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**SETTLEMENT AGENTS ACT 1981**

Professional Indemnity and Fidelity Insurance Schedule

<b>CERTIFICATE NO</b>	170141	
<b>MASTER POLICY NUMBER</b>	LPS010028296	
<b>INSURED</b>	<Insured Name>	
<b>ADDRESS</b>	<Insured location address>	
<b>BUSINESS</b>	Professional activities of a settlement agent as defined in the Settlement Agents Act 1981 (WA)	
<b>MASTER POLICY FORM</b>	Settlement Agents Wording V10060 03102022 A	
<b>PERIOD OF COVER</b>	1 November 2022 to 31 October 2023 (both days inclusive)	
<b>LIMIT OF INDEMNITY</b>	Section 1: Professional Indemnity Public Relations Expenses: \$250,000 Mitigation of Loss: \$250,000 Privacy Breach Costs: \$100,000 Inquiry Costs: \$100,000	\$<Limit of Indemnity> each Claim
	Section 2: Fidelity	\$500,000 each Claim
<b>DEDUCTIBLE</b>	Section 1: \$5,000 each Claim where acting for one party	
	Section 1: \$10,000 each Claim where acting for both parties	
	Section 2: \$10,000 each Claim relating to Fidelity Insurance	
<b>RETROACTIVE DATE</b>	Unlimited	
<i>We confirm that the premium has been paid</i>		
<b>INSURER</b>	AAI Limited ABN 48 005 297 807 trading as Vero Insurance	
<b>ADDRESS</b>	Level 12, 58 Mounts Bay Road, Perth, WA 6000	
<b>BROKER CONTACT</b>	Marsh <b>Paulene Plichota</b> Email: paulene.plichota@marsh.com Ph: +61 8 9426 0451   MB: +61 427 428 726	
<b>CLAIM NOTIFICATIONS ONLY</b>	Marsh Claims— Email: paulene.plichota@marsh.com Address: Marsh Claims, Level 6, 225 St Georges Tce Perth WA 6000	

In Witness whereof this Schedule has been signed on behalf of the Insurer by—

PAULENE PLICHOTA

Marsh Advantage Insurance Pty Ltd ABN 31 081 358 303 arranges the insurance and AAI Limited ABN 48 005 297 807 trading as Vero Insurance issues the insurance.

**SETTLEMENT AGENTS' PROFESSIONAL INDEMNITY AND FIDELITY INSURANCE  
POLICY WORDING**

3 October 2022

**INTRODUCTION**

Please read the policy carefully to ensure that it meets your requirements. It is written on a claims made and notified basis, which means that, subject to the 'Extended Continuous Cover' clause, it will only respond to claims first made against the Insured and notified to the Insurer during the Period of Insurance.

Any word or expression to which a specific meaning has been attached shall bear that specific meaning wherever it may appear.

You received important notices about your duty of disclosure, unusual terms in professional indemnity insurance policies and our privacy statement prior to purchasing this policy. The notices are replicated below for your reference. A reference to "you" or "your" in the notices section below includes the Insured.

**NOTICES**

These notices do not form part of the policy.

**Broker acting as agent for insurer**

In effecting this contract of insurance the broker will be acting under an authority given to it by the insurers and the broker will be effecting the contract as agent of the insurer and not the insured. Marsh Advantage Insurance Pty Ltd ABN 86 004 651 512 AFSL 238369 issues the insurance under binder on behalf of the insurer, AAI Limited ABN 48 005 297 807 trading as Vero Insurance.

**Your duty of disclosure**

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.

**Claims made and notified basis of cover and retroactive date**

Section 1 Professional Indemnity of this policy is issued on a 'claims made and notified' basis. This means that the policy covers claims—

- (a) first made against you during the period of insurance; and
- (b) you tell us about during the period of insurance.

Pursuant to section 54 of the *Insurance Contracts Act 1984*, if you tell us about claims first made against you during the period of insurance, after the period of insurance expires, we may be able to reduce our liability by an amount that fairly represents the extent to which our interests were prejudiced as a result of your delay in notifying us of the claim.

Written notification of facts pursuant to section 40(3) of the *Insurance Contracts Act 1984*: If during the period of insurance, you learn about facts that might lead to a claim and you tell us in writing about these facts as soon as reasonably practicable after you became aware of those facts but before the end of the period of insurance, we will treat any subsequent claim arising from those facts as though it was made against you during the period of insurance.

The policy doesn't cover claims or potential claims that you knew about prior to the period of insurance which would have put a reasonable person in your position on notice that a claim may be made against you. (There are some exceptions to this rule if an 'Extended Continuous Cover' extension applies).

If a retroactive date is applied or shown on the policy schedule, the policy doesn't cover claims resulting from an act or failure to do something before that date.

**Average provision**

If a payment in excess of the limit of liability available under your policy has to be made to dispose of a claim, the insurer shall only be liable for the percentage of the costs and expenses incurred with the insurer's prior consent that is a proportionate ratio to the amount of indemnity available under this policy.

**Preservation of rights of recovery / subrogation waiver**

This policy contains provisions that have the effect of excluding the insurer's liability for a loss or liability incurred due to the insured entering into—

- (a) any agreement whereby the insured releases, agrees not to sue or waives or prejudices any rights of recovery;
- (b) any deed or agreement excluding, limiting or delaying the legal rights of recovery against another party;
- (c) any agreement or compromise whereby any rights or remedies to which the insurer would be subrogated are or may be prejudiced.

**Vero Privacy statement**

AAI Limited trading as Vero Insurance is the insurer and issuer of your commercial insurance product, and is a member of the Suncorp Group, which we'll refer to simply as "the Group".

*Why do we collect personal information?*

Personal information is information or an opinion about an identified individual or an individual who is reasonably identifiable. We collect personal information so that we can—

- identify you and conduct appropriate checks;
- understand your requirements and provide you with a product or service;
- set up, administer and manage our products and services and systems, including the management and administration of underwriting and claims;
- assess and investigate any claims you make under one or more of our products;
- manage, train and develop our employees and representatives;
- manage complaints and disputes, and report to dispute resolution bodies; and
- get a better understanding of you, your needs, your behaviours and how you interact with us, so we can engage in product and service research, development and business strategy including managing the delivery of our services and products via the ways we communicate with you.

*What happens if you don't give us your personal information?*

If we ask for your personal information and you don't give it to us, we may not be able to provide you with any, some, or all of the features of our products or services.

*How we handle your personal information*

We collect your personal information directly from you and, in some cases, from other people or organisations. We also provide your personal information to other related companies in the Group, and they may disclose or use your personal information for the purposes described in "Why do we collect personal information?" in relation to products and services they may provide to you. They may also use your personal information to help them provide products and services to other customers, but they'll never disclose your personal information to another customer without your consent.

Under various laws we will be (or may be) authorised or required to collect your personal information. These laws include the *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth), *Personal Property Securities Act 2009* (Cth), *Corporations Act 2001* (Cth), *Autonomous Sanctions Act 2011* (Cth), *Income Tax Assessment Act 1997* (Cth), *Income Tax Assessment Act 1936* (Cth), *Taxation Administration Act 1953* (Cth), *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and the *Australian Securities and Investments Commission Act 2001* (Cth), as those laws are amended and includes any associated regulations.

