

## Change of Insurer – Endorsement

This endorsement is dated 01 August 2017 and will apply to all policies taken out, or with a renewal effective date, on or after this date.

The information in this endorsement should be read with the last Policy You received for the Policy specified in your Policy Schedule and any other applicable endorsement.

## Changes to your Policy

Your Policy is amended by the following:

**Change 1:** Change to details of CGU Insurance Limited  
ABN 27 004 478 371 AFS Licence No. 238291

All references to “CGU Insurance Limited ABN 27 004 478 371 AFS Licence No. 238291” are deleted and replaced by “Insurance Australia Limited ABN 11 000 016 722 AFSL 227681 trading as CGU Insurance”.

**Change 2:** Change to details of CGU Insurance Limited

All references to “CGU Insurance Limited” are deleted and replaced by “Insurance Australia Limited trading as CGU Insurance”.

# CGU CYBER DEFENCE INSURANCE POLICY



# Contents

<b>Important Information</b>	<b>1</b>	<b>Section 6 Exclusions</b>	<b>6</b>
How CGU protects your privacy	1	6.1 Known Claims and Known Circumstances	6
General Insurance Code of Practice	1	6.2 Foreign jurisdictions	7
Our service commitment	1	6.3 Assumed duty or obligation	7
Intermediary remuneration	1	6.4 Intellectual Property Rights Infringement	7
Interest on unallocated premium	1	6.5 Breach of Professional Duty	7
<b>Section 1 How To Read This Insurance Policy</b>	<b>2</b>	6.6 Charge Backs	7
1.1 Words with Special Meanings	2	6.7 Enforcement Order	7
1.2 Policy Interpretation	2	6.8 Failure or fitness of goods or services	7
1.3 Paragraph Headings	2	6.9 Internet infrastructure failure	7
<b>Section 2 The Insurance Contract</b>	<b>2</b>	6.10 Satellite Failures, Electrical or Mechanical Failures	7
2.1 Payment of the Premium	2	6.11 Wilful or dishonest acts of principals	7
2.2 Proposal	2	6.12 Related Parties	8
2.3 Period of Insurance	2	6.13 Retroactive Limitation	8
<b>Section 3 The Cover We Provide</b>	<b>2</b>	6.14 Fines, Penalties, Punitive and Exemplary damages	8
3.1 Privacy Breach	2	6.15 Insolvency	8
3.2 System Damage	3	6.16 Pollution, Nuclear Risks, War & Terrorism	8
3.3 Business Interruption	3	6.17 Trade Debt	8
3.4 Computer Virus Transmission and Hacking	3	6.18 Profit	8
3.5 Multimedia Liability	3	6.19 Asbestos	8
3.6 Breach of Statutory Duties Relating to E-Commerce	3	6.20 Bodily Injury and/or Property Damage	8
3.7 Cyber Extortion Cover	3	6.21 Government Confiscation	8
<b>Section 4 Policy Extensions</b>	<b>4</b>	6.22 UN Sanctions	8
4.1 Brand Protection Cover	4	6.23 Unfair Trade Practices	8
4.2 Personal Reputation Cover	4	6.24 PCI Implementation	8
4.3 Privacy Fines & Investigations	4	6.25 Discrimination	9
4.4 Privacy Breach Notification & Loss Mitigation	4	<b>Section 7 General Terms And Conditions</b>	<b>9</b>
4.5 Free Cyber Consultation	4	7.1 Severability and Non-imputation	9
4.6 Advancement of Defence Costs	4	7.2 Authority to accept notices and to give instructions	9
4.7 Continuous Cover	5	7.3 Payment in Australian dollars in Australia	9
4.8 Extended Reporting Period	5	7.4 Law of the policy	9
4.9 Former subsidiaries run-off cover	5	7.5 Territory Covered by this Policy	9
4.10 Merged and/or newly acquired subsidiaries	5	7.6 Schedule must be included	9
4.11 Reward Expenses Cover	5	7.7 The Insured's duty to comply with additional conditions	9
4.12 Computer Crime (Optional Extension)	5	7.8 The policyholder can cancel the policy	9
<b>Section 5 Limits To The Amount Of Cover</b>	<b>6</b>	7.9 We can cancel the policy	9
5.1 The Policy Limit	6	7.10 Address for giving notices	10
5.2 Limit if multiple persons and/or entities are covered	6		
5.3 Specific Cover Limits	6		
5.4 The Excess	6		
5.5 Related claims or losses	6		
5.6 GST Input Tax Credits	6		

<b>Section 8 Investigation, Defence And Settlement Of Claims</b>	<b>10</b>	9.32 Privacy Obligations	14
8.1 We must be told about claims	10	9.33 Promotional Material	14
8.2 Insured's Co-operation	10	9.34 Proposal	14
8.3 An Insured must not admit liability for or settle any claim	10	9.35 Public Relations Costs	15
8.4 We can protect our position	10	9.36 Rectification Costs	15
8.5 We can manage the claim	10	9.37 Regulatory Investigation	15
8.6 Disclosure of information to us in respect of cover	10	9.38 Regulatory Investigation Costs	15
8.7 Policyholder's right to contest	10	9.39 Revenue	15
8.8 Senior counsel	10	9.40 Rewards Expenses	15
8.9 Costs and Expenses	11	9.41 Schedule	15
8.10 Allocation	11	9.42 Security Threat	15
8.11 Subrogation and Recoveries	11	9.43 Service Provider	15
8.12 Loss prevention	11	9.44 Specific Cover Limit	15
8.13 Other insurance which may cover the risk	11	9.45 Subsidiary	15
8.14 Material change in the risk	11	9.46 Terrorism	15
<b>Section 9 Words With Special Meaning</b>	<b>12</b>	9.47 Third Party	16
9.1 Authority	12	9.48 Time Excess	16
9.2 Business Interruption Loss	12	9.49 Virus	16
9.3 Claim	12	9.50 We or Us or Our	16
9.4 Commercially Confidential Information	12		
9.5 Computer Records	12		
9.6 Computer System	12		
9.7 Cyber Event	12		
9.8 Cyber Extortion Costs	12		
9.9 Defence Costs	12		
9.10 Electronic Commerce	13		
9.11 Employee	13		
9.12 Enforcement Order	13		
9.13 Excess	13		
9.14 Fine or Penalty	13		
9.15 Former Principal	13		
9.16 Hacking Attack	13		
9.17 Insured	13		
9.18 Insured Business	13		
9.19 Intellectual Property Right	13		
9.20 Internet and Email Content	13		
9.21 Known circumstance	13		
9.22 Loss	14		
9.23 Money	14		
9.24 Period of Insurance	14		
9.25 Personal Information	14		
9.26 Policy	14		
9.27 Policy Limit	14		
9.28 Policyholder	14		
9.29 Pollutant	14		
9.30 Principal	14		
9.31 Privacy Breach Costs	14		

# Important Information

## How CGU protects your privacy

We use information provided by our customers to allow us to offer our products and services. This means we may need to collect your personal information, and sometimes sensitive information about you as well (for example, health information for travel insurance). We will collect this information directly from you where possible, but there may be occasions when we collect this information from someone else.

CGU will only use your information for the purposes for which it was collected, other related purposes and as permitted or required by law. You may choose not to give us your information, but this may affect our ability to provide you with insurance cover.

We may share this information with companies within our group, government and law enforcement bodies if required by law and others who provide services to us or on our behalf, some of which may be located outside of Australia.

For more details on how we collect, store, use and disclose your information, please read our Privacy Policy located at [www.cgu.com.au/privacy](http://www.cgu.com.au/privacy). Alternatively, contact us at [privacy@cgu.com.au](mailto:privacy@cgu.com.au) or 13 15 32 and we will send you a copy. We recommend that you obtain a copy of this policy and read it carefully.

By applying for, using or renewing any of our products or services, or providing us with your information, you agree to this information being collected, held, used and disclosed as set out in this policy.

Our Privacy Policy also contains information about how you can access and seek correction of your information, complain about a breach of the privacy law, and how we will deal with your complaint.

## General Insurance Code of Practice

CGU Insurance proudly supports the General Insurance Code of Practice. The purpose of the Code is to raise standards of practice and service in the general insurance industry.

### The objectives of the Code are:

- to commit us to high standards of service;
- to promote better, more informed relations between Us and You;
- to maintain and promote trust and confidence in the general insurance industry;
- to provide fair and effective mechanisms for the resolution of complaints and disputes between Us and You; and
- to promote continuous improvement of the general insurance industry through education and training.

