consent of the **Underwriters**.

4. Authorisation

Except as otherwise specifically provided under any other provision of this **Policy**, the first entity named in Item 1A of the **Schedule** shall act on behalf of all **Insureds** with respect to all matters under this **Policy** including:

- a giving of notice of a **Claim, Occurrence, Loss, Circumstance** or other claim covered under this **Policy**,
- b defending or settling any claim covered under this **Policy**,
- c giving and receiving all correspondence and information;
- d giving and receiving notice of cancellation;
- e paying any premium;
- f receiving any return premium;
- g receiving and accepting any endorsements issued to form a part of this **Policy**; and
- h exercising any right to an Extended Reporting Period.

5. Cancellation

The **Insured** may cancel the **Policy** at any time by notifying the **Underwriters** in writing.

The **Underwriters** may cancel the **Policy** at any time by sending 30 days' notice in writing to the **Named Insured** of the date from which

cancellation is to take effect. Such notice may be delivered personally, posted or emailed to the **Named Insured** or their broker.

On cancellation of this **Policy**, the **Underwriters** will retain the proportion of the premium calculated pro rata as at the date of the cancellation.

6. Complaints and Disputes

Any enquiry or complaint relating to this **Policy** should be referred to Delta Insurance New Zealand Limited in the first instance.

Complaints officer

Delta Insurance New Zealand Limited

complaints@deltainsurance.co.nz

Level 2, 204 Quay Street, Auckland, 1010

PO Box 106 276, Auckland 1143

+64 9 300 3079

We will acknowledge receipt of your complaint within 5 business days and do our utmost to resolve the complaint to your satisfaction within 10 business days, unless we require further information in which case, we will agree an alternate time frame with you.

If this does not resolve the matter or the **Insured** is not satisfied with the way the complaint has been dealt with, the **Insured** should write to:

Lloyd's General Representative in New Zealand

C/O Hazelton Law

Level 29 Plimmer Towers

2-6 Gilmer Tce,

Wellington 6011

P O Box 5639, Wellington 6145

New Zealand

Following receipt of your complaint, you will be advised whether your dispute will be handled by the Complaints team at Lloyd's Australia or the Lloyd's Complaints team in the UK, or what other avenues are available to you.

A final decision will be provided to you within two months of the date on which you first made the complaint unless certain exceptions apply.

If your complaint is not resolved in a manner satisfactory to you or we do not resolve your complaint within two months of originally receiving

it, you may refer the matter to the Insurance and Financial Services Ombudsman (IFSO Scheme)

The IFSO Scheme can be contacted as follows:

Telephone: 0800 888 202 or +64 4 499 7612

Email: info@ifso.nz or via their website www.ifso.nz

Post: PO Box 10-845 Wellington New Zealand

Your complaint must be referred to IFSO Scheme within 3 months of the final decision, unless IFSO Scheme considers special circumstances apply. If your complaint is not eligible for consideration by IFSO Scheme, 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.

7. Confidentiality

The **Insured** shall not disclose to any third party the terms, conditions, exclusions, or **Limits of Liability** of this **Policy** or the amount of the premium paid, except to the extent that they are required by law to do so or receive written consent from the **Underwriters** to make such disclosure.

8. Cooperation

As a condition precedent to the right to be indemnified under this **Policy**, the **Insured** must provide to the **Underwriters** (or their appointed agent) within fourteen (14) days of any request made by the **Underwriters** (or their appointed agent), full details of any **Claim** or **Circumstance** and any other information requested by the **Underwriter** regarding any claim for which the **Insured** has requested to be indemnified. The **Insured** must also provide such cooperation and assistance as the **Underwriters** (or their legal advisers or appointed agents) may require, including but not limited to providing:

- a all relevant documentation;
- b detailed comments on any claim document;
- c detailed signed statements of fact;
- d access to any and all information;
- e for the purposes of a claim under the Consequential Losses Coverage Section,

books of accounts and other business books, vouchers, invoices, balance sheets, and other document proofs, information, explanation and other evidence as may be reasonably required by or on behalf of the **Underwriters** for the purpose of investigating or verifying the claim;

- f information, assistance and signed statements of fact in respect of any subrogation proceeding commenced by the **Underwriters**; and
- g all other information and assistance.

