

**S U R A** PROFESSIONAL  
RISKS



# Accountants Professional Indemnity

Policy Wording

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# Part 1 – Important Information

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## What You Need to Read and Understand

This document contains:

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

If We issue You with a Policy, You will be given a Policy Schedule. The Policy Schedule sets out certain additional terms applicable to Your Policy and other matters specific to You such as the cover You have been issued and the Policy sums insured and limits of liability.

The Policy Schedule must be read together with this document and any other documents We agree with You will form part of Your Policy that We issue. Where We agree, documents other than this document and the Policy Schedule will form part of the Policy, any such documents will be dated and will include a statement identifying them as part of the Policy.

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

## About SURA Professional Risks

SURA Professional Risks Pty Ltd ABN 85 168 337 657 (SURA Professional Risks) is an Authorised Representative (AR No. 455771) of SURA Pty Ltd (SURA) ABN 36 115 672 350 AFSL 294313.

SURA Professional Risks has an authority from the Insurer to arrange, enter into, bind and administer this insurance (including handling and settling claims) for the Insurer. SURA Professional Risks acts as an agent for the Insurer and not for You.

### Our contact details are:

Level 14, 141 Walker Street  
North Sydney NSW 2060  
Telephone: (02) 9930 9500

## About the Insurers

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

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. Refer to the Several Liability notice for more information on the Underwriter's liability.

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

### Lloyd's contact details are:

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

## Assumed Liability and Waived Rights

If 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 the Policy.

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

## Claims Made and Notified

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

- a) 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
- b) pursuant to section 40 sub-section 3 of the Insurance Contracts Act 1984 (Cth), which states: "where the Insured gave notice in writing to the Insurer of facts that might give rise to a claim against the Insured as soon as was reasonably practicable after the Insured became aware of those facts but before the insurance provided by the contract expired, the Insurer is not relieved of liability under the contract in respect of the claim, when made, by reason only that it was made after the expiration of the Period of Insurance provided by the contract".

When the Policy expires, no new notification can be made on the expired Policy even though the event giving rise to the claim against 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 the 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

If You have any concerns or wish to make a complaint in relation to the Policy, Our services or Your insurance claim, please let Us know and We will attempt to resolve Your concerns in accordance with Our Internal Dispute Resolution procedure. Please contact SURA Professional Risks in the first instance:

Complaints Officer  
**SURA Professional Risks**  
Level 14, 141 Walker Street  
North Sydney NSW 2060  
Telephone: (02) 9930 9500  
Email: [IDR@SURA.com.au](mailto:IDR@SURA.com.au)

We will acknowledge receipt of Your complaint and do Our utmost to resolve the complaint to Your satisfaction within 10 business days.

If We cannot resolve Your complaint to Your satisfaction, We will escalate Your matter to Lloyd's Australia who will determine whether it will be reviewed by their office or the Lloyd's UK Complaints team. Lloyd's contact details are:

**Lloyd's Australia Limited**  
Suite 1603, Level 16, 1 Macquarie Place  
Sydney NSW 2000  
Telephone: (02) 8298 0783  
Email: [ldraustralia@lloyds.com](mailto:ldraustralia@lloyds.com)

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

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

**Australian Financial Complaints Authority**  
GPO Box 3  
Melbourne VIC 3001  
Telephone: 1800 931 678  
Email: [info@afca.org.au](mailto:info@afca.org.au)  
Website: [www.afca.org.au](http://www.afca.org.au)

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

The Insurers accepting this insurance agree that:

- a) if a dispute arises under the Policy, the Policy will be subject to Australian law and practice and the Insurers will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
- b) any summons notice or process to be served upon the Insurers may be served upon:  
  
Lloyd's Underwriters' General Representative in Australia  
Suite 1603, Level 16, 1 Macquarie Place  
Sydney NSW 2000  
  
who has authority to accept service on the Insurers' behalf;
- c) if a suit is instituted against any of the Insurers, all Insurers participating in the Policy will abide by the final decision of such Court or any competent Appellate Court.

In the event of a claim arising under the Policy immediate notice should be given to SURA Professional Risks.

### Deductible

If You make a claim under the Policy, You will be required to bear one or more Deductible(s). The descriptions of the Deductible(s) and the circumstances in which they are applied are explained in this document, the Policy Schedule and other documents forming the Policy.

