



Cyber Liability Insurance Policy Wording

CONTENTS

CONTENTS	2
STATUTORY NOTICE	3
BEAZLEY BREACH RESPONSE - AUSTRALIA	5
1. INSURING AGREEMENTS	5
2. DEFENCE AND SETTLEMENT OF CLAIMS	9
3. TERRITORY	10
4. EXCLUSIONS	10
5. DEFINITIONS	18
6. LIMIT OF LIABILITY AND COVERAGE	30
7. RETENTION	32
8. OPTIONAL EXTENSION PERIOD	33
9. NOTICE OF CLAIM OR LOSS	34
10. ASSISTANCE AND COOPERATION	35
11. SUBROGATION	36
12. OTHER INSURANCE	36
13. ACTION AGAINST THE UNDERWRITERS	36
14. ENTIRE AGREEMENT	37
15. MERGERS AND ACQUISITIONS	37
16. ASSIGNMENT	38
17. CANCELLATION	38
18. SINGULAR FORM OF A WORD	39
19. HEADINGS	39
20. WARRANTY BY THE INSURED	39
21. NAMED INSURED AS AGENT	39
22. GOVERNING LAW AND JURISDICTION	39
23. VALUATION AND CURRENCY	39
24. AUTHORIZATION	40
25. PROOF AND APPRAISAL OF LOSS	40
26. GOODS AND SERVICES TAX	41
27. SANCTION LIMITATION AND EXCLUSION CLAUSE	41
28. COMPLAINTS	41
29. Privacy Notice	42
CRIMINAL REWARDS ENDORSEMENT	43
TELECOMMUNICATIONS FRAUD ENDORSEMENT	44
UNPROTECTED PORTABLE COMPUTERS AND MEDIA EXCLUSION	46
NUCLEAR EXCLUSION CLAUSE (NMA 1256)	47

STATUTORY NOTICE

Section 40 Insurance Contracts Act 1984 (Cth)

This notice is provided in connection with but does not form part of the policy. The coverage provided under Insuring Agreements A., C., D. and E. of this policy is on a 'Claims Made and Reported' liability basis. Cover is only provided if:

- A **Claim** is made against an **Insured**, by some other person, during the period when the policy is in force; and
- The **Claim** arises out of circumstances committed, attempted or alleged to have been committed or attempted after the **Retroactive Date** set forth in Item 6.A of the Declarations.

Section 40(3) of the Insurance Contracts Act 1984 (Cth) applies to this type of coverage. That sub-section provides that if an **Insured** becomes aware, during the period when the policy is in force, of any facts which might give rise to a **Claim** against them by some other person, then provided that the **Insured** notifies the Underwriters in writing of the matter as soon as was reasonably practicable after the insured became aware of those facts but before the insurance cover provided by this policy expires, the Underwriters may not refuse to indemnify merely because a **Claim** resulting from the matter is not made against the **Insured** while the policy is in force.

If an **Insured**, inadvertently or otherwise, does not notify the relevant occurrence or facts to the Underwriters before the expiry of the policy, the **Insured** will not have the benefit of section 40(3) and the Underwriters may refuse to pay any subsequent **Claim**, notwithstanding that the facts or events giving rise to it or the circumstances alleged in it may have taken place during the **Policy Period**.

If a **Claim** is made against the **Insured** by some other person during the **Policy Period** but is not notified to the Underwriters until after the policy has expired, the Underwriters may refuse to pay or may reduce its payment under the policy if it has suffered any financial prejudice as a result of the late notification.

Duty of Disclosure

Before the **Insured** enters into a contract of general insurance with the Underwriters, the **Insured** has a duty under the Insurance Contracts Act 1984 (Cth) to disclose to the Underwriters every matter they know, or could reasonably be expected to know, is relevant to the Underwriters' decision whether to insure the **Insured** and, if so, on what terms. This applies to all persons to be covered under this contract of insurance.

The **Insured** has the same duty to disclose those matters to the Underwriters before they renew, extend, vary or reinstate a contract of general insurance.

The duty applies until the proposed contract is entered into.

This duty however, does not require disclosure of a matter that:

- diminishes the risk to be insured;
- is of common knowledge;
- the Underwriters knew or in the ordinary course of the Underwriters business ought to know;
- the Underwriters indicate to the **Insured** that it does not want to know.

Non-disclosure or Misrepresentation

If the **Insured** makes a misrepresentation to the Underwriters, or if they do not comply with this duty of disclosure and the Underwriters issue the policy with terms and conditions that are different to the terms and conditions that would have been issued had there not been any misrepresentation, or the **Insured's** duty of disclosure had been complied with, then:

- the Underwriters may reduce the cover provided so that we are placed in the same position as we would have been in, had there not been any non-disclosure or misrepresentation and the **Insured's** duty of disclosure had been complied with; and
- the Underwriters may also cancel the policy; or
- the Underwriters may treat the policy as if it never existed if the misrepresentation or the non-compliance with the **Insured's** duty of disclosure was fraudulent.

Unusual terms

Please note Clause XXI, which prevents Underwriters from providing cover, benefits or paying claims where that would expose Underwriters to sanctions, prohibitions or restrictions.

BEAZLEY BREACH RESPONSE - AUSTRALIA

NOTICE: INSURING AGREEMENTS A., C., D. AND E. OF THIS POLICY PROVIDE COVERAGE ON A CLAIMS MADE AND REPORTED BASIS AND APPLY ONLY TO CLAIMS FIRST MADE AGAINST THE INSURED DURING THE POLICY PERIOD OR THE OPTIONAL EXTENSION PERIOD (IF APPLICABLE) AND REPORTED TO THE UNDERWRITERS DURING THE POLICY PERIOD OR AS OTHERWISE PROVIDED IN CLAUSE IX. OF THIS POLICY. AMOUNTS INCURRED AS CLAIMS EXPENSES UNDER THIS POLICY SHALL REDUCE AND MAY EXHAUST THE LIMIT OF LIABILITY AND ARE SUBJECT TO RETENTIONS.

INSURING AGREEMENTS B., F., G. AND H. OF THIS POLICY PROVIDE FIRST PARTY COVERAGE ON AN INCIDENT DISCOVERED AND REPORTED BASIS AND APPLIES ONLY TO INCIDENTS FIRST DISCOVERED BY THE INSURED AND REPORTED TO THE UNDERWRITERS DURING THE POLICY PERIOD.

Please review the coverage afforded under this Insurance Policy carefully and discuss the coverage hereunder with your insurance agent or broker.

The Underwriters agree with the **Named Insured**, set forth in Item 1. of the Declarations made a part hereof, in consideration of the payment of the premium and reliance upon the statements in the **Application** to this Insurance Policy (hereinafter referred to as the "Policy" or "Insurance") and subject to all the provisions, terms and conditions of this Policy:

1. INSURING AGREEMENTS

A. Information Security & Privacy Liability

To pay on behalf of the **Insured**:

Damages and **Claims Expenses**, in excess of the **Retention**, which the **Insured** shall become legally obligated to pay because of any **Claim**, including a **Claim** for violation of a **Privacy Law**, first made against any **Insured** during the **Policy Period** or Optional Extension Period (if applicable) and reported in writing to the Underwriters during the **Policy Period** or as otherwise provided in Clause IX. of this Policy for:

1. theft, loss, or **Unauthorised Disclosure** of **Personally Identifiable Information** or **Third Party Information** that is in the care, custody or control of the **Insured Organisation**, or a third party for whose theft, loss or **Unauthorised Disclosure** of **Personally Identifiable Information** or **Third Party Information** the **Insured Organisation** is legally liable, provided such theft, loss or **Unauthorised Disclosure** first takes place on or after the Retroactive Date and before the end of the **Policy Period**;
2. one or more of the following acts or incidents that directly result from a failure of **Computer Security** to prevent a **Security Breach**, provided that such act or incident first takes place on or after the Retroactive Date and before the end of the **Policy Period**;

- (a) the alteration, corruption, destruction, deletion, or damage to data stored on **Computer Systems**;
 - (b) the failure to prevent transmission of malicious code from **Computer Systems** to computer or network systems that are not owned, operated or controlled by an **Insured**; or
 - (c) the participation by the **Insured Organisation's Computer Systems** in a denial-of-service attack directed against computer or network systems that are not owned, operated or controlled by an **Insured**;
3. the **Insured Organisation's** failure to timely disclose an incident described in Insuring Agreement A.1. or A.2. in violation of any **Breach Notice Law**; provided such incident giving rise to the **Insured Organisation's** obligation under a **Breach Notice Law** must first take place on or after the Retroactive Date and before the end of the **Policy Period**; or
4. failure by the **Insured** to comply with that part of a **Privacy Policy** that specifically:
- (a) prohibits or restricts the **Insured Organisation's** disclosure, sharing or selling of a person's **Personally Identifiable Information**;
 - (b) requires the **Insured Organisation** to provide access to **Personally Identifiable Information** or to correct incomplete or inaccurate **Personally Identifiable Information** after a request is made by a person; or
 - (c) mandates procedures and requirements to prevent the loss of **Personally Identifiable Information**;

provided the acts, errors or omissions that constitute such failure to comply with a **Privacy Policy** must first take place on or after the Retroactive Date and before the end of the **Policy Period**, and the **Insured Organisation** must, at the time of such acts, errors or omissions have in force a **Privacy Policy** that addresses those subsections above that are relevant to such **Claim**.

B. Privacy Breach Response Services

To provide **Privacy Breach Response Services** to the **Insured Organisation** in excess of the **Retention** because of an incident (or reasonably suspected incident) described in Insuring Agreement A.1. or A.2. that first takes place on or after the Retroactive Date and before the end of the **Policy Period** and is discovered by the **Insured** and is reported to the Underwriters during the **Policy Period**.

Privacy Breach Response Services means the following:

- 1. **Computer Expert Services**;
- 2. **Legal Services**;
- 3. **Notification Services** to provide notification to:

- (a) individuals who are required to be notified by the **Insured Organisation** under the applicable **Breach Notice Law**; or
 - (b) in the Underwriters' discretion, individuals affected by an incident in which their **Personally Identifiable Information** has been subject to theft, loss or **Unauthorised Disclosure** in a manner which compromises the security or privacy of such individual by posing a significant risk of financial, reputational or other harm to the individual;
4. **Call Centre Services**;
 5. **Breach Resolution and Mitigation Services**; and
 6. **Public Relations and Crisis Management Expenses**.

Privacy Breach Response Services also includes assistance from the BBR Services Team and access to educational and loss control information at no charge.

Privacy Breach Response Services will be provided subject to the terms and conditions of this Policy and the **Information Packet**, will be subject to the applicable retentions and limitations set forth in the Declarations, and shall not include any internal salary or overhead expenses of the **Insured Organisation**. It is a condition of coverage under this Policy that Underwriters' prior written consent be obtained in order for **Privacy Breach Response Services** to be covered.

C. Regulatory Defence and Penalties

To pay on behalf of the **Insured**:

Claims Expenses and **Penalties** in excess of the **Retention**, which the **Insured** shall become legally obligated to pay because of any **Claim** in the form of a **Regulatory Proceeding**, first made against any **Insured** during the **Policy Period** or Optional Extension Period (if applicable) and reported in writing to the Underwriters during the **Policy Period** or as otherwise provided in Clause IX. of this Policy, for a violation of a **Privacy Law** and caused by an incident described in Insuring Agreements A.1., A.2. or A.3. that first takes place on or after the Retroactive Date and before the end of the **Policy Period**.