All **Insureds** and all persons, firms and companies acting for or on the **Insured's** behalf shall ensure that all documents that may be relevant to any **Claim**, **Circumstance** or other claim covered under this **Policy** shall not be intentionally destroyed or otherwise intentionally disposed of.

9. Defence, Settlement and Advancement of Costs

The **Underwriters** do not assume any duty to defend any claim covered under this **Policy**. However, the **Underwriters** shall have the right, but not the duty, to fully and effectively take conduct and control of the investigation, defence and settlement of any claim covered under this **Policy**, including but not limited to the right to appoint legal defence counsel on behalf of the **Insured**, investigate, conduct settlement negotiations, and enter into the settlement of any claim covered under this **Policy** that the **Underwriters** deem appropriate.

In the event of a claim covered under this **Policy** which involves covered and non-covered matters or covered and non-covered parties, the **Insured** and the **Underwriters** agree to use their best efforts to determine a proper allocation of any amount payable under this **Policy**. In the event that a determination as to the amount of **Defence Costs** to be advanced cannot be agreed to, then the **Underwriters** shall advance **Defence Costs**, excess of any applicable **Excess**, which the **Underwriters** consider to be proper until a different amount shall be agreed upon or determined pursuant to the provisions of this **Policy** and applicable law.

The **Insured** shall not, without the prior written consent of the **Underwriters** (such consent not to be unreasonably withheld or delayed):

- a admit or assume any liability;

- b incur any **Defence Costs** (except for expenses incurred by the **Insured** for first aid at the time of any **Personal Injury** covered under the General Liability Coverage Section);
- c make any settlement offers, enter into any settlement agreement or stipulate to any judgments; or
- d incur any costs under Directors and Officers Coverage Section Automatic Extension 2.2 (Compensation for Attendance), Corporate Liability Coverage Section Automatic Extension 2.1 (Crisis Response Costs), Employers Liability Coverage Section Automatic Extension 2.2, General Liability Coverage Section Automatic Extension 2.1 or Statutory Liability Coverage Section Automatic Extension 2.1.

However, the **Underwriters'** consent is not required for the **Insured** to settle a claim covered under this **Policy** if the total settlement amount (including **Defence Costs**) is within the applicable **Excess**, provided that such settlement fully resolves the claim with respect to any **Insured** and the **Underwriters**.

For the purposes of the Directors and Officers Coverage Section only, the **Underwriters** agree to advance payments for **Defence Costs** as they are incurred, and prior to the final disposition of a claim. Such payments shall be made no later than sixty (60) days after the **Underwriters** have received all necessary documentation of such **Defence Costs**. In the event of any such payments by the **Underwriters**, the **Insureds** shall repay all such amounts to the **Underwriters**, severally according to their respective interests, in the event and to the extent that the **Insured** is ultimately not entitled under this **Policy** to such payments.

10. Excess

Where a Coverage Section requires payment of an **Excess** or a **Specific Excess**:

- a The **Underwriters** shall only pay the amounts covered by such Coverage Section which exceeds the applicable **Excess** or **Specific Excess**. The **Excess** or **Specific Excess** is to be borne by the **Insured** and remain uninsured.
- b Where a **Specific Excess** is applicable, the **Specific Excess** shall be borne by the **Insured** instead of the **Excess**.
- c The **Underwriters** shall only be liable for the amount covered by such Coverage Section

arising from a **Claim** or an **Occurrence**, which exceeds the applicable **Excess** or **Specific Excess**. Where a Coverage Section provides for **Related Claims**, a single **Excess** or **Specific Excess** shall apply to all amounts covered by such Coverage Section that arise from all **Related Claims**.

The application of the **Excess** or **Specific Excess** to any amounts covered under one Coverage Section shall not reduce the **Excess** or **Specific Excess** that applies to any amounts covered under any other Coverage Section. If different **Excess** or **Specific Excess** amounts apply to different parts of a claim covered under this **Policy**, the applicable **Excess** or **Specific Excess** amount shall be applied separately to each part of the claim covered under this **Policy**, and the sum of such **Excess** or **Specific Excess** amounts shall not exceed the largest single **Excess** or **Specific Excess** amount which applies to such claim covered under this **Policy**.

