

Public Offering 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

Item 1. Principal Organisation:
Name of Organisation

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'. PLEASE READ THE ENTIRE COVERAGE SECTION CAREFULLY.

Item 2. Limits of Liability (inclusive of Defence Costs):

(a)	Each Loss	\$
(b)	Each Policy Period	\$

Insuring Contract 4 **Public Relations** Sub limit:

(c)	Each Loss	\$
(d)	Each Policy Period	\$

The Limits of Liability set forth in items 2(c) through 2(d) above are sub limits which are part of and not in addition to the Limits of Liability set forth in Items 2(a) and 2(b) above. They further reduce, and do not increase, the Limits of Liability set forth in Items 2(a) and 2(b) above.

Item 3.	Deductible Amount:	(a) Insuring Contract 2	\$
		(b) Insuring Contract 3	\$
		(c) Insuring Contract 4	\$

Item 4. Offering:

Item 5. Pending or Prior Date:

Item 6. Endorsement(s) Effective at Inception:

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In consideration of payment of the premium and subject to the terms and conditions of this Coverage Section, the Company and the **Insured** agree as follows:

Insuring Contracts

Insuring Contract 1 - Directors' and Officers' Liability Coverage

1. The Company shall pay, on behalf of each **Insured Person**, **Loss** for which such **Insured Person** is not indemnified by an **Insured Organisation** on account of any **Claim** first made during the **Policy Period** for a **Wrongful Act** occurring before or during the **Policy Period**.

Insuring Contract 2 - Company Reimbursement Coverage

2. The Company shall pay, on behalf of an **Insured Organisation**, **Loss** for which such **Insured Organisation** grants indemnification to each **Insured Person**, as permitted or required by law, on account of any **Claim** first made during the **Policy Period** for a **Wrongful Act** occurring before or during the **Policy Period**.

Insuring Contract 3 - Securities Claim Coverage

- .3. The Company shall pay, on behalf of an **Insured Organisation**, **Loss** for which such **Insured Organisation** becomes legally obligated to pay on account of a **Claim** first made against the **Insured Organisation** during the **Policy Period** for a **Wrongful Act** occurring before or during the **Policy Period**.

Insuring Contract 4 - Public Relations Expenses Coverage

4. The Company shall reimburse an **Insured Organisation** for **Loss** on account of a **Claim** in respect of a **Public Relations Event**.

Spouses, Estates and Legal Representatives Extension

5. Coverage shall extend to **Claims** for the **Wrongful Acts** of an **Insured Person** made against:
 - (a) the estates, heirs, legal representatives or assigns of such **Insured Person** who is deceased or against the legal representatives or assigns of such **Insured Person** who is under a legal disability by reason of mental incapacity or is insolvent or bankrupt; and
 - (b) the lawful spouse or **Domestic Partner** of such **Insured Person** solely by reason of such person's status as a spouse or **Domestic Partner** or such spouse or **Domestic Partner's** ownership interest in property which the claimant seeks as recovery for an alleged **Wrongful Act** of such **Insured Person**.

All terms and conditions of this Coverage Section applicable to **Loss** incurred by an **Insured Person**, shall also apply to loss incurred by the estates, heirs, legal representatives, assigns, spouse or **Domestic Partner** of such **Insured Person** as referred to in a. and b. above. The coverage provided under this section shall not apply with respect to any loss arising from an act or omission by an **Insured Person's** estate, heirs, legal representatives, assigns, spouse or **Domestic Partner**.

Definitions

6. When used in bold type in this Coverage Section:

Claim means:

- (a) With respect to Insuring Contracts 1,2 and 3 only:
 - (i) a written demand for monetary damages or non-pecuniary relief;
 - (ii) a civil proceeding including third party proceeding or counterclaim;
 - (lii) an arbitration, mediation, conciliation or alternative dispute resolution proceeding;
 - (iv) a criminal proceeding; or
 - (v) a formal administrative or formal regulatory proceeding commenced by the filing of a notice of charges, formal investigative order or similar document;against an **Insured** for a **Wrongful Act**, including any appeal therefrom.