D. Website Media Content Liability

To pay on behalf of the **Insured**:

Damages and **Claims Expenses**, in excess of the **Retention**, which the **Insured** shall become legally obligated to pay resulting from any **Claim** first made against any **Insured** during the **Policy Period** or Optional Extension Period (if applicable) and reported in writing to the Underwriters during the **Policy Period** or as otherwise provided in Clause IX. of this Policy for one or more of the following acts first committed on or after the Retroactive Date and before the end of the **Policy Period** in the course of the **Insured Organisation's** display of **Media Material** on its web site or on social media web pages created and maintained by or on behalf of the **Insured Organisation**:

1. defamation, libel, slander, trade libel, infliction of emotional distress,

- outrage, outrageous conduct, or other tort related to disparagement or harm to the reputation or character of any person or organisation;
2. a violation of the rights of privacy of an individual, including false light and public disclosure of private facts;
 3. invasion or interference with an individual's right of publicity, including commercial appropriation of name, persona, voice or likeness;
 4. plagiarism, piracy, misappropriation of ideas under implied contract;
 5. infringement of copyright;
 6. infringement of domain name, trademark, trade name, trade dress, logo, title, metatag, or slogan, service mark, or service name; or
 7. improper deep-linking or framing within electronic content.

E. PCI Fines, Expenses and Costs

To indemnify the **Insured** for **PCI Fines, Expenses and Costs**, in excess of the **Retention**, which the **Insured** shall become legally obligated to pay because of a **Claim** first made against any **Insured** during the **Policy Period** or Optional Extension Period (if applicable) and reported in writing to the Underwriters during the **Policy Period** or as otherwise provided in Clause IX. of this Policy. Coverage under this Insuring Agreement is sublimited to the amount set forth in Item 3.A.3. of the Declarations, and the Underwriters shall have no duty to defend any **Claim** or pay **Claims Expenses** with respect to any **Claim** under this Insuring Agreement.

F. Cyber Extortion

To indemnify the **Named Insured** for:

Cyber Extortion Loss, in excess of the **Retention**, incurred by the **Insured Organisation** as a direct result of an **Extortion Threat** first made against the **Insured Organisation** during the **Policy Period**.

G. First Party Data Protection

To indemnify the **Named Insured** for:

Data Protection Loss, in excess of the **Retention**, incurred by the **Insured Organisation** as a direct result of:

1. alteration, corruption, destruction, deletion or damage to a **Data Asset**, or
2. inability to access a **Data Asset**,

that is directly caused by a failure of **Computer Security** to prevent a **Security Breach**; provided that such **Security Breach** must take place on or after the Retroactive Date and before the end of the **Policy Period**.

H. First Party Network Business Interruption

To indemnify the **Named Insured** for the actual **Business Interruption Loss**, in excess of the applicable **Retention**, the **Insured Organisation** sustains

during the **Period of Restoration** as a direct result of an actual and necessary interruption of **Computer Systems** caused directly by a failure of **Computer Security** to prevent a **Security Breach**; provided that such **Security Breach** must first take place on or after the Retroactive Date and before the end of the **Policy Period**.

2. DEFENCE AND SETTLEMENT OF CLAIMS

- A. The Underwriters shall have the right and duty to defend, subject to all the provisions, terms and conditions of this Policy:
1. any **Claim** against the **Insured** seeking **Damages** which are payable under the terms of this Policy, even if any of the allegations of the **Claim** are groundless, false or fraudulent; or
 2. under Insuring Agreement C., any **Claim** in the form of a **Regulatory Proceeding**.

Defence Counsel shall be mutually agreed upon between the **Named Insured** and the Underwriters, but in the absence of such agreement, the Underwriters' decision shall be final.

- B. With respect to any **Claim** against the **Insured** seeking **Damages** or **Penalties** which are payable under the terms of this Policy, the Underwriters will pay **Claims Expenses** incurred with their prior written consent. The Limit of Liability available to pay **Damages** and **Penalties** shall be reduced and may be completely exhausted by payment of **Claims Expenses**. **Damages**, **Penalties**, and **Claims Expenses** shall be applied against the Each **Claim Retention** payable by the **Insured**.

Claims expenses incurred without the Underwriters' prior written consent shall not be covered hereunder and shall not be applied against the Each **Claim Retention**.

- C. If the **Insured** shall refuse to consent to any settlement or compromise recommended by the Underwriters and acceptable to the claimant and elects to contest the **Claim**, the Underwriters' liability for any **Damages**, **Penalties** and **Claims Expenses** shall not exceed:
1. the amount for which the **Claim** could have been settled, less the remaining **Retention**, plus the **Claims Expenses** incurred up to the time of such refusal; plus
 2. fifty percent (50%) of any **Claims Expenses** incurred after the date such settlement or compromise was recommended to the **Insured** plus fifty percent (50%) of any **Damages** above the amount for which the **Claim** could have been settled. The remaining fifty percent (50%) of such **Claims Expenses** and **Damages** must be borne by the **Insured** at their own risk and uninsured;

or the applicable Limit of Liability, whichever is less, and the Underwriters shall have the right to withdraw from the further defence thereof by tendering control of said defence to the **Insured**. The portion of any proposed settlement or compromise that requires the **Insured** to cease, limit or refrain from actual or alleged infringing or otherwise injurious activity or is attributable to future royalties or other amounts that are not **Damages** (or

Penalties for **Claims** covered under Insuring Agreement C.) shall not be considered in determining the amount for which a **Claim** could have been settled.

- D. The Underwriters agree that the **Insured** may settle any **Claim** where the **Damages** and **Claims Expenses** do not exceed the **Retention**, provided that the entire **Claim** is resolved and the **Insured** obtains a full release on behalf of all the **Insureds** from all claimants.

3. TERRITORY

This Insurance applies to **Claims** made, acts committed, or **Loss** occurring anywhere in the world.

4. EXCLUSIONS

The coverage under this Insurance does not apply to any **Claim** or **Loss**;

A. Bodily Injury and Property Damage

For, arising out of or resulting from:

1. physical injury, sickness, disease or death of any person, including any mental anguish or emotional distress resulting from such physical injury, sickness, disease or death; or
2. physical injury to or destruction of any tangible property, including the loss of use thereof; provided that electronic data shall not be considered tangible property for purposes of this exclusion;

B. Employment

For, arising out of or resulting from any employer-employee relations, policies, practices, acts or omissions, or any actual or alleged refusal to employ any person, or misconduct with respect to employees, whether such **Claim** is brought by an employee, former employee, applicant for employment, or relative or domestic partner of such person; provided, that this exclusion shall not apply to an otherwise covered **Claim** under Insuring Agreement A.1., A.2., or A.3. by a current or former employee of the **Insured Organisation**, or to the providing of **Privacy Breach Response Services** involving current or former employees of the **Insured Organisation**;

C. Directors' and Officers' Liability

For, arising out of or resulting from any actual or alleged act, error or omission or breach of duty by any director or officer in the discharge of their duty if the **Claim** is brought by or on behalf of the **Named Insured**, a **Subsidiary**, or any principals, directors, officers, shareholders, members or employees of the **Named Insured** or a **Subsidiary** in his or her capacity as such;

D. Contractual Liability

For, arising out of or resulting from obligation under or breach of any contract or agreement, except:

1. with respect to Insuring Agreement A.1., to an obligation to maintain the confidentiality or security of **Personally Identifiable Information**

or of **Third Party Information** (provided this exception D.1. does not apply to any obligation under a **Merchant Services Agreement**);

2. to **Computer Expert Services** or **Legal Services** covered under Insuring Agreement B.;
3. with respect to Insuring Agreement D. to:
 - (1) liability **Assumed under Contract**; or
 - (2) misappropriation of ideas under an implied contract;
4. to **PCI Fines, Expenses and Costs** covered under Insuring Agreement E.; or
5. to the extent the **Insured** would have been liable in the absence of such contract or agreement;

E. Competition and Restraint of Trade

For, arising out of or resulting from any actual or alleged antitrust violation, restraint of trade, unfair competition, or false or deceptive or misleading advertising or violation of the Competition and Consumer Act 2010 (Cth) in Canada, the Sherman Antitrust Act, the Clayton Act, or the Robinson-Patman Act in the United States, as amended, or any similar national, federal, provincial, or territorial statute or regulation;

F. Unfair Trade Practices and Consumer Protection

For, arising out of or resulting from any actual or alleged false, deceptive or unfair trade practices; however this exclusion does not apply to:

1. any **Claim** covered under Insuring Agreements A.1., A.2., A.3. or C.; or
2. the providing of **Privacy Breach Response Services** covered under Insuring Agreement B.,

that results from a theft, loss or **Unauthorised Disclosure** of **Personally Identifiable Information** provided that no member of the **Control Group** participated or is alleged to have participated or colluded in such theft, loss or **Unauthorised Disclosure**;

G. Unlawful Collection of Information Unlawful Communications

For, arising out of or resulting from:

1. the actual or alleged unlawful collection, acquisition or retention of **Personally Identifiable Information** (except as otherwise covered under Insuring Agreement A.5.) or other personal information by, on behalf of, or with the consent or cooperation of the **Insured Organisation**; or the failure to comply with a legal requirement to provide individuals with the ability to assent to or withhold assent (e.g. opt-in or opt-out) from the collection, disclosure or use of **Personally Identifiable Information**; provided, that this exclusion shall not apply to the actual or alleged unlawful collection, acquisition or retention of **Personally Identifiable Information** by a person or entity that is not a **Related Party** and without the knowledge of the **Insured Organisation**; or

2. the distribution of unsolicited email, text messages, direct mail, or facsimiles, wire tapping, audio or video recording, or telemarketing, if such distribution, wire tapping or recording is done by or on behalf of the **Insured Organisation**;

H. Prior Acts, Errors, Omissions or Incidents

For, arising out of or resulting from any act, error, omission, incident, failure of **Computer Security**, or **Security Breach** committed or occurring prior to the inception date of this Policy:

1. if any member of the **Control Group** on or before the **Continuity Date** knew or could have reasonably foreseen that such act, error or omission, incident, failure of **Computer Security**, or **Security Breach** might be expected to be the basis of a **Claim** or **Loss**; or
2. in respect of which any **Insured** has given notice of a circumstance, which might lead to a **Claim** or **Loss**, to the insurer of any other policy in force prior to the inception date of this Policy;

I. Retroactive Date

For, arising out of or resulting from any related or continuing acts, errors, omissions, incidents or events, where the first such act, error, omission, incident or event was committed or occurred prior to the Retroactive Date;

J. Racketeering, Securities, Pensions and Discrimination

For, arising out of resulting from any of the following:

1. any actual or alleged violation of any racketeering law or legislation (including any order, ruling or regulation issued pursuant thereto), whether such law is statutory, regulatory or common law;
2. any actual or alleged violation of any securities law, regulation or legislation, or any order, ruling or regulation issued pursuant to such law, regulation or legislation;
3. any actual or alleged violation of any employment or labour law, regulation or legislation, or any order, ruling or regulation issued pursuant to such law, regulation or legislation; or
4. any actual or alleged discrimination of any kind including but not limited to age, colour, race, sex, intersex status, creed, national origin, marital status, sexual orientation, disability or pregnancy;

however this exclusion does not apply to an otherwise covered **Claim** under Insuring Agreement A.1., A.2., or A.3., or to providing **Privacy Breach Response Services** covered under Insuring Agreement B., that results from a theft, loss or **Unauthorised Disclosure of Personally Identifiable Information**, provided that no member of the **Control Group** participated, or is alleged to have participated or colluded, in such theft, loss or **Unauthorised Disclosure**;

K. Pensions, Investment Plans and Trusts

For, arising out of or resulting from any actual or alleged acts, errors, or omissions related to any of the **Insured Organisation's** superannuation, pension, healthcare, welfare, profit sharing, mutual or investment plans,

funds or trusts; however this exclusion does not apply to an otherwise covered **Claim** under Insuring Agreement A.1., A.2., or A.3., or to the providing of **Privacy Breach Response Services** under Insuring Agreement B., that results from a theft, loss or **Unauthorised Disclosure** of **Personally Identifiable Information**, provided that no member of the **Control Group** participated, or is alleged to have participated or colluded, in such theft, loss or **Unauthorised Disclosure**;