If the **Named Insured** is legally required or permitted to indemnify an insured natural person for any amounts covered by this **Policy**, and does not do so for any reason, the **Underwriters** shall not require payment of the applicable **Excess** or **Specific Excess** by an insured natural person. However, the **Named Insured** hereby agrees to reimburse the **Underwriters** for the full amount of such **Excess** or **Specific Excess** immediately upon request, unless the **Named Insured** is unable to do so solely by reason of **Insolvency**.

11. Exclusions

Nothing in any Exclusion in this **Policy** shall be construed to extend this **Policy** to any liability which would not have been covered in the absence of such Exclusion.

12. Extended Reporting Period

If the **Insured** purchases this Extension under this **Policy** and pays the additional premium, and one or more Coverage Sections of this **Policy** (except the Crime Coverage Section) is non-renewed by the **Underwriters**, the **Insured** shall have the right to:

- a an automatic Extended Reporting Period of 60 days, commencing on the effective date of such non-renewal; and
- b purchase an Extended Reporting Period of 12 months, commencing upon the expiration of the automatic Extended Reporting Period,

only with respect to the **Policy**, or Coverage Sections, that have been non-renewed.

The **Insured's** right to purchase an Extended Reporting Period shall lapse unless written notice of election to purchase such Extended Reporting Period and the applicable additional premium is received by the **Underwriters** within 60 days after non-renewal of this **Policy** or any Coverage Section. The **Insured** shall not have any right to an Extended Reporting Period in the event of an **Organisational Change** or in the event of cancellation or non-renewal for non-payment of premium.

The additional premium for an Extended Reporting Period shall be determined by multiplying the percentage in Item 8 of the **Schedule** by the Premium in Item 14 of the **Schedule**. Such premium shall be fully earned at the inception of the Extended Reporting Period.

During any Extended Reporting Period, the **Insured** may provide the **Underwriters** with notice, pursuant to General Condition 21 (Notification), of any **Claim, Circumstance** or other claim made under this **Policy** first made against an **Insured** during the Extended Reporting Period, for any act, event or matter occurring prior to the effective date of the non-renewal of this **Policy** or any Coverage Section.

Any Extended Reporting Period provided under this **Policy**: (a) shall not increase or reinstate any **Limit of Liability** or **Sublimit of Liability** of this **Policy**; and (b) is non-cancellable.

This Condition shall not apply to the General Liability Coverage Section.

13. Fraudulent Claims

If the **Insured** gives notice or makes any request in respect of any **Claim, Occurrence, Circumstance**, or other claim covered under this **Policy**, knowing such notice or request to be false or fraudulent as regards amount or otherwise, this **Policy** shall become void and all entitlements to indemnity under this **Policy** shall be forfeited.

14. Governing Law and Exclusive Jurisdiction

This **Policy** shall be construed according to the laws of New Zealand. Any issue and all disputes relating to this **Policy** shall be determined by the laws of New Zealand, whose courts shall have exclusive jurisdiction to hear any dispute.

15. GST

Where the **Insured** is liable to pay tax under section 5 (13) of the Goods and Services Tax Act 1985 (or any statutory amendment or re-enactment of the section or Act) upon receiving any indemnity payment under this **Policy**, the **Underwriters** will indemnify the **Insured** for the costs of that tax. The indemnity under this Condition is payable by the **Underwriters** in addition to the **Limit of Liability** for each Coverage Section in Item 3A of the **Schedule**.

Where the **Policy** refers to any **Excess** or **Specific Excess** it shall be inclusive of GST.

16. Headings

The descriptions in the headings and any subheading of this **Policy** (including any titles given to Coverage Sections or any endorsement attached hereto) are inserted solely for convenience and do not constitute any part of this **Policy's** terms or conditions.

