

Technology Liability Insurance

Policy Wording

Section One – Professional Liability

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

Covers – Professional Liability

Notice

Cover under this Section One of the policy will only apply to **Claims** first made against the **Insured** by a **Third Party** reported to the **Insurer** during the **Policy Period**. Please note that the amounts incurred for legal defence shall be applied against the **Retention** amount.

All cover under this Section One of the 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.

Technology Services	The Insurer will pay on behalf of any Insured all Damages resulting from any Claim for any Breach of Duty of the Insured .
Technology Products	The Insurer will pay on behalf of any Insured all Damages resulting from any Claim for any Technology Product Failure .
Intellectual Property	The Insurer will pay on behalf of any Insured all Damages resulting from any Claim for any Infringement .
Misleading or Deceptive Conduct	The Insurer will pay on behalf of any Insured all Damages resulting from any Claim for any Misleading or Deceptive Conduct of the Insured .
Defamation	The Insurer will pay on behalf of any Insured all Damages resulting from any Claim for libel or slander committed unintentionally by an Insured .
Fraud/Dishonesty	The Insurer will pay on behalf of any Insured , who is not the actual perpetrator, all Damages resulting from any Claim for Fraud/Dishonesty of any Employee or Independent Contractor .
Defence	The Insurer has the right to defend any Claim which this policy may respond to under its Covers or Extensions. The Insurer shall pay Defence Costs incurred in defending such Claim (in addition to the Limit of Liability subject to the Limit of Liability Condition).

The **Insurer** is under no obligation to pay **Loss**, unless the **Wrongful Act** first takes place on or after the **Retroactive Date**; and: (i) is committed solely in the performance of or failure to perform **Technology Services**; or (ii) arises from **Technology Products**.





Extensions – Professional Liability

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.

Computer Records

With respect to a **Third Party's Computer Records**:

- (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 **Technology Services**.

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

- (a) such **Loss** or damage is sustained while the **Computer Records** are either: (1) in transit; or (2) in the custody of the **Insured** or of any person to whom the **Insured** has entrusted them;
- (b) where the lost or mislaid **Computer Records** have been the subject of a diligent search by or on behalf of the **Insured**;
- (c) 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
- (d) the **Insurer** shall not be liable for any **Claim** arising out of wear, tear and/or gradual deterioration, moth and vermin.

This Extension will be subject to a Sub-limit of Liability as specified in the Schedule. A separate retention of \$2,500 instead of the **Retention** will apply to each **Claim** covered under this Extension.

Court Attendance

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** or **Independent Contractor** \$250

No **Retention** shall apply to this Extension.

Discovery

An **Insured** may give written notice to the **Insurer** of any **Claim** for a **Wrongful Act** occurring prior to the end of the **Policy Period**, during a discovery period immediately following the **Policy Period** of 12 months, if the **Policyholder** requests such period in writing within 15 days following the end of the **Policy Period** and tenders an additional premium of 75% of the annual **Premium** level in effect immediately prior to the end of the **Policy Period** within 30 days following the end of the **Policy Period**.

This Extension is not available if this policy is:

- (i) renewed or replaced with any other similar liability policy; or
- (ii) cancelled or avoided.

Any discovery period purchased under this Extension is non-cancellable, and the **Premium** paid for the discovery period is non-refundable.



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 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.
Investigation Costs	The Insurer shall pay on behalf of the Insured all costs and expenses 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, incurred by or on behalf of the Insured during the Policy Period and which is reported to the Insurer during such period. This Extension will be subject to a Sub-limit of Liability as specified in the Schedule.
Joint Ventures	Cover for Technology Services or Technology Product Failure is extended to include the liabilities of the Policyholder or a Subsidiary arising out of its actions or involvement in a joint venture. Cover is also available to the joint venture entity by endorsement on such terms and conditions, and for such additional premium as the Insurer may reasonably decide. No cover is provided to any co-joint venturer or co-partners of an Insured in the joint venture entity. This Extension will be subject to a Sub-limit of Liability as specified in the Schedule.
Network Security Breach	The Insurer agrees to pay on behalf of any Insured the direct financial loss sustained by a Third Party resulting from any Claim arising from a Breach of Duty by an Insured resulting in the failure of Security of Technology Products .
Patent Infringement	The Insurer agrees to pay on behalf of any Insured all Damages resulting from any Claim for an unintentional infringement of a registered New Zealand or Australian patent owned by any Third Party . This Extension will be subject to a Sub-limit of Liability as specified in the Schedule.
Product Recall Expenses	The Insurer agrees to pay on behalf of any Insured the reasonable costs and expenses incurred for the withdrawal, inspection, repair, replacement, or loss of use in New Zealand or Australia of the Insured's Technology Products or of any property of which such Technology Products form a part resulting from any Claim for Technology Product Failure . This Extension will be subject to a Sub-limit of Liability as specified in the Schedule.
Reinstatement	<p>The Insured shall be entitled to a reinstatement 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 Insureds are entitled under any insurance in excess of this policy and all other applicable liability insurance contracts and self-insurance.</p> <p>The reinstated Limit of Liability will be made available to the Insureds once only upon exhaustion of the limits of liability of all other available sources of indemnity for Loss covered by this policy. If the Insureds are 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 twice the Limit of Liability. Following 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</p>



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 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 circumstance which occurred before the date of the reinstatement.

Virus Transmission

The **Insurer** agrees to pay on behalf of any **Insured** the direct financial loss sustained by a **Third Party** resulting from any **Claim** arising from the transmission of a **Computer Virus** by the **Insured**.



Section Two – Public Liability

Notice

Cover under this Section Two of the policy is afforded solely with respect to an **Occurrence** happening during the **Policy Period** within the **Territorial Limits** which arises from and within the course of the **Business** and provided that the action for damages is brought against an **Insured** within the **Territorial Limits**.

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

Covers – Public Liability

General & Products
Liability

The Insurer agrees to indemnify the **Insured** for all amounts which the **Insured** shall become legally liable to pay as a result of **Claims** or **Legal Proceedings** for **Personal Injury** or **Property Damage**.

Defence Payments for
General & Products
Liability

The **Insurer** may defend any **Claim** or **Legal Proceeding** against the **Insured** for an **Occurrence** that seeks compensation, even if the **Claim** or **Legal Proceeding** is groundless, false or fraudulent.

