



**BLUE
ZEBRA**
INSURANCE

CYBER INSURANCE

POLICY WORDING

Version 3.0

Effective Date: 14th January 2025

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IMPORTANT INFORMATION

Understanding the Policy

You should read the entire **Policy** carefully, including all definitions and exclusions to ensure that the **Policy** meets your requirements and that you understand your obligations under this **Policy**.

The **Policy** includes this wording, the **Schedule** and any Endorsements attaching to it. These documents shall be read together as one contract.

Discovery & Claims Made Insurance

This is a **Discovery** and claims made and notified **Policy** Cover is only provided for:

- **Loss** sustained prior to the expiry of the **Policy Period** and notified as soon as reasonably practicable during the **Policy Period** or any applicable **Extended Reporting Period**; or
- **Claims** first made against the **Insured** during the **Policy Period** and notified to the **Insurer** during the **Policy Period** or any applicable **Extended Reporting Period**.

This **Policy** does not provide cover in relation to:

- any **Claim** made against you prior to the commencement of the **Policy Period**;
- any **Claim** or fact that might give rise to a **Claim**, and which was noted in your application for cover;
- any **Claim** or fact that might give rise to a **Claim**, reported or which can be reported to an **Insurer** under any insurance **Policy** entered into before the commencement of the **Policy Period**;
- any **Claim** made against you or **Loss** incurred by You after the expiry of the **Policy Period**; or
- any **Claim** arising out of any **Wrongful Act** occurring before the **Retroactive Date** specified in the **Policy**.

However, under Section 40(3) of the Insurance Contracts Act 1984 (Cth), where the **Insured** gave written notice to the **Insurer** of facts that might give rise to a **Claim** against the **Insured** as soon as was reasonably practicable after the **Insured** became aware of those facts but during the **Policy Period**, the **Insurer** is not relieved of liability under the **Policy** in respect of the **Claim**, when made, by reason only that it was made after the expiration of the **Policy Period**.

It is also important to make proper and timely disclosure (see **Duty of Disclosure**) so that cover under the **Policy** is not jeopardized due to non-disclosure.

Duty of Disclosure

Before you enter into an insurance contract, you have a duty to tell the **Insurer** anything that you know, or could reasonably be expected to know, that may affect the **Insurer's** decision to insure you and on what terms. You have this duty until the **Insurer** agrees to insure you. You

have the same duty before you renew, extend, vary or reinstate an insurance contract.

You do not need to tell the **Insurer** anything that:

- reduces the risk the **Insurer** insures for you;
- is common knowledge;
- that the **Insurer** knows or should know as an **Insurer**; or
- the **Insurer** has waived your duty to tell them about.

Non-disclosure: If you do not tell the **Insurer** anything you are required to, the **Insurer** may cancel your contract or reduce the amount that will be paid if you make a claim, or both. If your failure to tell the **Insurer** is fraudulent, the **Insurer** may refuse to pay a claim and treat the contract as if it never existed.

Retroactive Liability

Insurance Covers under this **Policy** may be limited by a **Retroactive Date** stated in the **Schedule**. The **Policy** does not provide cover in relation to any **Claim** under the **Policy** arising from acts or events that occur before unless retroactive liability cover is extended by the **Insurer**.

About Blue Zebra

Blue Zebra Insurance Pty Ltd (**BZI**) (ABN 12 622 465 838), Australian Financial Services (AFS) Licence Number 504130, is an insurance underwriting agency and holds an AFS Licence to issue and provide general advice on general insurance products.

BZI issues and administers the **Policy BZI** acts under a binding authority for the **Insurer** and not the **Insured**

About the Insurer - certain Underwriters at Lloyd's (Munich Re Syndicate at Lloyd's) ("Insurer").

Munich Re Syndicate has been operating as a Syndicate at Lloyd's since 1977 **BZI** is an approved Coverholder for Lloyd's, and therefore acts as an Agent for the **Insurer** as explained above.

Lloyd's Australia is the representative office of Lloyd's. Contact details:

Lloyd's General Representative in Australia, Lloyd's Australia Limited, Level 9, 1 O'Connell St, SYDNEY NSW 2000

Phone: (02) 8298 0700

Fax: (02) 82980788

Email: ldraustralia@lloyds.com

Privacy

BZI is bound by the Privacy Act 1988 (Cth)

How we collect your details

We collect personal or sensitive information, about you ('your details') directly from you or your intermediary. We may also collect it from other

third parties such as our agents and service providers, other Insurers and insurance reference bureaus, people who are involved in a claim or assist us in investigating or processing claims, including third parties claiming under your **Policy**, witnesses and medical practitioners, third parties who may be arranging insurance cover for a group that you are a part of; law enforcement, dispute resolution, statutory and regulatory bodies; marketing lists and industry databases; and publicly available sources Before giving us personal information about another person, please make them aware of this privacy notice or refer that person to our Privacy Policy which is referred to below

Why we collect, use and disclose your details

We collect, disclose and handle information, and in some cases personal or sensitive information, about you ('your details') to assess applications, administer policies, contact you, enhance our products and services and manage claims ('purposes') If you do not provide your information, we may not be able to provide you with our services or do those things listed above By providing us, our representatives or your intermediary with your details, you consent to us using, disclosing to third parties and collecting from third parties your details for the purposes

Laws authorising or requiring us to collect information include the Insurance Contracts Act 1984, Anti-Money Laundering and Counter-Terrorism Financing Act 2006, Corporations Act 2001, Autonomous Sanctions Act 2011, A New Tax System (Goods and Services Tax) Act 1999 and other financial services, crime prevention, trade sanctions and tax laws

Who we may disclose your details to (including overseas disclosure)

We may disclose your details for the purposes noted above to relevant third parties including your intermediary, affiliates of **BZI**, The Insurer, other insurers and reinsurers, our service providers, our business partners, health practitioners, your employer, parties affected by claims, people investigating or assisting us in claims, government bodies, regulators, law enforcement bodies and as required by law, within Australia and overseas **BZI's** Privacy Policy, available at www.bzi.com.au, provides further information and lists service providers, business partners and countries in which recipients of your details are likely to be located It also sets out how we handle complaints and how you can access or correct your details or make a complaint.

General Insurance Code of Practice

The Insurance Council of Australia Limited has developed the General Insurance Code of Practice ("the Code"), which is a voluntary self-regulatory code. The Code aims to raise the standards of practice and service in the insurance industry.

Lloyd's has adopted the Code on terms agreed with the Insurance Council of Australia. For further information on the Code please visit www.codeofpractice.com.au.

The Code Governance Committee (CGC) is an independent body that monitors and enforces insurers' compliance with the Code. For more information on the Code Governance Committee (CGC) go to

www.insurancecode.org.au

Complaints Resolution & External Dispute Resolution

If you have any concerns or wish to make a complaint in relation to this **Policy**, our services or your insurance claim, please let us know and we will attempt to resolve your concerns in accordance with our Internal Dispute Resolution procedure. Please contact in the first instance:

Blue Zebra Insurance Pty Ltd, Lumley House, Level 5, 309 Kent Street, Sydney, 2000. PO Box R804, Royal Exchange, NSW, 1225. Ph 02 9136 0110 Email: info@bzi.com.au

We will acknowledge receipt of your complaint and do our utmost to resolve the complaint to your satisfaction within 10 business days.

