

S U R A PROFESSIONAL
RISKS



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IMPORTANT INFORMATION

ABOUT SURA PROFESSIONAL RISKS

SURA Professional Risks Pty Ltd ABN 85 168 337 657 (SURA Professional Risks) is an Authorised Representative of SURA Pty Ltd (SURA) ABN 36 115 672 350 AFSL 294313. In issuing this Policy, SURA and its Authorised Representative SURA Professional Risks will be acting under an authority given to it by the Insurers. This means that when issuing this Policy, SURA and its Authorised Representative SURA Professional Risks will be acting as an agent for the Insurers, not for you.

Our contact details are:

Level 13, 141 Walker Street
North Sydney, NSW 2060
Telephone. 02 9930 9500
Facsimile. 02 9930 9501

ABOUT THE INSURERS

This insurance is underwritten by certain Underwriters at Lloyd's.

Lloyd's has been insuring Australian risks for over 150 years and is licensed to write non-life insurance business under the Australian Insurance Act 1973. You or Your representatives can obtain further details of the syndicate numbers and the proportions of this insurance for which each of the Underwriters at Lloyd's is liable by requesting them from Us. In the event of loss, each Underwriter (and their Executors and Administrators) is only liable for their own share of the loss.

Lloyd's Underwriters have strong financial security characteristics. However, please note that ratings can vary from time to time. You can check the Insurer's current ratings at the following website Standard & Poors: www.standardandpoors.com

You should contact SURA Professional Risks in the first instance in relation to this insurance.

Lloyd's contact details are:

Lloyd's Underwriters'
General Representative in Australia
Suite 2, Level 21 Angel Place
123 Pitt Street, Sydney,
NSW 2000
Telephone. 02 9223 1433

ASSUMED LIABILITY AND WAIVED RIGHTS

If You have entered into an agreement with another party:

- where You are assuming a greater liability than would apply had You not entered into that agreement; or
- which prevents You from taking a recovery action for indemnity or contribution from that party it may adversely affect Your rights to cover under this Policy.

CLAIMS MADE AND NOTIFIED

Your Professional Indemnity Insurance Policy is issued on a **claims made** basis. This means that the policy responds:

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

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

COMPLAINTS AND DISPUTE RESOLUTION PROCESS

We view seriously any complaint made about Our products or services and will deal with it promptly and fairly.

If You have a complaint please first try to resolve it by contacting the relevant member of Our staff.

We will seek to resolve the matter in accordance with the General Insurance Code of Practice and Our Dispute Resolution procedures. You can contact Us if You want more information on Our Dispute Resolution procedures.

If the matter is still not resolved, or You are not satisfied with the way a complaint has been dealt with, you should write to:

Lloyd's Underwriters'
General Representative in Australia
Suite 2, Level 21 Angel Place,
123 Pitt Street
Sydney, NSW, 2000

If You are a natural person or a small business, and You are not satisfied with the final decision, You may wish to contact the Financial Ombudsman Service ("FOS"). The FOS is a free independent external disputes resolution service provided to customers to review and resolve complaints where We have been unable to satisfy Your concerns.

For further details You can visit their website at www.fos.org.au or contact them:

The Financial Ombudsman Service
PO Box 3
Melbourne, VIC, 3001
Telephone. 1300 78 08 08
Email. info@fos.org.au

DISCLAIMER

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

GENERAL INSURANCE CODE OF PRACTICE

We proudly support the General Insurance Code of Practice.

The purpose of the Code is to raise the standards of practice and service in the general insurance industry.

The Code aims to improve:

- the quality, comprehension and accuracy of policy documents and other information provided to consumers;
- employee and agent training and supervision;
- Claims handling and dispute resolution.

For further information on the Code, please visit www.codeofpractice.com.au or alternatively You can request a brochure on the Code from Us.

GOODS AND SERVICES TAX (GST)

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

When We pay a Claim, Your GST status will determine the amount We pay.

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

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

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

We will pay the Claim by reference to the GST exclusive amount of any supply made by any Business of Yours which is relevant to the Claim.

GST, ITC, BAS and Acquisition have the same meaning as given to those words or expressions in A New Tax System (Goods and Services Tax) Act 1999 and related legislation as amended from time to time.

PRIVACY STATEMENT

In this Privacy Statement the use of “We”, “Our” or “Us” means SURA Professional Risks Pty Ltd and the Insurers unless specified otherwise.

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

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

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

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

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

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

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

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

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

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

We may disclose Your personal information to Our insurers, reinsurers, related entities and service providers overseas, including but not limited to New Zealand, Singapore, United Kingdom, the Philippines, the European Union and the United States of America.

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

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

SERVICE OF SUIT

The Insurers accepting this insurance agree that:

- if a dispute arises under this insurance, this insurance will be subject to Australian law and practice and the Insurers will submit to the jurisdiction of any competent court in the Commonwealth of Australia;
- any summons, notice or process to be served upon the Insurers may be served upon:
**Lloyd’s Underwriters’
General Representative in Australia
Suite 2, Level 21 Angel Place,
123 Pitt Street
Sydney, NSW, 2000**
- if a suit is instituted against any of the Insurers, all Insurers participating in this insurance will abide by the final decision of such Court or any competent Appellate Court.

