

The Contract of Insurance

This **Certificate** is a contract of insurance between **You** and **Us**. In return for the premium shown in the **Schedule** that **You** have paid or agreed to pay **We** agree to insure **You** in accordance with the terms and conditions contained in or endorsed on this **Certificate**.

You should take the time to read all its terms, especially the conditions which **You** have to fulfil to ensure that **Your** insurance remains valid and what **You** have to do when making a **Claim**.

Important

In deciding to insure **You** and in setting the terms and premium, **We** have relied on the **Proposal**. **You** must ensure that all information provided in the **Proposal** is accurate and complete. **You** must disclose every material circumstance **You** know or ought to know, and provide a fair presentation of the information required to enable **Us** to assess **Your** insurance risk, both at the commencement of the **Period of Insurance** or at the subsequent renewal of this **Certificate**.

It is important that:

- Before **You** enter into an insurance contract, **You** have a duty to tell us anything that **You** know, or could reasonably be expected to know, may affect our decision to insure **You** and on what terms.
- **You** have this duty until **We** agree to insure **You**.
- **You** have the same duty before you renew, extend, vary or reinstate an insurance contract.
- **You** do not need to tell us anything that:
 - reduces the risk we insure **You** for; or
 - is common knowledge; or
 - We know or should know as an insurer; or
 - We waive your duty to tell us about.

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

- If **You** do not tell **Us** anything you are required to, we may cancel your contract or reduce the amount **We** will pay **You** if **You** make a **Claim**, or both.
- If **Your** failure to tell **Us** is fraudulent, **We** may refuse to pay a **Claim** and treat the contract as if it never existed.

If this **Certificate** does not meet **Your** requirements, or if **Your** requirements change, **You** should contact **Your** Broker at **Your** earliest opportunity.

Service of Suit

Any summons notice or process to be served upon **Us** may be served upon Lloyd's General Representative at Lloyd's Australia:-

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

who has authority to accept service and to enter an appearance on **Our** behalf, and who is directed at **Your** request to give a written undertaking to **You** that he will enter an appearance on **Our** behalf.

If a suit is instituted against **Us**, **We** will abide by the final decision of such Court or any competent Appellate Court.

Interpretation

- words and expressions appearing in bold type shall bear the meanings given against the word or expression in the section of this **Certificate** headed 'Definitions'.
- headings are for ease of reference only and shall not be taken into account in construing this **Certificate**.
- references to masculine include the feminine and vice versa;
- the singular includes the plural and vice versa;
- reference to any legislation, statute or statutory provision shall include any amendment or replacement;
- references to any position, title or legislation shall include their equivalent in the relevant jurisdiction.

Assumed Liability And Waived Rights

If **You** have entered into an agreement with another party:

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

CLAIMS MADE AND NOTIFIED INFORMATION (This Does Not Form Part Of The Certificate Terms)

Except in relation to Insuring Clause D Crime which is issued on a losses discovered basis, **Your** Management Liability Indemnity Insurance Certificate is issued on a claims made basis. This means that the **Certificate** responds:

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

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

Complaints And Dispute Resolution Process

If **You** have any questions or concerns about **Your Certificate** or the handling of a claim you should, in the first instance, contact **Us** or the broker where applicable. In the event that **You** remain

dissatisfied and wish to make a complaint, **You** can do so at any time. Making a complaint does not affect any of **Your** legal rights.

If **Your** complaint cannot be resolved within two weeks, or if **You** have not received a response within two weeks, **You** are entitled to refer the matter to Lloyd's. Lloyd's will then conduct a full investigation of **Your** complaint and provide **You** with a written final response.

Lloyd's contact details are:

Lloyd's Underwriters' General Representative in Australia
Lloyd's Australia Limited
Level 9
1 O'Connell Street
Sydney NSW 2000
Australia
Tel: +61 (0)2 8298 0700
Fax: +61 (0)2 8298 0788

Details of Lloyd's complaints procedures are set out in a leaflet "Your Complaint – How We Can Help" available at www.lloyds.com/complaints and are also available from the above address.

If **You** remain dissatisfied after Lloyd's has considered **Your** complaint, or if **You** have not received a written final response within eight weeks from the date that **We** received your complaint, **You** may be entitled to refer **Your** complaint to the Financial Ombudsman Service who will independently consider **Your** complaint free of charge. Their contact details are:

Post: The Financial Ombudsman Service, Exchange Tower, London E14 9SR
Telephone: (Fixed): 0800 0234567 Tel (Mobile): 0300 1239123 Tel (Outside UK): +44 (0) 20 7964 0500 Fax: +44 (0)20 7964 1001
Email: complaint.info@financial-ombudsman.org.uk
Website: www.financial-ombudsman.org.uk

Please note:

- **You** must refer **Your** complaint to the Financial Ombudsman Service within six months of the date of the final response
- The Financial Ombudsman Service will normally only consider a complaint from a business that has an annual turnover of less than 2 million Euros and fewer than 10 employees.

Disclaimer

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

General Insurance Code Of Practice

This Insurance does not comply with the Insurance Council of Australia's General Insurance Code of Practice.

Privacy Statement

The Privacy Act 1988, and amendments thereof, apply to this **Certificate**. **We** collect personal information from individuals or representatives in order that is necessary to accept risks, manage claims and administer insurance services. In order to facilitate and assist with the provision of these services, such information may be disclosed to third parties. If **You** require access to the personal information collected **You** may contact **Us** accordingly with this request.

Several Liability

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

An Insurer is not jointly liable for the proportion of liability underwritten by any other Insurer. Nor is an Insurer otherwise responsible for any liability of any other insurer that may underwrite this contract.

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

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

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

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

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

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

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

Certain Underwriters at Lloyd's 100%

DEFINITIONS

Some key words and terms used in this **Certificate**, its Schedules and its endorsements have a special meaning. Throughout this **Certificate**, wherever the following words or terms are used in **bold**, they mean what is set out below. Unless the context requires another meaning, a reference to the singular includes the plural and vice versa.

Acquisition Event means where:

- (a) the **Certificate Holder** merges into, consolidates, sells the majority of its assets to, or becomes controlled by another entity, or;
- (b) the **Certificate Holder** has a liquidator, receiver or administrator appointed to it.

Act (s) means any act of dishonesty, fraud, recklessness or **Theft** by an **Employee** whether acting alone or in collusion with the intention to sustain a **Crime Loss** to the **Company** for personal gain.

Benefits means any sum payable, under a **Fund** of the **Company** and administered by a **Trustee**, to a beneficiary of a **Fund**.

Bodily Injury means any physical injury, sickness, disease, psychological injury or illness, emotional distress, shock or death.

Certificate means this insurance document and shall include;

- (a) all its terms and conditions (including any definitions, exclusions or any other limitations);
- (b) any agreed endorsements attaching to the **Certificate** at inception or during the **Period of Insurance** or any **Extended Reporting Period**;
- (c) the **Certificate Schedule**.

Certificate Holder means the **Company** specified in the **Certificate Schedule** as the insured.

Certificate Schedule means the **Certificate Schedule** to the **Certificate**.