If we cannot resolve your complaint to your satisfaction, we will escalate your matter to Lloyd's Australia who will determine whether it will be reviewed by their office or the Lloyd's UK Complaints team. Lloyd's contact details are:

Lloyd's Australia Limited. Email: ldraustralia@lloyds.com Telephone: (02) 8298 0783 Post: Suite 1603 Level 16, 1 Macquarie Place, Sydney NSW 2000

A final decision will be provided to you within 30 calendar days of the date on which you first made the complaint unless certain exceptions apply.

You may refer your complaint to the Australian Financial Complaints Authority (AFCA), if your complaint is not resolved to your satisfaction within 30 calendar days of the date on which you first made the complaint or at any time:

AFCA can be contacted as follows:
Telephone: 1800 931 678 Email: info@afca.org.au
Post: GPO Box 3 Melbourne VIC 3001 Website: www.afca.org.au

Your complaint must be referred to AFCA within 2 years of the final decision, unless AFCA considers special circumstances apply. If your complaint is not eligible for consideration by AFCA, you may be referred to the Financial Ombudsman Service (UK) or you can seek independent legal advice. You can also access any other external dispute resolution or other options that may be available to you.

Electronic Delivery of Policy Documents

BZI will forward your **Policy** Documents to your broker. In consideration of the payment of the **Premium**, and, in reliance upon the disclosures made in the **Proposal**, the **Insurer** will provide insurance on the terms set out in this **Policy**.

SECTION 1 - CYBER INSURANCE COVERS

The **Insurer** will indemnify the **Insured** under the following Covers 1 – 6 only with respect to:

- (a) **Claim**, first made against the **Insured**; or
- (b) **Cyber Threat of Extortion**, first made against the **Insured**;
- (c) actual, suspected or alleged **Cyber Breach** first **Discovered**; during the **Policy Period** and notified in accordance with SECTION 4 - CLAIMS CONDITIONS Notification.

Cover 1: Third Party Liability

The **Insurer** will pay to or on behalf of the **Insured** all **Damages** which the **Insured** becomes legally liable to pay, directly arising out of a **Claim**.

Cover 2: Defence Costs

The **Insurer** will pay **Defence Costs** on behalf of the **Insured**, incurred to investigate, defend, settle or appeal a **Claim**.

Cover 3: Event Recovery Costs

The **Insurer** will pay to or on behalf of the **Insured** all **Event Recovery Costs** incurred by the **Insured** in response to an actual, suspected or alleged **Cyber Breach**; or a **Cyber Threat of Extortion**.

Cover 4: Business Interruption Loss

The **Insurer** will pay the **Insured** for any **Business Interruption Loss** that the **Insured** incurs, subject to the **Business Recovery Period** and the **Waiting Period**.

Cover 5: Cyber Threat of Extortion Response Costs

The **Insurer** will reimburse the **Insured** for any **Extortion Expenses** and **Extortion Payments** incurred by the **Insured** that directly result from a **Cyber Threat of Extortion**.

Cover 6: Payment Card Industry Data Security Standard Fines

The **Insurer** will pay to or on behalf of the **Insured** any fines or penalties for non-compliance with the Payment Card Industry Data Security Standard which the **Insured** is legally liable to pay to its acquiring bank or payment processor as a direct result of a **Cyber Breach**.

Cover 7: OPTIONAL COVERS

Any Optional Cover is only provided if so indicated on the **Schedule** and is subject to all other terms and conditions of this **Policy**, unless otherwise stated herein. The applicable **Sub-Limit of Liability** and **Deductible** are specified in the **Schedule** against the relevant Optional Cover.

Optional Cover for Criminal Financial Loss

The cover provided under this Optional Cover for Criminal Financial Loss is limited to the **Sub-Limit of Liability** as stated in the **Schedule**, in the aggregate for all **Claims** and/or **losses**.

The **Insurer** will pay the **Insured** for direct financial loss suffered by the **Insured**, which is not recoverable, or a direct financial loss the **Insured** is legally liable to pay to others, which is not recoverable, as the direct result of:

- (a) **Cyber Theft**;
- (b) **Social Engineering Fraud**;
- (c) **Customer Phishing Theft**; or
- (d) **Telephone Phreaking**;

first **Discovered** and notified in accordance with SECTION 4 - CLAIMS CONDITIONS Notification.

SECTION 2 - DEFINITIONS

Acts of Terrorism means any act, including but not limited to the use, or threat of, force by any person or group, whether acting alone or in connection with any organization, committed for political, religious, ideological or similar purposes including the intention to influence any government or to put the public in fear.

Bodily Injury means physical injury, sickness, disease or death of any person; and where resulting from the before mentioned, mental anguish, mental injury or illness, emotional distress or shock.

Bricking event means the unauthorized or malicious reprogramming of **Digital Assets**, including firmware, which renders **Hardware** nonfunctional or useless for its intended purpose, without being physically damaged.

Business means the primary activities of the **Insured's** business specified in the **Schedule**.

Business Interruption means interruption, suspension or deterioration of the **Insured's Business** in an actual and measurable way as a direct consequence of a **Cyber Breach** or **Cyber Threat of Extortion**.

Business Interruption Loss means:

- (a) The Insured's Reduction of Net Income;
- (b) reasonable costs incurred by the **Insured** to:
 - i. avoid or mitigate the effects of a **Business Interruption** and preserve evidence to substantiate any loss;
 - ii. substantiate the loss; and/or
- (c) reasonable and necessary additional expenses incurred by the **Insured** during the **Business Recovery Period** (excluding normal operating expenses) to continue normal **Business** operations as a direct consequence of the **Business Interruption**, subject to the additional expenses being less than the Insured's expected **Reduction of Net Income** had the additional expenses not been incurred.

Business Interruption Loss does not include any:

- i. consequential loss or damage;
- ii. contractual penalties or liquidated damages; iii liability to a **Third Party**;
- iii. legal costs;
- iv. costs to alter, replace or make improvements to the **Insured Network** to a level beyond that which existed immediately prior

to sustaining the **Business Interruption Loss**;

- v. costs to correct any deficiencies in the **Insured Network** or to identify or remediate **Software** errors or vulnerabilities.

Business Recovery Period means the period, limited to 120 days of cover under this **Policy**, following the **expiration** of the **Waiting Period** until the time that the **Net Income** of the **Insured** returns to that which would have been earned were it not for the **Business Interruption**.

BZI means Blue Zebra Insurance Pty Ltd, agent of the **Insurer** with authority to bind cover and issue this **Policy** See Important Notices for information.

BZI's Emergency Response Unit means the party or the parties specified in the **Schedule** as such.

