

Your Association Civil Liability Policy Schedule



THIS IS TO CERTIFY that in accordance with the authorisation granted to the undersigned (“The Service Company Coverholder”) by Arch Underwriting at Lloyd’s – Syndicate 2012 (“The Underwriter”) and in consideration of the premium specified herein, the said Underwriter is hereby bound, to insure in accordance with the terms and conditions contained herein or endorsed hereon and the wording attached to this Certificate.

In the event of loss, each Underwriter (and their executors and administrators) is only liable for their own share of the loss according to the proportion set against its name in the Schedule.

In accepting this insurance, the Underwriters have relied on the information and statements that you have provided on the Proposal Form (or Declaration) the date of which is stated in the Schedule. You should read this Certificate carefully and if it is not correct contact the Service Company Coverholder. It is an important document and you should keep it in a safe place with all other papers relating to this insurance.

POLICY NUMBER:	500000/27/2019/0808
POLICY HOLDER:	Softball Australia
PRINCIPAL ADDRESS:	Level 1, Suite 2 273 Wellington Street COLLINGWOOD VIC 3066
PROFESSIONAL BUSINESS:	Sporting Association providing administration, co-ordination and promotion for the game of Softball in Australia.
PERIOD OF INSURANCE:	01 October 2019 to 01 October 2020 at 4PM
MAXIMUM LIMIT OF INDEMNITY:	\$5,000,000 any one claim and in the aggregate

COVER FOR INSURED PERSONS

In respect of all Claims or Loss under Insuring Clauses:		Aggregate limit of Indemnity	Retention
Insuring Clause 1	Professional Indemnity	\$5,000,000	\$2,500
Insuring Clause 2	Office Bearers	\$5,000,000	Nil
Insuring Clause 3	Outside Directorships	\$1,000,000	Nil
Insuring Clause 4	Statutory Liability	\$250,000	Nil
Insuring Clause 5	Free Legal Assistance	2 Hours	Nil
Insuring Clause 6	Emergency Defence Costs	10% of Limit of Indemnity for Insuring Clause 1	Nil
Insuring Clause 7	Occupational Health & Safety Defence Costs	\$100,000	Nil
Insuring Clause 8	Pre-Investigation Costs	\$100,000	Nil
Insuring Clause 9	Cyber Privacy and Confidentiality Costs	\$50,000	Nil
Insuring Clause 10	Advancement of Defence Costs or Legal Representation Expenses	10% of Limit of Indemnity for Insuring Clause 1	Nil
Insuring Clause 11	Tax Investigation Expenses Incurred by Office Bearers	\$50,000	Nil
Insuring Clause 12	Trade Practices and Related Legislation	\$75,000	Nil
Insuring Clause 13	Loss of Documents	\$250,000	Nil

Insuring Clause 14	Libel and Slander	\$1,000,000	Nil
Insuring Clause 15	Intellectual Property Rights	\$100,000	Nil

COVER FOR THE ASSOCIATION

In respect of all Claims or Loss under Insuring Clauses:		Aggregate Limit of Indemnity	Retention
Insuring Clause 16	Professional Indemnity	\$5,000,000	\$2,500
Insuring Clause 17	Association Liability	\$5,000,000	\$2,500
Insuring Clause 18	Association Reimbursement	\$5,000,000	\$2,500
Insuring Clause 19	Employment Practices Claims	\$1,000,000	\$5,000
Insuring Clause 20	Statutory Liability	\$250,000	\$5,000
Insuring Clause 21	Crisis Management Costs	\$50,000	Nil
Insuring Clause 22	Disruption Expenses for hearings and inquiries	\$50,000	Nil
Insuring Clause 23	Cyber Privacy and Confidentiality Costs (third party)	\$50,000	\$2,500
Insuring Clause 24	Emergency Defence Costs	10% of Limit of Indemnity for Insuring Clause 17	Nil
Insuring Clause 25	Breach of Contract Defence Costs	\$50,000	\$2,500
Insuring Clause 26	Identity Fraud Costs	\$50,000	\$2,500
Insuring Clause 27	Tax Investigation Expenses Incurred by the Association	\$50,000	\$2,500
Insuring Clause 28	Pollution Defence Costs	\$50,000	\$2,500
Insuring Clause 29	Trade Practices and Related Legislation	\$50,000	\$2,500
Insuring Clause 30	Loss of Documents	\$250,000	\$2,500
Insuring Clause 31	Libel and Slander	\$5,000,000	\$2,500
Insuring Clause 32	Intellectual Property Rights	\$100,000	\$2,500

OPTIONAL COVER FOR THE ASSOCIATION

In respect of all Claims or Loss under Insuring Clauses:		Aggregate Limit of Indemnity	Retention
Insuring Clause 33	Crime	\$100,000	\$10,000
Insuring Clause 34	Legal fees, costs and expenses	\$50,000	\$5,000
Insuring Clause 35	Specialist Investigative Fees	\$50,000	\$5,000

OTHER EXTENSIONS

Insuring Clause 36	Discovery Period Options	Included
Insuring Clause 37	Retirement Cover Discovery Period Option	Not Included
Insuring Clause 38	Run-off	Not Included

RETROACTIVE DATE: Unlimited excluding known claims and circumstances

PRIOR OR PENDING LITIGATION DATE: 01 October 2019

POLICY DOCUMENT: ARCH Associations Civil Liability (March 16)

OUTSIDE ENTITIES: None noted

ENDORSEMENTS
 Insolvency Exclusion
 Segregation of Duties Exclusion
 Molestation Exclusion

ENDORSEMENTS

Insolvency Exclusion

We will not be liable under this Policy for Loss arising out of any Claim against an Insured, or the Association, or for Defence Costs based upon, arising from, or in consequence of Financial Impairment.

Definition of Financial Impairment:

Financial Impairment means the status of the company resulting from:

- (a) the appointment by any governmental, provincial, federal or state official, agency or court of any receiver, conservator, liquidator, trustee, administrator, deed administrator, statutory manager or similar official to take control of, supervise, manage or liquidate the company;
- (b) the appointment by or on behalf of the company of administrators; or
- (c) the company being placed into receivership or liquidation.

Segregation of Duties Endorsement

We will not be liable under this Policy for Loss arising out of any Claim against an Insured, or the Association, or for Defence Costs based upon, arising from, or in consequence of

- (i) the Insured failing to ensure that at least two officers sign any cheques, Negotiable Instruments or funds transfer instructions.
- (ii) the Insured failing to ensure that at least two Employees authorise any refund of money or return of goods.
- (iii) the Company's bank accounts being reconciled by any person who has authority to operate those bank accounts.
- (iv) the Insured failing to ensure that at least two Employees take the responsibility for the ordering, receiving, recording & stocktaking of goods.

MOLESTATION EXCLUSION

It is hereby declared and agreed that notwithstanding anything to the contrary stipulated in the Policy or endorsed thereon, the Policy is amended as follows:

The Insurer shall not be liable under this Policy for any claim or loss arising directly or indirectly from, or in connection with any child molestation or any kind of abuse of people under the care of the Insured and its members.

In all other respects the Policy remains unaltered.

The amount of Premium specified herein is the amount due to the Underwriters.

In the event of a claim arising under this Insurance IMMEDIATE WRITTEN NOTICE should be given to:

Arch Underwriting at Lloyd's (Australia) Pty Ltd
Suites 11.02, Level 11, 360 Collins Street, Melbourne, VIC 3000

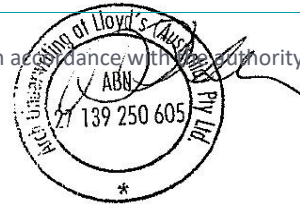
Arch takes seriously its compliance with the General Insurance Code of Practice (the Code) in respect to its claims handling and generally. Arch's claims handling procedures are comprehensive and Code compliant. Arch's claims department is committed to maintaining a high level of specialist service and support to you and your brokers with emphasis on conducting claims in a fair, transparent and timely way.

Insurer:	Proportion:
Arch Underwriting Ltd at Lloyds (Australia) PTY Ltd ABN 27 139 250 605 For and on behalf of Arch syndicate 2012 at Lloyds	100%

UNIQUE MARKET REFERENCE:

B6060500000012019

This POLICY SCHEDULE is issued by the Service Company Coverholder shown above in accordance with the authority granted to them by Arch Syndicate 2012 at Lloyd's under the Agreement referred to herein.



IN WITNESS WHEREOF this quotation has been signed at Sydney.

Arch Underwriting at Lloyd's (Australia) Pty Ltd
 For and On behalf of Syndicate 2012 at Lloyd's
 25 October 2019

Arch Underwriting at Lloyd's (Australia) Pty Ltd

archinsurance.com.au

ABN 27 139 250 605 AFSL 426746

Sydney: Suites 4.01 & 4.02, Level 4, 68 York Street, Sydney NSW 2000 | **P:** +61 2 8284 8400 **F:** +61 2 8088 1024

Melbourne: Suite 11.02, Level 11, 360 Collins Street, Melbourne VIC 3000 | **P:** +61 3 9629 5444 **F:** +61 3 9629 1854

**Association
Civil Liability
Policy Wording**

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ABOUTARCH

The insurers of this insurance are the underwriters of Arch Syndicate 2012 at Lloyd's ("We", "Us" or "Our").

Arch Underwriting at Lloyd's (Australia) Pty Ltd ABN 27 139 250 605 AFSL 426746 (Arch Australia) has been authorised by the insurers to act on their behalf to deal in and provide general advice and handle and settle claims in relation to this insurance. Arch Australia is an Australian Financial Services Licensee authorised to deal in and provide general advice on general insurance products.

Arch has a binding authority which means it can enter into, vary or cancel this insurance and handle and settle claims without reference to Us provided it acts within the binding authority. When providing these services, Arch acts for Us and does not act on your behalf.

Contact Details

Arch can be contacted as follows:

In writing to: Arch Underwriting at Lloyd's (Australia) Pty Ltd
Suites 4.01 & 4.02, Level 4,
68 York Street, Sydney, NSW, 2000
Telephone: (02) 8284 8400

IMPORTANT NOTICES

Important Notice – Claims made general information

The information under this heading is provided for general information purposes only and does not:

- form part of the Policy.
- impose any contractual obligations on any Insured or create contractual rights between Us.

Certain insuring clauses in this policy document operate on a "Claims made and notified" basis, which means that they:

- cover claims made against the relevant Insured and notified to Us during the Period of Insurance.
- do not provide cover in relation to:
 - claims made against an Insured after the expiry of the Period of Insurance even though the event giving rise to the claim may have occurred during the Period of Insurance (unless specified otherwise);
 - claims made against an Insured notified or arising out of facts or circumstances notified (or which ought reasonably to have been notified) under any previous policy;
 - claims made, threatened or intimated against an Insured prior to the commencement of the Period of Insurance;
 - facts or circumstances of which an Insured first became aware prior to the Period of Insurance, and which they knew or ought reasonably to have known had the potential to give rise to a claim under the Policy;
 - claims arising out of circumstances noted on the proposal for the current Period of Insurance or on any previous proposal form; and
 - claims arising from civil, administrative, criminal or regulatory proceeding, investigation, arbitration or adjudication that existed prior to or was pending before the Prior or Pending Litigation Date.

If the Insured gives notice in writing to Us of any facts that might give rise to a Claim against them as soon as reasonably practicable after they become aware of those facts but before the expiry of the Period of Insurance, they may have rights under Section 40(3) of the Insurance Contracts Act 1984 to be indemnified in respect of any claim subsequently made against them arising from those facts, notwithstanding that the Claim is made after the expiry of the Period of Insurance. Such rights arise under the legislation only. The terms of the policy section and the effect of the policy section is that the Insured is not covered for claims made against them after the expiry of the Period of Insurance unless specified otherwise.

Duty of Disclosure

Before a person enters into an insurance policy with Us, they have a duty under the Insurance Contracts Act 1984 to disclose to Us every matter that they know, or could reasonably be expected to know, is relevant to Our decision whether to accept the risk of the insurance and if so, on what terms.

They have the same duty to disclose those matters to Us before they renew, extend, vary or reinstate the policy.