We will use and disclose your personal information for the purposes we collected it as well as purposes that are related, where you would reasonably expect us to. We may disclose your personal information to and/or collect your personal information from—

- other companies within the Group and other trading divisions or departments within the same company (please see our Group Privacy Policy for a list of brands/companies);
- any of our Group joint ventures where authorised or required;
- customer, product, business or strategic research and development organisations;
- data warehouse, strategic learning organisations, data partners, analytic consultants;
- social media and other virtual communities and networks where people create, share or exchange information;
- publicly available sources of information;
- clubs, associations, member loyalty or rewards programs and other industry relevant organisations;
- a third party that we've contracted to provide financial services, financial products or administrative services—for example—
  - o information technology providers,
  - o administration or business management services, consultancy firms, auditors and business management consultants,
  - o marketing agencies and other marketing service providers,
  - o claims management service providers
  - o print/mail/digital service providers, and
  - o imaging and document management services;

- any intermediaries, including your agent, adviser, a broker, representative or person acting on your behalf, other Australian Financial Services Licensee or our authorised representatives, advisers and our agents;
- a third party claimant or witnesses in a claim;
- accounting or finance professionals and advisers;
- government, statutory or regulatory bodies and enforcement bodies;
- policy or product holders or others who are authorised or noted on the policy as having a legal interest, including where you are an insured person but not the policy or product holder;
- in the case of a relationship with a corporate partner such as a bank or a credit union, the corporate partner and any new incoming insurer;
- the Australian Financial Complaints Authority or any other external dispute resolution body;
- credit reporting agencies;
- other insurers, reinsurers, insurance investigators and claims or insurance reference services, loss assessors, financiers;
- legal and any other professional advisers or consultants;
- hospitals and, medical, health or wellbeing professionals;
- debt collection agencies;
- any other organisation or person, where you've asked them to provide your personal information to us or asked us to obtain personal information from them, eg your mother.

We'll use a variety of methods to collect your personal information from, and disclose your personal information to, these persons or organisations, including written forms, telephone calls and via electronic delivery. We may collect and disclose your personal information to these persons and organisations during the information life cycle, regularly, or on an ad hoc basis, depending on the purpose of collection.

#### *Overseas disclosure*

Sometimes, we need to provide your personal information to—or get personal information about you from—persons or organisations located overseas, for the same purposes as in 'Why do we collect personal information?'

The complete list of countries is contained in our Group Privacy Policy, which can be accessed at [www.vero.com.au/privacy](http://www.vero.com.au/privacy), or you can call us for a copy.

From time to time, we may need to disclose your personal information to, and collect your personal information from, other countries not on this list. Nevertheless, we will always disclose and collect your personal information in accordance with privacy laws.

#### *How to access and correct your personal information or make a complaint*

You have the right to access and correct your personal information held by us and you can find information about how to do this in the Suncorp Group Privacy Policy.

The Suncorp Group Privacy Policy also includes information about how you can complain about a breach of the Australian Privacy Principles and how we'll deal with such a complaint.

You can get a copy of the Suncorp Group Privacy Policy. Please use the contact details in *Contact Us*.

#### *Contact us*

For more information about our privacy practices including accessing or correcting your personal information, making a complaint, obtaining a list of overseas countries or giving us your marketing preferences you can—

- Visit [www.vero.com.au/privacy](http://www.vero.com.au/privacy).
- Speak to us directly by phoning us on 1300 888 073 or
- Email us at [privacyaccessrequests@vero.com.au](mailto:privacyaccessrequests@vero.com.au)

### **General Insurance Code of Practice**

Vero supports the General Insurance Code of Practice. A copy of the Code can be obtained from the Insurance Council of Australia by—

- Telephone (02) 9253 5100 or 1300 728 228
- Website [www.insurancecouncil.com.au](http://www.insurancecouncil.com.au)

### **Vero's complaints handling procedures**

We are committed to—

- listening to what you tell us;
- being accurate and honest in telling you about our products and services;
- communicating with you clearly; and
- resolving any complaints or concerns you have in a fair, transparent and timely manner.

#### *How to contact us with a complaint Let us know*

If you experience a problem, are not satisfied with our products or services or a decision we have made, let us know so that we can help.

Contact us—

- By phone: 1300 888 073

- By email: [claims@vero.com.au](mailto:claims@vero.com.au)

Complaints can usually be resolved on the spot or within 5 business days.

*Review by our Customer Relations Team*

If we are not able to resolve your complaint or you would prefer not to contact the people who provided your initial service, our Customer Relations team can assist—

- By phone: 1300 264 470
- By email: [idr@vero.com.au](mailto:idr@vero.com.au)
- In writing: Vero Customer Relations Team, PO Box 14180, Melbourne City Mail Centre VIC 8001

Customer Relations will contact you if they require additional information or they have reached a decision.

When responding to your complaint you will be informed of the progress of and the timeframe for responding to your complaint.

*Seek review by an external service*

We expect our procedures will deal fairly and promptly with your complaint. However, if you remain dissatisfied, there are external dispute remedies such as mediation, arbitration or legal action you may pursue.

### **Certificate Wording**

WHEREAS the Department of Mines, Industry Regulation and Safety (hereinafter called “the Department”) and the Commissioner for Consumer Protection (hereinafter called “the Commissioner”) have agreed to the **Insurer**, on behalf of all Licensees from time to time required by the **Act** to be **Insured** and on behalf and for the benefit of Former Licensees, providing insurance in accordance with the Terms, Conditions and Exclusions contained herein under this Policy.

And Whereas the Licensees (hereinafter called “the **Insured**”) named in the **Certificate of Insurance** have paid to the **Insurer** the premium stated in the **Certificate of Insurance** to effect insurance with the **Insurer**.

## **INTRODUCTION**

### **A. Where ‘prior consent’ is required from the Insurer**

There are some covers under the Policy, where the **Insured** will need to obtain the **Insurer’s** prior consent, for example, before incurring costs. The **Insurer’s** consent will not be unreasonably withheld or delayed.

Where prior consent has not been obtained as required, it does not mean the **Insured** cannot make a claim. However, the **Insurer** may be able to reduce the claim payable by an amount that fairly represents the extent to which the **Insurer’s** interests were prejudiced by the failure to obtain prior consent.

### **B. Payment of reasonable amounts of any costs, charges expenses and fees under this Policy**

A range of different costs, charges, expenses and fees are covered under this **Policy**. Unless otherwise specified in the **Policy**, the **Policy** provides cover for the ‘reasonable’ amount of such cost, charge, expense or fee. Reasonable amount means an amount that is not excessive and where the **Insured** has given reasonable consideration in the circumstances to the different courses of action available prior to incurring the amount and the course of action taken was prudent in that context.

Where consent is required before incurring such costs, when the **Insured** contacts the **Insurer** to seek the **Insurer’s** consent, the **Insured** can let the **Insurer** know the steps it has taken to consider the courses of action available and discuss the circumstances with the **Insurer**. If the amounts which are to be incurred are reasonable in the circumstances, the **Insurer** will provide consent for the costs to be incurred.

## **SECTION 1—PROFESSIONAL INDEMNITY**

The **Insurer** agrees to indemnify the **Insured** against all sums which the **Insured** shall become legally liable to pay (“compensation”) for any **Claim** or **Claims** (including **Claimant’s Costs**) first made against the **Insured** and notified to the **Insurer** during the **Period of Insurance** by reason of any act, error or omission committed or allegedly committed by or on behalf of the **Insured** in the conduct of the **Insured’s Business**.

In addition, the **Insurer** agrees to pay reasonable **Defence Costs** incurred by the **Insurer** or the **Insured** with the **Insurer’s** prior consent in connection with a **Claim** under this Section 1.

The **Insurer** will advance reasonable **Defence Costs**, incurred by the **Insurer** or by the **Insured** with the **Insurer’s** prior consent, as they are incurred and prior to the final adjudication of a **Claim**. If and to the extent an **Insured** is not entitled to coverage under the terms of this **Policy**, then the **Insurer** will cease to advance such costs and any amounts previously advanced shall be repaid to the **Insurer**.