SEVERAL LIABILITY

The subscribing Insurers obligations under the contracts of insurance to which they subscribe are several and not joint and are limited solely to their individual subscriptions.

The subscribing Insurers are not responsible for the subscription of any co-subscribing Insurer who for any reason does not satisfy all or part of its obligations.

YOUR DUTY OF DISCLOSURE

Before You enter into a contract of general insurance with an insurer You have a duty under the Insurance Contracts Act 1984, to disclose to the Insurer every matter that You know, or could reasonably be expected to know, is relevant to the Insurer's decision whether to accept the risk of insurance and, if so, on what terms.

You have the same duty to disclose those matters to the Insurer before each time You renew, extend, vary or reinstate the Policy. Each person indemnified by this Policy has the same duty.

Your duty however does not require disclosure of any matter that:

- reduces the risk,
- is common knowledge,
- We already know, or ought to know in the ordinary course of Our business, or
- We indicate We do not want to know.

NON DISCLOSURE

If You do not comply with Your duty of disclosure, We may reduce or refuse to pay a claim and/or cancel Your Policy.

We may invalidate the Policy from its beginning and not be bound by it if the non-disclosure was fraudulent.

After the Policy is entered into, on-going disclosure obligations can apply. See the Policy for details.

GENERAL DEFINITIONS

Some key words and terms used in this Policy, its Schedules and its endorsements have a special meaning.

Wherever the following words or terms are used in the Policy, they mean what is set out below.

Unless the context requires another meaning, a reference to the singular includes the plural and vice versa.

Claim means any writ or summons or other form of legal or arbitral process issued by a third party served upon You, or any written or oral demand for compensation from a third party received by You.

Costs and Expenses means the costs and expenses incurred by or on behalf of You or Us in the investigation, defence or settlement of any Claim and shall include legal costs and disbursements.

Deductible means the amount stated in the Policy Schedule or such other amount specified in any Extension which shall be payable by You in respect of each and every Claim before We shall make any payment.

Documents means deeds, wills, agreements, maps, plans, books, letters, policies, certificates, forms and documents of any nature whatsoever, whether written, printed or reproduced by any method including computer records and electronic data material but shall not include bearer bonds or coupons, stamps, bank or currency notes or any other negotiable instrument.

Employee means any person employed by You under a contract of service or apprenticeship during or prior to commencement of the Period of Insurance. For the avoidance of doubt, Employee does not include consultants, sub-contractors or agents. For the avoidance, Employee does not include consultants, sub-contractors or agents.

Limit of Indemnity means the limit of Our liability under this Policy and as specified in the Policy Schedule.

Period of Insurance means the period specified in the Policy Schedule.

Policy means this document and the Policy Schedule and any other documents We issue to You which are expressed to form part of the policy terms, which set out the cover We provide for the Period of Insurance. For the sake of clarity, unless otherwise stated, it does not include any prior policy that this is a renewal of or any future policy that is a renewal of this Policy.

Policy Schedule means the schedule attached to and forming part of this Policy.

Premium means the premium specified in the Policy Schedule or in any endorsement to the Policy Schedule.

Professional Business Practice means the business conducted by You, as specified in the Policy Schedule, whereby You pursue Your profession and which is conducted under the name specified as the Insured in the Policy Schedule. If the practice should change its name and there be no other change which materially alters the risk, the business will continue to be deemed to be the "Professional Business Practice".

Proposal means proposal form supplied by or on behalf of the Named Insured (who, in turn, acts or acted as agent to each of You) when applying for this insurance upon which we relied when agreeing to grant this insurance.

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

Subsidiary means any entity which by virtue of any applicable legislation or law is deemed to be a subsidiary of Yours specified in the Policy Schedule; or any entity over which You are in a position to exercise effective direction or control through ownership or control of more than fifty percent (50.00%) of the issued voting shares of such entity.

We, Our, Us means SURA Professional Risks Pty Ltd acting as an agent of certain Underwriters at Lloyd's.

You, Your, Yours, Insured means the person, persons, partnership, company, corporation or other entity specified as the Insured in the Policy Schedule including their predecessors in business; and any person who is or becomes, during the Period of Insurance, a principal, partner, director or Employee of the Insured; and any former principals, partners, directors or Employees of the Insured.

SECTION 1 – INSURING CLAUSES

INSURING CLAUSE A – CIVIL LIABILITY

We agree to indemnify You against legal liability for any Claim for compensation first made against You during the Period of Insurance and which is notified to Us during the Period of Insurance in respect of any civil liability whatsoever and howsoever incurred in the ordinary conduct of the Professional Business Practice.

INSURING CLAUSE B – COSTS AND EXPENSES

We agree to pay Costs and Expenses incurred with Our written consent for Claims covered under this Policy in addition to the Limit of Indemnity.

If a payment in excess of the amount of indemnity available under this Policy is made to dispose of a Claim, Our liability for such Costs and Expenses incurred will be the same proportion as the amount of indemnity available under this Policy bears to the amount paid to dispose of the Claim.

