

CoreTech Liability
*Combined Liability Solutions
for the Technology Industry*

Policy Wording



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TABLE OF CONTENTS

Important Notices	4	Communicable Disease	24
Definitions	6	Conduct	24
Policy Section 1 –		Construction.....	24
Technology Professional Liability	14	Contractual Liability.....	24
Insuring Agreement Clarifications	14	Cyber And Data	24
Extensions Applicable To Policy Section 1	14	Directors And Officers	24
Payments Toward Outstanding Fees	14	Electromagnetism	25
Refund Of Fees	14	Employers Liability	25
Mitigation Costs	15	Fees Or Charges	25
Patents	15	Fines And Penalties	25
Penalties	15	Force Majeure.....	25
Policy Section 2 – Cyber Protection	16	Government Entity Or Public Authority	25
Breach Response And Notification	16	Infrastructure Failure.....	25
Data Restoration.....	16	Jurisdictional Limits.....	25
Business Interruption.....	16	Known Defect	26
System Failure Business Interruption.....	16	Media Liability	26
Cyber Extortion.....	16	Nuclear	26
Data And System Security Liability	16	Over-Redemption.....	26
Regulatory Defence And Fines	16	Personal Injury And Property Damage	26
Pci Dss Liability	16	Planned Outages	26
Extensions Applicable To Policy Section 2	17	Pollution.....	26
Hardware Replacement.....	17	Prior Or Pending	27
Reputational Harm.....	17	Product Defect, Recall, Repair And Replacement	27
Cyber Crime	17	Property Damaged In The Insureds Physical Or Legal Control.....	27
Policy Section 3 –		Related Or Associated Entities.....	27
Public And Products Liability	18	Retroactive Date	27
Public Liability.....	18	Sanctions.....	27
Products Liability	18	Securities Law	27
Extensions Applicable To Policy Section 3	18	Terrorism	28
Product Recall Expenses.....	18	Trading Debts And Liabilities.....	28
Third Party Indemnities.....	18	Unsolicited Communications	28
Physical And Legal Control.....	19	Vehicles	28
Harm Response Expenses	19	War And State Cyber Operations	28
Cross Liability	19	Wear And Tear	29
Cyber Liability.....	19	Wrongful Collection Of Data.....	29
Policy Section 4 -		Claims Conditions.....	29
Extensions Applicable To All Policy Sections.....	20	Allocation.....	29
Advancement Of Defence Costs.....	20	Assistance And Co-Operation	29
Claims Preparation.....	20	Defence And Settlement	30
Continuous Cover.....	20	Legal Representation.....	30
Contractual Liability.....	20	Notification.....	30
Court Attendance Costs.....	21	The Insured's Right To Contest.....	31
Extended Reporting Period.....	21	Senior Counsel Clause	31
Heirs And Estates.....	21	General Conditions	31
Inquiry Costs And Expenses.....	21	Agreement With The Insured	31
Joint Venture Liability	21	Actions In The Event Of A Claim, Cyber Loss Or Circumstances	31
Legal Advisory Panel.....	22	Assignment.....	31
Public Relations Expenses	22	Best Endeavours	31
Media And Advertising Liability	22	Cancellation.....	31
Newly Created Or Acquired Subsidiaries	22	Claims Mitigation And Co-Operation	32
Run-Off.....	22	Contribution	32
Severability / Non-Imputation / Innocent Non-Disclosure	22	Governing Law.....	32
Exclusions	23	Inspection Of Property	32
Advertising Liability.....	23	Limits Of Liability.....	32
Aircraft And Watercraft	23	Material Alteration To Risk.....	33
Asbestos And Silica.....	23	Mergers And Consolidations	33
Anti-Competitive Conduct And Organised Crime	23	Non-Accumulation.....	33
Acquired Products Liability	23	Other Insurance	33
Betterment.....	23	Policy Interpretation	33
Commercial Decisions	24	Reasonable Care And Precautions	34
		Recovery Action And Uninsured Loss	34
		Reinstatement.....	34
		Related Claims	34
		Retention	35
		Severability	35

IMPORTANT NOTICES

About Probitas Pacific

Probitas 1492 (Pacific) Pty Ltd (**Probitas Pacific**) ABN 82 663 993 244 AFSL 545082 has an authority from the **Insurer** to arrange, enter into, bind and administer this **Policy** (including handling and settling claims) on behalf of the **Insurer** as if it were the **Insurer**. **Probitas Pacific** acts as an agent for the **Insurer** and not for the **Insured** (also referred to in these Important Notices as “you” and “your”).

Your duty of Disclosure

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

You have the same duty before you renew, extend, vary, replace, or reinstate an insurance contract. If you have made a statement and this changes before the end of the above relevant time, you must tell us about this change before the time ends.

You do not need to tell us anything that:

- reduces the risk we insure you for
- is of common knowledge
- we know or should know as an **Insurer**, or
- we waive your duty to tell us about.

If You do not tell Us something

If you do not meet the duty, to the extent permitted by law, we may reject or not fully pay your claim. We may also, or as an alternative, cancel your insurance or if the failure to meet the duty was fraudulent, treat it as if it never existed.

Claims made and notified

This insurance is issued on a ‘claims made and notified’ basis. This means that the **Policy** covers Claims that are first made against you and notified to us during the **Policy Period**.

Where your **Policy** has an extended or additional reporting period, subject to the terms of the **Policy**, you may have:

- an additional period to tell us about Claims first made against you during the **Policy Period** and/or
- cover for Claims first made against you during the extended reporting period and which you tell us about during the extended reporting period – provided the Claim is based on an act, error, or omission alleged to have been committed prior to the expiry of the **Policy Period**.

The **Policy** doesn’t cover facts or circumstances of which you first became aware prior to the **Policy Period**, and which you knew or ought reasonably to have known had the potential to give rise to a Claim against you, subject to any ‘Continuous Cover’ extension which may, subject to its terms, provide an exception to this.

If a Retroactive Date is applied or shown on the Policy Schedule, the **Policy** also doesn’t cover Claims arising directly or indirectly from any acts, errors, omissions, or events actually or allegedly occurring before that date.

The above is only a high-level overview. You must refer to the **Policy** for full terms and conditions that apply to you.

Written notification of facts

By reason only of the operation of section 40(3) of the *Insurance Contracts Act 1984* (and not as a term of the **Policy**), if you give us notice in writing of facts that might give rise to a Claim against you as soon as reasonable after you became aware of those facts but before the insurance cover provided by the **Policy** expired, we are not relieved of liability under the **Policy** in respect of the claim, when made, by reason only that it was made after the expiration of the **Policy Period**. Any such rights arise under the legislation only and not the **Policy** terms.

General Insurance Code of Practice

The Insurance Council of Australia Limited has developed the General Insurance Code of Practice (Code), which is a voluntary self-regulatory code. The Code aims to raise the standards of practice and service in the insurance industry. Lloyd’s has adopted the Code on terms agreed with the Insurance Council of Australia. For further information on the Code, please visit www.codeofpractice.com.au. The Code Governance Committee (CGC) is an independent body that monitors and enforces

insurers compliance with the Code. For more information on the CGC go to www.insurancecode.org.au

Complaints and Disputes

If you have any concerns or wish to make a complaint in relation to this **Policy**, our services or your insurance claim, please let us know and we will attempt to resolve your concerns in accordance with our Internal Dispute Resolution procedure. Please contact Probitas 1492 (Pacific) in the first instance:

Complaints Officer
Probitas 1492 (Pacific)
Telephone: 1300 001 492
Email: Australiacomplaints@probitas1492.com
Post: Level 1, 44 Martin Place Sydney NSW 2000

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

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

Lloyd’s Australia Limited
Telephone: (02) 8298 0700
Email: ldraustralia@lloyds.com
Post: Grosvenor Place, Level 32, 225 George St Sydney NSW 2000

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

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

Telephone: 1800 931 678
Email: info@afca.org.au
Post: GPO Box 3 Melbourne VIC 3001
www.afca.org.au

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

Service of Suit and Legal Notices

The Underwriters accepting this Insurance agree that:

- if a dispute arises under this Insurance, this Insurance will be subject to Australian law and practice and the Underwriters will submit to the jurisdiction of any competent Court in the Commonwealth of Australia
- any summons notice or process to be served upon the Underwriters may be served upon:
Lloyd’s Underwriters’ General Representative in Australia
Grosvenor Place, Level 32, 225 George St Sydney NSW 2000
who has authority to accept service on the Underwriters’ behalf
- 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.

In the event of a claim arising under this Insurance immediate notice should be given to: Australiacomplaints@probitas1492.com

Privacy Statement

In this Statement:

- “We”, “Our” and “Us” means Probitas 1492 (Pacific) Pty Ltd and the Lloyd’s Underwriters we act on behalf of
- “You” and “Your” refers to anyone using Our services or providing Personal Information.

We are committed to protecting Your privacy in accordance with the requirements of the *Privacy Act 1988 (Cth)* (“Privacy Act”) and the Australian Privacy Principles (APPs), as amended, replaced or superseded from time-to-time.

This Statement is a summary of Our Privacy Policy and provides an overview of how We collect, hold, use and disclose Personal Information. Our Privacy Policy may change from time to time and

where this occurs, the updated Privacy Policy will be posted to Our website at www.probitas1492.com/privacy-policy-probitas-pacific

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
- whether the information or opinion is recorded in a material form or not.

It includes Sensitive Information as defined in the Privacy Act which includes, amongst other things, information about an individual's racial or ethnic origin, political opinions, membership of a political organisation, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual orientation or practices, criminal record, health information about an individual, genetic information, biometric information or templates.

Why We collect, hold, use and disclose Your Personal Information

The primary purpose for collecting, holding, using and disclosing Your Personal Information is to enable Us to provide Our insurance services to You or where reasonably necessary for or directly related to one or more of our insurance functions and activities (including but not limited to deciding whether to issue a **Policy**, determine the terms and conditions of the **Policy**, compiling data to help develop and identify other products and services that may interest clients, and handling claims). Sometimes We may use Your Personal Information for Our marketing campaigns and research, in relation to new products, services or information that may be of interest to You.

If You do not provide the personal information requested and/or do not provide Us with Your consent to collecting, holding, using or disclosing Your Personal Information as set out in this Privacy Statement, We may not be able to provide our insurance services (for example, Your insurance application may not be accepted) or You may be in breach of Your duty regarding disclosure to insurers.

How We obtain Your Personal Information

We collect Your Personal Information at various points including, but not limited to, when You are applying for, changing, or renewing an insurance **Policy** with Us or when We are processing a claim or handling any complaint. Personal Information is usually obtained directly from You, but sometimes via a third party such as an insurance intermediary or your broker or Your employer (e.g. in the case of a group insurance **Policy**). Please refer to Our Privacy Policy for further details.

When information is provided to Us via a third party, We use that information on the basis that You have consented or would reasonably expect Us to collect Your Personal Information in this way. We take reasonable steps to ensure that You have been made aware of how We handle Your Personal Information.

When do We disclose Your Personal Information?

We may disclose the information We collect to third parties where it is reasonably necessary for, or directly related to, the services we provide to You.

This can include the policyholder (where the insured person is not the policyholder, i.e. group policies) to joint policyholders, our related companies (and persons they rely on to provide their services), our agents or contractors, insurers, their agents and others they rely on to provide their services and products (e.g. reinsurers), premium funders, other insurance intermediaries, insurance reference bureaus, loss adjusters or assessors, medical service providers, credit agencies, lawyers and accountants, prospective purchasers of our **Business** and our alliance and other **Business** partners. They are prohibited from using Your Personal Information except for the specific purpose for which We supply it to them and We take such steps as are reasonable to ensure that they are aware of the provisions of Our Privacy Policy in relation to Your Personal Information.

These third parties which may be located outside of Australia (such as in the UK). These entities and their locations may change from time-to-time. Please contact Us, if You would like a full list of the countries in which these third parties are located. When we send information overseas, in some cases we may not be able to take reasonable steps to ensure that overseas providers 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. If you do not agree to the transfer of your personal information outside Australia, please contact us.

When You give Us Personal Information about other individuals

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

Your decision to provide Your Personal Information

In dealing with Us, You agree to Us collecting, using and disclosing Your Personal Information, which will be collected, stored, used and disclosed by Us as set out in this Privacy Statement and Our Privacy Policy.

Access to and correction of Your Personal Information

Please contact Us if You would like:

- a copy of Our Privacy Policy, or
- to cease to receive marketing offers from Us or persons with whom We have an association, or
- to seek access to, update or correct Your Personal Information held by Us.