### **Limit of Liability**

The liability of the **Insurer** under this Section 1 shall not exceed in the aggregate in respect of each **Claim** (including **Claimant’s Costs**), the Limit of Liability stated in Memorandum 7 and in addition all **Defence Costs** as set out above.

If a payment in excess of the said Limit of Liability is required to dispose of any such **Claim** (“Total Claim Amount”), the **Insurer** shall only be liable for the percentage of reasonable **Defence Costs** that is a proportionate ratio to the Total Claim Amount that is indemnified by the Limit of Liability.

## SECTION 2—FIDELITY

The **Insurer** agrees to indemnify the **Insured** in respect of any direct loss of money or other forms of legal tender including bearer bonds, coupons, bank notes, currency notes, negotiable instruments or stamps sustained by them and first discovered by the **Insured** during the **Period of Insurance** by reason of any dishonest, fraudulent, malicious or illegal act or omission of the **Insured** in the conduct of the **Insured’s Business**. (This type of loss is referred to as **Fidelity Loss**, as defined in the Definitions section of this document.)

In addition, the **Insurer** will also pay the reasonable investigation expenses incurred by the **Insurer** or the **Insured** with the **Insurer’s** prior consent, solely to investigate and substantiate the amount of **Fidelity Loss**.

Provided always that no indemnity shall be afforded to any person committing or condoning such act or omission.

### Limit of Liability

The liability of the **Insurer** under this Section 2 shall not exceed in the aggregate in respect of any one **Fidelity Loss**, the Limit of Liability stated in Memorandum 7 and in addition all reasonable investigation expenses as set out above.

For the purpose of the calculation of the Limit of Liability all **Fidelity Loss** sustained as a result of one act, cause or event or a series of related acts, causes or events will be deemed to be one **Fidelity Loss** regardless of when during the **Period of Insurance** or prior thereto such acts or events occurred.

## DEDUCTIBLE UNDER THIS POLICY

This insurance is subject to a **Deductible**. The amount of the **Deductible** is as stated in Memorandum 8.

A. Deductible applicable to Section 1 and extensions to Section 1 The **Deductible** is applied exclusive of **Defence Costs**.

The **Insured** must pay the amount of any—

1. compensation; and
2. **Claimant’s Costs**;

that are collectively equal to or less than the **Deductible** for any one **Claim** under Section 1 or under any of the extensions to Section 1.

The **Deductible** is deducted from the compensation and **Claimant’s Costs** payable before the application of the Limit of Liability specified in Memorandum 7.

The **Insured** must pay the amount of any reasonable **Public Relations Expenses** that is equal to or less than the **Deductible** for any one **Adverse Publicity Event**. The **Deductible** is deducted from the reasonable **Public Relations Expenses** payable before the application of the sub-limit specified in extension 7 ‘Public Relations Expenses’. The **Insurer** has no liability for the amount of any reasonable **Public Relations Expenses** that is equal to or less than the **Deductible** for any one **Adverse Publicity Event**.

The **Insured** must pay the amount of any reasonable costs and expenses that is equal to or less than the **Deductible** for any action taken to mitigate a loss or potential loss under the extension 8 ‘Mitigation of loss’. The **Deductible** is deducted from the reasonable costs and expense payable before the application of the sub-limit specified in extension 8 ‘Mitigation of loss’. The **Insurer** has no liability for an amount of reasonable costs and expenses that is equal to or less than the **Deductible** for any action taken to mitigate a loss or potential loss.

The **Insured** must pay the amount of any reasonable costs that is equal to or less than the **Deductible** for any **Privacy Breach**. The **Deductible** is deducted from the reasonable costs payable before the application of the sub-limit specified in extension 9 ‘Privacy Breach Costs’. The **Insurer** has no liability for the amount of any reasonable costs that is equal to or less than the **Deductible** for any **Privacy Breach**.

The **Insured** must pay the amount of any reasonable **Inquiry Costs** that is equal to or less than the **Deductible** for any one **Inquiry Notice**. The **Deductible** is deducted from the reasonable **Inquiry Costs** payable before the application of the sub-limit specified under the extension ‘Inquiry Costs’. The **Insurer** has no liability for the amount of any reasonable **Inquiry Costs** that is equal to or less than the **Deductible** for any one **Inquiry Notice**.

The method for payment of the **Deductible** will depend on the particular circumstances of the **Claim**, for example—

- (a) the **Insurer** may pay the amount of compensation, **Claimant’s Costs** or **Inquiry Costs** that is equal to or less than the **Deductible**, and then require repayment of this amount from the **Insured**;
- (b) the **Insurer** may deduct the amount of the **Deductible** from the amount payable by the **Insurer** to the **Insured**; or
- (c) the **Insurer** may require the **Insured** to pay the **Deductible** directly to a third party.

B. Deductible applicable to Section 2

The **Insured** must pay the amount of any **Fidelity Loss** that is equal to or less than the **Deductible** for any one **Fidelity Loss** under Section 2.

The **Deductible** is deducted from the **Fidelity Loss** payable under section 2 before the application of the **Limit of Liability** specified in Memorandum 7.

#### EXCLUSIONS APPLICABLE TO SECTION 2

The **Insurer** shall not be liable under Section 2 of this Policy in respect of or in relation to any person acting alone or in collusion with others—

1. for more than the **Limit of Liability** stated in Memorandum 7 notwithstanding that such dishonest, fraudulent malicious or illegal act or acts were committed by such person during more than one **Period of Insurance**;
2. for any loss, or to that part of any loss, as the case may be, the proof of which either as to its factual existence or as to its amount, is deduced from an inventory computation or a profit and loss computation; provided, however, that this Exclusion shall not apply to loss of money or other forms of legal tender which the **Insured** establishes wholly apart from such computations, was sustained by the **Insured** through any dishonest, fraudulent, malicious or illegal act or acts committed by any one or more of such persons;
3. for any loss arising from any fraudulent, dishonest, malicious or illegal act or acts committed by such person after the **Insured** shall have knowledge or information of such act of dishonesty, fraud, malice or illegal act on the part of such person, which a reasonable person in the **Insured's** position could have reasonably prevented;
4. for any loss arising from the complete or partial non-payment of, or default upon any loan, extension of credit or transaction in the nature of, or amounting to, a loan, obtained from or made by the **Insured** or by any of the employees whether authorised or unauthorised unless such loss results from dishonesty, fraud, malice or illegal act or omission on the part of any of the employees.

#### GENERAL EXCLUSIONS

1. The **Insurer** shall not be liable in respect of any **Claim**, compensation, **Claimant's Costs**, **Defence Costs**, **Fidelity Loss**, loss of or damage to **Documents**, **Public Relations Expenses**, costs and expenses incurred in respect of any action taken to mitigate a loss or potential loss, costs of notifying individuals or corporations of a **Privacy Breach** or **Inquiry Costs** directly or indirectly occasioned by or—

- (a) happening through or in consequence of 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 damage to property by or under the order of any government of public or local authority; or
- (b) caused by or arising from or in consequence of or contributed to by nuclear weapons materials, or arising from or in consequence of or contributed to by ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. Combustion shall include any self-sustaining process of nuclear fission;

2. The **Insurer** shall not be liable in respect of any **Claim**, compensation, **Claimant's Costs**, **Defence Costs**, **Fidelity Loss**, loss of or damage to **Documents**, **Public Relations Expenses**, costs and expenses incurred in respect of any action taken to mitigate a loss or potential loss, costs of notifying individuals or corporations of a **Privacy Breach** or **Inquiry Costs** arising out of or in respect to any liability incurred in connection with the **Business** unless the **Settlement** is in the State of Western Australia.

