Insurance Brokers Professional Indemnity Insurance Policy
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Insurance Brokers Professional Indemnity Insurance Policy

Preamble

In consideration of the payment of the Premium and in reliance on the contents of the Proposal the Insured has provided, We agree to provide indemnity subject to the terms of this Policy.

SECTION 1 – INSURING CLAUSES

1.1 Breach of Professional Duty

We agree to indemnify the Insured against any Claim for civil liability arising from a breach of professional duty owed in the conduct of the Professional Business first made against the Insured during the Period of Insurance.

1.2 Defence Costs

We agree to pay Defence Costs incurred by the Insured with our prior written consent in the investigation, defence or settlement of any Claim under this Policy.

A. Insuring Clause Clarifications

We agree to extend the indemnity provided under this Policy in respect of:

1.3 Defamation

any Claim for unintentional libel, slander or defamation.

1.4 Intellectual Property Rights

any Claim for unintentional:
(a) infringement of copyright, trademarks, registered designs, patents, plagiarism; or
(b) passing off; or
(c) breach of confidentiality.

1.5 Trade Practices Act 1974 (Cth)

any Claim for unintentional breaches of the Trade Practices Act 1974 (Cth) or corresponding legislation PROVIDED THAT there is no indemnity:
(a) under any criminal provisions of such legislation; or

(b) when the Insured knowingly engages in such conduct or condones such conduct.

1.6 Breach of Fiduciary Duty

“breach of professional duty” includes a breach of fiduciary duty owed to the Insured’s clients or customers.

B. Automatic Extensions

These automatic extensions form part of the Policy and are subject to all of the Policy terms and conditions. With the exception of extension 1.7 (Automatic Reinstatement) the inclusion of these automatic extensions will be part of and not in addition to the Limit of Liability of the Policy.

1.7 Automatic Reinstatement

If the Limit of Liability is either partially or totally exhausted by the payment of a Claim under this Policy, We agree to reinstate the Limit of Liability by an amount equal to the Limit of Liability PROVIDED THAT:
(a) Our total liability in respect of all Claims shall not exceed the Limit of Liability in the Aggregate in the Schedule; and
(b) such reinstatement is only available to subsequent Claims totally unrelated to those that give rise to the partial or total exhaustion of the Limit of Liability.

1.8 Continuous Cover

1.8.1 Notwithstanding exclusion 3.13 (Prior Claims or Circumstances), and in the absence of fraudulent non-disclosure by the Insured, We agree to extend indemnity for any Claim arising from or attributable to or in consequence of any fact or circumstance which could have been, but which was not, notified under a previous professional indemnity insurance policy (“Previous Policy”) PROVIDED THAT:
(a) if the fact or circumstance had been notified under the Previous Policy, the Insured would have been entitled to indemnity under the Previous Policy;
(b) other than Our right to refuse indemnity due to:
(i) failure to disclose the fact or circumstance to Us before this policy was entered into; or
(ii) the application of Exclusion 3.13.2

the Insured would be entitled to indemnity under this Policy;

(c) the Insured has continued without interruption to be insured under a professional indemnity insurance policy with Us from the time when the fact or circumstance could have been notified under the Previous Policy until the time when the Claim, fact or circumstance is notified to Us.

1.8.2 Our liability for the Claim shall not exceed the amount of indemnity which would have been available under the Previous Policy if the fact or circumstance had been notified under the Previous Policy or the available Limit of Liability under this Policy, whichever is the lesser.

1.9 Consultants, Contractors & Agents (Vicarious Liability)

We agree to indemnify the Insured for any Claim arising out of work undertaken by consultants, contractors or agents appointed by the Insured PROVIDED THAT there is no indemnity for the consultants, contractors or agents own liability.