DEFINITIONS

Some key words and terms used in this **Policy** have a special meaning. Wherever the following words or terms are used in the **Policy**, they mean what is set out below:

Word or term	Meaning
Advertising Activities	the release of any content in a physical or electronic format by the Insured in the course of carrying out the Insured's Business including but not limited to electronic data, digital content, newspapers, newsletters, magazines, books, brochures, radio or television broadcast, electronic mail or other types of publications, and advertising materials, including packaging, photographs, digital images and social media content.
Aggregate Limit	the amount shown as the Aggregate Limit in the Policy Schedule .
Aircraft	any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space.
Breach Response and Notification Costs	<p>reasonable and necessary costs incurred by the Insured with the Insurer's prior written consent, such agreement not to be unreasonably delayed or withheld, following first discovery of an actual or suspected Data Breach or Cyber Security Breach to:</p> <ol style="list-style-type: none">determine the existence, cause and scope of the breach on the Insured's Computer System with an independent forensic security expertestablish knowledge of relevant legal requirements in the jurisdiction(s) applicable to the breach, including notification to an entity that regulates the Insurednotify third parties or Insured Persons potentially impacted by a Data Breachprovide credit monitoring, identity theft or similar mitigation services to third parties or Insured Persons impacted by an actual or suspected Data Breach for 12 months (or longer if required by law or a regulator)provide a call centre to respond to queries raised by third parties or Insured Persons notified of a Data Breachprovide crisis management costs directly related to mitigating harm to the Insured's brand or reputation. <p>The Insurer will provide the Insured details of the nominated service provider if not identified in the Incident Response panel in the Policy Schedule. The Insured may appoint the nominated service provider or Incident Response panel and incur such costs without our prior written consent up to 72 hours following first discovery of an actual or suspected Data Breach or Cyber Security Breach.</p> <p>In the event that the Insured elects to appoint their own service provider, the Insured shall seek the Insurer's prior written consent, such consent not to be unreasonably withheld or delayed, and provide the hourly rates (or such other fee basis as the case may be) and the terms and conditions of such appointment and any statement of work provided. The Insurer may at their own discretion limit any reimbursement of fees of the Insured's own service provider to an amount that is reasonable and comparable to the fees that would have been payable had a service provider otherwise approved by the Insurer been appointed. In the event of a dispute with the Insurer regarding the amount of costs incurred by the Insured's service provider, the Insured agrees that the Insurer will have the option to audit any files for the purpose of assessing the costs claimed.</p>
Business	<p>the provision of Technology Products and Technology Services and includes the following incidental activities:</p> <ol style="list-style-type: none">ownership, tenancy, maintenance and repair of real propertyGood Samaritan Acts and provision of first aid, andprovision of fire and security services primarily for the protection of persons, or property owned or leased by the Policyholder or any Subsidiary.
Business Interruption Loss	<ol style="list-style-type: none">Loss of Gross Profit, andforensic expenses. <p>Business Interruption Loss will not include loss arising out of any liability to any third party, legal costs or legal expenses, loss incurred as a result of unfavourable business conditions, loss of market share or any other consequential loss.</p>
Claim	<ol style="list-style-type: none">the receipt of any writ, statement of claim, summons, application or other originating legal or arbitral process, crossclaim, counterclaim or third or similar party notice, or written demand for compensation.

- b) with respect solely to Policy Section 2 – Cyber Protection, Regulatory Defence and Fines Insuring Agreement, a **Regulatory Proceeding** against the **Insured**.

Client	a person or organisation who has contracted with the Insured to purchase, distribute or use Technology Products or Technology Services . Client does not include any contractor, sub-contractor or consultant.
Claims Preparation Costs	the reasonable and necessary costs and expenses incurred by the Insured and paid to appropriately qualified professional(s) retained for producing and certifying any details contained in the Insured's books or documents or such other proofs, information or evidence requested by the Insurer to support the measurement of Loss for which there is a reasonable belief that there will be cover under this Policy .
Claim Prevention Costs and Expenses	<p>the reasonable and necessary direct costs and expenses incurred by the Insured that are directly attributable to and reasonably incurred in the prevention, rectification or mitigation of a Claim which, if made, would be covered by this Policy and of which the Insured has first become aware of during the Policy Period.</p> <p>Claim Prevention Costs and Expenses does not include:</p> <ul style="list-style-type: none">a) an Insured's loss of opportunity, revenue or profitsb) overheads, staff remuneration or management time of any Insuredc) damages, compensation or other payments made, or consideration given, to customers, clients or potential claimantsd) any amount once a Claim is madee) any amount incurred before notification to the Insurer of the potential Claimf) any amounts incurred which result in an increased quality from that specified in the relevant contract, org) any other amounts which fall within the definition of Loss.
Computer Systems	any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any Operational Technology associated input, output, data storage device, networking equipment or back up facility.
Continuity Date	the continuity date specified in the Policy Schedule .
Control Group	any director, partner, member, principal, corporate officer, general counsel or chief information security officer or risk manager of the Insured's and any individual in a substantially similar position.
Cyber Extortion Costs	reasonable and necessary costs incurred by the Insured with the Insurer's prior written consent, such consent not to be unreasonably delayed or withheld, required to deal with, contain, mitigate or pay a ransom demand in connection with an Extortion Threat .
Cyber Loss	a Direct Financial Loss suffered by the Insured that is covered under the Policy .
Cyber Operation	<p>the use of a Computer Systems by, at the direction of, or under the control of a sovereign state to:</p> <ul style="list-style-type: none">a) disrupt, deny access to or degrade functionality of Computer Systems, orb) copy, remove, manipulate deny access to or destroy information in Computer Systems.
Cyber Security Breach	<ul style="list-style-type: none">a) unauthorised access or use of the Insured's Computer Systemb) a denial-of-service attack affecting the Insured's Computer Systemc) the infection of the Insured's Computer System with malicious code or software, ord) the transmission of malicious code or software from the Insured's Computer System to a third party's Computer Systems.
Damages	<ul style="list-style-type: none">a) any amount an Insured is legally liable to pay to a Third Party as compensation arising from a judgment against an Insured including awards of a Third Party's legal costs or expenses, orb) any reasonable settlement paid to a Third Party for the resolution of a Claim or Inquiry with the Insurer's consent and in accordance with the <u>Claims Conditions</u> and <u>General Conditions</u> of this Policy.
Data	information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by Computer Systems .

Data Breach	the theft, loss, unauthorised access or unauthorised disclosure of any Personal Data or Third-Party Information that is in the Insured's care, custody or control, or in the care, custody or control of a Third Party for whose theft, loss, unauthorised access or unauthorised disclosure the Insured is liable.
Data Restoration Costs	<p>reasonable and necessary costs incurred by the Insured with the Insurer's prior written consent, such consent not to be unreasonably delayed or withheld, to determine:</p> <ol style="list-style-type: none"> a) whether damaged or destroyed computer software or data can be replaced, recreated, restored or repaired, and b) the extent of any, replacement, recreation, restoration or repair of such damaged or destroyed computer software or data on your servers to a state that is substantially the same immediately prior to a cyber security breach. <p>Data Restoration Costs does not include:</p> <ol style="list-style-type: none"> a) the monetary value of profits, royalties, or lost market share related to Data, including but not limited to trade secrets or other proprietary information or any other amount pertaining to the value of Data b) legal costs or legal expenses c) loss arising out of any liability to any third party d) Cyber Extortion Costs e) costs or expenses incurred to identify or remediate software vulnerabilities, or f) costs incurred to research and develop Data.
Defence Costs	<p>the reasonable legal costs (including reasonable appeal costs) and other necessary expenses incurred in the investigation, defence, settlement and/or appeal of a Claim by the Insured or on the Insured's behalf with the Insurer's prior written consent.</p> <p>Defence Costs do not include the Insured's overheads or any salaries, wages, fees or benefits of Insured Persons.</p>
Dependent Security Breach	<ol style="list-style-type: none"> a) unauthorised access or use of a Technology Provider's Computer Systems b) a denial-of-service attack affecting a Technology Provider's Computer Systems, or c) the infection of a Technology Provider's Computer Systems with malicious code or software.
Dependent System Failure	<p>an unintentional and unplanned interruption of a Technology Provider's Computer Systems which means they are incapable of carrying out their normal business function.</p> <p>Dependent System Failure does not include any interruption of Computer Systems resulting from a Dependent Security Breach.</p>
Direct Financial Loss	the loss of the Insured's funds (including money, securities and equivalents thereof) or the funds of others for which the Insured is liable.
Documents	any documents of any nature whatsoever, whether written, printed or reproduced by any method including computer records and electronic data material. Documents does not include bearer bonds or coupons, stamps, bank or currency notes or any other negotiable instrument.
Employee	<ol style="list-style-type: none"> a) any natural person employed under a contract of service or apprenticeship with any Policyholder or Subsidiary b) any contractor or consultant acting under a written contract for the provision of Technology Products or Technology Services solely for and on behalf of any Policyholder or Subsidiary.
Essential Services	a service that is essential for the maintenance of vital functions of a sovereign state including but not limited to financial institutions and associated financial market infrastructure, health services or utility services.
Executive Officer	any partner, principal, director, chief executive officer, chief financial officer, chief operating officer, chief information officer, general counsel or equivalent position of any Policyholder or Subsidiary .
Extortion Threat	<p>a credible threat made against the Insured who threatens to carry out a:</p> <ol style="list-style-type: none"> a) Cyber Security Breach or b) Data Breach in relation to the Insured's Computer System only, <p>unless a ransom demand is met.</p>
Forensic Expenses	any reasonable and necessary expense incurred by the Insured with the Insurer's prior written consent (not to be unreasonably withheld or delayed), to employ specialist

consultants, including IT forensic consultants, to investigate the scope, extent or existence of the **Business Interruption Loss**.

Good Samaritan Acts	assisting at the scene of a medical emergency, accident or disaster provided by an Insured present either by chance, or in response to an S.O.S. call following a disaster or accident whilst at or in transit to or from the address of the Business provided that the Insurer shall not be liable where an Employee was acting at the time under a contract of employment with any employer other than the Policyholder or a Subsidiary .
Gross Profit	<p>the amount by which:</p> <ol style="list-style-type: none">the sum of the amount of the Turnover and the amounts of the closing stock and work in progress shall exceedthe sum of the amount of the opening stock and work in progress and the amount of the Uninsured Working Expenses. <p>The amounts of the opening and closing stocks (including work in progress) shall be arrived at in accordance with the Insured's usual accounting methods due provision being made for depreciation.</p>
Harm Response Expenses	<p>reasonable and necessary costs and expenses:</p> <ol style="list-style-type: none">for first aid at the time of any Personal Injuryto make safe property to prevent further Personal Injury or Property Damage after an Occurrencefor any communications by any medium to make aware and prevent further Personal Injury or Property Damagefor remuneration of additional staff or overtime remuneration of non-salaried staff and for transportation and accommodation of staff required for a) to c) above.
Impacted State	<p>a sovereign state where a Cyber Operation has a major detrimental impact on:</p> <ol style="list-style-type: none">the functioning of that sovereign state due to disruption to the availability, integrity or delivery of an Essential Service in that sovereign state and/orthe security or defence of that sovereign state <p>provided solely for <u>Policy Section 2 – Cyber Protection</u> and the Cyber Liability Extension of <u>Policy Section 3 - Public and Products Liability</u>, an Impacted State shall not result from an attack, or related series of attacks, solely impacting the Insured's Computer System.</p>
Indemnity Period	<ol style="list-style-type: none">the period starting from the first occurrence of an Interruption Period lasting up to a maximum period of 180 daysfor <u>Policy Section 2 – Cyber Protection</u>, Reputational Harm Extension only, the Indemnity Period means a maximum of 180 days from when the allegation or release of information first takes place <p>but only after any Waiting Period has elapsed.</p>
Inquiry	<p>an investigation, examination or inquiry held by a duly constituted court or tribunal arising out of the provision of Technology Products and Technology Services. Inquiry does not include any audit of the Insured, any inquiry into the industry as a whole, or any routine supervision, inspection, compliance audit or similar review.</p>
Inquiry Costs and Expenses	<p>the reasonable legal costs and expenses incurred by the Insured with the Insurer's prior written consent to respond to an Inquiry or attend an Inquiry. Inquiry Costs and Expenses does not include the Insured's overheads or any salaries, wages, fees or benefits of any Insured Persons.</p>
Insured	<ol style="list-style-type: none">the Policyholder or any Subsidiary andany Insured Person.
Insured's Computer System	any Computer Systems operated by and either owned by, leased to or hosted under contract to the Insured .
Insured Person	<ol style="list-style-type: none">any Executive Officer orany Employee.
Insurer	Probitas Syndicate 1492 and any subscribing underwriters as stated in the Policy Schedule .
Interruption Period	the duration of a complete or partial interruption, suspension or interference of the Insured's business operations due to a Cyber Security Breach , Preventative Shutdown or a System Failure .

