Zurich Professional Indemnity Insurance
Policy Wording
Important

Statutory Notice – Section 40 Insurance Contracts Act 1984 (Cth)

This notice is provided in connection with but does not form part of the policy.

This policy is a ‘Claims Made’ liability insurance policy. It only provides cover if:

A claim is made against an insured, by some other person, during the period when the policy is in force; and

The claim arises out of circumstances committed, attempted or alleged to have been committed or attempted after the retroactive date stipulated in the schedule.

Section 40(3) of the Insurance Contracts Act 1984 (Cth) applies to this type of policy. That sub-section provides that if an insured becomes aware, during the period when the policy is in force, of any occurrence or fact which might give rise to a claim against them by some other person, then provided that the insured notifies Zurich of the matter before this policy expires, Zurich may not refuse to indemnify merely because a claim resulting from the matter is not made against the insured while the policy is in force.

If an insured, inadvertently or otherwise, does not notify the relevant occurrence or facts to Zurich before the expiry of the policy, the insured will not have the benefit of section 40(3) and Zurich may refuse to pay any subsequent claim, notwithstanding that the events giving rise to it or the circumstances alleged in it may have taken place during the period of insurance.

If a claim is actually made against the insured by some other person during the period of insurance but is not notified to Zurich until after the policy has expired, Zurich may refuse to pay or may reduce its payment under the policy if it has suffered any financial prejudice as a result of the late notification.
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Welcome to Zurich

About Zurich
The insurer of this product is Zurich Australian Insurance Limited (ZAIL), ABN 13 000 296 640, AFS Licence Number 232507. In this document, ZAIL may also be expressed as ‘Zurich’, ‘we’, ‘us’ or ‘our’.

ZAIL is part of the Zurich Insurance Group, a leading multi-line insurance provider with a global network of subsidiaries and offices. With about 55,000 employees, the Zurich Insurance Group delivers a wide range of general insurance and life insurance products and services for individuals, small businesses, and mid-sized and large companies, including multinational corporations, in more than 170 countries.

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

You have this duty until we agree to insure you.

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

You do not need to tell us anything that:

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

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

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

Our contract with you
Your policy is a contract of insurance between you and Zurich and contains all the details of the cover that we provide.

Your policy is made up of:

• the policy wording. It tells you what is covered, sets out the claims procedure, exclusions and other terms and conditions of cover;
• the proposal, which is the information you provide to us when applying for insurance cover;
• your most current policy schedule issued by us. The policy schedule is a separate document unique to you, which shows the insurance details relevant to you. It includes any changes, exclusions, terms and conditions made to suit your individual circumstances and may amend the policy; and
• any other written change otherwise advised by us in writing (such as an endorsement). These written changes vary or modify the above documents.

Please note, only those covers shown in your policy schedule are insured.

This document is used for any offer of renewal we may make, unless we tell you otherwise. Please keep your policy in a safe place. We reserve the right to change the terms of this product where permitted to do so by law.
Subject to payment of the premium set out in the schedule, we agree to provide insurance on the terms set out in this policy. The policy consists of this policy wording, the proposal, the schedule and endorsements.

1. Insuring Clause
   We agree to indemnify the insured against loss incurred as a result of any claim for civil liability first made against the insured and notified to us during the period of insurance, arising from the insured’s provision of the professional services.

2. Limit of Liability
   Subject to Extension of Cover 3.24 ‘Reinstatement’, the limit of liability is the total limit of our liability in respect of all loss directly or indirectly arising out of or in connection with:
   - any single claim;
   - all claims referable to the period of insurance; and
   - all losses otherwise covered under the policy,
   and shall not exceed the respective limit of liability or other applicable sub-limit specified in the policy and/or schedule and will apply only to the amount by which such loss exceeds the prescribed amount of the applicable deductible. For the purposes of the application of the limit of liability, all claims arising out of multiple related sources or originating causes and all losses arising from each source or originating cause, will be deemed to be a single claim.

   2.1 Claim expenses – exclusive of Limit of Liability
      Where the limit of liability in the schedule is specified to be exclusive of claim expenses, we agree to pay in addition to the limit of liability, the claim expenses arising from any claim which is the subject of indemnity under the Insuring Clause, except:
      2.1.1 where the insured’s liability exceeds the available limit of liability, we will only pay such proportion of the claim expenses as the available limit of liability bears to the insured’s liability; and
      2.1.2 where the amount we have paid or incurred as claim expenses exceeds the share that we are obliged to pay, the insured will, upon demand, pay us the excess amount or alternatively, we may deduct the excess amount from any entitlements the insured may have at any time under this policy.

   2.2 Claim expenses – inclusive of Limit of Liability
      Where the limit of liability in the schedule is specified to be inclusive of claim expenses, we agree to pay the claim expenses arising from any claim which is the subject of indemnity under the Insuring Clause, however the total of our liability together with the claim expenses shall not exceed the limit of liability.

3. Extensions of Cover
   Extensions of Cover are provided, on the same terms and in the same manner as in the Insuring Clause (except as stated), for the Extensions of Covers described below. Each Extensions of Covers is subject to all the other applicable provisions of this policy, including any additional terms stipulated in connection with it, and no Extensions of Cover shall increase our limit of liability unless expressly stated otherwise.

   3.1 Claim preparation costs
      We will pay all reasonable and necessary out of pocket costs incurred by the insured at our request in the preparation of a defence to a claim covered by this policy up to an aggregate amount of $50,000 in respect of all claims covered by this policy.

      Notwithstanding the deductible specified in the schedule, this extension is subject to a deductible of $1,000. Payments provided under this extension, do not include any claim expenses.
3.2 Compensatory penalties

Notwithstanding Exclusion 6.1 ‘Aggravated, Punitive, Exemplary damages, Fines or Penalties’, we agree to indemnify the insured for claims for compensatory civil penalties. Our total liability for the payment of compensatory civil penalties and all associated claim expenses under the policy shall not exceed $250,000 in the aggregate for all claims.

However, we will not be liable to cover the insured for any compensatory civil penalty:

3.2.1 for which we are legally prohibited at law from indemnifying the insured; or

3.2.2 based upon, attributable to or in consequence of any:

(a) wilful, intentional or deliberate failure to comply with any lawful notice, direction, enforcement action or proceeding under any legislation;

(b) gross negligence or recklessness; or

(c) requirement to pay taxes, rates, duties, levies, charges, fees or any other revenue charge or impost.

3.3 Competition and Consumer Act and other Legislation

We agree to indemnify the insured in accordance with the Insuring Clause for any claim for civil liability alleging a breach of the Competition and Consumer Act 2010 (Cth), Corporations Act 2001 (Cth), National Consumer Credit Protection Act 2009 (Cth) or similar legislation enacted for the protection of consumers, within any Australian jurisdiction to the extent that such claim is not otherwise excluded under this policy.