The duty applies until the policy is entered into, or where relevant, renewed, extended, varied or reinstated (Relevant Time). If anything changes between the time disclosures are made and the Relevant Time, the person needs to tell Us.

What We do not need to know

A person does not need to tell Us about any matter that:

- diminishes Our risk;
- is of common knowledge;

Association Civil Liability - Policy Wording

- We know or should know in Our business as an insurer; or
- We tell the person We do not need to know.

Who does the duty apply to?

The duty of disclosure applies in relation to everyone who is insured under the policy.

What happens if the duty of disclosure is not complied with?

If the duty of disclosure is not complied with We may cancel the Policy and/or reduce Our liability under the policy in respect of a claim. If fraud is involved, We may treat the policy as if it never existed, and pay nothing.

Utmost good faith

The Policy is based on the utmost good faith requiring Us and the proposer/insured(s) (including third party beneficiaries after the Policy is entered into) to act towards each other with the utmost good faith in respect of any matter relating to the Policy. A failure to comply is a breach of the Insurance Contracts Act 1984.

Underwriters' sanction limitation and exclusion clause

We shall not be liable to pay or indemnify the Insured for any loss or claim made under the Policy which would expose any of Us to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or United States of America.

Notices

We will send all notices in relation to the Policy to:

- the Policyholder's nominated insurance intermediary until We receive written notice to the contrary from the Policyholder; or
- if there is no nominated intermediary, the Policyholder, acting on the behalf of the Insured.

About the Policy

Where We agree to enter into a Policy it is a contract between Us and the Insured (see the definition of "Insured" for details of who is covered by this term). The Policy is entered into subject to the payment or agreement to pay Us the premium by the Insured, including government taxes and charges and the Policy terms and conditions (including limits and the Retention).

The Policy is made up of this Policy document which sets out Our standard terms, the Certificate of Insurance and Schedule We issue to confirm the issue of the Policy, which contain additional information specific to the Insured and the Policy and any agreed endorsements. These are all important documents and should be carefully read together and kept in a safe place for future reference.

SECTION A. INSURING CLAUSES

The covers (including optional cover extensions and other extensions) set out in this Section A are subject to the:

- other terms and conditions of the Policy;
- relevant Limit of Indemnity, Sub Limit of Indemnity or Additional Limit of Indemnity shown in the Schedule as applicable to the cover and the Maximum Limit of Indemnity; and
- the Retention,

unless expressly specified otherwise.

Insuring Clauses 2, 3 and 4 only apply to the extent that the Insured has not been indemnified for the relevant loss they can claim for under the relevant Insuring Clause.

Except to the extent otherwise provided any Claim under Insuring Clauses set out in this Section A must be:

- first made against the Insured; and
- notified to Us,

during the Period of Insurance.

Cover for Insured Persons

1. Professional Indemnity

We will pay on behalf of the Insured Persons all Loss arising from any Claim in respect of civil liability for any Wrongful Act in the course of the Association's Professional Business.

2. Office Bearers

We will pay on behalf of the Office Bearers all Loss arising from any Association Claim in respect of civil liability for any Wrongful Act committed by them in the capacity of Office Bearer.

3. Outside Directorships

We will pay on behalf of any Office Bearer who, in that capacity, performs a directorial or management function in an Outside Entity at the Association's written request, up to the Limit of Indemnity, as if the Outside Entity was the Association.

Provided that:

- (a) this indemnity operates specifically in excess of any indemnity, insurance or cover available through or from the Outside Entity;
- (b) We have noted and agreed the Outside Entity;
- (c) the Insured has paid any additional premium charged by Us at Our discretion.

4. Statutory Liability

We will pay on behalf of any Insured Person any Statute Liability Loss incurred by them in respect of any Statutory Liability Claim.

5. Free legal assistance

We will provide the Insured Persons, during the Period of Insurance, with one free legal consultation up to a maximum of two (2) hours from the practitioner(s) nominated in Appendix 1, on any matter notifiable under the Policy.

Provided that:

- (a) the Insured Person may not seek advice on the Policy or any indemnity issues;
- (b) We reserve the right to change the nominated practitioner(s) at Our discretion and any change will be notified on the Insured's request;
- (c) if the Insured Person seeks cover under this clause, the Insured Person authorises Us to engage (at Our discretion) the nominated practitioner(s) to represent the Insured Person and the Insured Person authorises such engaged nominated practitioner(s) to disclose to Us any information obtained in the course of tendering advice to the Insured Person and the Insured Person waives (to the extent necessary) all rights to legal professional privilege as between the Insured Person and Us.

6. Emergency Defence Costs

In the event it is not reasonably possible for the Insured Person to obtain Our prior written consent prior to the incurring of Defence Costs, We will pay Emergency Defence Costs incurred by the Insured Person during the Period of Insurance, subject to the Defence Costs Repayment Obligation.

7. Occupational Health & Safety Defence Costs

We will pay all reasonable and necessary Defence Costs incurred by an Insured Person with Our prior written consent, where an Insured Person is legally compelled, during the Period of Insurance, to attend any official Investigation, examination, inquiry or other proceedings ordered or commissioned by any official body or institution (including proceedings alleging involuntary manslaughter, corporate manslaughter or gross negligence manslaughter), and which involves an allegation that an Insured has breached occupational health and safety laws, subject to the Litigation Management Guidelines. This cover applies notwithstanding exclusion 4 (Bodily Injury and Property Damage).

8. Pre- Investigation Costs

We will pay Pre-Investigation Costs incurred by an Insured Person in respect of any claim covered under Insuring Clauses 2, 3 or 4.

9. Cyber Privacy and Confidentiality Costs

We will pay Cyber Privacy and Confidentiality Costs incurred by an Insured Person in respect of any claim covered under Insuring Clauses 2 or 3.

10. Advancement of Defence Costs or Legal Representation Expenses

We will pay, prior to the final disposition of any Covered Loss, Defence Costs or Legal Representation Expenses incurred by an Insured Person in respect of any Association Claim or Statutory Liability Claim, subject to the Defence Costs Repayment Obligation.

We will pay within thirty (30) days of receipt of invoices from defence counsel.

11. Tax Investigation Expenses Incurred by Office Bearer(s)

We will pay any Tax Investigation Expenses Incurred by Office Bearer(s).

12. Trade Practices & Related Legislation

We will pay on behalf of an Insured Person Loss in respect of any Claim for any unintentional breach of the Competition and Consumer Act 2010 (Cth), or any of the Fair Trading Acts enacted by the States or Territories of the Commonwealth of Australia.

However this extension does not cover any Claim or Defence Costs:

- (a) arising out of, or in connection with, deliberate or fraudulent conduct;
- (b) made pursuant to the penal or criminal provisions of the said legislation.

13. Loss of Documents

We will pay on behalf of an Insured Person Loss in respect of any Claim up to but not exceeding in the aggregate for all Claims under this extension, the Limit of Indemnity for loss of, damage to, or destruction of any Documents within the territorial limits of the Commonwealth of Australia, New Zealand and Papua New Guinea, during the Period of Insurance.

Provided always that:

- (a) the Insured shall as soon as reasonably practicable after discovery thereof give written notice to Us that any documents have been destroyed, or damaged, or lost, or mislaid, and after diligent search cannot be found;
- (b) the amount of any Claim shall be supported by invoices which shall be subject to approval by a competent person to be nominated by Us with the approval of the Insured, but failing approval, a competent person will be appointed by the current President of The Institute of Arbitrators & Mediators of Australia;
- (c) no liability shall attach for any Claim in connection with wear, tear, vermin, mould or mildew or any other gradual operating cause;
- (d) the Insured shall subrogate to Us its right of prosecution against any other person(s) for the recovery thereof;
- (e) this extension does not indemnify the Insured Person against any liability, costs or expenses for which the Insured is entitled to an indemnity under the Policy apart from this extension;
- (f) any Documents in electronic format must be kept secure and backed up daily.

14. Libel and Slander

We will pay on behalf of an Insured Person Loss in respect of any Claim for unintentional libel or slander by the Insured by reason of words written or spoken in connection with the conduct of the Association's Professional Business.

Exclusion 30 (Insured vs Insured) shall not apply to this extension.

15. Intellectual Property Rights

We will pay on behalf of an Insured Person Loss in respect of any Claim arising from unintentional breach, or infringement of privacy, or use of confidential information or Intellectual Property Rights of others, committed by the Insured in the course of the Association's Professional Business. Provided always that no indemnity shall be afforded to any Insured Person intentionally committing, assisting or condoning such conduct.

Cover for the Association

16. Professional Indemnity

We will pay on behalf of the Association all Loss arising from any Claim in respect of civil liability for any Wrongful Act committed by an Insured in the course of the Association's Professional Business.

17. Association Liability

We will pay on behalf of the Association all Loss for which it becomes legally liable by reason of any Wrongful Act committed by an Office Bearer, for which indemnity is not provided under insuring clauses 2 or 3.

18. Association Reimbursement

We will pay to or on behalf of the Association all Loss for which the Association grants indemnification to each Insured Person as permitted or required by law, which the Insured Person has become legally obligated to pay on account of any Claim in respect of civil liability for a Wrongful Act committed by such Insured Person before or during the Period of Insurance.

19. Employment Practices Claims

We will pay Covered Loss incurred by the Association in respect of an Employment Practices Claim.

20. Statutory Liability

We will pay any Statute Liability Loss incurred by the Association in respect of any Statutory Liability Claim.

21. Crisis Management Costs

We will pay Crisis Management Costs incurred by the Association by reason of a claim covered under Insuring Clauses 18-20 or a circumstance which has been accepted by Us under Section D - Condition 3 (Continuous coverage) as one from which a covered Claim under Insuring Clauses 18-20 may arise.

In order for the Association to have the benefit of this cover the Association must give written notice to Us of details of the Reputation Concern within 14 days of the Reputation Concern arising and in any event during the Period of Insurance.

22. Disruption Expenses for hearings and inquiries

We will pay Disruption Expenses incurred by the Association during the Period of Insurance.

23. Cyber Privacy and Confidentiality Costs (third party)

We will pay Cyber Privacy and Confidentiality Costs incurred by the Association in respect of any claim under Insuring Clauses 18 and 19 first made against the Association during the Period of Insurance.

24. Emergency Defence Costs

In the event it is not reasonably possible for the Association to obtain Our prior written consent prior to the incurring of Defence Costs, We will pay Emergency Defence Costs incurred by the Association during the Period of Insurance, subject to the Defence Costs Repayment Obligation.

25. Breach of Contract Defence Costs

We will pay Defence Costs incurred by the Association in respect of a claim covered under Insuring Clauses 2 or 3 involving any actual or alleged breach of and express oral or written term of a contract by the Association.

26. Identity Fraud Costs

If during the Period of Insurance any third party other than the Association enters into any agreement with a Relevant Individual who fraudulently represents themselves as the Association, and then that third party seeks to enforce such an agreement against the Association, We will pay any reasonable fees, costs and expenses incurred by the Association in establishing that a fraudulent misrepresentation has occurred.

27. Tax Investigation Expenses Incurred by the Association

We pay any Tax Investigation Expenses Incurred by the Association.

28. Pollution Defence Costs

We will pay Defence Costs incurred by the Association in respect of a claim covered under Insuring Clauses 2, 3 or 4 involving any arising from a Pollution Event.

29. Trade Practices & Related Legislation

We will pay on behalf of an Association Loss in respect of any Claim for any unintentional breach of the Competition and Consumer Act 2010 (Cth), or any of the Fair Trading Acts enacted by the States or Territories of the Commonwealth of Australia.

However this extension does not cover any Claim or Defence Costs:

- (a) arising out of, or in connection with, deliberate or fraudulent conduct;
- (b) made pursuant to the penal or criminal provisions of the said legislation.

30. Loss of Documents

We will pay on behalf of an Association Loss in respect of any Claim up to but not exceeding in the aggregate for all Claims under this extension, the Limit of Indemnity for loss of, damage to, or destruction of any Documents within the territorial limits of the Commonwealth of Australia, New Zealand and Papua New Guinea, during the Period of Insurance.