- (b) With respect to Insuring Contract 4 only, a **Public Relations Event**.

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 **Insured Organisation** or office overheads, travel costs unrelated to a **Claim** or other administration costs) incurred in defending, investigating or settling any **Claim** and the premium paid for appeal, attachment or similar bonds.

Domestic Partner means any natural person qualifying as a domestic partner of, or being in a similar relationship to, an **Insured Person** under the provisions of any applicable law or under the provisions of any formal program established by an **Insured Organisation**.

External Administrator means any liquidator, receiver, receiver and manager, administrator, controller or holder of similar office or position in any jurisdiction, appointed other than by an **Insured Organisation**, whether appointed under the provisions of Part 5 of the Corporations Act 2001 (Cth) or any other law anywhere in the world or pursuant to the provisions of any contract or other instrument.

Financial Impairment means the status of an **Insured Organisation** resulting from (i) the appointment by any national, federal, state or territory tribunal, agency or court or by a creditor of any **External Administrator** to take control of, supervise, administer, manage or liquidate the **Insured Organisation** or its business or affairs; or (ii) the **Insured Organisation** becoming a debtor in possession or taking any corporate action or commencing legal proceedings for its winding-up, dissolution, administration or receivership or an event occurring which has an analogous effect under the laws of any jurisdiction.

Insured means an **Insured Organisation** and/or **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 an **Insured Organisation**, even if such **Insured Organisation** directed or requested the **Insured Person** to serve in such other position or capacity.

Insured Organisation means the **Principal Organisation** and any **Subsidiary**.

Insured Person means any natural person who was, now is or shall be a company director, including, for the avoidance of doubt, a de facto or shadow director, company secretary or officer of an **Insured Organisation** or the holder of an equivalent position in any jurisdiction; or an employee of an **Insured Organisation** whilst acting in an **Insured Capacity**; but does not include an **External Administrator**.

Loss means **Defence Costs** and the amount which an **Insured** becomes legally obligated to pay on account of any covered **Claim** including, but not limited to:

- (a) awards of damages;
- (b) judgments;
- (c) sums payable due to any settlements agreed to by the Company in accordance with section 13. Defence and Settlement, of this Coverage Section;
- (d) awards of claimant's costs;
- (e) punitive damages if such damages are insurable under the law where:
 - (i) those damages were awarded or imposed;
 - (ii) any **Wrongful Act** occurred for which such damages were awarded or imposed;
 - (iii) any **Insured Organisation** is incorporated or has its principal place of business; or
 - (iv) the Company is incorporated or has its principal place of business;
- (f) **Pecuniary Penalties** to the extent permitted by law;
- (g) **Public Relations Expenses**; and
- (h) orders made by any court or tribunal to pay compensation, including but not limited to, Compensation Orders under sections 1317H and 1317HA of the Corporations Act 2001 (Cth), as amended.

Loss does not include:

- (a) any amount for which an **Insured** is absolved from payment by reason of any covenant or agreement, other than indemnification of an **Insured Person** by an **Insured Organisation**, or order or determination of a tribunal or court;
- (b) fines or penalties imposed by law, other than to the extent covered pursuant to paragraph e. above;
- (c) taxes or the loss of tax benefits;
- (d) the multiple portion of any multiplied damages awarded outside the Commonwealth of Australia or New Zealand;
- (e) any amount allocated to loss not covered by this Coverage Section pursuant to section 15. Allocation;
- (f) costs incurred by any person to comply with any order for injunctive or other non-pecuniary relief, or to comply with an agreement to provide such relief;
- (g) any amount incurred by an **Insured** in relation to a demand, proceeding or investigation which is not a **Claim** notwithstanding that such demand, proceeding or investigation subsequently gives rise to a **Claim** unless otherwise agreed to by the Company, in its sole discretion; or
- (h) matters uninsurable under Australian law.