3.4 Consultants, subcontractors and agents

We agree to indemnify the insured in respect of loss resulting from any claim for civil liability as a result of the conduct of any consultants, sub-contractors or agents of the insured for which the insured is legally liable in the provision of the professional services. No indemnity is available to the consultants, sub-contractors or agents themselves.

3.5 Continuous cover

If the insured has neglected, through error or oversight only, to avail themselves of the benefit of section 40(3) Insurance Contracts Act 1984 (Cth) in relation to an earlier policy issued by us of the same type as this one, then, provided that the insured has maintained uninterrupted insurance of the same type with us since the expiry of that earlier policy, we will, notwithstanding Exclusion 6.12.1 ‘Prior and pending’, accept the matter to be reported under this policy and indemnify the insured in respect of any claim arising from the matter, on the conditions that:

3.5.1 the indemnity will be subject to the applicable limit of liability of the earlier policy under which the matter should have been reported to us;

3.5.2 we may reduce the indemnity entitlement by the monetary equivalent of any prejudice which we have suffered as a result of the delayed notification;

3.5.3 the indemnity will be subject to all of the terms, conditions, definitions and exclusions, other than the limit of liability, contained in this current policy; and

3.5.4 the insured agrees that they will not seek indemnity from us in respect of any such claim under both policies issued by us.

3.6 Contractual liability

Notwithstanding Exclusion 6.2 ‘Contractual liability’, we will indemnify the insured against a claim for civil liability arising from an indemnity and or hold harmless provision of a contract, to the extent that such civil liability arises from the insured’s provision of professional services.
3.7 Court attendance costs
We agree to pay up to $500 per day for any person who is or was a principal, partner, director or an employee of the insured for court attendance costs incurred by the insured, if the employee, principal, partner or director of the insured is legally compelled to attend a civil proceeding as a witness in a claim covered by this policy.

Our total aggregate liability under this Extension of Cover for all court attendances by all witnesses in respect of all claims shall not exceed $100,000 one period of insurance.

3.8 Dishonesty
Notwithstanding Exclusion 6.5 ‘Fraud and dishonesty’, we agree to indemnify the insured for loss resulting from any claim alleging conduct of an employee, agent or partner in the provision of professional services that falls or may fall within that exclusion. Provided that:

3.8.1 no indemnity is available to the dishonest employee, agent or partner, or to any person who has knowingly engaged in or condoned such conduct;

3.8.2 for the purpose of this extension, employee or agent shall mean a person or persons in the insured’s direct service, but shall exclude any principal or director; and

3.8.3 no indemnity is available in respect of a claim arising from or in any way connected with the loss of money, negotiable instruments including shares, bearer bonds, coupons, stamps, bank or currency notes.

3.9 Estates and legal representatives
We agree to indemnify the estate, heirs, legal representatives or assignees of any insured who is incapable of managing their own affairs by reason of mental disorder or other incapacity or who is deceased, insolvent or bankrupt, in the same manner and to the same extent that the relevant insureds would be entitled to be indemnified in respect of claims for civil liability made against them.

This extension only provides an indemnity in accordance with the Insuring Clause in respect of claims for civil liability based on the provision of the professional services by the relevant insured. It does not respond for professional services of the insured’s estate, heir, legal representative or assignee.

3.10 Extended notification period
In the event that this insurance is not renewed or is cancelled for any reason other than non-payment of premium, then the insured has until such time that the insured effects another professional indemnity insurance policy either with us or any other insurer or a period of 60 days commencing on the day immediately following expiry of this policy, whichever is the lesser period, during which to notify us of any claim first made against the insured in writing within such 60 day or lesser period (as the case may be). Provided that:

3.10.1 we will treat that claim as if it had been made against the insured and notified to us during the immediately preceding period of insurance; and

3.10.2 coverage for any such claim does not reinstate or increase the limit of liability or the Aggregate limit of liability or extend the period of insurance; and

3.10.3 coverage for any such claim resulting from the provision of the professional services provided or allegedly provided by the insured before the end of the period of insurance or the cancellation date of this policy where this policy has been cancelled and not before the retroactive date.
3.11 First party copyright infringement

We will pay on behalf of the insured any reasonable costs and expenses incurred by the insured in any proceedings for any injunction, damages or infringement of any copyright vested in the insured, and notified to us during the period of insurance. Provided that we will not be required to incur any obligation to meet such costs where the cause of action is not one that it is reasonable by the insured to pursue. In the event of any dispute arising between us as to the reasonableness of the insured pursuing any such cause of action, the opinion of a Senior Counsel the appointment of whom will be mutually agreed between us will be obtained and his or her decision will be binding. If the parties cannot agree on the appointment of a Senior Counsel the chairman of the Bar Association will appoint one.

The coverage provided by this extension is always subject to Exclusion 6.17 ‘USA / Canada exposure’ even in the event that the Exclusion has been deleted in respect of the remainder of coverage provided by this policy.

Our total aggregate liability under this Extension of Cover shall not exceed $100,000 one period of insurance.

3.12 Inquiries

We will pay on behalf of the insured the inquiry costs which the insured incurs in preparing for and attending an inquiry provided that a notice requiring the insured to attend the inquiry is first served upon the insured during the period of insurance and reported to us during the period of insurance.

Our total aggregate liability under this Extension of Cover for all attendances at all inquiries in respect of inquiry costs shall not exceed $250,000 one period of insurance.

3.13 Intellectual property including Breach of confidentiality

We agree to indemnify the insured in accordance with the Insuring Clause for any claim for civil liability resulting from any unintentional infringement of copyright, trade marks, service marks, registered designs, patents or any unintentional plagiarism or unintentional breach of confidentiality by the insured.

Provided always that no indemnity shall be afforded to any insured intentionally committing, assisting or condoning such conduct.

The coverage provided by this extension is always subject to Exclusion 6.17 ‘USA / Canada exposure’ even in the event that the Exclusion has been deleted in respect of the remainder of coverage provided by this policy.

3.14 Joint venture

We agree to indemnify the insured in respect of a claim for civil liability resulting from activities in which the insured is engaged in the provision of the professional services, as a partner in a joint venture. No indemnity shall be available hereunder to the joint venture partner(s).

3.15 Libel, slander and defamation

We agree to indemnify the insured in respect of any claim for civil liability for unintentional libel, unintentional slander or other unintentional defamation by an insured in the provision of the professional services.