Claim means:

- (a) any written demand made against **You** for compensation alleging a **Wrongful Act**, **Superannuation Trustee Wrongful Act** or an **Employment Wrongful Act**; and / or;
- (b) any suit, civil or third party proceeding, counter-claim or arbitration proceeding brought against **You** for compensation alleging a **Wrongful Act**, **Superannuation Trustee Wrongful Act** or an **Employment Wrongful Act** and/ or;
- (c) any criminal proceedings brought against **You** for a **Wrongful Act** and / or **Superannuation Trustee Wrongful Act** and / or;
- (d) any official administrative or regulatory proceeding brought against **You** alleging a **Wrongful Act**, **Superannuation Trustee Wrongful Act** or an **Employment Wrongful Act**;
- (e) in respect of Insuring Clause G, a **Statutory Notice** brought against **You**.

Combined Aggregate Limit means the amount stated in the **Certificate Schedule** and which shall be the maximum amount of **Our** liability to pay all **Loss** or other amounts payable hereunder in the aggregate for all claims for indemnity under the **Certificate** within the **Period of Insurance**. The **Combined Aggregate Limit** is inclusive of all Insuring Clauses, **Limits of Liability** and Extensions.

Company means the **Certificate Holder** specified in the **Certificate Schedule** and any **Subsidiary**.

Crime Claim means a claim by the **Company** against this **Certificate** in respect a **Crime Loss**.

Crime Loss means the direct financial or physical loss (sustained by the **Company** and caused by any **Acts**) of **Currency**, **Securities** and **Property** belonging to, leased by or in the care, custody or control of the **Company** or for which the **Company** is legally responsible. **Crime Loss** does not include wages, salaries, fees or **Benefits** earned or received during normal employment or any damage of any kind including punitive or exemplary damages.

Currency means any bank notes, bullion, local or foreign money, any types of cheques, currency or postal orders.

Deductible means the amount **You** must bear before **We** are obliged to make any payment in respect of **Loss** arising from any **Claim** or **Crime Claim**. The amount of the **Deductible** is the sum stated in the **Certificate Schedule**.

Defence Costs and Expenses means reasonable legal costs and expenses incurred by **You** or on **Your** behalf with **Our** prior consent in connection with the investigation, defence or settlement of any **Claim** made on **You** in respect of which **You** are entitled to an indemnity under this **Certificate**.

Director means any natural person who is was or shall be prior to or during the **Period of Insurance**:

- (a) a director, (as defined in the Corporations Act 2001) of the **Company**;
- (b) an officer, executive or secretary of the **Company**, including any **Employee** who is concerned in, or takes part in, the management of the **Company**, regardless of title.

Director does not include a liquidator, receiver, administrator or **Trustee** of the **Company**.

Discover(ed) or Discovery means the point in time at which any **Director** discovers any facts which could lead to a **Crime Loss** covered under this **Certificate** regardless of the extent of details at that point in time. Such discovery constitutes discovery by the **Company**. Provided however that the **Director** is not in collusion with an **Employee** who has committed or is attempting to commit the **Acts**.

Employee means any natural person who is or was during the **Period of Insurance**:

- (a) employed by the **Company** under a contract of employment; or
- (b) employed by the **Company** under a training contract or as an apprentice; or
- (c) working for the **Company** as a locum, temporary or seasonal worker including anyone supplied by an agency or contract hire company; or
- (d) working for the **Company** as a volunteer, including anyone working on a work experience or intern scheme or placement; or
- (e) self - employed but who is not working as an independent contractor but only while that person is working directly for the **Company** and is under the **Company's** direct control and supervision.

Employment Wrongful Act means any actual or alleged violation committed by an **Insured Person** or the **Company** of any employment law or any other legal provision relating to any individual's actual or prospective employment with the **Company**. **Employment Wrongful Act** does not mean a **Superannuation Trustee Wrongful Act** or a **Wrongful Act**.

Extended Reporting Period means a period following the expiry of the **Period of Insurance** in relation to which an indemnity in respect of any **Claim** made for a **Wrongful Act**, **Superannuation Trustee Wrongful Act** or an **Employment Wrongful Act** or conduct committed, or for **Acts**

Discovered, prior to the expiry of the **Period of Insurance** may be purchased in certain limited circumstances where the **Certificate** is not renewed, in accordance with the terms and conditions stated in the General Conditions.

Fund means a single employer superannuation fund established for the benefit of **Employees**. **Fund** does not include master or industry funds.

Insolvency means the insolvency, liquidation, bankruptcy, receivership or administration of the **Company** or its actual or alleged inability to meet any or all of its debts as and when they fall due.

Insured Person means any natural person who is was or shall be prior to or during the **Period of Insurance** a **Director** of the **Company**.

Investigation means a formal regulatory or statutory investigation commenced by a formal written notice in relation to the business of the **Company**.

Legal Representation Costs means the reasonable and necessary legal and other related professional fees, costs and expenses which an **Insured Person** incurs for representation at an **Investigation**.

Limit of Liability means, in respect of each Insuring Clause and Extension to this **Certificate**, the amount stated in the **Certificate Schedule** in respect of that particular Insuring Clause or Extension (or in that provision) and which shall be the maximum amount of **Our** liability to pay any **Loss** in respect of any one **Claim**, **Crime Claim** or **Investigation** and in the aggregate for all **Claims**, **Crime Claims** and **Investigations**, in respect of which **We** may be liable to indemnify **You** under the same Insuring Clause or Extension, within the **Period of Insurance** subject always to the **Combined Aggregate Limit**.

Loss means damages (including punitive and exemplary damages), judgements, settlements, **Defence Costs and Expenses** and **Legal Representation Costs** resulting from an **Investigation**, claimant's costs that **You** are legally liable to pay resulting from a **Claim** or any amount **We** will pay to the **Company** for a **Crime Claim** in respect of a **Crime Loss**.

Loss shall not include:

- (a) matters uninsurable in the **Territorial Limits**;
- (b) **Penalties**(except Insuring Clause G of this **Certificate** or by virtue of the Pecuniary Penalties Extension), fines or taxes;

Non-Executive Director means any natural person (other than one who is an **Employee**) formally appointed to fulfil a part-time non-executive role on the board of directors of the **Company**.

Non-Indemnifiable Loss means **Loss** in respect of which the **Company** or an **Outside Entity** is unable to indemnify an **Insured Person** because:

- (a) it would be unlawful to do so; and/or
- (b) the **Company's** or **Outside Entity's** written constitution prohibits indemnification; and/or
- (c) the **Company's** or **Outside Entity's** assets are subject to a seizure or freezing order; and/or
- (d) of an **Acquisition Event**.

Outside Entity means:

- (a) a non-profit organisation, trade association or registered charity; or;
- (b) any company or entity except where such entity is a **Subsidiary**;

to whose board an **Insured Person** is appointed at the specific request or with the consent of the **Company**. **Outside Entity** shall not include any entity incorporated, domiciled or which has any debt of equity publicly traded in the USA/Canada.

Outside Directorships means any natural person who at the request of or with the specific consent of the **Company** becomes a director of an **Outside Entity**.