Limit of Liability	the amount shown as the Limit of Liability under each Policy Section in the Policy Schedule .
Loss	<ul style="list-style-type: none"> a) Damages b) Defence Costs c) Court Attendance Costs pursuant only to the Court Attendance Costs Extension under <u>Policy Section 4 - Extensions Applicable to All Policy Sections</u> d) Inquiry Costs and Expenses pursuant solely to the Inquiry Costs and Expenses Extension under <u>Policy Section 4 - Extensions Applicable to All Policy Sections</u> e) Regulatory Penalties pursuant solely to the Penalties Extension under <u>Policy Section 1 - Technology Professional Liability</u> f) Regulatory Penalties pursuant solely to the Regulatory Defence and Fines Insuring Agreement in <u>Policy Section 2 – Cyber Protection</u>. <p>Loss does not include:</p> <ul style="list-style-type: none"> a) taxes, fines, or penalties payable by the Insured b) costs or other amounts the Insured is responsible to pay under a merchant services agreement c) future profits, restitution, disgorgement of unjust enrichment or profits by you d) non-compensatory damages including exemplary, aggravated, punitive, multiple, or liquidated damages, or restitutionary relief e) costs and expenses of complying with any order for, grant of or agreement to provide injunctive or other non-monetary relief, or f) any matters which may be deemed uninsurable under the law governing this Policy or the jurisdiction in which a Claim or Inquiry is brought.
Loss of Gross Profit	<ul style="list-style-type: none"> a) reduction in turnover: the sum produced by applying the Rate of Gross Profit to the amount by which the Turnover during the Indemnity Period shall fall short of the Standard Turnover in consequence of the insured incident, and b) increase in cost of working: the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in Turnover which but for that expenditure would have taken place during the Indemnity Period in consequence of the insured incident but not exceeding the sum produced by applying the Rate of Gross Profit to the amount of the reduction in Turnover avoided <p>less any sum saved during the Indemnity Period in respect of such charges and expenses of the Insured's business payable out of Gross Profit as may cease or be reduced in consequence of the insured incident.</p>
Media Liability	<p>any unintentional:</p> <ul style="list-style-type: none"> a) libel, slander or defamation b) plagiarism, piracy or misappropriation of ideas c) Copyright infringement or misappropriation of property rights, information or ideas or dilution or infringement of title, slogan, trademark, trade dress, logo, trade name, service mark or service name d) improper deep-linking, framing or web scraping or e) violation of the rights of privacy of an individual, including false light, intrusion upon seclusion or public disclosure of private facts.
Occurrence	an event, including continuous or repeated exposure to substantially the same general conditions, which results in Personal Injury or Property Damage neither expected nor intended from the standpoint of the Insured . All exposure to substantially the same general conditions shall be deemed one Occurrence .
Operational Technology	any hardware, software, or equipment that may be used for the purpose of controlling physical devices and processes, including supervisory control and data acquisition systems (SCADA), but does not include the items of machinery or other physical devices or processes being controlled.
PCI DSS Fines	fines and assessments levied against the Insured due to a breach of the Payment Card Industry Data Security Standard as a result of a Data Breach .
Personal Data	any information relating to an identified or identifiable natural person. An identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

Personal Injury	death, physical injury, sickness or disease to any person, disability, shock, emotional distress, mental anguish, mental shock or mental injury, false arrest, wrongful detention, false imprisonment or malicious prosecution, wrongful entry or eviction, assault and battery not committed by or at the direction of the Insured unless committed for the purpose of preventing or eliminating danger to persons or property.
Policy	this policy wording and the Policy Schedule , including any endorsements.
Policy Period	the period specified in the Policy Schedule , unless ending earlier in accordance with the Policy terms or relevant law.
Policy Schedule	the schedule to this Policy , including any endorsements.
Policy Section	the separate sections of this Policy identified as <u>Policy Section 1 - Technology Professional Liability</u> , <u>Policy Section 2 – Cyber Protection</u> and <u>Policy Section 3 - Public and Products Liability</u> .
Policyholder	the policyholder named as such in the Policy Schedule .
Pollutant	any solid, liquid, gaseous, radiological, biological or thermal irritant or including smoke, vapour, soot, fumes, acids, alkali, chemicals, germs, fibres, fungus, or waste including, but not limited to asbestos or toxic mould. Waste includes materials to be recycled, reconditioned or reclaimed.
Premium	the amount shown as premium in the Policy Schedule .
Preventative Shutdown	the reasonable, necessary and voluntary shutdown of the Insured’s Computer System , on the advice of a member of the Insured’s Control Group , or an independent forensic security expert, to prevent, or limit an actual or suspected Cyber Security Breach that the Insured first discovers during the Policy Period .
Product Injury	Personal Injury or Property Damage arising out of a Technology Product or Technology Service .
Product Recall Expenses	<p>the reasonable and necessary costs and expenses, directly related to the recall of Technology Products, and incurred by the Insured for:</p> <ol style="list-style-type: none"> a) public announcements by any medium to provide awareness of the recall b) external advice to prepare such communications c) transport of the Technology Products from the recall location to the storage or disposal location d) storage of the Technology Products in premises not owned or rented by the Insured at the time of the recall e) disposal or destruction of the Technology Product or the products packaging, or f) remuneration of additional staff or overtime remuneration of non-salaried staff. <p>Product Recall Expenses shall also include the amounts the Insured is legally liable to pay to a Third Party for costs and expenses incurred by the Third Party solely for a) to f) above and that are directly related to the recall of a Technology Product that has been purchased or distributed by such Third Party under contract with the Insured.</p>
Property Damage	<ol style="list-style-type: none"> a) physical damage to, or destruction of any tangible property, including the resulting loss, loss of use, possession or control thereof b) loss of use of tangible property that is not physically damaged, provided such loss of use is caused by physical damage to other tangible property. <p>Tangible Property does not include Data and Personal Data.</p>
Regulatory Penalty	any civil penalty or fine imposed by a government or regulatory body that is insurable by law.
Rate of Gross Profit	the rate of Gross Profit earned on the Turnover during the financial year immediately before the date of the insured incident.
Regulatory Proceeding	a request for information, civil investigative demand, or civil proceeding brought by or on behalf of any federal, state, local or foreign governmental entity in such entity’s regulatory or official capacity in relation to privacy, cyber security, or data protection legislation.
Retention	the amount shown as the retention in the Policy Schedule .
Retroactive Date	the retroactive date specified in the Policy Schedule .
Senior Counsel	a barrister in active practice who is entitled to use the post-nominals QC, KC, or SC in any one or more superior court.

Standard Turnover	the Turnover during the period in the twelve months immediately before the date of the insured incident which corresponds with the Indemnity Period .
Sublimit	any amount shown as a Sublimit of indemnity in the Policy Schedule .
Subsidiary	<p>a company or entity of which the Policyholder:</p> <ol style="list-style-type: none"> a) is the sole owner, or b) controls the composition of the board of directors, or c) controls more than half the voting power, or d) holds more than half of the issued share capital <p>as at the commencement of the Policy Period.</p> <p>Provided always that cover is subject to the terms and conditions of this Policy and cover is only available under this Policy while such company or entity is a Subsidiary of the Policyholder.</p>
System Failure	<p>an unintentional and unplanned interruption of the Insured's Computer System, which mean they are incapable of carrying out their normal business function.</p> <p>System Failure does not include any interruption of Computer Systems resulting from a Cyber Security Breach.</p>
Technology Products	computer or telecommunications hardware, software, or related electronic components, that is created, designed, manufactured, distributed, licensed, leased, or sold by the Insured or on the Insured's behalf and any software updates, service packs, or maintenance releases associated with those products and provided by the Insured or on the Insured's behalf.
Technology Provider	<p>a business operated by a third party to provide Technology Services to the Insured, under a written contract, in order to provide hosted computer application services to the Insured or processing, storing or hosting the Insured's Data.</p> <p>Technology Provider does not include any provider of financial securities, stock exchanges or clearing houses, power, water, oil, gas, electrical, sewage, telecommunications, internet, satellite, other utilities, or mechanical infrastructure or services.</p>
Technology Provider's Computer System	any computer system owned or operated by a Technology Provider
Technology Service	<p>any computer, cloud computing, and electronic technology service, including:</p> <ol style="list-style-type: none"> a) data processing, software as a service (SaaS), platform as a service (PaaS), infrastructure as a service (IaaS), network as a service (NaaS), Internet of Things (IoT) solutions, Artificial Intelligence and Machine Learning services, blockchain services b) data and application hosting, Computer Systems analysis, and technology consulting and training c) custom software programming, computer and software systems installation and integration, or d) management, repair, maintenance, network design and internet services <p>provided by the Insured or on the Insured's behalf.</p>
Third Party	<p>any entity or natural person other than:</p> <ol style="list-style-type: none"> a) an Insured, or b) any entity or natural person which has a financial interest or executive role in the Policyholder or any Subsidiary.
Third Party Information	any trade secret, data, design, interpretation, forecast, formula, method, practice, credit or debit card magnetic strip information, process, record, report or other item of confidential information of a Third Party not insured under this Policy which is not available to the general public.
Turnover	the money paid or payable to the Insured for goods sold and delivered and for services rendered in the course of the Insured's business.
Uninsured Working Expenses	<p>bad debts purchases (less discounts received) carriage, packing and freight and discounts allowed.</p> <p>The words and expressions used in this definition shall have the meaning usually attached to them in the Insured's books and accounts.</p>

Vehicle	any type of machine on wheels (other than a motorised wheelchair/scooter) or self-laid track made or intended to be propelled by other than manual or animal power and any trailer or other attachment made or intended to be drawn by any such machine.
Waiting Period	the time period stated in the Policy Schedule .
War	war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition of or damage to property by or under the order of any government, public or local authority.
Watercraft	any vessel, craft or thing made or intended to float on or in or travel on or through water.

POLICY SECTION 1 – TECHNOLOGY PROFESSIONAL LIABILITY

INSURING AGREEMENT

The **Insurer** agrees to indemnify the **Insured's** civil liability for **Loss** as a result of a **Claim** first made against the **Insured** during the **Policy Period** and which solely arises out of the provision of **Technology Products** or **Technology Services**.

INSURING AGREEMENT CLARIFICATIONS

Subject to the Insuring Agreement, but without limiting its scope, the **Insurer** agrees to pay the **Insured's** civil liability for **Loss** from any **Claim**:

Artificial Intelligence	arising out of the use of any artificial intelligence software in the provision of Technology Products or Technology Services .
Consumer Protection Legislation	made under the Australian Consumer Law or the <i>Competition and Consumer Act 2010 (Cth)</i> or any similar legislation enacted by any states or territories in Australia and New Zealand.
Loss of Documents	made against the Insured for the unintentional destruction, damage, misplacement, deletion, or loss of Documents while in the Insured's physical custody or control and for which the Insured is legally responsible.
Vicarious Liability	made against the Insured arising out of the provision of Technology Products or Technology Services by any other person on behalf of the Insured for which the Insured is legally liable or is alleged to be legally liable.
Former Subsidiaries	made against the Insured arising out of the provision of Technology Products or Technology Services by a Subsidiary prior to the date of its acquisition by another entity.

EXTENSIONS APPLICABLE TO POLICY SECTION 1

The following Extensions are applicable to Policy Section 1 - Technology Professional Liability and do not apply to any other **Policy Section**. If 'Not Included' is stated in the **Policy Schedule** in relation to any Extension such Extension and any reference to it is deemed deleted and no cover stated in the Extension will apply. All Extensions are subject to the terms and Conditions of this **Policy**.

PAYMENTS TOWARD OUTSTANDING FEES

Notwithstanding the Fees or Charges Exclusion, the **Insurer** will pay the **Insured's** contractually agreed fees, excluding any profit component and goods and services tax, for the provision of **Technology Products** or **Technology Services** that a **Client** refuses to pay provided:

- there is written evidence of the **Client's** refusal to pay and of their intention to make a **Claim** that would otherwise be covered by this **Policy**
- the **Insured** has first made all reasonable efforts to recover the fees from the **Client**
- the **Insured** will cease attempts to recover the fees from the **Client** and
- the payment of the fees is reasonably likely to fully and finally resolve any existing or potential **Claim** by the **Client**.

In the event a **Claim** is still made against the **Insured** then any payments made under this Extension will be offset against any **Loss** recoverable under this **Policy**.

The **Insurer's** liability under this Extension shall not exceed the Outstanding Fees **Sublimit** stated in the **Policy Schedule**.

REFUND OF FEES

Notwithstanding the Fees or Charges Exclusion, the **Insurer** will pay the **Insured** for any refund of fees component of **Damages**.

The **Insurer's** liability under this Extension shall not exceed the Refund of Fees **Sublimit** stated in the **Policy Schedule**.

MITIGATION COSTS

The **Insurer** will pay the **Insured** for **Claim Prevention Costs and Expenses**. The **Insured** must obtain the **Insurer's** written consent prior to incurring **Claim Prevention Costs and Expenses** except if any delay caused by obtaining such consent would likely jeopardise the rectification, mitigation or prevention of the **Claim** or potential **Claim**. If the **Insured** does not obtain the **Insurer's** prior consent, then an **Executive Officer** must approve the **Claim Prevention Costs and Expenses** before they are incurred and the **Insured** must notify the **Insurer** as soon as reasonably practicable, but not later than 30 days, after incurring the **Claim Prevention Costs and Expenses**.

The **Insurer's** liability under this Extension shall not exceed the Mitigation Costs **Sublimit** stated in the **Policy Schedule**.