3. The **Insurer** shall not be liable in respect of any **Claim**, circumstance, occurrence or loss which has been notified under any other insurance attaching prior to the **Commencement Date** of the **Certificate of Insurance**.

4. The **Insurer** shall not be liable against any **Claim**, compensation, **Claimant's Costs**, **Defence Costs**, **Fidelity Loss**, loss of or damage to **Documents**, **Public Relations Expenses**, costs and expenses incurred in respect of any action taken to mitigate a loss or potential loss, costs of notifying individuals or corporations of a **Privacy Breach** or **Inquiry Costs**—

- (a) in respect of liability imposed upon the **Insured** pursuant to any contract if such liability would not have been imposed upon the **Insured** in the absence of any such contract; or
- (b) for fines, penalties or exemplary damages of any description.

5. The **Insurer** shall not be liable in respect of any **Claim**, compensation, **Claimant's Costs**, **Defence Costs**, **Fidelity Loss**, loss of or damage to **Documents**, **Public Relations Expenses**, costs and expenses incurred in respect of any action taken to mitigate a loss or potential loss, costs of notifying individuals or corporations of a **Privacy Breach** or **Inquiry Costs**—

- (a) arising directly or indirectly from or in connection with any **Act of Terrorism** regardless of any other cause or event contributing concurrently or in any other sequence; or
- (b) directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any **Act of Terrorism**.

6. The **Insurer** shall not be liable in respect of any liability for or arising directly or indirectly from any **Claim** for loss or damage, in respect of which the **Insured** has at any time by deed or agreement foregone, excluded or limited a right of recovery.

#### EXTENSIONS AUTOMATICALLY INCLUDED

Subject to the **Limit of Liability** stated in Memorandum 7 in respect of all **Claims** under this Policy the following extensions to Section 1 of this Policy are automatically included.

Each extension is subject to the terms including the General Exclusions, **Deductible**, and Limit of Liability stated in Memorandum 7.

The cover provided by each extension is limited to **Claims** notified to the **Insurer** during the Period of Insurance.

#### 1. Defamation

This Policy is extended to indemnify the **Insured** in respect of **Claims** first made against the **Insured** during the **Period of Insurance** for defamation by reason of words written or spoken by the **Insured** in the conduct of the **Insured's Business**, provided the defamation was not made by the **Insured** with express malice.

#### 2. Consumer Protection Legislation

This Policy is extended to indemnify the **Insured** in respect of **Claims** for damages or compensation first made against the **Insured** during the **Period of Insurance** resulting from breach of a statutory duty under the *Competition and Consumer Act 2010* (Cth), *Corporations Act 2001* (Cth), *National Consumer Credit Protection Act 2009* (Cth) or similar legislation enacted for the protection of consumers, within any Australian jurisdiction including any amendment, consolidation re-enactment, replacement or successor of such legislation, to the extent that such **Claims** are not otherwise excluded, under this Policy.

#### 3. Loss of Documents

This **Policy** is extended to indemnify the **Insured**, in the event of loss of or damage to **Documents** occurring in connection with the **Insured's Business**, against—

1. compensation for any **Claim** resulting from such loss or damage; and
2. reasonable costs and expenses incurred by the **Insured** in replacing or restoring such **Documents**.

Provided that—

- (a) such loss or damage is sustained during the **Period of Insurance** while the **Documents** are either in transit or in the custody of either—
  - (i) the **Insured**; or
  - (ii) any third party to whom a reasonable person in the **Insured's** professional position would entrust the **Documents** with the expectation that the **Documents** would be protected from loss or damage;
- (b) the amount of any claim for such loss or expenses shall be supported by proof of loss or damage to **Documents** (for example, bills and accounts) which shall be subject to approval by an appropriately qualified and experienced professional or advisor to be nominated by the **Insurer** with the **Insured's** consent or if such consent is withheld, by the President of the Law Society of the State or Territory where the **Certificate of Insurance** was issued;
- (c) the **Insurer** will not be liable for loss or damage caused by or arising directly or indirectly from, in connection with or in respect of any **Cyber Act**;
- (d) the **Insurer** shall not be liable in respect of loss or damage to **Documents** caused by riot or civil commotion; and
- (e) the **Insurer** will not be liable in respect of loss or damage to **Documents** caused by—
  - (i) mould;
  - (ii) vermin or pest infestation; or
  - (iii) fading, wear, tear or any other gradually operating cause.

#### 4. Fraud and Dishonesty of Employees

This Policy is extended to indemnify the **Insured** in respect of the legal liability of the **Insured** arising from any **Claim** first made against the **Insured** during the **Period of Insurance** by reason of any dishonest, fraudulent, malicious, or illegal act or omission of the **Insured's** employees or a **Locum** in the conduct of the **Insured's Business**.

Provided always that no indemnity shall be afforded to any person committing or condoning such act or omission.

#### 5. Extended Continuous Cover

Where the **Insured**—

- (a) first became aware of facts or circumstances giving rise or likely to give rise to a **Claim** prior to the **Period of Insurance**; and
- (b) had not notified the **Insurer** or any previous **Insurer** of such facts or circumstances prior to the **Period of Insurance**,

the **Insurer** will accept notification of any **Claim** arising from such facts or circumstances, during the **Period of Insurance**, provided—

- (i) there is an absence of fraudulent non-compliance with the **Insured's** duty of disclosure or fraudulent misrepresentation by the **Insured** in respect of such facts or circumstances; and



- (ii) the **Insured** has been continuously **Insured** under a professional indemnity policy issued by the **Insurer** (or consecutively by the **Insurer** and the **Insurer** on risk immediately before the **Insurer** first issued this Policy) between the time when the **Insured** first became aware of such facts or circumstances and the time during the **Period of Insurance** when the **Insured** first notified such facts or circumstances to the **Insurer**.

The indemnity provided will be in the terms of this Policy, save that the applicable Limit of Liability and **Deductible** will be as they were at the date when the **Insured** first became aware of the facts or circumstances (except that the applicable Limit of Liability will not exceed that of this Policy at the date when the facts or circumstances were first notified to the **Insurer**).

#### 6. Intellectual Property

This Policy is extended to indemnify the **Insured** in respect of **Claims** for an infringement of rights of intellectual property, provided that the act, error or omission by the **Insured** is unintentional and is committed in the course of carrying on the **Business**.

#### 7. Public Relations Expenses

This Policy is extended to indemnify the **Insured** for reasonable **Public Relations Expenses** incurred by the **Insured** in respect of an **Adverse Publicity Event** that first occurs and is notified to the **Insurer** during the **Period of Insurance**.

Provided—

- (a) the **Insurer** will only indemnify the **Insured** for the reasonable **Public Relations Expenses** that are incurred during the first thirty days immediately following the **Adverse Publicity Event**; and
- (b) the reasonable **Public Relations Expenses** are incurred with the **Insurer's** prior consent. The total liability of the **Insurer** under this extension will not exceed in the aggregate during the **Period of Insurance** \$250,000.

#### 8. Mitigation of loss

This Policy is extended to indemnify the **Insured** for the reasonable costs and expenses incurred in respect of any action taken to mitigate a loss or potential loss that otherwise would be the subject of a **Claim** under the Policy provided that—

- (a) the **Insured** first discovers the relevant act, error or omission which would give rise to the loss during the **Period of Insurance** and notifies the **Insurer** during the **Period of Insurance**;
- (b) the **Insured** obtains consent from the **Insurer** prior to incurring such costs; and
- (c) no payment will be made to the **Insured** in relation to a cyber ransom or extortion payment, meaning payment demanded by a third party who has committed, or has threatened to commit, an unauthorised, malicious or criminal act in respect of **Computer Systems** or **Data** that would result in, or is intended to result in, harm or loss being suffered by the **Insured** or any other party.