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

A reference to "We", "Our" and "Us" in this provision is to the Insurer and a reference to "You" and "Your" any person insured by the Policy.

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

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

- a) when You apply for cover (this includes new business, variations and renewals) and You do not comply with Your obligations regarding pre contractual disclosures and representations to Us under the Insurance Contracts Act 1984 (Cth) (including where applicable the Duty of Disclosure – see Duty of Disclosure Notice); or

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

The amount of any claim entitlement can also be affected and/or reduced by any limits (including any time limits) or Deductible(s) that apply and recoveries You or We might make relevant to a loss. The Policy sets out the relevant limits and Deductible(s) and when they apply to a claim.

#### **If You do not comply with or meet any Policy term**

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

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

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

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

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

- Where:
  - the act was necessary to protect the safety of a person or to preserve property;
  - it was not reasonably possible for You or the other person not to do the act; or
  - You prove no part of the loss that gave rise to the claim was caused by the act,

We will not refuse to pay or reduce the claim by reason only of that act.

- Where the act:
  - could not reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy; or
  - could reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy but You prove that some part of the loss that gave rise to the claim was not caused by the act, We may not refuse to pay the claim, so far as it concerns that part of the loss but, We can reduce Our liability in respect of the claim by an amount that fairly represents the extent to which Our interests were prejudiced as a result of that act.
- Otherwise, where the act could reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy, We may refuse to pay the claim.

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

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

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

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

#### **Fraudulent claims**

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

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

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

## Duty of Utmost Good Faith

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

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

## Terms Apply to Extent Enforceable

A term of the Policy will be applied to the extent it is not unenforceable under relevant law.

## Goods and Services Tax (GST)

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

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

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

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

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

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

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

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

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

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

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

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

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

## Sanctions

We shall not provide cover and We shall not be liable to pay any claim or provide any benefit under the Policy to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose Us, Our parent company or Our ultimate controlling entity to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, the Commonwealth of Australia, United Kingdom, New Zealand or the United States of America.

## Several Liability

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

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

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

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

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

A member is liable only for that member's proportion.

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

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

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



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## Your Duty of Disclosure

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

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

You do not need to tell Us anything that:

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

### **If You do not tell Us something**

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

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

## Part 2 – Policy Cover Sections

### General Definitions

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

**Claim** means:

- a) a civil proceeding commenced against You; or
- b) a written or verbal demand for compensation by a third party against You.

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

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

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

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

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

**Deductible** means the relevant deductible amount(s) stated in this document, 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.

The Deductible does not apply to Costs and Expenses.

**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, but shall not include bearer bonds or coupons, stamps, bank or currency notes or any other negotiable instrument; or Data.

**Employee** means any person employed by You under a contract of service or apprenticeship during or prior to commencement of the Period of Insurance and includes any trainee, volunteer and casual, part time, seasonal temporary and work experience personnel who was, at the time of the act giving rise to the claim was under Your direct control and supervision in the provision of Professional Business Practice.

Employee does not include consultants, sub-contractors or agents, unless as specified by Endorsement.

**Limit of Indemnity** means the relevant amount (s) specified as the Limit of Indemnity (including any sub limits of liability) in this document, the Policy Schedule or other document forming part of the Policy.

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

**Policy** means this document (except to the extent part of it is expressly excluded), the Policy Schedule and any other documents We agree with You will form part of Your Policy that We issue. Together they form Your contract with Us. These are all important documents and should be carefully read together and kept in a safe place for future reference.

**Policy Schedule** means the relevant document of that name and its attachments issued to You by Us.

**Premium** means the premium specified in the Policy Schedule or the tax invoice or in any other documents We agree with You will form part of Your Policy that We issue.

**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 the proposal form and any other documentation supplied by or on behalf of the 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.

**Public Relation Expenses** means the reasonable costs, charges, fees and expenses of a public relations firm or consultant engaged to prevent or limit the adverse effect of negative publicity following a covered Claim.

**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.

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**Subsidiary** means any entity which by virtue of any applicable legislation or law is deemed to be a subsidiary of Yours that is also 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, Insurer, Underwriter** means certain Underwriters at Lloyd's (each for their respective rights and interests – Refer to the Several Liability notice for more information on the Underwriter's liability) acting through their agent SURA Professional Risks Pty Ltd.