3.16 Limitation of liability contracts

Notwithstanding Claims Condition 7.10 ‘Subrogation’, we recognise that the insured will enter into contracts with other parties relating to the provision of the professional services which may waive or otherwise limit the liability of such parties. We agree that such contracts will not prejudice the insured’s rights to indemnity under this policy. However the cover provided by this extension shall not apply to contracts (whether written or otherwise) entered into as a result of a dispute which in any way involves the insured.
3.17 Loss of documents
Notwithstanding Exclusion 6.11 ‘Personal injury / property damage’, we agree to indemnify the insured in respect of:

3.17.1 any claim for civil liability made against the insured for loss, damage or destruction of any documents and/or computer records belonging to the insured or for which the insured is legally responsible, where the loss, damage or destruction occurs in the provision of the professional services after the retroactive date; and

3.17.2 all reasonable costs and expenses incurred by the insured in replacing and/or restoring such documents.

However,

(i) we will only be liable where any such loss, damage or destruction is notified to us within the period of insurance and rectification of which is undertaken as soon as practicable by the insured with our prior written consent, such consent not to be unreasonably withheld; and

(ii) we shall not be liable for any claim under 3.17.1, nor for costs and expenses under 3.17.2 directly or indirectly arising out of or in connection with a computer virus, operational wear and tear or gradual deterioration however caused; or

(iii) we shall not be liable for any claim under 3.17.1, nor for costs and expenses under 3.17.2 directly or indirectly arising out of or in connection with any loss of money, negotiable instruments (including shares), bearer bonds, coupons, stamps, bank or currency notes.

The limit of liability for this extension applies to all claims covered under 3.17.1 above, inclusive of claim expenses, and costs and expenses under 3.17.2 above, in the aggregate.

Notwithstanding the deductible specified in the schedule, this extension will be subject to a deductible of $2,000 or the deductible shown in the schedule, whichever is the lesser.

3.18 Loss mitigation and fee recovery
We agree to meet payment of the insured’s fee (or balance of the outstanding fee at the time the facts outlined within this extension arise and are submitted to us for consideration) where a client:

3.18.1 has expressed dissatisfaction with the professional services provided by an insured;

3.18.2 demonstrates reasonable grounds for such dissatisfaction and subsequent refusal to pay such fees (including amounts the insured is legally obligated to pay subcontractors at the time of the refusal to pay such fees);

3.18.3 threatens to bring a claim for civil liability against the insured for a sum greater than the outstanding fee; and

3.18.4 agrees not to pursue such claim if the insured agrees not to press for their outstanding fee.

Our payment of the outstanding fee to the insured will only be made if we believe that this will avoid such a claim for a greater amount and approval to settle that claim in these facts circumstances has been received by the insured from us in writing.

If all attempts to avoid such a claim fail and a claim is made, it is agreed that the total amount payable by us (including any amount already paid) shall not exceed the limit of liability. The insured will pay us any amount that is finally recovered from the client. We will only pay the part of any claim for civil liability that is covered by this policy.

Our total aggregate liability under this Extension of Cover is $100,000 any one circumstance and in the aggregate for all circumstances any one period of insurance. A separate deductible will apply to each circumstance under this extension.
3.19 Merger / takeover / sale / winding-up of insured – run-off coverage

If during the period of insurance, the insured is subject to a merger, takeover, sale or winding-up, then coverage in accordance with the Insuring Clause shall continue through to the expiry of this policy, but shall apply only for any claims for civil liability resulting from the professional services provided or allegedly provided prior to the effective date of the merger, takeover, sale or winding-up.

Upon application by the insured and subject to written agreement by us prior to expiry of the period of insurance, and subject as well to payment of any additional premium required by us (to be paid in full immediately upon expiry of this period of insurance) cover under this extension may be extended for an additional period of insurance, as may be determined by agreement between the insured and Zurich.

3.20 Newly created / acquired subsidiary

We agree to indemnify in accordance with the Insuring Clause any new subsidiary created or acquired by the insured during the period of insurance. The following terms apply to this extension:

3.20.1 cover only applies to claims for civil liability made against the new subsidiary occurring within a period of 60 days from the date of the creation or acquisition of the subsidiary;

3.20.2 cover only applies to such claims arising from the provision of the professional services provided or allegedly provided subsequent to the date of acquisition or creation of the subsidiary;

3.20.3 during the time in 3.20.2 above, the insured will supply such additional information relating to the new subsidiary as may be required by us and pay any additional premium as may be required to enable us to continue coverage to the expiry date of the policy.

3.21 Past subsidiary

We agree to indemnify in accordance with the Insuring Clause those entities which were once a subsidiary but have since ceased to be subsidiary. Coverage in this respect shall only apply to claims for civil liability resulting from the provision of the professional services provided or allegedly provided between the date of acquisition or creation of the former subsidiary by the insured and the date such subsidiary ceased to be a subsidiary.

3.22 Public relations expenses

We agree to indemnify the insured for the reasonable fee, costs and expenses to retain the services of a public relations consultant for the sole purpose of protecting the insured’s reputation that has been brought to question as a direct result of a claim covered by this policy. The following terms apply to this extension:

3.22.1 the insured must notify us within 30 days after first becoming aware of the insured’s reputation being brought into question and provide full written details outlining the circumstances surrounding the incident; and

3.22.2 during the time in 3.22.1 above, we must have given prior written consent to retain the services of such public relations consultant.

Our total aggregate liability under this Extension of Cover for all public relations expenses in respect of all claims shall not exceed $100,000 any one period of insurance.

3.23 Reduction of deductible

Notwithstanding the provisions of Claims Condition 7.3 ‘Deductible’, where the deductible for this policy is $20,000 or less, we agree to reduce it by 50% in respect of any claim where such claim is settled or disposed of in accordance with the insured’s obligations under this policy, without the involvement of any lawyer for any party, including but not limited to the insured, any third party or us.
3.24 Reinstatement

In the event that the limit of liability under this policy has been entirely exhausted during the period of insurance, by claims or loss indemnified or other amounts for which we have agreed to indemnify, the limit of liability will be reinstated in the same amount, once only, conditional upon the following:

3.24.1 the reinstated limit of liability shall only apply to claims or loss which do not arise out of and do not have any connection with the source or originating cause of any of the claims or loss already paid or payable out of the original limit of liability;

3.24.2 all other terms, conditions, exclusions and limitations of the policy shall continue to apply, in the same manner, in respect of claims and loss to which the reinstated limit of liability applies;

3.24.3 the insured has satisfied us that they have no other valid and collectible excess or other insurance to call upon, after exhaustion of the original limit of liability, or that all such insurance (including any automatic reinstatement entitlement to which those policies may be subject) has also been exhausted by claims or losses indemnified or for which the insurers in question have agreed to indemnify;

3.24.4 the request for reinstatement must be made by the insured, and satisfy all requirements relating to it, before the expiry of the period of insurance; and

3.24.5 there shall be no reinstatement at all of any sub-limit.