Provided always that:

- (a) the Insured shall as soon as reasonably practicable after discovery thereof give written notice to Us that any documents have been destroyed, or damaged, or lost, or mislaid, and after diligent search cannot be found;
- (b) the amount of any Claim shall be supported by invoices which shall be subject to approval by a competent person to be nominated by Us with the approval of the Insured, but failing approval, a competent person will be appointed by the current President of The Institute of Arbitrators & Mediators of Australia;
- (c) no liability shall attach for any Claim in connection with wear, tear, vermin, mould or mildew or any other gradual operating cause;
- (d) the Insured shall subrogate to Us its right of prosecution against any other person(s) for the recovery thereof;
- (e) this extension does not indemnify the Association against any liability, costs or expenses for which the Insured are entitled to an indemnity under the Policy of Insurance apart from this extension;
- (f) any Documents in electronic format must be kept secure and backed up daily.

31. Libel and Slander

We will pay on behalf of an Association Loss in respect of any Claim for unintentional libel or slander by the Insured by reason of words written or spoken in connection with the conduct of the Association's Professional Business.

32. Intellectual Property Rights

We will pay on behalf of an Association Loss in respect of any Claim arising from unintentional breach, or infringement of privacy, or use of confidential information or Intellectual Property Rights of others, committed by the Insured in the course of the Association's Professional Business. Provided always that no indemnity shall be afforded to the Association intentionally committing, assisting or condoning such conduct.

OPTIONAL COVER EXTENSIONS FOR THE ASSOCIATION

These Optional Extensions for the Association only apply if specified as applicable in the Schedule.

33. Crime

We will pay for:

- (a) Employee fraud
Association Crime Loss first Discovered by the Association during the Period of Insurance arising from acts of fraud or dishonesty committed by an Employee with the principle intent of causing the Association Crime Loss or to obtain personal financial gain (whether acting alone or in collusion with others).
- (b) Third Party Crime
Association Crime Loss first Discovered by the Association during the Period of Insurance arising from any Theft or Fraudulent Act of a Relevant Individual.
- (c) Electronic and Computer Crime
Covered Loss first Discovered by the Association during the Period of Insurance arising from any Electronic and Computer Crime of a Relevant Individual.
- (d) Destruction and Damage of Money or Negotiable Instruments
Association Crime Loss first Discovered by the Association during the Period of Insurance arising from any physical loss of or damage to, or actual destruction of or disappearance of any of the Association's Money or Negotiable Instruments, including damage to or actual destruction of safes or vaults.
- (e) Third Party custody, care and control
direct financial loss of Money, Negotiable Instruments or other Property belonging to a third party, provided:
 - (i) the loss is first Discovered by the Association during the Period of Insurance;
 - (ii) the Association had the Money, Negotiable Instruments or other Property in its care, custody or control; and
 - (iii) the Association is liable to that third party for the loss.

34. Legal fees, costs and expenses

We will pay the Association, up to an aggregate amount of \$50,000, for the reasonable legal, fees, costs and expenses incurred by the Association in the defence of any written demand, claim, suit or legal proceedings which the Association subsequently establishes results directly from a Crime Loss that is covered or potentially covered under Insuring Clause 33.

35. Specialist Investigative Fees

We will pay the Association, up to an aggregate amount of \$100,000, for the reasonable fees, costs and expenses incurred by the Association with Our prior written consent, to retain a specialist investigator to investigate, report on or prove a covered or potentially covered Crime Loss under Insuring Clause 33. The specialist investigator must be pre-approved by Us in writing and not have any conflict of interest concerning the retainer.

The aggregate amounts detailed in Insuring Clauses 33 (Crime), 34 (Legal Fees, costs and expenses) and 35 (Specialist Investigative Fees) are Additional Limits of Indemnity. Insuring Clauses 34 (Legal Fees, costs and expenses) and 35 (Specialist Investigative Fees) are not subject to a Retention.

OTHER EXTENSIONS

These extensions only apply if specified as applicable in the Schedule.

36. Discovery Period Options

If the Policy is not replaced by any other insurance affording Insured Persons liability cover and there has not been a Merger or Acquisition, We will provide an automatic Discovery Period of 30 days from the expiry of the Period of Insurance for no additional premium (following which no further Discovery Period cover can be purchased), or you can purchase one of the following Discovery Period options.

You may purchase one of the following Discovery Period options (as applicable) subject to the following:

- (a) the Insured must give Us written confirmation of the Discovery Period Option required within 30 days prior to the expiry of the Period of Insurance; and
- (b) the Insured must have paid the additional premium within 30 days prior to the expiry of the Period of Insurance.

Discovery Period Option (1)

If We refuse to offer to renew the Policy, then an Insured may purchase a Discovery Period of either:

- (a) 12 months from the expiry of the Period of Insurance upon payment of an additional premium of 100% of the annual or annualised equivalent of the premium; or
- (b) 24 months from the expiry of the Period of Insurance upon payment of an additional premium of 175% of the annual or annualised equivalent of the premium.

Discovery Period Option (2)

If an Insured chooses not to renew the Policy, then the Insured may purchase a Discovery Period of 12 months from the expiry of the Period of Insurance upon payment of 100% of the annual or annualised equivalent of the premium.

The Discovery Period Option:

- (a) does not serve to increase the Limit of Indemnity, Sub Limit of Indemnity, Maximum Limit of Indemnity or Additional Limits of Indemnity in any way;
- (b) may not be cancelled and the additional premium for a Discovery Period is not refundable.

37. Retirement Cover Discovery Period Option

“Retire(s)” means that of your own volition and without coercion, you completely cease to hold your position as an Office Bearer of the Association. Retire(s) does not mean that you cease to hold your position as an Office Bearer because you were disqualified or dismissed (either actively or constructively) from employment or office.

If:

- (a) an Office Bearer Retires prior to the expiry of the Period of Insurance and before a Merger or Acquisition; and
- (b) We do not renew the Policy or replace it with any other insurance providing Office Bearer’s liability cover,

the Office Bearer(s) will be entitled to a 36 month Discovery Period to cover under the Policy at no additional premium. The 36 month Discovery Period shall run from the date an Office Bearer Retires and will run concurrently with any Discovery Period in force under the Discovery Period Options above.

This Retirement Cover Discovery Period Option does not serve to increase the Limit of Indemnity, Sub Limit of Indemnity, Maximum Limit of Indemnity or Additional Limits of Indemnity in any way.

38. Run-off

We will indemnify the Insured from the date upon which the Association may cease to exist, or is merged with or acquired by another entity, to the expiry of the Period of Insurance BUT ONLY in respect of acts, omissions and events prior to such cessation, merger or acquisition.

SECTION B. DEFINITIONS

1. **Additional Limit(s) of Indemnity** means the aggregate limit of Our liability under the coverage given under the Optional Cover Extensions Insuring Clauses 33 (Crime), 34 (Legal fees, cost and expenses) & 35 (Specialist Investigative Fees). Any Additional Limit of Indemnity applies in addition to the Limit of Indemnity but is included in the Maximum Limit of Indemnity.
2. **Association** means:
 - (a) the organisation named as an Association in the Schedule (individually or collectively) or any endorsement; and
 - (b) Subsidiaries of such Association existing prior to or as at the commencement of the Period of Insurance;
 - (c) any Subsidiary that becomes a subsidiary of the Association during the Period of Insurance, but excluding any Subsidiary located outside Australia, unless agreed by us in writing to be covered;
 - (d) any entity through which the Association previously conducted its Professional Business provided that such entity is notified to and accepted by Us as subject to this extension by way of an endorsement and upon payment of an additional premium if deemed appropriate by Us.
3. **Association Crime Loss** means direct financial loss (excluding consequential loss or loss of profit) sustained by the Association.
4. **Bodily Injury** means bodily injury, sickness, disease, emotional distress or any other mental, psychiatric, emotional or physical injury or death of any person.
5. **Certificate of Insurance** means the document evidencing insurance cover provided by Us and incorporating the Schedule.
6. **Cheque Forgery** means:
 - (a) the Forgery or Fraudulent Alteration of any cheque or similar written promise by the Association to pay a veritable sum representing money drawn upon the Association’s account at any bank at which the Association maintains a current or savings account;
 - (b) the Fraudulent Alteration of, on or in any cheque draft:
 - (i) drawn upon by any bank; or
 - (ii) drawn upon by any corporation upon itself;
 - (c) the Fraudulent Alteration of, on or in any cheque or written order or direction to pay a veritable sum representing money drawn by any public body upon itself, or any warrant drawn by any public body which the Association shall receive at any of its premises in payment or purported payment for:
 - (i) tangible property sold and delivered; or
 - (ii) services rendered.

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7. **Claim** means:
- Association Claim;
 - Employment Practices Claim;
 - Statutory Liability Claim;
 - Investigation; or
 - Crime Loss.
8. **Computer** means any computer, data processing equipment media or part thereof, or system of data storage and retrieval or communications system, network, protocol or part thereof, or storage device, microchip, integrated circuit, real-time clock system, or similar device or any computer software, firmware or microcode. Computer shall also include its components available to its users, including but not limited to memory, bandwidth, processor time, use of communication facilities and any other computer-connected equipment.
9. **Computer Fraud** means the theft of the Association's assets under the direct or indirect control of a Computer by manipulation of computer hardware or software programmes of systems by any Relevant Individual who is not authorised by the Association to access that Computer.
10. **Confidential Information** means all information intended by the Association to remain confidential which is available to its Office Bearers. Confidential Information shall not include any information that is or becomes generally available to the public (other than as a result of its unauthorised disclosure) or was available to a recipient on a non-confidential basis prior to disclosure by the Association, or was lawfully in the possession of the recipient before the information was disclosed to it; or the relevant parties agree in writing it is not confidential or may be disclosed, or is developed by or for the recipient independently of the information disclosed, or is trivial, obvious or useless.
11. **Corporate Card Fraud** means the fraudulent use of any corporate credit card, debit or charge card issued to the Association or any Insured Person for business purposes where the use of such card is Forged or is the subject of Fraudulent Alteration provided that the Association or Insured Person has complied fully with the provisions, conditions and other terms under which the card was issued and provided the Association is legally liable for such Crime Loss.
12. **Counterfeiting** means the imitation of an authentic negotiable instrument such that the Association is deceived on the basis of the quality of the imitation to believe that the said item is the authentic original negotiable instrument.
Counterfeiting does not include fictitious instruments which merely contain fraudulent misrepresentations of fact and that are otherwise genuinely signed or endorsed.
13. **Covered Loss** means any awards of damages, judgments and sums payable pursuant to settlements for which an Insured (as applicable) is legally liable.
Covered Loss includes:
- awards of claimant's costs;
 - Defence Costs;
 - Legal Representation Expenses; and
 - punitive or exemplary damages where and to the extent that they are legally insurable.
- Covered Loss does not include:
- fines or penalties (except to the extent covered under Insuring Clauses 4 and 20 (Statutory Liability));
 - taxes;
 - any multiplied portion of any punitive or exemplary damages award;
 - any increase in consideration or price paid for securities in a Merger or Acquisition;
 - any sum uninsurable under the law that governs the Policy;
 - any amount which constitutes any costs incurred by the Association to modify any building, premises, fixtures, fittings, plant, equipment, or changes to the Association's principal business as described in the Proposal and/or annual report; or
 - wages, salaries or other remuneration or internal costs or overhead of any Insured.
14. **Crime Loss** means loss of the type covered under Insuring Clause 33.
15. **Crisis Management Costs** means reasonable and necessary costs incurred by the Association with Our prior written consent as a result of the retention of a Public Relations Firm arising out of a Reputation Concern.
16. **Cyber Privacy and Confidentiality Costs** means reasonable and necessary costs incurred by an Insured (as applicable) with Our prior written consent resulting from a claim covered under, as applicable – for Insured Persons- Insuring Clauses 2 or 3, for the Association Insuring Clauses 18 or 19 as a direct result of:
- any invasion, infringement or interference with any right to privacy, including any disclosure of Data which amounts to a breach of the relevant legislation;
 - any unauthorised disclosure or use of any Confidential Information in Data form which is subject to statutory restriction on disclosure or use.