### Our Commitment to You

We have adopted and support the Code and are committed to complying with it. Please contact Us if You would like more information about the Code.

## Our service commitment

CGU Insurance is proud of its service standards and supports the General Insurance Code of Practice. In an unlikely event that you are not satisfied with the way in which we have dealt with you, as part of our commitment to customer service, we have an internal dispute resolution process in place to deal with any complaint you may have.

Please contact your nearest CGU Insurance office if you have a complaint, including if you are not satisfied with any of the following:

- one of our products;
- our service;
- the service of our authorised representatives, loss adjusters or investigators; or
- our decision on your claim.

Our staff will help you in any way they can. If they are unable to satisfy your concerns, they will refer the matter to their supervisor or manager. If the manager cannot resolve the matter, the manager will escalate the matter to our Internal Dispute Resolution Department.

Brochures outlining our internal dispute resolution process are available from your nearest CGU Insurance office.

## Intermediary remuneration

CGU Insurance Limited pays remuneration to insurance intermediaries when we issue, renew or vary a policy the intermediary has arranged or referred to us. The type and amount of remuneration varies and may include commission and other payments. If you require more information about remuneration we may pay your intermediary you should ask your intermediary.

## Interest on unallocated premium

If we are unable to issue your insurance when we receive your application, we are required to hold your Premium in a trust account on your behalf until your insurance can be issued. We will retain any interest payable by our bank to meet, among other things, bank fees and other bank costs we incur in operating the account.

# Section 1

## How To Read This Insurance Policy

### 1.1 Words with Special Meanings

Some of the words in this insurance **Policy** have special meanings. These meanings can be found in Section 9 of the **Policy** under the heading ('Words with Special Meanings'). If a word has a special meaning, it appears in this **Policy** in bold type and with a capital letter. These words may appear without bold type in endorsements in the **Schedule**, but have the same meaning as those words defined in Section 9.

### 1.2 Policy Interpretation

Except where the context otherwise requires it:

- a) the singular includes the plural and the plural includes the singular;
- b) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- c) words importing a gender include every other gender.

### 1.3 Paragraph Headings

The paragraph headings in this **Policy** are included for the purpose of reference only and do not form part of this **Policy** for interpretation purposes.

# Section 2

## The Insurance Contract

### 2.1 Payment of the Premium

**We** agree to provide the cover described in this **Policy** upon full payment of the Premium as stated in the **Schedule**. If full payment of the Premium as stated in the **Schedule** is not made, there is no cover.

### 2.2 Proposal

Before this **Policy** came into effect, **We** were provided with information by or on behalf of the **Insured**, in the **Proposal** and perhaps in other ways. **We** have relied on this information to decide whether to enter into this contract and on what terms. If any of that information is wrong or false, it may affect entitlement to cover under this **Policy**.

### 2.3 Period of Insurance

This **Policy** is in force for the **Period of Insurance**.

# Section 3

## The Cover We Provide

The provisions of Section 3 apply to all Sections of this **Policy** unless stated to the contrary.

### 3.1 Privacy Breach

**We** will pay, on behalf of the **Insured**, all sums which the **Insured** becomes legally obliged to pay (including liability for claimants' costs and expenses) and **Defence Costs** resulting from any **Claim** first made against the **Insured** and notified to **Us** in writing as soon as reasonably possible during the **Period of Insurance** as a direct result of:

#### a) Personal Information

the breach, by or on behalf of the **Policyholder**, in respect of any natural person, of any **Privacy Obligations**.

#### b) Commercially Confidential Information

any actual or alleged unauthorised disclosure, loss or theft of **Commercially Confidential Information**, by or on behalf of the **Policyholder**.

#### c) Employee Information

the breach, by or on behalf of the **Policyholder**, of any **Privacy Obligations** relating to any **Employee** as a direct result of the **Insured's** failure to maintain the confidentiality and/or security of any:

- i. **Computer Records** pertaining to such **Employee**; and/or
- ii. data or information pertaining to such **Employee** stored on the **Policyholder's Computer Systems**.

#### d) Information Outsourced by the Policyholder

any actual or alleged unauthorised disclosure, loss or theft of:

- i. **Personal Information**; or
- ii. **Commercially Confidential Information**,

in the care, custody or control of any **Service Provider** where such information is authorised to be in the care, custody or control of the **Service Provider** by the **Policyholder** pursuant to a written contract.

### 3.2 System Damage

- a) **We** will pay **Rectification Costs** incurred:
- in retrieving, repairing, restoring or replacing any of the **Policyholder's Computer Records** (or any other **Computer Records** for which the **Policyholder** is responsible) that have been destroyed, damaged, lost, altered, distorted, erased or mislaid (and which after diligent search cannot be found);
  - in repairing, restoring or replacing any of the **Policyholder's Computer Systems** that have been destroyed, damaged, lost, altered, distorted, erased or mislaid (and which after diligent search cannot be found),
- as a direct result of any **Cyber Event** first discovered by an **Insured** and notified to **Us** in writing as soon as reasonably possible during the **Period of Insurance**.
- b) The **Specific Cover Limit** with respect to the cover provided in a) above is specified in the **Schedule**.
- c) The **Excess** applicable to this Section 3.2 is specified in the **Schedule**.

### 3.3 Business Interruption

- a) **We** agree to reimburse the **Policyholder** for **Business Interruption Loss** incurred as the direct result of any **Cyber Event** first discovered and notified to **Us** in writing as soon as reasonably possible during the **Period of Insurance**.
- b) The **Specific Cover Limit** with respect to the cover provided in a) above is specified in the **Schedule**.
- c) The **Excess** applicable to this Section 3.3 is specified in the **Schedule**.

### 3.4 Computer Virus Transmission and Hacking

**We** will pay, on behalf of the **Insured**, all sums which the **Insured** becomes legally obliged to pay (including liability for claimants' costs and expenses) and **Defence Costs** resulting from any **Claim** first made against the **Insured** and notified to **Us** in writing as soon as reasonably possible during the **Period of Insurance** as a direct result of any **Third Party's** financial losses arising directly from:

- a **Hacking Attack** or **Virus** that has emanated from or passed through the **Policyholder's Computer Systems**; or
- a **Hacking Attack** or **Virus** that restricts or prevents access to the **Policyholder's Computer Systems** by **Third Parties** authorised by the **Insured** to gain such access; or
- the loss or theft of the **Policyholder's** data or data for which the **Policyholder** is responsible or alleged to be responsible for, arising directly from a **Hacking Attack** or **Virus**.

### 3.5 Multimedia Liability

**We** will pay, on behalf of the **Insured**, all sums which the **Insured** becomes legally obliged to pay (including liability for claimants' costs and expenses) and **Defence Costs** resulting from any **Claim** first made against the **Insured** and notified to **Us** in writing as soon as reasonably possible during the **Period of Insurance** as a direct result of:

- libel, slander or defamation;
  - invasion of or interference with the right to privacy, including those of **Employees**, or commercial appropriation of names or likeness;
  - plagiarism, piracy or misappropriation of ideas;
  - infringement of copyright, domain name, commercial title or slogan, the dilution or infringement of trademark, service mark, service name or trade name;
- arising directly from:
- the **Policyholder's Internet and Email Content**; or
  - the **Policyholder's Promotional Material**; or
  - Third Party** digital content downloaded, shared or distributed from the **Policyholder's Computer Systems**.

### 3.6 Breach of Statutory Duties Relating to E-Commerce

- a) **We** will pay, on behalf of the **Insured**, all sums which the **Insured** becomes legally obliged to pay (including liability for claimants' costs and expenses) and **Defence Costs** resulting from any **Claim** first made against the **Insured** and notified to **Us** in writing as soon as reasonably possible during the **Period of Insurance** as a direct result of a breach, by or on behalf of the **Policyholder**, of any statutory duty relating to the security or management of information collected or created in the course of **Electronic Commerce**.
- b) The **Specific Cover Limit** with respect to the cover provided in a) above is specified in the **Schedule**.
- c) The **Excess** applicable to this Section 3.6 is specified in the **Schedule**.

### 3.7 Cyber Extortion Cover

- Notwithstanding Section 6.16 d) and e) of the **Policy**, **We** agree to pay **Cyber Extortion Costs** arising solely from a **Security Threat** first made against the **Insured** and notified to **Us** in writing as soon as reasonably possible during the **Period of Insurance**.
- The **Specific Cover Limit** with respect to the cover provided in a) above is specified in the **Schedule**.
- The **Excess** applicable to this Section 3.7 is specified in the **Schedule**.

