

ForeFront Portfolio
Trustees Liability Coverage Section

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. (A) Participating Employer:

(B) **Superannuation Fund:**

Item 2. 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 3. Deductible Amount:

(A) Insuring Clause (A): \$

Item 4. Pending and Prior Litigation Date:

Item 5. 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) The Company shall pay on behalf of the **Insureds** all **Loss** for which such **Insureds** are not indemnified by the **Participating Employer** or the **Trustees** of the **Superannuation Fund** and which such **Insureds** become legally obligated to pay on account of any **Trustees Claim** first made against the **Insured** during the **Policy Period** or, if exercised, during the Extended Reporting Period, for a **Wrongful Act** occurring before or during the **Policy Period**.
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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**:

Benefit means any amount payable to a beneficiary of the **Superannuation Fund** by the **Trustees** under the governing rules of the **Superannuation Fund**.

Claim means a **Trustees Claim**.

Defence Costs means that part of **Loss** consisting of reasonable costs, charges, fees (including but not limited to legal counsels' fees and experts' fees) and expenses (other than regular or overtime wages, salaries or fees of the directors, officers or employees of the **Participating Employer** or of the **Trustees**) incurred in defending or investigating **Claims** and the premium for appeal, attachment or similar bonds.

Financial Impairment means:

- (a) with respect to a **Participating Employer**, the status of the **Participating Employer** resulting from:
- (i) the appointment by any country, state, territory or federal official, agency or court of any receiver, administrator, conservator, liquidator, trustee, manager, rehabilitator or similar official to take control of, supervise, administer, manage or liquidate the **Participating Employer**; or
 - (ii) the **Participating Employer** becoming a debtor in possession;
- (b) with respect to the **Trustees**, the inability of the **Trustees** to indemnify an **Insured** for the whole or any part of any **Loss** because the assets of the **Superannuation Fund** are insufficient (after exhaustion of all other rights of indemnity the **Trustees** may have, whether from the **Participating Employer** or otherwise, and after exhausting all such assets as are available from the **Superannuation Fund**) to meet the amount of that **Loss**.

Insured means:

- (a) any **Trustee**;
- (b) any past, present or future director or officer of a corporate **Trustee**;
- (c) any past, present or future employee of any **Trustee** in the management of the **Superannuation Fund**;
- (d) any past, present or future member of a **Policy Committee** of the **Superannuation Fund**;
- (e) any past, present or future **Participating Employer**;
- (f) any past, present or future director or officer of a **Participating Employer**;
- (g) any past, present or future employee of a **Participating Employer** in the management of the **Superannuation Fund**;
- (h) any past director, officer or employee of the **Participating Employer** who is retained by the **Participating Employer** to assist in the management of the **Superannuation Fund** for a fee pursuant to a written contract; or
- (i) the **Superannuation Fund**.

Interrelated Wrongful Acts means all causally connected **Wrongful Acts**.

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 them for **Wrongful Acts** for which coverage applies, including, but not limited to, damages, judgments, settlements, costs and **Defence Costs**. **Loss** does not include:

- (i) any amount not indemnified by the **Participating Employer** or the **Trustees** for which the **Insured** is absolved from payment by reason of any covenant, agreement or court order,
- (ii) any amount incurred by the **Participating Employer** (including its board of directors or any committee of the board of directors) or the **Trustees** in connection with the investigation or evaluation of any **Claim** or potential **Claim** by or on behalf of the **Participating Employer** or the **Trustees**,
- (iii) taxes, fines or penalties imposed by law,
- (iv) aggravated or exemplary damages imposed by law,
- (v) the multiple portion of any multiplied damage awarded outside Australia; or
- (vi) matters uninsurable under the law pursuant to which this **Coverage Section** is construed.

Participating Employer means the organisation named in Item 1(A) of the Schedule for this **Coverage Section** and any **Subsidiary**.

Policy Committee means a board, committee or other body that:

- (a) advises the **Trustees** of a **Superannuation Fund** about such matters as are prescribed in the Superannuation Industry (Supervision) Regulations, as amended; and
- (b) is established by or under the governing rules of the **Superannuation Fund**.

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.

Subsidiary means:

- (a) any organisation whose accounts are or were consolidated with the accounts of the **Participating Employer** first named in Item 1(A) of the Schedule for this **Coverage Section** in accordance with Australian Accounting Standard AASB 1024: Consolidated Accounts or any successor Standard; or
- (b) any organisation in which one or more **Participating Employers**:
 - (i) controls or controlled the composition of the organisation's board;
 - (ii) is or was in a position to cast, or control the casting of, more 50% of the maximum number of votes that might be cast at a general meeting of the organisation;
 - (iii) holds or held more than 50% of the issued share capital of the organisation (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital); or
- (c) any organisation in which more than 50% of the outstanding securities or voting rights representing the present right to vote for election of directors is or was owned or controlled, directly or indirectly, in any combination, by one or more **Participating Employer**.

Superannuation Fund means the funds designated in Item 1(B) of the Schedule for this **Coverage Section**.

Trustee means any past, present or future person or body corporate, duly appointed as a trustee of the **Superannuation Fund** in accordance with the governing rules of the **Superannuation Fund** or by a court or pursuant to a statute.

