

Chubb Elite II Professional Indemnity Insurance Policy Schedule and Wording

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1 July, 2018

CHUBB®

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Chubb Elite II Professional Indemnity Insurance Policy Schedule and Wording

Duty of Disclosure

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.

What you do not need to tell us

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.

Elite II Professional Indemnity Insurance Schedule

No.	Title:	Description		
Item 1:	Policy Number			
Item 2:	Firm			
Item 3:	Principal Address			
Item 4:	Business			
Item 5:	Period of Insurance	From:	DD/MM/YYYY at 4:00pm local time)	
		To:	DD/MM/YYYY at 4:00pm local time	
		Both days inclusive, standard time at the Principal Address shown in Item 3 above.		
Item 6:	Limit of Liability	(a) [AUD/USD] each Claim		
		(b) [AUD/USD] in the aggregate		
	Loss of Documents Sub-Limit under Extension 2.6:	(c) [AUD/USD] in the aggregate		
	Legal Representation Expenses Sub-Limit under Extension 2.10:	(d) [AUD/USD] in the aggregate		
Item 7	Excess	[AUD/USD] any one Claim		
Item 8	Retroactive Date			
Item 9	Optional Extensions	3.1	Principal's Previous Business	Not Covered / Covered
		3.2	Sub-Contractors, Consultants and Agents	Not Covered / Covered
Item 10	Premium	As agreed		
Item 11	Endorsements Effective at the Inception of the Policy			
Item 12	Continuity Date			

This Policy and Schedule have been signed on behalf of Chubb Insurance Australia Limited at _____
this _____ day of <Month> <Year>.

Manager

This is a Policy summary only.

Full details of this Insurance appear on the Policy Document

Elite II Professional Indemnity Insurance Endorsements

Endorsement Number:	01
Policy Number:	
Insured:	
Effective Date:	

In all other respects this **Policy** remains unaltered.

This Endorsement has been signed by or on behalf of Chubb Insurance Australia Limited at <City> this <Day> day of <Month> <Year>.

Signed: _____

Elite II Professional Indemnity Insurance Policy Wording

In consideration of the payment of the premium and in reliance upon all statements made and information provided to **Chubb**, including statements made in the **Proposal** and materials accompanying it, which it is agreed shall form the basis of this insurance, and subject to all the terms and conditions of this **Policy**, **Chubb** agrees as follows:

1. Insuring Clause

1.1 Cover

Chubb shall pay to or on behalf of the **Insured** any **Loss** arising from any **Claim** for civil liability in respect of the conduct of the **Professional Services**, provided that such **Claim** is first made against the **Insured** during the **Period of Insurance**.

2. Automatic Extensions

Each of the following Extensions automatically applies unless otherwise stated in the endorsements. Each of the Extensions is subject to the Insuring Clause and all other terms, exclusions and conditions of this **Policy** unless otherwise stated in this Clause 2. None of these Extensions increase the Limits of Liability specified in the **Schedule**.

2.1 Automatic Reinstatement

In the event that the aggregate Limit of Liability, as specified in Item 6(b) of the **Schedule** and referred to in Clause 6.1 (Limit of Liability) of this **Policy**, is exhausted by the payment of **Loss** and **Legal Representation Expenses**, **Chubb** agrees that such Limit of Liability shall be automatically reinstated once subject to the following:

- (a) such reinstatement shall be limited in total to a amount equal to the aggregate Limit of Liability shown in Item 6(b) of the **Schedule**; and
- (b) such reinstatement shall only apply after the total limit of liability available under the applicable policies in excess of this insurance are exhausted by the payment of **Loss** and **Legal Representation Expenses**; and
- (c) notwithstanding such reinstatement, this **Policy** shall be subject to the each **Claim** limit of liability as set out in Item 6(a) of the **Schedule** and any sub-limit of liability including the sub limit for **Legal Representation Expenses** in Extension 2.10; and
- (d) **Chubb's** maximum aggregate Limit of Liability under this **Policy** for all **Loss** arising from all **Claims** and all **Legal Representation Expenses** arising from all **Investigations**, whether against one or any number of **Insureds**, shall never exceed twice the amount in Item 6(b) of the **Schedule**; and
- (e) the limit so reinstated shall not apply in relation to any **Claim** or **Investigation** which is related or attributable to the one source or originating or underlying cause as any matter which has contributed to the exhaustion.

2.2 Consultants, Contractors, Subcontractors and Agents Vicarious Liability

Chubb agrees to extend cover to any **Loss** arising from a **Claim** for civil liability against the **Insured** arising from any acts, errors or omissions of any consultant, contractor, subcontractor or agent of the **Insured** for which the **Insured** is legally liable by reason of the conduct of the **Professional Services**.

This Extension 2.2 neither affords coverage to any consultant, contractor, subcontractor or agent of the **Insured** nor makes any such person or entity an **Insured**.

2.3 Defamation

Chubb agrees to extend cover to any **Loss** arising from a **Claim** for civil liability for unintentional defamation by the **Insured** in the conduct of the **Professional Services**.

Chubb shall not be liable to make any payment under this **Policy** for intentional defamation.

2.4 Intellectual Property Infringement

Notwithstanding Exclusion 4.12 (**Intellectual Property**), **Chubb** agrees to extend cover to any **Loss** arising from a **Claim** for civil liability for unintentional infringement by the **Insured** of any **Intellectual Property** right, except any actual or alleged patent right, in the conduct of the **Professional Services**.

Chubb shall not be liable to make any payment under this **Policy** for intentional infringement of any **Intellectual Property** right.

2.5 Joint Venture Liability

Chubb agrees to extend cover to any **Loss** arising from a **Claim** against the **Insured** for civil liability arising from the **Insured**'s participation in any **Joint Venture** in the conduct of the **Professional Services**.

Any indemnity afforded under this Extension 2.5 shall be limited to the **Insured**'s proportion of any liability incurred by such **Joint Venture**.

This Extension 2.5 neither affords coverage to any person or entity with whom or which the **Insured** is in a **Joint Venture** nor makes any such person or entity an **Insured**.