Offering means the offering which is stated in Item 4 of the Schedule.

Offering Negotiations means negotiations, discussions, decisions and presentations in connection with the **Offering**.

Offering Document means the disclosure document, or similar document in any jurisdiction, issued in relation to the **Offering** and any draft of that disclosure document.

Pecuniary Penalties means pecuniary or administrative fines or penalties which an **Insured Person** is ordered to pay under the laws of the Commonwealth of Australia and/or New Zealand.

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 any counterpart thereof anywhere in the world. 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 air emission, odour, waste water, oil, oil products, infectious or medical waste, asbestos or asbestos products or any noise.

Pollution means:

- (a) the actual, alleged or threatened exposure to, or generation, storage, transportation, discharge, emission, release, escape, seepage, migration, dispersal, treatment, removal or disposal of any **Pollutants**; or

- (b) any regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise **Pollutants**, or
 - (i) any action taken in response to or contemplation or anticipation of any such regulation, order, direction or request; or
 - (ii) any action taken voluntarily to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise **Pollutants**, whether or not in relation to any such regulation, order, direction or request;

including but not limited to any claim for loss to the **Insured Organisation**, the holders of its securities or its creditors based upon, arising from, or in consequence of the matters described in (a) or (b) of this definition.

Principal Organisation means the organisation designated in Item 1 of the Schedule.

Proposal means all signed proposals, including attachments and materials incorporated therein, submitted by the **Insureds** to the Company for this coverage section or any policy issued by the Company of which this coverage section is a direct or indirect renewal or replacement. All such proposals, attachments and materials are deemed attached to, incorporated into and made a part of this Coverage Section.

Public Disclosure means any public announcement by, on behalf of, or with respect to, an **Insured Organisation** in relation to a **Public Disclosure Matter** which, if it was or had been known of or anticipated by any person involved with, or who should have been involved with, the **Offering Negotiations** or **Offering Document**, should have been disclosed in the **Offering Negotiations** or the **Offering Document**.

Public Disclosure Matter means any of the following matters: negative earnings; declining sales; a material change in financial position including write-offs or suspension of dividends; an unsolicited take-over bid; loss of intellectual property; loss of proprietary information; a competitor's entry into an **Insured Organisation's** product market; a change in product pricing structure; loss of a customer; loss of a contract; product recall or delay; alleged wrongdoing causing injury or damage to multiple parties; regulatory or legal proceedings; reduction in the labour force; corporate restructuring; or loss of an executive officer.

Public Relations Event means any **Public Disclosure** first made during the **Policy Period**:

- (a) which, in the reasonable opinion (based upon objective criteria) of the chairman, chief executive officer, managing director, finance director or in-house general counsel of an **Insured Organisation** by, on behalf of, or with respect to which the **Public Disclosure** is made, will cause; or
- (b) which does cause, the ordinary share price of an **Insured Organisation** to decrease during the first twenty-four (24) hours following such **Public Disclosure** by a percentage amount equal to or more than ten per cent (10%) plus the percentage amount, if any, by which the index of the stock exchange where such **Insured Organisation's** shares are traded falls in the same twenty-four (24) hour period.

Public Relations Expenses means that part of **Loss** consisting of:

- (a) reasonable fees charged by an independent public relations firm, crisis management firm, law firm or consultant for advising an **Insured**;
- (b) reasonable travel and accommodation expenses incurred by an **Insured Person**;
- (c) reasonable printing and mailing expenses; and
- (d) reasonable advertising expenses, incurred by an **Insured Organisation** during the **Policy Period** in advance of or following a **Public Relations Event**;
 - (i) in reasonable anticipation of, and to prevent or minimize, adverse effects of negative publicity resulting from such **Public Relations Event**; or
 - (ii) in order to maintain or restore investor or public confidence after such **Public Relations Event**.