In the defence of any **Claim** or **Legal Proceeding** against the **Insured** for an **Occurrence** that seeks compensation covered by the policy the **Insurer** may:

- (i) Investigate, negotiate and settle the **Claim** or **Legal Proceeding**; and
- (ii) Pay the following supplementary payments:
 - (a) all costs taxed against the **Insured** in the **Claim** or **Legal Proceeding**;
 - (b) pre-judgment interest awarded against the **Insured** on that part of the judgment paid by the **Insurer**;
 - (c) post-judgment interest that accrues after entry of judgment and before the **Insurer** has paid, offered to pay or deposited in court that part of the judgment that is within the applicable **Limits of Liability**; and
 - (d) The **Insured** expenses incurred at the **Insurer's** request or with the **Insurer's** written consent (including actual loss of wages or salary, but not loss of other income).

Notwithstanding, the **Insurer** will only be liable for the amount of **Damages** and claimants' costs and expenses arising from an **Occurrence** that is in excess of the **Retention**. The **Retention** amount shall be borne by the **Insured** and shall remain uninsured, with regard to all payments for which the **Insured** shall be liable.

Expenses incurred to defend or investigate any **Claim** or **Legal Proceeding** for an **Occurrence** will be in addition to the applicable **Limit of Liability**.



Extensions – Public Liability

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.

Care Custody and Control

Notwithstanding the Property Owned or in the **Insured's** Physical or Legal Control and Vehicles Exclusions the **Insurer** agrees to indemnify the **Insured** for **Property Damage** to:

- (i) Tangible property (excluding livestock) not owned by the **Insured**, but in the physical or legal control of the **Insured**;
- (ii) Premises which are leased or rented to the **Insured**;
- (iii) Premises and their contents not belonging to, leased or rented to the **Insured** at which the **Insured** is undertaking work in connection with the **Business**;
- (iv) **Vehicles** and their contents (not belonging to or used by or on behalf of the **Insured**) in the **Insured's** physical or legal control where such **Property Damage** occurs while any such **Vehicle** is in a car park owned or operated by the **Insured**;

Cover under this Extension does not apply if the **Insured** as part of the **Business** owns or operates a car park for reward;

- (v) Goods, Equipment, Merchandise and Property other than Real Property subject to cover being limited to a maximum of \$100,000 each **Occurrence** and in the aggregate during any one **Policy Period** for such **Property Damage**.

The total amount payable under this Extension, other than Extension (v) above, is for any one **Occurrence** and in the aggregate during the **Policy Period** as described in the Schedule.

Conferences

Notwithstanding the USA / Canada Exclusion, the **Insurer** agrees to indemnify the **Insured** for liability in respect of **Personal Injury** or **Property Damage** incurred by any **Insured** described in paragraphs (ii) – (iv) of the definition of **Insured** attending a conference outside New Zealand on behalf of the **Policyholder**.

This Extension will be subject to a Sub-limit of Liability expressed in the Schedule.

Forests & Rural Fires Act

Notwithstanding the definition of **Loss**, the **Insurer** agrees to indemnify the **Insured** for:

- (i) Costs incurred and apportioned by any Fire Authority under section 43 of the Forest and Rural Fires Act 1977 (NZ) or any amendments or replacing Act (the "Act"); and
- (ii) Levies imposed by a Fire Authority and apportioned to the **Insured** during the **Policy Period** under sections 46 and 46A of the Act; and
- (iii) Costs claimed by any other party in order to protect their property from fire.

This Extension shall apply also whether the **Property Damage** has occurred or not and to the legal liability of the **Insured** for **Loss** of or **Damage** to property caused by or caused to the machinery, plant, trailers or mechanically propelled **Vehicles** used by the Fire Fighting Authority insofar as the liability covered by this Extension is not otherwise insured. Provided that:

- (i) the total amount payable under this Extension shall not exceed \$250,000;



and

- (ii) a retention of \$1000 (instead of the **Retention**) in the aggregate applies for all sums payable to any claimant or any number of claimants in respect of or arising out of all **Occurrences** of a serious consequent on or attributed to one source or original cause.

Landlords Liability

Notwithstanding the Property Owned or in the **Insured's** Physical or Legal Control Exclusion, the **Insurer** agrees to indemnify the **Insured** for all sums which the **Insured** shall become legally liable to pay for **Personal Injury** and/or **Property Damage** in connection with the legal ownership, but not physical occupation, of any premises owned by the **Insured**.

Punitive and Exemplary Damages

Notwithstanding the definition of **Loss**, the **Insurer** agrees to indemnify the **Insured** for punitive and/or exemplary damages awarded to, or on behalf of, a person who has suffered **Personal Injury** resulting from an event in connection with the business of the **Insured**, or the **Insured's** ownership, occupancy or tenancy of a building, structure or land, provided that:

- (i) the **Claim** must be made against the **Insured** and reported to the **Insurer** during the **Policy Period**;
- (ii) any punitive or exemplary damages awarded by any court outside of New Zealand are excluded;
- (iii) the total amount payable under this Extension shall not exceed \$1,000,000, inclusive of all costs any one **Claim** and in the aggregate, during any one **Policy Period**; and
- (iv) a retention of \$250 inclusive of costs shall apply to each and every **Claim**.

The **Insurer** will not indemnify the **Insured** for **Claims** arising from **Personal Injury** or an event that caused **Personal Injury** where such **Personal Injury** or event occurred prior to the **Retroactive Liability Date** specified in the Schedule.

Tenants Liability

Notwithstanding the Property Owned or in the **Insured's** Physical or Legal Control Exclusion the **Insurer** agrees to indemnify the **Insured** for all sums which the **Insured** shall become legally liable to pay for **Property Damage** to premises (including Landlord's fixtures and fittings) leased or rented, but not owned, by the **Insured**. The **Insured** shall bear a retention of \$100 in respect of **Property Damage** under this clause caused other than by Fire or Explosion.

Vehicles

Notwithstanding the **Vehicles** Exclusion, the **Insurer** shall indemnify the **Insured** for all sums which the **Insured** shall become legally liable to pay for **Personal Injury** or **Property Damage** arising from:

- (i) The actual loading, unloading, delivery or collection of goods to or from any **Vehicle**;
- (ii) The use of any **Tool of Trade** either on any site where the **Insured** is undertaking work or at the **Insured's** premises. This proviso does not extend cover to the use of any **Tool of Trade**, whilst in transit or whilst being used for transport or haulage.

Vibration and Removal of Support

The **Insurer** agrees to indemnify the **Insured** for all sums which the **Insured** shall become legally liable to pay for **Personal Injury** or **Property Damage** in New Zealand arising from the actions of the **Insured** in removing, weakening or interfering with the support of land or buildings, other than those owned or occupied by the **Insured**, provided that:

This Extension is subject to a Sub-limit of Liability specified in the Schedule.