2.6 Loss of Documents

Chubb agrees to extend cover to any **Loss** arising from a **Claim** for loss of or damage to or destruction of those **Documents** for which the **Insured** is legally responsible in the conduct of the **Professional Services** provided that such loss, damage or destruction is first discovered and reported to **Chubb** during the **Period of Insurance** and, in the case of loss of **Documents**, which cannot be found after diligent search.

The cover provided by this extension will not apply to pay that part of any **Loss** arising from a **Claim** which:

- (a) exceeds the reasonable and necessary costs, charges and expenses in replacing or restoring the **Documents**; and/or
- (b) comprises costs, charges or expenses directly or indirectly relating to any **Documents** which have been destroyed, damaged or lost as a result of wear, tear or other gradually operating causes or **Computer Virus**.

Chubb's total liability under this Extension 2.6 shall not exceed the sub-limit specified in Item 6(c) of the **Schedule**.

The cover provided by this Extension 2.6 applies regardless of the **Retroactive Date**.

Notwithstanding Condition 6.2 of this **Policy** the **Excess** does not apply to this Extension 2.6.

2.7 Newly Acquired or Created Subsidiaries

Chubb agrees to extend cover to any **Subsidiary** of the **Firm** which is acquired or created during the **Period of Insurance**, provided that such **Subsidiary**:

- (a) increases the **Firm's** total gross fees or revenue by no greater than 20% based on the fees and/or revenue as disclosed by the **Firm** as its last 12 months fees and/or revenue in the most recent **Proposal**; and
- (b) conducts and / or provides the same **Business**; and
- (c) is not domiciled and/or incorporated in the United States of America or Dominion of Canada.

Any **Subsidiary** acquired or created during the **Period of Insurance** and which falls within 2.7(b) but which does not fall within the requirements of 2.7(a) and/or 2.7(c) above shall automatically be covered under this **Policy** for a period of 30 days from the date of acquisition or creation of the **Subsidiary** but not beyond that. Subject to the written agreement of **Chubb** and subject to any additional premium, terms, exclusions and conditions as **Chubb** may require, cover under this **Policy** may be extended to a **Subsidiary** which falls within 2.7(b) but which does not fall within the requirements of 2.7(a) and/or 2.7(c) above beyond 30 days from the date of acquisition or creation.

This Extension 2.7 shall not provide coverage in respect of any **Claim** or **Investigation** against the **Subsidiary** arising from the conduct of any **Professional Services** provided or required to be provided before the **Firm** acquires or creates such **Subsidiary**.

2.8 Run Off Cover for Insured Entity

In the event that a **Firm** is merged into or acquired by another entity or otherwise ceases to exist or operate or is subject to an **Insolvency Event** during the **Period of Insurance**, the coverage provided under the **Policy** for such **Firm** shall continue until the end of the **Period of Insurance**, provided that such coverage shall only apply in respect of a **Claim** that arises from the conduct of its **Professional Services** prior to the date the **Firm** ceased to exist or operate, was merged into or acquired by another entity or became the subject of an **Insolvency Event**.

Chubb may, at its sole discretion and on such additional terms, conditions and premium as **Chubb** may require, extend the coverage provided by this Extension 2.8 to include **Claims** first made against the **Insured** within a period of 84 months from the end of the **Period of Insurance**, provided that such coverage shall only apply in respect of a **Claim** that arises from the conduct of the **Professional Services** prior to the date the **Firm** ceased to exist, operate or was merged into or acquired by another entity or became the subject of an **Insolvency Event**.

2.9 Continuous Cover

Notwithstanding Exclusion 4.8(c) (Prior Matters) this **Policy** extends to cover the Insureds for **Loss** arising from any **Circumstance** which could have been first notified to **Chubb** under an earlier Professional Indemnity Insurance policy issued by **Chubb** and which is notified during the **Period of Insurance**, provided that:

- (a) the **Insured** has maintained with **Chubb** and without interruption, professional indemnity insurance from the **Continuity Date** as specified in Item 12 of the **Schedule** up until the date this **Policy** commenced; and
- (b) the failure of the **Insured** to disclose the **Circumstance** before the commencement of the **Period of Insurance** was not a result of any fraudulent intention to mislead or misrepresent to **Chubb**; and
- (c) the **Insured's** entitlement to an indemnity will be determined in accordance with the terms and conditions of the policy held by the **Insured** with **Chubb** on the date when the **Insured** first became aware of the **Circumstance** provided that **Chubb's** Limit of Liability will be the lower of the one available under:
 - (i) the policy held by the **Insured** with **Chubb** when the **Insured** first became aware of the **Circumstance**; or
 - (ii) this **Policy**; and
- (d) the **Insured's** entitlement to an indemnity will be reduced by the amount that, in the reasonable opinion of **Chubb**, fairly represents the extent to which **Chubb's** interests were prejudiced by the failure to notify **Chubb** of the **Circumstance**; and

- (e) if the **Policy** referred to in paragraph (c) above was co-insured, then **Chubb** will not be liable for more than its proportion of the indemnity provided by that policy.
- (f) This Extension 2.9 does not apply to and is subject to Exclusion 4.8(a) and (b) (Prior Matters).
- (g) If the Insured's rights under this clause are exercised the **Insured** agrees to claim on this **Policy** only and to make no claim on such earlier policy.

2.10 Legal Representation at Investigations

Chubb agrees to pay on behalf of any **Insured** its **Legal Representation Expenses** at any **Investigation** first commenced against the **Insured** during the **Period of Insurance**.

Chubb's total liability under this Extension 2.10 shall not exceed the sub-limit specified in Item 6(d) of the **Schedule**.

Notwithstanding Condition 6.2 of this **Policy** the **Excess** does not apply to this Extension 2.10.

2.11 Emergency Defence Costs and Legal Representation Expenses

If it is not possible for the **Insured** to obtain **Chubb's** written consent prior to the incurring of **Defence Costs** or **Legal Representation Expenses**, **Chubb** will give retrospective consent as long as **Chubb's** consent is sought within 30 days of such **Defence Costs** or **Legal Representation Expenses** being incurred.