Trustees 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) a criminal proceeding commenced by a summons or charge;
- (d) a proceeding commenced by the service of a notice of receipt of a complaint by the Superannuation Complaints Tribunal; or
- (e) a formal administrative or regulatory proceeding commenced by the filing of a notice of charges, formal investigative order or similar document,

against any **Insured** for a **Wrongful Act**, including any appeal therefrom.

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Wrongful Act means any error, misstatement, misleading statement, act, omission, neglect, breach of trust or breach of duty committed, attempted, or allegedly committed or attempted, by an **Insured**, individually or otherwise, in the management of a **Superannuation Fund**.

III. EXCLUSIONS

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

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| 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 section of which this Coverage Section is a renewal or replacement and if such prior policy or 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 demand, suit or other proceeding pending or order, decree or judgment entered against any Insured on or prior to the Pending or Prior Date set forth in Item 4 of the Schedule for this Coverage Section , or the same or substantially the same facts, circumstances or situations underlying or alleged therein; |
| Personal Profit | (c) | based upon, arising from, or in consequence of such Insured having gained in fact any personal profit, remuneration or advantage to which such Insured was not legally entitled 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; |
| Pollution | (d) | based upon, arising from, or in consequence of (i) 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 (ii) 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, including but not limited to any Claim for financial loss to an Insured , its security holders or its creditors based upon, arising from, or in consequence of the matters described in (i) or (ii) of this exclusion; |
| Fraud | (e) | 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; |
| Bodily Injury/ Property Damage | (f) | for bodily injury, 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; |
| Assumed Liability | (g) | 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 or unless the liability was assumed in accordance with or under the agreement or declaration of trust pursuant to which the Superannuation Fund was established; or |

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Temporary or Permanent Disability	(h) based upon, arising from or in consequence of the grant or denial of any Benefit for death, temporary disability (total or partial) or permanent disability (total or partial) to a beneficiary of a Superannuation Fund .
USA	(i) 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
Insolvency	(j) for Wrongful Acts based upon, arising from, or in consequence of the Financial Impairment of the Insured Organisation.

(B) The Company shall not be liable for that part of **Loss**, other than **Defence Costs**:

Benefits Due	(a) which constitutes Benefits due or to become due to a beneficiary of a Superannuation Fund unless, and to the extent that: <ul style="list-style-type: none">(i) the Insured is a natural person and the Benefits are payable by such Insured as a personal obligation, and(ii) recovery for the Benefits is based upon a covered Wrongful Act;
Contributions (Failure to Collect)	(b) which is based upon, arising from, or in consequence of the failure to collect from employers contributions payable to the Superannuation Fund unless the failure is because of the negligence of an Insured ; or
Contributions (Return/Repatriation)	(c) which constitutes the return or repatriation to any employer of any contribution or assets of a Superannuation Fund .

IV. SEVERABILITY OF EXCLUSIONS

With respect to the exclusions in this **Coverage Section**, in order to determine if coverage is available:

- (a) no fact pertaining to or knowledge possessed by any natural person **Insured** shall be imputed to any other natural person **Insured**; and
- (b) only facts pertaining to and knowledge possessed by any past, present or future chief financial officer, in-house general counsel, chief executive officer, chairman, president or managing director or equivalent thereof, of any **Insured** shall be imputed to any **Insured**.

V. PARTICIPATION IN ANOTHER SUPERANNUATION FUND

If during the **Policy Period**:

- (a) a **Participating Employer** commences to participate in a superannuation fund not covered by this **Coverage Section** ("Inception Event");
- (b) the **Trustees** of such superannuation fund and the **Participating Employer** wish to extend cover under this **Coverage Section** in respect of such superannuation fund;
- (c) the **Trustees** give written notice to that effect to the Company as soon as practicable after the Inception Event together with such other information as the Company may require; and
- (d) the **Trustees** or the **Participating Employer** pay any reasonable additional premium required by the Company,

then such fund is deemed to be a **Superannuation Fund** to which this **Coverage Section** applies. Coverage shall be afforded, subject to the terms and conditions of this **Coverage Section** and the General Terms and Conditions, from the date of the Inception Event for the **Insureds** of that **Superannuation Fund**, but only for **Wrongful Acts** occurring after the date of the Inception Event, unless the Company agrees by endorsement to provide coverage for **Wrongful Acts** occurring prior to such date.

VI. TERMINATION OF ANY SUPERANNUATION FUND

If the **Participating Employer** or a **Trustee** terminates any **Superannuation Fund** before or after the inception date of this **Coverage Section**, then coverage under this **Coverage Section** with respect to such terminated **Superannuation Fund** shall continue until termination of this **Coverage Section** for those who were **Insureds** at the time of such **Superannuation Fund** termination, or who would have been **Insureds** at the time of such termination if this **Coverage Section** had been in effect, with respect to **Wrongful Acts** occurring prior to the date of such **Superannuation Fund** termination. The **Insureds** shall give written notice to the Company of such **Superannuation Fund** termination as soon as is practicable together with such information as the Company may require.

VII. COORDINATION OF COVERAGE

Any **Loss** covered under this **Coverage Section** and the Employment Practices Liability **Coverage Section**, if purchased as set forth in Item 4 of the Schedule for the General Terms and Conditions Section, shall be first covered under the Employment Practices Liability **Coverage Section**, subject to the terms, conditions and limitations therein. Any remaining portion of such **Loss** otherwise covered under this **Coverage Section** which is not paid under the Employment Practices Liability **Coverage Section** shall be covered under this **Coverage Section**, subject to its terms, conditions and limitations.