Claim means:

- (a) a written demand seeking legal remedy;
- (b) a notice of pending action or civil, criminal, administrative, regulatory or arbitral proceedings against the **Insured** seeking legal remedy, compliance or other remedy;
- (c) any **Regulatory Proceeding**;
- (d) any action, investigation, inquiry or audit by a **Data Protection Authority** into the **Insured's** procedures for data collection, data processing or delegation of data processing to a **Third Party**, but excludes any such action that is industry-wide and not specific to the **Insured**;
- (e) any action, investigation, inquiry or audit by the **Insured's** acquiring bank or payment processor into the **Insured's** compliance with the Payment Card Industry Data Security Standard;

directly or indirectly related to a **Cyber Breach**; or

- (f) **Media Liability Claim**;

Claim does not include **Employment Claim**

Commercial Information means the **Insured's** or any **Third Party's** business secrets, professional information, or other information not available to the general public, and for which the **Insured** is legally responsible; excluding **Personal Information**.

Customer Phishing Theft means fraudulent communications designed to impersonate the **Insured** without the knowledge of the **Insured** as a result of a **Cyber Breach** which are reasonably relied upon by an existing customer in making an electronic transfer to an unintended **Third Party**.

Cyber Breach means

- (a) unintentional transmission of **Malware** from the **Insured Network** which causes harm to a **Third Party**;
- (b) intentional, reckless or deliberate acts upon or use of the **Insured Network** including but not limited to:
 - i. transmit **Malware**; or
 - ii. steal, damage, corrupt, copy, misuse, or destroy **Personal Information** or **Commercial Information**;

by an **Employee** of the **Insured** acting independently and without the knowledge or connivance of the **Insured's Executive**;
- (c) unintentional loss, corruption, or disclosure of **Personal Information** or **Commercial Information** by the **Insured** or a **Third Party** for whom the **Insured** is legally responsible;
- (d) **Pharming** or **Phishing** or the use of any other electronic communication to impersonate the **Insured**, its products or services to solicit **Personal Information** or **Commercial Information** from a **Third Party** under false pretenses, or failing to prevent such communication, but only where such acts occur through, via or on the **Insured Network**.
- (e) unintentional failure to comply with law or regulations governing collection, protection, or processing or disposal of a **Third Party's** or **Employee's Personal Information**;
- (f) unintentional failure to comply with contractual terms or obligations governing the disposal of a **Third Party's Commercial Information**;
- (g) involvement of the **Insured Network** in a **Denial of Service** attack directed against a **Third Party**;
- (h) unauthorised use of or access to the **Insured Network** resulting in:
 - i. a **Denial of Service** suffered by the **Insured**;
 - ii. disclosure of **Personal Information** and **Commercial Information**;
 - iii. loss or corruption of **Digital Assets**;
- (i) improper or wrongful denial of access to an authorised **Third Party** to the **Insured Network**, **Personal Information** or **Commercial Information**;
- (j) unauthorised use of or access to the **Insured Network** resulting in **Cyber Theft**, **Social Engineering Fraud** or **Customer Phishing Theft**; or
- (k) **Telephone Phreaking**.

The definitions of **Cyber Breach** in i and j above apply only in relation to cover afforded by Optional Cover for **Criminal Financial Loss**, and subject to that Optional Cover being selected by the **Insured** and specified by the **Insurer** as covered in the **Schedule**.

Cyber Terrorism means a premeditated actual or threatened attack against the **Insured Network** or **Digital Assets** with the aim to cause harm or destruction for a political, religious or ideological cause. **Cyber Terrorism** does not include military action or activities in support of any **War**.

Cyber Theft means an intentional and unauthorised electronic transfer, fraudulently transmitted by a **Third Party** as a result of a **Cyber Breach** and without the knowledge of the **Insured**.

Cyber Threat of Extortion means a credible threat or connected series of threats made by a **Third Party** and directed at the **Insured** to disclose **Personal Information** and **Commercial Information**, to restrict, hinder or harm access to, and use of, the **Insured Network** or **Digital Assets** for the purpose of demanding money, securities or other tangible or intangible property of value from the **Insured**. The **Cyber Threat of Extortion** is deemed made when the **Insured's Executive** first **Discovered** the credible threat.

Damages means an award, monetary judgment, or settlement that the **Insured** is legally liable to pay to a **Third Party** and which conforms to the consent requirements set out in this **Policy**.

Damages do not include:

- (a) defence costs;
- (b) non-compensatory damages, including punitive, multiple, exemplary or liquidated damages;
- (c) taxes, sanctions;
- (d) fines or penalties, unless imposed pursuant to privacy regulations or resulting from a **Regulatory Proceeding**.
- (e) the cost to comply with any injunctive or other non-monetary relief;
- (f) any amount which constitutes loss of fees, profits, charges, commissions, royalties or other compensation paid to the **Insured**;
- (g) any matters which are uninsurable under the law pursuant to which this **Policy** is construed.

Data means any electronic or non-electronic forms of information (other than **Software**) held by the **Insured**, or on behalf of the **Insured** by a **Third Party**.

Data Protection Authority means any public or governmental body authorized to investigate prosecute; enforce applicable laws related to the collection, processing or storage of **Data**.

Deductible means the amounts stated as such in the **Schedule**, and further described within **Section 4 Claims Conditions** in this **Policy**.

Defence Costs means reasonable costs, expenses, charges and fees incurred by or on behalf of the **Insured**, subject to the **Insurer's** prior written consent, in the investigation, defence, settlement or appeal of any **Claim**. **Defence Costs** do not include salaries, wages, overhead, benefit expenses or internal charges associated with the **Insured**.

Denial of Service means a malicious attack or unauthorized or unexpected interference designed to restrict or prevent legitimate access to a computer network.

Digital Assets mean **Software** and **Data** in the **Insured Network**, but does not mean **Hardware**.

Digital Media Content means digital or audio media including promotional and advertising material that is published, broadcast including on the internet, distributed or transmitted in digital or electronic form by or on behalf of the **Insured**. **Digital Media Content** does not include any products or services appearing in **Digital Media Content**; or any **Software** other than to the extent that it displays digital content.

Discovered means discovered or reasonably discoverable by the **Insured's Executive**. **Discovery** has a corresponding meaning.

Domiciled means:

- (a) holding an Australian Company Number (ACN) issued pursuant to the Corporations Act (Comm) 2001; and
- (b) conducting business operations from within the territory of Australia but such operations may include the activities of employees in other territories provided that those activities are undertaken solely for the **Insured** or **Subsidiary**.

Employee means an individual who provides services for, on behalf of, or at the direction of the **Insured** under a contract of service and whom the **Insured** has the direct right to control, excluding any partner or director of the **Insured**.

Employment Claim means a claim alleging breach of employment contract or breach of any employment related law or regulation of any kind.