**You, Your, Yours, Insured** means:

- a) the Insured Name specified in the Policy Schedule;
- b) the person, persons, partnership, company, corporation or other entity specified as the Insured in the Policy Schedule;
- c) the predecessors in business of those in a) and b); and
- d) any person who is or becomes, during the Period of Insurance, a principal, partner, director or Employee of those in a), b) or c) while acting within the scope of his/her duties as such; and
- e) any former principals, partners, directors or Employees of those in a), b) or c) while acting within the scope of his/her duties as such.

## Section 1 – The Cover

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### 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 incurred resulting from any breach of professional duty in the conduct of the Professional Business Practice, but not in respect of any such Claim resulting from any act, error or omission occurring or committed prior to the Retroactive Date.

The above is subject to the other applicable terms and conditions (including any relevant Limit of Indemnity and Deductible explained below and exclusions) of the Policy.

### Insuring Clause B – Costs and Expenses

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

The above is subject to the other applicable terms and conditions (including exclusions and any Deductible) of the Policy.

## Section 2 – Limit And Deductible

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### Deductible

You are liable for and must bear the amount of the applicable Deductible for each Claim exclusive of all Costs and Expenses incurred in the investigation, defence or settlement of such Claim.

We shall be liable to indemnify You only for that part of the Claim which is in excess of the Deductible.

If You have not paid or borne the Deductible We will reduce any amount We are obliged to pay under the Policy by the amount of the Deductible.

We will not indemnify You where the amount of the Claim is less than the amount of the Deductible. In such a case You will be liable for and must bear all loss or liability and costs and expenses associated with the Claim.

In respect of all Claims arising from the same act or interrelated acts, errors or omissions shall jointly constitute a single act, error or omission under the Policy and only one Deductible will apply. If more than one Deductible applies in relation to a Claim, the highest of the applicable Deductibles will be applied to the Claim.

Any Costs and Expenses incurred by Us to determine whether We have any liability to insure You under the Policy shall not be subject to the Deductible.

### Limit of Indemnity

The total amount payable by Us under the Policy for any one Claim during any one Period of Insurance shall not exceed the applicable Limit of Indemnity specified in the Policy Schedule.

The total aggregate amount payable by Us under the Policy for all Claims and losses for all parties constituting You during any one Period of Insurance shall not exceed the total aggregate amount of the Limit of Indemnity and any reinstatements where specified in the Policy Schedule.

### Multiple Claims Limit of Indemnity

All Claims arising from the same act or interrelated acts errors or omissions shall jointly constitute a single act, error or omission under the Policy or a series of Claims arising from the same or interrelated acts, errors or omission, shall constitute a single Claim and only one Limit of Indemnity will be payable in the aggregate for all such Claims.

### Reinstatement of Limit of Indemnity

Unless stated otherwise in the Policy Schedule, the Policy contains one (1) reinstatement.

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 the Policy shall be reinstated, without payment of additional Premium. The following conditions apply:

- 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 the 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, and
- d) the maximum amount payable under the Policy in the aggregate for all Claims, Costs and Expenses, losses and other amounts within the Period of Insurance is limited to the total Limit of Indemnity stated in the Policy Schedule including any additional reinstatements that are provided under the Policy.

## Section 3 – Policy Extensions

The following are subject to the other applicable terms and conditions (including any relevant Limit of Indemnity explained below, Deductible and exclusions) of the Policy except to the extent expressly stated otherwise.

### Attendance Expenses

If You or any Employee are required to attend any court or other judicial tribunal in connection with a Claim covered under Insuring Clause A of the Policy, We shall pay You compensation at the following rates:

- AUD 500 per day for any current partner, principal, member or director of Your firm
- AUD 250 per day for any other current Employee.

The sub-limit for attendance expenses is AUD 250,000 in the aggregate for all Claims and not in addition to the Limit of Indemnity. No Deductible is payable in respect to this extension.

### Australian Auditing Standards

We agree to cover You against any Claim first made against You and notified to Us 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 (or as amended from time to time), provided that:

- a) the Claim has not arisen due to any fraudulent, dishonest, reckless or wilful act of Yours, a Subsidiary, sub-contractor or agent; and
- b) the Claim does not result from any act, error or omission occurring or committed prior to the Retroactive Date.

### Consultants, Sub-Contractors and Agents

We agree to extend the indemnity provided under Insuring Clause A in respect of any civil liability incurred by You due to the activities of any consultant, subcontractor or agent in respect of the conduct of the Professional Business Practice for whose actions You are legally liable, but not in respect of any such Claim resulting from any act, error or omission occurring or committed prior to the Retroactive Date. Otherwise, the other terms of Insuring Clause A indemnity will apply.