Penalty means any pecuniary or administrative fines or penalties, which **You** are ordered to pay pursuant to the law of the **Territorial Limits**.

Period of Insurance means the period stated in the **Certificate Schedule**.

Pollution means any actual, alleged or threatened exposure to seepage, discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including, but not limited to, smoke, vapours, soot, dust, fibres, fungi, mould, fumes, acids, alkalis, chemicals and waste (including but not limited to material to be recycled, reconditioned or reclaimed) or contamination of any kind.

Pollution Defence Costs means defence costs and expenses incurred by an **Insured Person** in connection with a **Claim** arising from **Pollution**.

Premium means the premium specified in the **Certificate Schedule**.

Property means any property except **Currency** or Securities.

Property Damage means destruction, loss of use, or physical damage to **Property**.

Proposal means any proposal form (whether in electronic or paper form) completed by **You** and received by **Us** together with any other information provided by **You** as part of the proposal for the **Certificate**.

Retroactive Date means the date specified in the **Certificate Schedule**.

Securities means any note, stock, bond, subscription to purchase, policy of interest, instrument which evidences a share, or other equity or debt (other than a trading debt) interest in the **Company**.

Statutory Notice any formal written notice received by **You** alleging a **Wrongful Act** for which **You** may be liable to pay a **Penalty**.

Subsidiary means any entity which the **Company**, directly or indirectly, controls through a majority holding of the voting rights; or through having the right to approve or remove the majority of the board of directors.

Superannuation Trustee Wrongful Act means any wrongful actual or alleged act, error, omission, misstatement, misleading statement, breach of duty or trust or conduct by a **Trustee** in their capacity as a **Trustee** of a **Fund**.

Superannuation Trustee Wrongful Act does not include an **Employment Wrongful Act**, or a **Wrongful Act**.

Tax Liability means a **Claim** alleging that an **Insured Person** is personally liable for the failure to pay tax due from the **Company** in connection with the bankruptcy, receivership, administration, winding up, insolvency or liquidation of the **Company**.

Tax Agent means any person who is not an **Insured Person** who is registered by the Australian Taxation office as a tax agent and is engaged by the **Company** to prepare, or supervise the preparation of, or review all returns and statements required by the Australian Taxation Office or any state or territory government tax collection authority in respect of the **Company's** liability to pay tax.

Tax Audit Notice means any notification from the Australian Taxation Office or any state or territory government tax collection authority of, or investigation including any risk review, relating to the **Company's** liability to pay tax.

Tax Investigation and Audit Expenses means that part of **Loss** consisting of reasonable costs, charges or fees of a **Tax Agent** incurred in investigating any **Tax Audit Notice**.

Territorial Limits means the Commonwealth of Australia and New Zealand.

Theft means the theft of **Property**.

Threshold Limit means up to 20% of the total consolidated assets of the **Company** (excluding those of the newly acquired or incorporated **Subsidiary**) or as otherwise endorsed to the **Certificate**.

Trustee means a trustee or administrator of any **Company** sponsored employee benefit or welfare plan or **Fund**.

Us/Our/We or **Insurers** means the **Insurer** or **Insurers** stated in the Schedule of Insurers, who are authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority and whose Firm reference numbers and other details can be found on the Financial Services Register at www.fca.org.uk

USA/Canada means the United States of America, its territories and possessions and/or Canada, its territories and possessions.

Virus means any software or executable code that replicates itself through a computer or computer network whether called a virus, logic bomb, Trojan Horse, worm or given any other name or term.

Wrongful Act means any wrongful actual or alleged act, error, omission, misstatement, misleading statement, breach of duty or trust by an **Insured Person** in their capacity as a **Director** or in an **Outside Directorship**, or in the case of Insuring Clause C, by the **Company**.

Wrongful Act shall not include any actual or alleged act, error, omission, misstatement, misleading statement, breach of duty or trust:

- (a) that occurred, or which is alleged to have occurred, before the **Retroactive Date** stated in the **Certificate Schedule**;
- (b) committed deliberately or recklessly or, in the event that it was so committed by anyone else, it was condoned by **You**.

Wrongful Act does not include an **Employment Wrongful Act** or a **Superannuation Trustee Wrongful Act**.

You /Your means any **Insured Person** as well as the **Company**.

SECTION 1 - INSURING CLAUSES

In return for **Your** payment of the **Premium** within the period required by **Us**, and subject to the **Combined Aggregate Limit** and all other terms, conditions and provisions of the **Certificate**, **We** shall indemnify **You** as follows:

Insuring Clause A – Directors and Officers

for any amount up to the **Limit of Liability** in respect of **Loss Non-Indemnifiable Loss** arising from any **Claim** first made and notified to **Us** against an **Insured Person** during the **Period of Insurance** and arising out of a **Wrongful Act** or an **Employment Wrongful Act**.

Insuring Clause B – Company Reimbursement

where and to the extent that the **Company** is liable to indemnify an **Insured Person**, for any amount up to the **Limit of Liability** in respect of **Loss** arising from any **Claim** first made and notified to **Us** against an **Insured Person** during the **Period of Insurance** and arising out of a **Wrongful Act** or an **Employment Wrongful Act**.

Insuring Clause C – Entity Cover

for any amount up to the **Limit of Liability** in respect of **Loss** arising from any **Claim** first made against the **Company** and notified to **Us** during the **Period of Insurance** arising out of a **Wrongful Act** by the **Company**.

Insuring Clause D – Crime

for any amount up to the **Limit of Liability** in respect of **Crime Loss** first **Discovered** and notified to **Us** during the **Period of Insurance**.

Insuring Clause E – Employment Practice Liability

for any amount up to the **Limit of Liability** arising from any **Claim** made by an **Employee** first made against **You** and notified to **Us** during the **Period of Insurance** arising out of a **Employment Wrongful Act**.

Insuring Clause F – Superannuation Trustee Liability

for any amount up to the **Limit of Liability** in respect of **Loss** arising from any **Claim** first made against a **Trustee** and notified to **Us** during the **Period of Insurance** arising out of a **Superannuation Trustee Wrongful Act**.

Insuring Clause G – Statutory Liability

for any amount up to the **Limit of Liability** in respect of **Loss** arising from any **Statutory Notice** first served on **You** and notified to **Us** during the **Period of Insurance** arising out of a **Wrongful Act**.

SECTION 2 - EXTENSIONS

In addition to the Insuring Clauses, but subject to the relevant **Limit of Liability, Combined Aggregate Limit** and all other terms, conditions and provisions of the **Certificate, We** shall indemnify **You** as follows:

Asset & Liberty Costs

We shall pay:

- a) any bail or civil bond premium;
- b) the reasonable fees, costs and expenses incurred in seeking to resist, vary or set aside any order for the confiscation or freezing of assets;

incurred by or imposed upon any **Insured Person** as a result of an order in Court proceedings and which is first made during the **Period of Insurance**.

Attendance Expenses

In the event that **We** require an **Insured Person** to attend any court or other judicial tribunal we shall pay **You** AUD500 Compensation per day for each day on which court is attended in connection with a **Claim**.