Section Three – Definitions

- “Aircraft”** means a vehicle designed to be used primarily in the air and to be supported by the dynamic reaction of the air upon the vehicle’s wings or rotor-blades, and/or by the vehicle’s buoyancy in the air. The term **Aircraft**, however, excludes missiles, spacecraft and the ground support or control equipment used therewith.
- “Aircraft Products”** means:
- (i) **Aircraft** and any ground support or control equipment used therewith;
 - (ii) any **Insured Product** furnished by the **Insured** and installed in **Aircraft** or used in connection with **Aircraft**;
 - (iii) any **tooling** used for the manufacture of (i) or (ii) above;
 - (iv) any **ground** handling tools and equipment used in connection with (i) or (ii) above including training aids, navigational aids, instruction or manuals;
 - (v) blueprints, engineering or other data furnished by the **Insured** in connection with (i), (ii), (iii) or (iv) above; or
 - (vi) any advice, service and/or labour furnished by the **Insured** in connection with (i), (ii), (iii), (iv) or (v) above.
- “Bodily Injury”** means physical injury, sickness, disease or death; and if arising out of the foregoing, nervous shock, emotional distress, mental anguish or mental injury.
- “Breach of Duty”** means any actual or alleged **Breach of Duty**, act, error, misstatements, breach of confidentiality or omission in the performance of or failure to perform **Technology Services**. For the Public Liability Section only, **Breach of Duty** also means any act, error or omission in the rendering or failure to render professional medical advice by **Medical Persons** employed by the **Insured** to provide first aid and other medical services on the **Insured’s** premises.
- “Business”** means all usual activities and operations of the **Policyholder** described in the proposal form and accompanying documentation and includes:
- (i) the ownership, tenancy or occupation of premises of the **Policyholder**;
 - (ii) private work carried out with the consent of the **Policyholder** for any director, partner or senior official of the **Policyholder** by an **Employee** or **Independent Contractor**;
 - (iii) the provision or management of canteen, social or sports organisations for the **Policyholder’s Employees** or **Independent Contractors**; and
 - (iv) the provision of the **Policyholder’s** own internal fire, first aid, medical, security and ambulance services.
- “Claim”** means any: (i) written demand or (ii) civil or administrative proceeding, that seeks **Damages** as a result of **Wrongful Acts** or an **Occurrence** covered by this Policy.



“Computer Records”	means any Data stored within any: (i) computer, data processing equipment, or any of their respective components; or (ii) computer software; but does not include any currency, negotiable instruments or records thereof.
“Computer Virus”	means any program or code that causes Loss or Damage to any Technology Products and/or prevents or impairs any computer system from performing and/or functioning accurately and properly.
“Damages”	means any amount that an Insured shall be legally liable to pay to a Third Party in respect of judgments rendered against an Insured , or for settlements which conform with the consent requirements set out in the “Claims” Conditions, subject to the limitations of Loss .
“Data”	means electronically stored, digital or digitised information or media.
“Defence Costs”	means reasonable fees, costs and expenses incurred by or on behalf of the Insured in the investigation, defence, adjustment, settlement or appeal of any Claim . “ Defence Costs ” shall not include any internal or overhead expenses of any Insured or the cost of any Insured’s time.
“Employee”	means any natural person who is or has been expressly engaged as an employee under a contract of employment with the Policyholder or any Subsidiary . “ Employee ” shall not mean any: (i) principal, partner or director; or (ii) temporary contract labour, self-employed person, labour-only sub-contractor or Independent Contractor .
“Fraud/Dishonesty”	means fraudulent or dishonest conduct of an Employee : (i) not condoned expressly or implicitly by; and (ii) that results in liability to; the Policyholder or any Subsidiary .
“Grounding”	means the withdrawal of one or more Aircraft from flight operations or the imposition of speed, passenger or load restrictions on such Aircraft , by reason of the existence of or alleged or suspected existence of any defect, fault or condition in such Aircraft or any part thereof sold, handled or distributed by the Insured or manufactured, assembled or processed by any other person or organisation according to the Insured’s specifications, plans, suggestions, orders or drawings or with tools, machinery or other equipment furnished to such persons or organisations by the Insured , whether such Aircraft so withdrawn are owned or operated by the same or different persons, organisations or corporations. A Grounding will be deemed to commence on the date of an Occurrence which discloses such condition or on the date an Aircraft is first withdrawn from service on account of such condition, whichever occurs first.
“Hovercraft”	means any vessel, craft or device made to float on or in or travel on or through the atmosphere or water on a cushion of air provided by a downward blast.



“Incidental Contracts” means:

- (i) any written agreement for lease of real or personal property which does not impose upon the **Policyholder**:
 - (a) an obligation to insure such property; or
 - (b) any liability regardless of fault.
- (ii) any written contract with any entity for the supply of water, gas or electricity but only to the extent of indemnifying any such entity in respect of liability arising out of the **Business** other than contracts for the performance of work or provision of services by the **Policyholder**.

“Independent Contractor” means any temporary contract labour, self-employed persons, labour-only sub-contractors under the direction and direct supervision of the **Policyholder** or any **Subsidiary**. **Independent Contractor** shall also mean an **Employee** or a person described above of the **Insured** whose services or labour is hired out, lent or otherwise to a **Third Party** on a temporary or permanent basis.

“Infringement” means an unintentional infringement of any intellectual property right of any **Third Party**, other than patents and **Trade Secrets**.

“Insured” means:

- (i) the **Policyholder** or any **Subsidiary**;
- (ii) any natural person, who is or has been a principal, partner or director of the **Policyholder** or any **Subsidiary**;
- (iii) any **Employee**;
- (iv) any **Independent Contractor**; and
- (v) any estates or legal representatives of any **Insured** described in (ii) and (iii) of this definition;

but only when providing **Technology Services** in the foregoing capacities.

For the General & Products Liability Insuring Clause only, **Insured** also means:

- (i) any person or organisation to whom the **Policyholder** is obligated by a written **Insured Contract** to provide insurance such as is afforded by this Policy, but only with respect to their liability arising out of operations conducted by the **Policyholder** or on their behalf and not to any greater extent than required by the contract or agreement; and
- (ii) any office bearer or member of social and/or sporting clubs formed with the written consent of the **Policyholder** in respect of **Claims** arising from duties connected with activities of any such club. Cover shall not apply to **Personal Injury** to or **Property Damage** of any participants of any game, match, race, practice or trial.