SECTION 2 – POLICY EXTENSIONS

We give the following Extensions automatically within the cover provided under this Policy. Other than as amended, cover provided under these Extensions is otherwise subject to the terms, conditions, exclusions, definitions and Limit of Indemnity applicable to this Policy.

AUTHORISED REPRESENTATIVES INDEMNITY

We will indemnify any current or past Authorised Representative of the Insured against civil liability for compensation and claimants costs and expenses in respect of any Claim first made against the Authorised Representative and notified to Us during the Period of Insurance resulting from the ordinary conduct of the Professional Business Practice on behalf of the Insured but not in respect of any such Claim resulting from any act, error or omission occurring or committed prior to the Retroactive Date.

We will pay Costs and Expenses for such Claims as part of, and not in addition to, the Limit of Indemnity.

However, We shall not be liable in respect of any Claim brought against You or the Insured by an Authorised Representative.

CONSULTANTS, SUB-CONTRACTORS AND AGENTS

We agree to provide indemnity to You only in respect of any Claim made during the Period of Insurance for any civil liability incurred by You due to the activities of any consultant, sub-contractor or agent for whose actions You are legally liable provided always that We retain Our rights of subrogation against such consultant, sub-contractor or agent.

CONTINUOUS COVER PERIOD

In respect of any Claim where You:

- a) first became aware, prior to the Period of Insurance, that a Claim might or could arise from facts or circumstances known to You; and
- b) had not notified Us of such facts or circumstances prior to the Period of Insurance,

the Prior or Pending Matters Exclusion will not apply to any notification to Us during the Period of Insurance of any such Claim, provided that:

- i) We were Your professional liability insurers when You first became aware of such facts and circumstances; and
- ii) We have continued, without interruption, to be Your professional liability insurers up until this Policy came into effect; and
- iii) there has not been any fraudulent non-disclosure or fraudulent misrepresentation by You in respect of such facts or circumstances;

- iv) We have the discretion to apply either the terms and conditions of the Policy in place at the time when You first became aware of the facts and circumstances, including but not limited to the Limit of Indemnity and Deductible, or the terms and conditions of this Policy; and
- v) You agree to only make a Claim(s) under one Professional Indemnity Policy issued by Us.

We reserve the right to reduce Our liability in respect of such Claims by the amount which fairly represents the extent to which Our interests are prejudiced as a result of the late notification.

We agree that indemnity for such Claims will not be denied as a consequence of any non-disclosure on Your part with respect to such Claims.

COSTS OF OFFICIAL INQUIRIES

We agree to indemnify You for the reasonable costs incurred by You with Our written consent of Your legal representation at any inquiry (including any coronial inquiry or any inquiry under the disciplinary rules of a professional association of which You are a member) or other similar process relating to or connected with the affairs of the Professional Business Practice, which You are legally compelled to attend. Provided always that:

- a) the inquiry is ordered or commissioned during the Period of Insurance; and
- b) We shall be entitled to nominate lawyers to represent You; and
- c) You notified Us in writing within the Period of Insurance and within twenty eight (28) days of having received notice of the inquiry; and
- d) Our aggregate liability for all Claims under this Extension shall not exceed AUD100,000. Our liability under this Extension is part of and not in addition to the Limit of Indemnity.

DISHONESTY OF EMPLOYEES

Notwithstanding Exclusion 4.8 of this Policy We will indemnify You for in respect of any Claim first made against You during the Period of Insurance resulting from any dishonest, fraudulent, criminal or malicious act or omission by any Director, Partner, Employee or authorised representative occurring or committed in connection with Your Professional Business Practice.

We will pay Your Costs and Expenses on the basis already set out in this Policy.

We shall not indemnify any person or entity who has perpetrated or condoned any such dishonest, fraudulent, criminal or malicious act or omission.

ESTATES AND LEGAL REPRESENTATIVES

We agree to provide coverage to the estate, heirs, legal representatives or assigns of Yours in the event of Your death or incapacity. Provided always that such persons shall observe and be subject to all the terms of this Policy insofar as they can apply.

EXTERNAL DISPUTES RESOLUTION SCHEME

We will indemnify You against a binding award against You made by an ASIC-approved External Dispute Resolution Scheme in respect of any Claim arising from the conduct of the Professional Business Practice, where the Claim is first made against You and notified to Us during the Period of Insurance, but not in respect of any such Claim resulting from an act, error or omission occurring or committed prior to the Retroactive Date. Provided that:

- a) Our total liability for any one award is part of and not in addition to the Limit of Indemnity and shall not exceed:
 - i) AUD309,000 for investment, fund management, financial planning or life insurance disputes; and
 - ii) AUD166,000 for general insurance broking disputes; and
 - iii) AUD8,300 per month for income stream disputes
- b) We shall not be liable in respect of :
 - i) The cost of membership to the ASIC-approved External Dispute Resolution Scheme or any professional association to which You belong; or
 - ii) The costs of any ASIC-approved External Dispute Resolution Scheme services or facilities or those of any professional association to which You belong; or
 - iii) The costs arising from any dispute between members of such professional association.