Association Civil Liability - Policy Wording

17. **Data** means machine-readable information in digital format (excluding software), irrespective of the way it is used or rendered, including but not limited to text, voice recordings and images.
18. **Defence Costs** means all reasonable costs, charges, fees and expenses including but not limited to legal counsel's fees and expert's fees (other than regular or overtime wages, salaries or fees of any Insured) incurred with Our prior written consent in defending any Claim covered under the Policy.
19. **Defence Costs Repayment Obligation** means the obligation to repay to Us any Emergency Defence Costs or Defence Costs or Legal Representation Expenses paid by Us to the relevant person under the Policy, severally according to the person's respective interest, if and to the extent it is determined by Us that such amounts are not covered under the Policy.
20. **Discovered** means knowledge of any act, omission or event which could reasonably be seen to give rise to the claimed loss by any of the Association's Responsible Persons.
21. **Discovery Period** means the extended time during which a Claim may first be made and/or notified after the expiry of the Period of Insurance. This does not otherwise affect the terms of the Policy and any act, error or omission or matter giving rise to the Claim must still occur prior to the expiry of the Period of Insurance.
22. **Disruption Expenses** means expenses at the rate of AU\$500 per day per Insured Person where it is necessary for that person to attend a court or arbitration or other formal regulatory professional or administrative proceedings, Investigation or inquiry as a witness for the defence of a claim covered under Insuring Clauses 18-20, for a period in excess of 5 consecutive business days.
23. **Documents** means deeds, wills, agreements, magazines, maps, plans, records, books, letters, contracts of insurance, policies, computer tapes, computer discs, forms and documents of any nature whatsoever (other than bearer bonds, coupons, stamps, banknotes, currency notes, cheques and negotiable instruments) whether written, printed or capable of being reproduced by any other method, (but excluding any computer or electronic data which is destroyed or damaged, lost or mislaid by manual, electronic or mechanical act, error or omission) provided that such items are:
 - (a) the property of (or entrusted to) the Insured in the ordinary course of the Professional Business; and
 - (b) now or hereafter (or are believed by the Insured to be) in the Insured's hands or in the hands of any other party or parties to or with whom such items have been entrusted, lodged or deposited by the Insured in the ordinary course of the Professional Business.
24. **Electronic and Computer Crime** means any one of the following:
 - (a) Computer Fraud; or
 - (b) Funds Transfer Fraud.
25. **Emergency Defence Costs** means all reasonable and necessary legal fees, costs and expenses incurred solely in the defence or investigation of any claim covered for Insured Persons under Insuring Clauses 2, 3, or 4 and for the Association covered under Insuring Clauses 18-20, and incurred within 14 days of the Insured (as applicable) receiving notice of the Claim.
26. **Employee** means any person who was, is, or shall be under a contract of service with the Association or who was, is, or shall be a paid or unpaid volunteer, provided always that such definition shall include persons whose positions terminate during the Period of Insurance.
27. **Employee Benefits** means fringe benefits, unemployment benefits or compensation, redundancy, permanent health insurance benefits or disability benefits, workers compensation, amounts due or payments made in connection with any employee benefit, plan or pension of superannuation scheme, share or stock options or any other right to purchase, acquire or sell shares or stock, incentives or deferred compensation and any other obligation or payment other than basic remuneration made to or for the benefit of an Employee.
28. **Employment Practices Claim** means:
 - (a) a written demand for monetary compensation or other non-pecuniary relief;
 - (b) a civil proceeding commenced by the service of a complaint, summons, statement of claim or similar pleading, including any appeal or counterclaim therefrom;
 - (c) an arbitration proceeding, mediation, conciliation or other alternative dispute resolution process;
 - (d) a formal administrative or regulatory proceeding, Investigation or inquiry commenced by the service of a notice of charges, formal investigative order or similar documents;which is brought or maintained against any Insured for any Wrongful Act in connection with any employment related:
 - (i) discrimination against any Insured, or applicant for employment, whether because of race, colour, age, sex, disability, pregnancy, marital status, sexual orientation, sexual preference or otherwise;
 - (ii) wrongful dismissal of any Insured;

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- (iii) workplace harassment (whether sexual or otherwise) of any Insured;
- (iv) breach of an implied term of an oral or written employment contract with any Insured;
- (v) wrongful demotion, failure to promote, wrongful deprivation of career opportunity, wrongful discipline, negligent evaluation or failure to grant tenure of employment to any Insured;
- (vi) wrongful refusal to employ an applicant;
- (vii) unintentional defamation;
- (viii) misrepresentation or misleading advertising as to the terms and conditions of employment;
- (ix) denial of natural justice to any Insured concerning his employment.

Employment Practices Claim does not include any Claim for Employee Benefits.

29. **Financial Impairment** means the status of the Association resulting from the appointment by any local, State or Commonwealth official, agency or court, of any receiver, administrator, liquidator, trustee, manager, or similar official to take control of, supervise, administer, manage or liquidate the Association.
30. **Forgery or Forged** means the signing or endorsing of the name of a genuine person or a copy of the said person's signature without authority and with the intent to deceive. A signature may be hand-written or mechanically or electronically produced or reproduced. It does not include the signing in whole or in part of one's own name, with or without authority, in any capacity, for any purpose.
31. **Fraudulent Act** means any one of the following:
- (a) Cheque Forgery;
 - (b) Corporate Card Fraud; or
 - (c) Imitation Fraud.
32. **Fraudulent Alteration** means a material alteration to an instrument for a fraudulent purpose, unless altered by the person who was authorised to prepare or sign the instrument.
33. **Funds Transfer Fraud** means the theft of the Association's funds from an account maintained by the Association at a financial institution (from which the Association or a person or organisation authorised by the Association may request the transfer, payment or delivery of funds), following fraudulent electronic, telegraphic, facsimile, telex, telephone or written instructions to debit such account and to transfer, pay or deliver funds from such account and which instructions purport to have come from the Association or a person or organisation authorised by the Association to issue such instruction, but which are fraudulently transmitted, issued, or are Forged or have been the subject of Fraudulent Alteration by any Relevant Individual.
34. **Imitation Fraud** means either:
- (a) the Forgery or Fraudulent Alteration of any Money or Negotiable Instruments or instruction; or
 - (b) the Counterfeiting of any Money or Negotiable Instruments;
- upon which the Association has acted or relied.
35. **Insured** means:
- (a) the Association; and
 - (b) Insured Persons.
36. **Insured Person(s)** means any natural person who was prior to, or is during or after, the Period of Insurance:
- (a) an Office Bearer of the Association;
 - (b) an Employee of the Association;
 - (c) a lawful Spouse of anyone in (a) or (b) above, only for the purposes of any Claim seeking damages recoverable from marital community property, property jointly held by any such natural person and the Spouse, or property transferred from any such person to the Spouse and only to the extent that such Spouse is party to any Claim solely in the capacity as Spouse of any such natural person.
 - (d) the legal representatives, heirs, assigns or estate of a natural person in (a) or (b) above who is incapable of managing their own affairs by reason of incapacity or is deceased or bankrupt.
37. **Intellectual Property Rights** means trademarks, trade secrets, patents, copyright, registered designs, systems or programs.
38. **Investigation** means any formal or official external investigation, examination or inquiry into the Association at which the attendance of the Association or its representatives is first required or requested in writing by the investigating body, during the Period of Insurance.
- Investigation does not include any routine regulatory supervision, inspection or compliance reviews, or any investigation which focuses on an industry rather than an Insured.

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39. **Legal Representation Expenses** means all reasonable and necessary legal fees, costs and expenses incurred with Our prior written consent solely in an Insured Person's representation at a formal, regulatory or professional Investigation or inquiry into the affairs of the Association that is instituted during the Period of Insurance by the service of a written request on an Insured for an Insured Person to attend a meeting, hearing or interview because of their role within the Association. It excludes wages, salaries or other remuneration or internal costs or overhead of any Insured.
40. **Limit of Indemnity** means the limit(s) specified in the Schedule or any endorsement.
41. **Litigation Management Guidelines** means the guidelines attached at Appendix 2 to the Policy, as revised from time to time by Us. It is agreed that these form the basis of what constitutes reasonable and necessary legal fees, costs and expenses incurred solely in the defence or investigation of any Claim.
42. **Loss** means the total amount which any Insured becomes legally obliged to pay on account of each Claim and for all Claims in the Period of Insurance, made against the Insured including, but not limited to, damages, judgements, settlements, costs and Defence Costs.
- Loss does not include:
- (a) any amount not indemnified by the Association for which the Insured is absolved from payment by reason of any covenant, agreement, court order or otherwise;
 - (b) any amount incurred by the Association (including its board of directors or any committee of the board of directors) in connection with the investigation or evaluation of any Claim or potential Claim by or on behalf of the Association;
 - (c) punitive, aggravated, multiple or exemplary damages, or any tax, fine or penalty imposed by law or any investigation arising as a consequence thereof;
 - (d) any amount which constitutes any costs incurred by the Association to modify any building, premises, fixtures, fittings, plant, equipment, or changes to the Association's principal activities as described in the proposal or annual report;
 - (e) any amount which the Association is obliged to pay whether pursuant to an express or implied obligation, whether in the nature of, or in the event of termination of employment, whether under a statute, award, contract of employment, as damages or otherwise; or
 - (f) matters uninsurable under the law that governs the Policy.
43. **Association Claim** means any:
- (a) written claim or demand for monetary compensation or other non-pecuniary relief; or
 - (b) civil or arbitration proceedings including by way of a counter claim; or
 - (c) criminal or extradition proceedings; or
 - (d) formal regulatory professional or administrative proceedings, Investigation or inquiry Claim, for a Wrongful Act.
44. **Maximum Limit of Indemnity** means the total amount We will pay under the Policy in the aggregate under all Insuring Clauses and includes any amounts paid under any Limit of Indemnity, Sub Limit of Indemnity and Additional Limit of Indemnity. It is specified in the Schedule.
45. **Merger or Acquisition** means a merger or consolidation of the Association with another company or entity or if any company or entity acquires 50% or more of the Association's share capital.
46. **Money** means currency, coins, bank notes and bullion, cheques, travellers cheques, registered cheques, postal orders and money orders.
47. **Negotiable Instruments** means all securities, instruments or contracts, including any note, stock, bond, debenture, evidence of indebtedness, share or other equity or debt security, representing either money or property, but does not include Money.
48. **Office Bearer(s)** means any natural person who was prior to the Period of Insurance, or is during or after the Period of Insurance;
- (a) a director, secretary, officer, trustee, committee member, employee (whether salaried or not) or volunteer of the Association; or
 - (b) a person acting on behalf of the Association at the direction of an officer or board or committee of management of the Association,
- but only in his or her capacity as such.
- Officer Bearer(s)** shall not include liquidators, receivers, receivers and managers, official managers, administrators, trustees administering compromises and arrangements, or external auditors or accountants, except where acting under official appointment as an Office Bearer.
49. **Outside Entity** means any non-profit organisation which is exempt from payment of income tax and which is not a Subsidiary of the Association.