4. Optional Extension of Cover

Cover is provided, and on the same terms and in the same manner as in the Insuring Clause (except as expressly stated), for the Optional Extension of Cover described below. This Optional Extension of Cover is subject to all other provisions of this policy, including any additional terms stipulated in connection with it and will apply only if it is specifically noted as ‘Included’ in the schedule.

4.1 Fidelity

Notwithstanding Exclusion 6.5 ‘Fraud and dishonesty’, we agree to indemnify the insured, up to the sub-limit shown in the schedule, against the direct loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes belonging to the insured or for which the insured is legally liable, where such loss results directly from the dishonest or fraudulent act or omission of any principal, partner, director or employee of the insured. Provided always that the following terms apply to this coverage:

4.1.1 the loss must be first discovered by the insured in the period of insurance and is notified in writing to us as soon as reasonably practicable after the date of such discovery (but never beyond the expiry date of the period of insurance);

4.1.2 we will not be liable for any loss sustained in consequence of any act or omission occurring after the date of the discovery of, or the reasonable cause for suspicion of, dishonest or fraudulent conduct on the part of the insured concerned;

4.1.3 we will not be liable to indemnify any insured who committed or condoned any dishonest or fraudulent conduct in consequence of which the loss occurred;

4.1.4 loss under this coverage does not include indirect or consequential losses of any nature, including but not limited to liability to third parties, damages of any kind, interest, investigation costs, trading losses or any other liability that is not the direct loss of the property referred to;

4.1.5 the insured will bear the burden of adducing satisfactory proof to substantiate any loss hereunder (including any legal, investigative, accounting or other costs incurred in such process) and we will be under no obligation to provide indemnity to the insured until such time as we are satisfied that such loss has, in fact, been sustained;

4.1.6 all interrelated individual dishonest or fraudulent acts or omissions shall be deemed to constitute a single loss and a single deductible will apply to such loss;

4.1.7 the limit of liability under this extension is the sub-limit specified in the schedule and is the total limit of our liability under or in connection with this coverage for all losses.
5. Definitions

5.1 Act of terrorism

*act of terrorism* means any act, or preparation in respect of action, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological or similar purposes to intimidate the public or any section of the public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and which:

5.1.1 involves violence against one or more persons;
5.1.2 involves damage to property;
5.1.3 endangers life other than that of the person committing the action;
5.1.4 creates a risk to health or safety of the public or a section of the public; or
5.1.5 is designed to interfere with or to disrupt an electronic system.

5.2 Agent

*agent* means a natural person or company or other entity that has a contract with the *insured* under which the *insured* engages the natural person or company or other entity to act for or on behalf of the *insured* in the provision of professional services.

5.3 Circumstances

*circumstances* means any *incident*, occurrence, fact or matter which may give rise to a *claim*.

5.4 Civil liability

*civil liability* means liability of the *insured* to any civil cause of action for *compensation*, arising from its provision of, or failure to provide, the professional services.

5.5 Claim

*claim* means:

5.5.1 a writ, statement of claim, summons, application or other originating legal or arbitral process, cross-claim, counter claim or third or similar party notice served on the *insured*; or
5.5.2 an oral or written demand for *compensation* made by a third party against the *insured*.

All *claims* arising out of multiple related sources or originating causes, all *losses* arising from each source or originating cause will be deemed to be a single *claim*. All *claims* attributable to one source or originating cause shall be deemed to be a single *claim*, for the purposes of the *limit of liability* and the *deductible*.

5.6 Claim expenses

*claim expenses* means all reasonable legal costs and expenses necessarily incurred with our prior written consent in the investigation, defence and settlement of any *claim*, except any internal or overhead expenses or costs incurred by an *insured* and any salary or remuneration of any *employee*.

5.7 Compensation

*compensation* means monetary compensation which the *insured* is legally obligated to pay or damages or non-monetary or injunctive relief whether by a judgment or award, or a settlement negotiated with our prior written consent, but does not include *claim expenses*.

5.8 Deductible

*deductible* means the amount stated in the *schedule*, which will be the responsibility of the *insured*, as applicable, in respect of each *claim* or request for indemnity under the policy and to all Extensions of Cover and any Optional Extension of Cover (unless otherwise stated therein).
5.9 **Deemed employee**

deemed employee means any natural person who was or now is a contractor or consultant who:

5.9.1 has an oral or written contract with the insured, (including any subsidiary of the insured), to perform professional services for and on behalf of the insured; and

5.9.2 is a deemed worker under the workers compensation laws of the Australia State or Territory in which the contractor or consultant is performing the professional services.

5.10 **Director**
director means any natural person who was or now is a director or officer of the insured or any subsidiary (or the equivalent position in any jurisdiction) or who becomes a director or officer of the insured or any subsidiary (or the equivalent position in any jurisdiction) during the period of insurance, including de jure, de facto and shadow directors.

5.11 **Employee**
employee means any natural person, other than a director or partner of the insured, who is or has been under a contract of employment or is a deemed employee, or any apprenticeship, work experience or similar scheme with the insured, solely in connection with the professional services provided by the insured. This definition does not include sub-contractors.

5.12 **Family member**
family member means any spouse, former spouse, partner, parent, child, grandparent, aunt, uncle, niece, nephew, cousin or sibling of an insured.

5.13 **Incident**
incident means an event occurring within the period of insurance which causes the insured’s reputation and skill in the provision of the professional services to be brought into question.

5.14 **Inquiry**
inquiry means any hearing related to the provision of the professional services by an insured if the findings from such inquiry or hearing could lead to a claim being made against the insured which may be covered under this policy.

5.15 **Inquiry costs**
inquiry costs means reasonable legal, assessors, adjusters and expert witness costs incurred with our prior written consent in respect of an inquiry, but does not include any insured or employee’s salaries, wages, travel or accommodation expenses.