The **Limit of Liability** applying to this Extension shall not exceed AUD250,000 in the Aggregate. No **Deductible** is payable in respect of this Extension.

Company Costs

If the **Company** is required to reimburse a **Securities** holder of the **Company** for reasonable legal fees and expenses incurred by any such **Securities** holder pursuing a **Claim** against an **Insured Person** for a **Wrongful Act** by way of a derivative action on behalf of the **Company, We** shall reimburse the **Company** but only to the extent that the **Company** is legally liable to pay such costs and expenses pursuant to a court order.

Continuity of Cover

Our intention is to provide **You** continuity of cover, therefore in respect of a **Claim** made against **You** in the **Period of Insurance We** will waive Exclusion 4.2 c) Known Before Period of Insurance if **You** failed to disclose to **Us** any facts that could give rise to a **Claim** prior to the **Period of Insurance, as** long as;

- a) **You** have maintained continuous and uninterrupted insurance with **Us** and **We** are the same Underwriters who were on risk at the time when **You** first became aware of such facts and circumstances; and
- b) there was no fraudulent non-disclosure or misrepresentation by **You** in entering into the **Certificate**; and
- c) **You** have disclosed matters expressed as **Wrongful Acts, Employment Wrongful Acts** or a **Superannuation Trustee Wrongful Act**, or knowledge of facts or circumstances, of which **You** were aware at the inception of the **Certificate** and which a reasonable person in the circumstances would know could give rise to a **Claim**; and
- d) **You** agree to make a claim under only one **Certificate** issued by **Us**.

Our liability will be limited by the extent to which such failure to disclose or to promptly notify has prejudiced **Us**.

The maximum amount payable under this extension in the aggregate for all **Claims** within the **Period of Insurance** is limited to the **Combined Aggregate Limit**.

Occupational Health & Safety

In respect of Insuring Clause A Directors & Officers, Insuring Clause B Corporate Reimbursement only, **We** will pay any amount up to the **Limit of Liability** stated in the **Certificate Schedule** in respect of **Defence Costs and Expenses** incurred with **Our** prior written consent in the event that an **Insured Person** or the **Company** is prosecuted, such prosecution first commenced during the **Period of Insurance**, for involuntary manslaughter, constructive manslaughter, gross negligence manslaughter or breaches of an Occupational Health and Safety regulation in connection with the business of the **Company**.

Emergency Costs

If **Our** written consent could not reasonably be obtained before any **Defence Costs & Expenses** or **Legal Representation Costs** were incurred **We** will pay such **Defence Costs & Expenses or Legal Representation Costs** subject to all other terms of the **Certificate**, provided that these costs do not exceed 20%, of the applicable **Limit of Liability** and provided that they shall be part of and not in addition to such applicable **Limit of Liability**.

Extradition

We shall pay, on behalf of any **Insured Person**

- a) the legal costs and expenses;
- b) the reasonable fees, costs and expenses of any professional public relations, legal representation or tax advisor or similar such professional;

incurred with **Our** prior written consent in resisting extradition proceedings first commenced during the **Period of Insurance**.

Legal Representation

We will pay up to the **Limit of Liability** for any **Legal Representation Costs** on behalf of an **Insured Person** resulting from a formal notice first served upon the **Insured Person** during the **Period of Insurance** requiring the attendance of the **Insured Person** at an **Investigation**.

International Interpretation

We shall pay the reasonable fees, costs and expenses incurred by any **Insured Person** in translating and interpreting advice or providing opinion from any foreign jurisdiction relating to a **Claim** in relation to **Your Wrongful Act**, subject to **Our** prior written consent, not to be unreasonably withheld, up to the **Limit of Liability**.

New Subsidiaries & Acquisition Event

If the **Company** incorporates or acquires a new **Subsidiary** during the **Period of Insurance** then the **Certificate** shall automatically extend to cover that **Subsidiary** for 60 days from the date upon which the **Subsidiary** was incorporated or acquired except where;

- a) the assets of the **Subsidiary** exceed the **Threshold Limit** ; and/or
- b) the **Subsidiary** has its shares publicly traded in the USA/Canada; and/or
- c) the **Subsidiary** is incorporated or domiciled in the USA/Canada.

On request, **We** may agree a longer period subject to **Your** written agreement and to acceptance of any additional terms or premium.

We will only be liable to indemnify **You** against **Claims** for **Loss** arising from **Wrongful Acts** or conduct occurring whilst such entity is a **Subsidiary** and which are first made against an **Insured**

during the period of 60 days (unless extended by **Us** in writing) from the date upon which the **Subsidiary** was incorporated or acquired.

If, during the **Period of Insurance**, the **Company** undergoes an **Acquisition Event**, the **Certificate** will remain operative until the expiry of the **Period of Insurance** but only in respect of **Wrongful Acts** or conduct occurring prior to the effective date of the **Acquisition Event**.

Non-Executive Reinstatement of Limit

In the event that, as a result of payments made by **Us** under the terms of the **Certificate**, the **Combined Aggregate Limit** shall have been exhausted then the **Combined Aggregate Limit** shall be reinstated for **Claims** made for **Non-Indemnifiable Loss** against, and **Investigations** requiring the attendance of, any Non-executive **Director** provided that the reinstatement does not apply;

- a) until any additional insurance or indemnification including but not limited to any policy providing insurance in excess of the **Certificate** has been exhausted or indemnification provided by any **Outside Entity**; and
- b) to any **Claim** or **Claims** which are related in any way whatsoever to the **Claim** or **Claims** that gave rise to the exhaustion to the **Combined Limit of Liability**; and
- c) to any existing **Claims** or circumstances already notified to **Us** or to another **Insurer**; and / or
- d) to any **Claim** arising from a circumstance of which **You** were aware prior to the **Period of Insurance**;
- e) in respect of any **Investigation** commenced prior to the **Period of Insurance** or of which **You** were aware prior to the **Period of Insurance**;

The maximum amount payable under the **Certificate** in the aggregate within the **Period of Insurance** is limited to twice the **Limit of Liability**.

Outside Directorships

The indemnity provided by the **Certificate** is extended to provide indemnity for **Outside Directorships** at the commencement of or during the **Period of Insurance** provided that any insurance provided by this extension is in excess of any other similar insurance held by the **Outside Entity** or any indemnification from the **Outside Entity** to which the **Insured Person** is entitled or has the benefit of.

This extension shall only apply to Insuring Clauses A Directors & Officers or Insuring Clause B Corporate Reimbursement only and is subject to Exclusion 4.17.

Pecuniary Penalties

Where Insuring Clause G is not included in this **Certificate**, **We** will pay under Insuring Clause A (Directors & Officers) or Insuring Clause B (Corporate Reimbursement) as **Loss** any **Penalty** arising from a **Statutory Notice** first served on an **Insured Person** and notified to **Us** during the **Period of Insurance** arising out of a **Wrongful Act**, provided that:

- a) **We** are not legally prohibited from paying the **Penalty**;
- b) The **Penalty** is awarded under the laws of the **Territorial Limits**;
- c) **Our** liability is a maximum of AUD250,000.00 for all **Insured Persons** in the aggregate for the **Period of Insurance**;
- d) **Our** liability under this extension is part of and not in addition to the **Limit of Liability**.