The total liability of the **Insurer** for all costs and expenses incurred under this extension will not exceed in the aggregate, during the **Period of Insurance** \$250,000.

#### 9. Privacy Breach Costs

This Policy is extended to indemnify the **Insured** for the reasonable costs of notifying individuals or corporations of a **Privacy Breach**, resulting from the conduct of the **Business**.

Provided that—

- (a) the **Insured** first discovers the **Privacy Breach** during the **Period of Insurance** and notifies the **Insurer** during the **Period of Insurance**; and
- (b) the **Insured** obtains consent from the **Insurer** prior to incurring such costs.

The total liability of the **Insurer** for all costs incurred under this extension will not exceed in the aggregate, during the **Period of Insurance** \$100,000.

#### 10. Inquiry Costs

The **Insurer** will indemnify the **Insured** for reasonable **Inquiry Costs** incurred with the **Insurer's** prior consent.

Provided that—

- (a) the **Inquiry Notice** is first received by the **Insured** and notified to the **Insurer** during the **Period of Insurance**;
- (b) such **Inquiry Notice** arises directly from conduct allegedly committed by the **Insured** in conducting the **Business**; and
- (c) regular or overtime wages, salaries or fees of the **Insured** are excluded from this indemnity.

The total liability of the **Insurer** for all costs incurred under this extension will not exceed in the aggregate, during the **Period of Insurance** \$100,000.

This extension does not apply to any investigation, inquiry or hearing arising from or in respect of a **Privacy Breach** for which the **Insured** has an obligation under the *Privacy Act 1988 (Cth)* (including any amendment, consolidation, re-enactment, replacement or successor of such legislation) (“Privacy Act”) to notify the Office of the Australian Information Commissioner (OAIC) or other responsible agency or person as set out in the Privacy Act and affected individuals to whom the information relates.

**DEFINITIONS**

In this Policy—

1. “**Act**” means the *Settlement Agents Act 1981* (WA) as from time to time in force.
2. “**Act of Terrorism**” means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public, or any section of the public, in fear.
3. “**Adverse Publicity Event**” means an event which, in the reasonable opinion of a partner, principal or director of the **Insured**, might cause the reputation of the **Insured** to be seriously affected by adverse or negative publicity.
4. “**Business**” means the professional activities of a Settlement Agent as defined in the **Act**, under the name stated in the **Certificate of Insurance** or such other name notified to the **Insurer** from time to time.
5. “**Claim**” means any demand made by a third party upon the **Insured** for compensation, however conveyed, including a writ, statement of **Claim**, application or other legal or arbitral process.
6. “**Claimant’s Costs**” means the legal costs and expenses the **Insured** is liable to pay to the person making a **Claim** against the **Insured**.
7. “**Commencement Date**” means that date as of which the **Certificate of Insurance** becomes effective.
8. “**Computer System**” means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility.
9. “**Cyber Act**” means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any **Computer System**.
10. “**Data**” means information, facts, concepts, code or any other information of any kind that is converted, recorded or transmitted in a form to be accessed, communicated, displayed, distributed, interpreted, processed, transmitted or stored or used in or by a **Computer System**.
11. “**Deductible**” means the amount as specified in Memorandum 8.
12. “**Defence Costs**” means the costs and expenses incurred by the **Insurer** or by the **Insured**, in defending, investigating or settling any **Claim** (not being **Inquiry Costs** or **Claimant’s Costs**).
13. “**Documents**” means deeds, wills, agreements, plans, records, computer records, electronic data, written or printed books, letters, certificates, written or printed documents or forms of any nature (excluding bearer bonds, coupons, bank or currency notes or other negotiable instruments).
14. “**each Claim**” means all **Claims** arising from the same act, error or omission.
15. “**Fidelity Loss**” means direct loss of money or other forms of legal tender including bearer bonds, coupons, bank notes, currency notes, negotiable instruments or stamps sustained by the **Insured** by reason of any dishonest, fraudulent, malicious or illegal act or omission of an **Insured** in the conduct of the **Insured’s Business**.
16. “**Firm**” means the person or persons carrying on the **Business** from time to time.
17. “**Former Licensee**” means any **Licensee** who has ceased to carry on **Business** as a principal.
18. “**Inquiring Body**” means any official body or institution empowered by law to investigate the professional conduct of the **Insured** including but not limited to a coroner’s court, statutory regulatory body, tribunal or legally constituted industry or professional board but excluding any Royal Commission, any parliament or any committee of a parliament.
19. “**Inquiry Costs**” means the legal costs and expenses (not being **Defence Costs**) incurred by the **Insurer** or the **Insured**—
  - (a) arising out of any notice from an **Inquiring Body** requiring a response from the **Insured** or requiring the **Insured’s** attendance at an investigation, inquiry or hearing held before the **Inquiring Body**;
  - (b) in responding to any notice from a Royal Commission; or
  - (c) arising out of any notice from a Royal Commission requiring the **Insured’s** attendance at an investigation, inquiry or hearing held before that Royal Commission.
20. “**Inquiry Notice**” means any notice that may result in the **Insured** incurring **Inquiry Costs**.
21. “**Insured**” means the **Licensee**, **Firm** or the **Related Business**, **Directors** and any person who is or becomes or who has ever been an employee of the **Insured**, or a **Locum**.
22. “**Insurer**” means the Insurance Company(ies) whose name(s) appear(s) in the **Certificate of Insurance**.
23. “**Licensee**” has the same meaning as in the **Act**.

24. “**Locum**” means a person who, pursuant to the Department and the Commissioner’s approval granted under regulation 14 of the **Regulations**, conducts the **Insured’s Business**.
25. “**Period of Insurance**” means the period so specified in the **Certificate of Insurance**.
26. “**Related Business**” means any service, administrative or nominee company or other person, entity or trust associated with or providing services to the **Business** and specified in the **Certificate of Insurance** or notified in writing to the **Insurer** and not being a **Firm** carrying on a **Business**.
27. “**Privacy Breach**” means an incident involving the unauthorised disclosure, loss, modification, misuse, interference or access of—
  - (a) personal information, as defined in the *Privacy Act 1988* (Cth) including any amendment, consolidation, re-enactment, replacement or successor of such legislation, or
  - (b) third party corporate information that is identified as confidential.
28. “**Public Relations Expenses**” means the costs, charges, fees and expenses of a public relations firm or consultant engaged to prevent or limit the adverse effects of or negative publicity from an **Adverse Publicity Event**.
29. “**Regulations**” means the *Settlement Agents Regulations 1982* (WA) as from time to time in force.
30. “**Settlement**” has the same meaning as in the **Act**.

#### INTERPRETATION

1. The terms “**Insured**”, “**Licensee**”, “**Firm**” and “**Business**” shall be read as if they were separately defined in each Insurance effected by the issue of a **Certificate of Insurance** and were defined by reference to the **Firm** referred to in the respective **Certificate of Insurance**.
2. Words importing any gender include every other gender.
3. This Master Policy and every **Certificate of Insurance** shall be governed by and construed according to the laws of the State of Western Australia.

#### MEMORANDA

##### 1. Currency of Master Policy

This Master Policy commences on the 1st November 2022 and shall continue until midnight 31st October 2023 and may thereafter be renewed for such further periods and with such variations as may be agreed between the **Insurer** and the Department and the Commissioner.