Chubb's liability under this Extension 2.11 in respect of **Defence Costs** incurred for each **Claim** and **Legal Representation Expenses** incurred for each **Investigation** shall not exceed 10% of the Limit of Liability specified in Item 6(a) or 10% of the sub-limit of liability specified in Item 6(d) of the **Schedule** respectively. For the avoidance of doubt, **Chubb's** total liability under this Extension 2.11 in respect of all **Defence Costs** incurred for all **Claims** and all **Legal Representation Expenses** incurred for all **Investigations** shall not exceed the limit of liability specified in Item 6(b) of the **Schedule** or the sub-limit of liability specified in Item 6(d) of the **Schedule** respectively.

2.12 Advancement of Defence Costs and Legal Representation Expenses

Chubb shall advance any covered **Defence Costs** and **Legal Representation Expenses** as provided under this **Policy** within 30 days of receipt and approval of an invoice for such **Defence Costs** or **Legal Representation Expenses**.

2.13 Discovery Period

If **Chubb** or the **Insured** does not renew this **Policy**, **Chubb** shall extend the cover under this **Policy** for a discovery period of 45 days at nil additional premium which shall run from the date this **Policy** is not renewed. This Extension does not apply if there is a fraudulent claim under the **Policy** by or on behalf of the **Insured**.

The discovery period shall only apply to a **Claim** first made or an **Investigation** first commenced against the **Insured** before or during such 45-day discovery period, but only in respect of conduct of the **Professional Services** prior to the non-renewal of this **Policy**,

Chubb shall not be liable to make any payment in respect of any **Claim** first made or **Investigation** first commenced against the **Insured** during the discovery period if at any time the **Insured** obtains any other professional indemnity insurance covering in whole or in part the discovery period.

2.14 Fraud & Dishonesty

Notwithstanding Exclusion 4.3 (a) and 4.3 (b) of this **Policy**, **Chubb** agrees to extend cover to any **Loss** arising from a **Claim** against the **Insured** arising from a dishonest or fraudulent act or omission or any malicious, criminal or intentional breach of law of any **Principal** (other than a sole practitioner) or **Employee** of the **Firm** in the conduct of the **Professional Services**, provided that coverage under

this Extension 2.14 shall not be provided to any **Insured** committing, participating in or condoning such dishonest or fraudulent act or omission or malicious, criminal or intentional breach of law

2.15 **Competition & Consumer Act 2010**

Chubb shall pay on behalf of the **Insured** any **Loss** arising from any **Claim** for civil liability under the Consumer & Competition Act 2010 (Cth), the Trade Practices Act 1974 (Cth) or any Fair Trading Acts enacted by the States or Territories of Australia, in the conduct of the **Professional Services** provided that such **Claim**:

- (a) arises from an act, error or omission of the **Insured** occurring on or after the **Retroactive Date**; and
- (b) does not involve any liability under the penal or criminal provisions of those Acts.

2.16 **Cyber and Privacy Infringement Liability**

Chubb agrees to extend cover to any **Loss** arising from a **Claim** for **Cyber and Privacy Infringement Liability** of the **Insured** in the conduct of the **Professional Services**.

Chubb shall not be liable to make any payment under this **Policy** where the conduct giving rise to the **Cyber and Privacy Infringement Liability** is intentional.

2.17 **Civil Compensatory Orders**

Chubb agrees to extend **Loss** arising from a **Claim**, to include any civil compensatory order (not being an award of damages) that results from a contravention of any penalty provision of a statute or legislative provision provided that:

- (a) the cover provided by this Extension 2.17 will not apply to any civil compensatory order directly or indirectly caused by, arising out of or in any way connected with any legislative contravention which is based upon recklessness; and
- (b) **Chubb's** total liability under this Extension 2.17 shall be \$250,000 in the aggregate.

3. **Optional Extensions**

Each of the following Extensions apply only if the Extension is shown to be included in the **Schedule**. Each of the Extensions is subject to all of the terms, exclusions and conditions of this **Policy** unless otherwise stated in this Clause 3. None of these Extensions increase the Limits of Liability specified in the **Schedule**.

3.1 **Principal's Previous Business**

Chubb agrees to extend cover to any **Loss** arising from a **Claim** for civil liability against any person who is a **Principal** during the **Period of Insurance** arising from that **Principal's** previous business, of the same type and nature as the **Business**, provided that

- (a) such **Claim** is first made against that **Principal** during the **Period of Insurance** and notified to **Chubb** during the **Period of Insurance**; and
- (b) Where the **Loss** arising from the **Claim** is insured under any other policy effected on behalf of the **Principal** or under which the **Principal** is a beneficiary, whether prior or current (including but not limited to the previous business' professional indemnity insurance or any other applicable insurance policy), then to the extent permitted by the Insurance Contracts Act 1984 (Cth) this **Policy**, subject to its limitations, conditions, provisions and other terms, will only cover **Loss** to the extent that the amount of such **Loss** is in excess of the amount of the other insurance, and only after the insurers of the previous business' or other applicable insurance policy have paid or have admitted liability or have been held liable to pay, the full amount of their limit of liability.

The cover provided by this Extension 3.1 applies regardless of the **Retroactive Date**.

3.2 **Consultant, Contractor, Sub Contractor and Agents**

Chubb agrees to extend cover to any consultant, contractor, subcontractor or agent of the **Firm** for loss of a type not otherwise excluded by this **Policy** arising from the civil liability of such consultant, contractor, subcontractor or agent resulting from work it performed under the direct control or supervision of the **Firm** in the conduct of the **Professional Services** pursuant to a contract between the **Firm** and the consultant, contractor, subcontractor or agent, provided that such claim:

- (a) is first made against the consultant, contractor, subcontractor, or agent, and is notified to **Chubb**, during the **Period of Insurance**; and
- (b) arises from conduct of the consultant, contractor subcontractor, or agent in the conduct of the **Professional Services** on or after the **Retroactive Date**; and
- (c) all amounts paid under this Extension 3.2 shall be **Loss** and the consultant, contractor, subcontractor or agent shall be deemed to be an **Insured** for the purpose of application of the terms, exclusions and conditions of the **Policy** thereto.