L. Criminal, Malicious or Intentional Acts

Arising out of or resulting from any criminal, dishonest, fraudulent, or malicious act, error or omission, any intentional **Security Breach**, intentional violation of a **Privacy Policy**, or intentional or knowing violation of the law, if committed by any **Insured**, or by others if such **Insured** colluded or participated in any such conduct or activity;

this exclusion shall not apply to:

1. **Claims Expenses** incurred in defending any **Claim** alleging the foregoing until such time as there is a final adjudication, judgement, binding arbitration decision or conviction against the **Insured**, or written admission by the **Insured**, establishing such conduct, or a plea of *nolo contendere* or no contest regarding such conduct, at which time the Policyholder shall reimburse the Underwriters for all **Claims Expenses** incurred defending the **Claim** and the Underwriters shall have no further liability for **Claims Expenses**; or
2. a **Claim** or **Loss** against a natural person **Insured** if such **Insured** did not personally commit, participate in or know about any act, error, omission, incident or event giving rise to such **Claim** or **Loss**;

For purposes of this exclusion, only acts, errors, omissions or knowledge of a member of the **Control Group** will be imputed to the **Insured Organisation**;

M. Intellectual Property

For, arising out of or resulting from any actual or alleged:

1. infringement of patent or patent rights or misuse or abuse of patent;
2. infringement of copyright arising from or related to software code or software products other than infringement resulting from a theft or **Unauthorised Access or Use** of software code by a person who is not a **Related Party**;
3. use or misappropriation of any ideas, trade secrets or **Third Party Information** (i) by, or on behalf of, the **Insured Organisation**, or (ii) by any other person or entity if such use or misappropriation is done with the knowledge, consent or acquiescence of a member of the **Control Group**;
4. disclosure, misuse or misappropriation of any ideas, trade secrets or confidential information that came into the possession of any person or entity prior to the date the person or entity became an employee, officer, director, principal, partner or **Subsidiary** of the **Insured Organisation**; or

5. under Insuring Agreement A.2., theft of or **Unauthorised Disclosure** of data;

N. Regulatory

For, in connection with or resulting from any **Claim** brought by or on behalf of any governmental entity, in such entity's regulatory or official capacity; provided, this exclusion shall not apply to an otherwise covered **Claim** under Insuring Agreement C. or to the providing of **Privacy Breach Response Services** under Insuring Agreement B. to the extent such services are legally required to comply with a **Breach Notice Law**;

O. Insured v. Insured

For, arising out of or resulting from a **Claim** by or on behalf of one or more **Insureds** under this Insurance against any other **Insured** or **Insureds** under this Insurance; provided this exclusion shall not apply to an otherwise covered **Claim** under Insuring Agreement A.1., A.2., or A.3. made by a current or former employee of the **Insured Organisation**;

P. Related Entities

For, arising out of or resulting from:

1. any **Claim** made by any business enterprise in which any **Insured** has greater than a fifteen percent (15%) ownership interest or made by any parent company or other entity which owns more than fifteen percent (15%) of the **Named Insured**; or
2. the **Insured's** activities as a trustee, partner, member, officer, director or employee of any employee trust, charitable organisation, corporation, company or business other than that of the **Insured Organisation**;

Q. Trading Losses and Monetary Transactions

For, arising out of or resulting from any of the following: (1) trading losses, trading liabilities or change in value of accounts; (2) any loss, transfer or theft of monies, securities or tangible property of others in the care, custody or control of the **Insured Organisation**; (3) the monetary value of any transactions or electronic fund transfers by or on behalf of the **Insured** which is lost, diminished, or damaged during transfer from, into or between accounts; or (4) the value of coupons, price discounts, prizes, awards, or any other valuable consideration given in excess of the total contracted or expected amount;

R. Licensing Bodies; Joint Ventures; Product Descriptions; Pricing; Contests

For, arising out of or resulting from:

1. the actual or alleged obligation to make licensing fee or royalty payments, including but limited to the amount or timeliness of such payments;

2. any costs or expenses incurred or to be incurred by the **Insured** or others for the reprinting, reposting, recall, removal or disposal of any **Media Material** or any other information, content or media, including any media or products containing such **Media Material**, information, content or media;
3. any **Claim** brought by or on behalf of any intellectual property licensing bodies or organisations, including but not limited to, the Australian Communications and Media Authority, Screen Australia, the Australian Recording Industry Association, Australian Performing Rights Association, AMCOS, One Music Australia, PPCA, SESAC, ASCAP or BMI;
4. the actual or alleged inaccurate, inadequate or incomplete description of the price of goods, products or services, cost guarantees, cost representations, or contract price estimates, the authenticity of any goods, products or services, or the failure of any goods or services to conform with any represented quality or performance;
5. any actual or alleged gambling, contest, lottery, promotional game or other game of chance; or
6. any **Claim** made by or on behalf of any independent contractor, joint venturer or venture partner arising out of or resulting from disputes over ownership of rights in **Media Material** or services provided by such independent contractor, joint venturer or venture partner;

S. War

Arising out of or resulting from, directly or indirectly occasioned by, happening through or in consequence of: war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalization or requisition or destruction of or damage to property by or under the order of any government or public or local authority; provided, that this exclusion will not apply to **Cyber Terrorism**.

For purposes of this exclusion, “**Cyber Terrorism**” means the premeditated use of disruptive activities, or threat to use disruptive activities, against a computer system or network with the intention to cause harm, further social, ideological, religious, political or similar objectives, or to intimidate any person(s) in furtherance of such objectives.

T. Asbestos, Pollution and Contamination

Either in whole or in part, directly or indirectly arising out of or resulting from or in consequence of, or in any way involving:

1. asbestos, or any materials containing asbestos in whatever form or quantity;
2. the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, molds, spores or mycotoxins of any kind; any action taken by any party in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, molds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of,

treating, remediating or removing such fungi, molds, spores or mycotoxins; and any governmental or regulatory order, requirement, directive, mandate or decree that any party take action in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, molds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, molds, spores or mycotoxins;

The Underwriters will have no duty or obligation to defend any **Insured** with respect to any **Claim** or governmental or regulatory order, requirement, directive, mandate or decree which either in whole or in part, directly or indirectly, arises out of or results from or in consequence of, or in any way involves the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, molds, spores or mycotoxins of any kind;

3. the existence, emission or discharge of any electromagnetic field, electromagnetic radiation or electromagnetism that actually or allegedly affects the health, safety or condition of any person or the environment, or that affects the value, marketability, condition or use of any property; or
4. the actual, alleged or threatened discharge, dispersal, release or escape of Pollutants; or any governmental, judicial or regulatory directive or request that the **Insured** or anyone acting under the direction or control of the **Insured** test for, monitor, clean up, remove, contain, treat, detoxify or neutralize Pollutants. Pollutants means any solid, liquid, gaseous or thermal irritant or contaminant including gas, acids, alkalis, chemicals, heat, smoke, vapor, soot, fumes or waste. Waste includes but is not limited to materials to be recycled, reconditioned or reclaimed;

U. Telecommunications Infrastructure; Natural Disasters; Satellite Failures

With respect to Insuring Agreements G. and H., arising out of or resulting from:

1. any failure or malfunction of electrical or telecommunications infrastructure or services, provided that this exclusion shall not apply to an otherwise covered **Claim** or **Loss** arising out of failure of **Computer Security** to prevent a **Security Breach** that was solely caused by a failure or malfunction of telecommunications infrastructure or services under the **Insured Organisation's** direct operational control;
2. fire, flood, earthquake, volcanic eruption, explosion, lighting, wind, hail, tidal wave, landslide, natural disasters or other physical event; or
3. any satellite failures;

V. Cyber Extortion

With respect to Insuring Agreement F., arising out of or resulting from:

1. any threat to physically harm or kidnap any person;
2. any threat to harm, take, or transfer property other than a **Data Asset**, even if such threat is made in conjunction with a threat to **Data Assets**;
3. an **Extortion Threat** first made against the **Insured Organisation** during the **Policy Period** by any of the **Insured Organisation's** directors, officers, principals, trustees, governors, members, management committee members, members of the management board, partners, or any person in collusion with any of the foregoing;

W. Nationalization

Arising out of or resulting from any seizure, nationalisation, confiscation, or destruction of **Computer Systems** or **Data Assets** by order of any governmental or public authority.

X. Professional Services

arising out of or resulting from any act, error or omission, or any breach of contract in rendering or failure to render **Professional Services**;

For the purposes of this exclusion, Professional Services means services performed for, or products sold, leased or otherwise provided to, others by or on behalf of the **Insured Organisation** for a fee.

Y. Radioactive Contamination, Chemical, Biological, Bio-Chemical and Electromagnetic Weapons

Arising out of or resulting from:

1. ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
2. the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;
3. any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
4. the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes;
5. any chemical, biological, bio-chemical, or electromagnetic weapon.

5. DEFINITIONS

- A. **Application** means all applications, including any attachments thereto, and all other information and materials submitted by or on behalf of the **Insured** to the Underwriters in connection with the underwriting of this Policy, or prior policies of which this Policy is a renewal thereof.
- B. **Breach Notice Law** means:
1. any Australian national, federal, state, or territorial statute or regulation that requires notice to persons whose **Personally Identifiable Information** was accessed or reasonably may have been accessed by an unauthorised person, including but not limited to the Privacy Act 1988 (Cth) and the Notifiable Data Breaches (NDB) scheme; or
 2. a foreign statute or regulation that requires notice to persons whose **Personally Identifiable Information** was accessed or reasonably may have been accessed by an unauthorised person.
- C. **Breach Resolution and Mitigation Services** means a credit monitoring, identity monitoring or other solution selected from the products listed in the **Information Packet** and offered to **Notified Individuals**. The product offered to **Notified Individuals** will be selected by the Underwriters in consultation with the **Insured Organisation** and in accordance with the guidance provided in the Breach Resolution and Mitigation section of the **Information Packet**.
- The product offer will be included in the communication provided pursuant to Insuring Agreement B.3.
- D. **Business Interruption Loss** means the actual **Income Loss**, and **Dependent Business Loss** sustained, and **Forensic Expenses** and **Extra Expense** incurred, during the **Period of Restoration**.
- Business Interruption Loss** shall not include:
1. **Loss** arising out of any liability to any third party for whatever reason; legal costs or legal expenses of any type; **Loss** incurred as a result of unfavorable business conditions, loss of market or any other consequential loss; or costs or expenses the **Insured Organisation** incurs to identify and remove software program errors or vulnerabilities; or
 2. Expenses incurred by the **Insured** to update, upgrade, enhance or replace **Computer Systems** to a level beyond that which existed prior to the actual and necessary interruption of **Computer Systems**; or the costs and expenses incurred by the **Insured Organisation** to restore, reproduce, or regain access to any **Data Asset** that was altered, corrupted, destroyed, deleted, damaged or rendered inaccessible as a result of the failure of **Computer Security** to prevent a **Security Breach**.
- E. **Call Centre Services** means the provision of a call centre to answer calls during standard business hours for a period of ninety (90) days following notification (or longer if required by applicable law or regulation) of an incident for which notice is provided pursuant to Insuring Agreement B.3. (Notification Services). Such notification shall include a toll free telephone

number that connects to the call centre during standard business hours. Call centre employees will answer questions about the incident from **Notified Individuals** and will provide information required by applicable law or regulation.

Call Centre Services will include up to 10,000 calls per day and will be provided in accordance with the terms and conditions set forth in the **Information Packet**. **Call Centre Services** will be provided by a service provider selected by the Underwriters in consultation with the **Insured Organisation** from the list of service providers in the **Information Packet**.