1.10 Costs of Official Inquiries

We agree to indemnify the Insured for the costs incurred by Us, or the reasonable costs incurred by the Insured with Our prior written consent, of the Insured’s legal representation at any inquiry (including any coronial inquiry or any inquiry under the disciplinary rules of a professional association of which the Insured is a member) or other similar process relating to or connected with the Insured’s Professional Business, which the Insured is legally compelled to attend PROVIDED THAT:

(a) the inquiry is ordered or commissioned during the Period of Insurance;

(b) We shall be entitled to nominate lawyers to represent the Insured;

(c) the Insured notified Us in writing within the Period of Insurance and within 28 days of having received notice of the inquiry;

(d) there is no indemnity under this clause for the costs of:

(i) any process concerning any act, error or omission committed or allegedly committed; or

(ii) any process conducted;

within the territorial limits of the United States of America or Canada or their territories or protectorates;

(e) Our aggregate liability for all Claims under this clause shall not exceed $100,000.

1.11 Extended Reporting Period

The Insured shall be entitled to elect to extend the period of time for reporting a Claim under 5.1 (Reporting Claims) for 365 days immediately following the expiry of the Period of Insurance PROVIDED THAT:

(a) the Insured can only make this election by giving Us written notice no later than 14 days after the expiry of the Period of Insurance;

(b) the Insured must pay Us the last annual Premium, which includes any annualised pro rata additional Premium payable during the Period of Insurance, plus any applicable Statutory charges and any administration fee that may be charged by Us within 30 days of electing to take up this extended reporting period;

(c) there is no cover under this clause for any Claim arising out of any breach of professional duty committed after the expiry of the Period of Insurance;

(d) the Insured does not replace this Policy with a similar policy, irrespective of whether the policy has a retroactive date, at any time during the extended reporting period.

1.12 Financial Services Dispute Resolution

We agree to indemnify the Insured for any Claim for an award made against the Insured by an ASIC approved external dispute resolution scheme.

Our liability under this clause shall not exceed $100,000 per award, save for Claims in respect of life insurance for which Our liability shall not exceed $280,000 per award.

For the purposes of this clause an award shall include costs awarded against the Insured;

1.13 Innocent Party Indemnity

Notwithstanding exclusion 3.4 (Dishonest or Reckless Acts), We agree to indemnify the Insured under this Policy where the Claim arises from a dishonest, fraudulent, criminal or malicious act or omission of any of
the Insured’s Employees, partners or directors PROVIDED THAT:

(a) there is no indemnity under this clause for any person committing or condoning the act or omission;

(b) there is no indemnity under this clause for any loss sustained as a result of any act or omission occurring after the date on which the Insured first discovers, or has reasonable cause for suspicion of, a dishonest, fraudulent, criminal or malicious act or omission on the part of any person;

(c) there is no indemnity under this clause for loss of negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes.

1.14 Joint Ventures

We agree to Indemnify the Insured for any Claim arising out of the Insured’s participation in any joint venture in connection with the Professional Business but only to the extent of the Insured’s proportion of any liability incurred by such joint venture.

1.15 Insurance Broking - Non-Avoidance

We agree that in respect of insurance broking activities undertaken by the Insured, notwithstanding Section 28 of the Insurance Contracts Act 1984, a failure by the Insured to comply with the Insured’s duty of disclosure when entering into this Policy, or a misrepresentation by the Insured to Us before the Policy was entered into, whether that failure or misrepresentation was fraudulent or not, is not grounds for Us to avoid the Policy or to reduce Our liability under this Policy. Our aggregate liability for all Claims under this clause shall not exceed $1,000,000.

1.16 Loss of Documents

1.16.1 We agree to indemnify the Insured for the costs, charges and expenses, incurred with Our prior written consent, which they incur in replacing or restoring Documents (including but not limited to Documents which are the property of the Insured) which have been destroyed or damaged, or lost or mislaid and cannot be found after diligent search PROVIDED THAT:

(a) the Insured first discovered the destruction, damage, loss or mislaying of the Documents during the Period of Insurance;

(b) the Insured notified Us in writing during the Period of Insurance and within 28 days of discovering the destruction, damage, loss or mislaying of the Documents;

(c) the Insured supplies satisfactory documentary proof of their loss, including bills and accounts;

(d) the Documents were in the Insured’s physical custody or control or in the physical custody or control of another person to whom the Insured entrusted, lodged or deposited the Documents in the ordinary course of the Insured’s Professional Business;

(e) Our aggregate liability for all Claims under this clause shall not exceed $500,000 or the Limit of Liability, whichever is the lesser.