4. Exclusions

Chubb shall not be liable for any **Loss** arising from any **Claim, Legal Representation Expenses** arising from any **Investigation** or any other payment under this **Policy**:

4.1 **Assumed Liabilities & Duties**

directly or indirectly caused by, arising out of or in any way connected with any actual or alleged liability assumed under any contract, agreement or understanding except to the extent that such liability would have attached to the **Insured** in the absence of such contract, agreement or understanding.

4.2 **Financial Failure & Trading Debts**

directly or indirectly caused by, arising out of or in any way connected with any debt of an **Insured** or any guarantee or other undertaking or obligation given by an **Insured** for a debt.

4.3 **Fraud, Dishonesty & Intentional Conduct**

directly or indirectly caused by, arising out of or in any way connected with any **Insured** committing or condoning or allegedly committing or condoning any:

- (a) dishonest or fraudulent act or omission; or
- (b) any malicious, criminal or intentional breach of the law; or
- (c) cartel or other anti-competitive conduct, or gaining any profit or advantage to which the **Insured** is not legally entitled.

4.4 **Managerial Liability**

directly or indirectly caused by, arising out of or in any way connected with any actual or alleged breach by an **Insured** of a duty owed in the capacity of a director, secretary, trustee or officer.

4.5 **Owners or Occupiers Liability**

directly or indirectly caused by, arising out of or in any way connected with:

- (a) the ownership, management, control or occupation of real property by or on behalf of the **Insured**; or

- (b) the ownership, maintenance, operation, possession, use, loading or unloading by or on behalf of the **Insured** of any watercraft, aircraft, motor vehicle or trailer.

4.6 **Obligations to Employees**

directly or indirectly caused by, arising out of or in any way connected with any breach of any obligation owed to any **Employee** arising out of or in the course of that **Employee's** employment by the **Firm**.

4.7 **Pollution**

directly or indirectly caused by, arising out of or in any way connected with **Pollution** or **Pollutants** in whatever form or quantity.

4.8 **Prior Matters**

directly or indirectly caused by, arising out of or in any way connected with any:

- (a) **Claim** first made or **Investigation** first commenced before the **Period of Insurance** or which is a **Claim** first made or **Investigation** first commenced before the **Period of Insurance**; or
- (b) matter notified in whole or in part to **Chubb** or any other insurer before the **Period of Insurance**; or
- (c) **Circumstance** which was known to or ought reasonably to have been known to the **Insured** prior to the commencement of the **Period of Insurance**.

4.9 **Products Liability**

directly or indirectly caused by, arising out of or in any way connected with any goods manufactured, distributed, supplied, installed, treated, assembled or processed by or on behalf of any **Insured**.

4.10 **Related Persons & Entities**

brought or maintained by or on behalf of:

- (a) any **Insured** or parent company of any **Insured**; or
- (b) any entity within the same group of companies as the **Insured**; or
- (c) any person or entity who, at the time of the act, error or omission giving rise to the **Claim** is a **Relative** of any **Insured** or controlled by a **Relative** of any **Insured**.

4.11 **War & Terrorism**

directly or indirectly caused by, arising out of or in any way connected with or in consequence of:

- (a) war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government, public or local authority; or
- (b) any **Act of Terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the **Loss**.

4.12 **Intellectual Property**

directly or indirectly caused by, arising out of or in any way connected with the actual or alleged infringement of any **Intellectual Property** right.

5. Claims Conditions

5.1 Notification of Claims and Investigations

- (a) The **Insured** must give written notice of any **Claim** or **Investigation** as soon as practicable, but always no later than 90 days after the expiry of the **Period of Insurance**, or 30 days after the expiration of the Discovery Period provided under Extension 2.13 (Discovery Period), if applicable, whichever is the later, to:

The Financial Lines Claims Manager
Chubb Insurance Australia Limited
Grosvenor Place
Level 38, 225 George Street
Sydney NSW 2000

- (b) All notifications under this **Policy** must include the following information:
- (i) a specific description of the demand or assertion comprising the **Claim** or **Investigation**, including the date when and manner in which the **Insured** first became aware of the matter; and
 - (ii) the details of any parties involved; and
 - (iii) a copy of any written demand or assertion and any document relating to the commencement of proceedings against the **Insured** once available.

5.2 Conduct of Proceedings

- (a) It is the duty of the **Insured**, not **Chubb**, to defend any **Claim** made against, or arrange representation at an **Investigation** involving, an **Insured**. **Chubb**, however, may take over and conduct (in the name of any **Insured**) the defence of any **Claim** or **Investigation** in respect of which **Chubb** is or may be liable to indemnify such **Insured**.
- (b) An **Insured** must not incur any **Defence Costs** or **Legal Representation Expenses** without the prior written consent of **Chubb**, which shall not be unreasonably withheld. Save as provided for in Extension 2.11 (Emergency Defence Costs and Legal Representation Expenses) of this **Policy**, **Chubb** is not liable to indemnify any **Insured** for any **Defence Costs** or **Legal Representation Expenses** unless **Chubb** provides its prior written consent to the incurring of such **Defence Costs** or **Legal Representation Expenses**.
- (c) An **Insured** must not settle or make any admission, offer, payment or otherwise assume any contractual or other obligation in relation to any **Claim** or **Investigation** in respect of which **Chubb** is, or may be, liable to indemnify any **Insured**, without the prior written consent of **Chubb**. **Chubb** is not liable to indemnify any **Insured** for any settlement, admission, offer, payment or assumed obligation unless **Chubb** provides its prior written consent.