Event Recovery Costs means:

- (a) fees charged by the **BZI's Emergency Response Unit** for services provided as a result of an actual, suspected or alleged **Cyber Breach** or **Cyber Threat of Extortion**.
- (b) reasonable and necessary costs incurred by the **Insured** and with the **Insurer's** prior written consent:

- i. for provision of forensic services by a **Third Party** to investigate the source, extent or cause of the failure of the **Insured Network** or to prevent the **Cyber Breach** or **Cyber Threat of Extortion**;
- ii. to determine if the **Insured** is obliged to notify natural persons or legal entities;
- iii. to notify natural persons or legal entities (including the relevant **Data Protection Authority**) whether or not required by any applicable **Privacy Breach Laws**;
- iv. to determine indemnification obligations under any written contract with respect to a **Cyber Breach** or **Media Liability** by a **Service Provider**;
- v. to procure credit monitoring services and call centre services for the affected parties as a result of a **Cyber Breach** for a period of 12 months or as required by any legislation;
- vi. for provision of legal representation in relation to the investigation, adjustment and defence of a **Regulatory Proceeding**;
- vii. arising from the engagement of public relations, crisis management, or legal firms to recover its reputation or public image to the extent that it was damaged as a direct result of a **Cyber Breach** or **Cyber Threat of Extortion**;
- viii. to preserve critical evidence of criminal or malicious wrongdoings;
- ix. the re-collection, restoration, or replacement of **Digital Assets** including the reasonable costs to determine if such event recovery action is possible. In the event that such recovery action is not possible, the **Insurer** will limit payment to the cost of such determination only;
- x. to repair and/or replace **Hardware**, subject to any sub-limit declared **Schedule**, as a direct result of a **Bricking Event** provided that such **Hardware** cannot be restored to functionality after reasonable efforts have been made or it is reasonably estimated that the costs to technically restore, retrieve, recreate or reinstall **Data** or **Software** exceeds the cost to repair and/or replace **Hardware**.

Event Recovery Costs do not include:

- (a) any costs to alter, replace or make improvements to a level beyond that which existed immediately prior to the **Cyber Breach** or **Cyber Threat of Extortion**;
- (b) any expense to remediate any deficiency that gave rise to the **Cyber Breach** or **Cyber Threat of Extortion**;

- (c) any salaries, wages, overhead or internal charges associated with the **Insured**, other than the cost of **Employee** working time in **Event Recovery Cost** ix;
- (d) any diminution in the market or economic value of **Digital Assets**;
- (e) any expense incurred to identify or remediate **Software** errors or vulnerabilities;
- (f) any consequential loss or damage.

Expert means any person with a high degree of skill in or knowledge of a certain subject, including but not limited to IT specialists, lawyers, consultants or auditors.

Extended Reporting Period means:

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**, the **Insured** will have the right to a 60 day period following the date of cancellation or expiry in which to give notice to the **Insurer** of any covered **Claim** first made against the **Insured** during the **Policy Period**. This extended period shall not apply if this **Policy** or its cover has been replaced. The **Extended Reporting Period** shall not in any way increase the **Limit of Liability** or any **Sub-Limit of Liability** of this **Policy**.

Extortion Expenses means the reasonable and necessary expenses incurred by the **Insured**, with the **Insurer's** prior written consent, which are directly attributable to a **Cyber Threat of Extortion** including, but not limited to, the costs to investigate the cause of, and to terminate, the **Cyber Threat of Extortion**.

Extortion Payments means money to be paid, with the **Insurer's** prior written consent, to a **Third Party** whom the **Insured** reasonably believes is responsible for the **Cyber Threat of Extortion** and in response to the **Cyber Threat of Extortion** for the purpose of terminating the **Cyber Threat of Extortion**. Such **Extortion Payments** will only be paid by the **Insurer** if they do not exceed the amount of reduced financial position calculated under **Business Interruption Loss** Cover which the **Insurer** reasonably believes would have been incurred had such **Extortion Payments** not been made.

Hardware means the physical components of a computer system.

Insurer means **certain Underwriters at Lloyd's (Munich Re Syndicate at Lloyd's)**.

Insured means:

- (a) the **Domiciled** entity listed in the **Schedule** as the **Insured** and any **Subsidiary**;

- (b) any past or present officer, partner, director, trustee, **Employee** of the **Insured** or any **Subsidiary** acting in their capacity as such;

- (c) any past or present partner or principal of the **Insured** or any **Subsidiary** which is a partnership, limited liability partnership or limited liability company acting in their capacity as such;

- (d) any independent contractor, other than a **Service Provider**, under contract with and under the direction and direct supervision of the **Insured** or any **Subsidiary**;

- (e) any estates or legal representatives of any **Insured** in (b) and (c) above.

Insured's Executive means any one or more: Board Member, Director, Chief Executive Officer, Chief Financial Officer, Chief Information Officer, Chief Information Security Officer, Legal Counsel, or any other person within the **Insured** who has equivalent role functionality.

Insured Network means an interconnected electronic, wireless, or similar system (including **Hardware**, **Software** and **Data**) used to process, store or transfer **Digital Assets** and that is:

- (a) leased, operated, controlled, or owned by the **Insured**; or
- (b) operated by a **Service Provider** on behalf of the **Insured**;

Limit of Liability means the total amount payable by the **Insurer** under the **Policy** regardless of the number of coverages or **Claims** or **Losses** that apply. Payments under the **Policy** shall not exceed the **Limit of Liability**, **Sub-Limits of Liability** and **Defence Costs** are part of that amount and are not payable in addition to the **Limit of Liability**.

Loss means those amounts under Section I Cyber Insurance Costs pursuant to Cover 3 (Event Recovery Costs), Cover 4 (Business Interruption Loss), Cover 5 (Cyber Threat of Extortion Response Costs); Cover 6 (Payment Card Industry Data Security Standard Fines); Cover 7 (Optional Cover Criminal Financial Loss), as applicable and specified by the **Insurer** as covered in the **Schedule**.

Malware means any code or unauthorized **Software** designed to infiltrate, damage or disrupt any system or network; corrupt or erase **Data**; or circumvent network security.

Media Liability means any actual, suspected or alleged act, error, misstatement, misleading statement or omission by an **Insured** in connection with the collection, creation, release, printing, broadcasting or distribution of any material that results in:

- (a) defamation, product disparagement, trade libel, infliction of emotional distress;
- (b) infringement of copyright, domain name or other intellectual property rights (excluding patents and trade secrets), passing off,

plagiarism or unauthorized reproduction or distribution of digital media; or

- (c) invasion of or interference with the right to privacy or publicity, public disclosure of private facts, intrusion of privacy, or invasion of privacy including infliction of emotional distress or mental anguish in connection with the before mentioned;

arising out of **Digital Media Content**.

Media Liability Claim means:

- (a) written demand seeking legal remedy;
- (b) notice of pending action or civil, criminal, administrative, regulatory or arbitral proceedings against the **Insured** seeking legal remedy, compliance or other remedy;

directly or indirectly related to **Media Liability**.

Monthly Premium means the Total Amount Payable stated as such in the **Schedule** plus an Insurance instalment processing fee, that is paid by the **Insured** through monthly instalments to **Macquarie Pacific Funding** using their direct debit facility

Net Income means the total of income less expenses (before tax), excluding the components of other comprehensive income.

Personal Information means any information from which a living individual may be uniquely and reliably identified or any other non-public personal information as defined in **Privacy Laws Personal Information** does not include information lawfully available to the general public for any reason, including information from foreign or local government records.