1.16.2 There is no indemnity under this clause for any costs, charges or expenses as a result of any Document being destroyed or damaged by normal wear, tear or other gradual processes.

C. Optional Extensions

Theses optional extensions form part of the Policy and are subject to all Policy terms and conditions, their inclusion will be part of and not in addition to the Limit of Liability of the Policy.

Limit(s) of Liability are sub limited under these optional extensions and UNLESS a sub limit of liability is provided next to the appropriate optional extension heading in the Schedule, these optional extensions WILL NOT apply to the Policy

1.17 Fidelity (optional)

1.17.1 We agree to indemnify the Insured for any loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes in the Insured’s care, custody or control which belongs to the Insured or for which the Insured is legally responsible, which the Insured sustains as a result of any dishonest or fraudulent act of any of the Insured’s Employees and committed in the conduct of the Insured’s Professional Business PROVIDED THAT:

(a) there is no indemnity for any person committing or condoning the dishonest or fraudulent act;
the Insured first discovered the loss during the Period of Insurance;

(c) the Insured notified Us in writing within the Period of Insurance and within 28 days of having reasonable cause for suspicion of a loss or discovery of a loss;

(d) there is no indemnity under this clause for loss sustained by the Insured as a result of any act committed after the date on which the Insured first discovers, or has reasonable cause for suspicion of, dishonesty or fraud on the part of the Employee concerned;

(e) the Insured provides all information and assistance that We request in order to recover from the Employee or the Employee’s estate;

(f) the Excess shall apply for each and every individual dishonest or fraudulent act.

1.17.2 Our total liability for all Claims under this clause shall not exceed the Limit of Liability for fidelity specified in the Schedule.

1.18 Previous Business (Optional)

1.18.1 We agree to extend indemnity under this Policy to any person who is or becomes a partner or director of the Insured for any Claim arising from that person’s legal liability for breach of professional duty committed or allegedly committed by that person in the conduct of a prior professional business of the same nature as the Insured’s Professional Business at a time before the person became a partner or director and in which professional business the person is no longer involved.

1.18.2 Our aggregate liability for all Claims under this clause shall not exceed the Limit of Liability for previous business specified in the Schedule.

1.18.3 This extension of indemnity only applies in excess of any other professional indemnity insurance policy in respect of the previous business under which the person claiming under this extension is entitled to indemnity.

SECTION 2 – LIMIT OF LIABILITY

2.1 Limit of Liability

2.1.1 Our total liability under this Policy for any one Claim shall not exceed the Limit of Liability specified in the Schedule.

2.1.2 Our total liability in the aggregate in respect of all Claims under this Policy shall not exceed the Limit of Liability in the Aggregate in the Schedule.

2.1.3 Where the Limit of Liability in the Schedule is specified to be exclusive of Defence Costs, We agree, in addition to the Limit of Liability, to pay the Defence Costs of any Claim which is the subject of indemnity under insuring clause 1.1 PROVIDED THAT:

(a) where the Insured’s liability exceeds the available Limit of Liability, We shall only pay such proportion of the Defence Costs as the available Limit of Liability bears to the Insured’s liability;

(b) where the amount We have paid or incurred as Defence Costs exceeds the share that We are obliged to pay under 2.1.3(a), the Insured shall upon demand pay to Us the excess amount. Alternatively, We may deduct the excess amount from any entitlements the Insured may have at any time under this Policy.

2.1.4 Where the Limit of Liability in the Schedule is specified to be inclusive of Defence Costs, We agree to pay the Defence Costs of any Claim which is the subject of indemnity under clause 1.1 PROVIDED THAT the total of our liability together with the Defence Costs shall not exceed the Limit of Liability.