5.3 Multiple Claims and Related Conduct

For the purpose of determining cover under this **Policy**, all **Claims** and/or **Investigations** arising from:

- (a) one act, error or omission; or
- (b) acts, errors or omissions which are the same or are attributable to the one source or originating or underlying cause,

shall be regarded as one **Claim** and/or **Investigation**.

5.4 Mitigation and Co-operation

- (a) The **Insured** must at its own expense take all reasonable steps and precautions in doing all things reasonably practicable to avoid or minimise any actual or potential **Loss** arising from any actual or possible **Claim** and to avoid or minimise any actual or potential **Legal**

Representation Expenses arising from any actual or possible **Investigation** under this **Policy**.

- (b) Each **Insured** must, at its own expense and on an ongoing basis, give **Chubb** and any investigators or legal representatives appointed by **Chubb** all information they reasonably require, and full co-operation and assistance in the conduct of any investigation (including investigations for the purpose of enabling **Chubb** to determine its liability to provide an indemnity under this **Policy**), defence, settlement, avoidance or reduction of any actual or possible **Claim** or **Investigation** or any proceedings.

5.5 Disclosure of Information

Legal representatives appointed by **Chubb** to act on an **Insured**'s behalf shall be entitled to disclose to **Chubb** any information obtained while so acting and each **Insured** agrees to waive any **Claim** for legal professional privilege to the extent that the privilege would otherwise prevent such legal representatives from disclosing information to **Chubb**.

5.6 Disputes as to Defence & Settlement of Claims

- (a) If a dispute arises between **Chubb** and an **Insured** as to whether a **Claim** should be contested, neither **Chubb** nor the **Insured** will require the other to contest the **Claim** unless a Senior Counsel (to be mutually agreed) recommends that the **Claim** should be contested. **Chubb** will brief the Senior Counsel to advise, as an expert, on whether or not the **Claim** should be contested and if not, on the amount for which the **Claim** should be settled. In providing such advice and in making any recommendation as to settlement, the Senior Counsel is entitled to take into account both legal and commercial considerations. The Senior Counsel must have regard to the damages and costs that are likely to be recovered, the **Defence Costs** that will be incurred in contesting the **Claim** and the prospects of the **Claim** being successfully defended. The costs of obtaining this recommendation will be paid by **Chubb**.
- (b) If the Senior Counsel recommends that settlement of the **Claim** should be attempted, then settlement of the **Claim** must be attempted as recommended.
- (c) Where settlement is attempted in accordance with the Senior Counsel's recommendation but is unsuccessful, **Chubb** will continue to indemnify the **Insured** subject to the terms and conditions of this **Policy**.
- (d) If a settlement recommended by the Senior Counsel is acceptable to the claimant, but the **Insured** refuses to consent to such settlement, **Chubb**'s liability will be limited to the amount for which the **Claim** could have been settled, plus the **Defence Costs** or **Legal Representation Expenses** incurred up to the date the refusal to consent was made.

5.7 Subrogation

If any payment is made by **Chubb** in respect of a **Claim** or **Investigation** under this **Policy**, **Chubb** will be subrogated to all rights of indemnity, contribution or recovery of the **Insured** in relation to that payment. No **Insured** may surrender any right, or settle any claim for indemnity, contribution or recovery, without the prior written consent of **Chubb**.

Chubb will not exercise its right of recovery under this Clause 5.7 against another natural person **Insured**, except where that **Insured** has committed, participated in or condoned a dishonest, fraudulent, malicious or criminal act or omission or where such natural person **Insured** is entitled to an indemnity in respect of any **Claim** or **Investigation** under any other insurance effected by him or on his behalf, but only to the extent of the indemnity granted by such other insurance policy.

6. General Conditions

6.1 Limit of Liability

- (a) The aggregate limit of **Chubb's** liability for all **Loss** arising from any one **Claim** is the sum specified in Item 6(a) of the **Schedule**.
- (b) Any sub-limit specified in this **Policy** shall be **Chubb's** maximum aggregate liability under such sub-limit irrespective of the number of **Claims** or **Investigations**, the amount claimed or the number of Insureds who make a **Claim** under this **Policy**. Any sub-limit shall be part of and not in addition to the sum specified in Item 6(b) of the **Schedule**.

Chubb's maximum aggregate liability under this **Policy** for all **Loss** arising from all **Claims** and all **Legal Representation Expenses** arising from all **Investigations**, irrespective of the number of **Claims** or **Investigations** under this **Policy**, the amount claimed or the number of **Insureds** who make claims, is the sum specified in Item 6(b) of the **Schedule**.

6.2 Excess

The **Insured** shall pay the first amount of each and every **Loss** arising from any one **Claim**, up to the amount specified in Item 7 of the **Schedule** as the **Excess**.

6.3 Territorial Limits

To the extent permitted by law, (which expression is for this purpose taken to include any trade or economic sanctions applicable to either party) coverage extends to anywhere in the world except for any **Loss** and/or **Legal Representation Expenses** resulting from the conduct of **Professional Services** which occurred within the territorial limits of the United States of America or the Dominion of Canada and their territories or protectorates.

6.4 Jurisdictional Limits

Subject to the Territorial Limits clause and to the extent permitted by law, coverage extends to **Claims** or **Investigations** anywhere in the world, except for **Claims** or **Investigations**:

- (a) involving the application of the law of the United States of America or the Dominion of Canada or their territories or protectorates; or
- (b) brought in a court of law in the United States of America or the Dominion of Canada or their territories or protectorates; or
- (c) arising out of the enforcement of any judgement, order or award made in any court of law in the United States of America or the Dominion of Canada or their territories or protectorates.

6.5 Policy Construction and Interpretation

In this **Policy**, unless the context otherwise requires:

- (a) the singular includes the plural and vice versa; and
- (b) headings are merely descriptive and not to aid interpretation; and
- (c) if a word or expression is given a definite meaning, any part of speech or other grammatical form of that word or phrase has a corresponding meaning; and
- (d) references to an amount of money are references to that amount in Australian dollars unless otherwise provided; and
- (e) bolded words used in this **Policy** have the meanings set out in Section 7 (Definitions and Interpretation).