5.16 **Insolvency**
insolvency means in relation to any insured:

5.16.1 being under administration or insolvent, each as defined in the Corporations Act 2001 (Cth);

5.16.2 having a controller (as defined in the Corporations Act 2001 (Cth)) appointed;

5.16.3 being in receivership, in receivership and management, in statutory management, in liquidation, in provisional liquidation, wound up, subject to any scheme of arrangement, assignment, composition or other form of moratorium or protection from creditors or in bankruptcy;

5.16.4 being otherwise unable to pay any debts as and when they fall due; or

5.16.5 having anything with the same or similar effect happen under the laws of any jurisdiction.
5.17 Insured

insured means:

5.17.1 the legal entity, partnership, company or corporation specified in the schedule as the Insured, including the policyholder if applicable;

5.17.2 the predecessors in business of the insured as stated in 5.17.1 above;

5.17.3 any natural person who:

(a) at inception of the period of insurance, is a principal, partner or director of the insured; or

(b) prior to inception of the period of insurance, was a principal, partner or director of the insured but only where that person performed work as a principal, partner or director of a prior professional practice providing the same professional services as the insured's professional services and only if such prior practice is declared in the proposal;

5.17.4 any natural person who during the period of insurance, becomes a principal, partner or director of the insured in respect of the provision of the insured's professional services and, if we agree by endorsement to this policy, in respect of work performed by such person as a principal, partner or director of any prior professional practice specified in that endorsement but only to the extent that the prior professional practice provided the same professional services as the insured's professional services;

5.17.5 any former principal, partner or director of the insured (in respect of work performed for and on behalf of the insured in the provision of the insured's professional services);

5.17.6 any past or present employee of the insured acting within the scope of their employment in the provision of the insured's professional services; and

5.17.7 any subsidiary at inception of this policy or as otherwise agreed by us to be covered under Extension of Cover 3.20 ‘New created / acquired subsidiary.’

5.18 International program policies

international program policies mean the policy(ies) specified as such in the schedule.

5.19 Joint venture partner

joint venture partner means any natural person or entity with whom the insured is engaged in a common venture, the profits of which are to be shared between the insured and that other person or entity including any jointly owned company or corporation incorporated or designated for the purpose.

5.20 Limit of liability

limit of liability means the total limit of our liability, under or in connection with this policy, in respect of loss in connection with any one claim or with all claims in the period of insurance, as specified in the schedule. Any applicable sub-limit is part of, and does not increase, the limit of liability.

5.21 Loss

loss means the following for which the insured is legally liable:

5.21.1 compensation and/or claimant's costs pursuant to an award or judgment against the insured;

5.21.2 settlements negotiated by us and consented to by the insured;

5.21.3 settlements negotiated by the insured but only with our prior written consent;

5.21.4 claim expenses; and

5.21.5 inquiry costs.
But loss does not include:

(i) wages, salary, commission, fees, charges and other form of remuneration or profit to be repaid, lost or foregone by the insured, as a result of a claim;

(ii) any component of an award or settlement which represents the cost of performance of the insured’s original contractual obligations, non-fulfillment or negligent performance of which has given rise to the claim; or

(iii) any aggravated, punitive or exemplary damages or any civil or criminal penalties, fines or sanctions.

For the purpose of the limit of liability, sub-limits and other applicable terms and conditions of the policy, loss also includes all other amounts covered by the policy, including those amounts which are not dependent upon the making of a claim against the insured.

5.22 North America

North America means:

5.22.1 the United States of America and Canada; and

5.22.2 any state or territory incorporated in, or administered by, the United States of America or Canada.

5.23 Period of insurance

period of insurance means the Period of Insurance stated in the schedule and any extension thereof which may be agreed in writing between us and the insured.

5.24 Personal injury

personal injury means bodily injury, death, sickness, disease, shock, fright, mental anguish or mental injury.

5.25 Policyholder

policyholder means the legal entity stated in the policy schedule.

5.26 Pollutant

pollutant means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acid, alkalis, chemicals or waste. Waste includes but is not limited to material to be recycled, reconditioned or reclaimed.

5.27 Professional services

professional services means those activities specified in the schedule performed by the insured. It does not include the provision of services as a superannuation trustee in any respect, nor acting in a capacity as a director or officer.

5.28 Property damage

property damage means physical injury to or destruction or damage of or to tangible property, including the resultant loss of use of that damaged or destroyed property and any consequential losses resulting therefrom.

5.29 Proposal

proposals means any information and/or statements or materials supplied to us including any application form completed and signed by the insured and any attachments thereto.

5.30 Retroactive date

retroactive date means the Retroactive Date specified in the schedule.

5.31 Schedule

schedule means the Schedule attached to this policy or any schedule substituted during the period of insurance, duly signed, stamped and dated by our authorised officer.
5.32 Sub-contractors
sub-contractors means independent consultants or subcontractors who provide services to the insured under a written contract. This definition does not include any employee.

5.33 Subsidiary
subsidiary means any company or other legal entity over which the insured exercises effective governance or control or in respect of which the insured directly or indirectly:

5.33.1 controls the composition of the board of directors; and/or
5.33.2 controls more than half of the voting power; and/or
5.33.3 holds more than half of the issued share capital or other ownership of the entity, and shall in any event include any company or legal entity whose financial accounts are required to be consolidated with those of the insured pursuant to the Corporations Act 2001 (Cth) or the applicable Australian Accounting Standard.

6. Exclusions
We will not pay anything in respect of:

6.1 Aggravated, Punitive, Exemplary damages, Fines or Penalties
any claim arising out of, based upon, attributable to or as a consequence of:

6.1.1 fines, taxes, penalties, treble or other multiple compensatory damages, exemplary, punitive, liquidated or aggravated damages;
6.1.2 the return, restitution, or offset of fees, expenses or costs paid to an insured; or
6.1.3 any other damages deemed uninsurable in law.

6.2 Contractual liability
any claim arising from or in connection with:

6.2.1 any contractual liability or assumed liability, unless the insured would in any event be legally liable in the absence of such contractual or assumed liability;
6.2.2 any liability assumed by an insured under any guarantee or warranty unless the insured would in any event be legally liable in the absence of such contractual or assumed liability; or
6.2.3 any trading debt incurred by the insured.

6.3 Directors and officers
any claim directly or indirectly arising from or in connection with any insured acting in the capacity of a director or officer of a company, association or other legal entity.

6.4 Employer’s liability
6.4.1 any claim for personal injury of any employee of the insured or for the destruction, loss or damage to any tangible property belonging to an employee, including loss of use thereof, arising in the course of their employment; or
6.4.2 any claim arising out of any obligation for which the insured or any carrier as its Insurer may be liable under any workers’ compensation, unemployment compensation, employer’s liability, disability benefits law or any other similar law.

6.5 Fraud and dishonesty
6.5.1 any actual dishonest, fraudulent, criminal, wilful or malicious conduct of any insured;
6.5.2 any civil liability incurred by the insured which arises from conduct of the insured or its agent which is established to have been committed with a reckless disregard for the consequences thereof; or
6.5.3 any wilful breach of any statute, contract or duty by any insured or their agent.
6.6 Insolvency
any claim made against the insured, where all or part of such claim is directly or indirectly based upon or attributable to the insolvency of the insured or the suppliers and/or sub-contractors of the insured.