2.2 Claims Aggregation

2.2.1 All acts, errors and omissions which are in any way related or originate from one source or original cause shall jointly constitute a single act, error or omission for the purposes of this Policy.

2.2.2 Where a single act, error or omission gives rise to more than one Claim, all such Claims shall jointly constitute one Claim under the Policy, and only one Excess and one Limit of Liability.
shall be applicable in respect of such Claim.

2.3 Excess
2.3.1 The amount of the Excess shall be borne by the Insured at its own risk in respect of each Claim.
2.3.2 Where the quantum of any Claim is less than the Excess, the Insured shall be liable for the Claim and the Defence Costs.
2.3.3 Where the Excess is specified to be inclusive of Defence Costs, the Insured shall pay the Defence Costs as they are incurred, up to the amount of the Excess.
2.3.4 Where the Insured is entitled to claim an Input Tax Credit for a payment made by the Insured as an Excess, then the monetary limit of the Excess will be deemed to be net of the Input Tax Credit.

SECTION 3 – EXCLUSIONS

We will not indemnify the Insured under any section of this Policy for any Claim directly or indirectly arising from:

3.1 Asbestos
asbestos.

3.2 Assumed Liability
(a) any contractual or other assumed liability, unless the Insured would in any event be legally liable in the absence of such contractual or assumed liability; or
(b) any liability assumed by an Insured under any guarantee or warranty.

3.3 Directors and Officers
the Insured acting as a trustee, director, secretary or officer of a trust or body corporate.

3.4 Dishonest or Reckless Acts
any actual or alleged:
(a) dishonest, fraudulent, criminal or malicious act;
(b) willful breach of any statute, contract or duty; or
(c) conduct with a reckless disregard for the consequences thereof;

3.5 Employer’s Liability
or based upon, attributable to, or in consequence of the Insured’s liability as an employer, including Personal Injury of any person occurring in the course of their employment with the Insured (either as the Insured’s Employee or as a contractor to the Insured).
For the purpose of this exclusion Personal Injury shall mean personal injury, sickness, disease, or the death of any person including but not limited to mental injury, anxiety, stress, emotional upset or nervous shock.

3.6 Fee Recovery
any refund of fees, or for damages calculated by reference to, any fee or charge rendered or incurred by the Insured.

3.7 Fines, Penalties and Damages
or for an award of any fines, penalties, liquidated damages, punitive damages, exemplary damages, aggravated damages, or any other non-compensating damages of any kind.

3.8 Insolvency
or arising out of the Insured’s insolvency, bankruptcy, liquidation, or failure to pay any trading debt.

3.9 Insurance Manager
the Insured acting as a manager of an insurance company or from the insolvency of any insurance company.

3.10 Jurisdiction and Territorial Limits
(a) any actual or alleged act, error or omission committed within the territorial limits of the United States of America or Canada or any of their territories or protectorates; or
(b) which is brought in a court of law within the territorial limits of the United States of America or Canada or directly or indirectly arising from any settlement or for the enforcement of any judgment or order obtained within the territorial limits of, or determined pursuant to the laws of those countries or their territories or protectorates.
3.11 Occupier’s Liability
any occupation or ownership or management of any tangible property by the Insured.

3.12 Occurrence to Claims Made
the fact that the Insured have arranged or caused to be arranged a general or public liability contract of insurance which responds to a claim on a claims made basis UNLESS, prior to the contract of insurance being entered into, the Insured advised their client in writing that they may be uninsured in respect of a claim made against them after the expiry of the contract of insurance arising from events which occurred during the period of insurance of that contract WHERE the insured has, upon the expiry of that contract, entered into a general or public liability contract of insurance which responds to a claim on an occurrence basis.

