

SCHEDULE

CHUBB INSURANCE COMPANY
OF AUSTRALIA LIMITED
(A.B.N. 69 003 710 647)
A.F.S. Licence No: 239778
Herein called the Company

THIS COVERAGE SECTION PROVIDES CLAIMS MADE COVERAGE, WHICH APPLIES ONLY TO CLAIMS FIRST MADE DURING THE POLICY PERIOD, OR ANY EXTENDED REPORTING PERIOD. THE LIMIT OF LIABILITY TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY DEFENCE COSTS, AND DEFENCE COSTS WILL BE APPLIED AGAINST THE DEDUCTIBLE AMOUNT. PLEASE READ CAREFULLY.

Item 1. Limit of Liability for this Coverage Section

(i) Each Loss: \$

Please note that the Limits of Liability and any Deductible Amount are reduced or exhausted by **Defence Costs**.

Item 2. Deductible Amount: \$

Item 3. Pending and Prior Litigation Date:

Item 4. Endorsement(s):

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In consideration of payment of the premium and subject to the Schedule, General Terms and Conditions, and the limitations, conditions, provisions and other terms of this Coverage Section, the Company and the Insureds agree as follows:

I. INSURING CLAUSE

(A) Employment Practices Liability Coverage

The Company shall pay on behalf of the **Insureds** all **Loss** for which such **Insureds** become legally obligated to pay on account of any **Employment Claim** first made against such **Insureds** during the **Policy Period** or, if exercised, during the Extended Reporting Period, for a **Wrongful Act** occurring before or during the **Policy Period**.

II. DEFINITIONS

Unless otherwise noted, as used in this **Coverage Section**, the singular of any definition includes the plural, and the plural of any definition includes the singular.

For purposes of this **Coverage Section**:

Benefits means perquisites, fringe benefits, payments in connection with an employee benefit plan and any other payment, other than salary or wages, to or for the benefit of an employee arising out of the employment relationship. **Benefits** does not include **Stock Benefits**, employee stock ownership plans or employee stock purchase plans.

Breach of Employment Contract means any breach of any oral, written or implied contract or contractual obligation including but not limited to any such obligation arising out of any personnel manual, employee handbook, policy statement or other representation.

Claim means any **Employment Claim**.

Discrimination means any violation of employment discrimination laws including any actual, alleged or constructive employment termination, dismissal, or discharge, employment demotion, denial of tenure, modification of any term or condition of employment, any failure or refusal to hire or promote, or any limitation, segregation or classification of any **Employee** or applicant for employment in any way that would deprive or tend to deprive any person of employment opportunities or otherwise affect his or her status as an **Employee** based on such person's race, colour, religion, creed, age, sex, disability, marital status, national origin, pregnancy, HIV status, sexual orientation or preference, or other protected military status or other status that is protected pursuant to any country, federal, state, territory or local statutory law or common law anywhere in the world.

Employee means any natural person whose labour or service is engaged and directed by the **Insured Organisation**, including part-time, seasonal, leased and temporary employees as well as volunteers, but only while that natural person is acting in his or her capacity as such. **Employee** shall not include any **Independent Contractor**.

Employee Entitlements means employee benefit arrangements of any kind (whether during or post employment) including:

- (a) provision for unemployment, redundancy, retirement, sickness, disability, maternity leave, paternal leave, adoption leave, annual leave, long service leave, compassionate leave or personal leave;

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- (b) entitlements under an **Industrial Instrument** including wages, overtime, time in lieu, allowances and penalties;
- (c) accident, life, medical, disability or other welfare plans, including insurance of any kind;
- (d) superannuation contributions, benefits and entitlements;
- (e) **Stock Benefits**, profit sharing or deferred compensation plans.