Related Claims means all **Claims** based upon, arising from, or in consequence of the same or related **Wrongful Acts**, facts or circumstances or the same or related series of **Wrongful Acts**, facts or circumstances.

Subsidiary means, at the time of the occurrence of a **Wrongful Act**:

- (a) any organisation whose accounts are consolidated with the accounts of an **Insured Organisation** in accordance with Australian Accounting Standard AASB 1024: Consolidated Accounts or any successor Standard; or
- (b) any organisation in which one or more **Insured Organisations**:
 - (i) controls the composition of the organisation's board;
 - (ii) is in a position to cast, or control the casting of, more than fifty percent (50%) of the maximum number of votes that might be cast at a general meeting of the organisation; or
 - (iii) holds more than fifty percent (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).

Wrongful Act means any act or omission, including but not limited to any error, misstatement, misleading statement, neglect, breach of trust or breach of duty committed, attempted, or allegedly committed or attempted, by:

- (a) an **Insured Person**, individually or otherwise, in his **Insured Capacity**; or
- (b) an **Insured Organisation**,
in connection with the **Offering Document** or the **Offering Negotiations**.

Exclusions

Exclusions Applicable to All Insuring Contracts

7. The Company shall not be liable for **Loss** on account of any **Claim**:
- (a) based upon, arising from, or in consequence of any **Wrongful Act**, fact or circumstance if notice of such **Wrongful Act**, fact or circumstance has been given under any policy or coverage section of which this Coverage Section is a renewal or replacement or which it may succeed in time;
 - (b) based upon, arising from, or in consequence of any **Wrongful Act** which occurred prior to the Pending or Prior Date set forth in:
 - (i) Item 5 of the Schedule; or
 - (ii) a Scheduled Outside Entity Endorsement;or the same or substantially the same **Wrongful Acts** and which an **Insured**, prior to the dates set forth above, knew or ought reasonably to have foreseen would or could give rise to a **Claim**;
 - (c) based upon, arising from, or in consequence of any demand, suit or proceeding pending against, or order, decree or judgment entered for or against any **Insured** on or prior to the Pending or Prior Date set forth in Item 5 of the Schedule or the same or substantially the same **Wrongful Acts**, facts or circumstances underlying or alleged therein;
 - (d) brought or maintained by or on behalf of an **Insured** except:
 - (i) a **Claim** that is a derivative action brought or maintained on behalf of an **Insured Organisation** by one or more persons who are not **Insured Persons**, and who bring and maintain the **Claim** without the active assistance or participation of, or solicitation by, any **Insured**;
 - (ii) a **Claim** that is brought or maintained by an **External Administrator** on behalf of an **Insured Organisation**, and who brings and maintains such **Claim** without the active assistance or participation of, or solicitation by, an **Insured Person**;
 - (iii) a **Claim** brought or maintained by an **Insured Person** for contribution or indemnification, if the **Claim** directly results from another **Claim** covered under this Coverage Section;
 - (iv) a **Claim** that is caused to be brought by any regulatory authority of competent jurisdiction pursuant to Section 50, Division 5 of the Australian Securities and Investments Commission Act, 2001 (Cth), as amended or any analogous provisions of any legislation anywhere in the world; or