3.13 Prior Claims or Circumstances
3.13.1 any Claim made, threatened or in any way intimated against the Insured prior to the Period of Insurance; or
3.13.2 attributable to or in consequence of any fact or circumstance:
   (a) of which written notice has been given under any previous professional indemnity or other insurance policy;
   (b) noted on the Proposal for the current Period of Insurance or on any previous proposal; or
   (c) of which the Insured first became aware prior to the Period of Insurance and which the Insured knew or ought reasonably to have known may give rise to a Claim;

3.14 Radioactivity
cauused by or contributed to by ionising radiation or contamination by radioactivity from any nuclear fuel, weapon, medical isotope, waste or other material whether occurring naturally or otherwise, or by the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

3.15 Related Entities
brought or maintained by, or on behalf of:
(a) any Insured; or
(b) any person who, at the time of the act, error or omission giving rise to the Claim, is a Family Member of the Insured; or
(c) any entity operated or controlled by any Insured or Family Member of the Insured.

3.16 Rights of Recovery
any liability, loss or damage in respect of which the Insured has at any time foregone, excluded or limited a right of recovery.

3.17 Signing Proposals
or in connection with any insurance policy based on an application or proposal signed by the Insured.

3.18 Terrorism
cauased or occasioned by or happening through or in consequence of terrorism or any action taken in controlling, preventing, suppressing any act or acts of terrorism or in any way relating thereto.
For the purposes of this Clause, “terrorism” means any act or acts (whether threatened or actual) of any person or persons involving the causing or occasioning or threatening of harm of whatever nature and by whatever means made or claimed to be made in whole or in part for political, religious, ideological or similar purposes.

3.19 War
or caused by war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, 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.

3.20 Unauthorised Insurers
the failure of an unauthorised insurer to meet its liability under a contract of insurance UNLESS the unauthorised insurer, at the time the policy was effected, had an A (Strong) rating from Standard & Poor’s or an A (Excellent) rating from AM Best or above.
SECTION 4 – GENERAL CONDITIONS

4.1 Alteration to the Insured’s Professional Business
The Insured must notify Us in writing within 7 days of any material alteration to the Insured’s Professional Business, including but not limited to:

(a) any material alteration made or permitted by the Insured to the nature of the Insured’s Professional Business;

(b) any acquisition by the Insured of, or merger of the Insured with, any other business, whether or not of the same nature as the Insured’s Professional Business;

(c) (where the Insured is a natural person) the Insured becoming a bankrupt or entering into a debt agreement under Part IX of the Bankruptcy Act 1966 (Cth) or entering into an arrangement with creditors under Part X of the Bankruptcy Act; or

(d) (where the Insured is a company or body corporate) the appointment of an administrator, receiver, provisional liquidator or liquidator to the Insured;

(e) an Insured’s statutory registration or registration with their professional association is cancelled, suspended or has conditions imposed.

4.2 Assignment of Interest
No change in, modification of or assignment of any interest under this Policy shall have effect at law unless made with Our written approval.

4.3 Cancellation
The Insured may cancel this Policy at any time by notifying Us in writing. We may also cancel this Policy, but We can only do so in accordance with the law. In the event of cancellation and subject to any legal requirements, any refund of Premium and the amount of that refund will be at Our sole discretion.

4.4 GST
Where under this Policy We are obliged to indemnify the Insured against any Claim or Defence Costs for which the Insured is entitled to an input tax credit for the Goods and Services Tax (GST), the amount of any such input tax will be deducted from any amount payable by Us.

4.5 Policy Construction, Interpretation and Notices

4.5.1 The construction, interpretation and meaning of the terms of this Policy shall be determined in accordance with the laws of the state or territory in which this Policy is issued. Any dispute relating to this Policy shall be submitted to the exclusive jurisdiction of the courts of that state or territory.

4.5.2 The headings in this Policy are included for descriptive purposes only and do not form part of this Policy for the purpose of its construction or interpretation.