Employment Claim means:

- (a) a written demand for monetary damages;
- (b) a civil proceeding commenced by the service of a complaint, summons, statement of claim or similar pleading;
- (c) an arbitration proceeding, mediation, conciliation or other alternative dispute resolution proceeding; or
- (d) a formal administrative or regulatory proceeding commenced by the filing of a notice of charges, formal investigative order or similar document including but not limited to any Australian Human Rights Equal Opportunity Commission (HREOC) proceeding or any other similar governmental agency proceeding anywhere in the world other than the **U.S.A.**,

which is brought and maintained by or on behalf of any past, present or prospective **Employee(s)** of the **Insured Organisation** against any **Insured** for any **Wrongful Act** in connection with any actual or alleged **Breach of Employment Contract, Discrimination, Harassment, Retaliation, Workplace Tort or Wrongful Employment Decision** including any appeal therefrom.

Executive Officer means a person, by whatever name called and whether or not a director of the **Insured Organisation**, who is concerned or takes part in the **Insured Organisation's** management.

Harassment means:

- (a) sexual harassment, including unwelcome sexual advances, requests for sexual favours, or other conduct of a sexual nature that is made a condition of employment with, used as a basis for employment decisions by, interferes with performance or creates an intimidating, hostile or offensive working environment within, the **Insured Organisation**; or
- (b) workplace harassment, including work related harassment of a non-sexual nature that interferes with performance or creates an intimidating, hostile or offensive working environment within the **Insured Organisation**.

Independent Contractor means any natural person working for the **Insured Organisation** in the capacity of an independent contractor and pursuant to an **Independent Contractor Services Agreement**.

Independent Contractor Services Agreement means any express contract or agreement between an **Independent Contractor** and the **Insured Organisation** governing the nature of the **Insured Organisation's** engagement of such **Independent Contractor**.

Industrial Instrument means any award, agreement, arrangement or other instrument which is certified or registered by an industrial tribunal in Australia, including without limitation the Australian Industrial Relations Commission and the Industrial Relations Commissions of the States or Territories of Australia, or similar industrial tribunals constituted under any federal, state, territory or local law or common law.

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Insured means the **Insured Organisation** and **Insured Persons**.

Insured Capacity means the position or capacity designated in the definition of **Insured Person** held by any **Insured Person** but shall not include any position or capacity in any organisation other than the **Insured Organisation**, even if the **Insured Organisation** directed or requested the **Insured Person** to serve in such other position or capacity.

Insured Organisation means, collectively, those organisations designated in Item 1 of the Schedule for the General Terms and Conditions, and any **Subsidiary**.

Insured Person means any natural person, who is or was a past, present or future director, secretary, **Employee** or **Executive Officer** of the **Insured Organisation**.

Loss means the total amount which any **Insured** becomes legally obligated to pay on account of each **Claim** and for all **Claims** in each **Policy Period** and the Extended Reporting Period, if exercised, made against such **Insured** for **Wrongful Acts** for which coverage applies, including, but not limited to, damages, judgments, settlements, costs and **Defence Costs**. **Loss** does not include:

- (a) any amount for which an **Insured** is absolved from payment by reason of any covenant, agreement (other than indemnification of an **Insured Person** by the **Insured Organisation**) or court order;
- (b) the future compensation or **Benefits** of a claimant who has been or shall be hired, promoted or reinstated to employment pursuant to a settlement, order or other resolution of such **Claim**;
- (c) taxes, fines or penalties imposed by law;
- (d) aggravated or exemplary damages imposed by law;
- (e) any monetary payment for violation of any notice requirement or for a notice period under any applicable law; or
- (f) the multiple portion or any multiplied damage award outside Australia.

Pollutants means any substance located anywhere in the world exhibiting any hazardous characteristics as defined by, or identified on a list of hazardous substances issued by, an environmental protection agency (including but not limited to the United States Environmental Protection Agency) or a country, state, territory, county, municipality or locality or counterpart thereof. Such substances shall include, without limitation, solids, liquids, gaseous or thermal irritants, contaminants, smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste materials. **Pollutants** shall also mean any other air emission, odour, waste water, oil, oil products, infectious or medical waste, asbestos or asbestos products and any noise.