Pharming means fraudulent practice of directing Internet users to a bogus website that mimics the appearance of a legitimate one, in order to obtain information such as passwords, account numbers, etc.

Phishing means fraudulent practice of sending emails purporting to be from reputable companies in order to induce individuals to reveal information, such as passwords and credit card numbers.

Policy means the Policy Wording, the **Schedule**, and any Endorsements attaching to it. These documents shall be read together as one contract.

Policy Period means the time specified in the **Schedule**, subject to any prior termination or endorsement to alter the period.

Pollutant means any substance exhibiting any hazardous characteristics as defined by or identified on a list of hazardous substances issued under legislation, regulations or by an environmental protection authority **Pollutant** also means

contamination of any kind, including but not limited to:

- (a) any solid, liquid, gaseous or thermal irritants or contaminants;
- (b) smoke, vapour, fumes, chemicals, waste;
- (c) asbestos or asbestos products, dioxins or polychlorinated chemicals;
- (d) noise;
- (e) fungus, mould, mildew;
- (f) electric or magnetic or electromagnetic field, ionizing radiation;
- (g) contamination by radioactivity from nuclear fuel, or nuclear waste from combustion of nuclear fuel or any other hazardous substances or properties related to or associated with nuclear fuel, waste or assembly.

Premium means the amount stated as such in the **Schedule** which the **Insured** pays to the **Insurer**.

Privacy Breach Laws means any statute or regulation that requires notification to any natural person or legal entity that has or may have had their **Personal Information** lost or accessed by or disclosed to an unauthorized party, or that requires notification of such to the relevant **Data Protection Authority**.

Privacy Laws means any statute or regulation that requires the protection of **Personal Information**.

Professional Services means acts or services requiring application of professional judgment to specialized knowledge and skill which the **Insured** provides to a **Third Party** for a fee or other consideration.

Property Damage means physical damage to tangible property, including all resulting loss of use of that property, or loss of use of tangible property that has not been physically injured, . Tangible property does not include **Digital Assets, Personal Information** or **Commercial Information**. Furthermore, this **Exclusion** shall not apply to **Event Recovery Costs** sub-bullet x. within that definition.

Proposal means the **Insured's** application for insurance and attachments including declaration and any other underwriting information provided by the **Insured** or by others on behalf of the **Insured**, submitted to the **Insurer** in connection with this **Policy Proposal** extends to any declaration or documentation at renewal or endorsement.

Reduction of Net Income means the amount by which the **Insured's Net Income** falls short of that which would have been earned during the **Business Recovery Period** as a direct result of the **Business Interruption**, taking account of:

- (a) actual **Net Income** earned during the Business Recovery Period; and
- (b) any cost savings achieved as a direct result of the **Business Interruption**.

Regulatory Proceeding means any proceeding, demand, suit, investigation or formal enquiry for information from or by a **Data Protection Authority** alleging a breach of **Privacy Laws**.

Retroactive Date means the date stated in the **Schedule**.

Schedule means the **Schedule**, signed and dated by the **Insurer** or **BZI**, attaching to and forming part of this **Policy**, including any subsequent **Schedule** to replace the original **Schedule**.

Service Provider means a business that is not owned, operated, or controlled by the **Insured**; but a written contract exists between the two parties for the **Service Provider** to provide services to the **Insured**, including but not limited to:

- (a) maintaining or controlling, hosting or facilitating computer systems and websites;
- (b) human resources, administration, marketing, or other outsourced services.

Social Engineering Fraud means an electronic transfer transmitted by the **Insured** in reasonable reliance upon a fraudulent instruction received which it believed to be genuine.

Software means programmes and other operating information used by a computer. **Software** does not include **Data**.

Sub-Limit of Liability means the total amount payable by the **Insurer** under the **Policy** as stated in the **Schedule**.

Subsidiary means any companies **Domiciled** in Australia in which the **Insured**, directly or indirectly:

- (a) controls the composition of the board of directors;
- (b) controls more than half of the voting power; or
- (c) holds more than half of the issued share capital.

Cover under this **Policy** shall only apply to any **Subsidiary** while such entity is, or was, a **Subsidiary** of the **Insured**. Provided, if a **Subsidiary** is acquired during the **Policy Period**, cover under this **Policy** shall only apply to **Wrongful Acts, Cyber Breaches, or Cyber Threats of Extortion** occurring on or after the date the **Insured** acquired such **Subsidiary**. **Supplier** means any person or entity that has provided goods or services to the **Insured** under a pre-existing written agreement.

Telephone Phreaking means the unauthorised use of or access to the **Insured's** telephone system by a **Third Party** resulting in the **Insured** incurring unintended or unauthorised charges with its telephone communications provider in excess of usual amounts.

Third Party means any entity or person, but does not mean:

- (a) any **Insured** or any **Employee** of the **Insured**;
- (b) any other entity or person having a financial interest or executive role in the operation of the **Insured**; or
- (c) the **Insurer** or an **Employee** of the **Insurer**.

Waiting Period means the period of time specified in the **Schedule** that must elapse from when the **Business Interruption** is first **Discovered** until **Cover 4: Business Interruption Loss** commences.

Wrongful Act means:

- (a) any **Cyber Breach**; or
- (b) Solely with respect to coverage available for any **Media Liability Claim**, any act, error, misstatement, misleading statement or omission in connection with the collection, creation, release, printing, broadcasting or distribution of any material.

SECTION 3 - GENERAL EXCLUSIONS

The **Insurer** shall not be liable to provide any benefit or service or make any payment under this **Policy** arising out of, based upon or attributable to:

1. any **Bodily Injury** or **Property Damage**; however, this **Exclusion** shall not apply to any:
 - (a) **Claim** for mental anguish, mental injury or illness, emotional distress or shock directly arising out of actual or alleged **Cyber Breach** or **Cyber Threat of Extortion**; or
 - (b) **Digital Assets, Personal Information** or **Commercial Information** damaged or lost as a result of an actual or alleged **Cyber Breach** or **Cyber Threat of Extortion**; or
 - (c) **Event Recovery Costs** sub-bullet x. within that definition.
 - (d) **Bricking event**.
2. any **Claim** arising out of any **Wrongful Act** occurring before the **Retroactive Date**.
3. any **Claim** or **Cyber Threat of Extortion** made against the Insured, or **Cyber Breach** notified to a previous insurer offering comparable coverage prior to the Policy Period.
4. Any legal proceedings commenced in any **Jurisdiction** excluded on the **Schedule**, including the enforcement of any judgment or award, brought or made pursuant to the laws, even if only to a limited extent, of the United States of America, or any of its territories or protectorates.
5. any costs incurred by or on behalf of the **Insured** to alter, replace or make improvements to the **Insured Network** to a level beyond that which existed immediately prior to the **Cyber Breach** or **Cyber Threat of Extortion**.
6. any guarantee or warranty.
7. any contractual liability, obligation, or breach of contract, including any liability of others assumed by the **Insured**, except to the extent that such liability would have attached to the **Insured** in the absence of such contract or agreement This exclusion does not apply to Insuring Clause 6 (Payment Card Industry Data Security Standard Fines).
8. conduct:
 - (a) any intentional, dishonest, criminal, or fraudulent act or conduct of the **Insured**, other than by an **Employee** of the **Insured** acting independently and without the knowledge or connivance of the **Insured's Executive**;
 - (b) any **Insured** gaining financial advantage that such **Insured** is not legally entitled to receive;
9. Any breach of competition laws regulating monopolization, price fixing, price discrimination, predatory pricing, restraint of trade or similar conduct.
10. any **Employment Claim**.
11. the rendering or failure to render **Professional Services**.
12. any actual or alleged infringement of or misappropriation of patents or trade secrets.
13. any financial trading or personal loss or debt of the **Insured**;
14. any theft of money or securities from an **Insured**, or the transfer or loss of money, property or securities from or to an **Insured's** account or any other account, without limitation, which is under the control of the **Insured**. This General Exclusion 14 does not apply to the Optional Cover for **Criminal Financial Loss** if such Optional Cover has been selected and specified on the **Schedule** as covered;
15. any **Claim** and/or **Defence Costs** arising from **Cyber Theft, Social Engineering Fraud, Customer Phishing Theft** or **Telephone Phreaking**.
16. any bankruptcy, liquidation or insolvency of the **Insured** or any other person, including a **Service Provider**.
17. any mechanical or electrical failure, interruption or outage including an