6.6 Retroactive Date

Save with respect to any coverage provided pursuant to Optional Extension 3.1 (Principal's Previous Business) only, if a **Retroactive Date** is specified, this **Policy** will not cover, and does not apply to,

any **Claim** or **Investigation** where the **Professional Services** leading to such **Claim** or **Investigation** were or were alleged to have been provided or required to be provided, in whole or in part, before the **Retroactive Date**.

6.7 Authorisation

The first named **Firm** on the **Schedule** agrees to act on behalf of all **Insureds** with respect to:

- (a) the giving and receiving of all notices given under this **Policy** including as to cancellation; and
- (b) the payment of premiums and the receiving of any return premiums that may become due under this **Policy**; and
- (c) the negotiation, agreement to and acceptance of endorsements; and
- (d) the giving or receiving of any notice provided for in this **Policy**; and
- (e) the receipt of all amounts payable by **Chubb** under this **Policy**.

Each **Insured** agrees that the first named **Firm** shall act on its or their behalf and agrees to be bound by all acts or omissions of the first named **Firm**.

6.8 Cancellation

- (a) The **Insureds** may cancel this **Policy** only by the first named **Firm** on the **Schedule** giving 30 days written notice to **Chubb**. If there are no matters notified to **Chubb** under this **Policy**, **Chubb** will allow a refund of unearned premium calculated in accordance with its customary short-term rates.
- (b) **Chubb** may cancel this **Policy** by written notice given to the **Insured** and in accordance with the requirements of the Insurance Contracts Act (Cth) 1984. If there are no matters notified to **Chubb** under this **Policy**, **Chubb** will allow a refund of unearned premium calculated in proportion to the unexpired time on risk but such refund will never be greater than 75% of the premium.

6.9 Governing Law

This **Policy** is governed by, and interpreted in accordance with, the laws of the Commonwealth of Australia and the State or Territory of the office of **Chubb** from which the **Policy** was issued. Disputes relating to interpretation of this **Policy** must be submitted to the exclusive jurisdiction of the Courts of that State or Territory.

6.10 Other Insurance

- (a) If any **Loss** arising from a **Claim** or **Investigation** is insured under any other policy (whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise) entered into by or effected on behalf of the **Insured**, or under which the **Insured** is a beneficiary, whether prior or current, then to the extent permitted by the Insurance Contracts Act 1984 (Cth), this **Policy**, subject to its limitations, conditions, provisions and other terms, will only cover **Loss** to the extent that the amount of such **Loss** is in excess of the amount of such other insurance.
- (b) Clause 6.10(a) above does not apply to such other insurance that is written specifically as excess insurance over the Limit of Liability provided in this **Policy**.

6.11 Severability

The **Proposal** shall be construed as a separate proposal by each natural person **Insured**. With respect to the statements and particulars in the **Proposal**, no fact pertaining to or information possessed by any natural person **Insured** shall be imputed to any other natural person **Insured** to determine whether cover is available for such other natural person **Insured**.

For the purposes of determining coverage to the **Firm** under this **Policy**:

- (a) statements made or knowledge possessed by any past, present or future chief executive officer, chief financial officer, chief operating officer, managing director, chairman, managing partner, company secretary, chief legal officer or other senior personnel concerned in the management or control of that part of the **Business** relevant to the act, error or omission the subject of the **Claim**; and/or
- (b) imputation which arises by operation of law

will be imputed to such **Firm**.

6.12 Confidentiality

The **Insured** must not disclose the terms, the nature or the Limit of Liability or the premium payable under this **Policy**, to any third party, including disclosure in the **Firm**'s annual report if applicable, except where:

- (a) **Chubb** provides written consent; or
- (b) disclosure is required by law.

6.13 GST

Where **Chubb** makes payment under this **Policy**:

- (a) the amount of the payment will be reduced by the amount of any input tax credit to which the **Insured** is or may, in the opinion of **Chubb**, be entitled to claim; and
- (b) the **Insured** must inform **Chubb** of the extent of any entitlement to an input tax credit for the premium at or before the time a claim is made under this **Policy**.

If an **Insured** makes a claim under this **Policy**, it must inform **Chubb** of its Australian Business Number if it has one.

The amount of the applicable **Excess** is calculated after deduction of the amount of any input tax credit that the **Insured** is or may, in the opinion of **Chubb**, be entitled to claim.

7. Definitions & Interpretation

7.1 **Chubb** means

Chubb Insurance Australia Limited (ABN 23 001 642 020).

7.2 **Act of Terrorism** means

- (a) an act, including but not limited to, the use of force, violence and/or the threat thereof, by any person or group(s) of persons, whether acting alone, 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; or
- (b) any action taken in controlling, preventing, suppressing or in any way relating to anything in (a) above regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

7.3 **Business** means

the activities of the **Firm** set out in Item 4 of the **Schedule**.

7.4 **Circumstances** means

any fact, matter or circumstance which gives rise to a **Claim** or **Investigation** or has the potential to give rise to a **Claim** or **Investigation**.

- 7.5 **Claim** means
- (a) the receipt by the **Insured** of any written demand for civil compensation or civil damages or non-monetary civil relief made against the **Insured**; or
 - (b) any originating legal or arbitral process, cross claim, counterclaim or third party notice served upon the **Insured** which contains a demand made against the **Insured** for civil compensation or civil damages or non-monetary civil relief

arising out of the conduct of (including a failure to perform) the **Professional Services**.

7.6 **Computer System** means

electronic, wireless, web or similar system (including all hardware, **Firmware** and software) used to process data or information in an analogue, digital, electronic or wireless format including computer programmes, electronic data processing media, electronic data, electronic data communications equipment, operating systems, computer network and networking equipment, servers, web sites, extranet, and all input, output, processing, storage and on-line or off-line media libraries, music, graphic, entertainment and other content (to the extent they hold electronic data).