Pollution Defence Costs

In the event that a **Claim** is first made against an **Insured Person** during the **Period of Insurance** in relation to **Pollution**, **We** shall pay **Pollution Defence Costs** up to an amount of AUD250,000 for all **Insured Persons** combined in the aggregate for the **Period of Insurance**, as part of and not in addition to the **Limit of Liability**.

Retired Directors

If the **Certificate** is not renewed or replaced with any other similar insurance and the **Extended Reporting Period** is not bought then, in relation to any **Claims** or **Investigations** commenced after, but arising from a **Wrongful Act** or conduct occurring prior to expiry of, the **Period of Insurance** against any **Director** who has voluntarily ceased to hold such office prior to the expiry of the **Period of Insurance**, **We** shall indemnify such **Director** in accordance with the terms and conditions of the **Certificate** provided notification of any such **Claim** or **Investigation** is given to **Us** as soon as possible and, in any event, no later than six months after the date upon which the relevant limitation period in which any such **Claim** could be brought, or any **Investigation** commenced, expires.

Spouses, Partners, Heirs and Estates

In the event that a **Claim** for **Loss** against the

- a) estate of an **Insured Person**;
- b) lawful spouse or domestic partner of an **Insured Person** solely because of their status as the lawful spouse or domestic partner of an **Insured Person**;

is first brought during the **Period of Insurance** **We** will indemnify the heirs, estate, administrators, legal representatives, executors, the lawful spouse or domestic partner of that **Insured Person** against any **Loss** and **Defence Costs and Expenses** arising from any **Wrongful Act** of the **Insured Person**.

Tax Liability and Tax Audit Costs and Expenses

Notwithstanding Exclusion 4.4, **We** shall pay up to an amount of AUD250,000 for all **Insured Persons** combined in the aggregate for the **Period of Insurance**, as part of and not in addition to the **Limit of Liability** for any **Tax Liability** for which an **Insured Person** is not indemnified by the **Company** and any **Claim** for **Tax Investigation and Audit Expenses** made against the **Company** during the **Period of Insurance**.

SECTION 3 – GENERAL CONDITIONS

These General Conditions apply to all sections of the **Certificate**. There may be additional conditions set out under Section 5 – Claims of this **Certificate**, the **Certificate Schedule** or any agreed endorsements to the **Certificate**.

Assignment

Neither the benefit of the **Certificate** nor any rights hereunder may be assigned without **Our** prior written consent.

Authorised Representative

You agree that the **Certificate Holder** shall act on **Your** behalf for the purpose of all **Certificate** administration, including issue and receipt of notices.

Cancellation

The **Certificate** may be cancelled:

- a) provided there have been no claims or circumstances notified under this **Certificate**, by **You** by notifying **Us** in writing. The cancellation will take effect from the receipt of such notification by **Us**; or
- b) by **Our** giving **You** 14 days notice in writing as long as the reason for cancellation is in accordance with the provisions of the Insurance Contracts Act; or

If the **Certificate** is cancelled pursuant to this condition the premium payable by **You** shall be received or retained by **Us** pro-rata to the period during which **We** have been on risk during the **Period of Insurance**.

Claims Made & Losses Discovered

Subject to the applicability of any **Retroactive Date**, the **Certificate** with respect to all insuring clauses except for Insuring Clause D Crime, is a Claims Made Certificate. It provides an indemnity for **Claims** first made against **You** and notified to **Us** during the **Period of Insurance** arising from **Wrongful Acts** or conduct whenever committed by **You**, subject to the other **Certificate** terms and conditions.

With respect to Insuring Clause D Crime, **We** will pay the **Company** where a **Crime Loss** is first **Discovered** and notified to **Us** during the **Period of Insurance**, subject to the other **Certificate** terms and conditions.

Confidentiality

You must not disclose the existence or terms of cover afforded under the **Certificate** unless subject to Court Order or regulatory requirement.

Extended Reporting Period

If **We** decline to renew the **Certificate** or the **Certificate Holder** refuses to renew, the **Certificate Holder** shall be entitled to purchase an **Extended Reporting Period** on payment of an additional premium equal to:

- 75% of the **Premium** for 12 months **Extended Reporting Period**; or
- 125% of the **Premium** for 24 months **Extended Reporting Period**;

Subject to the terms of this condition, during an **Extended Reporting Period** (if applicable) **We** shall provide an indemnity in respect of any **Claim** made for a **Wrongful Act** or conduct committed, or for a

Crime Loss sustained by an **Act**, prior to the expiry of the **Period of Insurance**, which shall be deemed to have been made or **Discovered** during the **Period of Insurance**. An offer to renew on different terms is not a decision to decline to renew the **Certificate**.

Our obligation to indemnify **You** under an **Extended Reporting Period** is conditional upon:

- a) **You** having provided written confirmation to **Us**, no later than 30 days after the expiry of the **Period of Insurance**, that **You** wish to buy an **Extended Reporting Period**; and
- b) **You** paying the additional premium, which is non-refundable, no later than 60 days after the expiry of the **Period of Insurance**; and
- c) no **Acquisition Event** having taken place; and
- d) this **Certificate** not having been cancelled due to non-payment of **Premium** or non-disclosure which entitled avoidance; and
- e) the **Certificate Holder** not renewing or replacing the **Certificate** with any other policy of insurance affording similar cover.

Fraud

If **You** make any claim for indemnity under the Certificate knowing it to be false or fraudulent, whether as to the facts relied upon or as to the amount claimed or otherwise, **We** shall not be liable for coverage under the **Certificate** in accordance with the Insurance Contracts Act.

Governing law

This **Certificate** is governed by the laws of Australia and the State or Territory in which the **Certificate** is issued. In the event of any dispute between us as to the meaning, effect or validity of the **Certificate** then the dispute should be referred to the exclusive jurisdiction of the Courts of Australia to determine the dispute.

Invalidity

If any provision of the **Certificate** is found to be invalid by any competent court or administrative body this will not affect the validity of any other provision in the **Certificate**.

Jurisdiction

Unless otherwise specified, the **Certificate** shall provide cover for any **Claim** or **Crime Claim** made anywhere in the world.