### 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.

For the purpose of this Extension 'We, Our, Us' means SURA Professional Risks acting as agents of certain Underwriters at Lloyd's or any other insurer's.

### 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 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) Our aggregate liability for all Claims under this extension shall not exceed AUD250,000. Our liability under this extension is part of and not in addition to the Limit of Liability.

The Deductible for this coverage is AUD 5,000 per inquiry.

## Defamation

We agree to provide indemnity under Insuring Clause A in respect of any Claim first made against You during the Period of Insurance for any civil liability incurred by You resulting from any unintentional defamation committed by You in connection with Your Professional Business, but not in respect of any such Claim resulting from any act, error or omission occurring or committed prior to the Retroactive Date.

## Dishonesty of Employees

We agree to provide indemnity under Insuring Clause A in respect of any Claim first made against You during the Period of Insurance for any civil liability for compensation and claimant's costs and expenses resulting from any dishonest, fraudulent, criminal or malicious act or omission by any Employee, Authorised Representative, Credit Representative or principal directly occurring or committed in Your Professional Business Practice, but not in respect of any such Claim resulting from any act, error or omission occurring or committed prior to the Retroactive Date.

Nothing in this extension shall require Us to indemnify any Employee, Authorised Representative, Credit Representative or principal who has perpetrated any such dishonest, fraudulent, criminal or malicious act or omission.

## Estates and Legal Representatives

In the event of Your death or incapacity, to the extent permitted by law, Your estate, heirs, legal representatives or assigns will be entitled to the benefit of any indemnity We would provide to You under the Policy. This does not give such persons any indemnity in their own right as a separate Insured under the Policy.

## Fidelity

We agree to indemnify You for any Fidelity Loss.

Provided always that:

- a) there is no indemnity for any person committing or condoning the dishonest or fraudulent act;
- b) You first discovered the Fidelity Loss during the Period of Insurance;
- c) You notified Us in writing within the Period of Insurance or as soon as practicable upon the discovery of a Fidelity Loss;

- d) there is no indemnity under this extension for Fidelity Loss sustained by You as a result of any act committed after the date on which You first discover dishonesty or fraud on the part of the Employee concerned;
- e) You agree to provide all relevant information and assistance that We request in order to recover from the Employee or the Employee's estate;
- f) Our aggregate liability for all Fidelity Losses claimed under this extension shall not exceed the Limit of Liability for fidelity specified in the Policy Schedule;
- g) Our liability under this extension is part of and not in addition to any other Limit of Liability.

The Deductible applying to this extension is AUD5,000 for each and every separate fraudulent act committed by an Employee.

For the purposes of this extension, Fidelity Loss means 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 each and every separate dishonest or fraudulent act of any of Your Employees which was committed in the conduct of Your Professional Business Practice.

## Joint Venture Liability

We agree to indemnify You in respect of any Claim or Claims first made against You and notified to Us during the Period of Cover resulting from Your participation in any joint venture in connection with the Professional Business Practice.

Provided always that:

- a) the indemnity given shall only relate to Your role in the joint venture; and
- b) any new joint ventures entered into during the Period of Insurance are notified to Us as soon as reasonable practicable.

If We are notified of a new joint venture entered into during the Period of Insurance We may agree or decline to continue to provide indemnity for this joint venture. If We agree We may charge You an additional Premium for the joint venture. If We don't agree (such agreement not to be unreasonably withheld) We may cancel the policy.

No other participant in the joint venture, and no other third party, shall have any rights under the Policy and We shall have no liability to pay a contribution to any other insurer of any other participant in the joint venture.

### Loss Mitigation Expenses Cover

We agree to indemnify You for costs or expenses You incur with Our prior written consent:

- a) to avoid a Claim being made against You; or
- b) to wholly or partially reduce any loss or liability for which You might be liable in relation to a Claim, or a circumstance that might develop into a Claim.

This coverage is limited to AUD100,000 and any payment made forms part of the Limit of Indemnity as shown in the Policy Schedule.

Costs and expenses under this coverage shall not include any element of profit or loss of profit, nor any element of overheads, staff salaries, standing idle time or management time of You.