- (v) a **Claim** that is brought or maintained by or on behalf of any **Insured Person** who has ceased to serve in the positions referred to in paragraphs (a) and (b) of the definition of **Insured Person**, such **Claim** being brought or maintained without the active assistance or participation of, or solicitation by, the **Insured Organisation** or any **Insured Person** serving in such positions at the time such **Claim** is brought or maintained;
- (vi) **Defence Costs** provided that any such **Claim** is brought and maintained solely and entirely in a jurisdiction and is subject to the substantive and procedural laws of a jurisdiction other than the United States of America or any territory under its jurisdiction;
- (e) based upon, arising from, or in consequence of any actual or alleged violation of the responsibilities, obligations or duties owed by fiduciaries, trustees, administrators or any others charged with duties with respect to any superannuation, pension, provident fund, profit sharing, health and welfare or other employee benefit plan or trust established or maintained for the purpose of providing pensions, annuities or any form of benefits to employees of an **Insured Organisation**;
- (f) for bodily injury, sickness, disease or death of any person or damage to or destruction of any tangible property, including loss of use thereof, whether or not it is damaged or destroyed;
- (g) based upon, arising from, or in consequence of **Pollution**;
- (h) for any actual or alleged act or omission, including but not limited to, any error, misstatement, misleading statement, neglect, or breach of duty committed, attempted or allegedly committed or attempted in the rendering of, or actual or alleged failure to render any professional services for or on behalf of a customer of an **Insured Organisation**;
- (i) based upon, arising from, or in consequence of:
 - (i) any deliberately fraudulent act or omission or any wilful violation or breach of any law, regulation or by-law anywhere in the world or duty imposed by any such law, regulation or by-law by an **Insured**, including, without limitation, any wilful breach of duty in relation to an **Insured Organisation**;
 - (ii) an **Insured** having improperly used his position to gain any advantage to which such **Insured** was not legally entitled; provide an advantage to someone other than an **Insured Organisation**; or cause detriment to an **Insured Organisation**; or
 - (iii) an **Insured** having improperly used information, obtained by virtue of his being an **Insured**, so as to gain any advantage to which such **Insured** was not legally entitled; provide an advantage to someone other than an **Insured Organisation** or to cause detriment to an **Insured Organisation**;

provided that this exclusion shall not apply (including, for the avoidance of doubt, to the Company's obligation to advance **Defence Costs** under section 14 hereof) until an admission by an **Insured** or a final adjudication establishes such a deliberately fraudulent act or omission, wilful violation or breach, advantage or detriment; or
- (j) brought or maintained by or on behalf of any individual or entity which, directly or indirectly, beneficially owns fifteen percent (15%) or more of the issued share capital or voting rights representing the present right to vote for election of directors of an **Insured Organisation**.

Exclusions Applicable to Insuring Contract 3 Only

- 8. The **Company** shall not be liable for **Loss**, other than **Defence Costs**, on account of any **Claim** based upon, arising from, or in consequence of any actual or proposed payment by an **Insured Organisation** of allegedly inadequate or excessive consideration in connection with the purchase of its own securities.

Severability – Imputation of Knowledge

- 9. With respect to the exclusions 7.b, and 7.i. of this Coverage Section, in order to determine if coverage is available:

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- (a) no fact pertaining to or knowledge possessed by any **Insured Person** shall be imputed to any other **Insured Person**; and
 - (b) only facts pertaining to and knowledge possessed by any past, present or future chief executive officer, chief financial officer, president, chairman, managing director, company secretary, in-house general counsel, or a person in a position equivalent to any of these positions in any jurisdiction, of an **Insured Organisation** shall be imputed to an **Insured Organisation**.
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Limit of Liability and Deductible

10. The Company's maximum liability for **Loss** on account of each **Claim**, whether covered under one or more Insuring Contracts, shall be the Limit of Liability for each **Loss** set forth in Item 2(a) of the Schedule. The Company's maximum aggregate liability for **Loss** on account of all **Claims** first made during the **Policy Period**, whether covered under one or more Insuring Contracts, shall be the Limit of Liability for each **Policy Period** set forth in Item 2(b) of the Schedule.

The Company's maximum liability for **Pecuniary Penalties** shall be the sub-limit of liability set forth in Item 2(e) of the Schedule. The Company's maximum liability for **Pecuniary Penalties** made during the **Policy Period** shall be the sub-limit of liability for each **Policy Period** set forth in Item 2(f) of the Schedule.