PATENTS

Notwithstanding the Patents and Trade Secrets Exclusion, the **Insurer** agrees to indemnify the **Insured's** civil liability for **Loss** as a result of:

- a) any **Claim** directly arising out of the provision of the **Technology Products** or **Technology Services** for an unintentional breach of any patent
- b) any **Claim** against a **Third Party** for breach of any patent provided the **Claim** directly arises out of the provision of **Technology Products** or **Technology Services** and that the **Insured** contracted in writing to indemnify the **Third Party** for such a **Claim** prior to the **Claim** being made against the **Third Party**. The **Insurer's** liability under this subsection is subject to the **Third Party** using the **Technology Product** or **Technology Service** as intended under the contract providing the indemnity and that the **Insurer** would be liable if the same **Claim** had been made against the **Insured**.

The **Insurer's** liability to indemnify the **Insured** under this Extension applies solely to patents registered outside the United States of America or the Dominion of Canada or their territories or protectorates.

The **Insurer's** liability under this Extension shall not exceed the Patents **Sublimit** stated in the **Policy Schedule**.

PENALTIES

The **Insurer** will indemnify the **Insured** for **Regulatory Penalties** which the **Insurer** is not prohibited by law from paying, arising out of a **Claim** first made or **Inquiry** first commenced during the **Policy Period** and arising out of the provision of **Technology Products** or **Technology Services**.

The **Insurer's** liability under this Extension shall not exceed the Regulatory Penalty **Sublimit** stated in the **Policy Schedule**.

POLICY SECTION 2 – CYBER PROTECTION

INSURING AGREEMENTS

BREACH RESPONSE AND NOTIFICATION

The **Insurer** will pay to or on behalf of the **Insured**, **Breach Response and Notification Costs** incurred by the **Insured** due to an actual or suspected **Data Breach** or **Cyber Security Breach** that the **Insured** first discovers and reports to the **Insurer** during the **Policy Period**.

DATA RESTORATION

The **Insurer** will pay to or on behalf of the **Insured**, **Data Restoration Costs** incurred by the **Insured** due to a **Cyber Security Breach** that the **Insured** first discovers and reports to the **Insurer** during the **Policy Period**.

BUSINESS INTERRUPTION

The **Insurer** will reimburse the **Insured** for **Business Interruption Loss** that the **Insured** incurs within the **Indemnity Period** and reports to the **Insurer** during the **Policy Period**, as a result of a:

- a) **Cyber Security Breach** or
- b) **Dependent Security Breach**.

SYSTEM FAILURE BUSINESS INTERRUPTION

The **Insurer** will reimburse the **Insured** for **Business Interruption Loss** that the **Insured** incurs within the **Indemnity Period** and reports to the **Insurer** during the **Policy Period**, as a result of a:

- a) **System Failure** or
- b) **Dependent System Failure**.

CYBER EXTORTION

The **Insurer** will reimburse the **Insured** for **Cyber Extortion Costs** as a result of an **Extortion Threat** that the **Insured** first discovers during the **Policy Period**.

DATA AND SYSTEM SECURITY LIABILITY

The **Insurer** will indemnify the **Insured's** civil liability for **Loss** as a result of a **Claim** first made against the **Insured** during the **Policy Period** which solely arises out of:

- a) a **Data Breach** or
- b) a **Cyber Security Breach**.

REGULATORY DEFENCE AND FINES

The **Insurer** will pay on the **Insured's** behalf any **Defence Costs** and any **Regulatory Penalty**, to the extent insurable by law, which the **Insured** becomes liable to pay to a governmental or regulatory entity, as a result of any **Regulatory Proceeding** first brought against the **Insured** and reported to the **Insurer** during the **Policy Period** arising out of a **Data Breach**.

PCI DSS LIABILITY

The **Insurer** will pay on the **Insured's** behalf any **PCI DSS Fines** which the **Insured** is liable to pay and any reasonable and necessary legal costs the **Insured** incurs with the **Insurer's** prior written consent (not to be unreasonably withheld or delayed) in dealing with an investigation or PCI DSS assessment first commenced by the PCI Data Security Standard and reported to the **Insurer** during the **Policy Period** arising out of a **Data Breach**.

EXTENSIONS APPLICABLE TO POLICY SECTION 2

The following Extensions are applicable to Policy Section 2 – Cyber Protection and do not apply to any other **Policy Section**. If 'Not Included' is stated in the **Policy Schedule** in relation to any Extension such extension and any reference to it is deemed deleted and no cover stated in the Extension will apply. All Extensions are subject to the terms and conditions of this **Policy**.

HARDWARE REPLACEMENT

The **Insurer** will pay to or on behalf of the **Insured** any reasonable and necessary sums the **Insured** incurs to replace any hardware forming part of the **Insured's Computer System**, but excluding any **Operational Technology** that are unable to function as intended due to corruption or destruction of software or firmware directly resulting from a **Cyber Security Breach** that the **Insured** first discovers and reports to the **Insurer** during the **Policy Period**.

REPUTATIONAL HARM

The **Insurer** will reimburse the **Insured** for the direct **Loss of Gross Profit** that the **Insured** incurs within the **Indemnity Period** and reports to the **Insurer** during the **Policy Period** which is a result of reputational damage caused by an allegation made in the public domain or the release of information in the public domain alleging that the **Insured** failed to prevent a **Cyber Security Breach** or a **Data Breach**.

CYBER CRIME

The **Insurer** will reimburse the **Insured** for **Direct Financial Loss** first discovered and reported to the **Insurer** during the **Policy Period** as a result of:

- a) an unauthorised electronic funds transfer committed by a third party
- b) unauthorised invoice manipulation, or
- c) any request directed to the **Insured** or someone on the **Insured's** behalf by an entity or person improperly seeking to obtain possession or the transfer to a third party of virtual currency, money, securities, **Data** or property to which such third party is not entitled.

POLICY SECTION 3 – PUBLIC AND PRODUCTS LIABILITY

INSURING AGREEMENTS

PUBLIC LIABILITY

The **Insurer** will indemnify the **Insured** for all **Loss** arising from any **Claim** for **Personal Injury** or **Property Damage**, excluding any **Product Injury**, where such **Personal Injury** or **Property Damage** first happens during the **Policy Period** and is caused by an **Occurrence** in connection with the **Business**.

PRODUCTS LIABILITY

The **Insurer** will indemnify the **Insured** for all **Loss** arising from any **Claim** for **Product Injury** where such **Product Injury** first happens during the **Policy Period** and is caused by an **Occurrence** in connection with the **Business**.

EXTENSIONS APPLICABLE TO POLICY SECTION 3

The following Extensions are applicable to Policy Section 3 - Public and Products Liability and do not apply to any other **Policy Section**. If 'Not Included' is stated in the **Policy Schedule** in relation to any Extension such Extension and any reference to it is deemed deleted and no cover stated in the Extension will apply. All Extensions are subject to the terms and conditions of this **Policy**.

PRODUCT RECALL EXPENSES

Notwithstanding the Product Recall, Repair and Replacement Exclusion, the **Insurer** will pay the **Insured** for **Product Recall Expenses** incurred by the **Insured** during the **Policy Period** provided the **Product Recall Expenses** are incurred directly in response to the recall of **Technology Products** that have caused or are reasonably likely to cause **Personal Injury** or **Property Damage** due solely to:

- a) the accidental omission of any component during the manufacture of the **Technology Product**
- b) the accidental introduction or substitution of any deleterious substance during the manufacture of the **Technology Product**
- c) any accidental labelling error by the **Insured**, or
- d) any other product defect where the defect occurred during design or manufacture of the **Technology Product**.

The **Insurer** shall not be liable to indemnify the **Insured** under this Extension where:

- a) the **Insured** knew or ought to have reasonably known of a) – d) above prior to release or distribution of the **Technology Product** or at the inception of this **Policy**
- b) any inherent deterioration or change to a **Technology Product** has caused or is likely to cause **Personal Injury** or **Property Damage**
- c) the **Insured** continues to use any materials or distribute any **Technology Product** that has been banned or declared unsafe by a government agency or body or other responsible body.

The **Insurer's** liability to indemnify the **Insured** under this Extension shall apply solely:

- a) to the particular batch(es), code(s), version(s) or other technical designation(s) of the **Technology Product** which has caused or is likely to cause the **Personal Injury** or **Property Damage**
- b) to any **Technology Products** manufactured, sold, handled or distributed by the **Insured** or any **Third Party** prior to the **Product Recall Retroactive Date** noted in the **Policy Schedule**.

The **Insurer's** liability under this Extension shall not exceed the Product Recall Expenses **Sublimit** stated in the **Policy Schedule**.

THIRD PARTY INDEMNITIES

The **Insurer** agrees to indemnify the following parties for all **Loss** arising from any **Claim** for **Personal Injury** or **Property Damage** happening during the **Policy Period** and caused by an **Occurrence** in connection with the **Business**:

- a) any **Third Party** to whom the **Insured** provides **Technology Products** or **Technology Services**
- b) any Lessor of equipment that has been leased to the **Insured**
- c) any Lessor of premises leased to the **Insured**, but only in respect of the specific location leased by the **Insured**, or
- d) any vendor in connection with the sale or distribution of **Technology Products**, but only where the vendor has not made any modification to the **Technology Products**, including packaging, or made any guarantee or warranty unless authorised by the **Insured**.

Indemnity provided under this Extension shall only apply where the Insured has agreed under written contract to provide the products or services stated in a) to d) and has contractually agreed to such indemnity.

The **Insurer** shall only be liable under this Extension to the extent that the **Insured** would have been covered under this **Policy** had the same **Claim** be made against them.

PHYSICAL AND LEGAL CONTROL

Notwithstanding the Property Damaged in the Insured's Physical or Legal Control Exclusion and the Employers Liability Exclusion, the **Insurer** agrees to indemnify the **Insured** for **Loss** arising from a **Claim** for **Property Damage** to:

- a) premises or part(s) of premises (including their contents) leased by or rented to, or temporarily occupied by, the **Insured** for the purpose of the **Business**. However, the **Insurer** shall not be liable if the **Insured** has assumed the responsibility to insure the premises
- b) premises (including their contents) temporarily occupied by the **Insured** for the purpose of carrying out work in connection with the **Business** or any property temporarily in the **Insured's** possession for the purpose of being worked upon. However, the **Insurer** shall not be liable for **Property Damage** for or to that part of any property upon which the **Insured** is or has been working where such **Property Damage** arises from such work
- c) personal property of an **Insured Person**
- d) **Vehicles** (not belonging to or used by or on behalf of the **Insured**) in the physical or legal control of the **Insured** where such **Property Damage** occurs whilst any such **Vehicle** is in a car park owned or operated by the **Insured**, provided that the **Insured** as part of its **Business** does not own or operate a car park for reward.
- e) Other property (not owned by the **Insured**) not described in the above clauses, whilst temporarily in the **Insured's** physical or legal care, custody or control. The **Insurer's** liability under this subsection (e) shall not exceed the Care, Custody and Control **Sublimit** stated in the **Policy Schedule**.

HARM RESPONSE EXPENSES

The **Insurer** will pay the **Insured** for **Harm Response Expenses** that are incurred by the **Insured** during the **Policy Period** as a result of an **Occurrence** that is covered by this **Policy**.

The **Insured** must notify the **Insurer** as soon as reasonably practicable but no later than 30 days after incurring the **Harm Response Expenses**.

The **Insurers** liability under this Extension shall not exceed the **Harm Response Expenses Sublimit** stated in the **Policy Schedule**.

CROSS LIABILITY

Where the **Insured** is comprised of more than one party each of the parties shall be considered as a separate legal entity and the word **Insured** shall apply to each party as if a separate **Policy** had been issued to each party.

Nothing contained in this condition shall result in an increase to the **Limit of Liability**.

CYBER LIABILITY

Notwithstanding the Cyber and Data Exclusion, the **Insurer** agrees to pay for **Loss** which the **Insured** is liable to pay as a result of a **Claim** for **Personal Injury** or **Property Damage** that **first** happens during the **Policy Period** and is caused by an **Occurrence** arising out of a:

- a) **Cyber Security Breach**
- b) **Computer Systems** that are created, designed, manufactured, distributed, licensed, leased, or sold by the **Insured** or on the **Insured's** behalf that transmits a malicious code or software to a third party's **Computer Systems**.

The **Insurers** liability under this Extension shall not exceed the Cyber Liability **Sublimit** stated in the **Policy Schedule**.

POLICY SECTION 4 - EXTENSIONS APPLICABLE TO ALL POLICY SECTIONS

The Extensions apply to all **Policy Sections** unless expressly stated otherwise. All Extensions are subject to the terms and conditions of the **Policy Section** to which a claim or payment is allocated by the **Insurer** and also to the full terms and conditions of the **Policy**.

ADVANCEMENT OF DEFENCE COSTS

If the **Insured** notifies the **Insurer** of a **Claim** or an **Inquiry**, the **Insurer** will pay the **Insured's Defence Costs** as applicable after erosion of the **Retention**, prior to acceptance that coverage applies under this **Policy**, which the **Insured** incurs with a lawyer on the **Insurer's** legal panel up to the **Sublimit** while the **Insurer** determines whether or not the **Policy** responds, provided invoices are sent to the **Insurer** for payment. However, the **Insured** must repay the **Insurer** all payments of **Defence Costs** to the extent that such **Defence Costs** are determined to not be indemnified under the **Policy**.