### Loss of Documents

We agree to provide coverage in respect of loss of any Documents which have been destroyed, damaged, lost or mislaid and, after diligent search, cannot be found provided 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 or as soon as is reasonably practicable after discovery; and
- b) coverage shall be limited to the costs, charges and expenses reasonably and necessarily incurred by You in replacing and/or restoring such Documents.
- c) any Claim for such costs, charges and expenses must be supported by bills and/or accounts which shall be subject to approval by a competent person nominated by Us with Your approval.

Coverage shall be limited to the loss of any Documents:

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

The limit for this coverage is AUD500,000 and is a part of and not in addition to the Limit of Indemnity as shown in the Policy Schedule.

The Deductible applying to this coverage is AUD1,000 per 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 28 days (but not beyond the expiry date of the Period of Insurance) from the date of such acquisition or creation.

Any indemnity 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.

You can apply to vary the Policy to provide indemnity beyond the above automatic indemnity subject to Our agreement and You agreeing to the terms of the variation, including any additional premium We may require.

### Outgoing Principals

We agree to cover You for 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.

### Public Relations Expenses

We agree to cover You for all necessary Public Relations Expenses incurred by You with Our prior written consent, to retain Public Relations Consultants in order to prevent or minimise damage to Your reputation in consequence of a covered Claim.

The limit for this coverage is AUD100,000 and is a part of and not in addition to the Limit of Indemnity as shown in the Policy Schedule.

The Deductible applying to this coverage is as shown on the Policy Schedule for Costs and Expenses.

### Rights of Other Insureds

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 the Policy inception, or
- c) failed to comply with any terms or conditions of the Policy;



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

- 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

Insuring Clause B is extended to include cover for Your 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 Superannuation Industry (Supervision) Act 1993 (Cth);
- b) a penalty under section 131B of the Superannuation Industry (Supervision) Act 1993 (Cth).

This extension shall not apply in the event that:

- i) Your conduct (as described in Section 131B of the Superannuation Industry (Supervision) Act 1993 (Cth), or section 193 of the Superannuation Industry (Supervision) Act 1993 (Cth)), in the course of Your Professional Business practice, which is the source of any such proceedings took place prior to the Retroactive Date; or
- ii) the advice or services provided by You, in the course of Your Professional Business practice, which are the source of any such proceedings were provided prior to the Retroactive Date.

### SIS Act and Tas Act

Insuring Clause A is extended to include:

- a) Claims pursuant to the Superannuation Industry (Supervision) Act 1993 (Cth), including Claims resulting from:
  - i. the contravention of superannuation entity covenants;
  - ii. the recovery of profits, and compensation and loss resulting from the contravention of superannuation covenants;
  - iii. strict liability under the Superannuation Industry (Supervision) Act 1993 (Cth);
  - iv. any consulting activity which You are authorised to engage in by reference to Your qualification as an advisor on self managed super funds or an auditor of self managed super funds commenced under Sections 55 and 218 of the Superannuation Industry (Supervision) Act 1993 (Cth).
- b) Claims arising from Your activities as a registered tax agent under the Tax Agent Services Act 2009 (Cth).

No cover is provided under this extension for any Claims arising from Section 131B or Section 193 of the Superannuation Industry (Supervision) Act 1993 (Cth).

### SMSF Auditor Standards

We agree to cover You in the course of Your Professional Business Practice against any Claim first made and notified to Us 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).

It is a condition of the Policy that:

- a) 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
- b) the Claim has not arisen due to any fraudulent, dishonest, reckless or wilful act of Yours, Subsidiary, sub-contractor or agent.

## Section 4 – Optional Extensions

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This extension only applies if specified as applicable in the Policy Schedule.

### **Previous Business**

With respect only to indemnity provided under the Policy for those principals, partners and directors forming part of the Insured at the inception date of the Period of Insurance, the 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 carried on by You in Your professional capacity as specified in the Policy Schedule before You joined the Insured”.

## Section 5 – General Conditions

These General Conditions apply to all sections of the Policy.

### Alteration to Risk

You must tell Us as soon as reasonably possible if circumstances occur, or if changes or alterations are intended or made which change the risk of loss, damage or liability covered under the Policy. Some matters You need to notify Us of are expressly specified in the Policy.

Examples of things that may affect the risk You need to notify Us of include but are 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 change in the nature or scope of Your Professional Business Practice.

