

# Accountants Professional Liability Insurance

## Policy Wording

### Notice

This is a claims made insurance policy. This Policy will only apply to **Claims** first made against the **Insured** by a **Third Party** and reported to the **Insurer** during the **Policy Period**. The amounts incurred for legal defence shall be applied against the **Retention** amount, unless otherwise specified in the Schedule.

In consideration of the payment of the **Premium** and subject to all of the provisions of this Policy, the **Insurer** agrees as follows.

### Covers

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All Cover under this Policy is afforded solely with respect to **Claims** first made against an **Insured** during the **Policy Period** and reported to the **Insurer** as required by this Policy.

<b>Professional Liability</b>	The <b>Insurer</b> will pay on behalf of any <b>Insured</b> all <b>Damages</b> resulting from any <b>Claim</b> for any <b>Breach of Duty</b> of the <b>Insured</b> .
<b>Misleading or Deceptive Conduct</b>	The <b>Insurer</b> will pay on behalf of any <b>Insured</b> all <b>Damages</b> resulting from any <b>Claim</b> for any <b>Misleading or Deceptive Conduct</b> of the <b>Insured</b> .
<b>Intellectual Property</b>	The <b>Insurer</b> will pay on behalf of any <b>Insured</b> all <b>Damages</b> resulting from any <b>Claim</b> for any <b>Infringement</b> .
<b>Defamation</b>	The <b>Insurer</b> will pay on behalf of any <b>Insured</b> all <b>Damages</b> resulting from any <b>Claim</b> for libel or slander committed unintentionally by an <b>Insured</b> .
<b>Fraud/Dishonesty</b>	The <b>Insurer</b> will pay on behalf of any <b>Insured</b> , who is not the actual perpetrator, all <b>Damages</b> resulting from any <b>Claim</b> for <b>Fraud/Dishonesty</b> of any <b>Employee</b> .
<b>Defence</b>	The <b>Insurer</b> has the right to defend any <b>Claim</b> which this Policy may respond to under its Covers or Extensions. The <b>Insurer</b> shall pay <b>Defence Costs</b> incurred in defending such <b>Claim</b> in addition to the <b>Limit of Liability</b> .

The **Insurer** is under no obligation to pay **Loss**, unless the **Wrongful Act** first takes place on or after the **Retroactive Date** and is committed solely in the performance of or failure to perform **Professional Services**.

### Extensions

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Subject to all of the provisions of this Policy, Cover is extended as outlined below. The total of all payments made under these Extensions shall be part of and not in addition to the **Limit of Liability** unless otherwise specifically stated. These Extensions are also subject to the **Retention** unless otherwise specifically stated.

<b>Consequential Costs and Court Attendance</b>	Notwithstanding the definition of <b>Defence Costs</b> , the <b>Insurer</b> shall indemnify the <b>Insured</b> for:  The reasonable costs of internal expenses incurred by an <b>Insured</b> in the collation and reproduction of documents required by the <b>Insurer</b> in the investigation, defence, adjustment, settlement or appeal of any <b>Claim</b> ; or (i) the reasonable cost of internal expenses incurred by an <b>Insured</b> in the collation and reproduction of documents required by the <b>Insurer</b> in the investigation, defence, adjustment, settlement or appeal of any <b>Claim</b> ; or.
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- (ii) the reasonable cost of an **Insured's** time, as determined by the **Insurer**, in the investigation, defence, adjustment, settlement or appeal of any **Claim**, that is not covered by the definition of **Defence Costs**

In addition to above costs, the **Insurer** will pay court attendance costs as follows:

For any person described in (i) and (ii) below who actually attends court as a witness in connection with a **Claim** notified under and covered by this Policy, **Defence Costs** will include the following rates per day for each day on which attendance in court has been required:

- (i) for any principal, partner, or director of the **Insured** \$500
- (ii) for any **Employee** \$250

The **Insurer** shall not be liable under this Extension for any costs incurred by the **Insured** without the **Insurer's** prior written consent. This Extension will be subject to the Consequential Costs and Court Attendance Sub-limit as specified in the Schedule.

**Extended Reporting Period**

If the **Insurer** cancels or does not renew this Policy, other than for non-payment of **Premium** or any other breach of the terms of this Policy by an **Insured**, the **Policyholder** shall have the right to a period of thirty (30) days following the date of cancellation or expiry in which to give notice of any covered **Claim** first made against the **Insured**. That extended reporting period shall not apply if this Policy or its Cover has been replaced.

**Employee Fidelity**

The **Insurer** shall indemnify the **Insured** for any loss first discovered by the **Insured** and notified to the **Insurer** during the **Policy Period** arising from loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes that are the property of the **Insured** which the **Insured** shall discover has been sustained in consequence of any dishonest or fraudulent act(s) or omission(s) of any **Employee**. This Extension will be subject to the Employee Fidelity Sub-limit as specified in the Schedule.