The **Insurer's** liability under this Extension shall not exceed the Advancement of Defence Costs **Sublimit** stated in the **Policy Schedule**.

CLAIMS PREPARATION

The **Insurer** will pay **Claims Preparation Costs** to or on behalf of the **Insured**. The **Insured** shall provide to the **Insurer** a time costed and itemised bill of **Claims Preparation Costs**.

This Extension does not apply to:

- a) any salaries, wages, expenses, costs or similar disbursements paid to the **Insured**, employee or self-employed contractors; and
- b) any fees, expenses, costs or similar disbursements in respect of any claims advocacy services payable to any entity, including but not limited to public adjusters and loss assessors, instructed or retained directly or indirectly to advocate, advise, or act on behalf of, the **Insured** in respect of coverage or the negotiation of a **Claim** under the **Policy**.

The **Insurers** liability under this Extension shall not exceed the Claims Preparation Costs **Sublimit** stated in the **Policy Schedule**.

CONTINUOUS COVER

This Extension applies solely to Policy Section 1 - Technology Professional Liability, Policy Section 2 – Cyber Protection and the Cyber Liability Extension under Policy Section 3 - Public and Products Liability.

Notwithstanding sub-paragraph b) of the Prior or Pending Exclusion, the **Insurer** will indemnify the **Insured** for **Loss** arising out of any **Claim** or **Inquiry** first made or commenced against the **Insured** during the **Policy Period** which arises out of facts or circumstances which ought to have been notified to the **Insurer** prior to the commencement of the **Policy Period** but weren't, where:

- a) the **Insured** has been continuously insured by the **Insurer** since the date when the facts or circumstances giving rise to the **Claim** or **Inquiry** should have been notified, or
- b) the **Insured** first became aware of the facts or circumstances that might give rise to the **Claim** or **Inquiry** after the **Continuity Date**.

Provided that:

- a) the **Policyholder's** failure to notify the **Insurer** was not deliberate or fraudulent
- b) the **Claim** or **Inquiry** shall be dealt with in accordance with the policy limits, terms and conditions in force when the **Insured** first became aware of the facts or circumstances which ought to have been notified but were not, and
- c) the **Insurer's** liability to indemnify the **Insured** is reduced to the extent of any prejudice suffered by the **Insurer** as a result of the late notification.

CONTRACTUAL LIABILITY

Notwithstanding the Contractual Liability Exclusion and for subsection a) of the definition of **Loss**, the **Insurer** will indemnify the **Insured's** civil liability for **Loss** arising out of:

- a) liquidated damages, provided the liquidated damages are a fair and reasonable estimate of the damages the **Insured** would be liable to pay at common law

- b) any indemnity or hold harmless provided to a **Client** directly relating to the provision of **Technology Products** or **Technology Services**
- c) any guarantee, warranty or liability assumed by the **Insured** that would have attached in the absence of the contract
- d) any implied warranty or similar statutory term requiring **Technology Products** or **Technology Services** to be fit for purpose and meet a certain standard of quality, safety or fitness
- e) solely in respect of Policy Section 2 – Cyber Protection for any liability resulting from a **Data Breach, Cyber Security Breach** or in respect of a **Claim** for unintentional breach of contract under the PCI DSS Liability Insuring Agreement
- f) solely in respect of Policy Section 3 - Public and Products Liability
 - i. a provision in a lease agreement for real or personal property other than a provision which obliges which obliges the **Insured** to effect insurance or provide indemnity in respect of the subject matter of that lease agreement, or
 - ii. the Cyber Liability Extension, where included as part of this **Policy**, in respect of any liability resulting from a **Cyber Security Breach**.

The **Insurer's** liability for a) to c) above is subject to such agreement or extension of liability being specified in a written contract for the provision of **Technology Products** or **Technology Services** signed prior to a **Claim** being made.

COURT ATTENDANCE COSTS

The **Insurer** will pay costs incurred by an **Insured Person** if they attend court as a witness in any **Claim** or **Inquiry** for which the **Insurer** has agreed to indemnify the **Insured**. The **Insured** does not have to pay any **Retention** under this Extension.

The **Insurer's** liability under this Extension shall not exceed the amounts specified in the **Policy Schedule**, up to the Court Attendance Costs **Sublimit**.

EXTENDED REPORTING PERIOD

This Extension applies solely to Policy Section 1 - Technology Professional Liability and Policy Section 2 – Cyber Protection.

If this **Policy** is either not renewed or replaced then the **Insurer** will automatically and subject to the full terms and conditions of this **Policy**, indemnify the **Insured** for any **Claim** first made within 60 days after the expiration of this **Policy** and arising out of the provision of **Technology Products** or **Technology Services** performed prior to the expiration or cancellation of this **Policy**, but otherwise in the **Policy Period**. This additional benefit ceases once the **Insured** is insured under another professional indemnity insurance policy for Policy Section 1 - Technology Professional Liability and another Cyber Insurance policy for Policy Section 2 – Cyber Protection or similar policies of insurance either with the **Insurer** or another insurer.

HEIRS AND ESTATES

In the event of the death or mental incapacity of any **Insured Person** the **Insurer** agrees to extend the definition of **Insured** to include their heirs, estate, legal representatives, or assignees.

INQUIRY COSTS AND EXPENSES

The **Insurer** will pay the **Insured's Inquiry Costs and Expenses** resulting from the **Insured's** response or attendance at any **Inquiry** where the **Insured** has been first served during the **Policy Period** with written notice requiring them to respond to, or attend, the **Inquiry**.

The **Insurers** liability to indemnify the **Insured** under this Extension shall not exceed the Inquiry Costs and Expenses **Sublimit** stated in the **Policy Schedule**.

JOINT VENTURE LIABILITY

The **Insurer** agrees to indemnify the **Insured** for **Loss** as a result of a **Claim** made against the **Insured** arising out of the provision of **Technology Products** or **Technology Services** or the performance of the **Business** in which the **Insured** is engaged as a joint venturer or as a partner, providing that the joint venture has been disclosed by the **Policyholder** to the **Insurer** prior to the inception of the **Policy** and that that the joint venture provides the same **Technology Products** or **Technology Services** as the **Insured**.

No cover is provided to any associate or joint venture partner of the **Insured** and the **Insurer's** liability under this Extension is limited to the percentage share the **Policyholder** has in the joint venture or partnership.

LEGAL ADVISORY PANEL

The **Insurer** will pay for a consultation (of up to one hour) with a member of the **Insurer's** legal advisory panel on any matter related to the risks insured under the **Policy**, except in relation to the scope of the **Policy**. For more information, please see the **Insurer's** website or the relevant brochure.

PUBLIC RELATIONS EXPENSES

The **Insurer** will pay for the reasonable costs of a public relations consultant the **Insured** engages to protect from or mitigate harm to the **Policyholder's** or **Subsidiaries'** reputation as a result of a **Claim** that is covered by this **Policy** or an allegation against the **Insured** that is likely to result in a **Claim** that is covered by the **Policy**.

The **Insurer's** liability under this Extension shall not exceed the amounts specified in the **Policy Schedule**, up to the Public Relations Expenses **Sublimit**.

MEDIA AND ADVERTISING LIABILITY

Notwithstanding subsection c) of the Media Liability Exclusion, the **Insurer** agrees to indemnify the **Insured** for **Loss** as a result of a **Claim** first made against the **Insured** during the **Policy Period** for any **Media Liability** which solely arises out of:

- a) the provision of **Technology Products** and **Technology Services**
- b) **Advertising Activities**
- c) a **Data Breach**
- d) a **Cyber Security Breach**.

The **Insurer's** liability to indemnify the **Insured** under this Extension shall not exceed the Media and Advertising Liability **Sublimit** stated in the **Policy Schedule**.

This Extension is subject to the **Retroactive Date** stated in the **Schedule**.

NEWLY CREATED OR ACQUIRED SUBSIDIARIES

The **Insurer** will extend the definition of **Insured** to include **Subsidiaries** created or acquired by the **Policyholder** during the **Policy Period** where the **Subsidiaries'** revenue does not exceed fifteen percent (15%) of the revenue of the **Policyholder** and **Subsidiaries** covered under this **Policy** at the commencement of this **Policy** provided that:

- a) the retroactive date applicable to the new entity is deemed to be the date of acquisition or formation by the **Insured**, and
- b) cover only applies to a subsidiary that provides the same **Technology Products** or **Technology Services** as the **Insured**.

RUN-OFF

This Extension applies solely to Policy Section 1 - Technology Professional Liability and Policy Section 2 – Cyber Protection.

If the **Policyholder** ceases to exist or operate or is consolidated with, merged into or acquired by any other entity for whatsoever reason including, but not limited to, its administration or liquidation, then this **Policy** shall continue up to the expiry of the **Policy Period** but any cover will only apply in respect of any **Claim**, **Inquiry**, or **Loss** arising from the provision of **Technology Products** and **Technology Services** undertaken prior to the effective date that the **Policyholder** ceased to exist or operate or was consolidated with, merged into or acquired by another entity.

SEVERABILITY / NON-IMPUTATION / INNOCENT NON-DISCLOSURE

The **Insurer** agrees that where this **Policy** insures more than one **Insured**, where an **Insured Person**:

- a) failed to comply with the duty of disclosure, or
- b) made a misrepresentation to the **Insurer** before the **Policy** was entered into

this shall not prejudice the right of any other **Insured Person** to indemnity as may be provided by this **Policy**.

Provided that:

- a) the **Insured Person** was not aware of the failure or misrepresentations
- b) as soon as is reasonably practicable upon becoming aware of any such conduct, the **Insured Person** advises the **Insurer** in writing of all known facts in relation to such conduct, and
- c) the conduct of any **Executive Officer** is imputed to the **Insured**.

EXCLUSIONS

The Exclusions apply to all sections of this **Policy** unless expressly stated otherwise. The **Insurer** will not be liable to make any payment under this **Policy** for or arising out of:

ADVERTISING LIABILITY

any liability arising from **Advertising Activities** as a result of:

- a) breach of contract, other than misappropriation of advertising ideas under an implied contract
- b) the wrong description or price of the **Technology Products** or **Technology Services**
- c) the failure of the **Insured's** product to conform with advertised performance or quality
- d) infringement of trademark, service mark or trade name but not any title or slogan, or
- e) **Technology Products** or **Technology Services** where the intended function of the **Technology Product** or **Technology Service** is to provide **Advertising Activities**.

AIRCRAFT AND WATERCRAFT

- a) the ownership, maintenance, lease, operation or use of any **Aircraft** or **Watercraft** by an **Insured**
- b) the ownership of any **Aircraft** landing area or **Aircraft** hangar or airport
- c) **Technology Products** that are **Aircraft** component parts where such component parts affect the safety, flight controls or take-off or landing of an **Aircraft**,
- d) **Technology Services** that affect the safety, flight controls or take-off or landing of an **Aircraft**
- e) the ownership of any **Watercraft** mooring or docking area or **Watercraft** storage area
- f) **Technology Products** that are **Watercraft** component parts where such component parts affect the safety or sailing controls of a **Watercraft**, or
- g) **Technology Services** that affect the safety or sailing controls of a **Watercraft**.

ASBESTOS AND SILICA

the presence or release or possible release of asbestos, asbestos containing materials or silica in whatever form or quantity.

ANTI-COMPETITIVE CONDUCT AND ORGANISED CRIME

any restraint of trade or other restrictive trade practices, anti-competitive or unfair trade practices, predatory pricing, price manipulation or fixing, tortious interference in a **Third Party's** business including a **Third Party's** contractual arrangements. This includes but is not limited to any such conduct in breach of any competition, consumer or fair-trading legislation, or consumer protection laws, racketeering, fraud, organised crime, or conspiracy law of Australia, or its states or territories, or any similar such legislation which may be applicable anywhere else in the world.

However, this exclusion will not apply to consumer privacy laws covered under the Data and System Security Liability Insuring Agreement under Policy Section 2 – Cyber Protection.

ACQUIRED PRODUCTS LIABILITY

any computer or telecommunications hardware, software, or related electronic components acquired by the **Insured** or any product that was created, designed, manufactured, distributed, licensed, leased or sold by any organisation prior to the **Insured's** acquisition of such organisation.

BETTERMENT

This Exclusion applies solely to Policy Section 2 – Cyber Protection and the Cyber Liability Extension of Policy Section 3 - Public and Products Liability.

any **Claim** or **Cyber Loss** which results in the **Insured** being in a better financial position or benefitting from upgraded versions of the **Insured's Computer System** as a direct result of a covered **Claim** or **Cyber Loss** under this **Policy**.

However, in the event of a covered **Cyber Security Breach**, when rebuilding the **Insured's Computer System**, but excluding any **Operational Technology**, the **Insurer** will pay the additional costs and expenses incurred to install a more secure and efficient version of the **Insured's** affected **Computer System**, provided that the maximum amount the **Insurer** will pay is not more than 25% of the cost that would have been incurred to repair or replace the original model, license, or hardware.