For the purposes of this automatic extension only:

- a) The definition of "Claim" in the Policy is deleted and instead means a complaint against You by a third party to an ASIC-approved External Dispute Resolution Scheme; and
- b) All such Claims arising out of, based upon, attributable to or in respect of a single act, error or omission or series of acts, errors or omissions consequent or attributable to one source or original cause shall be considered to be a single Claim and shall attract one Deductible.

FIDELITY

Notwithstanding Exclusion 4.8 (Fraud and Dishonesty) We agree to indemnify You for any loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes in Your care, custody or control which belong to You or for which You are legally responsible, which You sustain as a result of any dishonest or fraudulent act of any of Your Employees and committed in the conduct of Your Professional Business Practice. Provided that:

- a) There is no indemnity for any person committing or condoning the dishonest or fraudulent act;
- b) You first discovered the loss during the Period of Insurance;
- c) You notified Us in writing within the Period of Insurance and within twenty eight (28) days of having reasonable cause for suspicion of a loss or discovery of a loss;
- d) There is no indemnity under this Optional Extension for loss sustained by You as a result of any act committed after the date on which You first discover, or have reasonable cause for suspicion of, dishonesty or fraud on the part of the Employee concerned;
- e) You agree to provide all information and assistance that We request in order to recover from the Employee or the Employee's estate;
- f) Our aggregate liability for all losses under this Optional Extension shall not exceed the Limit of Indemnity for Fidelity specified in the Policy Schedule;
- g) Our liability under this Extension is part of and not in addition to the Limit of Indemnity.

The Deductible applying to this Extension is AUD5,000.

LIFE BROKING ACTIVITIES

Where the Professional Business Practice includes life broking services, any failure on the part of any Insured to comply with the duty of disclosure under the Insurance Contracts Act 1984 shall not prejudice the right of any other Insured to indemnity under this Certificate, provided that such other Insured shall:

- a) Be entirely innocent of and have had no prior knowledge of any such failure; and
- b) As soon as practicable after becoming aware of any such failure, advise Us in writing of all relevant circumstances.

LOSS OF DOCUMENTS

We agree to provide coverage in respect of any Documents (including but not limited to Documents which are Your property) which have been destroyed, damaged, lost or mislaid and, after diligent search, cannot be found. Provided always that:

- a) the discovery of such loss of Documents occurred during the Period of Insurance and was notified in writing to Us within twenty-eight (28) days after the date of such discovery and
- b) such coverage shall be limited to the costs, charges and expenses of whatsoever nature incurred by You in replacing and/or restoring such Documents and
- c) any Claim for such costs, charges and expenses shall be supported by bills and/or accounts which shall be subject to approval by a competent person nominated by Us with Your approval.

Such coverage shall be limited to the loss of any Documents:

- a) which were in the physical custody or control of You or any other person to whom You entrusted, lodged or deposited such Documents in the ordinary course of business and
- b) which occurred within the territorial limits of the Australia or New Zealand.

Our aggregate liability for all losses under this Extension shall not exceed AUD500,000. Our liability under this Extension is part of and not in addition to the Limit of Indemnity.

The Deductible shall be AUD500 each claim.

NEWLY CREATED OR ACQUIRED ENTITY OR SUBSIDIARY

We agree to provide indemnity to any entity or subsidiary acquired or created by You during the Period of Insurance for a period of up to fourteen (14) days (but not beyond the expiry date of the Period of Insurance) from the date of such acquisition or creation.

We may, at Our discretion, agree to continue to cover the entity or subsidiary referred to, subject to the terms and conditions of this Policy beyond a period of fourteen (14) days (but not beyond the expiry date of the Period of Insurance) where:

- a) You have given prior notice to Us of the acquisition or creation of the entity or Subsidiary and have provided all information requested by Us; and

- b) Any terms imposed by Us including the imposition of any additional Premium considered appropriate has been agreed in writing and paid by You.

Any cover provided under this Extension to the entity or Subsidiary referred to above will only apply in respect of Civil Liability arising out of the conduct of the Professional Business Practice which occurs subsequent to the date of acquisition or creation of the entity or subsidiary, unless otherwise agreed to in writing by Us.

OUTGOING PRINCIPALS

We agree to provide coverage in respect of any Claim made during the Period of Insurance against any former principal, partner, director or Employee of Yours for any civil liability incurred on the part of such person in the conduct of the Professional Business Practice.

PREVIOUS BUSINESS

With respect to those principals, partners and directors forming part of the Insured at the inception date of the Period of Insurance, this Policy shall have effect as if after the words "in the conduct of the Professional Business Practice" in Insuring Clause A there were inserted the words "or in the conduct of any business conducted by any of You in Your professional capacity as specified in the Policy Schedule before they joined the Insured".

With respect to any principals, partners and directors who may become part of the Insured at any time during the Period of Insurance, this Policy shall have effect as stated in this Extension upon full information being given to and accepted by Us and any reasonable additional premium required being paid to Us.