Association Civil Liability - Policy Wording

50. **Period of Insurance** means the period so specified in the Schedule or any endorsement.
51. **Policy** means:
- this document, the Certificate of Insurance and Schedule, insuring clauses, extensions, conditions, definitions, exclusions and other terms contained herein; and
 - any endorsement attaching to and forming part of the Policy either at inception or during the Period of Insurance.
52. **Policyholder** means the entity listed in the Schedule as Policyholder.
53. **Pollution Event** means the actual, alleged, or threatened discharge, dispersal, release or escape of and/or any direction or formal request to test for, monitor, clean up or detoxify any contaminant, irritant or other substance including but not limited to oil, smoke, asbestos, fumes, nuclear or radioactive materials, chemicals and waste.
54. **Pre-Investigation Costs** means the reasonable and necessary fees, costs and expenses incurred by an Insured Person with Our prior written consent (but not including any remuneration to an Insured Person) directly with respect to:
- any Pre-Investigation; and
 - preparing any written notice or reports to any official body in connection with any Pre-Investigation.
- It excludes wages, salaries or other remuneration or internal costs or overhead of any Insured.
55. **Pre-Investigation** means:
- a raid or on-site visit to an Insured by a regulator established under Statute, first occurring during the Period of Insurance that involves the production, review, copying or confiscation of records or interviews of an Insured Person;
 - any formal notification by an Insured to any regulator established under Statute, first given during the Period of Insurance, where the Insured reasonably considers that a material breach of an Insured's legal or regulatory duty has occurred or may occur; or
 - an internal inquiry conducted by the Association if and to the extent such an inquiry is requested by such regulator or official body, following a formal notification give in (b) above.
56. **Premium** means the premium specified in the Schedule or any endorsement.
57. **Prior or Pending Litigation Date shall** mean the date so stated in the Schedule.
58. **Professional Business** means the business or activity of the Insured Association specified in the Schedule or any endorsement.
59. **Property** means physical property, excluding any:
- building and its fixtures and fittings;
 - Money and Negotiable Instruments.
60. **Property Damage** means
- physical injury or damage to or defect, impairment or destruction or loss of tangible property including consequential loss or the loss of use of that property;
 - consequential loss relating to, or loss of use of, tangible property which has not been damaged as defined in paragraph (a) of this definition.
61. **Public Relations Firm** means a professional firm, company or consultancy approved by Us which advises on public relations matters.
62. **Relevant Individual** means any natural person other than:
- a director or officer, Office Bearer or other manager of the Association;
 - any person who owns or controls any of the Association's issued share capital;
 - someone who is acting in collusion with any Insured Person or director or officer or other manager of the Association; or
 - any natural person providing services under any contract for services, written or implied, with any Insured.
63. **Reputation Concern** means a reasonable perception of a need to protect the reputation of the Association and/or promote the Association's goodwill.
64. **Retention** means that amount of any claim that would be covered under each of the Insuring Clauses (or otherwise) as specified in the Policy and/or the Schedule which the Insured is required to bear or pay before being entitled to make any request for indemnity under the Policy. The Retention shall apply only once to any Claim or Loss or any series of Claims arising out of, based upon or attributable to a single act, error or omission, other matter, or that are attributable to continuous or repeated events or circumstances, a series of interrelated or connected acts, errors or omissions.. We have no obligation to pay any amount within the Retention.

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65. **Responsible Person** means any Employee acting in a directorial, managerial or supervisory capacity other than any person who has committed any acts of fraud or dishonesty.
66. **Retroactive Date** means the date so specified in the Schedule or any endorsement.
67. **Schedule** means the Schedule on the Certificate of Insurance.
68. **Securities** means any security representing a debt or equity interest in the Association including shares, debentures, loan stock, bonds and notes of the Association, and options or rights to acquire the foregoing, whether secured or unsecured.
69. **Securities Claim** means any legal proceeding alleging a violation of any country's laws regulating securities arising from:
- (a) the sale or purchase of Securities; or
 - (b) a shareholder's interest in Securities.
 - (c) Securities Claim does not mean any claim arising from or attributing to the loss of or failure to receive the benefit of any Securities.
70. **Spouse in relation to another person** means a person who is legally married to that other person and includes a person in a de facto relationship with that other person and who live with each other as spouses although not legally married to each other.
71. **Statute** means any Act, regulation or other legislative instrument enacted by the parliament of the Commonwealth of Australia, or any Australian State or Territory or the New Zealand Parliament.
72. **Statutory Liability Claim** means:
- (a) any written notice comprising of a written demand for compensation or damages or an assertion of a legal right;
 - (b) any civil, statutory or arbitral proceeding;
 - (c) any criminal prosecution;
 - (d) any formal or regulatory proceeding; or
 - (e) any Investigation,
- for a Wrongful Act which results in an Insured (as applicable) being liable to pay a Statutory Penalty.
73. **Statute Liability Loss** means any Statutory Penalty and any Defence Costs arising from a Statutory Liability Claim. Statute Liability Loss does not include;
- (a) any amounts representing damages or compensation;
 - (b) any compliance, remedial, reparation or restitution costs; or
 - (c) any matter deemed uninsurable or We are prohibited from insuring under law.
74. **Statutory Penalty** means any civil fine or pecuniary penalty (including but not limited to fines resulting from conviction of a strict liability offence) which an Insured is legally obliged to pay pursuant to any Statute.
75. **Sub Limit of Indemnity** means a sub limit of indemnity which is set out in the Schedule and which is applicable to any one Claim or Loss under a specified Insuring Clause. Any Sub Limit of Indemnity is included in and does not apply in addition to the Limit of Indemnity. Any Sub Limit of Indemnity is subject to the Limit of Indemnity and Maximum Limit of Indemnity.
76. **Subsidiary** means any corporate entity which the Association:
- (a) directly or indirectly controls a majority of the voting rights, controls the right to appoint or remove a majority of its directors or holds more than half of the issued share capital; or
 - (b) directly or indirectly exercises effective management control including any joint venture. Subsidiary does not include any entity which has all or part of its Securities listed on any stock exchange.
- No cover is provided for a Subsidiary or Office Bearer of a Subsidiary in relation to any acts, errors or omissions committed or occurring whilst the entity was not a Subsidiary.
77. **Tax Investigation Expenses Incurred by Office Bearer(s)** means all reasonable and necessary legal and accountancy fees, costs and expenses incurred by an Office Bearer with Our prior written consent solely as a result of a formal or informal investigation by any fiscal authority into their personal tax affairs which is first commenced or intimated during the Period of Insurance.
78. **Tax Investigation Expenses Incurred by the Association** means all reasonable and necessary legal and accountancy fees, costs and expenses incurred by the Association with Our prior written consent as a result of a formal or informal investigation by any fiscal authority into the Association's tax affairs which is first commenced or intimated during the Period of Insurance.

79. **Theft** means the unlawful taking of the Association's Money, Negotiable Instruments or Property occurring:
- (a) within the premises;
 - (b) within the interior of any banking premises or similar recognised place of safe deposit; or
 - (c) while in transit and in the care, custody and control of an Employee or director, supervisor, Office Bearer or partner of the Association following the actual or threatened use of force or violence; or
 - (d) while in the care, custody and control of any security company or armoured motor vehicle company duly authorised by the Association to retain such care, custody and control and provided that We shall on be liable for the amount that is in excess of the amount of any other valid and collectible insurance or indemnity, contractual or otherwise, available to the security company or armoured motor vehicle company.
80. **We, Us or Our** means the underwriters of Arch Lloyd's Syndicate 2012, the definitive numbers and the proportions underwritten, will be supplied on application.
81. **Wrongful Act** means any actual or alleged act, error or omission committed or allegedly committed by (as applicable) an Insured Person or the Association, after the Retroactive Date including:
- (a) breach of duty, including statutory or fiduciary duty;
 - (b) breach of trust;
 - (c) breach of warranty of authority;
 - (d) negligence;
 - (e) misrepresentation or misstatement or misleading statement; and
 - (f) defamatory statement, libel or slander.
82. **You/Your** means the Insured.

SECTION C. EXCLUSIONS

We shall not be liable for any claim made under the Policy for, or directly or indirectly arising from, or in connection with:

1. Jurisdiction

any action brought in a court of law within the Commonwealth of Australia, Papua New Guinea or New Zealand to enforce a foreign judgement whether by way of reciprocal agreement or otherwise.

2. USA and Canada

- (a) work carried out within, or to persons in, the United States of America or the Dominion of Canada and their Territories, Dependencies or Protectorates;
- (b) Claims or actions brought within the United States of America or the Dominion of Canada and their Territories, Dependencies or Protectorates;
- (c) the enforcement of any award, order or judgement arising from any Claim or action described in clause (b) above.

3. Retroactive Date

any act error or omission or any Wrongful Act committed or alleged to have been committed prior to the Retroactive Date.

This exclusion extends to and includes any claim or Loss relating to or in any way connected with the original subject matter or conduct giving rise to such claim or Loss including any repetition or continuation of such act error or omission or Wrongful Act occurring after the Retroactive Date.

4. Bodily Injury and Property Damage

Bodily Injury or Property Damage arising from, or in connection with:

- (a) any actual or alleged bodily injury, disease, sickness, emotional distress, or any other mental, psychiatric, emotional or physical injury (except only to the extent it forms part of a covered Employment Practices Claim), or death of any person (except only to the extent that it is covered by Insuring Clause 7 (Occupational Health & Safety Defence Costs) and Insuring Clauses 4 and 20 (Statutory Liability)); or
- (b) damage to or defect, impairment or the destruction of or loss of use of any tangible property; or
- (c) any consequential or indirect losses (including losses attributable to claims for apportionment, contribution or indemnity, howsoever formulated); or
- (d) any actual or alleged liability under any express contract or agreement, unless liability would have arisen irrespective of the contract or to the extent cover is provided for Defence Costs under Insuring Clause 25 (Breach of Contract Defence Costs).

5. **Compensation Recovery**

Bodily Injury of any person occurring in the course of their employment either as an Employee of the Insured or as a contractor or sub-contractor, or Property Damage to any property of any such Employee or contractor or sub-contractor, arising out of and/or in the course of their employment and including any statutory recovery or subrogation action by the Victorian WorkCover Authority pursuant to Section 138 of the Accident Compensation Act 1985, or by any like Authority under any similar legislation in Victoria or any other Australian State or Territory, in respect of any payments of whatsoever nature made by any such Authority except to the extent covered under Insuring Clause 7 (Occupational Health & Safety Defence Costs).

6. **Agent Acts**

any independent contractor (other than an Employee), broker, merchant, external solicitor or external accountant, or other similar agent or representative. The exclusion shall not apply to any organisation to which the Association has outsourced any normal administrative function under a written contract of engagement with such organisation.

7. **Benefits**

any salaries, commissions, fees and bonuses, promotions, awards, profit sharing, superannuation or other Employee Benefits paid by the Association where earned in the normal course of employment.

8. **Professional Services**

any claim made against an Insured for providing or failing to provide professional services or advice to a customer or client of the Association where such professional services or advice are not provided in the ordinary course of the Association's Professional Business.

9. **Trustees**

any claim against an Insured acting as a fiduciary, trustee or administrator of any plan, pension, superannuation, annuity, profit sharing, health, welfare or other Employee Benefit programme established by the Association or an Insured's breach of any legislation or regulation relating to these.

10. **Takeovers and Mergers**

any act error or omission or other matter, committed by an Insured after the Association undergoes a Merger or Acquisition.

11. **Association's Overheads**

the Association's overheads, any wages, salaries, fees or expenses incurred in relation to any claim or Loss except insofar as it is covered by Insuring Clause 22 (Disruption Expenses for Hearings and Inquiries).

12. **Loss Sustained After Knowledge**

under Optional Insuring Clause 33 (Crime) any Loss sustained after any Responsible Person of the Association first becomes aware that:

- (a) any Theft or Fraudulent Act has been committed by a Relevant Individual or any person who owns or controls more than 10% of the Association's issued share capital;
- (b) an Employee has committed a dishonest or Fraudulent Act during the term of his or her employment with the Association; or
- (c) an Employee has previously committed a dishonest or Fraudulent Act prior to employment with the Association where the act or acts involved Money, Negotiable Instruments or other property valued at \$50,000 or more.

13. **Forcible and Violent Theft**

any loss occurring following theft as a result of forcible or violent entry to any premises occupied by the Association by any Relevant Individual, where such Relevant Individual is acting alone and not in collusion with any Employee; other than to the extent covered under Optional Insuring Clause 33 (d) (Crime, Destruction and Damage of Money or Negotiable Instruments).

14. **Profit, Loss or Inventory Computation**

any Loss which can only be proved solely by:

- (a) a profit and loss computation or comparison; or
- (b) a comparison of inventory records with an actual physical count.

15. **Publication of False Material**

the publication of any material known by an Insured to be false.