Any **Cyber Extortion Costs** paid under this Section 3.7 shall be subject to local legal requirements and in cooperation with and under the direction of any appropriate criminal enforcement or other authority where required.

# Section 4

## Policy Extensions

Subject to all of the terms, conditions and exclusions of the **Policy**, **We** agree to extend cover by the following Extensions. These Extensions will not increase the **Policy Limit** or **Specific Cover Limit** as applicable unless expressly stated otherwise.

### 4.1 Brand Protection Cover

- a) **We** will pay **Public Relations Costs** incurred to avert or mitigate damage to the **Policyholder's** reputation or its commercial brands caused by a **Claim, Cyber Event** or **Loss** that is covered under this **Policy**.
- b) The **Specific Cover Limit** with respect to the cover provided in a) above is specified in the **Schedule**.
- c) The **Excess** applicable to this Extension is specified in the **Schedule**.

### 4.2 Personal Reputation Cover

- a) **We** will pay **Public Relations Costs** incurred to avert or mitigate damage to the reputation of any past or present director, company secretary, chief executive officer, chief operating officer, chief financial officer, chief risk or compliance officer, chief information security officer, chief information officer, chief technology officer or general counsel of the **Policyholder** caused by a **Claim, Cyber Event** or **Loss** that is covered under this **Policy**.
- b) The **Specific Cover Limit** with respect to the cover provided in a) above is specified in the **Schedule**.
- c) The **Excess** applicable to this Extension is specified in the **Schedule**.

### 4.3 Privacy Fines & Investigations

- a) Notwithstanding Section 6.14 a), **We** will also pay, to the extent **We** are permitted to by law any:
  - i. **Fine or Penalty** payable by the **Policyholder** as a direct result of a breach by the **Insured** of its **Privacy Obligations**; and/or
  - ii. **Regulatory Investigation Costs** into such breach.
- b) Notice of the **Regulatory Investigation** into the breach specified in a) above is first received by the **Insured** and notified to **Us** in writing as soon as reasonably possible during the **Period of Insurance**.
- c) The **Specific Cover Limit** with respect to the cover provided in a) above is specified in the **Schedule**.
- d) The **Excess** applicable to this Extension is specified in the **Schedule**.

### 4.4 Privacy Breach Notification & Loss Mitigation

- a) **We** agree to pay or reimburse **Privacy Breach Costs** incurred as a direct result of a **Claim, Cyber Event** or **Loss** covered by the **Policy** provided that the:
  - i. **Insured** is legally obliged to take the steps the subject of such **Privacy Breach Costs**; or

- ii. steps the subject of such **Privacy Breach Costs** will effectively mitigate or avoid a **Claim, Cyber Event** or **Loss** which the **Insured** would be entitled to cover against under the **Policy** were such steps the subject of the **Privacy Breach Costs** not taken.
- b) The **Specific Cover Limit** with respect to the cover provided in a) above is specified in the **Schedule**.
  - c) The **Excess** applicable to this Extension is specified in the **Schedule**.

### 4.5 Free Cyber Consultation

During the **Period of Insurance** the **Policyholder** is entitled to up to one hour in total of free advice (from the appointed legal firms and nominated practitioners listed in the **Schedule**) on steps to mitigate or avoid a **Cyber Event** covered by this **Policy** arising from the conduct of the **Insured Business** subject always to the following:

- a) an appointment must be in writing the nominated legal practitioner.
- b) the **Schedule** must be presented to the practitioner when requesting advice under this Extension. If the **Schedule** is not presented then no advice can be sought under this Extension.
- c) the legal practitioner will sign off in the **Schedule** the free advice time units used in connection with the matter.
- d) entitlement to advice is limited to a maximum of one hour in total per **Period of Insurance** and any unused hours or part thereof cannot be aggregated from one policy period to another.
- e) **We** reserve the right to change the appointed firms or nominated practitioners at any time. Changes to the appointed firms and nominated practitioners will be notified to the **Policyholder** on request.
- f) the **Insured** may not seek under this Extension advice on this **Policy** or other indemnity issues concerning insurance policies issued by **Us**.
- g) if cover under this **Policy** is sought by the **Insured** in respect of any matter on which the **Policyholder** has sought advice under this Extension, the **Policyholder** authorises **Us** (at **Our** discretion) to engage the appointed firm to represent the **Insured** and if so, Section 8.6 applies.

### 4.6 Advancement of Defence Costs

- a) If **We** elect not to take over and conduct the defence or settlement of any **Claim**, then **We** will pay all **Defence Costs** provided that:
  - i. **We** have not denied cover under the **Policy** and where cover is denied, only up to the point of any denial of cover (where cover is denied); and
  - ii. **Our** written consent is obtained prior to the **Policyholder** incurring such **Defence Costs** (such consent which shall not be unreasonably delayed or withheld).
- b) The **Insured** on whose behalf or for whose benefit **Defence Costs** were paid, shall repay to **Us**, and **We** reserve the right to recover all such **Defence Costs**, in the event and to the extent that:



- i. an express admission is made by the **Insured** or any person authorised to make such an admission on behalf of the **Insured**, of any of the conduct as set out in Section 6.11; or
  - ii. it is subsequently established, directly or indirectly, by judgment or other final adjudication, that conduct of the type as set out in Section 6.11 occurred.
- ii. will only apply to acts, errors or omissions committed or alleged to have been committed before the end of the **Period of Insurance** or the cancellation date of this **Policy** where this **Policy** has been cancelled; and
  - iii. is limited to **Claims** and **Losses** arising from an act, error or omission which occurred on or after the 'Retroactive Date' specified in the **Schedule**.

#### 4.7 Continuous Cover

- a) **We** cover the **Insured** for any **Claim** otherwise covered by this Extension, arising from a **Known Circumstance** (notwithstanding Section 6.1 of this **Policy**) if:
  - i. there has been no fraudulent non-disclosure or fraudulent misrepresentation in respect of such **Known Circumstance**;
  - ii. **We** were the cyber liability insurer of the **Insured** when the **Insured** first knew of such **Known Circumstance**;
  - iii. **We** continued without interruption to be the **Insured's Cyber Liability** insurer up until this **Policy** came into effect;
  - iv. had **We** been notified of the **Known Circumstance** when the **Insured** first knew of it, the **Insured** would have been covered under the policy in force at that time but is not now entitled to be covered by that policy, and the **Insured** would (but for Section 6.1 of this **Policy**) otherwise be covered under this **Policy**; and
  - v. the **Known Circumstance** has not previously been notified to **Us** or to any other insurer.
- b) If the **Insured** was entitled to have given notice of the **Known Circumstance** under any other policy of insurance with any other insurer, then this Extension does not apply to provide cover under this **Policy**.
- c) **Our** liability under this Extension is reduced to the extent of any prejudice **We** suffer as a result of any delayed notification of the **Known Circumstance** to **Us**.
- d) The **Policy Limit** or **Specific Cover Limit** as applicable of the cover **We** provide under this Extension is the lesser available under the terms of the policy in force at the earlier time referred to in paragraph a) ii. above, or under this **Policy**. The terms of this **Policy** otherwise apply.

#### 4.8 Extended Reporting Period

- a) In the event that this **Policy** is not renewed or is cancelled for any reason other than non payment of premium then the **Policyholder** has until such time that the **Policyholder** effects another insurance policy which covers substantially the same risk as this **Policy**, either with **Us** or any other insurer(s), or a period of thirty (30) days commencing on the day immediately following expiry/cancellation of this **Policy**, whichever is sooner, to notify **Us** in writing of any **Claims** made against or **Losses** discovered by, the **Insured** during the **Period of Insurance**.
- b) Cover under this Extension:
  - i. does not reinstate or increase the **Policy Limit** or extend the **Period of Insurance**; and

#### 4.9 Former subsidiaries run-off cover

**We** cover any former **Subsidiary** of the **Policyholder** for **Claims**, liabilities losses or costs of the type and on the basis specified in Sections 3 and 4 of this **Policy**, provided that such cover shall only apply in respect of:

- a) the conduct of the **Insured Business**; and
- b) acts, errors or omissions which occurred after the 'Retroactive Date' specified in the **Schedule** and prior to the date on which such **Subsidiary** ceased to be a subsidiary of the **Policyholder**.