“Insured Contract” means that part of any contract or agreement pertaining to the **Policyholder’s Business** under which the **Policyholder** assumes the tort liability of another party to pay for **Personal Injury** or **Property Damage** to a third person or organisation. However, the **Personal Injury** or **Property Damage** must arise out of an **Occurrence** that takes place subsequent to the execution of the **Insured Contract**. Tort liability means a liability that would be imposed by law upon the other party in the absence of any contract or



agreement.

“Insured's Products” means any goods or products (after they have ceased to be in the **Insured's** possession or under the **Insured's** control) which is or is deemed (whether by law or otherwise) to have been manufactured, constructed, grown, extracted, treated, imported, exported, produced, processed, assembled, erected, installed, repaired, serviced, sold, supplied or distributed by the **Insured**. **Insured Products** includes any packaging or containers, designs, formulae or specifications thereof, directions, instructions or advice given or omitted to be given in connection with such things other than a **Vehicle** or vending machine.

“Insurer” means the entity specified as such in the Schedule.

“Legal Proceeding” means litigation, arbitration, mediation, adjudication or any other process of dispute resolution.

“Limit of Liability” means the amount specified as such in each Section of the Schedule.

“Loss” means **Damages** and **Defence Costs**.
For the Public Liability Section **Loss** also includes the **Insured's** liability for compensation as the result of an act committed by the **Insured's Employee(s)** or **Independent Contractors** which results in **Personal Injury** or **Property Damage** which was expected or intended from the standpoint of the **Insured's Employee(s)** or **Independent Contractors**.

“Loss” shall not mean and this policy shall not cover any (1) taxes; (2) non-compensatory damages, including punitive, multiple, exemplary or liquidated damages unless covered under the Punitive & Exemplary Damages Extension; (3) fines or penalties; (4) the costs and expenses of complying with any order for, grant of or agreement to provide injunctive or other non-monetary relief; (5) compensation, benefits or overhead of, or charges or expenses by any **Insured**; (6) the costs and expenses associated with any withdrawal, recall, removal or disposal of any product or software because of a known or suspected defect, deficiency or inadequacy except for cover under the Product Recall Extension; or (7) any matters which may be deemed uninsurable under the law governing this policy or the jurisdiction in which a **Claim** is brought.

“Medical Persons” means any medical doctor, medical nurse, dentist and first aid attendant.

“Misleading or Deceptive Conduct” means any actual or alleged **Misleading or Deceptive Conduct** at law or under sections 9-14 of the Fair Trading Act 1986 (NZ) or the equivalent provisions of the Trade Practices Act 1974 (Aus).

“North America” means:
(i) the United States of America and Canada;
(ii) any state, territory or protectorate incorporated in, or administered by, the United States of America or Canada; and
(iii) any country or territory subject to the laws of the United States of America or Canada.

“Occurrence” means an event, including continuous or repeated exposure to substantially the same general conditions, which results in **Personal Injury** or **Property Damage** neither expected nor intended from the **Insured's** standpoint.



Occurrence shall also mean **Personal Injury** or **Property Damage** resulting from the use of reasonable force to protect persons or property.

All events of a series consequent on or attributable to one source or original cause shall be deemed one **Occurrence**.

“Personal Injury”	means, for the General & Products Liability Insuring Clause: (i) Bodily Injury ; (ii) False arrest, false imprisonment, trespass to the person, wrongful eviction, wrongful detention, malicious prosecution and humiliation; (iii) Invasion of privacy; or (iv) assault and battery not committed by or at the direction of the Insured , unless committed for the purpose of preventing or eliminating danger to persons or property.
“Policy Period”	means the period of time specified in the Schedule unless the policy is cancelled in which event the Policy Period will end on the effective date of the cancellation.
“Policyholder”	means the entity or natural person specified as such in the Schedule.
“Pollutants”	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.
“Premium”	means the amount specified as such in the Schedule and any premium adjustment reflected in an endorsement to this policy.
“Property Damage”	means: (i) physical injury to or destruction of or loss of tangible property including the loss of use thereof at any time resulting therefrom; or (ii) loss of use of tangible property which has not been physically injured or destroyed provided such loss of use is caused by physical injury to or destruction of other tangible property.
“Products Hazard”	means Personal Injury or Property Damage arising out of the Insured’s Products or reliance upon a representation or warranty made at any time with respect thereto, but only if the Personal Injury or Property Damage occurs away from premises owned by, leased to, rented to or occupied by the Insured and after physical possession of such products has been relinquished to others.
“Public Key Infrastructure”	means the policies, methods, equipment and procedures including associated software, hardware and firmware for establishing and managing a secure method for exchanging electronic information involving the use of certification certificates, digital certificates, digital signatures, public and/or private keys.
“Retention”	means the amount specified as such in the Schedule.
“Retroactive Date”	means the date specified as such in the Schedule.
“Security”	means hardware, software or firmware whose function or purpose is to prevent a computer attack, unauthorized access, unauthorized use, disclosure of confidential or private information, or the transmission of malicious code. Security includes firewalls, filters, dmzs, computer virus protection software, intrusion detection, the electronic use of passwords or similar identification of authorized users. Security also includes the



Insured's specific written policies and procedures relating to the theft of a password or access code by non-electronic means.

“Subsidiary” means companies in which the **Policyholder**, either directly or indirectly through one or more of its **Subsidiaries**;

- (i) controls the composition of the board of directors;
- (ii) controls more than half of the voting power; or
- (iii) holds more than half of the issued share capital.

For any **Subsidiary** or any **Insured** thereof, cover under this policy shall only apply to **Wrongful Acts** committed while such entity is a **Subsidiary** of the **Policyholder**.

“Technology Services” means any:

- (i) software services;
- (ii) **Data** services; or
- (iii) Services that facilitate access to or the use of **Data** or software via the Internet;

of the **Policyholder** or any **Subsidiary**.

“Technology Product” means any computer hardware or firmware:

- (i) sold, leased or otherwise supplied;
- (ii) licensed; or
- (iii) installed, modified or serviced;

by any **Insured**.

“Technology Product Failure” means any actual or alleged **Breach of Duty**, act, error, misstatements, or omission in connection with any **Technology Product**, but does not include any design defect or manufacturing defect in any **Technology Product**.

“Territorial Limits” means anywhere in the world other than **North America**.

“Third Party” means any entity or natural person; provided, however, **Third Party** does not mean: (i) any **Insured**; or (ii) any other entity or natural person having a financial interest or executive role in the operation of the **Policyholder** or any **Subsidiary**.

“Tool of Trade” means any **Vehicle** which has attached as an integral part of such **Vehicle** any equipment for mechanical digging, scraping, grading, slashing, mowing, drilling, lifting or levelling, while such equipment is being used for the purpose for which it was designed.