This exclusion shall only apply to such infrastructure under the control of a **Third Party**.
18. any electrical power interruption or surge, brownout, blackout, short circuit, or power fluctuation, or outage to gas, water, telephone, satellites, telecommunications and core GPS and internet infrastructure, including the failure of DNS root servers or the IP addressing system.
19. any wear and tear or gradual deterioration of, or the failure to maintain, the **Insured Network**.
20. any fire, smoke, explosion, lightning, wind, water, flood, earthquake, volcanic eruption, tidal wave, landslide, hail, or any other like event.
21. the provision of any benefit, service or payment under the **Policy** that would be in violation of any sanction, prohibition or

restriction under United Nations resolutions or the trade economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or United States of America.

22. any actual, alleged or threatened presence, discharge, dispersal, release, disposal or escape of **Pollutants**.
23. any strike, riot, civil commotion or **Acts of Terrorism**, provided that this Exclusion will not apply to **Cyber Terrorism**.
24. any seizure, confiscation, requisition, destruction or damaging of the **Insured Network** either by application of any customs or quarantine rule or by order of any government or any civil or military authority.
25. any use of illegal or unlicensed **Software**.
26. any product recall.any cryptocurrency such as Bitcoin, unless used as payment in a **Cyber Threat of Extortion**.
27. any value of **Digital Assets**.
28. purchase, sale, offer of, or solicitation of an offer to purchase or sell securities, or actual or alleged violation of any securities law, including the provisions of the Securities Act of 1933, or the Securities Exchange Act of 1934, as amended, the Sarbanes-Oxley Act of 2002, or any regulation promulgated under the foregoing statutes, or any federal, state, local, or foreign laws similar to the foregoing statutes (including "Blue Sky" laws), whether such law is statutory, regulatory or common law.
29. War and Cyber Operation Exclusion
 1. Notwithstanding any provision to the contrary in this insurance, this insurance does not cover that part of any loss, damage, liability, cost or expense of any kind (together "loss") resulting:
 - 1.1. directly or indirectly from **war**;
 - 1.2. from a **cyber operation** that is carried out as part of a **war**; or
 - 1.3. from a **cyber operation** that causes a sovereign state to become an **impacted state**.

Provided, however, paragraph 1.3 shall not apply to the direct or indirect effect of a **cyber operation** on a **computer system** used by the **Insured** or its third party service providers that is not physically located in an **impacted state** but is affected by a **cyber operation**.

Attribution of a cyber operation to a sovereign state

2. In determining attribution of a **cyber operation**, the **Insured** and

Insurer shall have regard to whether the government of the **impacted state** formally or officially attributes the **cyber operation** to another sovereign state or those acting at its direction or under its control.

In the absence of attribution by the **impacted state**, the **Insurer** may rely upon a reasonable inference as to attribution of the **cyber operation** to another sovereign state or those acting at its direction or under its control having regard to such evidence as is available to the insurer.

In the event that the government of the **impacted state** either takes an unreasonable length of time to, or does not, or is unable to attribute the **cyber operation** to another sovereign state or those acting at its direction or under its control, it shall be for the **Insurer** to prove attribution by reference to such other evidence as is available.

Definitions

The following definitions apply for the purposes of this exclusion 29 only:

3. **Computer system** means any computer, hardware, software, communications system, electronic device (including but not limited to, smart phone, laptop, tablet, or wearable device), server, cloud infrastructure or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility. If there is any inconsistency between definitions of **computer system** in this endorsement and the **Policy**, the **Policy** definition shall apply and shall override the inconsistent provisions in this endorsement.
4. **Cyber operation** means the use of a **computer system** by, at the direction, or under the control of a sovereign state to disrupt, deny, degrade, manipulate or destroy information in a **computer system** of

or in another sovereign state.
5. **Essential service** means a service that is essential for the maintenance of vital functions of a sovereign state including but not limited to financial institutions and associated financial market infrastructure, health services or utility services.
6. **Impacted state** means a sovereign state where a **cyber operation** has had a major detrimental impact on:
 - 6.1. the functioning of that sovereign state due to disruption to the availability, integrity or delivery of an essential service in that sovereign state; and/or
 - 6.2. the security or defense of that sovereign state.

7. **War** means the use of physical force by a sovereign state against another sovereign state, or as part of a civil war, rebellion, revolution, insurrection, or military or usurped power, whether war be declared or not.

SECTION 4 - CLAIMS CONDITIONS

Adherence to Terms and Conditions

The **Insurer's** liability shall be contingent on the **Insured's** due observance and fulfilment of the terms and conditions of this **Policy**, and on the truth of its statements in the **Proposal** and in the **Schedule**.

Insurer's Consent

The **Insured** shall not settle, make any admission, offer to pay or assume any obligation in respect to any **Claim**, or incur any costs in relation to any **Claim**, actual, alleged or suspected **Cyber Breach** or **Cyber Threat of Extortion** without the prior written consent of the **Insurer** (other than provided for under **Cover 3 – Event Recovery Costs**).

Notification Claim or Loss

The **Insured** shall give the **Insurer** notice in writing of any **Claim** as soon as reasonably practicable after **Discovery** during the **Policy Period** and in no event later than thirty (30) days after the expiry of the **Policy Period**, or **Extended Reporting Period** if applicable. Written notification and all information shall be addressed as required under **Claim Notices** specified in the **Schedule**.

The **Insured** shall notify **BZI's Emergency Response Unit** of any actual, alleged or suspected **Cyber Breach** or **Cyber Threat of Extortion** as soon as reasonably practicable after such event is **discovered** during the **Policy Period** and in no event later than thirty (30) days after the expiry of the **Policy Period**, or **Extended Reporting Period** if applicable.

Such notification provided to **BZI's Emergency Response Unit**, and as prescribed in the **Schedule**, will be deemed notification to the **Insurer**. Such notice shall be provided by the **Insured** and shall include information, and any documentation indicating the nature and extent of the matter being notified.