SEVERABILITY AND NON-IMPUTATION

In the event that an Insured:

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

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

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

SIS ACT CIVIL PENALTIES AND PENALTIES – COSTS AND EXPENSES COVER

Notwithstanding Exclusion 4.7, Fines and Penalties, Insuring Clause B is specifically extended to include cover for Costs and Expenses incurred with Our written consent in the investigation, defence and settlement of any proceedings commenced against You in the course of Your Professional Business Practice and notified to Us during the Period of Insurance for:

- a) a civil penalty under section 193 of the SIS Act;
- b) a penalty under section 131B of the SIS Act.

This Extension shall not otherwise affect the application of Exclusion 4.7, Fines and Penalties, to any penalties and/or civil penalties imposed on You under the SIS Act.

SIS ACT AND TAS ACT

Insuring Clause A specifically included as part of Your Professional Business Practice:

- a) Claims pursuant to the Superannuation Industry (Supervision) Act 1993 (Cth)(the SIS Act), including Claims:
 - i) for the contravention of Superannuation Entity Covenants;
 - ii) for the recovery of profits, and compensation and loss resulting from the contravention of Superannuation Covenants;
 - iii) for strict liability under the SIS Act;

- iv) commenced under sections 55 and 218 of the SIS Act;

arising from any consulting activity which You are authorised to engage in by reference to Your qualification as a:

- A. SMSF Advisor; or
- B. SMSF Auditor,

as per the Education Standards and Rules & Conditions of the Self-Managed Super Fund Association; and

- b) Claims arising from Your activities as a Registered Tax Agent under the Tax Agent Services Act 2009 (Cth), provided that You are also qualified as either a SMSF Advisor or a SMSF Auditor.

SMSF ASSOCIATION AUDITOR STANDARDS

We agree to indemnify You in the course of Your Professional Business Practice against any Claim first made and notified during the Period of Insurance for any civil liability arising out of any failure by You to conduct an audit in accordance with the auditing standards prescribed by the Corporations Act 2001, Superannuation Industry (Supervision) Act 1993 (SIS Act) and Regulations 1994 (SIS Regulations) and SMSF Association Standards of Professional Conduct; so long as the Auditor is approved under Regulation 1.04 of the Superannuation Industry (Supervision) Regulations 1994 and Schedule 1AAA (or as amended from time to time) and provided that the Claim has not arisen due to any fraudulent, dishonest, reckless or willful act of Yours, Subsidiary, sub-contractor or agent.

SECTION 3 – GENERAL CONDITIONS

These General Conditions apply to all sections of this Policy. There may be additional conditions set out under Section 5 – Claims of this Policy.

ALTERATION TO RISK

You shall give to Us written notice as soon as practicable of any material alteration to the risk during the Period of Insurance including but not limited to:

- a) the Insured going into voluntary bankruptcy, receivership or liquidation or You failing to pay debts or breaching any other obligation giving rise to the appointment of a receiver or bankruptcy or winding-up proceedings;
- b) any material change in the nature of the Professional Business Practice offered by You.

ASSIGNMENT OF INTEREST

No change in or modification of, or assignment of interest under this Policy shall be effective except when made by written endorsement to this Policy and signed and authorised by Us.

CANCELLATION

- a) This Policy may be cancelled at any time at Your request by notifying Us in writing.
- b) We may also cancel this Policy on any grounds subject to the Insurance Contracts Act 1984 (Cth) where We have given You written notice of such cancellation in accordance with the Act.

In the event that You, or We, cancel the Policy, We may deduct a pro rata proportion of the premium for the unexpired Period of Insurance from the date of cancellation, reasonable administrative costs related to the acquisition and termination of the Policy and any government taxes or duties we cannot recover. In the event that you have made a Claim under the Policy and we have agreed to pay the Claim, no return of premium will be made for any unused portion of the premium.

DEDUCTIBLE

In respect of each Claim made against You by a third party the amount of the Deductible shall be borne by You at Your own risk inclusive of all Costs and Expenses incurred in the investigation, defence or settlement of such Claim and We shall be liable to indemnify You only for that part of the Claim which is in excess of the Deductible.

Where We have elected to pay all or part of the Deductible in respect of any Claim, You shall, within seven (7) days from demand, reimburse Us for such payment.

Any Costs and Expenses incurred by Us to determine whether We have a liability to indemnify You under this Policy shall not be subject to the Deductible but shall be borne by Us.

LEGAL ACTION

The coverage provided under this Policy shall extend to any Claim brought in a court of law anywhere in the world except where:

- a) such Claim is brought in a court of law within the territorial limits of the United States of America or Canada or their territories or protectorates; or
- b) such Claim arises out of the enforcement of any judgment, order or award obtained within, or determined pursuant to the laws of the United States of America or Canada or their territories or protectorates.

LIMIT OF INDEMNITY

Our total liability is provided jointly to all parties constituting the Insured and for all purposes the cover under this Policy shall be considered as joint for all parties with a single limit of indemnity as specified in the Policy Schedule unless otherwise stated. The total amount payable by Us under this Policy in respect of or arising out of any one Claim or loss and in the aggregate in respect of all Claims and losses during any one Period of Insurance shall not exceed such Limit of Indemnity.