#### 4.10 Merged and/or newly acquired subsidiaries

**We** cover entities which are merged with or acquired by the **Policyholder** while this **Policy** is in force for **Claims**, liabilities losses or costs of the type and on the basis specified in Sections 3 and 4 of this **Policy**, provided that such cover shall only apply in respect of:

- a) the conduct of substantially the same type of **Insured Business** as covered by this **Policy**.
- b) this cover is only for a maximum of thirty days from the date of the merger or acquisition (or until the **Policy** expires if that is sooner).
- c) **We** may agree to extend this period (subject to additional premium) after receipt of a satisfactory underwriting submission in respect of the merged or acquired entity.
- d) The Retroactive Date for such cover is deemed to be the date of the merger with or acquisition by the **Policyholder** unless **We** otherwise agree in writing.

#### 4.11 Reward Expenses Cover

- a) **We** agree to pay **Reward Expenses** incurred as a direct result of a **Cyber Event** first discovered and notified to **Us** in writing as soon as reasonably possible during the **Period of Insurance**.
- b) The **Specific Cover Limit** with respect to the cover provided in a) above is specified in the **Schedule**.
- c) The **Excess** applicable to this Extension is specified in the **Schedule**.

#### 4.12 Computer Crime (Optional Extension)

- a) **We** will cover the **Insured** against **Loss** first discovered and notified to **Us** in writing as soon as reasonably possible during the **Period of Insurance** by reason of the transferring, paying or delivering any funds or property, establishing any credit, debiting any account or giving any value directly caused by the fraudulent input, fraudulent destruction or fraudulent modification of electronic data:

- i. in the **Policyholder's Computer System**, or
  - ii. in the **Computer System** of any **Service Provider**; or
  - iii. during electronic transmission between, stored within or being run within any of the **Computer Systems** in i. or ii. above, committed by any **Third Party** or any **Employee** with the clear intention of causing the **Policyholder Loss** or damage.
- b) The **Specific Cover Limit** with respect to the cover provided in a) above is specified in the **Schedule**.
  - c) The **Excess** applicable to this Section 4.12 is specified in the **Schedule**.

## 5.5 Related claims or losses

Individual **Claims, Losses**, liabilities, losses or costs arising out of and occasioned by or attributable to:

- a) one original source or cause;
- b) one act, error or omission; and/or
- c) a series of related acts, errors or omissions,

shall be deemed to arise out of one event and only one **Policy Limit** or **Specific Cover Limit** as applicable and one **Excess** will apply.

## 5.6 GST Input Tax Credits

- a) Where and to the extent that **We** are entitled to claim an Input Tax Credit for a payment made under the **Policy**, then any monetary limit in the **Policy** on **Our** obligation to make such a payment, shall be deemed to be net of **Our** entitlement to the Input Tax Credit.
- b) Where and to the extent that the **Insured** is entitled to claim an Input Tax Credit for a payment required to be made by the **Insured** as an **Excess**, then the amount of the **Excess** shall be net of the entitlement of the **Insured** to the Input Tax Credit.
- c) Where payment is made under this **Policy** for the acquisition of goods, services or other supply, **We** will reduce the amount of the payment by the amount of any Input Tax Credit that the **Insured** is, or will be, entitled to under A New Tax System (Goods and Services Tax) Act 1999 in relation to that acquisition, whether or not that acquisition is made.
- d) Where payment is made under this **Policy** as compensation instead of payment for the acquisition of goods, services or other supply, **We** will reduce the amount of the payment by the amount of any Input Tax Credit that the **Insured** would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 had the payment been applied to acquire such goods, services or other supply.

# Section 5 Limits To The Amount Of Cover

## 5.1 The Policy Limit

The **Policy Limit** applies to any one **Claim** or matter the subject of cover under the **Policy** and, subject to this Section 5, applies in the aggregate to the total of all **Claims** or matters, covered by this **Policy**.

## 5.2 Limit if multiple persons and/or entities are covered

The **Policy Limit** and **Specific Cover Limits** do not increase if there is more than one **Insured** covered under this **Policy**, or if more than one **Insured** causes or contributes to any matter the subject of cover under the **Policy**.

## 5.3 Specific Cover Limits

If the **Policy** indicates any **Specific Cover Limits** for specific types of cover under this **Policy**, then the applicable **Specific Cover Limits** and not the **Policy Limit** applies. The **Specific Cover Limits** are included within, and not in addition to, the **Policy Limit**.

## 5.4 The Excess

- a) **We** only provide cover (up to the **Policy Limit** or **Specific Cover Limit** as applicable) for that part of the **Claim, Loss**, liability or cost above the **Excess**.
- b) There are different **Excesses** that may be applicable, depending on the matter the subject of cover under the **Policy** which the **Insured** must pay. The **Insured** must also pay this **Excess** when **We** provide cover for any costs and expenses incurred with respect to such matter if the **Schedule** states 'Costs inclusive'.
- c) Where the **Excess** is indicated in the **Policy** as 'Costs inclusive', the amount of the **Excess** is exclusive (i.e. net) of any GST payable in respect of **Defence Costs** or similar investigation, rectification, or defence costs.

# Section 6 Exclusions

There is no cover under this **Policy** for any **Claim, Loss**, liability, cost or matter otherwise the subject of cover under the **Policy**:

## 6.1 Known Claims and Known Circumstances

- a) known by the **Insured** at the inception date of this **Policy**; or
- b) based upon, directly or indirectly arising from or attributable to any **Known Circumstance**; or
- c) disclosed in the **Proposal** or arising from facts or circumstances which may give rise to a **Claim, Loss**, liability, loss or cost disclosed in the **Proposal**; or

- d) if this **Policy** is endorsed or amended midterm, for any **Claim, Loss**, liability, loss or cost that arose from a **Known Circumstance** (as at the effective date of the amendment/endorsement) to the extent that the **Claim, Loss**, liability, loss or cost would not have been covered by the **Policy** before such amendment/endorsement.

## 6.2 Foreign jurisdictions

subject to the 'Jurisdictional Limits' specified in the **Schedule**:

- a) first brought in or determined pursuant to the laws of, the United States of America or Canada, or their territories or protectorates; or
- b) arising out of the enforcement of judgments, orders or awards obtained in or determined pursuant to the laws of the United States of America or Canada, or their territories or protectorates; or
- c) where the proper law of the United States of America or Canada, or their territories or protectorates is applied to any of the issues in any matter the subject of cover under this **Policy**.

## 6.3 Assumed duty or obligation

based upon, directly or indirectly arising from or attributable to:

- a) a liability under a contractual warranty, guarantee or undertaking (unless such liability would have existed regardless of the contractual warranty, guarantee or undertaking); or
- b) circumstances where a right of contribution or indemnity has been given up by an **Insured**, but only to the extent of the prejudice suffered by **Us** in those circumstances; or
- c) circumstances where someone has done work or provided services under an arrangement or agreement with an **Insured** which limits any potential right for an **Insured** to receive contribution or indemnity, but only to the extent that **We** are prejudiced in those circumstances; or
- d) any liability which an **Insured** agrees to accept in connection with the **Insured Business** conducted for or on behalf of the **Policyholder** firm or incorporated body which is more onerous than that which the **Insured** would otherwise have at common law, but only to the extent of the prejudice **We** suffer because of that agreement; or
- e) any business not conducted for or on behalf of the **Policyholder** firm or incorporated body.

## 6.4 Intellectual Property Rights Infringement

out of the actual or alleged infringement of any **Intellectual Property Right** except as specifically covered under Section 3.6 of this **Policy**.

## 6.5 Breach of Professional Duty

based upon, directly or indirectly arising from or attributable to:

- a) the rendering or failure to render professional services and/or professional advice to a third party by an **Insured**; or
- b) a breach or alleged breach of any contract for the provision of professional services and/or professional advice to a third party by an **Insured**.

## 6.6 Charge Backs

as a result of any request from the **Insured's** acquiring bank for funds or fines as a result of fraudulent credit or debit card transactions, although this Exclusion shall not apply to any **Claims** covered by Section 3.1 of this **Policy**.

## 6.7 Enforcement Order

based upon, directly or indirectly arising from or attributable to any failure to respond to or comply with an **Enforcement Order**.

## 6.8 Failure or fitness of goods or services

arising out of the failure to supply goods or services or the supply of goods or services of inferior quality in breach of any contractual obligation, whether express or implied by law.

## 6.9 Internet infrastructure failure

in respect of Sections 3.2 and 3.3 only, based upon, directly or indirectly arising from or attributable to any failure of external networks, cables, or core internet infrastructure servers not in the **Policyholder's** control.

## 6.10 Satellite Failures, Electrical or Mechanical Failures

based upon, directly or indirectly arising from or attributable to any satellite failures, electrical or mechanical failures and/or interruption including, but not limited to, electrical disturbance, spike, brownout or blackout, outages to gas, water, telephone, cable, telecommunications, or other infrastructure, unless such infrastructure is under the **Policyholder's** operational control and unless such **Claim** is as a direct result of any **Cyber Event**.