17. Insured's Right to Contest a Claim

If the **Insured** does not agree with a decision by the **Underwriters** to settle a claim covered under this **Policy**, the **Insured** can elect to contest the claim at its own expense, but the liability of the **Underwriters** will not exceed the amount for which the claim covered under this **Policy** could have been settled in the opinion of a senior legal counsel (to be mutually agreed upon by the **Insured** and the **Underwriters** or in the absence of agreement by determination of the President of the New Zealand Law Society). The **Underwriters** shall pay all **Defence Costs** incurred up to the date the **Insured** notifies the **Underwriters** in writing of its election under this General Condition, and shall pay the **Insured** (subject to any **Excess** or **Specific Excess**) the amount for which the claim covered under this **Policy** could have been so settled. The **Insured** expressly agrees that the **Underwriters'** liability in respect of such claim covered under this **Policy**, shall then be at an end.

18. Interpretation

Words and phrases appearing capitalised and in bold, where used in the **Policy**, except where they appear in headings, have the meaning defined for that word or phrase in the Definitions Section.

To the extent that there are any inconsistencies between the General Conditions or General

Exclusions and the individual Coverage Sections, the terms and conditions of the individual Coverage Section will prevail.

In the **Policy**:

- a The singular includes the plural.
- b Reference to one gender includes reference to all other genders.
- c In the event that any portion of the **Policy** is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

19. Late Notice, Innocent Non-Disclosure and Material Non-Disclosure

The **Underwriters** shall not exercise their right to avoid this **Policy**, nor will the **Underwriters** reject a request for indemnity, solely on the grounds of non-disclosure in the **Proposal** or a breach of the notice provisions in General Condition 21 provided that:

- a the **Insured** shall establish to the **Underwriters'** reasonable satisfaction that such non-disclosure or breach was free of any fraudulent conduct or intent to deceive;
- b if the **Insured** was aware, prior to the Inception Date in Item 2A of the **Schedule**, of any **Claim**, **Circumstance** or matter for which cover is provided under this **Policy**, then if the indemnity available under this **Policy** is greater or wider in scope than that which would have been available, if any, to the **Insured** prior to such Inception Date, the **Underwriters** shall only be liable to indemnify the **Insured** for such amount and on such terms as would have been available to the **Insured** prior to such Inception Date, except that nothing in this provision shall entitle the **Insured** to any indemnity wider or more extensive than is otherwise available under this **Policy**;
- c if such non-disclosure or breach has resulted in prejudice to the **Underwriters** in the handling or settlement of any **Claim** or request for indemnity, the indemnity afforded by this **Policy** in respect of such **Claim** or request for indemnity shall be reduced by such sum as would have been payable, in the **Underwriters'** reasonable opinion, by the **Underwriters** in the absence of such prejudice; and
- d no indemnity shall be available for any matter for which the **Insured** fails to provide notice of a **Claim**, **Circumstance**, **Loss**, **Occurrence** or

claim covered under this **Policy**, within thirty (30) days after the Expiration Date of this **Policy**.

In consideration of the **Underwriters** waiving their right to avoid this **Policy** and in the event of a material non-disclosure in the **Proposal**, the **Underwriters** shall be entitled in their sole discretion: (i) to determine the amount of any additional premium to be paid by the **Insured**; and (ii) to charge such additional premium to the **Insured**.

20. Limits of Liability

Unless otherwise specified in the **Schedule**:

The **Limit of Liability** for each Coverage Section is the maximum liability of the **Underwriters** for each respective Coverage Section as in Item 3A of the **Schedule**.

The per claim **Limit of Liability** for the Statutory Liability Coverage Section and the Employers Liability Coverage Section, as set forth in Item 3A of the **Schedule**, is the maximum liability of the **Underwriters** for each **Claim** covered by each such Coverage Section.

The **Limit of Liability** for the Statutory Liability Coverage Section and the Employers Liability Coverage Section, as set forth in Item 3A of the **Schedule**, is the maximum liability of the **Underwriters** under each such Coverage Section for all amounts covered by such Coverage Sections.

Any **Sublimit of Liability** of this **Policy**: (i) shall be part of, and not in addition to, the applicable **Limit of Liability** set forth in Item 5 of the **Schedule**; and

(ii) is the maximum liability of the **Underwriters** for all amounts covered by such **Sublimit of Liability**.