7.7 **Computer Virus** means

computer instructions placed on a **Computer System** without the owner or user's knowledge or consent that are designed to harm the **Computer System**. **Computer Virus** includes malicious codes, malware, Trojan horses, worms and time or logic bombs.

7.8 **Continuity Date**

the date specified in Item 12 of the **Schedule**.

7.9 **Cyber and Privacy Infringement Liability** means

civil liability arising out of :

- (a) any **Internet** content;
- (b) the **Insured's** infringement of any right to privacy;
- (c) the **Insured's** breach of confidence or misuse of confidential information held on its **Computer System**; and/or
- (d) the **Insured's** failure to prevent a party, other than an **Insured**, from unauthorised access to, use of or tampering with **Computer Systems** including:
 - (i) **Hacker Attacks**;
 - (ii) **Computer Virus** attacks;
 - (iii) **Theft of Electronic Data**; and
 - (iv) any inadvertent transmission by the **Insured** to a third party of any **Computer Virus**.

7.10 **Defence Costs** means

reasonable legal and other professional fees, costs and expenses incurred by and with the prior written consent of **Chubb**, not to be unreasonably withheld or delayed, that are necessary to defend or appeal a covered **Claim**.

7.11 **Documents** means

documents of any nature except money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes or any other form of negotiable instrument, legally owned by a client of the **Insured**.

7.12 **Employee** means

- (a) each person who was, is or becomes employed by the **Firm** in the ordinary course of the **Business** and who is paid by the **Firm** by way of salary or wages; or
- (b) a volunteer working without fee or reward in the ordinary course of the **Business**,

provided that the performance of whose duties is subject to the direction and control of the **Firm**.

7.13 **Excess** means

the amount specified in Item 7 of the **Schedule**.

7.14 **Firm** means

the entity, partnership or company specified in Item 2 of the **Schedule** and any **Subsidiary**. Where two or more entities are specified, the **Firm** means each of them, unless the context otherwise requires.

7.15 **Hacker Attack** means

the gaining of access to or use of any **Computer Systems** by a person not authorised to do so or in an unauthorised manner.

7.16 **Insolvency Event** means

- (a) The appointment of an administrator, special manager, provisional liquidator or liquidator to the **Firm**; or
- (b) Where (except for the purpose of a solvent reconstruction or amalgamation) an application or an order is made, proceedings are commenced, a resolution is passed or proposed in a notice of meeting, an application to a court or other steps are taken for:
 - (i) the winding up, dissolution or administration of the **Firm**; or
 - (ii) the **Firm** entering into an arrangement, amalgamation, compromise, composition or reconstruction with or assignment for the benefit of its creditors or a class of creditors.

7.17 **Insured** means

- (a) the **Firm**; and
- (b) each **Principal**, but only in respect of work performed in the capacity of a **Principal** of the **Firm**; and
- (c) each **Employee**, but only in respect of work performed in the capacity of an **Employee** of the **Firm**; and
- (d) the estate, heirs or legal representatives of each deceased or legally incapacitated **Principal** or **Employee** but only to the extent that such **Principal** or **Employee** would have been covered under this **Policy** in the absence of such death or legal incapacity, as the case may be, and only in respect of work performed by the **Principal** or **Employee** in their capacity as a **Principal** or **Employee** of the **Firm**; and
- (e) the lawful spouse or domestic partner of each **Principal** or **Employee** but only to the extent that such **Principal** or **Employee** would have been covered under this **Policy**, as the case may be, and only in respect of work performed by the **Principal** or **Employee** in their capacity as a **Principal** or **Employee** of the **Firm**.

7.18 **Intellectual Property** means

all present and future rights conferred by statute, common law or equity in or in relation to copyright, trade-marks, designs, patents, circuit layouts, plant varieties, company, **Business** and domain names and inventions.

7.19 **Internet** means

The worldwide public network of computer networks that enable the transmission of electronic data between different users;

7.20 **Investigation** means

a formal or official investigation, examination or inquiry before any duly constituted court or tribunal or other body having the power to compel the attendances of witnesses (including any hearing before any disciplinary body of any professional institution or association) against any **Insured** arising out of

Professional Services other than any industry-wide investigation and/or routine supervision, inspection, compliance or similar review.

7.21 **Joint Venture** means

any enterprise carried on in common by the **Firm** with a third party or parties (not being an **Insured** under this **Policy**).

7.22 **Legal Representation Expenses** means

the reasonable legal costs or related professional fees incurred by or on behalf of an **Insured** (but not including any remuneration of any **Principal** or **Employee**) with the prior written consent of **Chubb**, whose consent is not to be unreasonably withheld or delayed, directly in connection with an **Insured** co-operating with or being represented at an **Investigation**.

7.23 **Loss** means

all amounts which an **Insured** becomes legally obligated to pay in respect of a **Claim** (including but not limited to any damages, judgments entered or settlements reached) and **Defence Costs**.

Loss does not include:

- (a) aggravated, punitive or exemplary damages; or
- (b) fines or penalties imposed by law (which terms, for the avoidance of doubt, do not include any civil compensatory orders as covered by Extension 2.17); or
- (c) costs incurred by the **Insured** in complying with any order for, grant of, or agreement to provide injunctive or non-monetary relief; or
- (d) any amount which constitutes reduction, set off or return of fees or expenses, in whole or in part, paid to or charged by an **Insured**; or
- (e) any internal or overhead expenses of the **Firm** or the cost of any **Insured**'s time; or
- (f) taxes or sums payable in relation to taxes; or
- (g) any matters which are uninsurable under any applicable law or where the **Claim** is made.

7.24 **Period of Insurance** means

the period specified in Item 5 of the **Schedule**.

7.25 **Policy** means:

the contract of insurance between **Chubb** and the **Insured** which comprises this policy wording, the **Proposal**, the **Schedule** and any endorsement issued by **Chubb** varying the **Policy** coverage.

7.26 **Pollutants** means

any contaminant, irritant or other matter or substance including but not limited to oil, smoke, vapour, soot, asbestos, asbestos-containing materials, fumes, fungi, acids, alkalis, nuclear or radioactive material, chemicals and waste. Waste includes materials to be recycled, reconditioned or re**Claimed**.