**Lost Documents**

With respect to a **Third Party's Documents**:

- (i) for which an **Insured** is legally responsible; and
- (ii) that, during the **Policy Period**, have been destroyed, damaged, lost, distorted, erased or mislaid solely in the performance or non-performance of **Professional Services**,

**Damages** shall also include costs and expenses reasonably incurred by the **Insured** in replacing or restoring such **Documents** provided that:

- (i) such loss or damage is sustained while the **Documents** are either:
  - (a) in transit; or
  - (b) in the custody of the **Insured** or of any person to whom the **Insured** has entrusted them;
- (ii) where the lost or mislaid **Documents** have been the subject of a diligent search by or on behalf of the **Insured**;
- (iii) the amount of any **Claim** for such costs and expenses shall be supported by evidence of expenditure that shall be subject to written approval by a competent person to be nominated by the **Insurer** with the consent of the **Insured**; and

- (iv) the **Insurer** shall not be liable for any **Claim** arising out of wear, tear and/or gradual deterioration, moth and vermin, or other matters beyond the

### **Insured's control.**

This Extension will be subject to the Lost Documents Sub-limit specified in the Schedule. A separate retention of \$1,000 instead of the **Retention** will apply to each **Claim** covered under this Lost Documents Extension.

#### Quasi-Judicial Costs

The **Insurer** shall indemnify the **Insured** for all costs and expenses incurred by or on behalf of the **Insured** during the **Policy Period** and which is reported to the **Insurer** during such period in respect of the investigation and defence of any complaint against the **Insured** by any statutory or professional body which claims jurisdiction to inquire or adjudicate in any such matter. This Extension will be subject to the Quasi-Judicial Costs Sub-limit as specified in the Schedule.

#### Reinstatements

The **Insured** shall be entitled hereunder to two (2) reinstatements of the **Limit of Liability** if **Claims** made during the **Policy Period** and/or **Claims** which arise after the **Policy Period** from circumstances notified during the **Policy Period**, give rise to **Loss** which exceeds both the **Limit of Liability** and any sums to which the **Insured** are entitled under any insurance in excess of this **Policy** and all other applicable liability insurance contracts and self-insurance.

The reinstated **Limit of Liability** will be made available to the **Insured** three (3) times, only upon exhaustion of the limits of liability of all other available sources of indemnity for **Loss** covered by this **Policy**. If the **Insured** is entitled to a reinstated **Limit of Liability**, the total amount payable by the **Insurer** under this **Policy** in the aggregate, irrespective of the number of **Insureds** and the number of **Claims** shall not exceed three times the **Limit of Liability**. Following a reinstatement of the **Limit of Liability**, all provisions of this **Policy** which refer to the **Limit of Liability** will be deemed to refer to the **Limit of Liability** and the reinstated **Limit of Liability** combined.

The liability of the Insurer in respect of all **Claims** or **Losses** resulting from a single **Wrongful Act** shall not exceed the **Limit of Liability**. A further reinstated **Limit of Liability** will apply only in respect of **Wrongful Acts** committed after the date of such reinstatement and will not apply to any liability which arises out of, or is deemed by law or pursuant to the terms of this **Policy**, to be related directly to any **Wrongful Act, Loss, Claim** or **Limit of Liability** and any sums to which the **Insured** are entitled under any insurance in excess of this **Policy** and all other applicable liability insurance contracts and self-insurance.

## **Optional Extensions**

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Subject to all of the provisions of this Policy, Cover is extended as outlined below and as specified in the Schedule. The total of all payments made under these Extensions shall be part of and not in addition to the **Limit of Liability** unless otherwise specifically stated. These Extensions are also subject to the **Retention** unless otherwise specifically stated.

#### Accounting Software Services

The definition of **Professional Services** is extended to include advice and services, provided by the **Insured** in respect of packaged Accounting Software. Under this Extension the **Insurer** also agrees to indemnify the **Insured** for the direct financial loss sustained by a **Third Party** resulting from any **Claim** arising from the transmission of a **Computer Virus** by the **Insured**. This Optional Extension, if selected, will be subject to the Accounting Software Sub-limit specified in the Schedule.

#### Investment Advice

The definition of **Professional Services** is extended to include advice and services provided by the **Insured** as an investment advisor, as defined by the Investment Advisors (Disclosure) Act 1996, in respect of investment advice and

services (including asset allocation, risk management, retirement planning, and estate planning). This Optional Extension, if selected, will be subject to the Investment Advice Sub-limit specified in the Schedule.

Partners' Previous Business

To the extent that a principal, partner or director of the **Policyholder** has personal liability for **Professional Services** rendered prior to becoming a principal, partner or director of the **Policyholder**.

Cover is provided for the principal, partner or director that are named in the Schedule and only for the previous Entities listed in the Schedule in whose name the prior professional services were rendered.

This Optional Extension, if selected, will be subject to the Partners Previous Business Sub-limit specified in the Schedule.

Partner Dishonesty

The **Insurer** shall indemnify the **Insured** for **Damages** resulting from any **Claim** arising from the dishonest, fraudulent, criminal or malicious act(s) or omission(s) of any current or former partners of the firm occurring or committed in connection with the **Policyholder's Professional Services**,

provided that:

- (i) such conduct has not been condoned by any other **Insured**; and
- (ii) there is no indemnity for any **Claim** resulting from such conduct occurring or committed prior to the **Retroactive Date**; and
- (iii) there is no indemnity for the person(s) who committed, or was alleged to have committed the conduct or who has condoned the conduct.

This Optional Extension, if selected, will be subject to the Partner Dishonesty Sub-limit specified in the Schedule.