COMMERCIAL DECISIONS

This Exclusion applies solely to Policy Section 1 - Technology Professional Liability.

a failure to provide **Technology Products** or **Technology Services** arising from insufficient technical, logistical or financial resources when, at the time of agreeing to provide the **Technology Products** or **Technology Services** you did not have the required resources or the ability to source and retain the required resources.

COMMUNICABLE DISEASE

This Exclusion applies solely to Policy Section 3 - Public and Products Liability.

- a) any highly pathogenic avian or animal influenza in humans
- b) cholera, rabies and or any pandemic or epidemic as declared by the World Health Organisation
- c) any disease determined to be a "listed human disease" under the *Biosecurity Act 2015 (Cth)* as amended from time to time or any disease that is determined, listed or otherwise specified in an equivalent manner under any legislation that either replaces the *Biosecurity Act 2015 (Cth)* or has an equivalent object or objects.

CONDUCT

any:

- a) criminal, dishonest, fraudulent, malicious or deliberately reckless act, or
- b) deliberate breach of contract, professional duty or any law.

However, this Exclusion shall only apply:

- a) if the **Insured** committed, acquiesced, knew or reasonably ought to have known of the conduct in a) and b) above by an **Insured Person**. For the purpose of this subsection, the conduct of any **Executive Officer** is imputed to the **Insured**
- b) in the event such conduct is established by final adjudication by a court or tribunal or arbitrator, or a written admission by an **Insured Person**. In the event of such, the **Insured** shall reimburse the **Insurer** all **Loss**, **Cyber Loss**, **Defence Costs** or other payments made under this **Policy** in connection with such **Claim** or **Inquiry** or other matter which may be subject to indemnity under this **Policy**.

CONSTRUCTION

This Exclusion applies solely to Policy Section 3 - Public and Products Liability.

Personal Injury or **Property Damage** caused by or in connection with any land or site development and/or the erection, demolition, alteration and/or addition to buildings, structures or engineering works of any nature by or on behalf of the **Insured**.

CONTRACTUAL LIABILITY

any liability assumed under a contract or agreement or guarantee (including but not limited to an indemnity and liquidated damages) or warranty.

However, this Exclusion shall not exclude cover provided by the Contractual Liability Extension under Policy Section 4 - Extensions Applicable to All Policy Sections.

CYBER AND DATA

This Exclusion applies solely to Policy Section 3 - Public and Products Liability.

- a) directly or indirectly from, based upon, attributable to, or in consequence of any **Cyber Security Breach** including any action taken in controlling, preventing, suppressing, or remediating any **Cyber Security Breach**
- b) directly or indirectly from, based upon, attributable to, or in consequence of any **Data Breach** including any action taken in controlling, preventing, suppressing, or remediating any **Data Breach**.

However, subsection a) of this Exclusion does not apply to the Cyber Liability Extension under Policy Section 3 - Public and Products Liability where the Extension has been included as part of this **Policy**.

DIRECTORS AND OFFICERS

any **Insured** acting in the capacity of an **Executive Officer** of the **Insured**, a company, association, or other legal entity or in the capacity of a superannuation trustee.

However, this Exclusion does not apply to Policy Section 3 - Public and Products Liability.

ELECTROMAGNETISM

the existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism.

EMPLOYERS LIABILITY

- a) **Personal Injury** of any **Insured Person** or any person for which you are, or would be responsible for under any Workers Compensation, Employers Liability, or similar legislation, or
- b) damage to or destruction of any property of any **Insured Person** including loss of use of property, arising out of, or in the course of their employment with the **Insured**, or
- c) any actual or alleged breach of the **Insured's** employment practices (other than arising out of a **Data Breach** or **Cyber Security Breach**) and covered under the Data and System Security Liability Insuring Agreement.

However, subsection b) of this Exclusion shall not exclude cover provided by the Physical and Legal Control Extension under Policy Section 3 - Public and Products Liability.

FEES OR CHARGES

unpaid fees or any return or refund of any professional fees, charges, commissions, or other remuneration received by, paid by or payable to the **Insured**.

However, this Exclusion shall not apply to the Refund of Fees Extension.

FINES AND PENALTIES

punitive, aggravated or exemplary damages, fines or penalties, service credits or any additional damages resulting from the multiplication of compensatory damages.

However, this Exclusion shall not exclude cover provided by the Penalties Extension under Policy Section 1 – Technology Professional Liability or the Regulatory Defence and Fines and PCI DSS Liability Insuring Agreements under Policy Section 2 – Cyber Protection.

FORCE MAJEURE

This Exclusion applies solely to Policy Section 1 – Technology Professional Liability, Policy Section 2 – Cyber Protection and the Cyber Liability Extension of Policy Section 3 - Public and Products Liability.

fire, smoke, explosion, solar flare, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, lightning, tornado, flood, hail, or act of God, however caused.

GOVERNMENT ENTITY OR PUBLIC AUTHORITY

This Exclusion applies solely to Policy Section 2 – Cyber Protection and the Cyber Liability Extension of Policy Section 3 - Public and Products Liability.

any seizure, confiscation, or nationalisation of a **Computer Systems** by order of any government entity or public authority.

However, this Exclusion shall not exclude cover provided under the Regulatory Defence and Fines Insuring Agreement of Policy Section 2 – Cyber Protection.

INFRASTRUCTURE FAILURE

This Exclusion applies solely to Policy Section 2 – Cyber Protection.

any failure, interruption, or malfunction of financial securities, stock exchanges or clearing houses, power, water, oil, gas, electrical, sewage, telecommunications, internet, satellite, other utilities, or mechanical infrastructure or services not under the operational control of the **Insured**.

JURISDICTIONAL LIMITS

any **Claim** or **Inquiry** brought within the territorial limits of the United States of America or the Dominion of Canada or their territories or protectorates; or arising out of the enforcement of any judgment, order or award obtained within, or determined pursuant to the laws of the United States of America or the Dominion of Canada or their territories or protectorates; or which the **Insurer** is prohibited from paying by law in the jurisdiction concerned.

KNOWN DEFECT

This Exclusion applies solely to Policy Section 1 - Technology Professional Liability and Policy Section 3 - Public and Products Liability.

the provision of **Technology Products** or **Technology Services** where the **Insured** knew of or ought to have reasonably known of any defect, deficiency, inadequacy or inability to fulfill the purpose for which they were intended.

MEDIA LIABILITY

- a) the actual or alleged breach of any patent
- b) in respect of Policy Section 1 - Technology Professional Liability and Policy Section 3 - Public and Products Liability only, the actual or alleged breach of any trade secret, or
- c) any **Media Liability**.

However, this Exclusion shall not exclude cover provided by the Patents Extension under Policy Section 1 - Technology Professional Liability and the Media and Advertising Liability Extension under Policy Section 4 - Extensions Applicable to All Policy Sections.

NUCLEAR

ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste which is from the combustion of any nuclear fuel.

OVER-REDEMPTION

price discounts, prizes, awards, coupons, or any other valuable consideration given in excess of the contracted or expected amount.

PERSONAL INJURY AND PROPERTY DAMAGE

This Exclusion applies solely to Policy Section 1 - Technology Professional Liability and Policy Section 2 – Cyber Protection.

Personal Injury and/or **Property Damage**.

However, this Exclusion shall not apply:

- a) with respect to Policy Section 2 – Cyber Protection:
 - i. to **Property Damage** to the **Insured's Computer System**, and
 - ii. to cover provided under the Hardware Replacement Extension
- b) with respect to the Media and Advertising Liability Extension at Policy Section 4 - Extensions Applicable to All Policy Sections, any emotional distress, mental anguish or mental injury arising out a **Media Liability**.

PLANNED OUTAGES

This Exclusion applies solely to Policy Section 2 – Cyber Protection and the Cyber Liability Extension of Policy Section 3 - Public and Products Liability.

arising directly from any planned or scheduled downtime of the **Insured's Computer System** or the **Insured's Technology Provider's Computer Systems** including any downtime that is the result of a planned outage lasting longer than initially planned or expected.

However, this Exclusion will not apply where it has been reasonable and necessary to deliberately take the **Insured's Computer System** offline in order to manage a **Cyber Security Breach**.

POLLUTION

- a) the threatened, actual or alleged discharge, release or escape of any **Pollutant**
- b) any direction, request or effort to:
 - i. test for, monitor, clean up, remove, contain, treat, detoxify or neutralise **Pollutants**, or
 - ii. respond to or assess the effects of **Pollutants**.

However, this exclusion shall not apply to solely to **Personal Injury** or **Property Damage** if such discharge, dispersal, release, seepage, migration or escape is caused by a sudden, unexpected and unintended happening that takes place in its entirety at a specific time and place during the **Policy Period**.

PRIOR OR PENDING

- a) any **Claim, Inquiry, Loss, Cyber Loss** or other matter which may be subject to indemnity under this **Policy** made, threatened or intimated against the **Insured** prior to the **Policy Period**, or
- b) any fact or circumstance:
 - i. of which notice has been given, or ought reasonably to have been given, under any previous policy, or disclosed in a proposal form, or
 - ii. of which the **Insured** first became aware prior to the **Policy Period**, and which the **Insured** knew or ought reasonably to have known had potential to give rise to a **Claim, Inquiry, Loss or Cyber Loss** or other matter which may be subject to indemnity under this **Policy**.

However, this Exclusion shall not exclude cover provided by the Continuous Cover Extension under Policy Section 4 - Extensions Applicable to All Policy Sections.

PRODUCT DEFECT, RECALL, REPAIR AND REPLACEMENT

- a) **Property Damage** to the **Insured's Technology Product** if such damage is attributable to any defect or harmful nature or unsuitability thereof, however this shall not apply to **Personal Injury** or **Property Damage** resulting therefrom
- b) the cost of performing, completing, correcting, or improving any work undertaken by the **Insured**
- c) the withdrawal, recall, inspection, removal, repair, alteration, replacement, removal, cost of investigation, disposal adjustment, loss of use or refund of any **Technology Product** or **Technology Service** or of any property which the **Technology Products** forms part of or on which the **Technology Service** is or was performed.

PROPERTY DAMAGED IN THE INSURED'S PHYSICAL OR LEGAL CONTROL

This Exclusion applies solely to Policy Section 3 - Public and Products Liability.

any **Property Damage** to:

- a) property owned or leased or rented by the **Insured**, or
- b) property in the physical or legal control of the **Insured**.

However, this Exclusion shall not exclude cover provided by the Physical and Legal Control Extension under Policy Section 3 - Public and Products Liability.

RELATED OR ASSOCIATED ENTITIES

any **Claim, Inquiry** or other matter which may be subject to indemnity under this **Policy** brought or maintained by or on behalf of:

- a) the **Insured**, or
- b) any parent, successor or assign of any **Insured**, or
- c) any entity in which an **Insured** or any **Executive Officer** has an executive or controlling interest, or such entity's successor or assign.

RETROACTIVE DATE

This Exclusion applies solely to Policy Section 1 - Technology Professional Liability, Policy Section 2 – Cyber Protection and the Product Recall Expenses Extension under Policy Section 3 - Public and Products Liability.

any act, event, error or omission occurring or alleged to have occurred prior to the **Retroactive Date** stated in the **Policy Schedule** that gives rise to a **Claim, Inquiry, Loss, Cyber Loss** or other payment under this **Policy**.

SANCTIONS

any **Claim, Inquiry, Loss, Cyber Loss** or other matter which may be subject to indemnity under this **Policy** where payment of such **Claim, Loss, Cyber Loss** or provision of any such benefit would expose the **Insurer** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, the United Kingdom, the United States of America, or Australia.

SECURITIES LAW

any actual or alleged breach of any laws or regulations relating to the purchase, sale, or offer or solicitation of an offer to purchase, sell or solicit securities or any violation of a securities law, including but not limited to the Securities Act of 1933 (USA) the Securities Exchange Act of 1934 (USA), any rules, regulations or amendments issued in relation to the abovementioned acts, or any similar legislation in relation to the abovementioned acts in any other jurisdiction.

TERRORISM

This Exclusion applies solely to Policy Section 1 - Technology Professional Liability, Policy Section 3 - Public and Products Liability.

any act of terrorism including, but not limited to any actual, or any threat of, force, violence or intimidation committed by any person or persons for any ideological, religious, political or similar purpose including with the intention to overthrow, influence or disrupt any government and or any policy of any government.

This exclusion operates in connection with any act of Terrorism regardless of any other cause or event and regardless of the sequence of the act of Terrorism and the other cause or event.

This Policy also excludes Personal Injury, Property Damage, death, injury, illness, loss, damage, liability, cost or expense directly or indirectly caused by, contributed to or by, resulting from, or arising out of or in connection with any action in controlling, preventing, suppressing, retaliating against, or responding to any act of Terrorism.

TRADING DEBTS AND LIABILITIES

any:

- a) trading losses or trading liabilities
- b) monetary value of any electronic fund transfers or transactions by or on behalf of the **Insured** which is lost, diminished, or damaged during transfer from, into or between accounts
- c) face value of coupons, vouchers, service credits, price discounts, prizes, awards, or any other valuable consideration given in excess of the total contracted or expected amount
- d) theft of any money, securities, or any equivalents thereof (including e-certificates, cryptocurrencies, non-fungible tokens, gift cards and vouchers), or
- e) monetary value of any transfer of funds, securities, cryptocurrency, non-fungible tokens or equivalent.