7.27 **Pollution** means

the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of any **Pollutant** whether in solid, liquid, gas, odour, noise, vibration, electromagnetic radiation, ionising radiation, thermal or other form at any time.

7.28 **Principal** means

where the **Firm** is or was:

- (a) a company, each director of that company; and

- (b) a partnership, each partner of that partnership and each person held out as a partner; and
- (c) a sole practitioner, that practitioner,

and includes each former **Principal** and each person who becomes a **Principal** during the **Period of Insurance**.

7.29 **Professional Services** means

the **Business** performed or required to be performed by an **Insured** for or on behalf of a client of the **Firm** for a fee or any other type of consideration.

7.30 **Proposal** means

the written proposal and any supplementary proposal including any statements and information contained therein and any material relied upon by **Chubb** in issuing cover under this **Policy**, or any **Policy** issued by **Chubb** of which this **Policy** is a renewal.

7.31 **Relative** means

- (a) any legal spouse, domestic partner or companion; or
- (b) any parent, or parent of the spouse, domestic partner or companion; or
- (c) any sibling or child.

7.32 **Retroactive Date** means:

the date specified in Item 8 of the **Schedule**.

7.33 **Schedule** means

the schedule **Chubb** issues to the **Firm** with this **Policy** or any subsequent or amended version of that schedule.

7.34 **Subsidiary** means

any entity:

- (a) over which the **Firm** is in a position to exercise actual direction and control; or
- (b) which is deemed to be a subsidiary of the **Firm** by virtue of any applicable legislation or law.

7.35 **Theft of Electronic Data** means

The unauthorised taking or misuse of information by a third party (other than an **Insured**) that exists in electronic form, or which is in the course of transmission to or from a mobile or wireless device which is intended to interact with a **Computer System**, including account information, confidential information, proprietary information and personal information while stored in a **Computer System** maintained by an **Insured** to reasonable security standards and back up procedures.

Privacy Statement

Chubb Insurance Australia Limited (Chubb) is committed to protecting your privacy. This document provides you with an overview of how we handle your personal information. Our Privacy Policy can be accessed on our website at www.chubb.com/au.

Personal Information Handling Practices

Collection, Use and Disclosure

We collect your personal information (which may include sensitive information) when you are applying for, changing or renewing an insurance policy with us or when we are processing a claim in order to help us properly administrate your insurance proposal, policy or claim.

Personal information may be obtained by us directly from you or via a third party such as your insurance intermediary or employer (e.g. in the case of a group insurance policy).

When information is provided to us via a third party we use that information on the basis that you have consented or would reasonably expect us to collect your personal information in this way and we take reasonable steps to ensure that you have been made aware of how we handle your personal information.

The primary purpose for our collection and use of your personal information is to enable us to provide insurance services to you. Sometimes, we may use your personal information for our marketing campaigns, in relation to new products, services or information that may be of interest to you.

We may disclose the information we collect to third parties, including service providers engaged by us to carry out certain business activities on our behalf (such as assessors and call centres in Australia). In some circumstances, in order to provide our services to you, we may need to transfer personal information to other entities within the Chubb Group of companies (such as the regional head offices of Chubb located in Singapore, UK or USA), or third parties with whom we or those other Chubb Group entities have sub-contracted to provide a specific service for us, which may be located outside of Australia (such as in the Philippines or USA). Please note that no personal information is disclosed by us to any overseas entity for marketing purposes.

In all instances where personal information may be disclosed overseas, in addition to any local data privacy laws, we have measures in place to ensure that those parties hold and use that information in accordance with the consent you have provided and in accordance with our obligations to you under the Privacy Act 1988 (Cth).

Your Choices

In dealing with us, you agree to us using and disclosing your personal information as set out in this statement and our Privacy Policy. This consent remains valid unless you alter or revoke it by giving written notice to our Privacy Officer. However, should you choose to withdraw your consent it is important for you to understand that this may mean we may not be able to provide you or your organisation with insurance or to respond to any claim.

How to Contact Us

If you would like a copy of your personal information, or to correct or update it, please contact our customer relations team on 1800 815 675 or email CustomerService.AUNZ@chubb.com.

If you have a complaint or would like more information about how we manage your personal information, please review our Privacy Policy for more details or contact the Privacy Officer, Chubb Insurance Australia Limited, GPO Box 4907, Sydney NSW 2001, Tel: +61 2 9335 3200 or email Privacy.AU@chubb.com.

General Insurance Code of Practice

We are a signatory to the General Insurance Code of Practice (the Code). The objectives of the Code are to further raise standards of service and promote consumer confidence in the general insurance industry. Further information about the Code and your rights under it is available at www.codeofpractice.com.au and on request.

About Chubb in Australia

Chubb is the world's largest publicly traded property and casualty insurance company. With operations in 54 countries, Chubb provides commercial and personal property and casualty insurance, personal accident and supplemental health insurance, reinsurance and life insurance to a diverse group of clients. As an underwriting company, we assess, assume and manage risk with insight and discipline. We service and pay our claims fairly and promptly. The company is also defined by its extensive product and service offerings, broad distribution capabilities, exceptional financial strength and local operations globally. Parent company Chubb Limited is listed on the New York Stock Exchange (NYSE: CB) and is a component of the S&P 500 index. Chubb maintains executive offices in Zurich, New York, London and other locations, and employs approximately 31,000 people worldwide.

Chubb, via acquisitions by its predecessor companies, has been present in Australia for over 50 years. Its operation in Australia (Chubb Insurance Australia Limited) provides specialised and customised coverages, including Marine, Property, Liability, Energy, Professional Indemnity, Directors & Officers, Financial Lines, Utilities, as well as Accident & Health insurance, to a broad client base. Chubb is a major insurer of many of the country's largest companies. With five branches and over 500 staff in Australia, it has a wealth of local expertise backed by its global reach and breadth of resources.

More information can be found at www.chubb.com/au

Contact Us

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