F. **Claim** means:

1. a written demand received by any **Insured** for money or services, including the service of a suit or institution of regulatory or arbitration proceedings;
2. with respect to coverage provided under Insuring Agreement C. only, institution of a **Regulatory Proceeding** against any **Insured**;
3. a written request or agreement to toll or waive a statute of limitations relating to a potential **Claim** described in paragraph 1. above; and
4. with respect to coverage provided under Insuring Agreement A.1. only, a demand received by any **Insured** to fulfill the **Insured Organisation's** contractual obligation to provide notice of an incident (or reasonably suspected incident) described in Insuring Agreement A.1. pursuant to a **Breach Notice Law**;

Multiple **Claims** arising from the same or a series of related or repeated acts, errors, or omissions, or from any continuing acts, errors, omissions, or from multiple **Security Breaches** arising from a failure of **Computer Security**, shall be considered a single **Claim** for the purposes of this Policy, irrespective of the number of claimants or **Insureds** involved in the **Claim**. All such **Claims** shall be deemed to have been made at the time of the first such **Claim**.

G. **Claims Expenses** means:

1. reasonable and necessary fees charged by an attorney designated pursuant to Clause II., Defence and Settlement of Claims, paragraph A.;
2. all other legal costs and expenses resulting from the investigation, adjustment, defence and appeal of a **Claim**, suit, or proceeding arising in connection therewith, or circumstance which might lead to a **Claim**, if incurred by the Underwriters, or by the **Insured** with the prior written consent of the Underwriters; and
3. the premium cost for appeal bonds for covered judgements or bonds to release property used to secure a legal obligation, if required in any **Claim** against an **Insured**; provided the Underwriters shall have no obligation to appeal or to obtain bonds.

Claims Expenses do not include any salary, overhead, or other charges by the **Insured** for any time spent in cooperating in the defence and investigation of any **Claim** or circumstance that might lead to a **Claim** notified under this Policy, or costs to comply with any regulatory orders, settlements or

judgements.

H. **Computer Expert Services** means costs for:

1. a computer security expert to determine the existence and cause of an actual or suspected electronic data breach which may require the **Insured Organisation** to comply with a **Breach Notice Law** and to determine the extent to which such information was accessed by an unauthorised person or persons; and
2. a PCI Forensic Investigator that is approved by the PCI Security Standards Council and is retained by the **Insured Organisation** in order to comply with the terms of a **Merchant Services Agreement** to investigate the existence and extent of an actual or suspected compromise of credit card data; and in the Underwriters' discretion, where a computer security expert described in 1. above has not been retained, for a computer security expert to provide advice and oversight in connection with the investigation conducted by the PCI Forensic Investigator; and
3. a computer security expert, up to AUD 50,000 (which amount is part of and not in addition to the sublimit of coverage stated in Item 3.B.2. of the Declarations), to demonstrate the **Insured's** ability to prevent a future electronic data breach as required by a **Merchant Services Agreement**.

Computer Expert Services will be provided in accordance with the terms and conditions set forth in the **Information Packet** and will be provided by a service provider selected by the **Insured Organisation** in consultation with the Underwriters from the list of service providers in the **Information Packet**.

I. **Computer Security** means software, computer or network hardware devices, as well as the **Insured Organisation's** written information security policies and procedures, the function or purpose of which is to prevent **Unauthorised Access or Use**, a denial-of-service attack against **Computer Systems**, infection of **Computer Systems** by malicious code or transmission of malicious code from **Computer Systems**. **Computer Security** includes anti-virus and intrusion detection software, firewalls and electronic systems that provide access control to **Computer Systems** through the use of passwords, biometric or similar identification of authorised users.

J. **Computer Systems** means computers and associated input and output devices, data storage devices, networking equipment, and back up facilities:

1. operated by and either owned by or leased to the **Insured Organisation**; or
2. systems operated by a third party service provider and used for the purpose of providing hosted computer application services to the **Insured Organisation** or for processing, maintaining, hosting or storing the **Insured Organisation's** electronic data, pursuant to written contract with the **Insured Organisation** for such services.

K. **Continuity Date** means (i) the date stated in Item 8. of the Declarations with respect to the **Named Insured** and any **Subsidiaries** acquired before the date stated in Item 8. of the Declarations; (ii) with respect to any **Subsidiaries**

acquired after the date stated in Item 8. of the Declarations, the date the **Named Insured** acquired such **Subsidiary**.

- L. **Control Group** means the individuals holding the following positions in the **Insured Organisation**: President; members of the Board of Directors; executive officers, including the Chief Executive Officer, Chief Operating Officer, and Chief Financial Officer; General Counsel, staff attorneys employed by the **Insured Organisation**; Chief Information Officer; Chief Security Officer; Chief Privacy Officer; and any individual in a substantially similar position as those referenced above, or with substantially similar responsibilities as those referenced above, irrespective of the exact title of such individual and any individual who previously held any of the above referenced positions.
- M. **Cyber Extortion Loss** means:
1. any **Extortion Payment** that has been made under duress by or on behalf of the **Insured Organisation** with the Underwriters' prior written consent, but solely to prevent or terminate an **Extortion Threat**; and
 2. reasonable and necessary expenses incurred by the **Insured Organisation** with the Underwriters' prior written approval, that directly relate to the **Insured's** efforts to prevent or terminate an **Extortion Threat**.
- N. **Damages** means a monetary judgement, award or settlement; provided that the term **Damages** shall not include or mean:
1. future profits, restitution, disgorgement of unjust enrichment or profits by an **Insured**, or the costs of complying with orders granting injunctive or equitable relief;
 2. return or offset of fees, charges, or commissions charged by or owed to an **Insured** for goods or services already provided or contracted to be provided;
 3. any damages which are a multiple of compensatory damages, fines, taxes or loss of tax benefits, sanctions or penalties;
 4. punitive or exemplary damages, unless insurable by law in any applicable venue that most favors coverage for such punitive or exemplary damages;
 5. discounts, coupons, prizes, awards or other incentives offered to the **Insured's** customers or clients;
 6. liquidated damages to the extent that such damages exceed the amount for which the **Insured** would have been liable in the absence of such liquidated damages agreement;
 7. fines, costs or other amounts an **Insured** is responsible to pay under a **Merchant Services Agreement**; or
 8. any amounts for which the **Insured** is not liable, or for which there is no legal recourse against the **Insured**.
- O. **Data Asset** means any software or electronic data that exists in **Computer**

Systems and that is subject to regular back-up procedures.

- P. **Data Protection Loss** means the reasonable and necessary costs and expenses incurred by the **Insured Organisation** to regain access to, replace, restore, re-assemble or recollect any **Data Asset**, or if any **Data Asset** cannot reasonably be accessed, replaced, restored, re-assembled or recollect, then the actual, reasonable and necessary costs and expenses incurred by the **Insured Organisation** to reach such determination.

Data Protection Loss shall not mean, and there shall be no coverage under Insuring Agreement G. for:

1. costs or expenses incurred by the **Insured Organisation** to identify or remediate software program errors or vulnerabilities or update, replace, restore, assemble, reproduce, recollect or enhance a **Data Asset** or **Computer Systems** to a level beyond that which existed prior to the alteration, corruption, destruction, deletion or damage of such **Data Asset**;
2. costs or expenses to research or develop any **Data Asset**, including but not limited to trade secrets or other proprietary information;
3. the monetary value of profits, royalties, or lost market share related to a **Data Asset**, including but not limited to trade secrets or other proprietary information or any other amount pertaining to the value of the **Data Asset**;
4. loss arising out of any liability to any third party for whatever reason; or
5. legal costs or legal expenses of any type.

- Q. **Dependent Business** means any entity that the **Insured Organisation** does not own but which provides necessary products or services to the **Insured Organisation** pursuant to a written contract.

- R. **Dependent Business Loss** means **Income Loss** and **Extra Expense** incurred by the **Insured Organisation** during the **Period of Restoration** as a direct result of an actual and necessary interruption of the **Insured Organisation's Computer Systems** caused by a failure of computer security to prevent a security breach of computer systems operated by a **Dependent Business**.

- S. **Extortion Payment** means cash, marketable goods or services demanded to prevent or terminate an **Extortion Threat**.

- T. **Extortion Threat** means a threat to:

1. alter, destroy, damage, delete or corrupt any **Data Asset**;
2. prevent access to **Computer Systems** or a **Data Asset**,
3. perpetrate a theft or misuse of a **Data Asset** on **Computer Systems** through external access;
4. introduce malicious code into **Computer Systems** or to third party

computers systems from **Computer Systems**;

5. interrupt or suspend **Computer Systems**; or
6. publicly disclose a **Data Asset, Personally Identifiable Information or Third Party Information** that is obtained by **Unauthorised Access or Use** to the **Insured Organisation's Computer Systems**,

unless an **Extortion Payment** is received from or on behalf of the **Insured Organisation**.

- U. **Extra Expense** means reasonable and necessary expenses that are incurred by the **Insured Organisation** during the **Period of Restoration** to minimize, reduce or avoid **Income Loss**, over and above those expenses the **Insured Organisation** would have incurred had no interruption of **Computer Systems** occurred.
- V. **Forensic Expenses** means reasonable and necessary expenses incurred by the **Insured Organisation** to investigate the source or cause of the failure of **Computer Security** to prevent a **Security Breach**.
- W. **Income Loss** means an amount equal to:
1. net profit or loss before interest and tax that the **Insured Organisation** would have earned or incurred; and
 2. continuing normal operating expenses incurred by the **Insured Organisation** (including payroll), but only to the extent that (a) such operating expenses must necessarily continue during the **Period of Restoration**; and (b) such expenses would have been incurred by the **Insured Organisation** had such interruption not occurred;

In determining **Income Loss**, due consideration shall be given to:

- a. the prior experience of the **Insured Organisation's** business operations before the beginning of the **Period of Restoration**;
 - b. the probable business operations the **Insured Organisation** could have performed had no actual and necessary interruption occurred as result of a failure of **Computer Security** to prevent a **Security Breach**; and
 - c. the **Insured Organisation's** ability to reasonably reduce or limit the interruption of **Computer Systems** or conduct its business operations by other means.
- X. **Information Packet** means the information portal which is accessible at www.beazley.com/cyberservices which contains important information about this Policy and may be updated by the Underwriters from time to time.
- Y. **Insured** means:
1. The **Named Insured** and any **Subsidiaries** of the **Named Insured**;

2. A director or officer of the **Insured Organisation**, but only with respect to the performance of his or her duties as such on behalf of the **Insured Organisation**;
 3. An employee (including a part time or temporary employee) of the **Insured Organisation**, but only for work done while acting within the scope of his or her employment and related to the conduct of the **Insured Organisation's** business;
 4. A principal if the **Named Insured** is a sole proprietorship, or a partner if the **Named Insured** is a partnership, but only with respect to the performance of his or her duties as such on behalf of the **Insured Organisation**;
 5. Any person who previously qualified as an **Insured** under 2., 3. or 4. above prior to the termination of the required relationship with the **Insured Organisation**, but only with respect to the performance of his or her duties as such on behalf of the **Insured Organisation**;
 6. The estate, heirs, executors, administrators, assigns and legal representatives of any **Insured** in the event of such **Insured's** death, incapacity, insolvency or bankruptcy, but only to the extent that such **Insured** would otherwise be provided coverage under this Insurance; and
 7. The lawful spouse, including any natural person qualifying as a domestic partner under the provisions of any applicable national, federal, state, territorial or local law, of any **Insured**, but solely by reason of any act, error or omission of an **Insured** other than such spouse or domestic partner.
- Z. **Insured Organisation** means the **Named Insured** and any **Subsidiaries** of the **Named Insured**.
- AA. **Legal Services** means fees charged by a lawyer:
2. to determine the applicability of and actions necessary for the **Insured Organisation** to comply with **Breach Notice Laws** due to an actual or reasonably suspected theft, loss or **Unauthorised Disclosure** of **Personally Identifiable Information**;
 3. to provide necessary legal advice to the **Insured Organisation** in responding to actual or suspected theft, loss or **Unauthorised Disclosure** of **Personally Identifiable Information**; and
 4. to advise the **Insured Organisation** in responding to credit card system operating regulation requirements for any actual or suspected compromise of credit card data that is required to be reported to the **Insured Organisation's** merchant bank under the terms of a **Merchant Services Agreement**, but **Legal Services** does not include fees incurred in any actual or threatened legal proceeding, arbitration or mediation, or any advice in responding to credit card system operating regulations in connection with an assessment of **PCI Fines, Expenses and Costs**.