Outside Trustee's Liability

The **Insurer** shall indemnify the **Insured** for **Outside Trustee Liability**, provided always that:

- (i) the cover provided under this Extension applies in excess of any indemnity provided to the **Insured** by the **Outside Trust** in respect of any such **Claim**;
- (ii) the cover provided under this Extension applies in excess of the cover provided by the insurance policies of the **Outside Trust**, including any policies which are a renewal or replacement of those policies, in respect of any such **Claim**;
- (iii) if an **Outside Trust** has insurance which covers any such **Claim** which is also covered under this Extension and that other insurance is provided by the **Insurer**, or by any affiliate company of the **Insurer**, then the maximum amount payable by the **Insurer** under both policies will not exceed the limit of liability of the Policy which has the highest limit of liability; and
- (iv) the **Insurer** is not liable to make any payment for **Damages** in connection with any **Claim** made against an **Outside Trustee** which is made by the **Outside Trust** or by any trustee of the **Outside Trust**.

The restrictions in cover specified in (iv) above do not apply to any **Claim** made against an **Insured** in their capacity as an **Outside Trustee**:

- (i) for contribution or indemnity by another trustee of the **Outside Trust**, provided the **Claim** results directly from another claim which would be covered under this Extension if it was made directly against the **Insured** in their capacity as an **Outside Trustee**;
- (iii) made in the name of the **Outside Trust** by any legally authorised individual

or entity, other than the **Outside Trust** itself, where the claimant acts without any express or tacit consent, acquiescence, concurrence, enticement or co-operation from the **Outside Trust** or from any **Insured**.

## Definitions

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<b>Accounting Services</b>	<p>means any advice given or services performed by the <b>Insured</b> in the conduct of practice as a Chartered accountant</p> <p><b>Accounting Services</b> does not include any Investment Advice Services or Accounting Software Services unless those Extensions are included in the Schedule.</p>
<b>Bodily Injury</b>	<p>means physical injury, sickness, disease or death; and if arising out of the foregoing, nervous shock, emotional distress, mental anguish or mental injury.</p>
<b>Breach of Duty</b>	<p>means any actual or alleged breach of duty, act, error, misstatement, breach of confidentiality or omission in the performance of or failure to perform <b>Professional Services</b>.</p>
<b>Claim</b>	<p>means any:</p> <ul style="list-style-type: none"><li>(i) written demand; or</li><li>(ii) civil or administrative proceeding,</li></ul> <p>that seeks <b>Damages</b> as a result of <b>Wrongful Acts</b> covered by this Policy.</p>
<b>Computer Virus</b>	<p>means any program or code that causes loss or damage to an <b>Insured's</b> Accounting Software and/or prevents or impairs any computer system from performing and/or functioning accurately and properly.</p>
<b>Damages</b>	<p>means any amount that an <b>Insured</b> shall be legally liable to pay to a <b>Third Party</b> in respect of judgments rendered against an <b>Insured</b>, or for settlements which conform with the consent requirements set out in the "Claims" Conditions Section of the Policy, subject to the limitations of <b>Loss</b>.</p>
<b>Defence Costs</b>	<p>means reasonable fees, costs and expenses incurred by or on behalf of the <b>Insured</b> in the investigation, defence, adjustment, settlement or appeal of any <b>Claim</b>.</p> <p><b>Defence Costs</b> shall not mean any internal or overhead expenses of any <b>Insured</b> or the cost of any <b>Insured's</b> time, except for those costs specifically noted in the Consequential Costs and Court Attendance Extension.</p>
<b>Documents</b>	<p>means all documents of any nature whatsoever including computer records and electronic or digitized data; but does not include any currency, negotiable instruments or records thereof.</p>
<b>Employee</b>	<p>means any natural person who is or has been expressly engaged as an employee under a contract of employment with the <b>Policyholder</b> or any <b>Subsidiary</b>.</p> <p><b>Employee</b> shall not mean any:</p> <ul style="list-style-type: none"><li>(i) principal, partner or director of the Policyholder; or</li><li>(ii) temporary contract labour, self-employed person or labour-only sub-contractor.</li></ul>
<b>Fraud/Dishonesty</b>	<p>means fraudulent or dishonest conduct of an <b>Employee</b>:</p> <ul style="list-style-type: none"><li>(i) not condoned, expressly or implicitly, by; and</li><li>(ii) that results in liability to;</li></ul>