## 6.11 Wilful or dishonest acts of principals

- a) based upon, directly or indirectly arising from or attributable to any dishonest, fraudulent, criminal, malicious or reckless act or omission committed by any:
  - i. **Principal**; or
  - ii. **Employees** or any **Third Party** with the solicitation, enticement, intervention, participation, assistance, cooperation or knowledge or approval of any **Principal**,

unless such **Principal** is a **Former Principal** at the time of the wilful, malicious, reckless or dishonest act or omission specified in part a) above.

- b) for any person committing the wilful, malicious, reckless or dishonest act or omission referred to in part a) above.

## 6.12 Related Parties

against an **Insured** brought by or on behalf of:

- a) any other **Insured**; or
- b) any company in respect of which any **Insured** holds (beneficially or otherwise) more than 10% of the voting shares or rights and/or an executive role; or
- c) any trust in respect of which any **Insured** is a trustee and/or beneficiary and/or has a direct or indirect financial interest; or
- d) any other person, firm or incorporated body having control of over 10% or more of the voting shares or rights or an executive role in the operation of the **Policyholder**.

## 6.13 Retroactive Limitation

arising out of any act, error omission occurring before the 'Retroactive Date' specified in the **Schedule**.

## 6.14 Fines, Penalties, Punitive and Exemplary damages

based upon, directly or indirectly arising from, or attributable to:

- a) any fines and penalties, income tax, customs duties, excise duty, stamp duty, sales tax or any other State, Territory or Federal tax or duty assessed, levied or imposed by law;
- b) punitive, aggravated or exemplary damages.

## 6.15 Insolvency

arising directly or indirectly arising out of or in any way connected with an **Insured's** insolvency, bankruptcy or liquidation.

## 6.16 Pollution, Nuclear Risks, War & Terrorism

based upon, directly or indirectly arising from, or attributable to:

- a) the **Insured** or anyone on behalf of or at the direction of the **Insured** discharging, dispersing, releasing or permitting **Pollutants** to escape into or upon land, the atmosphere, or any water course or body of water.
- b) ionising radiations or contamination by radioactivity from any nuclear material; or the hazardous properties of any nuclear explosive, assembly or component.
- c) war, invasion, acts of foreign enemies, civil or military uprisings, hostilities (even if war is not declared), or government power being taken unlawfully; or property being taken, damaged or destroyed by a government or public or local authority.
- d) any act of **Terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the loss, damage, illness, injury, death, cost or expense; or
- e) any action in controlling, preventing, suppressing, retaliating against, or responding to any act of **Terrorism**.

## 6.17 Trade Debt

based upon, directly or indirectly arising from, attributable to a liability to pay trading debts or the repayment of any loan.

## 6.18 Profit

based upon, directly or indirectly arising from, attributable to a liability to any loss of the Insured's profit arising from the loss of any client, account or business, except as specifically covered by Sections 3.2 and 3.3 of this **Policy** and provided that the **Insured** has purchased cover under Sections 3.2 and/or 3.3.

## 6.19 Asbestos

based upon, directly or indirectly arising from, attributable to asbestos.

## 6.20 Bodily Injury and/or Property Damage

based upon, directly or indirectly arising from, attributable to:

- a) bodily injury (except emotional distress, mental anguish or humiliation), sickness, disease or death of any person; or
- b) destruction of or damage to tangible property (including the loss of use thereof).

## 6.21 Government Confiscation

based upon, directly or indirectly arising from, attributable to the confiscation, commandeering, requisition, destruction of or damage to, **Computer Systems** by order of a government de jure or de facto, or by any public authority for whatever reason.

## 6.22 UN Sanctions

based upon, directly or indirectly arising from, attributable to the provision of cover or a benefit under this **Policy** to the extent that the provision of such cover or benefit would contravene any sanction, prohibition or restriction under any United Nations resolutions or the trade or economic sanctions, law or regulations of the European Union, United Kingdom or United States of America.

## 6.23 Unfair Trade Practices

based upon, directly or indirectly arising from, attributable to any actual or alleged antitrust violation, restraint of trade, unfair competition, false, deceptive or unfair trade practices, violation of consumer protection laws, or false, deceptive or misleading advertising.

## 6.24 PCI Implementation

based upon, directly or indirectly arising from, attributable to fines or penalties attributable to the **Insured's** failure to comply with the Payment Card Industry Data Security Standard.

## 6.25 Discrimination

based upon, directly or indirectly arising from, attributable to any actual or alleged discrimination of any kind including, but not limited to, discrimination on the basis of race, colour, religion, age, sex, disability, pregnancy, marital status, political affiliations or ideology, sexual orientation or preference.

# Section 7 General Terms And Conditions

## 7.1 Severability and Non-imputation

For the sake of determining indemnity under this **Policy**:

- a) the **Proposal** shall be construed to be a separate application for cover by the **Policyholder** and by each natural person covered by the **Policy**, and no statement or representation in or with respect to the **Proposal** by such person shall be imputed to any other natural person covered by the **Policy**; and
- b) knowledge possessed by and/or conduct of one natural person covered by the **Policy** shall not be imputed to any other natural person who is an **Insured**; and
- c) any knowledge possessed by and/or conduct of any past or present director, company secretary, chief executive officer, chief operating officer, chief financial officer, chief risk officer, in-house general counsel, or any person who signed the declaration or proposal form in connection with this **Policy** or any policy of which this **Policy** is a renewal or replacement, shall be imputed to the **Policyholder**.

## 7.2 Authority to accept notices and to give instructions

The **Policyholders** listed in the **Schedule** are appointed individually and jointly as agent of each **Insured** in all matters relating to this **Policy**, and to cover provided by the **Policy**.

In particular (but without limitation) the **Policyholders** are agents for the following purposes to:

- a) give and receive notice of **Policy** cancellation, to pay premiums and to receive any return premiums that may become due under this **Policy**; and
- b) accept endorsements or other notices provided for in this **Policy**; and
- c) give instructions to solicitors or counsel that **We** appoint or agree to, and to receive advice from them and to act on that advice; and
- d) consent to any settlement **We** recommend; and
- e) do anything **We** or **Our** legal advisers think might help with the procedures set out in this **Policy** for investigating, settling and defending **Claims, Losses, liabilities, losses or costs** paid for under the **Policy**; and

- f) give **Us** information relevant to this **Policy**, which **We** can rely on when **We** decide whether to accept the risk, and set the **Policy** terms or the premium.

## 7.3 Payment in Australian dollars in Australia

All premiums and **Claims, Losses, liabilities or costs** or matters the subject of cover under the **Policy** and the **Excess** must be paid in Australian dollars in Australia.

## 7.4 Law of the policy

This **Policy** is governed by the law of the Territory or State where the **Policy** was issued, which is stated in the **Schedule**. The courts of that place have exclusive jurisdiction in any dispute about or in connection with this **Policy**.

## 7.5 Territory Covered by this Policy

The cover provided by this **Policy** extends to acts, errors or omissions occurring anywhere in the world.

## 7.6 Schedule must be included

This **Policy** is only legally enforceable, if it includes a **Schedule** signed by one of **Our** officers.

## 7.7 The Insured's duty to comply with additional conditions

If **We** attach any additional conditions to the **Insured's Policy** regarding any risk survey or risk management timetable or any other conditions then it is a condition of this **Policy** that these conditions are complied with by the deadlines shown.

## 7.8 The policyholder can cancel the policy

The **Policyholder** is entitled to cancel this **Policy** from the date **We** receive a written request to cancel the **Policy**, provided that any such cancellation is subject to the following terms: **We** will be entitled to retain premium for pro-rata 'time on risk' subject to a minimum administration charge of \$250 plus applicable statutory charges.

## 7.9 We can cancel the policy

- a) **We** may cancel this **Policy** at any time in accordance with the relevant provisions of Section 60 of the Insurance Contracts Act 1984, by giving notice in writing to the **Policyholder** of the date from which cancellation is to take effect.
- b) **We** may deliver this notice to the **Policyholder** personally, or post it by certified mail (to the **Policyholder's** broker or to the address the **Policyholder** last gave **Us**). Proof that **We** mailed the notice is sufficient proof that the **Policyholder** received the notice.
- c) After cancellation pursuant to a) above, **We** will refund the premium for the time remaining on the **Policy**, less any non-refundable duties, unless an **Insured** has made a fraudulent claim under the **Policy**.