Pollution means:

- (a) the actual, alleged or threatened discharge, release, escape, seepage, migration, dispersal or disposal of **Pollutants** into or on real or personal property, water or the atmosphere; or
- (b) any direction or request that the **Insured** test for, monitor, clean up, remove, contain, treat, detoxify, or neutralise **Pollutants**, or any voluntary decision to do so.

Retaliation means retaliatory treatment against an **Employee** or **Executive** on account of such individual:

- (a) exercising his or her rights under law, including but not limited to rights under any workers compensation laws;
- (b) refusing to violate any law;

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- (c) having assisted or testified in or cooperated with a proceeding or investigation regarding alleged violations of law by the **Insured Organisation**;
- (d) disclosing or threatening to disclose to a superior or to any governmental agency any alleged violations of law; or
- (e) filing any claim against the **Insured Organisation** under any country, federal, state, territory or local "whistle blower" statutory law or common law anywhere in the world.

Stock Benefits means any offering, plan or agreement between the **Insured Organisation** and any **Executive** or **Employee** which grants stock or stock options or stock appreciation rights as to the **Insured Organisation** to such individual, including but not limited to restricted stock or any other stock grant, but not including employee stock ownership plans or employee stock purchase plans.

Workplace Tort means actual or alleged:

- (a) employment-related misrepresentation, defamation, invasion of privacy, negligent evaluation, wrongful discipline or wrongful deprivation of career opportunity; or
- (b) employment-related negligent retention, supervision, hiring or training, employment-related wrongful infliction of emotional distress, mental anguish or humiliation or failure to provide or enforce consistent employment-related corporate policies and procedures, when alleged as part of an **Employment Claim** for actual or alleged **Wrongful Employment Decision, Breach of Employment Contract, Discrimination, Harassment, or Retaliation**.

Wrongful Act means any error, misstatement, misleading statement, act, omission, neglect, or breach of duty committed, attempted, or allegedly committed or attempted, by an **Insured Organisation** or by an **Insured Person**, individually or otherwise, in his **Insured Capacity**, or any matter claimed against him solely by reason of his serving in such **Insured Capacity**.

Wrongful Employment Decision means the actual, alleged or constructive termination, dismissal, or discharge of employment, demotion, denial of tenure, or failure or refusal to hire or promote or denial of natural justice relating to wrongful termination. **Wrongful Employment Decision** shall not include **Breach of Employment Contract**.

III. EXCLUSIONS

(A) The Company shall not be liable for **Loss** on account of any **Claim** made against any **Insured**:

Prior Notice (a) based upon, arising from, or in consequence of any circumstance if written notice of such circumstance can be and has been given under any policy or **Coverage Section** of which this **Coverage Section** is a renewal or replacement and if such prior policy or **Coverage Section** affords coverage (or would afford such coverage except for the exhaustion of its limits of liability) for such **Loss**, in whole or in part, as a result of such notice;

Prior & Pending Litigation (b) based upon, arising from, or in consequence of any written demand for monetary damages, suit, formal administrative or regulatory proceeding commenced by the filing of a notice of charges, formal investigative order or similar document or arbitration proceeding pending, or order, decree or judgment entered against any **Insured** on or prior to the Pending or Prior Date set forth in Item 3 of the Schedule for this **Coverage Section** or the same or substantially the same facts, circumstances or situations underlying or alleged therein;