	the <b>Policyholder</b> or any <b>Subsidiary</b> .
<b>Infringement</b>	means an unintentional infringement of any intellectual property right of any <b>Third Party</b> , other than patents and <b>Trade Secrets</b> .
<b>Insured</b>	means: <ul style="list-style-type: none"> <li>(i) the <b>Policyholder</b> or any <b>Subsidiary</b>;</li> <li>(ii) any natural person, who is or has been a principal, partner or director of the <b>Policyholder</b> or any <b>Subsidiary</b>;</li> <li>(iii) any <b>Employee</b>;</li> <li>(iv) any temporary contract labour, self-employed persons, labour-only sub-contractors, solely under contract with, and under the direction and direct supervision of the <b>Policyholder</b> or any <b>Subsidiary</b>;</li> </ul> <p>but only when providing <b>Professional Services</b> in the foregoing capacities.</p> <p><b>Insured</b> also includes any estate or legal representatives of any <b>Insured</b> described in (ii) and (iii) of this definition with respect to the <b>Insured's</b> provision of <b>Professional Services</b> in any such capacity.</p>
<b>Insurer</b>	means the entity specified as such in the Schedule.
<b>Limit of Liability</b>	means the amount specified as such in the Schedule.
<b>Loss</b>	means <b>Damages</b> and <b>Defence Costs</b> . <p><b>Loss</b> shall not include and this Policy shall not cover any: (i) taxes payable by the <b>Insured</b>; (ii) non-compensatory damages, including punitive, multiple, exemplary or liquidated damages; (iii) restitutionary relief; (iv) fines or penalties; (v) the costs and expenses of complying with any order for, grant of or agreement to provide injunctive or other non-monetary relief; (vi) employment related compensation or benefits, overhead, charges or expenses of any <b>Insured</b>; or (vii) any matters which may be deemed uninsurable under the law governing this Policy or the jurisdiction in which a <b>Claim</b> is brought.</p>
<b>Misleading or Deceptive Conduct</b>	means any actual or alleged misleading or deceptive conduct at law or under the Fair Trading Act 1986 or any similar legislation.
<b>Outside Director</b>	means a natural person specified as an <b>Insured</b> in paragraph (ii) of that definition who is validly appointed as a director or officer of an <b>Outside Entity</b> at the specific written request or written approval of the <b>Insured</b> .
<b>Outside Entity</b>	means any entity to which an <b>Insured</b> is appointed as an <b>Outside Director</b> and includes those entities of which an <b>Insured</b> was formerly an <b>Outside Director</b> . <p><b>Outside Entity</b> does not include publicly listed companies or financial institutions.</p>
<b>Outside Trustee Liability</b>	means any wrongful act, error or omission of the <b>Insured</b> in their capacity as an <b>Outside Trustee</b> .
<b>Outside Trustee</b>	means a natural person specified as an <b>Insured</b> in paragraphs (ii) and (iii) of that definition who is validly appointed as a trustee of an <b>Outside Trust</b> at the specific written request or written approval of the <b>Insured</b> . <b>Trustee</b> also includes any corporate trustee and its directors established by the <b>Policyholder</b> for the sole purpose of acting as a <b>Trustee</b> of a <b>Trust</b> . For the purposes of the Trustees Liability Extension, a corporate trustee is not an <b>Outside Entity</b> and its directors are not <b>Outside Directors</b> .
<b>Outside Trust</b>	means any trust to which an <b>Insured</b> is appointed as a <b>Trustee</b> and includes those entities of which an <b>Insured</b> was formerly a <b>Trustee</b> , but does not include a <b>Trading Trust</b> .

<b>Policy Period</b>	means the period of time specified in the Schedule unless the Policy is cancelled in which event the <b>Policy Period</b> will end on the effective date of the cancellation.
<b>Policyholder</b>	means the entity or natural person specified as such in the Schedule.
<b>Pollutants</b>	means, but is not limited to, any solid, liquid, biological, radiological, gaseous or thermal irritant or contaminant whether occurring naturally or otherwise, including asbestos, smoke, vapour, soot, fibres, mould, spores, fungus, germs, fumes, acids, alkalis, nuclear or radioactive material of any sort, chemicals or Waste. "Waste" includes, but is not limited to, material to be recycled, reconditioned or reclaimed.
<b>Premium</b>	means the amount specified as such in the Schedule and any premium adjustment reflected in an endorsement to this Policy.
<b>Professional Services</b>	means the professional services of the <b>Policyholder</b> and any <b>Subsidiary</b> as specified in the Schedule.
<b>Property Damage</b>	means damage to or loss of or destruction of tangible property or loss of use thereof.
<b>Retention</b>	means the amount specified as such in the Schedule.
<b>Retroactive Date</b>	means the date specified as such in the Schedule.
<b>Subsidiary</b>	<p>means companies in which the <b>Policyholder</b>, either directly or indirectly through one or more of its <b>Subsidiaries</b>;</p> <ul style="list-style-type: none"> <li>(i) controls the composition of the board of directors;</li> <li>(ii) controls more than half of the voting power; or</li> <li>(iii) holds more than half of the issued share capital.</li> </ul> <p>For any <b>Subsidiary</b> or any <b>Insured</b> thereof, cover under this Policy shall only apply to <b>Wrongful Acts</b> committed while such entity is a <b>Subsidiary</b> of the <b>Policyholder</b>.</p>
<b>Third Party</b>	means any entity or natural person; provided, however, <b>Third Party</b> does not mean: (i) any <b>Insured</b> ; or (ii) any other entity or natural person having a financial interest or executive role in the operation of the <b>Policyholder</b> or any <b>Subsidiary</b> .
<b>Trade Secret</b>	means information that derives independent economic value, actual or potential, from not being generally known and not being readily ascertainable through proper means by other persons who can obtain economic advantage from its disclosure or use.
<b>Trading Trust</b>	means a trust which principally carries on a trade or business.
<b>Wrongful Act</b>	means any <b>Breach of Duty, Misleading or Deceptive Conduct, Infringement, libel, slander, Outside Trustee Liability or Fraud/Dishonesty</b>

## Exclusions

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This Policy shall not cover **Loss** in connection with any **Claim**:

Anti-competitive Conduct	arising out of, based upon or attributable to any actual or alleged restrictive trade practices, restraint of trade or unfair competition;
Audit of Public Listed Companies and Financial Institutions	arising out of, based upon or attributable to the audit of a public listed company or financial institution;