## 7.10 Address for giving notices

Any notice required to be given under this **Policy** to **Us** shall be validly and lawfully given if it is given to **Us** in writing at the address or to the facsimile number stated in the **Schedule**.

# Section 8

## Investigation, Defence And Settlement Of Claims

### 8.1 We must be told about claims

The **Policyholder** must tell **Us** in writing about a **Claim** or **Loss** as soon as reasonably possible during the **Period of Insurance**. If this is not done an **Insured's** right to indemnity under this **Policy** may be affected.

### 8.2 Insured's Co-operation

Each **Insured** must:

- a) diligently do, and allow to be done, everything reasonably practicable to avoid or lessen an **Insured's** liability or any loss or cost in relation to any matter the subject of cover under the **Policy**; and
- b) immediately give **Us** all the help and information that **We** reasonably require to:
  - i. investigate, defend or settle any such matter; and
  - ii. determine **Our** liability under this **Policy**.

### 8.3 An Insured must not admit liability for or settle any claim

An **Insured** must not:

- a) admit liability for, or settle any matter notified under this **Policy**; or
- b) incur any costs or expenses for any matter notified under this **Policy**, without first obtaining **Our** consent in writing (which shall not be unreasonably delayed or withheld). If **Our** prior written consent is not obtained, the **Insured's** right to cover under this **Policy** may be affected.

### 8.4 We can protect our position

When **We** receive a notification of any matter under this **Policy**, then **We** can take whatever action **We** consider appropriate to protect **Our** position or the **Insured's** position in respect of any such matter.

Any such action **We** take does not, however:

- a) indicate that any **Insured** is entitled to be covered under this **Policy**; or
- b) prejudice **Our** rights under the **Policy** or at law.

## 8.5 We can manage the claim

**We**:

- a) can assume conduct of and defend or settle in the **Insured's** name any matter notified under this **Policy**; or
- b) have the duty, where **We** have confirmed cover and the **Policyholder** so requests, to conduct the investigation, defence of or settlement of any matter notified under this **Policy** in the **Insured's** name; and
- c) can take any action, in the **Insured's** name, to pursue any right any **Insured** may have for contribution or indemnity.

## 8.6 Disclosure of information to us in respect of cover

The **Insured** shall share confidential and privileged information with **Us** and with **Our** legal advisers who **We** appoint about any matter notified to **Us** under the **Policy**.

**We** have a common interest with the **Insured** and with appointed legal advisers in the investigation, defence and settlement of any matter notified to **Us** under the **Policy** (**Common Interest**).

All confidential information provided to **Us** (including information which is subject to legal professional privilege), and/or to the legal advisers **We** appoint, by or on behalf of the **Insured**, which the **Insured** hereby irrevocably consents to appointed legal advisers providing to **Us**, is so provided on the basis that:

- a) subject to point c) below, the information is provided to **Us** for that **Common Interest** purpose, is to be kept confidential and will not be further disclosed without the written consent of the **Insured**; and
- b) in respect of confidential information which is subject to legal professional privilege, the **Insured** does not waive legal professional privilege; and
- c) the information may be disclosed by **Us** to **Our** legal advisers and reinsurers on the basis that the above conditions apply to those persons' use of such information.

## 8.7 Policyholder's right to contest

If the **Policyholder** elects not to consent to a settlement that **We** recommend and wants to contest or continue the dispute or legal proceedings, then **We** only provide cover (subject to the **Policy Limit** or **Specific Cover Limit** as applicable) for:

- a) the amount **We** could have settled the matter for; less
- b) any applicable **Excess**; plus
- c) the fees, costs and expenses incurred up to the date the **Policyholder** elected not to consent to the settlement.

## 8.8 Senior counsel

- a) Unless a Senior Counsel, that **We** instruct, advises that a matter notified under the **Policy** (which **We** have agreed to cover), should be contested, neither **We** nor the **Policyholder** can require the other to contest any legal proceedings about such matter if the other does not agree to do so.
- b) in formulating his or her advice, Senior Counsel must be instructed to consider:

- i. the economics of the matter, having regard to but not limited to, the:
  - 1. the damages and costs likely to be recovered; and
  - 2. the likely costs of defence; and
- ii. the **Insured's** prospects of successfully defending the matter.
- c) **We** will pay for the cost of Senior Counsel's opinion.
- d) if Senior Counsel advises that the matter should be, or is appropriate to be settled and if the terms of settlement which **We** recommend are within limits which are reasonable (in Senior Counsel's opinion and in the light of the matters he/she is required to consider), then the **Policyholder**:
  - i. cannot (subject to Section 8.7) object to the settlement; and
  - ii. must immediately pay any applicable **Excess**.

## 8.9 Costs and Expenses

- a) Any fees, costs or expenses incurred by **Us** (other than to determine **Our** liability under this **Policy**) in investigating, defending and settling any matter notified under the **Policy** (in respect of which **We** ultimately confirm cover) will form part of the fees, costs and expenses as otherwise covered by this **Policy**.
- b) Any amount paid by **Us** in settlement of a dispute the subject of a matter notified under the **Policy**, shall be deemed for all purposes of the **Policy** to be a payment made under the **Policy**.

## 8.10 Allocation

- a) To the extent that any matter notified under the **Policy** comprises covered matters and uncovered matters, **We** will use best endeavours to agree a fair allocation between covered matters and uncovered matters having regard to the relative legal and financial exposure attributable to the covered matters and uncovered matters.
- b) This allocation will also apply to the reasonable and necessary legal fees and other professional fees, costs and expenses (other than regular or overtime wages, salaries or fees of any natural person covered by the **Policy**, office overheads, travel costs unrelated to the cover provided by the **Policy**, or other administration costs of the **Policyholder**) incurred by the **Insured** with **Our** prior written consent in respect of any matter notified under the **Policy** (in respect of which **We** ultimately confirm cover).
- c) Any dispute between **Us** and the **Policyholder** on the allocation will be resolved by a Senior Counsel that **We** and the **Policyholder** both agree to instruct or in the absence of agreement, as appointed by the President of the Bar Association in the state or territory of the first address for the **Policyholder** listed in the **Schedule** or if no address is shown there, as shown on the **Proposal** and whose fee shall for the purpose of this **Policy** be regarded as part of the fees costs and expenses specified in b) above.
- d) Any allocation determined by Senior Counsel will apply retrospectively to the fees costs and expenses specified in b) above, paid by **Us** or the **Policyholder** notwithstanding any prior payment on a different basis.

## 8.11 Subrogation and Recoveries

- a) In the event of any payment by **Us** in respect of a matter notified under this **Policy**, all rights of an **Insured** to recover thereof are subrogated to **Us** to the extent such payment, and the **Insured** shall execute all documents required and do everything that may be necessary to enable **Us** to effectively bring suit in the name of the **Insured**.
- b) **We** shall not exercise these rights against any natural person who is an **Insured** unless:
  - i. the recovery is in respect of any applicable **Excess**; or
  - ii. such payment specified in a) above arose from the dishonest, fraudulent, criminal or malicious acts or omissions of such natural person.
- c) Recoveries with respect to any matter notified under the **Policy** (which **We** have covered) shall be distributed as follows:
  - i. first, to the **Insured** for the amount otherwise covered by the **Policy**, but which is in excess of the **Limit of Indemnity**;
  - ii. second, to **Us** for the amount of the liability, loss or cost covered by the **Policy**, paid to or on behalf of the **Insured**; and
  - iii. third, to the **Insured** for any applicable **Excess**.

## 8.12 Loss prevention

The **Insured** shall, as a condition to cover under this **Policy**, take all reasonable steps to prevent any act, error, omission or circumstance which may cause or contribute to any matter which may be covered under this **Policy**.

## 8.13 Other insurance which may cover the risk

The **Policyholder** must immediately advise **Us** in writing of any insurance already effected or which may subsequently be effected covering, in total or in part and whether absolutely or contingently, the risk, or any part of it, covered by this **Policy**.

## 8.14 Material change in the risk

The **Policyholder** must immediately advise **Us** in writing if any of the following occurs during the **Period of Insurance**:

- a) undertaking activities that are materially different from the **Insured Business**; or
- b) any cancellation or suspension, or loss of or condition imposed, upon any licence, registration or other authority required by the **Policyholder** to conduct the **Insured Business**; or
- c) the **Policyholder** being insolvent, bankrupt or in liquidation; or
- d) a **Policyholder** ceasing to exist or operate, or is consolidated with, merged into or acquired by another entity.

# Section 9

## Words With Special Meaning

### 9.1 Authority

Any official regulator, government body or government agency having legal authority to conduct a **Regulatory Investigation**.