##### 2. Premium

The premium payable for the issue of a **Certificate of Insurance** to a **Licensee** for the Limit of Liability shall be as agreed between the **Insurer** and the Department and the Commissioner. The **Insurer** can vary the standard premium based upon prior **Claims** and circumstances as declared on the questionnaire for each **Insured** in accordance with its underwriting guidelines.

##### 3. Premium Payable by New Licensee

A **Licensee** which commences **Business** other than at the commencement of a year of insurance under the Master Policy shall pay, in order to obtain insurance in respect of the **Business** of that **Licensee**, a premium equal to the premium payable by a **Licensee** reduced pro rata for every whole month by which the **Period of Insurance** is less than twelve months, subject to a minimum premium of \$250.00 plus charges.

##### 4. Issue of Certificates of Insurance

The **Insurer** through its intermediary, Marsh Advantage Insurance Pty Ltd, will issue Certificates of Insurance annually in the form of the Schedule hereto on receipt of the premiums payable in accordance with Memorandum 2 above to **Licensees** who are required by the **Act** to be **Insured**.

##### 5. Effect of Certificate

Each Certificate when issued shall have effect as if it were a separate policy of insurance made between the **Insurer** and the **Insured** in the terms of the Certificate and of this Policy.

##### 6. Insurance of Former Licensees

A **Former Licensee** who has at any time been **Insured** under any Master Policy or whose successors in **Business** have at any time been **Insured** thereunder shall be entitled to be indemnified by the **Insurer** in respect of any **Claim** or **Claims** first made against him and notified to the **Insurer** during the **Period of Insurance**, as if a **Certificate of Insurance** had been issued to him hereunder and as if there were specified in such Certificate—

- (a) As the **Period of Insurance**, the period during which this Policy shall be in force; and
- (b) As the Limit of Liability, the sum of—
  - (i) Section 1—The Limit of Liability applicable for **each Claim** is the Limit of Liability that was in place at the time the **Former Licensee** ceased **Business**.
  - (ii) Section 2—\$500,000.

##### 7. Limit of Liability

Section 1—The Limit of Liability for **each Claim** shall be as stated in the Schedule and—

- (a) shall be not less than \$2,000,000; and
- (b) is exclusive of GST to the extent the **Insured** is entitled to claim an input tax credit.

Section 2—The Limit of Liability for each loss shall be \$500,000 and is exclusive of GST to the extent the **Insured** is entitled to claim an input tax credit.

#### 8. Deductible

The **Deductible** under Section 1 of this Policy (including any extensions to Section 1) is as follows—

- (a) \$1,000 for **Public Relations Expenses**;
- (b) \$10,000 for each **Claim** which derives from a matter where the agent has acted for both purchaser and seller; or
- (c) \$5,000 in respect of all other **Claims** or losses. Such **Deductible** applied exclusive of **Defence Costs**.

The **Deductible** in respect of matters arising in regard to Section 2 of this Policy, is either \$10,000 or \$20,000, with the amount specified in the **Certificate of Insurance**.

#### 9. Variation by Agreement

The Department and the Commissioner and the **Insurer** may by agreement vary any of the terms of this Policy other than the terms of Memoranda 2, 7 and 8 as above with respect to any **Certificate of Insurance** which is issued after the effective date of such variation. The effective date of variation shall be the date nominated in the agreement being a date not earlier than the date the agreement is made.

#### 10. No Refusal of Cover

The **Insurer** may not refuse any cover pursuant to this Master Policy to any **Licensee**.

#### 11. Cross Liability (Applicable to Section 2 only)

The word “**Insured**” shall be deemed to apply to each person comprising the **Insured** in the same manner as if a separate Policy had been issued to each of them and the act, error or omission of one shall not prejudice the right of any other to indemnity under this Insurance but the total liability of the **Insurer** in respect of all the individuals and entities comprising the **Insured** shall not exceed the Limit of Liability as stated in Memorandum 7 above.

#### 12. Cancellation Clause

The Department and the Commissioner may cancel this Policy at any time in writing to the Insurer.

Upon cancellation of this Policy, the **Insurer** will retain a short period premium calculated at the pro rata proportion of the Full Annual Premium for the time it has been on risk and the **Insured** will receive a refund of any balance of the premium actually paid (including GST if applicable) less non-refundable government charges.

#### 13. Licensee Ceasing to Conduct the Business

A **Licensee** shall not be entitled to any refund of premium by reason only that the **Licensee** ceases to conduct the **Business** during the currency of the Master Policy.

### GENERAL CONDITIONS

#### 1. Conduct of Claim and investigations in relation to Inquiry Notices and Fidelity Loss

- (a) The **Insurer** has the right and full discretion, but is not obligated to, at their own expense and at any time to take over and conduct in the **Insured's** name (including in relation to the insured, underinsured and uninsured losses);
  - (i) the defence, investigation or settlement of any **Claim** or investigation in relation to any **Inquiry Notice** and the conduct of any proceedings arising from any **Claim**; and
  - (ii) investigation or payment of any **Fidelity Loss** and the conduct of any proceedings arising from such loss;
- (b) The **Insurer** reserves entirely their rights under this Policy, including their right to agree or deny cover whilst they assess a **Claim**, **Inquiry Notice** or **Fidelity Loss**, conduct the defence of any **Claim** or **Inquiry Notice**, or conduct any investigation into **Fidelity Loss**. The **Insurer's** rights under this Policy are not affected if they do not conduct the defence of a **Claim** or **Inquiry Notice**, or investigation into any **Fidelity Loss**; or
- (c) If the **Insured** disputes the **Insurer's** approach to defending the **Claim** or **Inquiry Notice**, the **Insured** and the **Insurer** shall endeavour to settle this dispute by mediation administered by the Australian Disputes Centre (“ADC”) before having recourse to arbitration or litigation.

The mediation shall be conducted in accordance with the ADC guidelines for Commercial Mediation (“Guidelines”) operating at the time the matter is referred to the ADC. The terms of the Guidelines are hereby deemed incorporated into this Policy.

#### 2. Claims Settlement and Fidelity Loss payment

- (a) The **Insured** must not—
  - (i) settle or offer to settle any **Claim**, incur any **Defence Costs** or otherwise assume any contractual obligation or admit any liability in respect of any **Claim**;
  - (ii) pay or offer to pay any **Fidelity Loss**, incur any investigation expenses or otherwise assume any contractual obligation in respect of any **Fidelity Loss**; or
  - (iii) admit any liability in respect of any **Fidelity Loss**, without the **Insurer's** prior consent.

- (b) If the **Insured** objects to a proposal by the **Insurer** to settle or compromise any **Claim** payable under this Policy and wishes to contest or litigate the matter, then the **Insured** may so elect, but the **Insurer's** liability in respect of any such **Claim** so contested or litigated will not exceed the amount for which, but for such election, it could have been settled or compromised by the **Insurer**, together with **Defence Costs** payable in accordance with the terms of this Policy and incurred up to the time of such election, subject to the **Deductible** and to the Limit of Liability stated in Memorandum 7.
- (c) If the **Insured** objects to a proposal by the **Insurer** to resolve any **Inquiry Notice** covered under this Policy and wishes to contest the matter, then the **Insured** may so elect, but the **Insurer's** liability for **Inquiry Costs** in respect of any such **Inquiry Notice** so contested will not exceed the amount which, but for such election, would have been incurred by the **Insurer** to resolve the matter, subject to the **Deductible** and the limit specified in extension 10 'Inquiry Costs'.