Beneficial Interest	<p>arising out of (i) the provision by any <b>Insured</b> of any advice, inducement, recommendation, endorsement or opinion regarding any proposed or existing investment; or (ii) any sale or purchase of securities; in which any <b>Insured</b> has a direct or indirect beneficial ownership or interest.</p> <p>This Exclusion also does not apply to a direct or indirect beneficial interest or shareholding of less than 5% in a public listed company;</p>
Bodily Injury/ Property Damage	<p>arising out of, based upon or attributable to <b>Bodily Injury</b> or <b>Property Damage</b> unless arising from an actual or alleged failure to achieve the legally required standard of care, diligence and expertise in performing <b>Professional Services</b>;</p>
Commingling of Funds	<p>arising out of, based upon or attributable to any actual or alleged commingling of funds by the <b>Insured</b> or any inability or failure of the <b>Insured</b> to pay, collect, safeguard or account for client funds;</p>
Continuity /Prior Claims/Circumstances/ Litigation	<p>made prior to or pending at the inception of this Policy; or</p> <p>arising out of, based upon or attributable to any:</p> <ul style="list-style-type: none"> <li>(i) actual or alleged <b>Wrongful Act</b> committed before the <b>Continuity Date</b> as specified in the Schedule if, on or before that date, the <b>Insured</b> knew or ought reasonably to have foreseen that such <b>Wrongful Act</b> would or could lead to a <b>Claim</b>; or</li> <li>(ii) facts or circumstances of which notice was given or ought reasonably to have been given under any policy in force; or</li> <li>(iii) pending or prior litigation derived from the same or essentially the same facts as might be alleged in such prior or pending litigation, as at the <b>Continuity Date</b> as specified in the Schedule;</li> </ul>
Contractual Liability/ Performance Guarantees	<p>arising out of, based upon or attributable to any:</p> <ul style="list-style-type: none"> <li>(i) contractual liability or other obligation assumed, that goes beyond the duty to use such skill and care as is ordinarily applied to the <b>Professional Services</b> provided, taking into consideration any specialised knowledge or expertise; or</li> <li>(ii) guarantee or warranty; or</li> <li>(iii) delay in performing, failing to perform or failing to complete any <b>Professional Services</b>, unless such delay or failure arises from a <b>Breach of Duty</b> by an <b>Insured</b>;</li> </ul>
Corporate Advisory	<p>arising out of, based upon or attributable to the actual or alleged giving of any advice or recommendations by or on behalf of the <b>Insured</b> regarding corporate advisory or investment banking activities;</p>
Costs Assessment	<p>arising out of, based upon or attributable to any failure by any <b>Insured</b> or other party acting for the <b>Insured</b> to make an accurate pre-assessment of the cost of performing <b>Professional Services</b>;</p>
Deliberate or Reckless Acts	<p>arising out of, based upon or attributable to any deliberate or reckless <b>Wrongful Act</b>; provided, however, that this Exclusion shall not apply to the Fraud/Dishonesty Cover, the Employee Fidelity Extension or the Partner Dishonesty Optional Extension;</p>
Discretionary Investments	<p>arising out of, based upon, attributable to any investment of client funds by the <b>Insured</b> (or by its agents) unless the investment of such funds is based upon specific written instructions received by the <b>Insured</b> from the client before such funds are invested;</p>



Employment/ Discrimination	arising out of, based upon or attributable to any: (i) actual or alleged employment related practices, harassment or discrimination; or (ii) intentional or systemic harassment or discrimination;
Infrastructure	arising out of, based upon or attributable to: <ul style="list-style-type: none"> <li>(i) mechanical failure;</li> <li>(ii) electrical failure, including any electrical power interruption, surge, brown out or black out; or</li> <li>(iii) telecommunications or satellite systems failure;</li> </ul>
Insolvency	arising out of, based upon or attributable to the insolvency, administration or receivership of any <b>Insured</b> or <b>Outside Trust</b> or their actual or alleged inability to meet any or all of their debts as they fall due;
Investment Performance	arising out of, based upon, attributable to, any actual or alleged verbal or written guarantee or warranty provided by or on behalf of the <b>Insured</b> as to future returns from any investments including, but not limited to, investments in securities, commodities, currencies, options, futures, derivatives, real estate and the like;
Misdeeds	arising out of, based upon or attributable to any act which a court, official tribunal or arbitrator finds, or which an <b>Insured</b> admits, to be a criminal, dishonest or fraudulent act; and in such event, the <b>Insurer</b> shall be reimbursed for all <b>Loss</b> paid in connection with such <b>Claim</b> ; provided, however, that this Exclusion shall not apply to the <b>Fraud/Dishonesty</b> Cover;
Patent/Trade Secret	arising out of, based upon or attributable to the breach of licences concerning infringement of, or misappropriation of patents or <b>Trade Secrets</b> ;
Pollution	arising out of, based upon or attributable to: (i) the actual, alleged or threatened presence, discharge, dispersal, release, migration or escape of <b>Pollutants</b> , or (ii) any direction, request or effort to: (a) test for, monitor, clean up, remove, contain, treat, detoxify or neutralise <b>Pollutants</b> , or (b) respond to or assess the effects of <b>Pollutants</b> ;
Prospectus Liability	arising out of, based upon, attributable to: <ul style="list-style-type: none"> <li>(a) any public or private issue of shares, preference shares (redeemable or otherwise), debentures of whatever kind, promissory notes or any other form of negotiable or non-negotiable security by an <b>Outside Entity</b> or <b>Outside Trust</b> for the raising of capital by equity, debt or any other means; or</li> <li>(b) the issue of any prospectus or similar document or the making of any written or oral representation, in connection with (a) above.</li> </ul>
Trade Debts	arising out of, based upon or attributable to any: (i) trading debt incurred by an <b>Insured</b> or <b>Outside Trust</b> or (ii) guarantee given by an <b>Insured</b> or <b>Outside Trust</b> for a debt.
U.S.A./Canada	made or pending within; or to enforce a judgment obtained in, the United States of America, Canada, or any of their territories or possessions; or
War/Terrorism	arising out of, based upon or attributable to any war (declared or otherwise), terrorism, warlike, military, terrorist or guerrilla activity, sabotage, force of arms, hostilities (declared or undeclared), rebellion, revolution, civil disorder, insurrection, usurped power, confiscation, nationalisation or destruction of or damage to property by or under the order of, any governmental, public or local authority or any other political or terrorist organisation.