4.5.3 In this Policy words used in the singular shall include the plural and vice versa.

4.5.4 Any notice which We or the Insured are required or elect to give under this Policy, may be given to or by Us.

4.6 Severability and Non-Imputation

4.6.1 Where the Insured is more than one person or entity and one or more of those persons or entities:

(a) failed to comply with the duty of disclosure under section 21 or section 21A of the Insurance Contracts Act 1984;

(b) made a misrepresentation to Us before this Policy was entered into; or

(c) failed to comply with a term of this Policy;

the right of another person or entity to indemnity under this Policy shall not be prejudiced as a result PROVIDED THAT the other person or entity:

(i) acted in good faith in the performance of their or its duties and obligations both under this Policy and at law;

(ii) was entirely innocent of, had no prior knowledge of, or did not have reasonable cause to have knowledge of the relevant conduct; (for the purposes of this clause, knowledge imputed to a person by reason of partnership or otherwise is to be disregarded); and
(iii) notifies Us in writing of all facts known to them as soon as is reasonably practicable upon becoming aware of the relevant conduct.

4.6.2 This clause shall not operate to increase the Limit of Liability as stated in the Schedule.

SECTION 5 – CLAIMS CONDITIONS

5.1 Reporting Claims
The Insured must give Us written notice as soon as practicable, and during the Period of Insurance, of any Claim made against the Insured.

5.2 Defence and Settlement
5.2.1 We shall be entitled at any time to take over and conduct, in the Insured’s name, the defence or settlement of any Claim. Lawyers retained by Us to act on the Insured’s behalf shall at all times be at liberty to disclose to Us any information or document obtained (whether by the Insured or otherwise) in the course of so acting, and the Insured agrees to waive any claim for client legal privilege to the extent that such privilege may otherwise prevent that disclosure to Us.

5.2.2 The Insured must not settle any Claim, incur any Defence Costs, make any admission, offer any payment, or assume any contractual obligation in relation to any Claim without Our prior written consent (which consent shall not be unreasonably withheld). We shall not be liable for any settlement, Defence Costs, admission, offer or payment, or assumed obligation to which We have not consented in writing.

5.2.3 Where, in Our opinion, any Claim may not exceed the Excess, We shall be entitled to require the Insured to conduct the defence of the Claim. In this situation:
(a) the Insured shall keep Us advised in writing of all developments relating to the defence and settlement of the Claim as they occur;
(b) the Insured may settle the Claim without Our consent PROVIDED THAT they do not claim indemnity under this Policy in respect of the Claim; and
(c) where it becomes apparent that the Claim will exceed the Excess, We shall be entitled to take over and conduct, in the Insured’s name, the defence or settlement of the Claim, and We will reimburse the reasonable Defence Costs incurred to date by the Insured.

5.2.4 Where, in Our opinion, the liability of any Claim may exceed the available Limit of Liability, We shall be entitled at Our discretion to discharge Our liability by paying the available Limit of Liability to the Insured or on the Insured’s behalf and paying the Defence Costs up to the date of that payment. In this situation:
(a) if at the time of payment We are conducting the defence of the Claim, We shall also relinquish that conduct; and

(b) Policy condition 2.1.3 shall still apply.

5.2.5 The Insured must, when instructed by Us to do so, pay promptly within the terms of any proposed settlement the amount of the Excess. If the Insured fails or refuses to make that payment and We elect to make the payment on the Insured’s behalf, We shall be entitled to deduct the amount from any entitlements the Insured may have at any time under this Policy.

5.3 Insured’s Right to Contest a Claim
In the event that We recommends a settlement of any Claim but the Insured does not agree with Our recommendation, the Insured may elect to contest the Claim PROVIDED THAT if the actual liability for the Claim exceeds the amount for which, but for the Insured’s election, the Claim could have been settled, then:
(a) Our liability for the Claim shall be the amount for which, but for the Insured's election, a Claim could have been settled; and

(b) the Defence Costs of the Claim shall be the Defence Costs incurred with Our prior written consent up to the date of the Insured’s election.

5.4 Our Right to Contest a Claim
The Insured will not be required to contest any Claim unless a Senior Counsel (to be nominated by Us) advises that the Claim should be contested. In formulating that advice, Senior Counsel shall take into consideration the economics of the matter, the likely liability together with Defence Costs and the prospects for successfully defending the Claim. The cost of the Senior Counsel’s advice shall be regarded as part of the Defence Costs.
5.5 Claims Mitigation and Co-operation

5.5.1 The Insured must use due diligence and do and concur in doing all reasonable and practicable things in order to avoid, minimise or mitigate any liability, loss or damage that is or may be the subject of a Claim.