“Trade Secret” 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.

“Vehicle” means any type of machine on wheels or on caterpillar tracks made or intended to be propelled other than by manual or animal power.

“Wrongful act” means any **Breach of Duty, Misleading or Deceptive Conduct, Technology Product Failure, Infringement, libel, slander, or Fraud/Dishonesty**.

“Watercraft” Means any vessel or **Watercraft** made to or intended to float on or in or travel on or through or under water.



Section Four – Exclusions

This policy shall not cover **Loss** in connection with any **Claim** arising out of, based upon or attributable to any:

Aircraft, Hovercraft and Watercraft	<p>ownership, possession, maintenance, operation or use by or on behalf of the Insured:</p> <ul style="list-style-type: none">(a) of any Aircraft or Hovercraft; or(b) any Watercraft or vessel exceeding eight (8) meters in length. <p>Provided that this Exclusion shall not apply with respect to:</p> <ul style="list-style-type: none">(i) Watercraft owned by others and used by the Insured for Business entertainment; or(ii) hand propelled or sailing craft. <p>Provisos i) and ii) shall only apply where such Watercraft are sailing or operating in New Zealand territorial or inland waters;</p>
Antitrust	actual or alleged antitrust violation, restraint of trade or unfair competition;
Asbestos	<p>mesothelioma, asbestosis or for any death, disease, loss of use of property, damage to property (including consequential loss) arising directly or indirectly out of or in connection with or in consequence of:</p> <ul style="list-style-type: none">(a) Inhaling, ingesting or physical exposure to asbestos or goods or products containing asbestos; or(b) The use of asbestos in constructing or manufacturing any good, product or structure; or(c) The removal of asbestos from any good, product or structure; or(d) The manufacture, sale, transportation, storage or disposal of asbestos or goods or products containing asbestos; or <p>The presence of asbestos in any building;</p>
Bodily Injury/ Property Damage	for the Professional Liability Section only; Bodily Injury or Property Damage unless arising from an actual or alleged failure to achieve the legally required standard of care, diligence and expertise in performing Technology Services ;
Continuity Date/Prior Claims	<ul style="list-style-type: none">(a) made prior to or pending at the inception of this policy; or(b) actual or alleged Wrongful Act committed before the Continuity Date as specified in the Schedule if, on or before that date, the Insured knew or ought reasonably to have foreseen that such Wrongful Act would or could lead to a Claim; or(c) facts or circumstances of which notice was given or ought reasonably to have been given under any policy in force; or(d) 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 Continuity Date as specified in the Schedule:
Contractual Liability/Performance Guarantees	<ul style="list-style-type: none">(a) contractual liability or other obligation assumed, that goes beyond the duty to use such skill and care as is ordinarily applied to the Technology Services provided;(b) guarantee or warranty;



- (c) delay in performing, failing to perform or failing to complete any **Technology Services**, unless such delay or failure arises from a **Breach of Duty** by an **Insured**;
- (d) delay in the supply, installation, modification or service of any **Technology Products** unless such a delay arises from **Technology Product Failure**;
- (e) for the General and Products Liability Section, **Personal Injury** or **Property Damage**:
 - (a) Where the **Insured** assumes liability under any contract or agreement.
but this Exclusion (e) (i) shall not apply to those written contracts:
 - i) designated in the Schedule;
 - ii) where liability would have been implied by law;
 - iii) where the **Insured** assumes liability under a warranty of fitness or quality as regards the **Insured's Products**;
 - iv) to **Incidental Contracts** entered into by the **Policyholder**;
 - v) to **Insured Contracts** entered into by the **Policyholder** where the **Policyholder** is obligated to provide insurance as is afforded by this Policy, to any person or organisation, but only with respect to their liability arising out of operations conducted by the **Policyholder** or on their behalf and not to any greater extent than required by the contract or agreement;

where the **Insured** has waived any rights, which but for the existence of such waiver would accrue to the **Insured**;

Costs Assessment

failure by any **Insured** or other party acting for the **Insured** to make an accurate pre-assessment of the cost of **Technology Products** or performing **Technology Services**;

Employment

- (a) actual or alleged employment related: practices, harassment or discrimination;
- (b) intentional or systemic harassment or discrimination; or
- (c) **Personal Injury** sustained by an **Employee** which arises out of or in the course of their employment by the **Insured**; or
- (d) imposed by the provisions of any:
 - (i) Workers' Compensation or Accident Compensation legislation or under any similar legislation;
 - (ii) Industrial award, agreement or determination; or
- (e) obligation for which the **Insured** may be held liable under any Worker's Compensation Law or under any similar law;

Insolvency / Trade Debts

(a) insolvency, administration or receivership of the **Insured**; or (b) their actual or alleged inability to meet any or all of their debts as they fall due; or (c) trading debt incurred by an **Insured**, or (d) guarantee given by an **Insured** for a debt;

Infrastructure

- (a) mechanical failure;
- (b) electrical failure, including any electrical power interruption, surge, brown out or black out; or
- (c) telecommunications or satellite systems failure, unless such failure arises



from a **Breach of Duty** by an **Insured** or a **Technology Product Failure**;

Intentional Acts	arising out of, based upon or attributable to any deliberate or reckless Breach of Duty, or Misleading and Deceptive Conduct or Technology Product Failure ; or any act which a judge, jury or other official tribunal or arbitrator finds, or which an Insured admits, to be a criminal, dishonest or fraudulent act; and in such event, the Insurer shall be reimbursed for all Loss paid in connection with such Claim ; provided, however, that this exclusion shall not apply to the Fraud/Dishonesty Cover;
Internet Material	material which is published or posted on the Insured's own websites, bulletin boards or chat rooms where, prior to publishing or posting, the Insured has no knowledge of either the content or source of the material;
Internet Operations	for the General and Products Liability Section only; Personal Injury or Property Damage arising directly or indirectly out of or caused by or in connection with: <ul style="list-style-type: none">(a) The Insured's internet operations, including but not limited to business conducted and/or transacted via the internet, intranet, extranet and/or via the Insured's own website, internet site, web address and/or via the transmission of electronic mail or documents by electronic means;(b) The Insured's legal liability for error or omission, failure or delay in electronic transmission;(c) The contents of information or Data transmitted;(d) The Insured's legal liability for the cost of restoring lost Data or the resultant loss of use of any Data arising directly or indirectly from any computer software or hardware installed, supplied, manufactured, altered, repaired or serviced by Insured.
Mould / Building Defect	liability for any Personal Injury or Property Damage or any other Loss, injury, Damage, cost or expense , including, but not limited to, losses, costs or expenses related to, arising from or associated with clean-up, remediation, containment, removal or abatement, caused directly or indirectly, in whole or in part, by: <ul style="list-style-type: none">(a) Any Fungus(i), Moulds(s), mildew or yeast, or(b) Any Spore(s) or toxins created or produced by or emanating from such Fungus(i), Mould(s), mildew or yeast, or(c) Any substance, vapour, gas, or other emission or organic or inorganic body or substance produced by or arising out of any Fungus(i), Mould(s), mildew or yeast, or(d) Any material, product, building component, building or structure, or any concentration of moisture, water or other liquid within such material, product, building component, building or structure, that contains, harbours, nurtures or acts as a medium for any Fungus(i), Mould(s), mildew, yeast, or Spore(s) or toxins emanating therefrom, Regardless of any other cause, event, material, product and/or building component that contributed concurrently or in any sequence to that Loss, injury, Damage, cost or expense . For the purposes of this exclusion, the following definitions are added to the Policy: Fungus(i) includes, but is not limited to, Any of the plants or organisms belonging to the major group Fungi, lacking chlorophyll, and including moulds, rusts, mildews, smuts and mushrooms.