## Conditions: Claims

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Notification of Claims	<p>The <b>Insured</b> shall, as a condition precedent to the obligations of the <b>Insurer</b> under this Policy, give written notice to the <b>Insurer</b>: (i) of any <b>Claim</b> first made against the <b>Insured</b>, (ii) of the receipt of notice from any person of an intention to make a <b>Claim</b> against any <b>Insured</b>, (iii) of any circumstances of which they shall become aware during the <b>Policy Period</b> which may give rise to a <b>Claim</b> against any <b>Insured</b>, or (iv) of the discovery of reasonable cause for suspicion of dishonesty or fraud on the part of any past or present partner or <b>Employee</b> of the <b>Insured</b> whether giving rise to a <b>Claim</b> under this Policy or not as soon as practicable and during the <b>Policy Period</b>. All notifications must be in writing or by facsimile, and addressed as required in the Claims Notice Item on the Schedule.</p>
Related Claims	<p>If notice of a <b>Claim</b>, circumstance or discovery of dishonesty, against an <b>Insured</b> is given to the <b>Insurer</b> pursuant to the terms and conditions of this Policy, then: (i) any subsequent <b>Claim</b> alleging, arising out of, based upon or attributable to the facts alleged in that previously notified <b>Claim</b>; and (ii) any subsequent <b>Claim</b> alleging any <b>Wrongful Act</b> which is the same as or related to any <b>Wrongful Act</b> alleged in that previously notified <b>Claim</b>, shall be considered made against the <b>Insured</b> and reported to the <b>Insurer</b> at the time notice was first given. Any <b>Claim</b> or <b>Claims</b> arising out of, based upon or attributable to (i) the same cause, or (ii) a single <b>Wrongful Act</b>, or (iii) a series of continuous, repeated or related <b>Wrongful Acts</b>, shall be considered a single <b>Claim</b> for the purposes of this Policy.</p>
Continuity	<p>Notwithstanding the Continuity/Prior Claims/Circumstances/Litigation Exclusion, Cover is provided under this Policy for any <b>Claim</b>, fact, matter or circumstance which could or should have been notified to the <b>Insurer</b> under any earlier policy. Provided always that:</p> <ul style="list-style-type: none"><li>(i) the <b>Claim</b>, fact, matter or circumstance could and should have been notified after the <b>Continuity Date</b>; and</li><li>(ii) the cover provided by this Condition shall be on the same terms, exceptions and conditions as the policy under which the <b>Claim</b>, fact, matter or circumstance could or should have been notified.</li></ul>
Defence/Settlement	<p>The <b>Insurer</b> does not assume any duty to defend, and the <b>Insured</b> shall not be required to contest any legal proceeding unless counsel (to be mutually agreed upon by the <b>Insured</b> and the <b>Insurer</b>) shall advise that such <b>Claim</b> should be contested by the <b>Insured</b>. The <b>Insurer</b> may elect in writing to take over and conduct the defence and settlement of any <b>Claim</b>. If the <b>Insurer</b> does not so elect, it shall be entitled, but not required, to participate fully in such defence and the negotiation of any settlement that involves or appears reasonably likely to involve the <b>Insurer</b>. The <b>Insurer</b> has the right at any time after notification of a <b>Claim</b> to make a payment to the <b>Insured</b> of the unpaid balance of the <b>Limit of Liability</b>, and upon making such payment, all obligations of the <b>Insurer</b> to the <b>Insured</b> under this Policy, including, if any, those relating to defence, shall cease.</p>
Insurer's Consent	<p>As a condition precedent to Cover under this Policy, no <b>Insured</b> shall admit or assume any liability, enter into any settlement agreement, consent to any judgment, or incur any <b>Defence Costs</b> without the prior written consent of the <b>Insurer</b>. Only those settlements, judgments and <b>Defence Costs</b> consented to by the <b>Insurer</b>, and judgments resulting from <b>Claims</b> defended in accordance</p>

with this Policy, shall be recoverable as **Loss** under this Policy. The **Insurer's** consent shall not be unreasonably withheld, provided that the **Insurer** shall be entitled to exercise all of its rights under the Policy.