5.5.2 The Insured must disclose to Us honestly and frankly all relevant information, and provide all information and assistance We request to investigate and defend any Claim, to determine whether the Insured is entitled to indemnity under this Policy, or to prosecute any recovery action.

5.5.3 Compliance with clauses 5.5.1 and 5.5.2 shall be at the Insured’s own cost unless agreed to in writing by Us.

SECTION 6 – DEFINITIONS

6.1 Claim

“Claim” shall mean:

(a) the receipt by the Insured of a demand for compensation made by a third party against the Insured. It must take the form of:

(i) a writ, statement of claim, summons, application or other originating legal or arbitral process, cross claim, counterclaim or third party or similar party notice; or

(ii) any other form of written or verbal notice; and where applicable

(b) the making by the Insured of a claim against Us under automatic extensions 1.10 (Costs of Official Inquiries), 1.16 (Loss of Documents), and optional extension 1.17 (Fidelity).

6.2 Defence Costs

“Defence Costs” shall mean the costs incurred by Us, or the reasonable costs incurred by the Insured with Our prior written consent, in the investigation, defence, reporting or negotiation for settlement of any Claim. It shall not include any costs of the party that is claiming against the Insured.

6.3 Documents

“Documents” are as defined in the Commonwealth Acts Interpretation Act (as amended) and includes documents of any nature whatsoever, whether written, printed or reproduced by any method including computer records and electronic data material BUT SHALL NOT INCLUDE money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes or any other negotiable instrument.

6.4 Employee

“Employee” shall mean any person employed under a contract of service or apprenticeship but shall not mean a consultant, contractor or agent.

6.5 Excess

“Excess” shall mean the excess specified in the Schedule.

6.6 Family Member

“Family Member” shall mean:

(a) any spouse, domestic partner or companion;

(b) any parent, or parent of the spouse, domestic partner or companion; or

(c) any sibling, child, adopted child or any child living with the person as if the child were a member of the person’s family.

6.7 Insured

“Insured” shall mean:

(a) the person, persons, partnership, company, corporation, statutory authority or other entity specified in the Schedule as Insured;

(b) any predecessor in business of any person or entity in (a);

(c) any person who is, was, becomes or ceases to be a principal, partner, director or Employee of any person, persons, partnership, company, corporation, statutory authority or other entity specified in the Schedule as Insured, but in each case solely in respect of a liability arising from activity for and on behalf of that entity; and

(d) any executor, heir or trustee of any person in (a), (b) or (c).
6.8 **Limit of Liability**

“Limit of Liability” shall mean the maximum amount payable by Us in respect of any one Claim.

6.9 **Limit of Liability in the Aggregate**

“Limit of Liability in the Aggregate” shall mean the maximum amount payable by Us in respect of all Claims under this Policy.

6.10 **Period of Insurance**

“Period of Insurance” shall mean the period specified in the Schedule.

6.11 **Policy**

“Policy” shall mean:

(a) the insuring clauses, extensions, exclusions, conditions, definitions, Schedule and other terms contained herein;

(b) any endorsement to this Policy whether issued at the inception of the Policy or during the Period of Insurance; and

(c) the information provided by the Insured in the Proposal.

6.12 **Premium**

“Premium” shall mean the premium specified in the Schedule.

6.13 **Professional Business**

“Professional Business” shall mean the business or profession specified in the Schedule and conducted by the Insured.

6.14 **Proposal**

“Proposal” shall mean the written proposal by the Insured made to Us containing information and statements which, together with any other information or documents provided, are the basis of this Policy and are considered incorporated in it.

6.15 **Schedule**

“Schedule” shall mean the schedule to this Policy.

6.16 **We, Our, Us**

“We”, “Our” or “Us” shall mean AXIS Specialty Europe Limited.