6.7 Licensing inquires
any prosecution, inquiry, hearing, commission or other investigation in relation to the insured failing to be properly licensed, registered or accredited to provide professional services as required by any Acts, rules, regulations or industry codes of practice.

6.8 Manufacturing / efficacy / faulty workmanship
any claim, loss or other amount comprising, directly or indirectly arising out of or in connection with:
6.8.1 the repair, replacement, diminished utility or lack of efficacy for their intended purpose of any goods designed, manufactured, imported, sold, constructed, installed, distributed, treated, serviced, altered, repaired or supplied by the insured;
6.8.2 the cost of remediying any defect in any goods designed, manufactured, imported, sold, constructed, installed, distributed, treated, serviced, altered, repaired or supplied by the insured;
6.8.3 any cost of or expense incurred in withdrawing a product or good from sale or recalling any product or good; or
6.8.4 any element of any of the insured’s own costs or profit that may be included in the cost of rectifying any defects in work performed by or on behalf of the insured.

6.9 Money and negotiable instruments
any claim directly or indirectly arising from or in connection with any loss of money, negotiable instruments including shares, bearer bonds, coupons, stamps, bank or currency notes. This exclusion will not apply if Optional Extension of Cover 4.1 ‘Fidelity’ is operative.

6.10 Owners and occupiers liability
any claim directly or indirectly arising from or in connection in any way whatsoever with the occupation, leasing or ownership of any real or other property (whether mobile or immobile) by the insured.

6.11 Personal injury / property damage
6.11.1 any liability for personal injury suffered or incurred by any person; and/or
6.11.2 any loss of property or property damage,
other than as the direct result of professional services having been or being performed, undertaken or provided by or on behalf of the insured.

6.12 Prior and pending
any claim made against, or in any way intimated to, the insured prior to the commencement of the period of insurance or directly or indirectly arising from or attributable to:
6.12.1 any facts or circumstances of which the insured was aware or of which a reasonable person in the circumstances would have been aware, prior to the commencement of the period of insurance, as matters out of which a claim against the insured might possibly arise;
6.12.2 any facts or circumstances reported to an insurer under any insurance policy entered into before the commencement of the period of insurance; or
6.12.3 any facts disclosed to any insurer in any proposal for insurance prior to the commencement of the period of insurance.
6.13 Radioactivity / pollution / asbestos

any claim directly or indirectly arising from or in connection with:

6.13.1 ionising radiation or contamination by radioactivity from any nuclear fuel or nuclear waste from the combustion of nuclear fuel or the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or component thereof. For the purpose of this Exclusion 6.13 combustion shall include any self-sustaining process of nuclear fission;

6.13.2 seepage, pollution or contamination of any pollutant by whatever nature and however occurring;

6.13.3 mould, legionella bacteria or any other organism or substance found upon any premises however it came to be there;

6.13.4 asbestos or any material or property containing or alleged to contain asbestos, in whatever form or quantity and however arising; or

6.13.5 silicon or silica, or any material, substance or property derived from or containing or allegedly containing silicon or silica, in whatever form or quantity and however arising.

6.14 Related entities

any claim made against the insured by or on behalf of:

6.14.1 any insured (in whatever capacity), business venture or related or associated entity of any insured which is owned, managed or operated directly or indirectly by any insured;

6.14.2 any person who at the time of the conduct giving rise to the claim, is a family member, unless such person is acting without the co-operation or solicitation of any insured;

6.14.3 any joint-venture partner of any insured;

6.14.4 any parent or controlling entity, successor or assign of any insured; or

6.14.5 any other person or entity, including but not limited to a trustee:

(a) who or which is controlled or operated by any insured; or

(b) where any insured has a direct or indirect financial interest, including but not limited to where any insured is a beneficiary of a trust.

6.15 Retroactive date

any claim directly or indirectly arising from or in connection with conduct of any insured which has taken place or is alleged to have taken place prior to the retroactive date.

6.16 Superannuation trustee

any claim directly or indirectly arising from or in connection with conduct of any insured in the capacity of a superannuation trustee, including but not limited to in connection with any employee benefit plan or superannuation fund.

6.17 USA / Canada exposure

6.17.1 any claim directly or indirectly arising out of or in connection with conduct of the insured anywhere within the territorial limits of North America;

6.17.2 any legal proceedings which are brought before any court or tribunal having actual or purported jurisdiction within North America;

6.17.3 the enforcement of any judgment, order or award in or in connection with any proceeding brought before any court or tribunal having actual or purported jurisdiction within North America;

6.17.4 any claim which is pursued by way of Arbitration, Mediation, Conciliation, Expert Determination or any other form of alternative dispute resolution procedure taking place within or under the jurisdiction of North America, or for the recovery of any award or costs issued or incurred in connection with any such procedure.
6.18 War, Act of terrorism

any claim caused by or arising out of the following regardless of any other cause or event contributing concurrently or in any other sequence by:

6.18.1 any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power or confiscation, nationalisation, requisition, destruction of or damage to property by or under the order of any government or public or local authority; or

6.18.2 any act of terrorism or any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

7. Claims Conditions

The following Claims Conditions apply to the policy.

7.1 Advance payment of claim expenses

We will advance the claim expenses incurred by an insured in the defence of any claim, as they are incurred and prior to the final adjudication of the claim, where:

7.1.1 indemnity under this policy is confirmed in writing by us; or

7.1.2 at our absolute discretion, without admitting indemnity, we agree to advance such claim expenses.

All such payments will be repaid to us by the insured (or where more than one insured has received such payments, by such insured severally and according to their respective interests) in the event and to the extent that the insured is not entitled to payment of such claim expenses under the terms and conditions of this policy.

7.2 Allocation

If both loss covered by this policy and loss not covered by this policy are incurred, either because a claim includes both covered and uncovered matters or because a claim is made against both insureds and others who are not insured under this policy (including those persons or entities referred to in the schedule as the insured), the insured and Zurich will use their best efforts to agree upon a fair and proper allocation between covered loss and uncovered loss having regard to the relative legal and financial exposures attributable to the covered and uncovered parties and/or matters. We are only liable under this policy for amounts attributable to covered matters and parties, and our liability for loss, including claim expenses, otherwise payable by us will be reduced to reflect such fair and proper allocation.

If we both are unable to agree on an allocation of claim expenses, we will, subject to Claims Condition 7.1 ‘Advance payment of claim expenses’, advance claim expenses in accordance with that Condition. If the parties cannot agree on allocation, we will, subject to Claims Condition 7.1 ‘Advance payment of claim expenses’, advance claim expenses which we believe to be covered under the policy until a different allocation is negotiated, arbitrated, judicially or otherwise determined.