16. **Voluntary Exchange or Purchase**

any Loss arising out of the voluntary giving or surrendering (whether or not such giving and surrendering is induced by deception) of Money, Negotiable Instruments or other property in any exchange or purchase, unless the Association has taken reasonable steps to prevent such Loss and it is otherwise covered by the Policy.

17. Statutory Liability

any statute relating to workers compensation or occupational health and safety except to the extent covered under Insuring Clauses 7 (Occupational Health & Safety Defence Costs) and 4 and 20 (Statutory Liability).

18. Pollution Claims

any Loss arising directly or indirectly from or attributable to any claim in connection with a Pollution Event, except to the extent covered under Insuring Clause 28 (Pollution Defence Costs).

19. Products Liability

goods, products or merchandise (including containers thereof), manufactured, produced, processed, treated, sold, supplied, distributed, assembled, installed, serviced, handled or dealt with in any way, by or on behalf of the Insured.

20. Trading Debts

payment of any trading debt incurred by the Insured or any refund of professional fees or charges of the Insured.

21. Insolvency

- (a) Loss on account of any Claim made against any Insured for or arising out of any obligation by the Association or any Insured to pay debts incurred or which relate in any way to the failure to meet financial obligations whether by way of breach of the provisions of the Corporations Act 2001 (Cth), Competition and Consumer Act 2010 (Cth) or similar legislation, or otherwise;
- (b) any claim brought against an Insured directly or indirectly by a liquidator, receiver, administrative receiver or other similar office holder appointed because of or in relation to the insolvency of the Association. We will pay Defence Costs only in respect of that claim. We will not pay for or contribute towards any other Loss, damage, judgment or settlement arising from, or in connection with that claim.

22. Misconduct of Insured

- (a) wilful breach of duty, the dishonest, fraudulent or malicious act or omission or other act or omission committed with criminal intent of any Insured;
- (b) any Insured having improperly benefited in fact from Securities transactions as a result of information that was not available to other sellers and/or purchasers of such Securities;
- (c) any Insured having gained in fact any personal advantage to which he was not legally entitled.

23. Dishonesty

in respect of insuring clause 1, any dishonest, fraudulent, criminal or malicious act or omission, (whether intentional or otherwise) except to the extent covered under Optional Insuring Clause 33 (Crime).

24. Unfair Advantage

in respect of insuring clause 2, any Office Bearer gaining any profit or advantage or receiving any remuneration to which he was not legally entitled.

For the purpose of this exclusion no fact pertaining to or knowledge possessed by any Office Bearer shall be imputed to any other Office Bearer.

25. Return of Remuneration

in respect of insuring clause 2, the return by the Office Bearers of any remuneration paid to them without the prior approval of the members of the Association which payment, without such prior approval, shall be held by the Court to be in violation of the law.

For the purpose of this exclusion no fact pertaining to or knowledge possessed by any Office Bearer shall be imputed to any other Office Bearer.

26. Controlling Interests

a claim by any Office Bearer or any entity in which any Office Bearer has a controlling interest of 10% or more, against any other Office Bearer of the Association.

27. Prior Circumstances

any Claim made prior to the commencement of the Period of Insurance or in respect of any Claim, circumstance, fact or situation or matter substantially the same as that:

- (a) notified under any previous policy or insurance existing or expired before or on the inception date of the Policy ;
- (b) which was known or ought reasonably to have known to the Insured before We agreed to enter into the Policy; or
- (c) which is stated in any proposal form or declaration in relation to the Policy or any earlier policy or contract; or
- (d) civil administrative, criminal or regulatory proceeding, investigation, arbitration or adjudication that existed prior to or were pending before the Prior or Pending Litigation Date.

This exclusion relates to all Claims and Loss arising out of any Wrongful Act which gives rise to the excluded circumstance irrespective of how that circumstance is reported, discovered, notified or expressed.

For the purpose of this exclusion no conduct, fact pertaining to or knowledge possessed by any Insured shall be imputed to any other Insured and vice versa.

28. Fines and Penalties

any punitive, aggravated, multiple or exemplary damages, or fines or penalties imposed by law or taxes or any direct or indirect tax obligations of any kind or levies or imposts or duties or any investigation or Defence Costs arising as a consequence thereof.

However:

- (a) this exclusion shall not apply to any parts of a Claim which are not for fines, penalties, punitive or exemplary damages, taxes, levies, imposts or duties;
- (b) as regards Insuring Clauses 1 and 16 (Professional Indemnity), 2 (Office Bearers) and 17 (Association Liability), this exclusion shall not apply to costs and expenses which are incurred in the successful defence of any legal action involving fines, penalties, punitive or exemplary damages, taxes, levies, imposts or duties.

29. Contractual Liabilities

any contractual liability, warranty or guarantee assumed or provided by the Insured, except if the Insured would have been legally liable in the absence of that contractual liability, warranty or guarantee.

30. Insured versus Insured

any Claim brought against any Insured, by or on behalf of any other Insured except to the extent covered under Insuring Clauses 14 and 31 (Libel and Slander) and 19 (Employment Practices Claims).

31. Vehicles, Land, Other

the use, ownership or possession of (including any violation of the responsibilities, obligations or duties imposed by any law or regulation), or damage or destruction to any:

- (a) aircraft, marine craft, motor vehicle of any kind or other means of transportation;
- (b) land, property, buildings, premises or structures (whether mobile or immobile).

32. Nuclear

- (a) nuclear weapons materials;
- (b) ionizing radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. Combustion shall include any self sustaining process of nuclear fission.

33. War and Terrorism

any Loss arising from, or in connection with, war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war is declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power. We will not pay for any Loss arising from or attributable in any way to any terrorist act.

34. Asbestos

Bodily Injury or Property Damage in any way related to:

- (a) mining, processing, transport, distribution and/or storage of asbestos;
- (b) manufacture of asbestos products or processing materials containing asbestos;
- (c) any process of decontamination, treatment or control of asbestos.

Sub-paragraph (c) shall apply to those Claims arising in consequence of inhalation of asbestos fibre or damage to or loss of use of property due to the presence of asbestos.

35. Toxic Mould

- (a) the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, moulds, spores or mycotoxins of any kind;
- (b) any action taken by any party in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, moulds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, moulds, spores or mycotoxins;
- (c) any governmental or regulatory order, requirement, directive, mandate or decree that any party take action in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, moulds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, moulds, spores or mycotoxins.

36. Fire

We will not pay for any Loss caused by fire, other than loss of Money, Negotiable Instruments, safes or vaults to the extent covered under Optional Insuring Clause 33(d) (Crime - Destruction and Damage of Money or Negotiable Instruments clause).

37. Criminal or Unprofessional Acts

(a) Sexual Abuse or Misconduct

any actual or alleged sexual abuse or misconduct by the Insured which shall mean but is not limited to, physical abuse, sexual assault, molestation, indecent interference, sexual harassment or coercion of any person (including any corpse) or licentious or immoral behaviour or attempt thereat or their consequences except to the extent covered under Insuring Clause 19 (Employment Practices Claims);

(b) Criminal Acts

the involvement of the Insured with any proven criminal act whatsoever. In the case of Defence Costs or Emergency Defence Costs excluded by this clause, the Insured (as applicable) agrees to repay any sums which have been paid by Us to them or by Us on their behalf on demand once any such finding or admission is made.

38. Intellectual Property

any infringement of any Intellectual Property Rights, copyright, trademark, trade secrets, propriety information or confidential processing methods, registered design or patent, or any plagiarism, or breach of confidentiality, or breach of or infringement of privacy, except to the extent covered under Insuring Clauses 15 and 32 (Intellectual Property Rights).

39. Insurance

the effecting or maintaining of, or failure to effect or maintain, any, or any adequate, insurance.

40. Events Insurance

failing to arrange appropriate liability insurance for events staged or organised by or on behalf of the Insured.

41. Financial Service

any advice or forecast given by the Insured concerning:

- (a) the performance of any investment or asset;
- (b) the making of any discretionary fund decision.

42. Medical Services

medical advice or treatment or the provision of medical services by the Insured or any medical research.

43. Securities Claims

- (a) any Securities Claims;
- (b) any proposed or actual public offering or private placement of Securities;
- (c) any profits made from the purchase or sale of Securities by an Insured where the Insured had, or it is alleged to have, improperly benefited as a result of information that is not available to other sellers or purchasers of such Securities.

44. Computer Security/Electronic Funds

- (a) a breach in computer firewalls or security systems;
- (b) misuse or unauthorised use of electronic transfer of funds or payments (including the failure to electronically transfer funds or payments) via the internet;

except to the extent cover is provided under Insuring Clause 33(c) (Crime - Electronic and Computer Crime).

45. Lockout and other industrial action

any lockout, strike, picket line, stand down or other industrial action.

46. Sanction Limitation

any loss or claim made under the Policy which would expose any underwriter to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or United States of America.

All exclusions 1 to 46 or by endorsement shall apply to any payments or indemnity sought by any Insured under the Policy.

1. Insured's Obligations

The following provisions are conditions of the Policy which must be strictly complied with. Please remember that if an Insured does not comply with any term or condition, We may (to the extent permitted by law) decline or reduce any claim payment and/or cancel the Policy.

2. Our Obligations

Each subscribing underwriter's obligations under the Policy to which they subscribe is several and not joint and is limited solely to the extent of their individual subscription. No subscribing underwriter is responsible for the subscription of any co-subscribing underwriter who for any reason does not satisfy all or part of their obligations.

3. Continuous coverage

- (a) In the absence of any fraudulent non-disclosure or misrepresentation and subject to clauses (b) and (c) below, where:
- (i) a Claim is first made against You and/or the Company, or a circumstance is notified by You and/or the Company in writing to Us, during the Period of Insurance, in respect of a liability under the Policy and it arises from a circumstance known by You and/or the Company prior to the commencement of the Period of Insurance; and
 - (ii) We were the insurer from the time when You and/or the Company first became aware of that circumstance which subsequently gave rise to the Claim or notification; and
 - (iii) We have from that time, to the time when the Claim is made or the notification is given, continued without interruption to be the insurer;

then, in respect of such Claim or notification, notwithstanding anything to the contrary contained in this Policy, We agree to indemnify You in respect of that Claim or notification in accordance with all other provisions of this Policy;

- (b) We reserve the right to reduce Our liability in respect of any Claim or notification under this coverage to the extent that Our interests are prejudiced as a result of the late notification of the Claim or circumstance;
- (c) where clauses (a) and (b) apply, We will not deny indemnity for the Claim or notification as a consequence of a non-fraudulent non-disclosure or misrepresentation on Your and/or the Company's part with respect to the Claim or circumstance;
- (d) for the purpose of clauses (a) (ii) and (iii) above, references to "We" includes Resource Underwriting Pacific Pty Ltd (acting on behalf of certain Underwriters at Lloyd's).

4. Limit of Our Liability and Excess

- (a) The limit of Our liability for each claim under the Policy, whether covered by one or more insuring clauses and/or automatic extensions, shall be the Limit of Indemnity shown in the Schedule, but subject to the Sub Limits of Indemnity specified in the Policy and minus the Retention (if applicable). Our total aggregate liability for all claims under the Policy during the Period of Insurance, whether covered by one or more insuring clauses and/or automatic extensions, shall be the Maximum Limit of Indemnity shown in the Schedule minus any applicable Retention.
- (b) More than one Claim involving the same Wrongful Act or series of causally connected or interrelated Wrongful Acts shall be deemed to constitute a single Claim. Such single Claim shall be deemed to have been made against the Insured on the first to occur of:
- (i) the date the first Claim involving such Wrongful Act(s) was made against the Insured;
 - (ii) the date on which the Insured first became aware of any intention to hold any Insured responsible for such Wrongful Act(s).
- (c) Where the one Wrongful Act or series of causally connected or interrelated Wrongful Acts results in more than one Claim against the Insured which is the subject of indemnity hereunder, all such Claims shall jointly constitute one Claim under the Policy.
- (d) We shall only be liable to indemnify the Insured in excess of any Retention, for each claim under the Policy. Such Retention (i) includes all costs, charges and expenses and (ii) is to be borne by the Association and is not to be insured.
- (e) The Retention shall apply in respect of insuring clause 18 (Association Reimbursement) to Loss resulting from any Claim if indemnification by the Association is required by law or is legally permissible by law, regardless of whether or not actual indemnification is made, unless the Association is unable to make such actual indemnification solely by reason of its insolvency.
- (f) If a Claim is covered in whole or in part under more than one insuring clause and/or optional cover extensions or other extensions, the Retention shall be applied separately to that part of the Loss resulting from such Claim covered by each insuring clause and/or optional cover extensions or other extensions and the sum of the Retentions so applied shall constitute the Retention applicable to such Claim, provided that the total Retention as finally determined shall not exceed the Retention applicable to insuring clause 1.