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- Fiduciary** (c) for any actual or alleged violation of the responsibilities, obligations or duties owed by fiduciaries, trustees, administrators or any other charged with duties with respect to any superannuation, pension, profit sharing, health and welfare or other employee benefit plan or trust established or maintained for the purpose of providing pensions, annuities or any other form of benefits to employees of an **Insured Organisation**. This includes but is not limited to any actual or alleged violation of the responsibilities, obligations or duties imposed by the Australian Occupational Health and Safety legislation, the Australian Workplace Relations Act 1996 (Cth) (except Sections 170CA-170CK, 170CN-CS, 170AA-HC and 170FA-FE, relating to termination of employment), rules or regulations promulgated thereunder and amendments thereto or similar provisions of any country, federal, state, territory or local statutory law or common law anywhere in the world other than the **U.S.A.** However, this exclusion shall not apply to any **Claim** for **Retaliation** against any claimant;
- Bodily Injury/
Property Damage** (d) for bodily injury, emotional distress, mental anguish, humiliation, sickness, disease or death of any person or damage to or destruction of any tangible property, whether or not it is damaged or destroyed, including loss of use thereof. However, this exclusion shall not apply to any emotional distress, mental anguish or humiliation in any **Employment Claim**;
- Workers
Compensation** (e) based upon, arising from, or in consequence of any actual or alleged obligation of any **Insured** pursuant to any workers' compensation, unemployment insurance, social security, disability benefits or similar law. However, this exclusion shall not apply to any **Claim** for **Retaliation** against any claimant by any **Insured** based upon such claimant's exercise of rights pursuant to any such law;
- Assumed
Liability** (f) based upon, arising from, or in consequence of liability of others assumed by the **Insured** under any contract or agreement, except to the extent that the **Insured** would have been liable in the absence of the contract or agreement;
- Pollution** (g) based upon, arising from, or in consequence of **Pollution**. However, this exclusion shall not apply to any **Claim** for a **Wrongful Employment Decision** in **Retaliation** for such claimant's actual or alleged (i) refusal to violate any federal, state, or local statutory law or common law regarding **Pollution** or (ii) disclosure regarding any actual or alleged **Pollution** by any **Insured Organisation**;
- Fraud** (h) based upon, arising from, or in consequence of the committing in fact of any deliberately fraudulent act or omission or any wilful violation or breach of any law, regulation or duty imposed by law or regulation, by such **Insured** as evidenced by (i) any written statement or written document by any **Insured** or (ii) any judgment or ruling in any judicial, administrative or alternative dispute resolution proceeding;
- Securities** (i) based upon, arising from, or in consequence of a public or private offering, solicitation, sale, distribution, or issuance of securities, whether or not a prospectus has been issued. However, this exclusion shall not apply to any **Claim** for **Retaliation** against any claimant for (i) such claimant's actual or alleged refusal to violate any securities laws; or (ii) any actual or threatened disclosure by such claimant of any actual or alleged violation of securities laws;

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- Insolvency** (j) for **Wrongful Acts** based upon, arising from, or in consequence of the **Financial Impairment** of the **Insured Organisation**;
- Statutory Entitlement** (k) for breach of duties, obligations or responsibilities under any law, regulation, by-law, determination made under or pursuant to an Act of a State or the Commonwealth, ordinance of a Territory or **Industrial Instrument** howsoever promulgated regulating **Employee Entitlements**; or
- USA** (l) brought and maintained, in whole or in part, in the **U.S.A.**, or subject to the substantive and procedural laws of the **U.S.A.**
- Specified Sums Under Contract** (m) for any contractually specified sum of money required to be paid pursuant to:
- (i) a notice period;
 - (ii) an express written contract of employment; or
 - (iii) an express written obligation to make payments in the event of the termination of employment;
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(B) The Company shall not be liable for the part of **Loss**, other than **Defence Costs**:

- Benefits Due** (a) which constitutes **Benefits** due or to become due or the equivalent value of such **Benefits**; provided that this Exclusion (a) shall not apply to any **Employment Claim** for a **Wrongful Employment Decision**;
- Compliance Cost** (b) which constitutes the cost of compliance with any order for, grant of or agreement to provide injunctive or other non-monetary relief;
- Front Pay** (c) which constitutes front pay, future damages or other future economic relief, or the equivalent thereof, if the **Insured Organisation** is ordered pursuant to a judgment or other final adjudication but fails to reinstate the claimant as an **Employee**;
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VI. COORDINATION OF COVERAGE

Any **Loss** covered under this **Coverage Section** and either the Directors and Officers Liability **Coverage Section** or the Trustees Liability **Coverage Section**, if purchased, shall be first covered under this **Coverage Section**, subject to its terms, conditions and limitations.