Legal Services will be provided in accordance with the terms and conditions set forth in the **Information Packet** and will be provided by an attorney

selected by the **Insured Organisation** in consultation with the Underwriters from the list of lawyers in the **Information Packet**.

BB. **Loss** means **Damages, Claims Expenses, Penalties, PCI Fines, Expenses and Costs, Cyber Extortion Loss, Data Protection Loss, Business Interruption Loss** and **Privacy Breach Response Services**.

CC. **Management Control** means:

1. owning, directly or indirectly, more than fifty percent (50%) of the outstanding securities representing the present right to vote for the election of an entity's directors (in the case of a corporation), management committee members (in the case of a joint venture or partnership) or persons serving in a functionally equivalent role for such an entity operating or organized outside of Australia; or
2. having the right, pursuant to a written contract or the bylaws, charter, operating agreement or similar documents of an entity to elect, appoint or designate a majority of: the board of directors of a corporation; the management committee of a joint venture or partnership; the management board of a limited liability company; or persons serving in a functionally equivalent role for such an entity operating or organized outside of Australia.

DD. **Media Material** means any information in electronic form, including words, sounds, numbers, images, or graphics and shall include advertising, video, streaming content, web-casting, online forum, bulletin board and chat room content, but does not mean computer software or the actual goods, products or services described, illustrated or displayed in such **Media Material**.

EE. **Merchant Services Agreement** means any agreement between an **Insured** and a financial institution, credit/debit card company, credit/debit card processor or independent service operator enabling an **Insured** to accept credit card, debit card, prepaid card, or other payment cards for payments or donations.

FF. **Named Insured** means the Named Insured listed in Item 1. of the Declarations.

GG. **Notification Services** means:

1. notification by first class mail or e-mail to Australian residents; and
2. notification by first class mail or e-mail to individuals residing outside of Australia, but only to the extent reasonably practicable.

E-mail notification will be provided in lieu of first class mail to the extent reasonable, practicable and where permitted under the applicable **Breach Notice Law**. **Notification Services** will be provided by a service provider selected by the Underwriters in consultation with the **Insured Organisation** from the list of service providers in the **Information Packet**.

HH. **Notified Individual** means an individual person to whom notice is given or attempted to be given under Insuring Agreement B.3 pursuant to a **Breach Notice Law**.

II. **PCI Fines, Expenses and Costs** means the direct monetary fines, penalties,

reimbursements, fraud recoveries or assessments owed by the **Insured Organisation** under the terms of a **Merchant Services Agreement**, but only where such fines, penalties, reimbursements, fraud recoveries or assessments result both from the **Insured Organisation's** actual or alleged noncompliance with published PCI Data Security Standards and from a data breach caused by an incident (or reasonably suspected incident) described in Insuring Agreement A.1. or A.2.; provided, that the term **PCI Fines, Expenses and Costs** shall not include or mean any charge backs, interchange fees, discount fees or prospective service fees.

JJ. **Penalties** means:

1. any civil fine or money penalty payable to a governmental entity that was imposed in a **Regulatory Proceeding** by any national, federal, state, territorial or foreign governmental entity, in such entity's regulatory or official capacity; the insurability of **Penalties** shall be in accordance with the law in the applicable venue that most favors coverage for such **Penalties**; and
2. amounts which the **Insured** is legally obligated to deposit in a fund as equitable relief for the payment of consumer claims due to an adverse judgement or settlement of a **Regulatory Proceeding** (including such amounts required to be paid into a consumer redress fund); but shall not include payments to charitable organisations or disposition of such funds other than for payment of consumer claims for losses caused by an event covered pursuant to Insuring Agreements A.1., A.2. or A.3.;

but shall not mean (a) costs to remediate or improve **Computer Systems**, (b) costs to establish, implement, maintain, improve or remediate security or privacy practices, procedures, programs or policies, (c) audit, assessment, compliance or reporting costs, or (d) costs to protect the confidentiality, integrity and/or security of **Personally Identifiable Information** from theft, loss or disclosure, even if it is in response to a regulatory proceeding or investigation.

KK. **Period of Restoration** means the time period that:

1. begins after the expiration of the **Waiting Period** following the actual and necessary interruption of **Computer Systems**; and
2. ends one hundred twenty (120) days after the actual and necessary interruption of **Computer Systems** ends (or would have ended with the exercise of due diligence and dispatch);

provided that in no event shall the **Period of Restoration** mean a period of time greater than one hundred eighty (180) days; and provided further that restoration of **Computer Systems** will not end the **Period of Restoration** if such systems are actually and necessarily interrupted or suspended again within one hour of such restoration due to the same cause as the original interruption or suspension.

LL. **Personally Identifiable Information** means:

1. information concerning the individual that constitutes "personal

information” as defined in section 6(1) of the Privacy Act 1988 (Cth), as amended, and regulations issued pursuant to the Act;

2. medical or health care information concerning the individual, including “health information” as defined in section 6(1) of the Privacy Act 1988 (Cth), as amended, and regulations issued pursuant to such Acts;
3. information concerning the individual that is defined as private personal information under statutes enacted to protect such information in any country outside the United States, including but not limited to any Australian federal, state, or territorial statutes or regulations, for **Claims** subject to the law of such jurisdiction;
4. information concerning the individual that is defined as private personal information under a **Breach Notice Law**;
5. education records which are directly related to an individual’s attendance as a student;
6. the individual’s drivers licence or federal or state identification number, Centrelink customer reference number (CRN), unpublished telephone number, and credit, debit or other financial account numbers in combination with associated security codes, access codes, passwords or pins; if such information allows an individual to be uniquely and reliably identified or contacted or allows access to the individual’s financial account or medical record information.

Personally Identifiable Information does not include publicly available information that is lawfully made available to the general public from government records, unless expressly included in any **Breach Notice Law**.

- MM. **Policy Period** means the period of time between the inception date shown in the Declarations and the effective date of termination, expiration or cancellation of this Insurance and specifically excludes any Optional Extension Period or any prior policy period or renewal period.
- NN. **Privacy Law** means a national, federal, state, territorial, local or foreign statute or regulation requiring the **Insured Organisation** to protect the confidentiality and/or security of **Personally Identifiable Information**.
- OO. **Privacy Policy** means the **Insured Organisation’s** public declaration of its policy for collection, use, disclosure, sharing, dissemination and correction or supplementation of, and access to **Personally Identifiable Information**.
- PP. **Public Relations and Crisis Management Expenses** shall mean the following costs approved in advance by the Underwriters in their discretion, and which are directly related to mitigating harm to the **Insured Organisation’s** reputation or potential **Loss** covered by the Policy resulting from an incident described in Insuring Agreement A.1. or A.2. or from a **Public Relations Event**:
1. costs incurred by a public relations or crisis management consultant;
 2. costs for media purchasing or for printing or mailing materials intended to inform the general public about the incident, such costs to be limited to \$100,000;

3. for incidents or events in which notification services are not otherwise provided pursuant to Insuring Agreement A. or B., costs to provide notifications and notices via e-mail or first class mail to customers or patients where such notifications are not required by law ("voluntary notifications"), including to non-affected customers or patients of the **Insured Organisation**;
4. costs to provide government mandated public notices related to breach events;
5. costs to provide services to restore healthcare records of **Notified Individuals** residing in Australia whose **Personally Identifiable Information** was compromised as a result of theft, loss or **Unauthorised Disclosure**; and
6. other costs approved in advance by the Underwriters.

Public Relations and Crisis Management Expenses must be incurred no later than twelve (12) months following the reporting of such **Claim** or breach event to the Underwriters and, with respect to clauses 1. and 2. above, within ninety (90) days following the first publication of such **Claim** or incident. If voluntary notifications are provided, e-mail notification will be provided in lieu of first class mail to the extent practicable.

- QQ. **Public Relations Event** means the publication or imminent publication in a newspaper (or other general circulation print publication) or on radio, television or a publicly accessible website of a covered **Claim** under this Policy.
- RR. **Regulatory Proceeding** means a request for information, civil investigative demand, or civil proceeding commenced by service of a complaint or similar proceeding brought by or on behalf of any national, federal, state, territorial or foreign governmental entity in such entity's regulatory or official capacity in connection with such proceeding.
- SS. **Retention** means the applicable retention for each **Claim** or incident as specified in Item 4. of the Declarations.
- TT. **Related Party** means the **Insured Organisation** and any past, present or future employees, directors, officers, partners or natural person independent contractors of the **Insured Organisation**.
- UU. **Security Breach** means:
1. **Unauthorised Access or Use of Computer Systems**, including **Unauthorised Access or Use** resulting from the theft of a password from a **Computer System** or from any **Insured**;
 2. a denial-of-service attack against **Computer Systems** or computer systems that are not owned, operated or controlled by an **Insured**; or
 3. infection of **Computer Systems** by malicious code or transmission of malicious code from **Computer Systems**,

whether any of the foregoing is a specifically targeted attack or a generally distributed attack.

A series of continuing **Security Breaches**, related or repeated **Security Breaches**, or multiple **Security Breaches** resulting from a continuing failure of **Computer Security** shall be considered a single **Security Breach** and be deemed to have occurred at the time of the first such **Security Breach**.

- VV. **Subsidiary** means any corporation, limited liability company, joint venture or partnership while the **Named Insured** has **Management Control** over such entity, if the **Named Insured**:
1. had **Management Control** over such entity on the inception date of this Policy or such entity was an insured under a policy issued by the Underwriters of which this Policy is a renewal;
 2. acquires **Management Control** after the inception date of this Policy provided the revenues of the entity do not exceed ten percent (10%) of the **Named Insured's** annual revenues for the four quarterly periods directly preceding inception of the **Policy Period**; or
 3. acquires **Management Control** after the inception date of this Policy provided that if the revenues of the entity exceed ten percent (10%) of the **Named Insured's** annual revenues for the four quarterly periods directly preceding inception of the **Policy Period**, the provisions of Clause XV., Mergers and Acquisitions, must be fulfilled;

provided that this Policy only provides coverage for acts, errors, omissions, incidents or events that take place while the **Named Insured** has **Management Control** over such entity.

- WW. **Third Party Information** means any trade secret, data, design, interpretation, forecast, formula, method, practice, credit or debit card magnetic strip information, process, record, report or other item of information of a third party not insured under this Policy which is not available to the general public and is provided to the **Insured** subject to a mutually executed written confidentiality agreement or which the **Insured Organisation** is legally required to maintain in confidence; however, **Third Party Information** shall not include **Personally Identifiable Information**.
- XX. **Unauthorised Access or Use** means the gaining of access to or use of **Computer Systems** by an unauthorised person or persons or the use of **Computer Systems** in an unauthorised manner.
- YY. **Unauthorised Disclosure** means the disclosure of (including disclosure resulting from phishing) or access to information in a manner that is not authorised by the **Insured Organisation** and is without knowledge of, consent, or acquiescence of any member of the **Control Group**.
- ZZ. **Waiting Period** means the period of time beginning when the actual and necessary interruption of **Computer Systems** caused directly by a failure of **Computer Security** to prevent a **Security Breach** begins and expiring after the elapse of the number of hours set forth in Item 4.F. of the Declarations. A **Waiting Period** shall apply to each **Period of Restoration**.

6. LIMIT OF LIABILITY AND COVERAGE

- A. The Policy Aggregate Limit of Liability set forth in Item 3.A.1. of the Declarations (the “**Policy Aggregate Limit of Liability**”) is the Underwriters’ combined total limit of liability for all **Damages, Penalties, PCI Fines, Expenses and Costs, Cyber Extortion Loss, Data Protection Loss, Business Interruption Loss** and **Claims Expenses** payable under this Policy.

The sublimit of liability stated in Item 3.A.2. of the Declarations is the aggregate sublimit of liability payable under Insuring Agreement C. of this Policy.