Subject to the provisions of Insuring Clause B of this Policy, We will pay Costs and Expenses in addition to the Limit of Indemnity.

REINSTATEMENT OF LIMIT OF INDEMNITY

Where reinstatement(s) are specified in the Policy Schedule, We agree that the amount of the reduction in the aggregate Limit of Indemnity stated in the Policy Schedule on account of any payment(s) of any Claim(s), Costs and Expenses, losses(s) or other amounts under this Policy shall be reinstated, without payment of additional premium, provided always that:

- a) the number of reinstatements shall be as stated in the Policy Schedule, and
- b) such reinstatement amount(s) shall apply after exhaustion of the Limit of Indemnity and any applicable insurance(s) in excess of this Policy, and
- c) such reinstatement amount(s) shall apply only in respect of Claims, facts or matters which are totally unrelated and have no common originating cause or source to the Claims, facts or matters giving rise to the payment(s) which caused such reduction.

For the avoidance of doubt, a common originating cause or source shall include but not be limited to the acts or omissions of one or more persons acting together or acts or omissions in which such person(s) is/are concerned or implicated.

TERRITORIAL LIMITATIONS

Unless a different Territorial Limit is shown in the Policy Schedule, the coverage provided under this Policy shall extend to civil liability incurred anywhere in the world except the United States of America and Canada.

SECTION 4 – POLICY EXCLUSIONS

Subject otherwise to the terms, general conditions and exclusions of this Policy We shall not be liable under this Policy to provide indemnity in respect of any loss or any Claim against You:

4.1. APPROVED PRODUCTS

arising directly or indirectly from or in respect of any:

- a) advice by You or Your Authorised Representatives to invest in or use products that are not included on Your Approved Product List at the time (for the avoidance of doubt, this Exclusion shall not apply where the advice related to switching from an existing product that was not included on Your Approved Product List at the time to a product that was included on Your Approved Product List at the time); or
- b) failure to comply with Your own compliance guidelines in approving a product for addition to the Approved Product List.

However, this exclusion shall not apply where You provide advice to a new client to You during the Period of Insurance, to:

- i) switch from a non-approved product to a product on Your Approved Product List where such Claim arises from a loss suffered under the Approved Product; or
- ii) continue to hold an investment in a product not included on Your Approved Product List by reason that it is more beneficial for the client to do so.

For purposes of this exclusion, the term "Approved Product List" means any product which has been approved in writing by You as the licensee by Your investment committee or for which You have written guidelines regarding advice or services.

4.2. ASBESTOS

arising directly or indirectly out of, resulting from or in consequence of or in any way involving asbestos or any materials containing asbestos in whatever form or quantity.

4.3. ASSUMED DUTY OR OBLIGATION

arising directly or indirectly based upon, attributable to, or in consequence of any duty or obligation assumed by You which is not assumed in the normal conduct of Your Professional Business Practice.

4.4. BODILY INJURY AND PROPERTY DAMAGE

arising directly or indirectly based upon, attributable to, or in consequence of:

- a) bodily injury, sickness, disease or death of any person, however this Exclusion shall not apply to mental injury, mental anguish, nervous shock or emotional distress not associated with bodily injury;
- b) physical loss of, damage to, or destruction of, any tangible property (other than documents), including loss of use thereof or any consequential loss.

However this Exclusion does not apply in respect of such liability arising out of the exercise and conduct of the professional business conducted by You in connection with the Professional Business Practice.

4.5. CLAIMS AGAINST THE DIRECTORS

arising directly or indirectly out of, resulting from or in consequence of or in any way involving You in Your capacity as directors of the Insured.

4.6. CLAIMS BELOW DEDUCTIBLE

for an amount not exceeding the Deductible.

4.7. FINES AND PENALTIES

for punitive, aggravated, multiple or exemplary damages, or fines or penalties imposed by law, including but not limited to civil penalties.

4.8. FRAUD AND DISHONESTY

arising directly or indirectly from any malicious, dishonest or fraudulent act or failure to act:

- a) by any of Your current or past partners, directors members or authorised representatives; or
- b) by any Employee (other than those who are or were partners, directors or members) occurring after such time as You had reasonable cause for suspicion that the Employee was engaged in or was contemplating engaging in any malicious, dishonest or fraudulent act or failure to act.

4.9. INFRINGEMENT OF PATENT

arising directly or indirectly out of, resulting from or in consequence of or in any way involving the infringement of patent.

4.10. INSURANCE / FINANCIAL INSTITUTIONS

arising directly or indirectly from or in respect of:

- a) any financial institution, underwriting agency, insurance broker, or any other insurance intermediary becoming or being insolvent; or
- b) any Insured signing any insurance document or proposal form on behalf of any client.

For the purposes of this Exclusion, Financial Institution means: any insurer, bank, building society, deposit taker, fund manager, hedge fund, stockbroker or similar institution.