Mould(s) includes, but is not limited to, any superficial growth produced on damp or decaying organic matter or on living organisms, and fungi that produce moulds.

Spore(s) means any dormant or reproductive body produced by or arising or emanating out of any **Fungus(i)**, **Mould(s)**, mildew, plants, organisms or micro-organisms;

Nuclear	(a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; (b) the radioactive, toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component thereof;
Patent/Trade Secret	breach of licences concerning, Infringement of or misappropriation of patents or Trade Secrets , provided, however, that this exclusion shall not apply to the Patent Infringement Extension;
Pollution	(a) actual, alleged or threatened presence, discharge, dispersal, release, migration or escape of Pollutants ; or (b) any direction, request or effort to: (i) test for, monitor, clean up, remove, contain, treat, detoxify or neutralise Pollutants , or (ii) respond to or assess the effects of Pollutants ; or (c) fines, penalties, punitive, exemplary or multiple damages relating to the circumstances detailed in (a) above; or (d) the cost of preventing the escape of Pollutants . Exclusions (a) and (b) above shall not apply where the Claim or Legal Proceeding arises from a sudden identifiable, unintended and unexpected event which takes place in its entirety at a specific time and place and occurs outside of North America ;
Product Defect / Loss of Use	for the General and Products Liability Section only (a) Property Damage to the Insured's Products ; or (b) loss of use of any tangible property which has not been physically injured or destroyed resulting from the failure of the Insured's Products to meet the level of performance, quality, fitness or durability express or implied, warranted or represented by the Insured , provided that this Exclusion (b) does not apply to loss of use of other tangible property resulting from the sudden and accidental physical injury to or destruction of the Insured's Products after such products have been put to use by any person or organisation other than the Insured ;
Product Recall	for any cost or expense incurred or claimed for the withdrawal, inspection, repair, replacement, or loss of use of the Insured's Products or of any property of which such products form a part, if such products, or property are withdrawn from the market or from use because of any known or suspected defect or deficiency therein; provided, however, that this exclusion shall not apply to the Product Recall Extension;
Professional Liability	for the cover under the General & Products Liability Insuring Clause only: a) rendering of or failure to render professional advice or services by the Insured ; or b) any error or omission arising from the rendering of professional advice, design specification or services; for a fee;
Property Owned or in the Insured's Physical or Legal Control	subject to the Computer Records , Care Custody and Control, Landlords Liability and Tenants Liability Extensions; Property Damage to: a) Property owned by, leased or rented to the Insured ; or b) property belonging to the Insured or in the care, custody or control of the



Insured or any **Employee** of the **Insured**;

- c) that particular part of any real property on which the **Insured** or any contractors working directly or indirectly on the **Insured's** behalf are performing operations if the **Loss** or **Property Damage** arises out of those operations;

Public Key Infrastructure where the **Insured** acted in the actual or effective capacity of a certificate authority, certificate repository, validation authority or registration authority; or arising out of the theft of any **Public Key Infrastructure**;

Silica presence, ingestion, inhalation or absorption of or exposure to silica products, silica fibres, silica dust or silica in any form, or to any obligation of the **Insured** to indemnify any party because of **Bodily Injury** or **Property Damage** arising out of the presence, ingestion, inhalation or absorption of or exposure to silica products, silica fibres, silica dust or silica in any form;

Territorial Limits **Wrongful Acts** committed outside the **Territorial Limits**;

U.S.A./Canada made or pending within; or to enforce a judgment obtained in **North America**;

Vehicles subject to paragraph (d) of the Care Custody and Control Extension **Personal Injury** or **Property Damage** caused by or arising out of the ownership, possession, use of or operation by the **Insured** of any **Vehicle** which is registered or in respect of which insurance is required by virtue of any legislation.

Provided that this Exclusion shall not apply to the **Insured's** liability for **Personal Injury** or **Property Damage** arising from:

- a) The actual loading, unloading, delivery or collection of goods to or from any **Vehicle**;
- b) The use of any **Tool of Trade** either on any site where the **Insured** is undertaking work or at the **Insured's** premises.

This proviso b) does not extend cover to the use of any **Tool of Trade**, while in transit or while being used for transport or haulage; or

War/Terrorism 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.