Any **Additional Limit of Liability** of this **Policy**: (i) shall not be part of, and is in addition to, the applicable **Limit of Liability** in Item 3A of the **Schedule**; and (ii) is the maximum liability of the **Underwriters** to which the **Additional Limit of Liability** applies. If the **Limit of Liability** for any individual Coverage Section is exhausted by the payment of any amounts covered under any such Coverage Section, the **Underwriters** will have no further obligations of any kind with respect to such Coverage Section, including any obligation to pay any further **Defence Costs**, and the Premium for such Coverage Section will be fully earned.

Defence Costs are not part of, and are in addition

to, the **Limits of Liability** and **Sublimits of Liability** of this **Policy** and payment by the **Underwriters** of **Defence Costs** shall not reduce any such **Limits of Liability** or **Sublimits of Liability**.

The purchase of an Extended Reporting Period, pursuant to Section 12 of these General Conditions, shall neither increase nor reinstate any **Limits of Liability** of this **Policy**.

This Condition shall not apply to the Crime Coverage Section or the General Liability Coverage Section.

21. Notification

The **Insured** shall, as a condition precedent to the obligations of the **Underwriters** under this **Policy**, and irrespective of the quantum, give the **Underwriters** notice as soon as practicable of:

- a any **Claim** made against the **Insured**;
- b any **Occurrence**;
- c any **Loss**;
- d any **Circumstance**; or
- e any other claim covered by this **Policy**.

Notice given by the **Insured** must:

- a relate to a **Claim**, **Occurrence**, **Circumstance** or other claim covered under this **Policy** that occurred during the **Policy Period**; and

In the event an **Insured** fails to provide notice as soon as practicable in accordance with this Condition, the **Underwriters** shall not be entitled to deny coverage for such **Claim**, **Occurrence**, or other claim covered under this **Policy** based solely upon late notice, unless the **Underwriters** can establish that their interests were materially prejudiced by reason of such late notice.

If during the **Policy Period** an **Insured** gives written notice to the **Underwriters** of a **Circumstance**, with full particulars as to allegations anticipated, dates, persons and entities involved, then any claim covered under this **Policy** that is subsequently made against an **Insured** alleging, arising out of, based upon or attributable to such **Circumstance**, shall be considered made at the time written notice of such **Circumstance** was given to the **Underwriters**.

The **Insured** shall give written notice to the **Underwriters**:

- i via their insurance broker or;

- ii to the **Underwriter** at the address indicated in the **Schedule**.

22. Organisational Change

If an **Organisational Change** occurs during the **Policy Period**, then this **Policy** shall continue in full force and effect as to any acts, events or matters covered by this **Policy** occurring prior to the effective date of the **Organisational Change**; however, there shall be no coverage afforded by this **Policy** for any acts, events or matters covered by this **Policy** occurring after the effective date of the **Organisational Change**.

The first entity named in Item 1A of the **Schedule** shall give the **Underwriters** written notice of the **Organisational Change** as soon as practicable, but no later than thirty (30) days after the effective date of the **Organisational Change**.

23. Other Insurance

The insurance provided by this **Policy**, other than the Employment Practices Liability Coverage Section shall apply only as excess over any other valid and collectible insurance, whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written specifically as excess insurance over the applicable **Limit of Liability** provided by this **Policy**. This **Policy** shall specifically be excess of any other valid and collectible insurance pursuant to which any other underwriter or insurer has a duty to defend a claim for which this **Policy** may be obligated to pay any amounts covered by such Coverage sections. This **Policy** shall not be subject to the terms and conditions of any other insurance policy.

The coverage provided under the Employment Practices Liability Coverage Section shall be primary, unless expressly written to be excess over other applicable insurance.

Upon giving notice of any **Claim**, **Circumstance**, **Occurrence** or other claim covered under this **Policy**, the **Insured** agrees to provide to the **Underwriters** written details of any other insurance that may cover or partially cover such **Claim** or **Circumstance**, **Occurrence** or other claim covered under this **Policy**.

When coverage is provided under more than one Coverage Section:

- a if the Statutory Liability Coverage section applies to a **Claim**, cover will be provided solely under that Coverage Section;
- b in all other circumstances, the **Insured** shall be entitled to elect which Coverage Section responds to the act, matter or event covered by this **Policy** provided such election is made within a reasonable time frame; and
- c in no circumstance is the **Insured** entitled to seek an indemnity or an advance of **Defence Costs** under more than one Coverage Section for any claim covered under this **Policy**.