Except to the extent the Policy expressly provides otherwise, where the change:

- reduces the risk We insure You for We may (if applicable) provide the Insured with a refund of a portion of the premium where the change affects the premium payable; or
- increases the risk We insure You for We may either:
  - refuse to accept the change;
  - agree to the change in writing subject to terms acceptable to Us, provided that You pay or agree to pay Us any additional premium We may require;
  - cancel the Policy; or
  - choose not to renew the Policy.

### Assignment of Interest

No change in or modification of, or assignment of interest under the Policy shall be effective except when made by written endorsement to the Policy and signed and authorised by Us. We will not unreasonably withhold Our permission.

### Cancellation

You may cancel the Policy at any time by giving Us notice in writing in which case We will retain the pro-rata premium for the time the Policy has been in force.

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

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

When We cancel the Policy it will have effect from whichever of the following times is the earliest:

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

When We cancel the Policy We will repay a rateable proportion of the premium for the unexpired Period of Insurance from the date of cancellation less any non-refundable Government charges or levies.

### Reporting and Notice

You or Your authorised representative shall give Us written notice as soon as reasonably practicable of any Claim made against You. Notice of any Claim shall be given in writing to Us, and delivered to:

Email: [piclaims@sura.com.au](mailto:piclaims@sura.com.au)

### SURA Professional Risks

Level 14  
141 Walker Street  
North Sydney NSW 2059

## Claims Mitigation and Co-Operation

You must:

- a) take all reasonable steps to avoid or diminish any liability;
- b) disclose to Us all relevant information You reasonably believe is relevant to the Claim;
- c) provide any assistance to Us that We may reasonably require to investigate and defend any Claim or determine Our liability under the Policy.

## Defence and Settlement of Claims

We shall be entitled at any time to conduct, in Your name, the defence or settlement of any Claim.

We shall not require You to contest any Claim unless a Senior Counsel (to be mutually agreed upon by You and Us) shall advise that such Claim should be contested. The cost of such Senior Counsel's opinion shall be regarded as part of the Costs and Expenses.

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.

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:

- a) not be liable to pay any further amounts in respect of that Claim;
- b) not be liable for any Costs and Expenses that may be incurred after the date upon which any such payment is made by Us;
- c) relinquish conduct and control of the Claim and will have no further liability in respect of that Claim.

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 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 Costs and Expenses in the defence of the Claim in the event that any payment made to dispose of the Claim exceeds the Deductible.

## Subrogation

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

You must give Us all information and assistance We may reasonably require by:

- a) providing all documents required and
- b) doing everything necessary to secure and preserve such rights of recovery,

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

You must not knowingly enter into any arrangement or compromise or do any act where any rights or remedies would prevent Us from defending any Claim or prevent Us from making any recovery from other parties.

## Other Insurance

To the extent permitted by the Insurance Contracts Act 1984 (Cth), the Policy will only cover loss to the extent that the amount of such loss is in excess of any indemnity or cover available to the Insured in respect of that loss under the other insurance policy/policies.

## Allocation

We will only be liable to pay loss, Costs and Expenses and any other sum(s) payable under the Policy resulting from a covered Claim. In the event the Policy confers a partial entitlement to cover, We and You agree to use Our best endeavours to agree upon a reasonable allocation of the loss, Costs and Expenses, or any other sum(s) payable under the Policy.

In the event that an agreement cannot be reached the expert opinion of a Senior Counsel shall be sought to determine a reasonable allocation of loss, Costs and Expenses, or any other sum(s) payable under the Policy.

Senior Counsel engaged in accordance with this clause shall be subject to agreement between Us and You. In the absence of an agreement, Senior Counsel shall be appointed by the current President of the Law Society in the State or Territory in which the Policy is issued.

Until such a determination has been made, We may, at Our absolute discretion, indemnify You under the Policy to the extent We consider reasonable. Senior Counsel shall not be engaged in the capacity as an arbitrator and the cost of such engagement shall be borne equally by Us and You and shall not erode the Limit of Liability.

## Section 6 – Policy Exclusions

We will not provide indemnity in respect of any loss, liability, costs or expenses or any Claim against You:

### 6.1 Asbestos

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

### 6.2 Assumed Duty or Obligation

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

- a) any contractual warranty, indemnity, limitation of liability, guarantee, undertaking, penalty clause or liquidated damages clause unless the liability would have existed in the absence of such warranty, guarantee, undertaking or clauses;
- b) any contractual liability or other obligation assumed by You which is not assumed in the normal conduct of Your Professional Business Practice.