The Company's maximum liability under Insuring Contract 4 for **Public Relations Expenses** shall be the sub-limit of liability set forth in Items 2(c) of the Schedule. The Company's maximum liability under Insuring Contract 4 for **Public Relations Expenses** on account of all **Claims** made during the **Policy Period** shall be the sub-limit of liability for each **Policy Period** set forth in Items 2(d) of the Schedule.

The limits of liability set forth in Items 2(c) and 2(d) of the Schedule are sub-limits which are part of, and not in addition to the Limits of Liability set forth in Items 2(a) and 2(b) of the Schedule. They further reduce, and do not increase, the Limits of Liability set forth in Items 2(a) and 2(b) of the Schedule.

Defence Costs are part of, and not in addition to, the Limits of Liability set forth in Item 2 of the Schedule, and the payment by the Company of **Defence Costs** shall reduce and may exhaust such applicable Limits of Liability.

The Company's liability under Insuring Contract 2, Insuring Contract 3 and/or Insuring Contract 4 shall apply only to that part of **Loss** on account of each **Claim** which is excess of the applicable Deductible Amount set forth in Item 3 of the Schedule. Such Deductible Amount shall be depleted only by **Loss** and shall be borne by the **Insured** uninsured and at their own risk. No Deductible Amount shall apply to any **Loss** under Insuring Contract 1.

If different parts of a single **Claim** are subject to different Deductible Amounts, the applicable Deductible Amounts will be applied separately to each part of such **Claim**, but the sum of such Deductible Amounts shall not exceed the largest applicable Deductible Amount.

All **Related Claims** shall be treated as a single **Claim** first made on the date the earliest of such **Related Claims** was first made, or on the date the earliest of such **Related Claims** is treated as having been made in accordance with section 12. Reporting and Notice, regardless of whether such date is before or during the **Policy Period**.

In the event of **Loss** which is covered by this Coverage Section and by those policies listed in the **Proposal** or any directors and officers liability policy or coverage section, or any other policy or coverage section affording similar cover, issued by Chubb Insurance Company of Australia Limited or any other subsidiary, affiliate or associate of The Chubb Corporation, the Limit of Liability stated in Item 2 (b) of the Schedule shall be reduced by the amount paid or payable under such other policy.

The entire premium for this Coverage Section shall be deemed fully earned at inception, unless otherwise agreed to by the Company.

Presumptive Indemnification

11. If the **Insured Organisation** is permitted or required by law to indemnify, or is not prevented by law from indemnifying, an **Insured Person** for **Loss** but fails or refuses, other than for reason of **Financial Impairment**, to so indemnify an **Insured Person** then the Company shall pay such **Loss** on behalf of such **Insured Person** subject to all the Exclusions of this Coverage Section. In such event the applicable Deductible Amount set forth in Item 3 of the Schedule shall be paid by an **Insured Organisation** to the Company within thirty (30) days of such payment, the **Principal Organisation** and the **Insured Organisation** being jointly and severally liable for making the payment. No Deductible Amount shall apply in the event of **Financial Impairment**.

Reporting and Notice

12. The **Insureds** shall give to the Company written notice of any **Claim** as soon as practicable and, in any event, no later than sixty (60) days after the expiration of the **Policy Period**.

The **Insureds** shall give to the Company such information and co-operation as it may reasonably require, including but not limited to a description of the **Claim**, the nature of the alleged **Wrongful Act**, the nature of the alleged or potential loss, the names of actual or potential claimants, and the manner in which the **Insured** first became aware of the **Claim**.

Defence and Settlement

13. It shall be the duty of the **Insured** and not the duty of the Company to defend **Claims**.

Each **Insured** agrees not to settle, or convey any offer of settlement to any claimant with regard to, any **Claim**, incur any **Defence Costs** or otherwise assume any contractual obligation or admit any liability with respect to any **Claim** without the Company's prior written consent. The Company shall not be liable for any **Defence Costs**, any other element of **Loss** incurred, any obligation assumed or any admission made by any **Insured** without the Company's prior written consent. An **Insured Organisation** is not required to obtain the Company's consent before incurring **Public Relations Expenses**. Provided the **Insureds** comply with this section, the Company shall not unreasonably withhold any such consent.