5. Notification and Co-operation

- (a) The Insured shall, during the Period of Insurance, give Us written notice, as soon as reasonably practicable, within the Period of Insurance or the applicable Discovery Period, of any Claim or threatened Claim against any of them.
- (b) The Insured shall give Us such information and co-operation as We may reasonably require, including but not limited to a description of the Claim, the nature of the alleged Claim, the nature of the alleged or potential damage, the names of actual or potential claimants, and the manner in which the Insured first became aware of the Claim or threatened Claim AND shall co-operate fully with Us in relation to the investigation, defence and settlement of any Claim or any claim under the Policy and must provide Us with any information or documentation that We may reasonably request AND shall do this at the Association's own cost (if solvent).
- (c) Notice to Us under the Policy shall be given in writing to:
Arch Underwriting at Lloyd's (Australia) Pty Ltd,
Suites 4.01 & 4.02, Level 4,
68 York Street, Sydney, NSW, 2000
Such notice shall be effective on the date of actual receipt at the above address.

6. Presumptive Indemnification

We will pay on behalf of an Insured directly for Loss covered under the Policy, if We so elect, where the Association, although permitted or required by law, fails or refuses to indemnify such Insured:

- (a) where the failure or refusal is other than by reason of Financial Impairment;
- (b) where such failure or refusal is by reason of Financial Impairment the Insured must, to obtain the benefit of indemnification under this subparagraph, produce documentary evidence to prove to Our satisfaction the Financial Impairment of the Association.

Notwithstanding any other conditions, provisions or terms of the Policy to the contrary, any payment by Us of such Loss shall be subject to the Retention and to all the exclusions of the Policy.

7. Mitigation of Loss

The Insured shall use all diligence and shall ensure that all reasonable steps are taken to avoid or diminish any liability which may give rise to Loss or to a Claim.

8. Prior Consent

The absence of Our prior written consent to any costs incurred by an Insured will not affect the entitlement to indemnity under the Policy if:

- (a) the costs are Emergency Defence Costs;
- (b) in the case of Crisis Management Costs, the Association is prevented from seeking Our prior written consent by relevant applicable laws or by a pressing and urgent necessity.

Where prior written consent is sought by an Insured under the Policy, We will only withhold giving our consent where it is reasonable for Us to do so.

9. Defence and Settlement

- (a) Subject to this section, it shall be the duty of the Insured and not Our duty to defend Claims made against the Insured.
- (b) The Insured agrees not to settle any Claim, except in respect of Emergency Defence Costs, incur Defence Costs or Legal Representation Expenses or otherwise assume any contractual obligation or admit any liability with respect to any Claim without Our prior written consent, which shall not be unreasonably withheld. We shall not be liable for any Loss or assumed obligation or admission to which We have not consented in writing.
- (c) We shall have the right and shall be given the opportunity to effectively associate with the Insured in the investigation, defence and settlement, including but not limited to the negotiation of a settlement, of any Claim that appears reasonably likely to be covered in whole or in part by the Policy. Furthermore We are entitled any time to take over conduct in the name of the Insured of the investigation, defence or settlement of any claim.
- (d) The Insured agrees to provide Us with all information, assistance and co-operation which We reasonably request and the Insured agrees that in the event of a Claim the Insured will do nothing that may prejudice Our position or their potential or actual rights of recovery.
- (e) Defence Costs are part of and not in addition to the Limit of Indemnity shown in the Schedule, and the payment by Us of Defence Costs reduces such Limit of Indemnity.
- (f) We may make any investigation We deem necessary and may, with the written consent of the Insured, make any settlement of a Claim We deem expedient.
- (g) If the Association or any Insured refuses to consent to any settlement recommended by Us and contests or continues any actions or proceedings in connection with a Claim then, subject to the available or remaining Limit of Indemnity, Our liability in connection with such Claim shall not exceed the amount for which the Claim could have been settled, plus the Defence Costs incurred with Our consent up to the date of such refusal.

10. Insured Not Required to Defend

The Insured will not be required to defend any Claim unless a queen's counsel or senior counsel (to be agreed by the Insured and Us or, failing agreement, to be appointed by the current President of The Institute of Arbitrators & Mediators Australia) advises that the Claim should be defended. Such counsel shall be instructed to formulate the advice taking into account the economics of the matter including:

- (a) the likely cost of defending the Claim;
- (b) the amount of the Claim;
- (c) the prospects of (i) a successful defence and (ii) costs recovery from the claimant.

11. Allocation

- (a) If a claim covered by the Policy includes Loss or liability which is not covered by the Policy, We and the Insured shall use our best efforts to agree upon a fair and proper allocation between covered and uncovered Loss or liability.
- (b) If We and Insured cannot agree on an allocation of Loss or liability, they may agree to submit the dispute to arbitration. The arbitration panel shall consist of one arbitrator selected by the Insured, one arbitrator selected by Us, and a third independent arbitrator selected by the first two arbitrators.
- (c) Any arbitrated or judicially determined allocation of Loss or liability shall be applied retrospectively to all Loss or liability under the Policy. Any allocation or advancement on account of a claim under the Policy shall not apply to or create any presumption with respect to the final allocation of Loss or liability.

12. Governing Law

The Policy is governed by the laws of Australia. Any dispute relating to the Policy shall be submitted to the exclusive jurisdiction of an Australian Court within the State or Territory in which the Policy was issued.

13. What happens if there are other relevant insurance contracts or policies?

If an Insured has other insurance which covers Loss which is also covered by the Policy, then to the extent permitted by the Insurance Contracts Act 1984 (Cth) the Insured must claim under the other policy first and We are under no obligation to pay to the extent that the other policy applies (or would apply if your Policy did not exist). In such a case, if the Loss that you suffer is greater than the limit of indemnity available under the other policy, the Policy will operate and We will pay in excess of that limit of indemnity up to the applicable Limit of Indemnity, Sub Limit of Indemnity, Maximum Limit of Indemnity or Additional Limit of Indemnity, as appropriate.

14. Subrogation

In the event of any payment under the Policy, We shall be subrogated to the extent of such payment to all the Insured's rights of recovery, contribution or indemnity and the Insured shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of such documents necessary to enable Us effectively to bring suit in the name of the Insured. Our right of subrogation shall not extend to a right of recovery from any Employee or Office Bearer, except where such right arises from conduct on the part of the Employee or Office Bearer which is dishonest, fraudulent or criminal.

15. Subrogation against named consultants waived

Notwithstanding condition 15, if a consultant to the Association (being a natural person) is notified to and agreed by Us by way of endorsement, We shall waive any subrogation rights against that person unless Our liability under the Policy is in any way connected with the actual or alleged dishonest, fraudulent, illegal or malicious conduct of that person.

16. Can the Policy be assigned or cancelled?

The Policy cannot be assigned unless We give Our consent in writing.

The Policyholder can cancel the Policy by giving 30 days notice in writing to Us. If there has been no claim made under it nor any Claim or Loss reported to Us, We will give the Policyholder a pro-rata rebate of premium if the Policy is cancelled less any reasonable administrative costs and any government taxes or duties We cannot recover. If any Claim or Loss is reported under the Policy to Us on or before the date of cancellation, the premium shall be deemed to be fully earned and no refund is payable.

We can cancel the Policy in accordance with Section 60 of the Insurance Contracts Act 1984 by giving written notice to the Policyholder.

17. Alteration and Assignment

No change in, modification of, or assignment of interest under this Policy shall be effective except when made by a written endorsement to the Policy which is signed by an authorised signatory on Our behalf.

18. Material Change

In the event of any material change in the risk insured by the Policy, the Insured must notify Us as soon as reasonably practicable and We may at Our discretion amend the Policy and charge an additional premium as a consequence.

19. Severability and Non Imputation

For the sake of determining cover under the Policy:

- (a) the written proposal shall be construed to be a separate application for cover by each of the Insured Persons and no statement or representation in or with respect to the proposal by an Insured Person shall be imputed to any other Insured Person;
- (b) a material non-disclosure or misstatement by one Insured Person shall not be imputed to any other Insured Person provided that that they are able to establish to Our satisfaction that they were not aware of the material non-disclosure or misstatement in question;
- (c) the Policy shall be construed to be a separate Policy between Us and each Insured person and no breach of any term or condition of the Policy or other misconduct by any Insured Person shall be imputed to any other Insured Person;
- (d) no fact or knowledge possessed by one Insured Person shall be imputed to any other Insured Person.

Provided always that this condition shall not apply where there was a fraudulent misrepresentation or fraudulent non-compliance with the duty of disclosure to Us at the time of entering into the Policy.

20. Authorisation

By acceptance of the Policy, the Policyholder agrees to act on behalf of the Insured(s) as well as itself with respect to the giving and receiving of notice of claim or termination, the payment of premiums and the receiving of any return premium become due under the Policy, the negotiation, agreement to and acceptance of endorsements, and the giving and receiving of any notice provided in the Policy, and the Insured(s) agree that the Policyholder shall act on your behalf.

21. Use of Specialist Investigators

In reporting and investigating Crime Loss in accordance with Optional Extension Insuring Clause 33 - Crime, the specialist investigator shall also advise as to when and how the Association's controls were or may have been breached and summarise recommendations which may prevent future similar Crime Loss. We have the right to attend the initial meeting between the Association and the specialist investigator.

22. Basis of Valuation - Crime

In respect Optional Extension Insuring Clause 33- Crime, We will not be liable for more than:

- (a) the actual market value of Negotiable Instruments, Money or precious metals at the close of business on the day the covered loss was first Discovered (determined by the value published in the Australian Financial Review in Australia or equivalent local daily financial newspaper), or the actual cost of replacing the Negotiable Instruments, Money or precious metals, whichever is less;
- (b) the actual cash value of other property (not referred to in (1) above) at the close of business on the day the Loss was first Discovered, or the actual cost of replacing the property with property of a like quality or value, whichever is the less;
- (c) the cost of blank books, blank pages or other materials plus the cost of labour and computer time for the actual transcription or copying of data furnished by the Association in order to reproduce books of account or other records; or
- (d) the cost of labour for the actual transcription or copying of electronic data furnished by the Association on order to reproduce such electronic data.

23. Confidentiality Agreement

The Insured Person(s) and the Association and their representatives, shall not disclose the existence of the Policy, its Limits of Indemnity, the nature of the liability indemnified, or the Premium, to any third party except to the extent that:

- (a) they are required by law to do so;
- (b) We consent, in writing, to such disclosure.

24. Valuation and Foreign Currency

All premiums, limits, Retentions, loss and other amounts under the Policy are expressed and payable in Australian currency. Except as otherwise provided, if judgement is rendered, settlement is denominated or another element of Loss or liability under the Policy is stated in a currency other than Australian dollars, payment under the Policy shall be made in Australian dollars at the cash rate of exchange for the purchase of Australian dollars published in the Australian Financial Review on the date the final judgement is reached, the amount of the settlement is agreed upon or the other element of Loss or liability is due, respectively.

25. Goods and Services Tax Neutrality

We and the Insured agree that to the extent possible as between them neither is to be adversely affected or advantaged by the operation of "GST". If any party requires a tax invoice or the assistance of any other party to obtain an input tax credit the other party will provide such invoice or assistance promptly upon being requested to do so.

For the purposes of this condition "GST" means tax payable under A New Tax System (Goods and Services Tax) Act 1999 (Cth) and, unless the context otherwise requires, other expressions used in this section have the meanings given to those expressions in that Act.