4.11. INVESTMENT PERFORMANCE EXCLUSION

arising directly or indirectly from or in respect of:

- a) the depreciation of, or any loss in respect of, an investment or the value of an investment, or the failure of an investment or the value of an investment to appreciate, including but not limited to any:
 - i) securities, commodities, currencies, options and futures transactions; or
 - ii) real estate investment, including but not limited to any related return on investment, capital appreciation or tax benefits; or
 - iii) loss of value, surrender value or cancellation value of any leased product or service as a result of fluctuations in value of any leased product or service as a result of fluctuations in the value of such product or service; or
 - iv) profit projections or financial forecasts; or
- b) any actual or alleged representation, forecast or guarantee, whether express or inferred, provided by You or on Your behalf as to the performance of any investment.

Provided that this Exclusion shall not apply in respect of any Claim, liability, compensation, costs of official inquiries, claimant's costs and expenses or insured costs arising from Your failure to arrange a financial product in accordance with the client's instructions.

For the purposes of this Exclusion, the terms "arrange" and "financial product" have the meanings prescribed in Chapter 7 of the Corporations Act 2001 (Cth).

4.12. MARGIN LENDING

arising directly or indirectly from or in respect of any professional services provided in connection with margin lending products, provided that this Exclusion shall not apply to margin lending products operated by Australian Financial Services Licensees, where such services account for less than ten per cent (10%) of Financial Planning Fees and where the Margin Lending loan to value ratio (LVR) is less than fifty one per cent (51%).

4.13. MANAGED DISCRETIONARY FUNDS

arising directly or indirectly from or in respect of any professional services provided in connection with managed discretionary accounts operated by Australian Financial Services Licensees.

4.14. MANUFACTURE AND INSTALLATION

arising directly or indirectly from:

- a) the manufacture, installation, assembly, processing, sale or supply of goods by You or on Your behalf; or
- b) workmanship in manufacture, fabrication, construction, erection, repair, demolition or disassembly by You or on Your behalf; or
- c) the supervision of workmanship by You, except where such supervision has been undertaken under and in accordance with a contract with You for the provision of the Professional Business Practice.

4.15. MEZZANINE FINANCE

arising directly or indirectly from or in respect of:

- a) any mezzanine finance arrangements; or
- b) Westpoint Corporation (ABN 81 009 395 751) and/or its subsidiaries or companies controlled or owned by any executive of Westpoint Corporation (ABN 81 009 395 751) and/or its subsidiaries.

4.16. NUCLEAR

arising directly or indirectly based upon, attributable to, or in consequence of:

- a) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting from or arising therefrom or any consequential loss; or
- b) any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:
 - i) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
 - ii) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

4.17. OCCUPATION / OWNERSHIP

arising directly or indirectly out of, resulting from or in consequence of or in any way involving ownership, occupation or use of land, buildings, vehicles, craft or vessels for use on land, water or in the air.

4.18. OBLIGATION TO EMPLOYEES

arising directly or indirectly based upon, attributable to, or in consequence of bodily injury, mental injury, sickness, disease or death of any Employee of Yours or damage to or destruction of any property of any Employee, including loss of use, arising out of, or in the course of their employment.

4.19. OVER-CHARGING

arising from any allegation of over-charging of any client or for the return, reduction or repayment of any fees paid or payable.

4.20. PRIOR OR PENDING

in respect of or in any way relating to facts or circumstances existing prior to or at inception of this Policy and which You knew or ought reasonably to have known might give rise to a Claim or a request for payment under this insurance, or any matter the subject of any Claim fact or circumstance referred to in the Proposal irrespective of how that reference is expressed, or any Claim or circumstance notified under any other contract of insurance prior to the Period of Insurance irrespective of how the Claim fact or circumstance was notified.

4.21. RELATED OR ASSOCIATED ENTITIES

brought or maintained by or on behalf of:

- a) any Insured or any business owned controlled or managed, directly or indirectly, by any Insured; or
- b) any person or entity that owns, controls or manages, directly or indirectly, any part or the whole of any Insured; or
- c) any person who, at the time of the act, error or omission giving rise to the Claim, is a "Family Member" unless such person is acting without any prior direct or indirect solicitation or co-operation of any Insured.

For the purpose of this Exclusion, "Family Member" means:

- a) any spouse, or domestic partner;
- b) any parent, or parent of the spouse, or domestic partner;
- c) any sibling or child of the Insured who permanently resides with the Insured.

4.22. RETROACTIVE DATE

arising from an act or omission or other cause that occurred, or which is alleged to have occurred, before the Retroactive Date stated in the Policy Schedule.

4.23. TOXIC MOULD

caused by or attributable to:

- a) any Fungus(i), Mould(s), mildew or yeast; or
- b) any Spore(s) or toxins created or produced by or emanating from such Fungus(i), Mould(s), mildew or yeast; or
- c) any substance, vapour, gas or other emission or organic or inorganic body substance produced by or arising out of any Fungus(i), Mould(s), mildew or yeast; or
- d) any material, product, building component, building or structure or any concentration of moisture, water or other liquid within such material, product, building component, building or structure that contains, harbours, nurtures or acts as a medium for any Fungus(i), Mould(s), mildew, yeast or Spore(s) or toxins emanating therefrom:

regardless of any other cause, event, material, product and/or building component that contributed concurrently or in any sequence to that claim, suit, injury, damage, Costs and Expenses.