The sublimit of liability stated in Item 3.A.3. of the Declarations is the aggregate sublimit of liability payable under Insuring Agreement E. of this Policy.

The sublimit of liability stated in Item 3.A.4. is the aggregate limit of liability payable under this Policy for all **Cyber Extortion Loss** covered under Insuring Agreement F. Prior to the payment of any **Extortion Payment**, the **Insured Organisation** shall make every reasonable effort to determine that the **Extortion Threat** is not a hoax, or otherwise not credible. The **Insured Organisation** shall take all steps reasonable and practical to avoid or limit the payment of an **Extortion Payment**.

The sublimit of liability stated in Item 3.A.5. is the aggregate limit of liability payable under this Policy for all **Data Protection Loss** under Insuring Agreement G. of this Policy.

The sublimit of liability stated in Item 3.A.6. is the aggregate limit of liability payable under this Policy for all **Business Interruption Loss** under Insuring Agreement H. of this Policy.

The sublimit of liability stated in Item 3.A.6.(i) is the aggregate limit of liability payable under this Policy for all **Forensic Expenses** under Insuring Agreement H. and shall be part of and not in addition to the **Business Interruption Loss** sublimit stated in Item 3.A.6.

The sublimit of liability stated in Item 3.A.6.(ii) is the aggregate limit of liability payable under this Policy for all **Dependent Business Loss** under Insuring Agreement H. and shall be part of and not in addition to the **Business Interruption Loss** sublimit stated in Item 3.A.6.

Each of the sublimits of liability described above is part of and not in addition to the **Policy Aggregate Limit of Liability**. Neither the inclusion of more than one **Insured** under this Policy, nor the making of **Claims** by more than one person or entity shall increase the Limit of Liability.

- B. The Limit of Liability for the Optional Extension Period shall be part of and not in addition to the **Policy Aggregate Limit of Liability**.
- C. The Underwriters shall not be obligated to pay any **Damages, Penalties, PCI Fines, Expenses and Costs, Cyber Extortion Loss, Data Protection Loss, Business Interruption Loss** or **Claims Expenses**, or to undertake or continue defence of any suit or proceeding, after the **Policy Aggregate Limit of Liability** has been exhausted by payment of **Damages, Penalties, PCI Fines, Expenses and Costs, Cyber Extortion Loss, Data Protection Loss, Business**

Interruption Loss or Claims Expenses, or after deposit of the **Policy Aggregate Limit of Liability** in a court of competent jurisdiction. Upon such payment, the Underwriters shall have the right to withdraw from the further defence of any **Claim** under this Policy by tendering control of said defence to the **Insured**.

- D. The amount stated in Item 3.B.1. of the Declarations is the maximum total number of **Notified Individuals** to whom notification will be provided or attempted for all incidents or series of related incidents giving rise to an obligation to provide **Notification Services, Call Centre Services or Breach Resolution and Mitigation Services**.

The aggregate limit of coverage stated in Item 3.B.2. of the Declarations is the aggregate limit of coverage for all **Computer Expert Services, Legal Services and Public Relations and Crisis Management Services** combined.

- E. The Underwriters shall not be obligated to provide any **Privacy Breach Response Services** after the number of **Notified Individuals** under Insuring Agreement B.3. reaches an aggregate of the number of **Notified Individuals** stated in Item 3.B.1. of the Declarations. If the total number of individuals to be notified under the Policy exceeds the number of **Notified Individuals** stated in Item 3.B.1. of the Declarations, the **Insured** shall be responsible for providing notification, credit monitoring services or identity monitoring services to such additional individuals in accordance with Clause VI.F. below.

- F. If the total number of notifications made pursuant to Insuring Agreement B.3. aggregates to more than the number of notifications stated in Item 3.B.1. of the Declarations, the **Insured Organisation** will be responsible for paying for **Privacy Breach Response Services** with respect to any excess notifications, and such costs will not be covered by the Policy. If an incident involves notifications made pursuant to Insuring Agreement B.3. both within the notification limit stated in Item 3.B.1. of the Declarations and in excess of such limit, all excess notifications will be provided by the same service provider that provides **Notification Services** covered under the Policy, and the costs will be allocated between the Underwriters and the **Insured Organisation** pro rata based on the number of covered and non-covered notifications.

- G. Unless otherwise specified in this Policy, **Privacy Breach Response Services** will be provided by the service providers listed in the **Information Packet**. In the event a service provider is unable to or does not provide the services set forth, the Underwriters will procure similar services from other sources; provided, the maximum the Underwriters will pay for the costs of procuring and providing all **Privacy Breach Response Services** under Insuring Agreement B., including substitute products and services shall be no more than AUD 10,000,000 in the aggregate for the **Policy Period**, which amount shall be in addition to the **Policy Aggregate Limit of Liability**. In the event there is a change of law, regulation or enforcement that prevents the Underwriters or its service providers from providing all or part of the **Privacy Breach Response Services**, the Underwriters will make reasonable efforts to substitute other services but, if this is not possible, the Underwriters shall not be obligated to provide such services.

- H. To the extent that costs to provide **Privacy Breach Response Services** are covered pursuant to a **Claim** described in Clause V.F.4., such costs shall be covered solely under Insuring Agreement A. and not under Insuring Agreement B. or any other Insuring Agreement in this Policy.
- I. Multiple related or continuing **Extortion Threats** shall be considered a single **Extortion Threat** for purposes of this Policy and shall be deemed to have occurred at the time of the first such **Extortion Threat**.

A **Data Protection Loss** will be deemed to occur at the time such alteration, corruption, destruction, deletion or damage to or inability to access a **Data Asset** is first discovered by the **Insured**. All **Data Protection Loss** that arises out of the same or a continuing **Security Breach**, from related or repeated **Security Breaches**, or from multiple **Security Breaches** resulting from a failure of **Computer Security** shall be deemed to be a single **Data Protection Loss**.

All **Business Interruption Loss** resulting from multiple covered interruptions of **Computer Systems** that arise out of the same or a continuing **Security Breach**, from related or repeated **Security Breaches**, or from multiple **Security Breaches** resulting from a failure of **Computer Security** shall be deemed to be a single **Business Interruption Loss**; provided, however, that a separate **Waiting Period** shall apply to each **Period of Restoration**.

7. RETENTION

- A. The **Retention** amount set forth in Item 4.A. of the Declarations applies separately to each incident, event or related incidents or events, giving rise to a **Claim**. The **Retention** shall be satisfied by monetary payments by the **Named Insured** of **Damages, Claims Expenses, Penalties, Cyber Extortion Loss, Data Protection Loss, Business Interruption Loss** or **PCI Fines, Expenses and Costs**.

With respect to Insuring Agreement F., the **Retention** set forth in Item 4.C. of the Declarations applies separately to each **Extortion Threat**. The **Retention** shall be satisfied by monetary payments by the **Named Insured** of covered **Cyber Extortion Loss**.

With respect to Insuring Agreement G., the **Retention** amount set forth in Item 4.D. of the Declarations applies separately to each **Security Breach**. The **Retention** shall be satisfied by monetary payments by the **Named Insured** of covered **Data Protection Loss**.

With respect to Insuring Agreement H., the **Retention** set forth in Item 4.E. of the Declarations applies separately to each **Security Breach**. The **Retention** shall be satisfied by covered **Business Interruption Loss** retained by the **Insured Organisation**. The **Retention** applicable to Insuring Agreement H. shall be reduced on a dollar-for-dollar basis by the amount of **Income Loss** that was sustained by the **Insured Organisation** during the **Waiting Period**.

- B. **Notification Services, Call Centre Services, and Breach Resolution and Mitigation Services** will only be provided for each incident, event or related incidents or events, requiring notification to at least the number of individuals set forth in Item 4.B.1. of the Declarations. For incidents involving notification

to fewer individuals there shall be no coverage for any such services under Insuring Agreement B.

For all **Computer Expert Services, Legal Services** and **Public Relations and Crisis Management Services**, the **Retention** amounts set forth in Item 4.B.2. of the Declarations apply separately to each incident, event or related incidents or events, giving rise to an obligation to provide such services; and the Each Incident **Retention** shall be satisfied by monetary payments by the **Named Insured** for such services.

- C. In the event that **Damages, Claims Expenses, Penalties** or **PCI Fines, Expenses and Costs** arising out of a **Claim** are subject to more than one **Retention**, the applicable **Retention** amounts shall apply to such **Damages, Claims Expenses, Penalties** or **PCI Fines, Expenses and Costs**, provided that the sum of such **Retention** amounts shall not exceed the largest applicable **Retention** amount.

In the event that **Cyber Extortion Loss, Data Protection Loss** or **Business Interruption Loss** arising out of a single incident are subject to more than one **Retention**, the applicable **Retention** amounts shall apply to such **Cyber Extortion Loss, Data Protection Loss** or **Business Interruption Loss**, provided that the sum of such **Retention** amounts shall not exceed the largest applicable **Retention** amount.

- D. Satisfaction of the applicable **Retention** is a condition precedent to the payment by the Underwriters of any amounts or providing of any services hereunder, and the Underwriters shall be liable only for the amounts in excess of such **Retention** subject to the Underwriters' total liability not exceeding the **Policy Aggregate Limit** or the Limits of Coverage for **Privacy Breach Response Services** set forth in Item 3.B. of the Declarations. The **Named Insured** shall make direct payments within the **Retention** to appropriate other parties designated by the Underwriters.

8.OPTIONAL EXTENSION PERIOD

- A. In the event of the termination of this Insurance for any reason except the non-payment of premium, the **Named Insured** designated in Item 1. of the Declarations shall have the right, upon payment in full and not proportionally or otherwise in part of the percentage shown in Item 7.(a) of the Declarations of the full premium set forth in Item 5. of the Declarations, to have issued an endorsement providing an Optional Extension Period for the period of time set forth in Item 7.(b) of the Declarations for **Claims** first made against any **Insured** and reported to the Underwriters during the Optional Extension Period, and arising out of any act, error or omission committed on or after the Retroactive Date and before the end of the **Policy Period**, subject to the conditions set forth herein. In order for the **Named Insured** to invoke the Optional Extension Period option, the payment of the additional premium for the Optional Extension Period must be paid to the Underwriters within thirty (30) days of the termination of this Insurance. If notice of election of the Optional Extension Period and full premium payment is not given to the Underwriters within such thirty (30) day period, there shall be no right to purchase the Optional Extension Period.

- B. The Limit of Liability for the Optional Extension Period shall be part of, and not in addition to, the applicable Limit of Liability of the Underwriters for the **Policy Period** and the exercise of the Optional Extension Period shall not in any way increase the **Policy Aggregate Limit of Liability** or any sublimit of liability. The Optional Extension Period does not apply to Insuring Agreement B.
- C. The right to the Optional Extension Period shall not be available to the **Named Insured** where the Policy premium has not been paid in full, or where cancellation or non-renewal by the Underwriters is due to non-payment of premium or failure of an **Insured** to pay such amounts in excess of the applicable limit of liability or within the amount of the applicable **Retention**.
- D. All notices and premium payments with respect to the Optional Extension Period option shall be directed to the Underwriters through the entity named in Item 9.(c) of the Declarations.
- E. At the commencement of the Optional Extension Period the entire premium shall be deemed earned, and in the event the **Named Insured** terminates the Optional Extension Period for any reason prior to its natural expiration, the Underwriters will not be liable to return any premium paid for the Optional Extension Period.