24. Order of Payments

The **Underwriters** shall pay any amounts for a claim covered under this **Policy** in the order in which such amounts are presented to the **Underwriters** for payment. Should the **Underwriters** in their sole and absolute discretion, determine that the **Limit of Liability** in Item 3A of the **Schedule** will not be sufficient to cover the entire amount of the claim, the **Underwriters** shall pay the amounts claimed in accordance with the provisions of Section 9 of the Law Reform Act 1936.

The **Insolvency** of any **Named Insured** shall not relieve the **Underwriters** of any of their obligations to prioritise payment of covered **Loss** under this **Policy**.

25. Recovery

In the event the **Underwriters** recover amounts they have paid under this **Policy**, the **Underwriters** will reinstate the **Limit of Liability** as in Item 3A of the **Schedule** to the extent of such recovery, less costs incurred by the **Underwriters** in administering and obtaining such recovery. The **Underwriters**, in their sole and absolute discretion, shall determine the amounts to be credited, if any, toward a reinstatement of such **Limit of Liability**. The **Underwriters** assume no duty to seek a recovery of any amounts they have paid under this **Policy**.

26. Related Claims

All **Related Claims** shall be considered a single **Claim**. All such **Claims** shall be considered first made at the earliest time that any such **Claim** is first made against an **Insured**.

27. Representations and Severability

It is agreed between the **Insured** and the **Underwriters** that the **Proposal** shall be deemed to be incorporated into and form the basis of this **Policy** and the **Insured** warrants the truth of all statements made therein. All such statements and representations shall be deemed to be the basis of this **Policy** and are to be considered as incorporated into this **Policy**.

No statements or representations made by, information or knowledge possessed by an insured natural person or any conduct of any insured natural person shall be imputed to any other insured natural person for the purpose of determining whether coverage is available under this **Policy** for any claim made against such insured natural person.

However:

- a the knowledge possessed by any insured natural person who is a past or current chief executive officer, president or chief financial officer of the **Named Insured** shall be imputed to such **Named Insured** for the purpose of determining whether coverage is available under this **Policy** for any claim made under this **Policy** made against the **Named Insured**; and
- b where the **Named Insured** is a company with a sole director the knowledge of the sole director shall be imputed to the **Named Insured**.

This **Policy** shall be construed as a separate **Policy** covering each **Insured Person** for his or her own individual interest.

Solely with respect to Directors and Officers Coverage Section 1.1, under no circumstances shall the coverage provided by that section be deemed void, whether by rescission or otherwise.

28. Sanctions

The **Underwriter** shall not:

- a be required to provide any cover; or
- b be liable to pay any claim or provide any benefit,

under this **Policy** to the extent that doing so would expose the **Underwriter** to any legally enforceable sanction, prohibition, restriction, measure, ban or imposition under the laws or regulations of New Zealand, Australia, the United Kingdom, the European Union, the United States of America and/or the United Nations.

29. Several Liability

The liability of an Underwriter under this **Policy** is several and not joint with other Underwriters party to this **Policy**. An Underwriter is liable only for the proportion of liability it has underwritten. An Underwriter is not jointly liable for the proportion of liability underwritten by any other Underwriter; nor is an Underwriter otherwise responsible for any liability of any other Underwriter that may underwrite this **Policy**.

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

In the case of a Lloyd's syndicate, each member of the syndicate (rather than the syndicate itself) is an Underwriter. Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other member's proportion; nor is any member otherwise responsible for any liability of any other Underwriter that may underwrite this **Policy**. The business address of each member is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each member of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

30. Subrogation

Upon payment by **Underwriters** of any amounts covered under this **Policy** (including any amounts paid under the Crime Coverage Section) the **Underwriters** shall be subrogated to the extent of such payment to all of **Insured(s)**' rights of recovery, including but not limited to any of the insured natural person's rights of recovery against a **Named Insured** for indemnification.

The **Insured(s)** shall execute all papers required (including those documents necessary for the **Underwriters** to bring suit or other form of proceeding in their name) and do everything that may be necessary to pursue and secure such rights.