Section Five – Conditions

Conditions: Claims

Notification of Claims	<p>The Insured shall, as a condition precedent to the obligations of the Insurer under this policy, give written notice to the Insurer of (i) any Claim first made against the Insured, (ii) of the receipt of notice from any person of an intention to make a Claim against any Insured, (iii) or of the discovery of reasonable cause for suspicion of Dishonesty or Fraud on the part of any past or present principal, partner or director, Employee or Independent Contractor of the Insured whether giving rise to a Claim under this Policy or not as soon as practicable and during the Policy Period. 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 Claim against an Insured, or discovery of dishonesty is given to the Insurer pursuant to the terms and conditions of this policy, then: (i) any subsequent Claim alleging, arising out of, based upon or attributable to the facts alleged in that previously noticed Claim; and (ii) any subsequent Claim alleging any Wrongful Act or Occurrence which is the same as or related to any Wrongful Act or Occurrence alleged in that previously noticed Claim, shall be considered made against the Insured and reported to the Insurer at the time notice was first given. Any Claim or Claims arising out of, based upon or attributable to (i) the same cause, or (ii) a single Wrongful Act or Occurrence, or (iii) a series of continuous, repeated or related Wrongful Acts or Occurrences, shall be considered a single Claim for the purposes of this policy.</p>
Circumstances	<p>During the Policy Period, an Insured may become aware of circumstances which may reasonably be expected to give rise to a Claim. In such event, an Insured may report the circumstances in writing to the Insurer. If in doing so, the Insured provides: (i) the reasons for anticipating the Claim, and (ii) full particulars as to dates, acts and persons involved; then any Claim which is subsequently made against an Insured and reported in writing to the Insurer alleging, arising out of, based upon or attributable to such circumstances, or alleging any Wrongful Act which is the same as or related to any Wrongful Act alleged or described in the previously notified circumstances, shall be considered first made against the Insured and reported to the Insurer at the time the facts or circumstances were first reported, if accepted by the Insurer.</p>
Continuity	<p>Notwithstanding the Continuity and Prior Claims Exclusion, cover is provided under this Policy for any Claim, fact, matter or circumstance which could or should have been notified to the Insurer under any earlier policy. Provided always that:</p> <ul style="list-style-type: none">(i) the Claim, fact, matter or circumstance could and should have been notified after the continuity date; and(ii) The cover provided by this Condition shall be on the same terms, exceptions and conditions as the policy under which the Claim, fact, matter or circumstance could or should have been notified. <p>This Condition applies to all Insuring Clauses and Extensions other than under the Public Liability Section.</p>
Defence/Settlement	<p>The Insurer does not assume any duty to defend, and the Insured shall not be required to contest any legal proceeding unless counsel (to be mutually agreed upon by the Insured and the Insurer) shall advise that such Claim should be contested by the Insured. The Insurer may elect in writing to take</p>



over and conduct the defence and settlement of any **Claim**. If the **Insurer** 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 **Insurer**. The **Insurer** has the right at any time after notification of a **Claim** to make a payment to the **Insured** of the unpaid balance of the **Limit of Liability**, and upon making such payment, all obligations of the **Insurer** to the **Insured** under this policy, including, if any, those relating to defence, shall cease.

Determination of Whether Insurer's Settlement Recommendations are Reasonable

Should any **Insured** wish to contest any **Legal Proceedings** which the **Insurer** wants to settle, then the **Insurer** agrees to the appointment, at the **Insureds'** request, of a Senior Lawyer (to be mutually agreed upon by the **Insured** and the **Insurer**, or in the absence of mutual agreement to be appointed by the President of the Law Society, or equivalent organisation, in the jurisdiction in which the **Legal Proceedings** were first served) to determine whether the **Insurer's** settlement recommendation is reasonable. The Senior Lawyer shall take into consideration the economics of the matter, the damages and costs which are likely to be recovered by the plaintiff, the likely costs of defence and the prospects of the **Insured** successfully defending the action. The costs of the Senior Lawyer's opinion shall be borne by the **Insurer**.

Insurer's Consent

As a condition precedent to cover under this policy, no **Insured** shall admit or assume any liability, enter into any settlement agreement, consent to any judgment, or incur any **Defence Costs** without the prior written consent of the **Insurer**. Only those settlements, judgments and **Defence Costs** consented to by the **Insurer**, and judgments resulting from **Claims** defended in accordance 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 Lawyer (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 Lawyer 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 Lawyer. The Senior Lawyer is to take account of the parties' submissions, but the Senior Lawyer 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 Lawyer's determination shall be final and binding. The costs of the Senior Lawyer'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, in its sole and absolute discretion, to avoid its obligations under or void this policy in its entirety, and in such case, all cover for **Loss** under the policy shall be forfeited and all **Premium** deemed fully earned and non-refundable.

Purchase and Administration

Policy Purchase

If the **Insurer** becomes entitled to avoid this policy from inception or from the time of any variation in cover, the **Insurer** may at its discretion maintain this policy in full force but exclude the consequences of and any **Claim** relating to any matter which ought to have been disclosed before inception or any variation in cover.

However, in any case where the **Insured** should have notified under any preceding insurance a circumstance which may give rise to a **Claim** and the indemnity or cover available under this Policy is greater or wider in scope than the indemnity which the **Insured** would have been entitled to under any preceding insurance (whether with the **Insurer** or not) then the **Insurer** shall only be liable to indemnify the **Insured** in respect of that **Claim** to the extent of the indemnity which would have been afforded by such preceding insurance.

Administration

The **Policyholder** has acted and shall act on behalf of each and every **Insured** with respect to: (1) negotiating terms and conditions of, binding and amending cover; (2) exercising rights of **Insureds**; (3) notices; (4) **Premiums**; (5) endorsements; (6) dispute resolution; and (7) payments to any **Insured**.

Representation/ Severability

In granting cover to the **Insured**, the **Insurer** has relied upon the material statements and particulars in the proposal together with its attachments and other information supplied. These statements, attachments and information are the basis of cover and shall be considered incorporated and constituting part of this policy.

That written proposal form for coverage shall be construed as a separate proposal form individually submitted for each **Insured**.

Non Imputation

No state of mind or knowledge possessed by an **Insured** shall be imputed to any other **Insured** for the purpose of determining entitlement to coverage.



Limit and Retention

Limit of Liability	<p>Except as extended in this paragraph, the total amount payable by the Insurer under this policy shall not exceed the Limit of Liability except where the Limit of Liability for Professional Liability has been reinstated pursuant to the Reinstatement Extension. Sub-limits of Liability and Extensions are part of that amount and are not payable in addition to the Limit of Liability. Defence Costs are payable in addition to the Limit of Liability, up to an amount of \$500,000 or 10% of the Limit of Liability whichever is less. The Limit of Liability for the period provided in the Discovery and Extended Reporting Period Extensions is part of, and not in addition to, the Limit of Liability for the Policy Period. The inclusion of more than one Insured under this policy does not operate to increase the total amount payable by the Insurer under this policy.</p>
Retention	<p>The Insurer shall only pay for the amount of any Loss which is in excess of the Retention. For the avoidance of doubt, the Retention also applies to Defence Costs. The Retention is to be borne by the Insured and shall remain uninsured. A single Retention shall apply to Loss arising from all Claims alleging the same Wrongful Act or Occurrence. The Insurer may, in its sole and absolute discretion, advance all or part of the Retention, and, in that event, such amounts shall be reimbursed to the Insurer by the Insureds forthwith.</p> <p>The Insurer will not defend any Claim or Legal Proceeding or investigate any Claim or Legal Proceeding arising from an Occurrence after the exhaustion of the applicable Limits of Liability by the payment of Loss.</p>
Cross Liability	<p>If the Insured comprises more than one party, the Insurer will provide indemnity to each in the same manner and to the same extent as if a separate policy had been issued to each, provided that the Insurer's total liability for liability sustained by any or all of the Insureds shall not exceed the Limit of Liability stated in the Schedule.</p>
Other Insurance/ Indemnification	<p>Unless otherwise required by law, cover under this policy is provided only as excess over any self-insurance or other valid and applicable insurance, unless such other insurance is written only as specific excess insurance over the Limit of Liability. If such other insurance is provided by the Insurer or any member company or affiliate of the Insurer, then the maximum amount payable by the Insurer under all such policies shall not exceed the Limit of Liability of that policy referred to above which has the highest applicable Limit of Liability. Nothing contained herein shall be construed to increase the Limit of Liability of this policy. To the extent that another insurance policy imposes upon an insurer a duty to defend a Claim, Defence Costs arising out of such Claim shall not be covered under this policy.</p>
Non-Compliance	<p>The amount of indemnity under this Policy shall be reduced where the Insured's breach of, or non-compliance with, the terms and conditions of this Policy prejudices the settlement or handling of a Loss or Claim, to such sum which in the opinion of the Insurer would have been payable by them without such prejudice.</p>