The **Insured** shall also:

- (a) take all reasonable and necessary measures to minimize loss or damage;
- (b) do and permit to be done all such things as may be practicable to establish the cause and extent of the loss or damage;
- (c) preserve the **Insured Network** and any items affected and put them at the disposal of the **Insurer** or **BZI's Emergency Response Unit**, or others as appointed by the **Insurer**, for inspection for as long as they deem necessary;
- (d) furnish any information and documentary evidence that the **Insurer** may require;
- (e) comply with all relevant statutory requirements including but not limited to the provision of statutory notices and furthermore it is the **Insured's** sole responsibility to do so; and

- (f) cooperate at all times with the **Insurer** and **BZI's Emergency Response Unit**, or others as appointed by the **Insurer**, in respects of any indemnity, liability, and the assertion and granting of subrogation or any contribution rights within this **Policy**.

Any **Claim** or **Loss** subsequently arising from a **Claim, Cyber Breach**, or **Cyber Threat of Extortion** shall be notified to **us** in accordance with the terms provided hereunder shall be deemed to have been made during the **Policy Period**.

Notification: circumstances

The **Insured** may provide written notice of any circumstances that could reasonably be expected to give rise to a future **Claim** covered under this **Policy** during the **Policy Period**. Such notice must include:

- (a) the specific details of the act, error, omission or event that could reasonably be the basis for a **claim**;
- (b) the injury or damage which may result or has resulted from the circumstance; and
- (c) the date and context by which **you** first became aware of the act, error, omission or event.

Any **Claim** subsequently arising from a circumstance notified to **us** in accordance with the terms provided hereunder shall be deemed to have been made during the **Policy Period**.

Deductibles

The **Insurer** shall only be liable for any amount arising under the **Policy** in excess of the applicable **Deductible**. The **Deductible** shall remain uninsured and shall be borne by the **Insured**.

If more than one **Cover** responds to a matter arising under the **Policy** only one **Deductible** shall be paid by the **Insured**. If **Optional Cover for Criminal Financial Loss** and another **Cover in Section 1** both respond to a matter arising under the **Policy**, the applicable **Deductible** will be the higher of the applicable deductibles.

In the event that the **Insurer** has directly indemnified any **Third Party**, the **Insured** shall immediately reimburse the **Insurer** for the amount of the applicable **Deductible**.

Multiple Covers

Any loss covered under this **Policy** that falls within more than one **Cover** shall only be subject to one limit, being the higher of the applicable limits. Where **loss** or any amount claimed under the **Policy** falls under more than one **Cover** the **Insurer** may, in its absolute discretion, allocate amounts under the applicable covers. Such allocation will not increase the **Limit of Liability** or the applicable **Sub-Limit of Liability**.

Multiple Insureds

The inclusion of more than one **Insured** under this **Policy** shall not operate to increase the total amount payable by the **Insurer** under this **Policy**.

Related Claims

All **Claims, Cyber Breaches** or **Cyber Threats of Extortion** arising out of the same, or series of continuous, repeated and related acts shall be deemed a single **Claim, Cyber Breach** or **Cyber Threat of Extortion**. All such **Claims, Cyber Breaches** or **Cyber Threats of Extortion** shall be deemed to be first made as of the date the first of such **Claim** or **Cyber Threat of Extortion** was made against the **Insured**, or **Cyber Breach** first **Discovered**, and furthermore shall be subject to a single **Deductible** and the **Limit of Liability** or the applicable **Sub-Limit of Liability**.

Continuity

In the absence of fraudulent non-disclosure or fraudulent misrepresentation, where a **Claim** that would otherwise be covered by this **Policy** is excluded by the **Insured's** failure to report a **Claim** during a previous policy period of which this **Policy** is a renewal then the **Claim** may be reported under this **Policy**, the **Insurer** shall provide cover under this **Policy** for that **Claim** provided that:

- (a) the **Insured** has maintained uninterrupted insurance of the same type since the expiry of that earlier policy;
- (b) the **Claim** is dealt with in accordance with the **Policy** under which the **Claim**, could and should have been notified but only where such earlier **Policy** affords no broader cover in respect of the **Claim** than the provisions of this **Policy**; and
- (c) if the **Insurer** is the **Insurer** on risk for the **Policy** in (b) above, the **Insured** agrees to claim on this **Policy** only and to make no claim on such earlier **Policy**; and
- (d) **Insurers** may reduce the payment entitlement by the monetary equivalent of any prejudice which has been suffered as a result of the delayed notification, such reduction in payment entitlement to be determined solely by **Insurers**; and
- (e) the **Insured** has otherwise complied with all the terms and conditions of this **Policy**.

Defence and Settlement

Notwithstanding the **Insurer's Consent - Claims Condition**, the **Insurer** does not assume any duty to defend, and the **Insured** must defend and contest any **Claim** made against them unless the **Insurer** elects in writing to take over and conduct the defence and settlement of any **Claim**.

The **Insurer** shall have full discretion in the handling and resolution of any **Claim** and has the right to defend any **Claim** which the **Policy** may respond to under its Covers.

Subject to the **Insured** complying with the **Notification – Claims Condition**, the **Insurer** agrees to advance any covered **Defence Costs** which the **Insurer** deems fair and proper. The **Insurer** reserves the right to recover such advances if and to the extent the **Insured** is later determined not to be entitled to such payment.

The **Insurer** has the right any time after receiving 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 of the **Insurer's** obligations to the **Insured** under this **Policy**, including any relating to defence, shall cease.

The **Insurer** may make any settlement it deems expedient, subject to the **Insured's** written consent. If the **Insured** withholds consent, the **Insurer's** liability in respect to the **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 by the **Insurer**, less the applicable **Deductible**.

Allocation

The **Insurer's** liability under this **Policy** is limited to the proportion of **Damages, Defence Costs**, direct financial loss and other costs covered under this **Policy**, which is a fair and equitable allocation between covered and non-covered matters, or any covered and non-covered parties. The relative legal and financial exposures shall be taken into account and where the **Insurer's** liability is limited under this clause, the **Insured** and **Insurer** must use their best endeavours to agree upon the allocation to be adopted.

If an allocation cannot be agreed upon, then the allocation is to be determined by a senior lawyer (to be mutually agreed upon by the **Insured** and the **Insurer**, or in the absence of agreement, to be appointed by the President of the Law Society, or equivalent organization).

The senior lawyer will consider the parties' written submissions to help form an expert judgement or opinion in the determination of the fair and equitable allocation. The senior lawyer's determination will be final and binding. Costs for such determination are to be borne by the **Insurer**.

Pending the senior lawyer's determination, the **Insurer** shall pay the proportion of the **Damages, Defence Costs**, direct financial loss and other costs covered under this **Policy** which it considers represents a fair and equitable allocation. The allocation finally agreed or determined shall be applied retrospectively to any **Damages, Defence Costs**, direct financial loss and other costs covered under this **Policy** incurred prior to agreement or determination.