If requested by the insured, we will submit any dispute on allocation to a Senior Counsel to be mutually agreed or, in default of agreement to be appointed by the President of the Bar Association in the relevant State or Territory, on the basis that the Senior Counsel shall determine the allocation according to his or her view of the fair and proper allocation, but having regard to the relative legal and financial exposures attributable to covered and uncovered matters and parties, and the overriding intention referred to in Claims Condition 7.2 ‘Allocation’. The costs of Senior Counsel shall constitute claim expenses for the purposes of the policy and be part of and not in addition to the limit of liability.

Any such determined allocation of claim expenses on account of a claim will be applied retroactively to all claim expenses on account of such claim, notwithstanding any prior advancement on a different basis. Any advancement of claim expenses will be repaid to us by the insureds severally according to their respective interests, if and to the extent that we determine that such amounts paid by us are not insured by this policy.

Any allocation or advancement of claim expenses in connection with a claim shall not pre-determine the allocation of other loss on account of such claim. In any arbitration, suit or other proceedings between Zurich and the insured no presumption shall exist as to a fair and proper allocation, but will be governed by the intention set out in this clause.
7.3 Deductible

Our obligation to pay loss (including compensation and claim expenses) in connection with any claim, or other amount under this policy, shall only be in excess of the deductible as stated in the schedule or as otherwise stated in this policy.

The deductible will be paid by the insured and shall be applicable to each claim and shall include loss and claim expenses. All claims arising out of, based on or attributable to the same cause, single act, error or omission or series of continuous, repeated or related acts, errors or omissions shall be deemed to be a single claim and only one deductible will be payable by the insured. The deductible will be the first amount borne by the insured and shall remain uninsured.

Where we make a payment in relation to a claim which includes payment of part or all of the deductible the insured will, within 30 days of being notified by us, reimburse us for the amount of the deductible paid by us.

7.4 Defence and settlement

The insured will not admit liability for or settle any claim without our consent or incur any costs or expenses without our consent, which will not unreasonably be withheld.

The insured will assert all appropriate defences and cross-claims for contribution, indemnity or damages and will take all reasonable steps in defence of the claim.

We will not settle any claim against any insured without the consent of the relevant insured, which will not unreasonably be withheld. We will retain the right to actively participate in the defence and settlement of any claim in respect of which indemnity is sought under this policy.

If we and the insured cannot agree upon the appropriateness or otherwise of a settlement, then the matter will be determined in accordance with advice of Senior Counsel, the choice of whom will be mutually agreed by the insured and us and whose fee will be paid by us, in addition to the limit of liability.

7.5 Handling and co-operation

The insured will, at its own cost, upon our request:

7.5.1 give all such information and assistance to us as we may reasonably require in order to investigate any loss and determine our liability under this policy;

7.5.2 cooperate in the defence of any claim including the assertion of any cross-claim for contribution, indemnity or damages; and

7.5.3 do all things reasonably practicable to avoid or diminish any loss under this policy.

The insured will also inform us of any other insurance, indemnity or other source of compensation, statutory, contractual or otherwise, pursuant to which the insured may be entitled to any benefit in respect of the claim.

We will be entitled at our option (but not obliged) at any time to take over and conduct in the name of the insured the defence or settlement of any claim against the insured, and to claim indemnity or contribution at any time, in the name of the insured, from any party against whom the insured may have such rights.

If we wish to settle a claim and the insured is opposed to such settlement, our total aggregate payments for damages and claim expenses under this policy shall be limited to the amount by which the claim could have been settled in our opinion.

Legal fees and costs awarded to the insured will pass to us to the extent of our payments under this policy.

7.6 Multiple insured, claims and claimants

All claims arising out of, based on or attributable to the same cause, single act, error or omission or a series of continuous, repeated or related acts, errors or omissions shall be deemed to be a single claim, for the purposes of the limit of liability and the deductible.
7.7 Other insurance

If loss, claim expenses or any other amounts insured under this policy are also potentially insured under any other insurance policy or policies, then the insured must advise us at the time of making a claim under this policy, and provide us with details of the other insurance.

This policy does not cover any claim or loss in respect of which the insured is entitled to indemnity under any other insurance.

7.8 Payments in respect to Goods and Services Tax

When we make a payment to the insured, or on behalf of the insured, under this policy for the acquisition of goods, services or other supply, we will reduce the amount of the payment by the amount of any input tax credit that the insured is, or will be, or would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 (Cth), in relation to that acquisition, whether or not that acquisition is actually made.

When we make a payment to the insured, or on behalf of the insured, under this policy as compensation instead of payment for the acquisition of goods, services or other supply, we will reduce the amount of the payment by the amount of any input tax credit that the insured is, or will be, or would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 (Cth) had the payment been applied to acquire such goods, services or supply.

7.9 Reporting and notice

The insured will as a condition precedent to their right to be indemnified under this policy, give to us written notice as soon as practicable of any claim made or threatened against the insured or loss for which indemnity is sought.

All notices under any provision of the policy shall be put in writing and given by courier, registered mail or fax properly addressed to the appropriate party. Any notice under or in connection with this policy that relates to a claim or loss will be given to the appropriate Zurich branch office, addressed as follows:

Zurich Australian Insurance Limited
Attention: Financial Lines, Claims Manager
General Insurance

All other notices will be given to the Financial Lines Underwriter at the appropriate Zurich branch office. Notice will be deemed to be received and effective upon actual receipt thereof by the addressee.

7.10 Subrogation

We will be subrogated to all rights of recovery of any insured against any person or organisation before or after any payment or indemnity under this policy. The insured will give all such assistance in the exercise of rights of recovery as we may reasonably require. Such subrogated rights will first benefit us and then the insured.

The insured must refrain from doing anything that might prejudice our actual or potential rights of recovery against any party. Any amounts recovered by us, will be allocated in the following order: recovery costs, uninsured loss, limit of liability and deductible.

We agree not to exercise any such right of subrogation against any of the insured’s directors or employees unless the claim is brought about or contributed to by the dishonest, fraudulent, reckless, criminal or malicious act or omission of the director or employee.

7.11 Valuation and foreign currency

All premiums, limits of liability, retentions, indemnity and other amounts referred to in this policy are expressed and payable, where due, in Australian currency. Unless where otherwise provided, if judgment is rendered, settlement is denominated or an element of loss under this policy is stated in a currency other than Australian dollars, payment under this policy will be made in Australian dollars at the cash rate of exchange for the purchase of Australian dollars as reported in the Australian Financial Review on the date the final judgment is reached, the amount of the settlement is agreed upon or the element of loss is due, as the case may be.
8. **General Conditions**

The following General Conditions apply to the policy.