9. NOTICE OF CLAIM OR LOSS

- A. If any **Claim** is made against the **Insured**, the **Insured** shall forward as soon as practicable to the Underwriters through persons named in Item 9.(a) of the Declarations written notice of such **Claim** in the form of a telecopy, email or express or certified mail together with every demand, notice, summons or other process received by the **Insured** or the **Insured's** representative. In no event shall the Underwriters be given notice of a **Claim** later than the end of the **Policy Period**, the end of the Optional Extension Period (if applicable), or thirty (30) days after the expiration date of the **Policy Period** in the case of **Claims** first made against the **Insured** during the last thirty (30) days of the **Policy Period**.
- B. With respect to Insuring Agreement B., for a legal obligation to comply with a **Breach Notice Law** because of an incident (or reasonably suspected incident) described in Insuring Agreement A.1. or A.2., such incident or reasonably suspected incident must be reported as soon as practicable during the **Policy Period** after discovery by the **Insured** via the email address or telephone number set forth in Item 9.(b) of the Declarations; provided, that unless the **Insured** cancels the Policy, or the Underwriters cancel for non-payment of premium, incidents discovered by the **Insured** within sixty (60) days prior to expiration of the Policy shall be reported as soon as practicable, but in no event later than sixty (60) days after the end the **Policy Period**; provided further, that if this Policy is renewed by the Underwriters and **Privacy Breach Response Services** are provided because of such incident or suspected incident that was discovered by the Insured within sixty (60) days prior to the expiration of the Policy, and first reported during the sixty (60) day post **Policy Period** reporting period, then any subsequent **Claim** arising out of such incident or suspected incident is deemed to have been made during the **Policy Period**.

Notwithstanding the foregoing, if the **Named Insured** reasonably believes that the **Privacy Breach Response Services** provided as a result of such incident or suspected incident are not likely to meet or exceed the **Retention**, then reporting of such incident or suspected incident under this Clause IX.B. is at the **Named Insured's** option, but unless such incident or suspected incident is reported in accordance with the first paragraph of this Clause IX.B., there shall be no coverage for **Privacy Breach Response Services** in connection with such incident or suspected incident.

- C. With respect to Insuring Agreement F., in the event of an **Extortion Threat** to which this Policy applies, the **Named Insured** shall notify Underwriters by contacting the persons specified in Item 9.(a). of the Declarations by telephone at 1800 984 283 immediately upon receipt of any **Extortion Threat**, and shall thereafter also provide written notice by telecopy, email or express mail within five (5) days following the **Extortion Threat**.
- D. With respect to Insuring Agreement G., the **Named Insured** must forward written notice by express mail, email or telecopy to Underwriters through persons named in Item 9.(a). of the Declarations immediately upon discovery of alteration, corruption, destruction, deletion or damage to or inability to access a **Data Asset** to which this Insurance applies; provided that all covered **Data Protection Loss** must be discovered and reported (in accordance with Clause XXV., Proof and Appraisal of Loss) to Underwriters no later than six (6) months after the end of the **Policy Period**.
- E. The **Named Insured** shall forward immediately to Underwriters through persons named in Item 9.(a) of the Declarations, written notice of the interruption or suspension of **Computer Systems** to which this Insurance applies in the form of a telecopy, email or express mail. Such notice must be provided during the **Policy Period**, or no later than ten (10) days after the end of the **Policy Period** for interruptions or suspensions occurring within ten (10) days of the end of the **Policy Period**; provided, all covered **Business Interruption Loss** must be reported to Underwriters (in accordance with Clause XXV., Proof and Appraisal of Loss) no later than six (6) months after the end of the **Policy Period**.
- F. A **Claim** or legal obligation under paragraph A. or B. above shall be considered to be reported to the Underwriters when written notice is first received by the Underwriters in the form of a telecopy, email or express or certified mail or email through persons named in Item 9.(a) of the Declarations of the **Claim** or legal obligation, or of an act, error, or omission, which could reasonably be expected to give rise to a **Claim** if provided in compliance with paragraph C. above.

10. ASSISTANCE AND COOPERATION

- A. The Underwriters shall have the right to make any investigation they deem necessary, and the **Insured** shall cooperate with the Underwriters in all investigations, including investigations regarding the **Application** for and coverage under this Policy. The **Insured** shall execute or cause to be executed all papers and render all assistance as is requested by the Underwriters. The **Insured** agrees not to take any action which in any way increases the Underwriters' exposure under this Policy.

- B. Upon the Underwriters' request, the **Insured** shall assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organisation who may be liable to the **Insured** because of acts, errors or omissions, incidents or events with respect to which insurance is afforded under this Policy; and the **Insured** shall attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses.
- C. The **Insured** shall not admit liability, make any payment, assume any obligations, incur any expense, enter into any settlement, stipulate to any judgement or award or dispose of any **Claim** without the written consent of the Underwriters, except as specifically provided in Clause II., Defence and Settlement of Claims, paragraph D.
- Compliance with a **Breach Notice Law** will not be considered an admission of liability for purposes of this Clause X.C.
- D. Expenses incurred by the **Insured** in assisting and cooperating with the Underwriters do not constitute **Claims Expenses** under the Policy.

11. SUBROGATION

If any payment is made under this Policy and there is available to the Underwriters any of the **Insured's** rights of recovery against any other party, then the Underwriters shall maintain all such rights of recovery. The **Insured** shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The **Insured** shall do nothing after an incident or event giving rise to a **Claim** or **Loss** to prejudice such rights. Any recoveries shall be applied first to subrogation expenses, second to **Loss** paid by the Underwriters, and lastly to the **Retention**. Any additional amounts recovered shall be paid to the **Named Insured**.

12. OTHER INSURANCE

The insurance under this Policy shall apply in excess of any other valid and collectible insurance available to any **Insured**, including any self-insured retention or deductible portion thereof unless such other insurance is written only as specific excess insurance over the **Policy Aggregate Limit of Liability** or any other applicable Limit of Liability of this Policy.

13. ACTION AGAINST THE UNDERWRITERS

No action shall lie against the Underwriters or the Underwriters' representatives unless and until, as a condition precedent thereto, the **Insured** shall have fully complied with all provisions, terms and conditions of this Insurance and the amount of the **Insured's** obligation to pay shall have been finally determined either by judgement or award against the **Insured** after trial, regulatory proceeding, arbitration or by written agreement of the **Insured**, the claimant, and the Underwriters.

No person or organisation shall have the right under this Policy to join the Underwriters as a party to an action or other proceeding against the **Insured** to determine the **Insured's** liability, nor shall the Underwriters be impleaded by the **Insured** or the **Insured's** legal representative.

The **Insured's** bankruptcy or insolvency or of the **Insured's** estate shall not relieve

the Underwriters of their obligations hereunder.

14. ENTIRE AGREEMENT

By acceptance of the Policy, all **Insureds** agree that this Policy embodies all agreements between the Underwriters and the **Insured** relating to this Policy. Notice to any agent or knowledge possessed by any agent or by any other person shall not effect a waiver or a change in any part of this Policy or stop the Underwriters from asserting any right under the terms of this Insurance; nor shall the terms of this Insurance be waived or changed, except by endorsement issued to form a part of this Policy signed by the Underwriters.

15. MERGERS AND ACQUISITIONS

A. Newly Acquired Subsidiaries

During the **Policy Period**, if the **Named Insured** or any **Subsidiary** acquires another entity whose annual revenues are more than ten percent (10%) of the **Named Insured's** total annual revenues for the four quarterly periods directly preceding inception of the **Policy Period**, such acquired entity shall not be a **Subsidiary**, and no **Insured** shall have coverage under this Policy for any **Claim** or **Loss** that arises out of any act, error omission, incident or event whether committed before or after such acquisition:

1. by or on behalf of the acquired entity or any person employed by the acquired entity;
2. involving or relating to the assets, liabilities, media activities or policies or procedures of the acquired entity or to data, information, computers, or networks, security systems, of or under the care, custody or control of the acquired entity, a Business Associate of the acquired entity, or a third party on behalf of the acquired entity; or
3. by any person or entity holding, processing, managing or transferring information or operating **Computer Systems** on behalf of the acquired entity;

unless the **Named Insured** gives the Underwriters written notice prior to the acquisition, obtains the Underwriters' written consent to extend coverage to such additional entities, assets, exposures, or **Computer Systems**, and agrees to pay any additional premium required by the Underwriters.

If during the **Policy Period** the **Named Insured** or any **Subsidiary** acquires an entity whose annual revenues are more than ten percent (10%) of the **Named Insured's** total annual revenues for the four quarterly periods directly preceding inception of the **Policy Period**, then, subject to the **Policy Period** and all other terms and conditions of this Policy, coverage under this Policy shall be afforded for a period of sixty (60) days, but only for any **Claim** that arises out of any act, error or omission first committed or incident or event first occurring after the entity becomes so owned. Coverage beyond such sixty (60) day period shall only be available if the **Named Insured** gives the Underwriters written notice of the acquisition, obtains the written consent of Underwriters to extend coverage beyond such sixty (60) day period to the entity and agrees to pay any additional premium required by Underwriters.

B. Mergers or Consolidations

If during the **Policy Period** the **Named Insured** consolidates or merges with or is acquired by another entity, or sells substantially all of its assets to any other entity, then this Policy shall remain in full force and effect, but only with respect to a **Security Breach**, or other act or incidents that occur prior to the date of the consolidation, merger or acquisition. There shall be no coverage provided by this Policy for any other **Claim** or **Loss** unless the **Named Insured** provides written notice to the Underwriters prior to such consolidation, merger or acquisition, the **Named Insured** has agreed to any additional premium and terms of coverage required by the Underwriters and the Underwriters have issued an endorsement extending coverage under this Policy.

- C. All notices and premium payments made under this Clause XV. shall be directed to the Underwriters through the entity named in Item 9.(c) of the Declarations.

16. ASSIGNMENT

The interest hereunder of any **Insured** is not assignable. If the **Insured** shall die or be adjudged incompetent, such insurance shall cover the **Insured's** legal representative as the **Insured** as would be permitted under this Policy.

17. CANCELLATION

- A. This Policy may be cancelled by the **Named Insured**, by surrender thereof to the Underwriters or by mailing or delivering to the Underwriters through the entity named in Item 9.(c) of the Declarations, written notice stating when the cancellation shall be effective.
- B. This Policy may be cancelled by the Underwriters by mailing or delivering to the **Named Insured** at the address shown in the Declarations written notice stating when, not less than sixty (60) days thereafter, such cancellation shall be effective. However, if the Underwriters cancel this Insurance because the **Insured** has failed to pay a premium when due, this Policy may be cancelled by the Underwriters by mailing a written notice of cancellation to the **Named Insured** at the address shown in the Declarations stating when, not less than ten (10) days thereafter, such cancellation shall be effective. Mailing of notice shall be sufficient proof of notice. The time of surrender or the effective date and hour of cancellation stated in the notice shall become the end of the **Policy Period**. Delivery (where permitted by law) of such written notice either by the **Named Insured** or by the Underwriters shall be equivalent of mailing.
- C. If the **Named Insured** cancels this Policy, the earned premium shall be computed in accordance with the customary short rate portion of the full premium set forth in Item 5. of the Declarations.
- D. If the Underwriters cancel this Policy prior to any **Claim** being reported or **Loss** incurred under this Policy, earned premium shall be computed pro rata.
- E. The premium shall be deemed fully earned if any **Claim**, or any circumstance that could reasonably be the basis for a **Claim** or **Loss**, is reported to the Underwriters on or before the date of cancellation.

- F. Premium adjustment may be made either at the time cancellation is effected or as soon as practicable after cancellation becomes effective, but payment or tender of unearned premium is not a condition of cancellation.

18. SINGULAR FORM OF A WORD

Whenever the singular form of a word is used herein, the same shall include the plural when required by context.

19. HEADINGS

The titles of paragraphs, section, provisions, or endorsements of or to this Policy are intended solely for convenience and reference, and are not deemed in any way to limit or expand the provisions to which they relate and are not part of the Policy.

20. WARRANTY BY THE INSURED

By acceptance of this Policy, all **Insureds** agree that the statements contained in the **Application** are their agreements and representations and that the Underwriters issue this Policy, and assume the risks hereunder, in reliance upon the truth thereof.