General Provisions

Alteration of Risk	The Policyholder shall notify the Insurer in writing within thirty (30) days of any material changes to the Business description as stated in the Schedule. The Insurer reserves the right to accept or deny coverage at the time of such notification and to establish a separate rate and Premium for any such change in description of Business as set forth in the Schedule.
Assignment	This policy and any rights under or in respect of it cannot be assigned without the prior written consent of the Insurer .
Cancellation	
By Policyholder:	This policy may be cancelled by the Policyholder at any time only by mailing written prior notice to Insurer or by surrender of this policy to Insurer or its authorized agent. In such case, if no Claim has been made and no circumstance has been notified prior to such cancellation; Insurer shall retain the customary short rate proportion (unexpired portion of Premium less handling charges) of the Premium . Otherwise, Premium shall not be returnable and shall be deemed fully earned at cancellation.
By Insurer:	This policy may be cancelled by the Insurer as and in the manner permitted by law delivering to the Policyholder by registered, certified, other first class mail or other reasonable delivery method, at the address of the Policyholder set forth in the Schedule, written notice stating when, not less than thirty (30) days thereafter (ten (10) days in the event of cancellation for non-payment of Premium), the cancellation shall be effective. Proof of mailing or delivery of such notice shall be sufficient proof of notice and this policy shall be deemed cancelled as to all Insureds at the date and hour specified in such notice. In such case, the Insurer shall be entitled to a <i>pro-rata</i> proportion of the Premium . Payment or tender of any unearned Premium by the Insurer shall not be a condition precedent to the effectiveness of cancellation, but such payment shall be made as soon as practicable
Compliance	The Insured shall comply with all statutory requirements concerning the inspection of passenger lifts and steam pressure apparatus.
Currency	All Premiums and payments made on Claims or Losses (if any) are payable in New Zealand and in New Zealand dollars.
GST	All amounts indicated in this Policy and the attached Schedule are exclusive of Goods and Services Tax where payable by law.
Insolvency	Insolvency, receivership or bankruptcy of any Insured shall not relieve the Insurer of any of its obligations hereunder.
Inspection	<p>The Insurer may audit and examine the Policyholder's books and records as they relate to this policy at any time during the Policy Period or anytime after the expiration or termination of this policy.</p> <p>The Insurer has the right, but is not obligated, to inspect the Insured's premises and operations at any time without prior notice to the Insured subject to which the Insurer will use reasonable endeavours to give the Insured reasonable notice of any intended inspection. The Insurer's inspections are not safety inspections. They relate only to the insurability of the Insured's premises and operations and the Premiums to be charged. The Insured will allow the Insurer, its agents, representatives, Employees or consultants (hereinafter referred as the "Surveyor"): </p> <p>(a) access to its premises and other places of Business; and</p>



- (b) to conduct such enquiries as the **Surveyor** deems necessary, including (without limitation) by way of interviews with **Employees**; and generally
- (c) provide all reasonable cooperation and assistance as the **Insurer** or the **Surveyor** may require in a conduct of the Survey.

The **Insurer** may give the **Insured** reports on the conditions that the **Insurer** finds. The **Insurer** may also recommend changes. The **Insurer** does not, however, undertake to perform the duty of any person or organisation to provide for the health or safety of the **Insured's Employees** or the public. The **Insurer** does not warrant the health and safety conditions of the **Insured** or **Insured's** premises or operations or represent that the **Insured** or **Insured's** premises or operations comply with laws, regulations, codes or standards.

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.
Observance	By accepting this policy the Policyholder agrees that the statements in the proposal, broker submission, and any attachments are accurate and complete and acknowledges that we have issued this policy in reliance upon those representations.
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 bold typeface have special meaning and are defined. Words that are not specifically defined in this policy have the meaning normally attributed to them.
Reasonable care	<p>The Insured shall take all reasonable care to prevent injury or Loss or Damage and to maintain the premises, plant and all other business assets in good repair, and to comply with all statutory obligations and regulations.</p> <p>The Insured shall make good or remedy any defect or danger and take such additional precautions as may be required as soon as possible after discovery, but such expenses shall not be recoverable under this policy.</p>
Scope and Governing Law	Where legally permissible and subject to the U.S.A./Canada Exclusion, this policy shall apply to any Claim made against any Insured 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 Claim , the Insurer shall be subrogated to all rights of recovery of the Insured whether or not payment has in fact been made and whether or not the Insured has been fully compensated for its actual Loss . The Insurer shall be entitled to pursue and enforce such rights in the name of the Insured , who shall provide the Insurer with all reasonable assistance and co-operation in doing so, including the execution of any necessary instruments and papers. The Insured shall do nothing to prejudice these rights. Any amount recovered in excess of the Insurer's total payment shall be restored to the Insured less the cost to the Insurer of such recovery. The Insurer agrees not to exercise any such rights of recovery against any Employee unless the Claim is brought about or contributed to by the dishonest, fraudulent, intentional criminal or malicious act or omission of the Employee . 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.



Technology Liability Insurance

Endorsement

Endorsement Number 001
This endorsement, effective 4.00pm, <>
Policy Number PI <>
Issued to <>
By AIG Insurance New Zealand Limited

Endorsement Name

All other terms, conditions and exclusions remain unchanged

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

..... 08 April 2013
Authorised Person **Date**



AIG Insurance New Zealand Limited

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