Subrogation and Recoveries

If any payment is to be made under this **Policy** in respect of a **Claim**, the **Insurer** shall become entitled to assume all rights of recovery of the **Insured** against any party whether or not payment has been made and whether or not the **Insured** has been fully compensated for its loss.

The **Insurer** shall be entitled to pursue and enforce such rights in the name of the **Insured**. The **Insured** shall do nothing to prejudice these rights. The **Insured** must, at its own cost, assist the **Insurer** by providing information as the **Insurer** reasonably requires to exercise rights of recovery or any subrogation including but not limited to the provision of executed documentation and the giving of evidence.

The **Insurer** agrees to waive its rights of recovery against any **Employee** unless the **Claim** is brought about or contributed to by serious or willful misconduct of the **Employee** in the course of or arising out of the employment. The **Insurer**, in its sole discretion and in writing, may waive any of its Subrogation rights.

All recoveries obtained after any payment under this **Policy**, less the actual cost of recovery will be applied and distributed as follows: firstly to satisfy the **Insured's** liability for amounts which would have otherwise been paid under this **Policy** but for being in excess of the applicable **Limit of Liability**; secondly to reimburse the **Insurer** for any amounts paid by the **Insurer**; and thirdly to the **Insured** to satisfy any **Deductible** incurred by the **Insured**.

SECTION 5 - GENERAL CONDITIONS

Confidentiality

The **Insured** will make reasonable efforts not to disclose the existence of this **Policy** to any **Third Party**, excepting in such cases where the **Insured** is required to do so under contract with a **Third Party** subject to a confidentiality clause; or for the purpose of obtaining professional advice or by law.

Assignment or Alteration

Any change in, or assignment of interest under this **Policy** can only be effected by the **Insurer's** written endorsement attaching to and forming part of this **Policy**.

Authorisation

The **Insured's Executive** shall act as agent on behalf of each of the **Insured** with respect to all matters under this **Policy** including but not limited to giving and receiving all correspondence; sending or receiving notice of cancellation; payment of **Premium**; receipt and acceptance of any endorsements to this **Policy** and the exercising or declining of any rights to any applicable **Extended Reporting Period** Notwithstanding the foregoing any **Insured** may notify any matter arising under the **Policy**.

Interpretation

Words in bold text have the meaning as defined in **Section 2 - Definitions** Words in the singular include references to the plural and vice versa. Words that are not specifically defined in this **Policy** have the meaning ordinarily attributed to them Titles and headings are merely for reference or descriptive purposes and will not limit, expand, or otherwise affect the policy provisions to which they relate.

Validity

This **Policy** is not binding upon the **Insurer** unless it is countersigned on the **Schedule** by an authorized representative of the **Insurer** In the event that any provision or portion of this **Policy** is found to be invalid or unenforceable, the remainder of this **Policy** will be valid and fully effective.

Other Insurance

To the extent that it is permitted by the *Insurance Contracts Act (Cth) 1984*, cover under this **Policy** shall apply as excess over any other valid, available, or collectible insurance, including any deductible thereof.

Goods and Services Tax

When the **Insurer** makes a payment to the **Insured** or on behalf of the **Insured** for the acquisition of goods, services or supplies, the **Insurer** will reduce the amount of payment by the amount of any input tax credit ("**ITC**") that the **Insured** is, or will be, or would have been

entitled under a *New Tax System (Goods & Services Tax) Act 1999 (Cth)* ("**GST Act**"), in relation to the acquisition, whether or not that acquisition is actually made.

When the **Insurer** makes a payment to the **Insured** or on behalf of the **Insured**, which forms compensation instead of payment for acquisition of goods, services or supplies, the **Insurer** will reduce the amount of the payment by the amount of any **ITC** that the **Insured** is, or will be or would have been entitled to under the **GST Act** had the payment been applied to acquire such goods, services or supplies

Governing Law

It is agreed that in the event of any dispute relating to the construction, validity, interpretation or any meaning of the terms, conditions and provisions of this **Policy**, that such disputes shall be governed by the law applicable in the Commonwealth of Australia

Service of Suit

The Underwriters accepting this Insurance agree that:

- i. if a dispute arises under this Insurance, this Insurance will be subject to Australian law and practice and the Underwriters will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
- ii. any summons notice or process to be served upon the Underwriters may be served upon:

Lloyd's Underwriters' General Representative in Australia Suite 1603 Level 16 1 Macquarie Place Sydney NSW 2000 who has authority to accept service on the Underwriters' behalf;
- iii. if a suit is instituted against any of the Underwriters, all Underwriters participating in this Insurance will abide by the final decision of such Court or any competent Appellate Court.

Cancellation and Payment of Premium

The **Insured** may cancel this **Policy** on 30 day's notice to the **Insurer**. If no **claim** has been made, nor any **loss** or other insured event has arisen and no matters have been notified prior to such cancellation, the **Insurer** shall retain an amount of the premium calculated in accordance with its customary short rates.

The **Insurer** may cancel this **Policy** only as prescribed by the *Insurance Contracts Act 1984 (Cth)* and the terms and conditions of this **Policy**.

Severability and Innocent Parties

The **Insurer** has relied on the statements and declarations within the **Proposal** When determining indemnity under this **Policy** by the necessary reference to each section of this **Policy**, the **Insurer** agrees that **wrongful acts**, statements, conduct, and knowledge of any **Insured** shall not be imputed to any other **Insured** other than that of the **Insured's Executive** which shall be imputed to the **Insured** and its **Subsidiaries**

Material Changes

The **Insured** shall notify the **Insurer** as soon as possible and within 30 days of any material change in risk of which it is aware or ought reasonably to be aware; and the **Insured** shall take or cause to be taken at its own expense any additional precautions that may be necessary to prevent loss or damage therefrom.

The **Insurer** shall not be liable for any loss or damage resulting from a material change in risk unless the **Insurer** has agreed to that material change in risk in which case the **Insurer** is entitled to revise the scope of cover and **Premium**.

Merger and Acquisitions

If during the **Policy Period** the **Insured** acquires another entity whose revenues are more than 25% of the **Insured's** total annual revenues as set out in the most recent audited financial statements, there shall be no cover under this **Policy** for any loss related to the acquired entity unless the **Insured** gives the **Insurer** written notice at least 30 days prior to the acquisition, obtains the **Insurer's** prior written consent to extend cover to such additional entities, and agrees to pay any additional **Premium** required by the **Insurer** for doing so Cover for any acquired entity shall not be available unless specifically set out in an endorsement to this **Policy**.

If during the **Policy Period** there is a change of control in any of the **Insured** entities as defined in 50AA of the Corporations Act 2001 (Cth), then, in respect to such entity, this **Policy** shall immediately cease to afford any cover for any kind of loss subsequently **Discovered**.

If during the **Policy Period** any entity ceases to be a **Subsidiary**, then coverage for such former **Subsidiary** under this **Policy** shall only be available, subject to all other terms and conditions of this **Policy**, for any matters arising under the **Policy** which occurred or allegedly occurred prior to the date it ceased to be a **Subsidiary**.



**BLUE
ZEBRA**
INSURANCE

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