### 9.2 Business Interruption Loss

the lesser of the amount:

- a) shown in the **Schedule**; and
- b) determined by **Us** as the difference between the:
  - i. **Revenue**, including advertising revenue, that the **Policyholder** reasonably projects has been lost solely and directly as a result of a failure in the **Insured's** capability to use the **Policyholder's Computer Systems** or access the **Policyholder's Computer Records**; and
  - ii. costs that the **Policyholder** would have incurred to generate such **Revenue** (including the cost of raw materials, and other saved costs).

This amount shall be determined by **Us** based on an analysis of the **Revenue** generated and costs generating such **Revenue** during each month of the twelve (12) months prior to the **Cyber Event** and taking into account reasonable projection of future **Revenue** and costs and all material changes occurring in market conditions which would affect the future **Revenue** and costs generated, less any savings, had no **Cyber Event** occurred.

Where the **Policyholder** has not completed the first year's trading, the amount shall be determined by **Us** based on an analysis of the **Revenue** generated and costs during each month from the commencement of the **Insured's Business** prior to the **Cyber Event** and taking into account reasonable projection of future **Revenue** and costs and all material changes in market condition which would affect the future **Revenue** and costs generated, less any savings, had no **Cyber Event** occurred.

### 9.3 Claim

- a) the receipt by an **Insured** of any written demand for money or damages, or non-pecuniary relief; or
- b) any writ, summons, application or other originating legal (criminal, civil or otherwise) or arbitral proceedings, cross claim or counter-claim which is served upon an **Insured**.

### 9.4 Commercially Confidential Information

any information other than **Personal Information**:

- a) which is not in the public domain or publicly available; and
- b) where disclosure may undermine the economic interest or competitive position of the owner of the information.

### 9.5 Computer Records

electronically stored data including magnetic tape, software or computer programs for or in respect of a **Computer System** used in the course of the conduct of the **Insured Business**.

### 9.6 Computer System

all electronic computers including operating systems, software, hardware firmware and all communication and open system networks, websites wheresoever hosted, off-line media libraries and data backups used in the course of the conduct of the **Insured Business**.

### 9.7 Cyber Event

any:

- a) **Hacking Attack** or **Virus**;
- b) malicious damage to the **Policyholder's Computer Systems** by an **Employee**;
- c) accidental damage to or destruction of the **Policyholder's Computer Records** because of an operational error, an error while establishing the parameters, or an involuntary error by an **Employee** or a **Service Provider**; or
- d) failure of a **Service Provider** hosting the **Policyholder's Computer Systems** as a direct result of a) to c) above.
- e) failure of a direct or back-up power supply or under/over voltage but only if such power supply is owned, managed or controlled by the **Policyholder** or by a **Service Provider**;
- f) electrostatic build-ups or electromagnetic disturbances.

### 9.8 Cyber Extortion Costs

- a) any monies (including crypto or virtual currencies) paid by the **Policyholder** in accordance with local legal requirements and with **Our** prior written consent (which shall not be unreasonably delayed or withheld);
- b) reasonable and necessary fees, costs and expenses that **We** incur or the **Policyholder** incurs with **Our** prior written consent (which shall not be unreasonably delayed or withheld):
  - i. in negotiating, mediating and crisis managing to terminate or end a **Security Threat** that might otherwise result in harm to the **Insured**; or
  - ii. the cost to conduct an investigation to determine the cause of a **Security Threat**.

### 9.9 Defence Costs

all reasonable and necessary legal fees, costs and expenses (including any expert costs where the choice of expert has been approved by **Us**) that **We** incur or the **Policyholder** incurs with **Our** prior written consent (which shall not be unreasonably delayed or withheld) in the investigation, defence or settlement of any **Claim** made against the **Insured**.



## 9.10 Electronic Commerce

the transacting, disseminating or enabling the marketing, buying, selling or distribution of goods, services or information through the internet, the world wide web, private networks, intranets, extranets, wireless application protocol, email or instant messaging systems.

## 9.11 Employee

A natural person who is not a **Principal**, but who is or was, at the time the relevant act, error or omission occurred, a person who:

- a) had entered into a contract of service with the **Policyholder** firm or incorporated body and is or was remunerated by the **Policyholder** for that service; or
- b) is neither a party to a contract of service with the **Policyholder**, nor an independent contractor, but a party to a contract for service with the **Policyholder** for the provision of services to or on behalf of the **Policyholder** for reward; or
- c) a volunteer worker or student,

and in respect of a), b) and c) above is under the **Policyholder's** direction, control and supervision in the conduct of the **Insured Business**.

## 9.12 Enforcement Order

a notice or order from any data protection authority, government authority, regulator, Court, Tribunal or other public body authorised to investigate, prosecute or otherwise enforce applicable laws or regulations relating to the collection, storage or processing of **Computer Records**, requiring the **Insured** to:

- a) confirm compliance with any data protection and/or privacy law or regulation;
- b) take specific measures to comply with any data protection and/or privacy law or regulation; or
- c) refrain from processing any specified **Computer Records** or using any specified **Computer System**.

## 9.13 Excess

**We** shall only be liable for that part of each and every **Claim**, liability, loss or cost which exceeds the amount of the 'Policy Excess' or 'Time Excess' as applicable stated in the **Schedule**.

## 9.14 Fine or Penalty

- a) A monetary fine or penalty payable by an **Insured** to an **Authority**;
- b) **Fine or Penalty** does not include any amounts payable or calculated by reference to:
  - i. compensation;
  - ii. compliance, remedial, reparation or restitution costs;
  - iii. exemplary or punitive damages;
  - iv. any consequential economic loss;
  - v. requirement to pay taxes, rates, duties, levies, charges, fees or any other revenue charge or impost; and
  - vi. any fine or penalty the insurance of which is prohibited at law.

## 9.15 Former Principal

a person who has been, but is no longer:

- a) **Principal** of a **Policyholder**; or
- b) the **Principal** of any corporate entities through which the **Policyholder** previously traded, in the course of the conduct of the **Insured Business**.

## 9.16 Hacking Attack

any malicious or unauthorised electronic attack including, but not limited to, any fraudulent electronic signature, brute force attack, phishing, denial of service attack, initiated by any **Third Party** or by any **Employee** and that is designed to damage, destroy, corrupt, overload, circumvent or impair the functionality of the **Policyholder's Computer Systems** or **Policyholder's Computer Records**.

## 9.17 Insured

- a) the **Policyholder**; and
- b) **Subsidiary** of the **Policyholder**;
- c) any person who is or becomes, during the **Period of Insurance**, a **Principal** or **Employee** of the **Policyholder**; and
- d) any **Principal**, **Former Principal** or **Employee** of the **Policyholder**; and
- e) the estate, spouse, heirs, legal representatives, successors or assigns of any **Insured**.

## 9.18 Insured Business

the 'Insured Business' specified in the **Schedule** conducted by or on behalf of the **Policyholder**.

## 9.19 Intellectual Property Right

any intellectual property right including but not limited to trademarks, trade secrets, broadcasting rights, domain names, commercial title or slogan, commercial extortion, metatags and copyrights.

'Intellectual Property Right' does not include any patent, trade secret or confidential information that came into the possession of any person prior to the date such person became an **Employee** or **Principal** of the **Policyholder**.

## 9.20 Internet and Email Content

any text, images, video, interactive content or advertising material published on the **Policyholder's** website or contained within an email sent by an **Insured** or any advertising material produced by or on behalf of the **Policyholder's** and published on a **Third Party's** website.

## 9.21 Known circumstance

Any fact, situation or circumstance which:

- a) an **Insured** was aware of at any time before the **Period of Insurance** or any relevant amendment or endorsement of the **Policy**; or

- b) a reasonable person in the **Insured's** position would have thought, at any time before the **Period of Insurance** or before any relevant amendment or endorsement of the **Policy**,

might result in someone making an allegation against an **Insured** in respect of a liability, loss or costs or other matters that might be covered by this **Policy** or by any amendment or endorsement to this **Policy**.

## 9.22 Loss

direct loss of **Money** sustained by the **Policyholder**. 'Loss' does not include loss of profits, loss of income, loss of bargain, or other types of consequential loss.

## 9.23 Money

any physical or electronic legally acceptable currency (excluding crypto or virtual currencies), coins or bank notes of a generally accepted value.

## 9.24 Period of Insurance

The 'Period of Insurance' stated in the **Schedule**.

## 9.25 Personal Information

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

- true or not; and
- in a material form or not.