All recoveries for payments made under any Coverage Section, whether made by the **Underwriters** or the **Insured**, shall be applied net of the expense of such recovery:

- a first, to the **Insured** in satisfaction of the **Insured's** covered loss in excess of the amount paid under that Coverage Section;
- b second, to the **Underwriters** in satisfaction of amounts paid in settlement of the **Insured's** claim;
- c third, to the **Insured** in satisfaction of any **Excess**; and
- d fourth, to the **Insured** in satisfaction of any loss not covered under a Coverage Section.

Recoveries do not include any recovery: (a) for insurance, suretyship, reinsurance, security or indemnity taken for the **Underwriters'** benefit; or (b) solely as respects the Crime Coverage Section, of original **Securities** after duplicates of them have been issued.

The **Underwriters** shall not exercise their subrogation rights against an **Insured Person** unless and to the extent that Directors and Officers Coverage Section Exclusion 3.2 (Personal Profit) or General Exclusion 2 (Dishonesty and Fraud) applies to such **Insured Person**.

31. Subsidiaries Acquired During the Policy Period

The term **Subsidiary** shall automatically include any entity of which the entity named in Item 1A of the **Schedule** first has **Management Control** ("Controlled Entity") during the **Policy Period**, either directly or indirectly through one or more other Controlled Entities, as long as such **Subsidiary**:

- a is not formed as a partnership; and
- b has total consolidated assets of less than 35% of the consolidated gross assets of the first entity named in Item 1A of the **Schedule** at the Inception Date in Item 2A of the **Schedule**; and
- c does not have any of its securities listed on any exchange or market anywhere in the world;

provided, however, that the **Insured** gives written notice to the **Underwriters** of such acquired entity prior to the end of the **Policy Period**.

Any entity acquired during the **Policy Period** by the entity named in Item 1A of the **Schedule**, other than a **Subsidiary**, shall automatically be

covered for a period of 90 days from the effective date of the acquisition, but only in respect of any acts, events or matters covered by this **Policy** which occur after such date. The **Underwriters** may extend such coverage beyond 90 days if the entity named in Item 1A of the **Schedule** submits a written request to the **Underwriters** within 90 days from the effective date of the acquisition with full details regarding such entity. This extension of coverage is conditioned upon the **Insured** paying when due any additional premium required by the **Underwriters** and accepting any amended terms and conditions of this **Policy**.

Coverage afforded under this **Policy** for any acts, events or matters relating to a **Subsidiary**, or any natural person insured thereof, shall only apply to any acts, events or matters committed or allegedly committed during the time such entity is a **Subsidiary**.

32. Third Parties

No person or entity other than the **Insured** shall have any rights under this **Policy** whether pursuant to statute or otherwise.

33. Underwriters' Rights

In the event that the **Underwriters** are entitled to avoid or repudiate this **Policy** ab initio, the **Underwriters** may instead at their election give written notice to the **Insured** that they regard this **Policy** as of full force and effect, except that the **Policy** shall exclude coverage for any claim covered under this **Policy** which has arisen or which may arise and which is related to the circumstances which entitle the **Underwriters** to avoid or repudiate this **Policy**. This **Policy** shall then continue in full force and effect and such applicable exclusion shall be added to this **Policy** by endorsement attached hereto.

34. Valuation and Currency

All amounts stated in this **Policy** are expressed in New Zealand dollars and all amounts payable under this **Policy** are payable in New Zealand dollars. If a judgment rendered or settlement entered into under this **Policy** is stated in a currency other than New Zealand dollars, then payment under this **Policy** shall be made in New Zealand dollars at the rate of exchange published by the Reserve Bank of New Zealand at 3pm on

the date the final judgment is rendered or the settlement payment is established.

35. Waiver of Privilege

If the **Underwriters** instruct any solicitor to investigate or defend any **Claim** against any **Insured Person**, the **Insured Person** authorises the solicitor to provide to the **Underwriters** any documents, information or advice in respect of the **Claim**, including in relation to indemnity, and the **Insured Person** waives any privilege to the extent necessary to give full effect to the **Underwriter's** entitlement in this respect.

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