Limit of Liability and Deductible

Whilst the **Certificate** provides cover for both **Insured Persons** and the **Company**, except as otherwise provided by the Non-Executive Reinstatement of Limit Extension, **Our** maximum aggregate liability for all **Loss, Defence Costs and Expenses** or **Legal Representation Costs** and for other amounts payable:

- a) under any one Insuring Clause or Extension shall be the amount (if any) stated in the **Certificate Schedule** or any provision of the **Certificate** as being the relevant **Limit of Liability** or applicable sub-limit; and
- b) under the **Certificate** shall be the **Combined Aggregate Limit**;

Furthermore;

- a) If a **Deductible** applies to the **Certificate** then **You** shall be liable for the **Deductible**, before any payment by **Us**. Subject to sub-paragraph (b) below, such **Deductible** applies separately in respect of each and every **Claim, Crime Claim** or **Investigation**. If the **Company** is permitted or required to indemnify an **Insured Person** but fails to, then for that portion of **Loss** which falls within the applicable **Deductible**, **We** shall pay that amount on **Your** behalf, which amount shall immediately become payable to **Us** by the **Company**. The **Deductible** is not applicable in respect of **Non-Indemnifiable Loss**;
- b) Where two or more **Claims** arise out of a single **Wrongful Act** or a series of related **Wrongful Acts** they shall be treated as one **Claim**. That one **Claim** shall be deemed first made at the time the earliest of such **Claims** were first made. Only one **Deductible** shall apply to such **Claim**. Where two or more **Crime Losses** arise out of a single **Acts** or series of **Acts** they shall be treated as one **Crime Loss**. That one **Crime Loss** shall be deemed first **Discovered** at the time the earliest of such **Crime Loss** were **Discovered**. Only one **Deductible** shall apply to such **Crime Loss**;
- c) The purchase of any **Extended Reporting Period** will not increase the **Combined Aggregate Limit** or any **Limit of Liability**.

Order of Payments

If the **Limit of Liability** or the **Combined Aggregate Limit** is insufficient to cover all expected **Loss** and **Defence Costs and Expenses** then, until such time as that limit is totally eroded, **We** will pay **Defence Costs and Expenses** as they are incurred and then pay **Loss** in the following order:

- a) **Non-Indemnifiable Loss**; then;
- b) other **Loss** incurred by **Insured Persons**; then;
- c) all other loss.

Other Insurance & Indemnification

In the event that any more specific, valid and collectable insurance or other indemnification is available to **You** in respect of any **Claim** or **Crime Claim** in respect of which **You** may be entitled to an indemnity under the **Certificate**, the **Certificate** shall apply in Excess of such insurance or indemnity to which **You** are entitled or have the benefit of.

Parties to this Certificate

You and **We** are the only parties to the **Certificate** and no other person or party has any rights to enforce any rights under the **Certificate**, but this does not affect the ability of any third party to enforce any other right or remedy they may have.

Recoveries

All money recovered from third parties, following any payment made by **Us** under the **Certificate**, shall be applied in the following order:

- a) first, in reimbursement of all costs and expenses incurred by **Us** in obtaining such recovery;
- b) secondly, in reimbursement of all **Loss** borne by **You** in the event that **Your** legal liability exceeds the relevant **Limit of Liability** or the **Combined Aggregate Limit**;
- c) thirdly, in reimbursement of all sums paid by **Us** under the **Certificate**; and
- d) fourthly, in reimbursement of the **Deductible** paid by **You**.

Representation & Imputation

Our intention is to provide a severable **Certificate** to each of **You**. **We** have relied upon the material statements made or submitted to **Us**. **We** shall not impute any of those statements made, or any knowledge held, by one **Insured Person** to another **Insured Person** in order to establish coverage under the **Certificate**, except that the knowledge of a **Director** will be imputed to the **Company**.

Several Liability Notice

The subscribing insurers' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

Subrogation

- a) **You** must promptly provide **Us** with all documents and information that **We** may request and provide **Us** with all assistance and co-operation that **We** may require (and shall not do anything which prejudices **Our** recovery rights) in order to try to obtain reimbursement from any third party of any **Loss** or **Defence Costs and Expenses** that **We** may have to pay in relation to any **Claim** or **Crime Claim** made against **You**;

- b) In the event that any failure by **You** to comply with this Condition causes any prejudice to **Our** ability to obtain reimbursement from any other party **We** shall be entitled to reduce the amount payable under the **Certificate** by or, (if payment under the **Certificate** has already been made) to recover from **You**, an amount equal to the prejudice sustained by **Us**.

Waiver of right to avoid

If **We** should be entitled to avoid the **Certificate** because **You** failed to disclose or misrepresented any fact or matter in the **Proposal** then **We** may, at **Our** sole discretion, decide to waive that right to avoid the **Certificate** on the basis that **We** shall not be liable to indemnify **You** against any **Claim** that may arise directly or indirectly from the fact or matter that was not disclosed or was misrepresented.

Valuation

In valuing a **Crime Loss**, **We** shall not be liable for more than:

- a) with regards to **Property**, the cost of blank replacements in respect of computer disks, hard drives, microfilm, paper, tapes and other material or means for information storage or blank books to reconstitute records;

- b) with regards to other **Property**, the cash value of **Property** or the replacement value of **Property**, whichever is less;

- c) with regards to **Securities**, the value at the close of business of such **Securities** on the business day preceding the day on which the **Crime Loss** is **Discovered**, or the cost of replacement, whichever is less;

- d) the Australian Dollars value equivalent of foreign currency as valued at the rate of exchange published in the Australian Financial Review on or nearest to the day which the **Crime Loss** involving such foreign currency is **Discovered**.

SECTION 4 - EXCLUSIONS

We will not indemnify **You** in respect of any **Claim**, **Crime Claim** or **Investigation** arising directly or indirectly from or in any way connected with:

Exclusions Applicable to all Insuring Clauses.

4.1 **Prior Acts**

or attributable to a **Wrongful Act** or conduct that occurred before the **Retroactive Date**;

4.2 **Known Before Period of Insurance**

or attributable to:

- a) matters which constitute a significant factor in or are the basis of any legal or regulatory proceedings or investigations involving **You** or an **Outside Entity**, which commenced before the Prior and Pending Litigation Date stated in the **Certificate Schedule**; and/or
- b) matters of which notice has been given under any certificate/policy of which the **Certificate** renews or replaces or succeeds; and / or
- c) matters expressed as **Wrongful Acts**, or knowledge of facts or circumstances, of which **You** were aware at the inception of the **Certificate** and which a reasonable person in the circumstances might reasonably expect to give rise to a **Claim**; and / or
- d) matters expressed as contingent liabilities as noted in the **Company's** Financial Statements; and / or
- e) matters or facts referred to in the **Proposal**;

4.3 **Sanctions**

or to the extent that to do so would expose **Us** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or United States of America;

4.4 **Tax**

the payment of any kind of tax or arising directly or indirectly from the breach of any taxation legislation or regulation;

4.5 **Cyber Liability**

- a) the use or operation by **You** or by any third party, as a means for inflicting harm, of any computer, computer system, **Virus** or process or any other electronic system;
- b) the costs of notification of any data breach to any party affected by such data breach;
- c) or caused by any **Virus**;

4.6 **War & Terrorism**

or attributable to 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 or destruction of or damage to property by or under the order of any government or public or local authority or arising directly or indirectly as a consequence of any act or acts or force or violence undertaken, for whatever reason, with the aim of influencing or overthrowing of any government or public authority or with the aim of making the public fearful;

Exclusions applicable to Insuring Clause A Directors & Officers, Insuring Clause B Corporate Reimbursement, Insuring Clause C Entity Cover, Insuring Clause E Employment Practice Liability, Insuring Clause F Superannuation Liability, Insuring Clause G Statutory Liability.