## 9.26 Policy

- all the terms, conditions and exclusions contained herein;
- the **Schedule**; and
- any endorsements attaching to and forming part of this policy document, either at inception or during the **Period of Insurance**.

## 9.27 Policy Limit

the 'Policy Limit' specified in the **Schedule** which shall be **Our** maximum liability, in the aggregate, payable under this **Policy**, subject to the terms, conditions and exclusions of this **Policy**.

## 9.28 Policyholder

each of the following, individually and jointly:

- each person, firm or incorporated body identified in the **Schedule** as 'The Policyholder', each **Principal** of any such firm or incorporated body; and
- any entity which is engaged in the conduct of **Insured Business** and which is created and controlled, during the **Period of Insurance**, by anyone identified in the **Schedule** as 'The Policyholder'; and
- anyone who becomes a **Principal** of the 'The Policyholder' identified in the **Schedule**, during the **Period of Insurance** (but only in respect of the conduct of the **Insured Business** for or on behalf of 'The Policyholder' identified in the **Schedule**).

## 9.29 Pollutant

any solid, liquid, gases or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkali, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

## 9.30 Principal

a sole practitioner, a partner of a firm, or a director of a company, which practitioner, firm or company is covered by this **Policy**.

## 9.31 Privacy Breach Costs

reasonable and necessary fees, costs and expenses that **We** incur or the **Policyholder** incurs with **Our** prior written consent (which shall not be unreasonably delayed or withheld) required to be incurred in respect of any **Privacy Obligations** to:

- fulfil any legal or regulatory obligation the **Policyholder** has to notify **Third Parties** of an actual or suspected breach of privacy in relation to any **Personal Information**; or
- establish a credit monitoring service or identity theft helpline; or
- provide call centre support services;
- conduct an independent audit of the **Policyholder's Computer Systems** to identify the source of such privacy breach.

## 9.32 Privacy Obligations

the **Insured's** legal obligations arising directly from:

- any privacy statement governing the handling of information on the **Policyholder's Computer Systems**; or
- any written contract between the **Policyholder** and a third party governing the processing and storage of credit card information on the **Policyholder's Computer Systems**;
- any implied contractual duty to use reasonable care and skill in the handling of **Personal Information** or credit card information (including breaches of the Payment Card Industry Data Security Standard);
- any legal obligation to notify individuals of an actual or potential breach of their **Personal Information**; or
- statutory data protection regulations in the country or countries where the **Policyholder** operates, including industry specific data protection and security regulations as they currently exist and as amended.

## 9.33 Promotional Material

any marketing materials or tangible goods produced by or on behalf of the **Policyholder** for the purpose of marketing the **Insured Business**.

## 9.34 Proposal

the written or electronic proposal form (the date of which is stated in the **Schedule**) together with any supplementary material completed by or on behalf of the **Insured**, that was given to **Us**, and relied on by **Us** to effect this **Policy**.

### 9.35 Public Relations Costs

reasonable and necessary fees, costs and expenses that **We** incur or the **Policyholder** incurs with **Our** prior written consent (which shall not be unreasonably delayed or withheld) as a result of the use of external public relations consultants appointed by **Us**.

For the avoidance of doubt, **Public Relations Costs** does not include the basic salaries of **Employees** or the **Policyholder's** office expenses or any payments that the **Policyholder** has paid or agreed to pay as part of any service or maintenance contract.

### 9.36 Rectification Costs

reasonable and necessary fees, costs and expenses that **We** incur or the **Policyholder** incurs with **Our** prior written consent (which shall not be unreasonably delayed or withheld) as a result of the use of external consultants, contractors or advisers including but not limited to forensic or security consultants or any additional costs that the **Policyholder** incurs to pay its **Employees**.

For the avoidance of doubt, **Rectification Costs** does not include the basic salaries of **Employees** or the **Policyholder's** office expenses or any payments that the **Policyholder** has paid or agreed to pay as part of any service or maintenance contract.

### 9.37 Regulatory Investigation

- a) Any formal or official civil examination, investigation, inquiry, hearing or other civil proceedings ordered or commissioned by any **Authority** into the **Privacy Obligations** of the **Policyholder** during the **Period of Insurance**:
  - i. requiring attendance before or the production of documents by the **Policyholder** to the **Authority**;
  - ii. requiring questions to be answered by the **Policyholder** to the **Authority**;
  - iii. identifying the **Policyholder** in writing as a target of an examination, investigation, inquiry, hearing or other proceeding by an **Authority**.
- b) Notice of the **Regulatory Investigation** specified in a) above is first received by the **Insured** and notified to **Us** in writing as soon as reasonably possible during the **Period of Insurance**;
- c) A **Regulatory Investigation** shall be deemed to be first made when the **Policyholder** is first required to respond and/or attend or is so identified as a target of the **Regulatory Investigation**.
- d) **Regulatory Investigation** does not include any routine inspection, supervision, compliance or similar reviews or general industry wide violation reviews of the **Policyholder**.

### 9.38 Regulatory Investigation Costs

reasonable and necessary fees, costs and expenses that **We** incur or the **Policyholder** incurs with **Our** prior written consent (which shall not be unreasonably delayed or withheld) with respect to a **Fine or Penalty** or **Regulatory Investigation**.

### 9.39 Revenue

the amount of net profit or loss before income taxes which would have been earned or incurred had no **Cyber Event** occurred.

### 9.40 Rewards Expenses

reasonable and necessary property or other consideration paid by **Us** or by the **Policyholder** with **Our** prior written consent (which shall not be unreasonably delayed or withheld) to a **Third Party** (other than a law enforcement professional or **Authority**) for information leading to a conviction of an indictable offence arising out of a **Hacking Attack** covered by this **Policy**.

### 9.41 Schedule

The schedule attached to this **Policy** or any schedule subsequently substituted during the **Period of Insurance** and duly signed by one of **Our** officers.

### 9.42 Security Threat

any expressed and documented threat or connected series of threats to commit a local, cross border or multi-country attack against the **Policyholder's Computer System** for the purpose of demanding **Money**, securities or other tangible or intangible property of value from the **Insured**.

### 9.43 Service Provider

any person, partnership, company, corporation, incorporated society or other body corporate or entity third party independent contractor that is not an **Insured**, who provides business process (including call centre, fulfilment and logistical support) and/or information technology services (including hosting, security management, co-location, and collects, stores or processes the **Policyholder's Computer Records**) for the **Policyholder** in accordance with a written contract.

### 9.44 Specific Cover Limit

the limit of **Our** insurance cover for each of the matters listed in the **Schedule** under 'Specific Cover Limits' or in Sections 3 or 4 of this **Policy**.

### 9.45 Subsidiary

Any company or other incorporated entity which at the commencement of the **Period of Insurance** by virtue of Australian law was, or is, either directly or indirectly a subsidiary of any incorporated body identified in the **Schedule** as 'The Policyholder'.

### 9.46 Terrorism

any act, or preparation in respect of action, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological, or similar purposes to intimidate the public or a section of the

public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and which:

- a) involves violence against one or more persons; or
- b) involves damage to property; or
- c) endangers life other than that of the person committing the action; or
- d) creates a risk to health or safety of the public or a section of the public; or
- e) is designed to interfere with or to disrupt an electronic system.

### 9.47 Third Party

any person, partnership, company, corporation, incorporated society or other body corporate or entity who is not an **Insured**, at the time of their acts, errors or omissions.

### 9.48 Time Excess

Means the number of hours that must elapse, as stated in the **Schedule**, before the recovery of a **Business Interruption Loss** can be considered.

### 9.49 Virus

any software code including but not limited to any logic bomb, Trojan horse or worm that has been introduced by any **Third Parties** or by any **Employees** and that is designed to damage, destroy, corrupt, overload, circumvent or impair the functionality of the **Policyholders Computer Systems** or **Policyholders Computer Records**.

### 9.50 We or Us or Our

CGU Professional Risks, CGU Insurance Limited  
ABN 27 004 478 371.

## CONTACT DETAILS

**Enquiries** 13 24 81

**Claims** 13 24 80

### Mailing address

GPO Box 9902 in your capital city

#### Sydney

388 George Street  
Sydney NSW 2000

#### Melbourne

181 William Street  
Melbourne VIC 3000

#### Brisbane

189 Grey Street  
South Bank QLD 4101

#### Perth

46 Colin Street  
West Perth WA 6005

#### Adelaide

80 Flinders Street  
Adelaide SA 5000



[CGU.COM.AU](https://www.cgu.com.au)



Insurer  
**CGU Insurance Limited**  
ABN 27 004 478 371  
AFSL 238291

backed by 