8.1 **Alteration to risk**

The *insured* will give notice to us in writing as soon as practicable of any material alteration to the risk during the *period of insurance*. A material alteration to the risk includes, without limitation:

- 8.1.1 activities that are materially different from those declared in the *proposal*;
- 8.1.2 activities outside the normal activities of the *professional services*;
- 8.1.3 *insolvency* in relation to any *insured*; and
- 8.1.4 any loss of or conditions imposed upon any licence or other authority required by the *insured* to practice the *professional services*.

8.2 **Assignment**

This policy and any rights under it shall not be assigned without our prior written consent.

8.3 **Authorisation**

The *insured* authorises the legal entity specified in the *schedule* to act on behalf of all persons and entities comprising of the *insured* with respect to the giving and receiving of any notice under or in connection with this policy, the payment and return of premium and the negotiation, agreement to and acceptance of endorsements.

8.4 **Cancellation / termination**

8.4.1 The *insured* may cancel this policy by giving notice in writing to us at any time.

8.4.2 We may cancel this policy in any of the relevant circumstances set out in the Insurance Contracts Act 1984 (Cth), such cancellation to take effect 30 days from the time of receipt of notification by the *insured*.

8.4.3 After cancellation by the *insured* a refund of premium will be allowed pro rata of 80% of the premium for the unexpired *period of insurance*.

8.4.4 After cancellation by us a refund of premium will be allowed pro rata for the unexpired *period of insurance*.

However, in the event of the notification of a *claim* or *circumstance* which is covered under this policy, the premium shall be regarded as fully earned and may be retained by us.

8.5 **Changes to the policy**

The terms and conditions of this policy may only be altered by a written endorsement issued by us.

8.6 **Late arising extensions**

If during the *period of insurance* we develop a new standard wording providing enhancements of coverage to our base Professional Indemnity Insurance policy in the country where the *insured* is domiciled and such wording is to be made available to our clients in such country for no additional premium, then the *insured* will have the right to the benefit of such new coverage enhancement, subject to all underwriting information or particulars as we may require, from the date of such availability.

8.7 **Plurals and titles**

The *proposal*, this policy, its *schedule* and any endorsements are one contract in which, unless the context otherwise requires:

- 8.7.1 headings are descriptive only, not an aid to interpretation;
- 8.7.2 singular includes the plural, and vice versa;
- 8.7.3 the male includes the female and neuter; and
- 8.7.4 references to positions, offices or titles shall include their equivalents in any jurisdiction in which a *claim* is made.
8.8 Proper law and jurisdiction
The construction, interpretation and meaning of the provisions of this policy shall be determined in accordance with Australian law.

In the event of any dispute arising under this policy including, but not limited, to its construction and/or validity and/or performance and/or interpretation, the insured will submit to the exclusive jurisdiction of any competent Court in the Commonwealth of Australia.

8.9 Sanctions regulation
Notwithstanding any other terms or conditions under this policy, Zurich shall not be deemed to provide coverage and will not make any payments nor provide any service or benefit to the insured or any other party to the extent that such cover, payment, service, benefit and/or any business or activity of the insured which would violate any applicable trade or economic sanctions, law or regulation.

8.10 Severability and non-imputation
Where this policy insures more than one party, the proposal for insurance is construed as a separate application by each insured. When determining whether coverage is available under this policy:

8.10.1 any failure by an insured to comply with the duty of disclosure shall not be imputed to any other insured, where the other insured is innocent of and had no prior knowledge of the failure; and

8.10.2 for the purposes of the exclusions (other than Exclusion 6.12 ‘Prior or pending’), no facts pertaining to, conduct of or knowledge possessed by an insured shall be imputed to any other insured.

8.11 Worldwide territorial / jurisdictional limits
Subject to the terms and conditions of the policy (including but not limited to Exclusion 6.17 ‘USA / Canada exposure’) and anything specified to the contrary in the schedule, this policy shall apply to:

8.11.1 conduct committed, attempted or alleged to have been committed or attempted, anywhere in the world; and

8.11.2 claims made and actions brought anywhere in the world.

If the schedule specifies a Territorial or Jurisdictional Limit, then coverage under this policy is restricted to the specified Limits. However, that specified Limit does not restrict the operation of Exclusion 6.17 ‘USA / Canada exposure’.

9. International Programs

9.1 Master program
This policy acts as a master Professional Indemnity Insurance liability program to operate where international program policies have been issued at Zurich’s request for the Limits of Liability and in the countries specified in the schedule and which are reinsured by Zurich.

9.2 Non-Aggregation of Limits of Liability Clause
It is hereby understood and agreed that corresponding to the liability of the policyholder, the insured and all subsidiaries to pay the aggregate premium for this policy and all international program policies, all contractual parties to this policy and all international program policies agree that for the purpose of the calculation of the limit of liability of this policy and all international program policies (combined), all payments of loss (or equivalent terms as defined under each International Program Policy) under:

9.2.1 this policy; and

9.2.2 all international program policies,
(or any combination of the above mentioned policies)
are added up and are limited to the amount of the limit of liability as indicated in the schedule (hereinafter called Aggregate Limit of Liability).

The Aggregate Limit of Liability shall be the maximum limit of liability and payment by Zurich, in the aggregate, for all loss (or equivalent terms as defined under each International Program Policy) payable under this policy and all international program policies combined. It is further understood and agreed that nothing in the Non-Aggregation of Limits of Liability Clause shall be construed to increase:

9.2.3 the limit of liability set forth in the schedule of any other international program policies, which shall remain our maximum liability under this policy; or

9.2.4 our limit of liability under this policy as set forth in the schedule of this policy, which shall remain our maximum liability under this policy.

9.3 Hold Harmless Agreement – Special Conditions regarding Aggregation

In the event that the Aggregate Limit of Liability (defined in Section 9.2) is exceeded by any and/or all payments under this policy and/or any or all international program policies, the policyholder will reimburse Zurich and/or any partners of Zurich that issued any International Program Policy in respect of any loss (or equivalent terms as defined under each International Program Policy) paid by or which has been agreed to be paid by any of the insurers of the international program policies in excess of the Aggregate Limit of Liability.

Any amount payable due to the terms of this clause will be paid by the party within twenty-eight (28) days of notice from the other party.

9.4 Notice and Authority for International Programs

It is agreed that the policyholder will act on behalf of the insured's and each and every insured with respect to the issuance and development of this policy and all international program policies, including all terms, conditions, exclusions and limitations of such international program policies, including, but not limited to Section 9.2 above. It is further understood and agreed that the policyholder will inform the insured's of any International Program Policy to be issued.

9.5 Cancellation and Non-renewal of International Program Policies

All international program policies are coterminous, accordingly if this policy is cancelled, rescinded or non-renewed then all other international program policies shall be deemed cancelled, rescinded or non-renewed with effect from the same date.