4.7 Bodily injury and Property damage

any Bodily Injury (except in relation to an **Employment Wrongful Act** or coverage under the Occupational Health & Safety Extension or the Legal Representation Extension, or the Pecuniary Penalties Extension or any cover for a **Penalty** under Insuring Clause G) or from **Property Damage** (except in relation to **Pollution Defence Costs**);

4.8 Conduct

or attributable to:

- (a) any dishonest or fraudulent act or omission committed or condoned by **You**; or
- (b) any unlawful profit or advantage claimed or obtained by **You**, whether or not financial; or
- (c) **Your** wilful breach of any law;

This exclusion shall apply only if **You** admit, or it is established by any court or other judicial forum, that the relevant conduct occurred. In that event **You** shall be liable to reimburse **Us**, on demand, to the full extent of the amounts paid by **Us** under this **Certificate** in respect of the **Claim** or **Claims** to which this exclusion applies;

For the purpose of this exclusion:

- (i) only the conduct and knowledge of a **Director** will be imputed to the **Company**; and
- (ii) the application of this exclusion against any **Insured Person** does not affect the right, subject to the terms and conditions of the **Certificate**, of any other **Insured Person** to an indemnity under the **Certificate**;

4.9 Consensual Claims

or which is brought with the assistance, solicitation, or participation of an **Insured** against whom it is brought, provided that this exclusion shall not apply where law compels the **Insured** to assist or participate in such **Claim**;

4.10 Insolvency

or attributable to **Insolvency**;

4.11 Investment Performance

or attributable to:

- a) **Your** failure to identify and warn of the risks of market fluctuation of any investment;
- b) **Your** dealings which are sought to affect the price of, or market in, any shares or debentures, commodity or currency;
- c) **You** giving any financial or investment advice;

4.12 Pollution

or attributable to **Pollution**, provided that this exclusion shall not apply to:

- a) **Pollution Defence Costs**;
- b) any **Claim** brought by a **Securities** holder of the **Company** based on such **Securities** holder's interest in such **Securities** who is not party to the **Certificate** and who acts totally independent of, and totally without the active intervention, assistance, or solicitation of any of **You**;

4.13 Ownership

or made by or on behalf of, whether directly or derivatively, any individual or entity that owns or controls, whether beneficially, directly or indirectly, 20% or more of the issued and outstanding voting share capital of the **Company**;

4.14 Professional Services

or attributable to the rendering or failure to render professional services and / or professional advice or a breach or alleged breach of any contract for the provision of professional services;

Exclusions applicable to Insuring Clause A Directors & Officers, Insuring Clause B Corporate Reimbursement, Insuring Clause C Entity Cover, Insuring Clause G Statutory Liability.

4.15 Securities

or attributable to any offering, sale, solicitation, issuance or distribution of any **Securities** by the **Company** or any **Outside Entities** after the commencement of the **Period of Insurance**, regardless of whether or not a disclosure document has been issued;

Exclusions applicable to Insuring Clause A Directors & Officers, Insuring Clause B Corporate Reimbursement, Insuring Clause C Entity Cover.

4.16 Trading Liabilities

or attributable to any business debt or trading liability of the **Company**;

Exclusions applicable to Insuring Clause A Directors & Officers, Insuring Clause B Corporate Reimbursement.

4.17 Outside Directorships

or attributable to any **Claim** that is brought against **You** by an **Outside Entity**, except in relation to:

- a) a derivative action brought in the name of the **Outside Entity**, initiated by a shareholder provided it is not brought with the voluntary, as opposed to legally required, assistance, intervention or solicitation on the part of the **Outside Entity**; or
- b) a **Claim** brought or maintained by (or by the **Outside Entity** following the appointment of) a licensed insolvency practitioner or the equivalent for the **Outside Entity**; or
- c) a **Claim** for a contribution or an indemnity in relation to a separate **Claim** brought by a third party, provided the third party **Claim** is not brought with the active assistance, active intervention or active solicitation on the part of the **Outside Entity**;

Exclusions applicable to Insuring Clause C Company.

4.18 Employment Wrongful Act

or based on or arising from or in anyway attributable to any **Employment Wrongful Act**;

4.19 Harassment & Discrimination

or based on or arising from or in anyway attributable to any actual or alleged sexual harassment or discrimination of any third party other than **You**;

4.20 Infringement of IP Rights

or attributable to any actual or alleged infringement or violation of patent, copyright, trade secret, trademark, or plagiarism or breach of intellectual property rights;

4.21 Products

or attributable to the manufacture, distribution, sale or recalling of any products sold by the **Company** or **Outside Entities**;

4.22 Slander, Libel, and Defamation

or attributable to any slander, libel or publication of defamatory material of any kind;

4.23 Trade Practices

or attributable to any actual or alleged breach of any regulation or law which prohibits anti-trust, price fixing, monopolistic practices, price discrimination, predatory pricing or any other restriction of trade;

Exclusions applicable to Insuring Insuring Clause D Crime and G Statutory Liability.

4.24 Damages

or attributable to or for any amount payable as compensation or damages;

Exclusions applicable to Insuring Insuring Clause C Company and Insuring Clause G Statutory Liability.

4.25 Contract

or attributable to or alleging any liability based on any contract or agreement, whether express or implied, provided that this exclusion shall not apply to the extent that the liability would have attached in the absence of the contract or agreement;

4.26 Corporations Act

or based upon or attributable to any actual or alleged breach of Sections 182, 183, 184, 601FD and 601JD of the Corporations Act 2001;

Exclusions applicable to Insuring Clause D Crime.

4.27 Confidential Material

or attributable to the disclosure, use of, or access to any confidential information including but not limited to computer programs, trade secrets, confidential processing methods customer information, or any other kind of confidential information;

4.28 Director or Securities holder

or attributable to any dishonest or fraudulent act committed by a **Director** or **Securities** holder of the **Company**;

4.29 Financial Loss

or attributable to **Act** of an **Employee** occurring after a **Director** of the **Company** becomes aware that the **Employee** has previously committed, or allegedly committed, a dishonest act or fraudulent act, whether before or during employment with the **Company**;

4.30 Indirect Financial Loss

indirect or consequential financial loss resulting from any **Act**;

4.31 Premises Damage

or attributable to damage to or destruction of the **Company's** premises;

4.32 Record Assessment

or attributable to any loss as established through a profit and loss computation or physical count of inventory records;

Exclusions applicable to Insuring Clause E Employment Practice Liability.

4.33 Business Transfer

or attributable to the transfer of any business or part of a business to the **Company** provided that this exclusion shall not apply to any **Employment Wrongful Act** committed by the **Company** or an **Insured Person** after the date of business transfer to the **Company**;

Exclusions applicable to Insuring Clause A Directors & Officers, Insuring Clause B Corporate Reimbursement, Insuring Clause E Employment Practice Liability.

4.34 Employee Entitlements

or breach of any obligations or responsibilities under any law or agreement in relation to an **Employee's** entitlements, including remuneration, fringe benefits, payment in lieu of notice, redundancy, severance, pension plan, superannuation, profit sharing, welfare, health, or any other **Company** employee benefit programme;

Exclusions applicable to Insuring Clause C Entity Cover, Insuring Clause E Employment Practice Liability, Insuring Clause F Superannuation Liability.