With respect to any **Claim** that appears reasonably likely to be covered in whole or in part under this Coverage Section the Company shall have the right and shall be given the opportunity to effectively associate with each **Insured**, and shall be consulted in advance by the **Insured**, regarding the investigation, defence and settlement, including the negotiation of any settlement, of any **Claim** that appears reasonably likely to be covered in whole or in part by this Coverage Section.

Each **Insured** agrees to provide the Company with all information, assistance and co-operation which the Company reasonably requires, including, without limitation, for the purposes of any investigation the Company makes, in its absolute discretion.

Each **Insured** agrees that, in the event of a **Claim**, such **Insured** will do nothing that may prejudice the Company's position or its potential or actual rights of recovery.

Advancement of Defence Costs

14. The Company shall, prior to the final disposition of any **Claim**, advance **Defence Costs** as provided under this Coverage Section, within thirty (30) days of receipt of an invoice for same from defence counsel.

Any advancement of **Defence Costs** shall be repaid to the Company by the **Insureds**, severally according to their respective interests, if and to the extent it is determined that such **Defence Costs** are not insured under this Coverage Section.

Allocation

15. Where a **Claim**:

- (a) includes both matters covered and matters that are not covered by this Coverage Section; or
- (b) is made against a person or organisation other than an **Insured**,

the Company and the **Insured** shall allocate any amounts incurred by the **Insured**:

- (i) based upon the relative legal and financial exposures of an **Insured** to matters covered and matters not covered by this Coverage Section; and
- (ii) in the event of a settlement in such **Claim**, based also on the relative benefits to an **Insured** from such settlement.

If the Company and the **Insured** cannot agree on an allocation of **Loss**:

- (a) no presumption as to allocation shall exist in respect of any disagreement between the Company and the **Insured** regarding allocation;
- (b) the Company shall advance such portion of **Defence Costs** which the Company believes, in its sole discretion, to be covered under this Coverage Section unless and until a different and final allocation is mutually agreed upon between the Company and the **Insured** or is arbitrated in accordance with this Section or judicially determined;
- (c) the Company may, in its sole discretion, pay such portion of **Loss**, other than **Defence Costs**, which it believes to be covered under this Coverage Section unless and until a different and final allocation is mutually agreed upon between the Company and the **Insured** or is arbitrated in accordance with this Section or judicially determined;
- (d) the Company, if requested by the **Insured**, shall submit any disagreement between them regarding the allocation of **Loss** for determination by arbitration. Subject to agreement between the parties, the arbitration panel shall consist of one arbitrator selected by such **Insured**, one arbitrator selected by the Company, and a third independent arbitrator selected by the first two arbitrators. The costs of arbitration undertaken in accordance with this section shall be borne by the Company;
- (e) any allocation of **Loss** that is mutually agreed upon between the Company and the **Insured** or arbitrated in accordance with this Section or judicially determined shall be applied retroactively to all **Loss** notwithstanding any prior payment or advancement, as the case may be, to the contrary; and
- (f) any allocation or advancement of **Defence Costs** shall not apply to or create any presumption with respect to the allocation of **Loss**, other than **Defence Costs**, on account of a **Claim**.

Other Insurance

16. In the event that any **Loss** arising from any **Claim** made against an **Insured** is insured under:

- (a) those policies listed in the **Proposal** for this Coverage Section; or
- (b) any other policy;

then to the extent to which it is permitted by the Insurance Contracts Act 1984 (Cth), as amended, coverage is only provided under this Coverage Section, subject to its terms and conditions, for such **Loss** excess of the coverage provided by any of the policies and coverage sections referred to in a. or b. above.