For the purpose of this Exclusion the following Definitions are added to the Policy:

“Fungus(i)” includes but is not limited to any plants or organisms belonging to the major group Fungi lacking chlorophyll and including moulds, rusts, mildews and mushrooms.

“Mould(s)” includes but is not limited to any superficial growth produced on damp or decaying organic matter or on living organisms and Fungi that produced moulds.

“Spore(s)” means any dormant or reproductive body produced by or arising or emanating out of any Fungus(i), Mould(s), mildew, plants, organisms or micro organisms.

4.24. TRADING DEBTS

arising directly or indirectly based upon, attributable to, or in consequence of any trading debt incurred by You or any guarantee given by You for a debt.

4.25. WAR AND TERRORISM

directly or indirectly caused by, resulting from, or in connection with, any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss or Claim:

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

For the purpose of this Exclusion, an act of terrorism shall mean 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 excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to the above.

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

SECTION 5 – CLAIMS

REPORTING AND NOTICE

You shall give Us written notice as soon as practicable of any Claim made against You. Such written notice is to be given to Us during the Period of Insurance.

Notice of any Claim shall be given in writing to Us, and delivered to:

The Claims Manager
XL Catlin Australia
Level 28, Angel Place, 123 Pitt Street
Sydney NSW 2000
Telephone: +61 (0) 2 8235 5100
Facsimile: +61 (0) 2 8235 5110
Web: liabilityclaims@catlin.com

Any notice so given shall constitute good notice to Us.

CLAIMS MITIGATION AND CO-OPERATION

You shall use due diligence and do and concur in doing all things reasonably practicable to avoid or diminish any liability hereunder.

You shall frankly and honestly disclose to Us all relevant information and, in addition, shall provide such assistance to Us as We may require to enable Us to investigate and to defend any Claim under this Policy and/or to enable Us to determine their liability under this Policy.

Other than Costs and Expenses incurred to enable Us to determine their liability under this Policy, compliance with this Condition shall be at Your own costs, unless otherwise agreed in writing by Us.

DEFENCE AND SETTLEMENT

You agree not to settle any Claim, incur any Costs and Expenses, make any admission, offer or payment or otherwise assume any contractual obligation with respect to any Claim without Our written consent, such consent not to be unreasonably withheld. We shall not be liable for any settlement, Costs and Expenses, admission, offer or payment, or assumed obligation to which we have not consented.

We shall be entitled at any time to conduct, in Your name, the defence or settlement of any Claim. We may, if we believe that any Claim will not exceed the Deductible, instruct You to conduct the defence of the Claim. In such situation, We will reimburse You for all reasonable Costs and Expenses in the defence of the claim in the event that any payment made to dispose of the claim exceeds the Deductible.

INSURED'S RIGHT TO CONTEST

In the event that We recommend settlement in respect of any Claim and You do not agree that such Claim should be settled, then You may elect to contest such Claim. Provided always that Our liability in connection with such Claim shall not exceed the amount for which the claim could have been so settled plus the Costs and Expenses incurred with Our written consent up to the date of such election.

PAYMENT OF LIMIT OF INDEMNITY

We may pay to You an amount equal to the Limit of Indemnity at any time or, if We consider that a claim may be settled for less than the Limit of Indemnity, then We may pay that lesser amount to You. If We make such a payment it will be in full and final settlement of any liability We may have to indemnify You under this Policy. We will then relinquish conduct and control of the Claim and will have no further liability in respect of that Claim. For the avoidance of doubt, We will not be liable for any Costs and Expenses that may be incurred after the date upon which any such payment is made by Us.

SENIOR COUNSEL CLAUSE

We shall not require You to contest any Claim unless a Senior Counsel (to be mutually agreed upon by the You and Us) shall advise that such Claim should be contested.

In formulating such advice, Senior Counsel shall take into consideration the economics of the matter, the damages and costs which are likely to be recovered by the plaintiff, the likely Costs and Expenses and the prospects of You successfully defending the Claim.

The cost of such Senior Counsel's opinion shall be regarded as part of the Costs and Expenses.

SUBROGATION

In the event of any payment under this Policy, We shall be subrogated to the extent of such payment to all Your rights of recovery, and You shall execute all Documents required and shall do everything necessary to secure and preserve such rights, including the execution of Documents necessary to enable Us to effectively bring suit in Your name.

SURA Professional Risks Pty Ltd (ABN 85 168 337 657) acts as an agent for certain Underwriters at Lloyd's and is authorised to arrange, enter into / bind and administer this insurance for them. SURA Professional Risks Pty Ltd is an Authorised Representative of SURA Pty Ltd ABN 36 115 672 350 AFSL 294313

Thank you for receiving this document electronically.

SURA Professional Risks Pty Ltd supports positive initiatives for our environment

SURA PROFESSIONAL RISKS

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NORTH SYDNEY NSW 2059
TELEPHONE. 02 9930 9500

VICTORIA

LEVEL 10/460 BOURKE STREET
MELBOURNE VIC 3000
TELEPHONE. 03 8823 9400
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