26. Construction/Interpretation

- (a) Clause headings and the use of bold print are for convenient reference only and have no effect in limiting or extending the language of the provisions to which they refer.
- (b) Unless the contrary intention appears in the Policy:
 - (i) words importing a gender include any other gender;
 - (ii) words in the singular include the plural and words in the plural include the singular.
- (c) References to statutes include amendments thereof, regulations thereunder, and re-enactments or consolidations thereof.
- (d) In the event that any part of the Policy is found to be invalid, void or unenforceable, the remainder shall remain in full force and effect.

27. Privacy Statement

Unless the context otherwise provides, in this section 'We', 'Our' or 'Us' means Arch Syndicate 2012 and Arch Australia and their related entities.

Personal information is essentially any information or an opinion about an identified individual, or an individual who is reasonably identifiable. See the Privacy Act for full details of what constitutes personal information.

This privacy notice details how We collect, disclose and handle personal information.

Why We collect your personal information

We collect personal information (including sensitive information) so We can:

- identify you and conduct necessary checks;
- determine what service or products We can provide to you e.g. offer Our insurance products;
- issue, manage and administer services and products provided to you or others, including claims investigation, handling and settlement; and
- improve Our services and products, e.g. training and development of Our representatives, product and service research and data analysis and business strategy development.

What happens if you don't give Us Your personal information?

If you choose not to provide Us with the information We have requested, We may not be able to provide you with Our services or products or properly manage and administer services and products provided to you or others.

How We collect Your personal information

Collection can take place through websites (from data input directly or through cookies and other web analytic tools), email, by telephone or in writing.

We collect it directly from you unless You have consented to collection from someone other than you, it is unreasonable or impracticable for Us to do so or the law permits Us to.

If you provide Us with personal information about another person you must only do so with their consent and agree to make them aware of this privacy notice.

Who We disclose your personal information to

We share your personal information with third parties for the collection purposes noted above.

The third parties include: Our related companies and Our representatives who provide services for Us, other insurers and reinsurers, Our claim management partner(s), your agents, Our legal, accounting and other professional advisers, data warehouses and consultants, investigators, loss assessors and adjusters, other parties We may be able to claim or recover against, and anyone either of Us appoint to review and handle complaints or disputes and any other parties where permitted or required by law.

We may need to disclose information to persons located overseas who will most likely be located in the United Kingdom. Who they are may change from time to time. You can contact Us for details or refer to Our Privacy Policy available at Our website. In some cases We may not be able to take reasonable steps to ensure they do not breach the Privacy Act and they may not be subject to the same level of protection or obligations that are offered by the Act. By proceeding to acquire Our services and products you agree that you cannot seek redress under the Act or against Us (to the extent permitted by law) and may not be able to seek redress overseas.

More information, access, correction or complaints

For more information about Our privacy practices including how We collect, use or disclose information, how to access or seek correction to your information or how to complain in relation to a breach of the Australian Privacy Principles and how such a complaint will be handled, please refer to Our Privacy Policy. It is available at Our website www.archinsurance.com.au or by contacting Us on (02) 8284 8400 EST 9am-5pm, Monday-Friday.

Your Choices

By providing Us with personal information, you and any person You provide personal information for, consent to this use and these disclosures unless you tell Us otherwise. If you wish to withdraw your consent, including for things such as receiving information on products and offers by Us or persons We have an association with please contact Us.

28. General Insurance Code of Practice

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

Lloyd's Australia Limited has adopted and endorses the Code.

To obtain more information on the Code of Practice please contact Us or you can access the Code at:

www.codeofpractice.com.au

29. How will any disputes between us be resolved?

Any dispute between an Insured and Us regarding any aspect of the Policy which cannot be resolved by Us to your satisfaction within six months of the dispute arising shall be referred for mediation by a Senior Counsel who shall have been appointed by you and Us (or failing agreement, to be appointed by the current President of The Institute of Arbitrators & Mediators Australia). If the dispute remains unresolved after mediation, We and you may refer it to arbitration in the jurisdiction in which the Policy is issued. The Insured and We will each bear our own costs of any arbitration.

30. What do I do if I have a complaint?

If you are dissatisfied with our service in any way, contact us by writing to the following address and we will attempt to resolve the matter in accordance with our internal Dispute Resolution procedures.

The Complaints Manager,
Arch Underwriting at Lloyd's (Australia) Pty Ltd
Suites 4.01 & 4.02, Level 4,
68 York Street, Sydney NSW 2000

Telephone: (02) 8284 8400
Email: complaints@archinsurance.com.au

If this does not resolve the matter, or you are not satisfied with the way a complaint has been dealt with, you should write to:

Lloyd's Australia Limited
Level 9, 1 O'Connell Street
Sydney NSW 2000

Telephone: (02) 8298 0783
Facsimile: (02) 8298 0788
Email: ldraustralia@lloyds.com

31. Underwriters' Notices

The underwriters accepting the insurance under the Policy agree that:

- (i) if a dispute arises under this insurance, this insurance will be subject to Australian law and practice and We will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
- (ii) any summons notice or process to be served upon the Underwriters may be served upon:

Lloyd's Underwriters' General Representative in Australia
Level 9, 1 O'Connell Street
Sydney NSW 2000

who has an authority to accept service and appear on the underwriters' behalf;

- (iii) if a suit is instituted against any of the underwriters, all underwriters participating in this insurance will abide by the final decision of such Court or any competent Appellate Court.

To be valid, the Policy document must have attached to it the Certificate of Insurance signed by an authorised officer of Arch Underwriting of Lloyds (Australia) Pty Ltd.

32. Rights of other parties

Save as provided under the Insurance Contracts Act 1984 (Cth), no other party except an Insured shall be entitled to make a claim or enforce any term of the Policy.

33. Renewal Procedure

Before the Policy expires We will advise the Insured(s) via their intermediary or the Policyholder whether We intend to offer renewal and if so on what terms.

This document also applies for any offer of renewal We may make, unless We tell you otherwise.

It is important that you check the terms of any renewal offer before renewing to satisfy yourself that the details are correct. In particular, check the Maximum Limit of Indemnity, Limit(s) of Indemnity and Sub Limit(s) of Indemnity amounts and Retention(s) applicable and to ensure the levels of cover are appropriate.

Please note that you need to comply with the duty of disclosure before each renewal.

NOMINATED PRACTITIONERS (PURSUANT TO INSURING CLAUSE 5)

Sydney	Melbourne	Brisbane	Adelaide	Perth
Kennedys Tel: (02) 8215 5999 Fax: (02) 8215 5988 <u>Contact:</u> Veronica Chapman/James Melvin Email : Veronica.Chapman@kennedyslaw.com/ James.Melvin@kennedyslaw.com DDI: 02 8215 5906	Wotton & Kearney Tel: (03) 9604 7900 Fax: (03) 8414 2852 <u>Contact:</u> Cain Jackson Email : Cain.Jackson@wottonkearney.com.au DDI: 03 9604 7901	Moray & Agnew Tel: (07) 3221 3311 Fax: (07) 3221 9650 <u>Contact:</u> Anthony Henley Email : AHenley@moray.com.au DDI: 07 3225 5968	Sparke Helmore Tel: (08) 8415 9800 Fax: (08) 8415 9895 <u>Contact:</u> Julie Kinnear Email : Julie.Kinnear@sparkel.com.au DDI: 08 8415 9823	DLA Piper Tel: (08) 6467 6000 Fax: (08) 6467 6001 <u>Contact:</u> Toby Barrie Email : Toby.Barrie@dlapiper.com DDI: 08 6467 6029

What do I do if I have a complaint about the nominated practitioner(s)?

Arch endeavours to provide an excellent and efficient service to all its customers. Arch takes all complaints seriously and strives to resolve all complaints promptly and fairly.

If you have a complaint in relation to any of the nominated practitioners, please contact Us; Arch Underwriting of Lloyds (Australia) Pty. Ltd., Suites 4.01 & 4.02, Level 4, 68 York Street, Sydney NSW 2000. Please quote Your Policy number or claim reference as appropriate in your correspondence.

Litigation Management Guidelines

DATED March 2016

1. What are the Litigation Management Guidelines?

Subject always to the terms and conditions and exclusions of the Policy, We will provide indemnity for Defence Costs as defined in the Policy. Defence Costs means all reasonable and necessary legal fees, costs and expenses incurred solely in the defence or investigation of any Claim with Our prior written consent and which are incurred in accordance with these Litigation Management Guidelines.

It is possible that not all costs that are incurred in connection with a Claim will fall to be covered by the Policy, for example if the costs are not reasonable or if the costs are not incurred solely in the defence or investigation of the Claim.

It is agreed that these guidelines form part of the Policy and form the basis of what constitutes reasonable and necessary legal fees, costs and expenses.

It is in your interests that the costs incurred in connection with a Claim comply with these Litigation Management Guidelines so that the costs fall to be indemnified by Us under the Policy. You should therefore provide the lawyer acting in the defence of your claim with a copy of these Litigation Management Guidelines as soon as possible. We will review all invoices that are submitted to Us for compliance with these Litigation Management Guidelines.

Our aim is to help achieve the best result for you in an efficient and cost-conscious manner consistent with Your lawyer's professional obligations.

2. What is reasonable and necessary?

2.1 Personnel and rates

At the outset of a Claim, We require details of the individual lawyer(s) who will be dealing with the defence or investigation of the Claim on your behalf. We require details of their qualifications and experience and hourly rates. All personnel and hourly rates, including any revisions thereto, are to be approved by Us in advance.

2.2 Staffing philosophy

The case should be staffed economically and effectively and duplication of effort should be avoided. To achieve efficiency and value, work should be delegated where appropriate, however this should not compromise quality.

Your lawyer should consult with Us where it is anticipated that more than one lawyer's attendance is necessary at trial, court appearances, meetings, depositions, consultations, witness interviews, inspections and other functions.

We will not provide indemnity under the Policy for secretarial work. This includes receipt and distribution of mail, file set-up, copying, printing, posting, faxing, e-mailing, inserting documents into and retrieving documents from the file, stamping documents, tabbing files and assembling materials.

2.3 Reporting requirements

Reports should be provided to both you and Us.

Upon receipt of a new Claim, the lawyer appointed should send an acknowledgment letter regarding receipt of the file and designating the team assigned to the case. Any matters of immediate concern or information that may result in early resolution of the case should be addressed in the acknowledgment letter.

On a date to be agreed by Us, but no later than 45 days from receipt of the Claim, your lawyer should provide an initial report including a summary of the allegations, a preliminary evaluation of liability and damages and a proposed litigation plan. Consideration should be given to the potential for early resolution of the case by settlement and recommendations with respect to arbitration, mediation or other negotiations.

Your lawyer should advise Us of all significant developments throughout the life of the Claim as soon as practical. These will include but not be limited to reports on the summaries of depositions, pre-trial reports, settlement options, evaluation of the client's liability and damages (if this has changed from the initial report).

2.4 Costs Estimates

In conjunction with the litigation plan, We require detailed costs estimates of all the costs and expenses (including disbursements) that are likely to be incurred in the defence or investigation of any Claim. We require regular cost projections up to and including any trial. If anything changes in the handling of the defence or investigation of any Claim that may affect the costs estimate, We require updated costs estimates.

2.5 Billing

Bills should be submitted to Us quarterly, unless otherwise agreed between You and Us. Professional fees are to be recorded clearly in separate billing entries for each task, based upon their actual time in increments of one-tenth of an hour. We must be able to determine exactly what professional service was provided in each entry and assess the appropriateness of the charge. Grouping multiple activities under a single time charge (block billing) is not acceptable.

2.6 Retention of Experts

You should consult with Us prior to instructing any experts including barristers, consultants, investigators, outside paralegals or other professional services.

2.7 Other disbursements

You should consult with Us prior to incurring any disbursement over the value of \$10,000. Disbursements should be itemised on the lawyer's invoice and should include a specific and detailed description of the expense.

2.8 Costs must be incurred solely in the defence or investigation of the Claim

We will only provide indemnity for Defence Costs which have been incurred solely in the defence or investigation of the Claim. We will not provide indemnity for any other costs.