3. When the Insured must notify the Insurer

- (a) The **Insured** shall give notice to the **Insurer** as soon as possible of any—
  - (i) **Claim** made during the **Period of Insurance**;
  - (ii) **Inquiry Notice** received; or
  - (iii) discovery of **Fidelity Loss**.

Every legal document or other communication received by the **Insured** (including letters, demands, writs, summons and legal process) relating to such **Claim** or **Inquiry Notice** shall be forwarded to the **Insurer** as soon as possible after receipt.

All notifications to the **Insurer**, including but not limited to **Claims** and any legal documents and other communications specified above, must be sent to—

Vero Insurance  
 Professional Risks Liability Claims GPO Box 346  
 Sydney NSW 2001  
 Phone: 1300 888 073  
 Fax: 1300 066 950  
 Email: lodgeclaim@vero.com.au

- (b) Either at the time of or following notification of the discovery of any **Fidelity Loss**, the **Insured** must as soon as reasonably possible, provide the **Insurer** with the following information—
  - (i) the nature and particulars of the event that has or may give rise the loss;
  - (ii) the likely quantum of the loss (where this can be estimated); and
  - (iii) affirmative proof of the loss, with full particulars of the loss involved.

4. The Insured's duty to assist

- (a) The **Insured** must cooperate and provide the **Insurer** with reasonable assistance in connection with any investigation, negotiation, recovery, defence and legal proceeding or settlement of a **Claim**, **Inquiry Notice** or **Fidelity Loss**. This assistance may include—
  - (i) lodging a police report;
  - (ii) providing a more detailed version of facts, including signing statements and affidavits;
  - (iii) providing further information, evidence and documentation;
  - (iv) attending court or meetings with appointed legal or other experts;
  - (v) making available partners, directors and employees for interviews, meetings and court attendance;
  - (vi) providing contact details of individuals (if available) who may have information that is relevant to the **Claim** or loss (to the extent that the provision of such details would not breach any legally enforceable privacy or confidentiality requirement); or
  - (vii) providing access to systems and records (to the extent that doing so would not breach any legally enforceable privacy or confidentiality requirement).

Any costs to comply with the above requirements will be borne by the **Insured**, unless otherwise covered under this Policy.

- (b) The **Insured** must where reasonably possible, take steps to avoid or diminish further loss, for example, but not limited to—
  - (i) stopping use of processes or documentation which the **Insured** may suspect has contributed to the loss;
  - (ii) checking the functionality of any standard measures, processes or procedures (for example, risk control processes) in place to prevent loss;
  - (iii) avoiding confrontational engagement with an aggravated claimant;
  - (iv) maintaining a detailed record of all communications with any party about the loss; or
  - (v) in the case of a **Firm**, taking steps a reasonable person in the **Firm's** position would take (for example, suspending an employee) where the **Firm** has confirmed or suspects dishonesty or a fraudulent or malicious act or omission has contributed to the loss.

Any costs to comply with the above requirement will be borne by the **Insured**, unless otherwise covered under the Policy.

- (c) The **Insured** must as soon as reasonably possible after the discovery of facts or circumstances that caused the **Insured** to suspect that dishonest, fraudulent, malicious or illegal acts or omissions that had or could result in a **Fidelity Loss** had been committed in the conduct of the **Insured's Business**, or that someone was intending to commit such acts, take the following steps to prevent or limit **Fidelity Loss**—
- (i) secure the money or other form of legal tender that may be the subject of such acts;
  - (ii) check the functionality of any security measures or processes in place to prevent such acts;
  - (iii) suspend or increase supervision of any employee suspected of committing or intending to commit such acts;
  - (iv) notify the police of the suspected fraud, dishonesty or illegal acts; or
  - (v) take any additional action a reasonable person in the **Insured's** position would take to prevent loss or limit **Fidelity Loss**.
- (d) The **Insurer** may undertake any investigation as is reasonably required in relation to the Claim, Inquiry Notice or Fidelity Loss.

#### 5. Recovery rights

- (a) The **Insured** will not, without the Insurer's prior consent, enter into—
- (i) any agreement whereby the **Insured** releases, agrees not to sue on, waive or prejudice the rights to recover from a person or organisation who is or could have been liable to compensate the **Insured** for any loss, damage or legal liability;
  - (ii) any deed or agreement, excluding, limiting or delaying the legal rights of recovery against another party; or
  - (iii) any arrangement or compromise or do any act whereby any rights of remedies to which the **Insurer** would be subrogated in respect to such loss, damage or legal liability are or may be prejudiced.

Where the **Insured** does not comply with the above, the **Insurer** may not cover the **Insured** under this Policy for any such loss, damage or legal liability.

- (b) In the event of any payment under this Policy, the **Insurer** will be subrogated to all the **Insured's** rights of recovery against any person or organisation.

The **Insurer** has the right and full discretion but is not obligated to take over and conduct in the **Insured's** name any recovery action (including in relation to insured, uninsured and underinsured losses). The **Insurer** may engage legal or other representatives to assist in the conduct of any recovery action.

The **Insurer** waives any rights of subrogation against the **Insured** save where those rights arising in connection with dishonest or criminal act by the **Insured**.

#### 6. Fidelity recoveries

In the event of any payment in respect of a **Fidelity Loss**—

- (a) The **Insured** must, if requested by the **Insurer**, take all reasonable steps to help recover **Fidelity Loss** from any person committing or condoning any dishonest, fraudulent, malicious or illegal act or omission or from the legal representatives of such persons. This help may include—
- a. providing a more detailed version of events including completing a diagram or statement/affidavit;
  - b. lodging a police report;
  - c. filing searches to locate the person or their legal representative;
  - d. attending court (only if required); or
  - e. providing evidence and documentation relevant to the **Fidelity Loss** and executing such documents, including signed statements which the **Insurer** reasonably requests; and
- (b) to the extent allowed by law, the **Insurer** will deduct the following from any amount payable in respect of **Fidelity Loss** caused by or resulting from a dishonest, fraudulent, malicious or illegal act or omission—
- (i) any monies which but for such act or omission would be due from the **Insured** to the person committing or condoning such act, but only to the extent that the **Insured** has the right to offset such amount against the **Fidelity Loss**; and
  - (ii) any monies held by the **Insured** and belonging to such person, but only to the extent that the **Insured** has the right to offset such amounts against **Fidelity Loss**; and
  - (iii) any monies recovered under (a) above.

#### 7. Allocation of recoveries

- (a) All recoveries obtained from other parties will be allocated, after the settlement of any **Claim** under this Policy as follows—
- (i) firstly, to the **Insured's** benefit to reduce or extinguish the amount of compensation, **Claimant's Costs** or **Defence Costs** to the extent that such amounts would have been paid under this Policy but for the fact that such amounts exceed the sum of—
    1. the Limit of Liability under Memorandum 7, or the amount of any specified limit applicable to a specific clause where applicable;

2. **Defence Costs** payable in addition to the Limit of Liability; and
  3. the **Deductible** where applicable;
  - (ii) secondly, to the benefit of the **Insurer** for all sums paid in settlement, defence or investigation of any **Claim** under this Policy;
  - (iii) thirdly, to the **Insured's** benefit for the **Deductible** under Policy.
- (b) All recoveries will be applied as above only after deduction of the reasonable cost of obtaining such recovery.

All recoveries made prior to settlement of any **Claim** under this Policy will be held for the benefit of the **Insurer** and applied as stated above after settlement if any is made.

Recoveries do not include any amount recovered from insurance, surety, reinsurance, security or indemnity taken for the benefit of the **Insurer**.