Changes in Exposure

Acquisition of Principal Organisation by Another Organisation

17. (a) If, during the **Policy Period**:
- (i) the **Principal Organisation** merges into or consolidates with another organisation and the **Principal Organisation** is not the surviving organisation; or
 - (ii) another organisation or person or group of organisations or persons acting in concert acquires control of the composition of the **Principal Organisation's** board, is in a position to cast, or control the casting of more than fifty percent (50%) of the maximum number of votes that might be cast at a general meeting of the **Principal Organisation** or holds more than fifty percent (50%) of the issued share capital of the **Principal 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),

coverage shall continue until termination of this Coverage Section, but only with respect to **Claims for Wrongful Acts** occurring prior to such merger, consolidation or acquisition. Upon the occurrence of any event specified in (i) or (ii) above, the entire premium for this Coverage Section shall be deemed fully earned unless otherwise agreed to by the Company.

Cessation of Subsidiaries

18. If an organisation ceases to be a **Subsidiary**, before or after the inception date of this Coverage Section, coverage with respect to such **Subsidiary** and the **Insured Persons** in relation thereto shall continue until termination of this Coverage Section or any renewal thereof, but only with respect to **Claims for Wrongful Acts** occurring prior to the date such organisation ceased to be a **Subsidiary**.

Representations and Severability

19. In issuing this Coverage Section the Company has relied upon the statements, representations and information in the **Proposal**, including any publicly available information published, issued or disclosed by or on behalf of an **Insured** regarding any **Insured**. All such statements, representations and information are the basis of this coverage and shall be incorporated in and constitute part of this Coverage Section.

The **Proposal** shall be construed as a separate proposal for coverage by each **Insured Person**. For the purpose of determining if coverage is available under this Coverage Section:

- (a) the knowledge of any past, present or future president, chief executive officer, chief financial officer, in-house general counsel, managing director, chairman, insurance risk manager, or equivalent position in any jurisdiction, of an **Insured Organisation** shall be imputed to such **Insured Organisation**; and
- (b) Except as provided for in (a) above, no statement, representation or information provided in the **Proposal** by an **Insured Person** or knowledge possessed by such **Insured Person** shall be imputed to any other **Insured Person**.

Confidentiality Agreement

20. It is a condition of this Coverage Section that each **Insured** and/or any persons at their direction or on their behalf shall not disclose the existence of this Coverage Section, its Limits of Liability, the nature of the liability indemnified, or the premium payable under it to any third party except to the extent that:

GST – Basis of Settlement

21. If an **Insured** is entitled to an input tax credit for the premium, that **Insured** must inform the Company of the extent of that entitlement at or before the time a **Claim** is made under this Coverage Section. The Company will not be liable for **Loss** on account of any **Claim** based upon, arising from, or in consequence of any **Insured's** misstatement of, or failure to inform the Company of, the extent of its entitlement to an input tax credit for the premium.

The amount of deductible payable will be less any input tax credit that is or may be available to the **Insured** on payment of the deductible.

Payment of Loss

22. In the event payment of **Loss** is due under this coverage section but the amount of such **Loss** in the aggregate exceeds the remaining available Limit of Liability for this coverage section, the Company shall:
- (a) first pay such **Loss** for which coverage is provided under Insuring Contract 1 of this coverage section; then
 - (b) to the extent of any remaining amount of the Limit of Liability available after payment under a. above, pay such **Loss** for which coverage is provided under any other Insuring Contract of this coverage section.

Except as otherwise provided in this section, the Company may pay **Loss** as it becomes due under this coverage section without regard to the potential for other future payment obligations under this coverage section.

Termination of Policy

23. This Policy shall terminate at the earliest of the following times:
- (a) fourteen (14) days after the receipt by the **Principal Organisation** of a written notice of termination from the Company for non-payment of premium, or, if a later time is specified in such notice, at such later time;
 - (b) upon expiration of the **Policy Period** as set forth in Item 3 of the Declarations to the General Terms and Conditions.