However, this exclusion shall not exclude cover for reimbursement of **Cyber Loss** provided by the Cyber Crime Extension under Policy Section 2 – Cyber Protection.

UNSOLICITED COMMUNICATIONS

any actual or alleged breach of:

- a) the *Spam Act 2003 (Cth)* or any amendment or replacement thereof, or
- b) any other federal, state or foreign anti-spam statute, law, ordinance or regulation relating to unsolicited communication, distribution, sending or transmitting of any communication via telephone or any other electronic or telecommunications device.

VEHICLES

This Exclusion applies solely to Policy Section 3 - Public and Products Liability.

Personal Injury or **Property Damage** arising out of or resulting from the ownership, maintenance, operation or use by the Insured of any **Vehicle**:

- a) which is registered, or
- b) in respect of which compulsory liability insurance or statutory indemnity is required by virtue of any legislation.

However, this exclusion shall not apply to **Personal Injury** or **Property Damage** arising from:

- a) the delivery or collection of goods to or from any **Vehicle** where such **Personal Injury** or **Property Damage** occurs beyond the limits of any carriageway or thoroughfare, or
- b) the loading of goods or unloading of goods from any **Vehicle**.

WAR AND STATE CYBER OPERATIONS

- a) a **War**
- b) a **Cyber Operation** carried out as part of, or the immediate preparation for a **War**, or
- c) a **Cyber Operation** causing an **Impacted State**.

However, Paragraph c) above will not apply to the direct or indirect effect of a **Cyber Operation** on **Computer Systems** used by the **Insured** or the **Insured's Technology Provider** that is not physically located in an **Impacted State** but is affected by a **Cyber Operation**.

Notwithstanding the **Insurer's** burden of proof, which shall remain unchanged by this clause, in determining attribution of a **Cyber Operation** to a sovereign state, the **Insured** and the **Insurer** will consider such objectively reasonable evidence that is available. This may include formal or official attribution by the government of the

sovereign state in which the **Computer Systems** affected by the **Cyber Operation** is physically located to another sovereign state or those acting at its direction or under its control.

WEAR AND TEAR

This Exclusion applies solely to Policy Section 2 – Cyber Protection and the Cyber Liability Extension under Policy Section 3 - Public and Products Liability.

any wear and tear or gradual deterioration or failure of any electronic equipment in normal use.

WRONGFUL COLLECTION OF DATA

This Exclusion applies solely to Policy Section 1 - Technology Professional Liability, Policy Section 2 – Cyber Protection and the Cyber Liability Extension under Policy Section 3 - Public and Products Liability.

any unauthorised or wrongful collection, storage, transfer or sharing anywhere in the world of any **Personal Data**, including internet search history and internet browsing habits.

CLAIMS CONDITIONS

When making a claim, the **Insured** must have met and then continue to comply with the conditions of this **Policy**. If the **Insured** does not meet these conditions or makes a fraudulent claim the **Insurer** may, to the extent permitted by law:

- a) refuse to pay the **Insured's** claim or reduce what we pay for the **Insured's** claim to the extent that the **Insurer's** interests have been prejudiced
- b) cancel the **Policy** in accordance with General Conditions Cancellation of the **Policy**.

ALLOCATION

Where a **Claim, Inquiry, Loss, or Cyber Loss** or other matter subject to indemnity under this **Policy** is covered only in part by this **Policy**, the **Insurer** and the **Policyholder** will use their best efforts to agree a fair and proper allocation of amounts that are covered and those that are not covered under this **Policy**. If the **Insurer** and the **Policyholder** cannot agree on a fair and proper allocation then the matter will be referred to **Senior Counsel** (to be mutually agreed upon by the **Policyholder** and the **Insurer**, or in the absence of agreement, appointed by the President of the relevant state or territory Law Society in the state or territory in which the **Claim** or **Inquiry** is made) whose opinion will be binding. In formulating their opinion, **Senior Counsel** shall take into consideration the respective legal exposures between the covered and uncovered elements of the **Claim, Inquiry, Loss, or Cyber Loss** as well as the economics of the matter, including the likely **Defence Costs** and the prospects of the **Policyholder** successfully defending the **Claim**. The **Insurer** and the **Policyholder** shall each have the opportunity, but not the obligation, to make a submission to **Senior Counsel** on the reasons for their respective position.

The costs of **Senior Counsel's** opinion will be regarded as part of **Defence Costs** or **Inquiry Costs and Expenses**.

Where the amounts covered under this **Policy** remain unagreed or undetermined, the **Insurer** shall only be liable to pay the proportion of any **Claim, Inquiry, Loss, Cyber Loss** which it considers covered under the **Policy** after a fair and proper allocation. Once such fair and proper allocation is agreed or determined, such allocation shall be retrospectively applied to all amounts incurred prior to such agreement or determination.

ASSISTANCE AND CO-OPERATION

The **Insured** must provide the **Insurer** with all reasonable assistance the **Insurer** requires when the **Insured** deals with the **Insurer** and the **Insured** will:

- a) be truthful and frank
- b) not behave in a way that is abusive, dangerous, hostile, improper or threatening
- c) co-operate fully with the **Insurer**, even after the **Insurer** has paid a claim
- d) not reveal the amount of cover available under this **Policy**, unless required to give these details in negotiating a contract with a **Client**, required by law or compelled by a court, or otherwise with the **Insurer's** prior written consent.

DEFENCE AND SETTLEMENT

The **Insurer** may:

- a) instruct the **Insured** to conduct the defence of a **Claim** if the **Insurer** believes that it will not exceed the **Retention**, in which case the **Insured** will be responsible for the **Insured's** own **Defence Costs** and any settlement up to the amount of the **Retention**. In the event that any reasonable **Defence Costs** or payment made to dispose of the **Claim** exceeds the **Retention** the **Insurer** will reimburse the **Insured** those reasonable **Defence Costs**
- b) take over and conduct, in the **Insured's** name, the defence or settlement of any **Claim** at any time, in which case the **Insurer** will then have sole control of that **Claim**.

The **Insured** agrees:

- a) not to negotiate or settle any **Claim**, incur any **Defence Costs** or **Inquiry Costs and Expenses**, make any admission, offer or payment or otherwise assume any contractual obligation with respect to any **Claim** or **Loss** without the **Insurer's** written consent, provided that the **Insurer** shall not unreasonably withhold such consent
- b) that any information that is received by the **Insurer's** external lawyers in the course of investigating, defending or settling any **Claim** made against the **Insured** or any **Inquiry** can be provided to the **Insurer** and relied upon by the **Insurer** in relation to any issue that may arise regarding the **Insurer's** liability to indemnify the **Insured**.

LEGAL REPRESENTATION

In respect of any **Claim** under this **Policy** requiring legal representation, the **Insurer** will nominate a representative prior to the representative's instruction.

In the event the **Insured** wishes to appoint a different representative, the **Insured** shall seek the **Insurer's** prior written consent (not to be unreasonably withheld or delayed) and provide to the **Insurer**:

- a) the hourly rates (or such other fee basis), and
- b) the terms and conditions of such appointment.

The **Insurer** may at their own discretion limit any reimbursement of fees to an amount that is reasonable and comparable to the fees that would have been payable had the **Insurer's** nominated representative been appointed. In the event of a dispute regarding the amount of costs incurred, the **Insurer** will have the right to audit any files for the purpose of assessing the costs claimed.

NOTIFICATION

With respect to Policy Section 1 - Technology Professional Liability and Policy Section 3 - Public and Products Liability the **Insured** must notify the **Insurer** during the **Policy Period** or where applicable in accordance with the Extended Reporting Period Extension, as soon as the **Insured** becomes aware of a **Claim**, **Inquiry** or **Loss** by contacting the **Insurer** in writing, using the address or email address shown in the **Policy Schedule**. The **Insured** may also ask the **Insured's** financial services provider to notify the **Insurer** on the **Insured's** behalf. The **Insured** is responsible for ensuring the **Insured's** financial services provider complies with the notification provisions of this **Policy**. The **Insured** must provide the **Insurer** with:

- a) all documentation in the **Insured's** possession, and
- b) information the **Insured** is aware of

which relates to the **Claim**, **Inquiry** or **Loss** the **Insured** has notified to the **Insurer**.

With respect to Policy Section 2 – Cyber Protection if any member of the **Control Group** becomes aware of a **Claim**, **Cyber Loss** or any circumstance that may give rise to a **Claim** or **Cyber Loss** under this **Policy**, the **Insured** must notify, as soon as reasonably possible during the **Policy Period** or extended reporting period (if applicable):

- a) the Incident Response Panel as specified in the **Policy Schedule**, and
- b) the **Insurer** at - Probitas 1492 (Pacific) Pty Ltd
Level 1, 44 Martin Place, Sydney, NSW, 2000
cyberclaimsaustralia@probitas1492.com.

If a governmental or law enforcement agency prohibits the **Insured** from notifying the **Insurer** of a **Claim**, **Cyber Loss** or circumstance that may give rise to a **Cyber Loss** or **Claim**, this **Policy** shall not be prejudiced so long as the **Insured** provides notice to the Incident Response Panel and the **Insurer** immediately after such prohibition is no longer in place, but still subject to the **Policy Period** or extended reporting period (if applicable).

THE INSURED'S RIGHT TO CONTEST

In the event that the **Insurer** recommends a settlement in respect of any **Claim** and the **Insured** does not agree that such **Claim** should be settled, then the **Insured** may elect to contest such **Claim**, provided that the **Insurer's** 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 the **Insurer's** written consent up to the date of such election, less the **Retention**.

SENIOR COUNSEL CLAUSE

The **Insurer** shall not require the **Insured** to contest any **Claim** unless a **Senior Counsel** (to be mutually agreed upon by the **Insured** and the **Insurer**) shall advise that such **Claim** should be contested. In formulating such advice, **Senior Counsel** shall take into consideration the economics of the matter, the damages and costs which are likely to be recovered by the claimant, the likely **Defence Costs** and the prospects of the **Insured** successfully defending the **Claim**. The cost of such **Senior Counsel's** opinion shall be regarded as part of **Defence Cost**.

GENERAL CONDITIONS

AGREEMENT WITH THE INSURED

This **Policy** is a legal contract between the **Policyholder** and the **Insurer** and is made up of this **Policy Wording** and the **Policy Schedule**. The important notices do not form part of the **Policy**. The **Policyholder** has agreed to pay the **Insurer** the premium and the **Insured** may access the benefit of the cover under the **Policy**, provided that the **Insured** meets the eligibility criteria at the time.

ACTIONS IN THE EVENT OF A CLAIM, CYBER LOSS OR CIRCUMSTANCES

With respect solely to Policy Section 2 – Cyber Protection on the discovery of a **Claim**, **Cyber Loss** or circumstance that may give rise to a **Claim** or **Cyber Loss** under this **Policy**, the **Insured** must provide the **Insurer** with any evidence or reasonable assistance that the **Insurer** may reasonably require (at the **Insured's** own expense, unless such costs are otherwise covered under the terms and conditions of this **Policy**) regarding the cause of, value of, or circumstances surrounding any **Claim**, **Cyber Loss** or any circumstance that may give rise to a **Claim** or **Cyber Loss**, including but not limited to:

- a) the time, place and nature of the incident
- b) the manner in which the **Insured** first became aware of the incident
- c) the reasons why the **Insured** believes that the incident could give rise to a **Claim** under this **Policy**
- d) the identity of any potential claimant, and
- e) an indication as to the value of the **Claim** that could result from the incident.

Following any **Business Interruption Loss**, the **Insured** must provide the **Insurer** with a calculation of the **Business Interruption Loss** including:

- a) how the **Business Interruption Loss** has been calculated and what assumptions have been made; and
- b) supporting documents including account statements, sales projections and invoices.

As soon as reasonably practicable after discovery of a **Cyber Loss**, the **Insured** must take all reasonable steps to mitigate, avoid or reduce any **Cyber Loss** that may give rise to a **Claim** or circumstance.

ASSIGNMENT

This **Policy** and any rights or interest under this **Policy** cannot be assigned without the **Insurer's** prior written consent (not to be unreasonably withheld or delayed). Such assignment is to be endorsed on this **Policy**.

BEST ENDEAVOURS

With respect solely to Policy Section 3 - Public and Products Liability, the **Insured** shall use their best endeavours to preserve any products or property to which no alteration or repair shall be made without the **Insurer's** consent which shall not be unreasonably withheld, or until the **Insurer** shall have had an opportunity of inspection.

CANCELLATION

The **Policyholder** can cancel this **Policy** at any time by telling the **Insurer** in writing, provided that no payment has been paid under this **Policy** and that no **Claims** or **Cyber Losses** have been reported, and the **Insurer** will refund the **Policyholder** the proportion of the **Premium** for the remaining unexpired **Policy Period**.