#### 8. Allocation of loss

- (a) When this clause applies

This clause applies to any liability for compensation and **Claimant's Costs, Defence Costs, Inquiry Costs and Fidelity Loss** (referred to collectively as "Loss" under this clause), which is either or both—

- (i) in respect of more than one person or entity (at least one of whom is an **Insured**), whether jointly or severally; or
- (ii) partly covered and partly not covered under this Policy;

(together "Loss to be Allocated").

The **Insurer** must decide a fair and reasonable allocation of the covered part of the Loss to be Allocated among the relevant **Insureds** and the **Insurer** having regard to the extent of each **Insured's** comparative responsibility for the Loss to be Allocated.

- (b) What the Insurer must take into account when deciding Loss to be Allocated

The **Insurer's** consideration of what is fair and reasonable shall include without limitation, the following factors—

- (i) the nature of the **Claim** against, **Inquiry Notice** against or **Fidelity Loss** sustained by each **Insured**;
- (ii) the issues of fact and law in relation to each **Insured**;
- (iii) the content and the manner of the conduct of any defence of the **Claim** or **Inquiry Notice**;
- (iv) the relative degree of personal responsibility for the Loss;
- (v) the extent to which the **Insured's** responsibility for the Loss is joint, several or shared;
- (vi) the extent to which any person or entity, other than that **Insured**, would obtain a benefit from the payment by the **Insurer**;
- (vii) the extent to which the Loss is solely of that **Insured**;
- (viii) the extent to which the issues in the **Claim** against, **Inquiry Notice** against or **Fidelity Loss** sustained by that **Insured** are in common with the issues in the **Claim** against, **Inquiry Notice** against or **Fidelity Loss** sustained by any other person or entity;
- (ix) the extent to which the Loss is partly covered and partly not covered under this Policy; and
- (x) in the event of a settlement, the likely comparative responsibility had the settlement not occurred.

- (c) If You do not agree with the Insurer's decision relating to the Allocation of Loss

If the **Insured** wishes to dispute the **Insurer's** decision in respect of allocation, each party agrees that the dispute must be referred for expert determination in accordance with the ADC Rules for Expert Determination ("Rules") available on the ADC's website, to an expert agreed by the parties, or if the parties do not agree on an expert, an expert appointed by the ADC in accordance with the Rules.

Each party agrees to sign an agreement with the expert that confirms the following matters, unless contrary to the Rules or the requirements of the ADC—

- (i) the payment of fees for the appointed expert (Note: refer to 'Cost of the expert determination' below for more information); and
- (ii) the expert may—
  - (a) consider relevant industry practice;
  - (b) consider all information presented to the expert by either party;
  - (c) request more information from either party;
  - (d) request a meeting with the parties (to which they may bring their legal representatives or other persons with information or knowledge relevant to the determination) (Note: in accordance with the Rules, the meeting is not a hearing); and
- (iii) the expert must provide a determination, subject to receiving all information required, within thirty days after the agreement is signed, unless—

- (a) another time is agreed between the parties, in which case the agreement will provide for this timeframe; or
- (b) the expert must comply with a timeframe as set by the ADC, in which case the agreement will provide for this timeframe;
- (iv) the expert must provide written reasons for the determination;
- (v) the expert's decision will be binding on the parties and final; and
- (vi) the liability of the expert to either party (including liability for negligence) will be excluded to the full extent permitted by law.

This allocation applies for all purposes under this Policy including in relation to any advancement of costs.

Any allocation of Loss will not apply to or create a presumption with respect to the allocation of other Loss on account of such **Claim** or **Fidelity Loss**.

(d) Cost of the expert determination

The **Insurer** will pay for the cost of the expert determination above, including the **Insured's** share of the costs.

The ADC may require each party to bear the cost of the expert determination in equal proportions and require each party to individually pay their share of any cost required directly (including any fee, deposit or other amount charged). Where this is required, the **Insured** must pay the costs accordingly and the **Insurer** will separately reimburse the **Insured** for the cost of the expert determination.

#### 9. Other Insurance

Upon giving any notification pursuant to General Condition 3, the **Insured** shall inform the **Insurer** as to any other insurance or indemnity pursuant to which the **Insured** is entitled to any benefit in respect of that **Claim**. This is to enable the **Insurer** to exercise its right to seek contribution from the insurer of that other insurance.

#### 10. Fraud

If any **Licensee** shall submit any claim or loss knowing the same to be false or fraudulent, as regards to the amount or otherwise, the **Insurer** may refuse payment of the claim or loss but where only part of the claim is fraudulent, the **Insurer** may not refuse payment in respect of that part which is not fraudulent.

#### 11. Right of Insurer Upon Breach or Non-Compliance

Where the **Insured's** breach of or non-compliance with any term or condition of this insurance has resulted in prejudice to the handling or settlement of any **Claim** or loss against the **Insured** in respect of which insurance is provided hereunder, the **Insurer's** liability in respect of the **Claim** or loss is reduced by the amount that fairly represents the extent to which the **Insurer's** interests were prejudiced as a result of the **Insured's** breach or non-compliance. If the **Insurer** has already fully indemnified an **Insured** in accordance with the terms of this insurance, then the **Insured** shall reimburse to the **Insurer** the difference between the sum payable by the **Insurer** in respect of that **Claim** or loss and the sum which would have been payable in the absence of such prejudice.

#### 12. GST

As part of the premium, the **Insurer** will charge the **Insured** an amount on account of GST, stamp duty and any other government charges and levies that apply. The premium also includes any discounts the **Insurer** has given the **Insured**, and these discounts are applied before the addition of any applicable government taxes and charges.

The **Insured** must tell the **Insurer** about the input tax credit (ITC) the **Insured** is entitled to for their premium and the **Insured's** claim, each time the **Insured** makes a claim. If the **Insured** does not give the **Insurer** this information or if the **Insured** tells the **Insurer** an incorrect ITC, the **Insurer** will not pay any GST liability the **Insured** incurs.

The **Insurer's** liability to the **Insured** will be calculated taking into account any ITC to which the **Insured** is entitled for any acquisition which is relevant to the claim, or to which the **Insured** would have been entitled had the **Insured** made a relevant acquisition.

In respect of the **Insured's** Policy, where the **Insured** is registered for GST purposes the **Insured** should calculate the insured amount having regard to the **Insured's** entitlement to input tax credits.

The **Insured** should, therefore, consider the net amount (after all input tax credits) which is to be insured and determine an insured amount on a GST exclusive basis.

The Limit of Liability and any other insured amount stated in this Policy and on the **Schedule** or **Certificate of Insurance** are exclusive of GST to the extent the **Insured** is entitled to claim an input tax credit.

This outline of the effect of the GST on the **Insured's** Policy is for general information only. The **Insured** should not rely on this information without first seeking expert advice on the application of the GST to the **Insured's** circumstances.

'GST', 'input tax credit' and 'acquisition' have the meaning given in *A New Tax System (Goods and Services Tax) Act 1999*.



Attaching to and forming part of Policy No LPS010028296

**Pursuant to Section 35(1) of the *Settlement Agents Act 1981* the Commissioner for Consumer Protection has arranged a Master Policy Agreement, affirming Policy No LPS010028296.**

GARY NEWCOMBE, Commissioner for Consumer Protection.

Date: 06/12/2022

NATHAN BONE—authorised signatory.

Date: 23/11/2022

AAI Limited trading as Vero Insurance

ABN 48 005 297 807

Level 12, 58 Mounts Bay Road, Perth.

PAULENE PLICHOTA—authorised signatory.

Date: 01/11/2022

Marsh Advantage Insurance Pty Ltd

ABN 31 081 358 303

Level 6, 225 St Georges Tce, Perth.