Insured's Consent

The **Insurer** may make any settlement of any **Claim** it deems expedient with respect to any **Insured**, subject to such **Insured's** written consent. If any **Insured** withholds consent to such settlement, the **Insurer's** liability for all **Loss** on account of such **Claim** shall not exceed the amount for which the **Insurer** could have settled such **Claim**, plus **Defence Costs** incurred as of the date such settlement was proposed in writing by the **Insurer**, less coinsurance (if any) and the applicable **Retention**.

Cooperation

The **Insured** will at their own cost: (i) render all reasonable assistance to the **Insurer** and co-operate in the defence of any **Claim** and the assertion of indemnification and contribution rights; (ii) use due diligence and do and concur in doing all things reasonably practicable to avoid or diminish any **Loss** under this Policy; (iii) give such information and assistance to the **Insurer** as the **Insurer** may reasonably require to enable it to investigate any **Loss** or determine the **Insurer's** liability under this Policy.

Allocation

Where any **Loss** is incurred in respect of any **Claim** which arises from both covered matters and matters not covered by this Policy, the **Insurer's** liability under this Policy is limited to the proportion of the **Loss** which represents a fair and equitable allocation between each **Insured** and the **Insurer**, taking into account the relative legal and financial exposures attributable to covered matters and matters not covered under this Policy.

Where the **Insurer's** liability under this Policy is limited under this clause, the **Insured** and the **Insurer** must use their best endeavours to agree upon the allocation to be adopted by them as the fair and equitable allocation.

Allocation Disputes

If the parties are unable to agree, then the fair and equitable allocation is to be determined by a Senior Counsel (to be mutually agreed upon by the **Policyholder** and the **Insurer**, or in the absence of agreement, to be appointed by the President of the Law Society, or equivalent organisation, in the jurisdiction in which the **Loss** was incurred).

The Senior Counsel is to determine the fair and equitable allocation as an expert, not as an arbitrator. The **Policyholder** (or its designee) and the **Insurer** may make submissions to the Senior Counsel. The Senior Counsel is to take account of the parties' submissions, but the Senior Counsel is not to be fettered by such submissions and is to determine the fair and equitable allocation in accordance with his or her own judgment and opinion. The Senior Counsel's determination shall be final and binding. The costs of the Senior Counsel's determination are to be borne by the **Insurer**.

For so long as the proportion of **Defence Costs** to be paid under the Policy remains unagreed and undetermined, the **Insurer** shall pay the proportion of the **Defence Costs** which it considers represents a fair and equitable allocation. The fair and equitable allocation finally agreed or determined shall be applied retrospectively to any **Defence Costs** incurred prior to agreement or determination.

Fraudulent Claims

If any **Insured** shall give any notice or claim cover for any **Loss** under this Policy knowing such notice or claim to be false or fraudulent as regards amounts or otherwise, such **Loss** shall be excluded from cover under the Policy, and the **Insurer** shall have the right to cancel the Policy.

## Conditions: Purchase and Administration

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Policy Purchase	<p>If the <b>Insurer</b> becomes entitled to avoid this Policy from inception or from the time of any variation in Cover, the <b>Insurer</b> may at its discretion maintain this Policy in full force but exclude the consequences of and any <b>Claim</b> relating to any matter which ought to have been disclosed before inception or any variation in Cover.</p> <p>However, in any case where the <b>Insured</b> should have notified under any preceding insurance a circumstance which may give rise to a <b>Claim</b> and the indemnity or Cover available under this Policy is greater or wider in scope than the indemnity which the <b>Insured</b> would have been entitled to under any preceding insurance (whether with the <b>Insurer</b> or not) then the <b>Insurer</b> shall only be liable to indemnify the <b>Insured</b> in respect of that <b>Claim</b> to the extent of the indemnity which would have been afforded by such preceding insurance.</p>
Administration	<p>The <b>Policyholder</b> has acted and shall act on behalf of each and every <b>Insured</b> with respect to: (i) negotiating terms and conditions of, binding and amending Cover; (ii) exercising rights of <b>Insureds</b>; (iii) notices; (iv) <b>Premiums</b>; (v) endorsements; (vi) dispute resolution; (vii) claims management and consent to defence/settlement; and (viii) payments to any <b>Insured</b>.</p>
Representation/ Severability	<p>In granting Cover to the <b>Insured</b>, the <b>Insurer</b> has relied upon the material statements and particulars in the proposal together with its attachments and other information supplied.</p> <p>That written proposal form for coverage shall be construed as a separate proposal form individually submitted for each <b>Insured</b>. No state of mind or knowledge possessed by an <b>Insured</b> shall be imputed to any other <b>Insured</b> for the purpose of determining entitlement to coverage.</p>