4.35 Health and Safety

or related to any breach of Occupational Health and Safety Law;

Exclusions applicable to Insuring Clause E Employment Practice Liability and Insuring Clause G Statutory Liability.

4.36 Industrial Relations

collective industrial or labour relations including but not limited to disputes, lock-outs, strikes, collective redundancies, obligations to consult representatives and employees in relation to redundancies and other actions that arise, other than claims based on an individual employment relationship;

Exclusions applicable to Insuring Clause A Directors & Officers, Insuring Clause B Corporate Reimbursement, Insuring Clause C Entity Cover, Insuring Clause D Crime, Insuring Clause E Employment Practice Liability, Insuring Clause G Statutory Liability.

4.37 Death or Disability

or based upon or attributable to the denial or granting of any **Benefits** for death or disability to a beneficiary of a **Fund**;

4.38 ERISA & Pensions

or brought against **You** in the role of:

- a) a trustee, director or officer of any pension fund or employee benefit scheme whether for the benefit of **Your Employees** or those of any other entity;
- b) a trustee or administrator of any **Company** sponsored employee benefit or welfare plan in which it is alleged that **You** have violated any of the responsibilities, obligations or duties imposed by any retirement or pension legislation including the Employee Retirement Income Security Act 1974;

4.39 Inadequate Benefit Plan Funding

or in anyway attributable to inadequate funding of an employee benefit plan or **Fund**;

4.40 Trustees

or attributable to the administration of any pension, profit sharing, health, welfare or any other **Company** employee benefit programme in which an **Insured Person** acts as a **Trustee**;

Exclusions applicable to Insuring Clause C Entity Cover, Insuring Clause E Employment Practice Liability, Insuring Clause G Statutory Liability.

4.41 Unfair Employment Contract Terms

or attributable to any contract of employment deemed to be unfair and / or the seeking of relief pursuant to Section 106 of the Industrial Relations Act (NSW) 1996 or Section 276 of the Industrial Relations Act (Queensland);

Exclusions applicable to Insuring Clause C Entity Cover, Insuring Clause E Employment Practice Liability.

4.42 Workers Obligations

or attributable to any obligation of the **Company** under any workers compensation, social security, unemployment insurance, disability benefits or similar such law or regulation;

Exclusions applicable to Insuring Clause A Directors & Officers, Insuring Clause B Corporate Reimbursement, Insuring Clause C Entity Cover, Insuring Clause D Crime, Insuring Clause E Employment Practice Liability, Insuring Clause F Superannuation Liability.

4.43 Penalties

any **Penalty**(except under the Occupational Health & Safety Extension or the extent that the Legal Representation Extension or the Pecuniary Penalties Extension apply under this **Certificate**);

Exclusions applicable to Insuring Clause C Entity Cover, Insuring Clause G Statutory Liability.

4.44 Fair Trading

or where attributable to any actual or alleged breach or contravention of any Fair Trading Act of the States and Territories, Part V of the Trade Practices Act, the Competition and Consumer Act and any similar law of any State or Territory and any amendment, consolidation or re-enactment of any of those Acts.

SECTION 5 – CLAIMS

Reporting and Notice

Claims Conditions 1 – 3 and 7 below are conditions precedent to **Our** obligation to indemnify **You** under the terms of the **Certificate**. If, in relation to a particular **Claim** or claim under the **Certificate** for **Legal Representation Costs**, **You** fail to comply strictly with Claims Conditions 1 – 3 or 7 **We** shall be entitled to decline to indemnify **You** against that **Claim** or any costs and expenses associated with an **Investigation** as the case may be.

1. Notification

You must notify **Us** in writing as soon as possible, provided that **We** receive the notification before the end of the **Period of Insurance**, if you receive, **Discover** or become aware of

- a) any **Claim** made against **You**;
- b) any indication that someone intends to make a **Claim** against **You** or a **Crime Claim**;
- c) the commencement of any **Investigation** against **You**.

If **You** give **Us** notice under paragraphs a), b) or c) above then any **Claim** made, **Crime Claim** or **Investigation** commenced subsequently and arising from the notification will be deemed to have been notified to **Us** during the **Period of Insurance**.

2. No admissions

You must not admit liability for, or settle, any **Claim** or **Crime Claim** in respect of which **We** may indemnify **You** under the **Certificate** without **Our** prior written consent. **We** will not pay or be responsible for any **Defence Costs and Expenses** or **Legal Representation Costs** incurred, in relation to any **Claim** or **Crime Claim**, without **Our** prior written consent.

3. Information and assistance

Following notification under Claims Condition 1 above **You** must promptly provide **Us** with all documents and information that **We** may request and provide **Us** with all assistance and co-operation that **We** may require for the investigation, defence or settlement of the **Claim** or **Crime Claim** or in relation to the **Investigation**.

4. Participation & Settlement

We shall have the right to actively participate in the defence and settlement of any **Claim** or **Crime Claim** where **We** believe the **Deductible** could be exceeded. Should it be necessary to appoint a lawyer or other party to assist or act on **Your** behalf, **We** shall have the right to choose that lawyer or other party.

5. Conduct

If a dispute arises between **You** and **Us** as to the conduct of the defence or settlement of any **Claim** or **Crime Claim**, **We** cannot require **You** to continue to contest any **Claim** or **Crime Claim** unless an independent senior lawyer (to be agreed upon between us) advises that the **Claim** or **Crime Claim** should be contested.

6. Payment of Limit of Liability

At any time:

- a) **We** may pay to **You** or a third party claimant an amount equal to the applicable **Limit of Liability** or such other amount as may allow settlement of a **Claim**; or
- b) if **We** consider that a **Claim** or **Crime Claim** may be settled for less than the **applicable Limit of Liability** then **We** may pay to **You** or to a third party claimant that lesser amount.

If **We** make such a payment it will be in full and final settlement of any liability **We** may have to indemnify **You** under the **Certificate** or in respect of the **Claim** in respect of which **We** make the payment. **We** will then relinquish conduct and control of the **Claim** or **Crime Claim** and will have no further liability in respect of that **Claim** or **Crime Claim**. For the avoidance of doubt this means that **We** will not be liable for any **Defence Costs and Expenses** that may be incurred after the date upon which any such payment is made by **Us**.

7. Mitigation

You must take all reasonable steps to avoid or reduce any **Loss** that might arise from any **Claim** or **Crime Claim**.

8. Allocation

We will only be liable for **Loss** to the extent that **We** are obliged to indemnify **You** under the terms of the **Certificate**. Where a **Claim** or an **Investigation** involves both covered and uncovered matters or another person or entity not insured hereunder, then **We** will use **Our** best efforts to agree on a fair and equitable allocation of the amounts payable under the **Certificate** in respect of such **Claim** or **Investigation**, based on the relevant legal and financial exposures. If the parties are unable to agree upon such allocation, it should be referred to an independent expert (to be collectively agreed upon or in default of agreement by the President of the Law Society who shall determine the matter as an expert and whose decision shall be binding. Up to the point of such determination, **We** will pay such amounts as **We** consider to be covered **Loss** based upon **Our** assessment.