The **Insurer** may cancel this **Policy** in any of the circumstances permitted by law by informing the **Policyholder** in writing. The **Insurer** will give the **Policyholder** notice in person or send it to the **Policyholder's** address (including by email address) last known to the **Insurer**. The cancellation shall be effective within 5 business days of the notification to the **Policyholder**. If the **Policyholder** has paid the **Premium** in advance, the **Insurer** will refund the **Policyholder** the proportion of the **Premium** for the remaining **Policy Period**.

CLAIMS MITIGATION AND CO-OPERATION

If the **Insured**, either prior to or during the **Policy Period**, becomes aware of a situation which could, if not rectified, lead to a **Claim** or increase the quantum of a **Claim**, the **Insured** must use due diligence and do all things reasonably practicable to avoid or diminish any **Loss, Cyber Loss** or other potential payment under the **Policy**.

CONTRIBUTION

If at the time of any **Loss, Cyber Loss, Occurrence**, damage, or liability there is any other insurance (whether effected by the **Insured** or by any other person) which covers the same **Loss Cyber Loss, Occurrence**, damage or liability the **Insured** must provide the **Insurer** with any reasonable assistance the **Insurer** requires to make a claim for contribution from any other insurer(s).

GOVERNING LAW

This **Policy** is governed by the law of the Australian State or Territory in which this **Policy** is issued.

INSPECTION OF PROPERTY

With respect solely to Policy Section 3 - Public and Products Liability, the **Insurer** shall be permitted but not obligated to inspect the **Insured's** property and operations at any time. Neither the **Insurer's** right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of the **Insured** or others, to determine or warrant that such property or operations are safe.

LIMITS OF LIABILITY

- a) With respect to Policy Section 1 - Technology Professional Liability the maximum amount the **Insurer** will pay for any single **Claim, Inquiry, Loss** or other payment covered under the **Policy** is the **Limit of Liability** or any applicable **Sublimit** stated in the **Policy Schedule**. The most the **Insurer** will pay in the **Policy Period** is the **Aggregate Limit**
- b) With respect to Policy Section 2 – Cyber Protection, the maximum amount the **Insurer** will pay is the **Limit of Liability** for each Insuring Agreement or any applicable **Sublimit**. The most the **Insurer** will pay in the **Policy Period** is the **Aggregate Limit**
- c) With respect to Policy Section 1 - Technology Professional Liability and Policy Section 2 – Cyber Protection
 - i. the **Limit of Liability** and **Aggregate Limit** are inclusive of all costs, expenses and **Defence Costs**
 - ii. the **Policy Section 1. and 2. Aggregate Limit** shown in the **Policy Schedule** is the most the **Insurer** will pay for any **Claim, Inquiry, Loss** or other payment under any Insuring Agreement or Extension in the **Policy Period** for Policy Section 1 - Technology Professional Liability and Policy Section 2 – Cyber Protection combined
- d) With respect to Policy Section 3 - Public and Products Liability
 - i. With respect to the Public Liability Insuring Agreement the maximum amount the **Insurer** will pay for any single **Claim, Inquiry, Loss** or other payment covered under this **Policy** is the **Limit of Liability** or any applicable **Sublimit** stated in the **Policy Schedule**
 - ii. With respect to the Product Liability Insuring Agreement, the maximum amount the **Insurer** will pay for any single **Claim, Inquiry, Loss** or other payment covered under this **Policy** the **Limit of Liability** or any applicable **Sublimit** stated in the **Policy Schedule**. The most the **Insurer** will pay in the **Policy Period** is the **Aggregate Limit**
 - iii. **Defence Costs** are in addition to the **Limit of Liability**, provided that if a payment exceeding the **Limit of Liability** must be made to dispose of the legal action or suit, the **Insurer's** liability to pay costs and expenses under this section shall be limited to such proportion of the costs and expenses as the **Limit of Liability** bears to the amount paid to dispose of the legal action or suit. The **Insurer** will not be obliged to pay any settlement or judgment or defend any suit or legal action after the **Limit of Liability** has been exhausted
- e) The following **Limit of Liability** conditions apply to all **Policy Sections**:

- i. Any amounts payable **under this Policy** will reduce the applicable **Limits of Liability** or **Sublimits** available for any other payment in the **Policy Period**
- ii. All **Sublimits** under Policy Section 4 - Extensions Applicable to All Policy Sections are in the aggregate across all applicable **Policy Sections** for the **Policy Period**
- iii. For any payment made under Policy Section 4 - Extensions Applicable to All Policy Sections, the **Insurer** will allocate the **Claim** or payment to one **Policy Section** and the payment will erode the **Limit of Liability** for that **Policy Section**
- iv. All **Sublimits** form part of and are not in addition to the **Limit of Liability** or the **Aggregate Limit** shown in the **Policy Schedule** for the applicable **Policy Section**
- v. All **Sublimits** for all **Policy Sections** are in the aggregate for the **Policy Period**
- vi. The inclusion of more than one **Insured** under this **Policy** does not operate to increase the total amount payable by the **Insurer** under this **Policy**
- vii. Any **Limit of Liability** for the extended reporting period, where applicable, shall be part of and not in addition to the **Limit of Liability** for the **Policy Period**.

MATERIAL ALTERATION TO RISK

The **Insured** will give the **Insurer** notice in writing as soon as possible of any material alterations to the risk that is the subject of this **Policy** including but not limited to:

- a) any change in the **Technology Products** or **Technology Services** provided by the **Insured**
- b) any change in the **Business**
- c) the **Insured** going into bankruptcy receivership, liquidation or any other form of external administration.

If the **Insured** does not provide such notification before the happening of a **Claim, Inquiry** or any other matter which may be covered under this **Policy** then, subject to the *Insurance Contracts Act 1984 (Cth)*, the **Insurer** may refuse to pay a **Claim, Inquiry Loss** or **Cyber Loss** under this **Policy** either in whole or in part.

MERGERS AND CONSOLIDATIONS

If during the **Policy Period** the **Insured** consolidates or merges with or is acquired by another entity, or sells more than 50% of its assets to another entity, then this **Policy** will continue to remain in effect through the end of the **Policy Period**, but only with respect of a **Claim** arising from the provision of **Technology Products and Technology Services** or any **Occurrence** prior to such consolidation, merger or acquisition. There will be no coverage provided by this **Policy** for any other **Claim, Loss, Cyber Loss** or other payment under this **Policy** unless the **Insured** provides written notice to the **Insurer** prior to such consolidation, merger or acquisition, and the **Insured** has agreed to any additional premium and terms of coverage required by the **Insurer**.

NON-ACCUMULATION

In the event of a **Claim, Inquiry, Loss, Cyber Loss** or other payment in respect of which the **Insured** is entitled to indemnity under more than one **Policy Section** then:

- a) the **Insured** is only entitled to indemnity under one **Policy Section** for each **Claim, Inquiry, Loss, Cyber Loss** or other payment
- b) notwithstanding the separate **Policy Sections**, the maximum liability of the **Insurer** under all **Policy Sections** shall be limited to the highest **Limit of Liability** under any one of the **Policy Sections**
- c) in no event shall the **Limit of Liability** under any one **Policy Section** be cumulative across more than one **Policy Section**, and
- d) where more than one **Retention** would otherwise apply, the highest applicable **Retention** shall be payable.

OTHER INSURANCE

To the extent permitted by law, the **Insurer** will only pay **Loss, Cyber Loss** or for other liability arising from an **Occurrence** in excess of any other insurance cover that the **Insured** may have unless any such other insurance is written as a specific excess insurance over this **Policy**.

POLICY INTERPRETATION

- a) the headings in this **Policy** do not form part of the **Policy Wording** and are for descriptive purposes only
- b) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes all consolidations, amendments, re-enactments and replacements thereof

- c) a word importing the singular includes the plural (and vice versa) and a word indicating a gender includes every other gender
- d) bolded terms in the **Policy** may refer to a defined term in the Definitions section, or to a term stated in the **Policy Schedule**, or both.

REASONABLE CARE AND PRECAUTIONS

The **Insured** must take reasonable care to prevent or minimise any **Loss**, or other costs that might give rise to a **Claim, Inquiry** or other payment under this **Policy**. At all times, the **Insured** must:

- a) minimise the cost of any **Claim** under this **Policy**, and
- b) comply with all laws.

With respect solely to Policy Section 3 - Public and Products Liability, in the event of an **Occurrence**, the **Insured** shall at its own expense take all reasonable steps to:

- a) prevent **Personal Injury** and **Property Damage**
- b) prevent manufacture, sale or supply of any defective **Technology Product**
- c) comply and ensure that the **Insured's Employees**, servants and agents comply with all statutory obligations, by-laws or regulations imposed by a public authority in respect thereof for the safety of persons or property, and
- d) trace or recall or modify any **Technology Product** containing any defect or deficiency of which the **Insured** has knowledge or has reason to suspect.

RECOVERY ACTION AND UNINSURED LOSS

The **Insured** must not do anything, including but not limited to agreeing not to seek any compensation from any other person that is or is potentially liable to compensate the **Insured** for any **Claim, Loss** or **Cyber Loss** that may prejudice the **Insurer's** rights of recovery against any **Third Party**. If the **Insurer** pays the **Insured's Claim**, the **Insurer** may seek to recover the amount paid to the **Insured** from the **Third Party** who caused the **Claim, Loss** or **Cyber Loss**. The **Insurer** will do this in the **Insured's** name and the **Insured** must assist the **Insurer** with any reasonable requests. If the **Insured** has suffered **Loss, Cyber Loss** or any other loss which is not covered by this **Policy** the **Insurer** may offer to attempt to recover this for the **Insured**. The **Insured** may specifically ask the **Insurer** to recover this for the **Insured**. The **Insured** will need to give the **Insurer** documents supporting the **Insured's** loss. Before the **Insurer** includes any uninsured loss in the recovery action the **Insurer** will also ask the **Insured** to agree to the basis on which the **Insurer** will handle the **Insured's** recovery action. The **Insured** may need to contribute to legal costs in some circumstances.

REINSTATEMENT

This Condition applies solely to Policy Section 1 - Technology Professional Liability.

If the **Policy Schedule** provides for an **Aggregate Limit** which exceeds the **Limit of Liability**, then where the **Limit of Liability** is exhausted by payment of **Claims** covered under the **Policy** during the **Policy Period**, the **Insurer** will reinstate the **Limit of Liability** for a subsequent **Loss** during the **Policy Period** that is totally unrelated to all such paid **Claims**. The **Limit of Liability** shall be reinstated until exhaustion of the **Aggregate Limit**, provided always the most the **Insurer** will pay in the **Policy Period** is the **Aggregate Limit**.

If the **Policyholder** has in effect any excess layer policy or policies providing excess layer coverage for limits in excess of the **Limit of Liability** of this **Policy**, the reinstatements provided will become effective only after the total exhaustion of the limits of all such excess coverage by reason of the payment of **Claims**.

RELATED CLAIMS

With respect to Policy Section 1 - Technology Professional Liability and Policy Section 2 – Cyber Protection, for the purposes of applying any **Retention** or **Limit of Liability** or **Sublimit**, all liability for **Claims** or **Loss** otherwise recoverable under this **Policy** resulting from or in connection with:

- a) one and the same act error or omission, or
- b) a series of acts errors or omissions arising out of or attributable to the same originating cause, or source shall be deemed to be one **Claim, Loss** or **Inquiry**.

All such **Claims** and **Losses** will be deemed to have been made at the time of the first such **Claim** or **Loss**.

With respect to Policy Section 3 - Public and Products Liability, all **Personal Injury** and **Property Damage** arising out of continuous or repeated exposure to substantially the same general conditions will be construed as arising out of one single **Occurrence** and a single **Limit of Liability** and **Retention** shall apply. Where more than one **Retention** would otherwise apply, the highest applicable **Retention** shall be payable.

RETENTION

The **Retention** is to be borne by the **Insured** and shall remain uninsured.

The **Insurer** shall only pay the amount of any **Claim, Loss** or other payment, which is in excess of the **Retention**, unless specified otherwise under the relevant Extension.

Where a **Claim** or **Loss** may be indemnified under more than one Insuring Agreement or Extension, or one or more parts of an Insuring Agreement or Extension, then only one **Retention** will apply and the **Retention** to apply will be the highest of the applicable **Retentions**.

However, with respect to Policy Section 2 – Cyber Protection, this clause will not apply to the **Waiting Period** applicable to the Business Interruption and the System Failure Business Interruption Insuring Agreements and with respect to the Business Interruption and System Failure Business Interruption Insuring Agreements, if the **Interruption Period** exceeds the **Waiting Period**, then the **Loss**, damage, cost or expense will be subject to the applicable **Retention** amount in the **Policy Schedule** and shall be calculated after the **Waiting Period** has elapsed.

With respect to Policy Section 4 - Extensions Applicable to All Policy Sections, the applicable **Retention** will be the **Retention** of the **Policy Section** to which the **Insurer** allocates the **Claim** or payment.

SEVERABILITY

Should any provision of this **Policy** be or become invalid or unenforceable such provision shall be deemed to be deleted and all other terms and conditions of this **Policy** shall remain in full force and effect.

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