### 6.3 Biological or Chemical Materials

arising directly or indirectly caused by, resulting from or in connection with the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence.

### 6.4 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 director of the Insured or as trustee of any trust or pension fund.

### 6.5 Claims Below Deductible

for any amount not exceeding the Deductible.

### 6.6 Cyber and Data

arising from or in respect of:

- a) any loss, damage, liability, claim, costs, expense, fines, penalties, mitigation costs or any other amount directly caused by, directly resulting from or directly arising out of:
  - i. a Cyber Act; or
  - ii. any partial or total unavailability or failure of any Computer System;

provided the Computer System is owned or controlled by the insured or any other party acting on behalf of You in either case; or

- iii. the receipt or transmission of malware, malicious code or similar by the insured or any other party acting on behalf of You.
- b) any loss, damage, liability, claim, costs, expense, fines, penalties, mitigation costs or any other amount directly or indirectly caused by, directly or indirectly resulting from or directly or indirectly arising out of any failure or interruption of service provided:
  - i. to You or any other party acting on behalf of the insured by an internet service provider, telecommunications provider or cloud provider but not including the hosting of hardware and software owned by You;
  - ii. by any utility provider, but only where such failure or interruption of service impacts a Computer System owned or controlled by You or any other party acting on behalf of You.
- c) any loss, damage, liability, claim, costs, expense, fines, penalties, mitigation costs or any other amount for actual or alleged breach of Data Protection Law by You or any other party acting on behalf of You.
- d) any cover provided under the Loss of Documents extension shall not apply to Data.

### 6.7 Dishonest, Fraudulent or Criminal Acts

arising directly or indirectly from, or in respect of, any:

- a) dishonest, fraudulent, criminal or malicious act or omission by You;
- b) intentional or wilful breach of any statute, contract or duty by You; or
- c) conduct with a reckless disregard for the consequences by You,

except to the extent cover is provided under the Dishonest of Employees extension of cover on page 15 or the Fidelity extension of cover on page 15.

### 6.8 Financial Planning and Advice Exclusion

arising directly or indirectly related to, based upon, attributable to or in consequence of any Financial Product Advice or any written financial plan.

For the purposes of this exclusion Financial Product Advice means: a recommendation or statement of opinion, or a report of either of those things that is intended to influence a person or persons in making a decision (or could reasonably be regarded as being intended to have such an influence) in relation to:

- a) a particular financial product or class of financial products as defined by the Financial Services Reform Act or Corporations Law; or
- b) an interest in a particular financial product or class of financial products as defined by the Financial Services Reform Act or Corporations Law; or
- c) any activity that would require the authority of an Australian Financial Services License.

## 6.9 Fines and Penalties

for punitive, aggravated, multiple or exemplary damages, or fines or penalties imposed by law, including but not limited to civil penalties except to the extent cover is provided under the SIS Act Civil Penalties and Penalties Costs and Expenses Cover extension on page 17.

## 6.10 Infringement of Patent

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

## 6.11 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.

## 6.12 Nuclear

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

- a) loss or destruction of or damage to any property or loss or expense resulting from or arising therefrom
- b) any consequential loss;
- c) any legal liability,

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.

## 6.13 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.

## 6.14 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.

## 6.15 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.

## 6.16 Pollution

caused by or attributable to:

- a) any release, discharge, treatment or involvement with any pollutant material of any type including gas, vapour, fumes, liquids, chemicals, dust or smoke;
- b) any waste materials, irritants, pollutants or contaminants placed onto or contained in any property including buildings and land; and
- c) any waste materials irritants, pollutants or contaminants discharged into the atmosphere or into waterways or any water system or body of water.

## 6.17 Prior or Pending Matters

where You were aware of any Claim or any circumstances that might give rise to a Claim prior to or at inception of the Policy.

## 6.18 Related or Associated Entities

brought or maintained by or on behalf of:

- a) You or any business owned controlled or managed, directly or indirectly, by You; 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 You.

## 6.19 Retroactive Date

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

## 6.20 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.

## 6.21 USA and CANADA

arising from:

- a) any Civil liability incurred in the United States of America or Canada.
- b) any Claim brought in a court of law within the territorial limits of the United States of America or Canada or their territories or protectorates; or
- c) any Claim arising 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.

## 6.22 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, liability, costs or expenses 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.

**NSW**

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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 on their behalf.

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