## Conditions: Limit and Retention

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Limit of Liability	<p>The total amount payable by the <b>Insurer</b> under this Policy shall not exceed the <b>Limit of Liability</b> except where the <b>Limit of Liability</b> has been reinstated pursuant to the Reinstatement Extension. Sub-limits of Liability and amounts specified in the Extensions are part of the <b>Limit of Liability</b> and are not payable in addition to the <b>Limit of Liability</b>. <b>Defence Costs</b> are payable in addition to the <b>Limit of Liability</b>. If a payment is required to dispose of a <b>Claim</b> in excess of the <b>Limit of Liability</b> under this Policy, the <b>Insurer</b> will pay, in addition to the <b>Limit of Liability</b>, any costs, charges and expenses in connection therewith, but limited to such proportion of the said costs, charges and expenses as the <b>Limit of Liability</b> of this Policy bears to the amount paid to dispose of the <b>Claim</b> provided that costs shall be payable in addition to the <b>Limit of Liability</b> stated in the Schedule. The <b>Limit of Liability</b> for the period provided in the Extended Reporting Period Extension is part of, and not in addition to, the <b>Limit of Liability</b> for the <b>Policy Period</b>. The inclusion of more than one <b>Insured</b> under this Policy does not operate to increase the total amount payable by the <b>Insurer</b> under this Policy.</p>
Retention	<p>The <b>Insurer</b> shall only pay for the amount of any <b>Loss</b> which is in excess of the <b>Retention</b>. The <b>Retention</b> also applies to <b>Defence Costs</b>, unless shown in the Schedule as "costs exclusive" then <b>Defence Costs</b> shall not be subject to the <b>Retention</b>. The <b>Retention</b> is to be borne by the <b>Insured</b> and shall remain uninsured. A single <b>Retention</b> shall apply to <b>Loss</b> arising from all <b>Claims</b> alleging the same <b>Wrongful Act</b>.</p>

Other Insurance	Such insurance as is provided under this Policy shall apply only as excess over any other valid and collectible insurance.
Non-Compliance	The amount of indemnity under this Policy shall be reduced where the <b>Insured's</b> breach of, or non-compliance with, the terms and conditions of this Policy prejudices the settlement or handling of a <b>Loss</b> or <b>Claim</b> , to such sum which in the opinion of the <b>Insurer</b> would have been payable by them without such prejudice.

## General Provisions

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Assignment	This Policy and any rights under or in respect of it cannot be assigned without the prior written consent of the <b>Insurer</b> .
Cancellation	
By Policyholder:	This Policy may be cancelled by the <b>Policyholder</b> as and in the manner permitted by law. In such case, if no <b>Claim</b> has been made and no circumstance has been notified prior to such cancellation, the <b>Insurer</b> shall retain the customary short rate proportion (unexpired portion of <b>Premium</b> less handling charges) of the <b>Premium</b> . Otherwise, <b>Premium</b> shall not be returnable and shall be deemed fully earned at cancellation.
By Insurer:	This Policy may be cancelled by the <b>Insurer</b> as and in the manner permitted by law. In such case, the <b>Insurer</b> shall be entitled to a <i>pro-rata</i> proportion of the <b>Premium</b> . Payment or tender of any unearned premium by the <b>Insurer</b> shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable.
GST	All amounts indicated in this Policy and the attached Schedule are exclusive of Goods and Services Tax where payable by law.
Insolvency	The insolvency, receivership or bankruptcy of any <b>Insured</b> shall not relieve the <b>Insurer</b> of any of its obligations hereunder.
Jurisdiction	It is hereby agreed that this insurance shall be governed by the laws of New Zealand whose Courts shall have jurisdiction in any dispute arising hereunder.
Plurals, Headings and Titles	The descriptions in the headings and titles of this Policy are solely for reference and convenience and do not lend any meaning to this contract. Words and expressions in the singular shall include the plural and vice versa. In this Policy, words in <b>bold</b> typeface have special meaning and are defined. Words that are not specifically defined in this Policy have the meaning normally attributed to them.
Scope and Governing Law	Where legally permissible and subject to the U.S.A./Canada Exclusions, this Policy shall apply to any <b>Claim</b> made against any <b>Insured</b> anywhere in the world. Any interpretation of this Policy relating to its construction, validity or operation shall be made in accordance with the laws of New Zealand and in accordance with the English text as it appears in this Policy.
Subrogation	If any payment is to be made under this Policy in respect of a <b>Claim</b> , the <b>Insurer</b> shall be subrogated to all rights of recovery of the <b>Insured</b> whether or not payment has in fact been made and whether or not the <b>Insured</b> has been fully compensated for its actual loss. The <b>Insurer</b> shall be entitled to pursue and enforce such rights in the name of the <b>Insured</b> , who shall provide the <b>Insurer</b> with all reasonable assistance and co-operation in doing so, including the execution of any necessary instruments and papers. The <b>Insured</b> shall do nothing to prejudice these rights. Any amount recovered in excess of the <b>Insurer's</b> total payment shall be restored to the <b>Insured</b> less the cost to the <b>Insurer</b> of such recovery. The <b>Insurer</b> agrees not to exercise any such rights of

recovery against any **Employee** unless the **Claim** is brought about or contributed to by serious or wilful misconduct of the **Employee** in the course of or arising out of the employment. In its sole discretion, the **Insurer** may, in writing, waive any of its rights set forth in this Subrogation Clause.

Validity

This Policy is not binding upon the **Insurer** unless it is countersigned on the Schedule by an authorised representative of the **Insurer** or its general agent.

<end>

# Accountants' Professional Indemnity Insurance

## Endorsement

Endorsement Number 001

This endorsement, effective 4.00pm, <> forms part of

Policy Number PI <>

Issued to <>

By **AIG Insurance New Zealand Limited**, trading in New Zealand as **AIG**


### Endorsement Name

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<>

All other terms, conditions and exclusions remain unchanged

Signed for and on behalf of  
**AIG Insurance New Zealand Limited**



.....  
**Authorised Person**

08 April 2013  
**Date**



**AIG Insurance New Zealand Limited**

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