21. NAMED INSURED AS AGENT

The **Named Insured** shall be considered the agent of all **Insureds**, and shall act on behalf of all **Insureds** with respect to the giving of or receipt of all notices pertaining to this Policy, the acceptance of any endorsements to this Policy, and the **Named Insured** shall be responsible for the payment of all premiums and **Retentions**.

22. GOVERNING LAW AND JURISDICTION

In the event of any dispute arising under this policy including, but not limited to, its construction and/or validity and/or performance and/or interpretation, the **Insured** will submit to the exclusive jurisdiction of any competent Court in the Commonwealth of Australia.

Any summons, notice or process to be served upon the Underwriters may be served upon:

Lloyd's Underwriters' General Representative in Australia
Level 9, 1 O'Connell Street
Sydney NSW 2000
Australia

who has authority to accept service and to appear on the behalf of the Underwriters.

23. VALUATION AND CURRENCY

All premiums, limits, deductibles, **Damages** and other amounts under this Policy are expressed and payable in the currency of Australia. If judgement is rendered, settlement is denominated or another element of **Damages** under this Policy is stated in a currency other than Australian dollars or if **Claims Expenses** are paid in a currency other than Australian dollars, payment under this Policy shall be made in

Australian dollars at the rate of exchange published in the *Wall Street Journal* on the date the judgement becomes final or payment of the settlement or other element of **Damages** is due or the date such **Claims Expenses** are paid.

24. AUTHORIZATION

By acceptance of this Policy, the **Insureds** agree that the **Named Insured** will act on their behalf with respect to the giving and receiving of any notice provided for in this Policy, the payment of premiums and the receipt of any return premiums that may become due under this Policy, and the agreement to and acceptance of endorsements.

25. PROOF AND APPRAISAL OF LOSS

1. Before coverage under Insuring Agreement G. will apply, the **Named Insured** must:
 - A. prepare and submit to the persons named in Item 9.(a) of the Declarations a written and detailed proof of loss sworn by an officer of the **Named Insured** within ninety (90) days after the **Insured** discovers a **Data Protection Loss**, but in no event later than six (6) months following the end of the **Policy Period**. Such proof of loss shall include a narrative with full particulars of such **Data Protection Loss**, including the time, place and cause of the **Data Protection Loss**, a detailed calculation of the **Data Protection Loss**, the Insured Organisation's interest and the interest of all others in the property, the sound value thereof, the amount of **Data Protection Loss** or damage thereto, and all other insurance thereon; and
 - B. upon Underwriters' request, submit to an examination under oath and provide copies of the underlying documents, data and materials that reasonably relate to or are part of the basis of the claim for such **Data Protection Loss**.

The costs and expenses of preparing and submitting a proof of loss, and establishing or proving **Data Protection Loss** or any other **Loss** under this Policy shall be the **Insured's** obligation, and are not covered under this Policy.

2. If the **Named Insured** and Underwriters do not agree on the amount of a **Loss**, each party shall select and pay an appraiser or other qualified expert (the "Appraiser") to state the amount of the loss or reasonable expenses, and the Appraisers shall choose an umpire. If the Appraisers cannot agree on an umpire, the **Named Insured** or the Underwriters may request a judge of a court having jurisdiction to make the selection. Each Appraiser shall submit the amount of the **Loss** or reasonable expenses to the umpire, and agreement by the umpire and at least one of the Appraisers as to the amount of a **Loss** shall be binding on all **Insureds** and Underwriters. The **Named Insured** and Underwriters will equally share the costs of the umpire and any other costs other than the cost of the Appraisers. This provision shall govern only the appraisal of the amount of a **Loss**, and shall not control the determination of whether such **Loss** is otherwise covered by the Policy; and compliance with this provision shall have no effect on Underwriters' rights or ability to deny coverage or enforce any obligation under this Policy.

3. If the **Insured** or the Underwriters recover any property, money or **Data Assets** after a loss payment is made, the party making the recovery must give prompt notice of the recovery to the other party. If the recovered property is money or other funds, the recovery shall be applied first to **Loss** payments made by Underwriters, second to any **Retention** payment made by the **Named Insured**, and third to any costs incurred by Underwriters in recovering the property. If property other than money or funds is recovered, the **Named Insured** may (i) keep the recovered property and return the **Loss** payment plus all costs of recovery incurred by Underwriters, or (ii) keep the **Loss** payment less the costs of recovery incurred by Underwriters and transfer all rights in the property to Underwriters.

26. GOODS AND SERVICES TAX

When the Underwriters make a payment under this policy for the acquisition of goods, services or other supply, the Underwriters will reduce the amount of the payment by the amount of any input tax credit that the **Insured** is, or will be, or would have been entitled to under *A New Tax System (Goods and Services Tax) Act 1999*, in relation to that acquisition, whether or not that acquisition is actually made.

When the Underwriters make a payment under this policy as compensation instead of payment for the acquisition of goods, services or other supply, the Underwriters will reduce the amount of the payment by the amount of any input tax credit that the **Insured** is, or will be, or would have been entitled to under *A New Tax System (Goods and Services Tax) Act 1999* had the payment been applied to acquire such goods, services or supply.

Where and to the extent that the Underwriters are entitled to claim an input tax credit for a payment made under the policy, then any monetary limit in the policy applying to the Underwriters' obligation to make such a payment, shall be net of the entitlement to the input tax credit.

Where and to the extent that the **Insured** is entitled to claim an input tax credit for a payment required to be made by the **Insured** as a **Retention**, then the amount of the **Retention** shall be net of the **Insured's** entitlement to the input tax credit.

27. SANCTION LIMITATION AND EXCLUSION CLAUSE

The Underwriters will not be liable to provide any cover, benefit or pay any claim under this Policy to the extent that the provision of such cover, benefit or payment of such claim would expose the Underwriters to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or United States of America.

28. COMPLAINTS

Every effort is made to ensure that a high standard of service is provided. However, if the **Insured** is not satisfied with the service it has received or it has any questions or concerns about this policy the **Insured** should, in the first instance, contact:

Beazley Complaints
Beazley Plc
Plantation Place South
60 Great Tower Street
London EC3R 5AD

All correspondence should be addressed to Beazley Complaints

Or by telephone: +44 020 7667 0623

Or by email: beazley.complaints@beazley.com

In the event that the **Insured** remains dissatisfied the complaint can be escalated to:

Lloyd's Underwriters General Representative in Australia
Level 9, 1 O'Connell Street
Sydney NSW 2000

Telephone Number: (02) 8298 0783

Facsimile Number: (02) 8298 0788

Email: ldraustralia@lloyds.com

If the dispute remains unresolved the **Insured** may be referred to the Australian Financial Complaints Authority (AFCA). AFCA can be contacted by phone 1800 931 678 or email info@afca.org.au or www.afca.org.au. For other disputes the **Insured** will be referred to other proceedings for resolution. Details are available from Lloyd's Underwriters' General Representative in Australia at the address above.

29. Privacy Notice

The **Insurer's** Privacy Policy is available at:

https://www.beazley.com/united_kingdom/privacy_and_cookies_statements.html
or by requesting a copy from the Data Protection Officer at dpo@beazley.com.

By submitting information to the **Insurer** relating to any identifiable individual, the **Insured** represents that it has authority to provide that personal information to the **Insurer**. With respect to any individual about whom the **insured** provides personal information to the **insurer**, the **insured** agrees: (a) to inform the individual about the content of the Privacy Policy; and (b) to obtain any legally-required consent for the collection, use, disclosure, and transfer (including cross-border transfer) of personal information about the individual in accordance with the Privacy Policy.

CRIMINAL REWARDS ENDORSEMENT

In consideration of the premium charged for the Policy, it is hereby understood and agreed that:

1. Clause **I. INSURING AGREEMENTS** is amended by the addition of:

Criminal Reward Fund

To indemnify the **Named Insured**, at the Underwriter's sole and absolute discretion, up to AUD 25,000 in the aggregate as a **Criminal Reward Fund**. No Deductible shall apply to this Insuring Agreement.

2. Clause **V. DEFINITIONS** is amended by the addition of:

Criminal Reward Fund means any amount offered and paid by the Underwriters for information that leads to the arrest and conviction of any individual(s) committing or trying to commit any illegal act related to any coverage under this Policy. Provided, however, the Underwriters shall not pay any **Criminal Reward Fund** for, and this Policy shall not cover any amount based upon, any information provided by the **Insured**, the **Insured's** auditors, whether internal or external, any individual hired or retained to investigate the aforementioned illegal acts, or any other individuals with responsibilities for the supervision or management of the aforementioned individuals. **Criminal Reward Fund** coverage is subject to the limitations set forth in Clause V.N..

All other terms and conditions remain unchanged.

TELECOMMUNICATIONS FRAUD ENDORSEMENT

It is hereby understood and agreed that this endorsement modifies the insurance coverage provided under the following:

BEAZLEY BREACH RESPONSE

In consideration of the premium charged for the Policy, it is hereby understood and agreed that:

1. Item 3.A. of the Declarations is amended to include the following:
 7. Aggregate sublimit applicable to Insuring Agreement J. (**Telecommunications Fraud**): AUD 100,000
2. Item 4. of the Declarations is amended to include:
 - G.. Each incident, event, or related incidents or events, giving rise to an obligation to pay loss under Insuring Agreement J.: AUD 1,000
3. Clause **I. INSURING AGREEMENTS** is amended by the addition of:
 - J. **TELECOMMUNICATIONS FRAUD**
To indemnify the **Insured Organisation** for any **Telecommunications Fraud Loss**, in excess of the applicable **Retention**, incurred by the **Insured** during the **Policy Period** and reported in writing to the Underwriters during the **Policy Period**.
4. Clause **V. DEFINITIONS**, Paragraph BB. is amended to include **Telecommunications Fraud Loss** within the definition of "**Loss**".
5. Clause **V. DEFINITIONS** is amended by the addition of:

Third Party means any person or entity other than the **Insured Organisation** or a **Related Party**.

Telecommunications Fraud Loss means any direct financial loss to the **Insured** that results directly from a **Third Party** gaining access to and using the **Insured Organisation's** telephone system in an unauthorised manner; provided that such unauthorised access and use must occur after the Retroactive Date and before the end of the **Policy Period**.
6. Clause **VI. LIMIT OF LIABILITY AND COVERAGE**, Paragraph A. is amended to include the following:

The sublimit of liability stated in Item 3.A.7. is the aggregate limit of liability payable under this Policy for all **Telecommunications Fraud Loss** covered under Insuring

Agreement J. and is part of and not in addition to the **Policy Aggregate Limit of Liability**.

7. Clause **VII. RETENTION** is amended by the addition of:

- F. The **Retention** set forth in Item 4.G. of the Declarations applies separately to each incident, event, or related incidents or events, giving rise to an obligation to pay loss under Insuring Agreement J.

All other terms and conditions remain unchanged.

UNPROTECTED PORTABLE COMPUTERS AND MEDIA EXCLUSION

This endorsement modifies insurance provided under the following:

BEAZLEY BREACH RESPONSE

In consideration of the premium charged for the Policy, it is hereby understood and agreed that:

1. Clause IV., Exclusions is amended to add the following at the end thereof:
 - Y. For, arising out of or resulting from any theft of, loss of, or parting with, any portable computing device or media containing data in an electronic format, unless the data stored on such device or media are stored in an encrypted format.

All other terms and conditions of this Policy remain unchanged.



Authorised Representative

NUCLEAR EXCLUSION CLAUSE (NMA 1256)

This endorsement modifies insurance provided under the following:

BEAZLEY BREACH RESPONSE

In consideration of the premium charged for the Policy, it is hereby understood and agreed that this Policy does not apply:

- I. Under any Liability Coverage, to injury, sickness, disease, death or destruction:
 - (a) with respect to which an insured under the Policy is also an insured under a nuclear energy liability policy issued by Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or
 - (b) resulting from the hazardous properties of nuclear material and with respect to which (1) any person or organisation is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof, or (2) the insured is, or had this Policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organisation.
- II. Under any Medical Payments Coverage, or under any Supplementary Payments Provision relating to immediate medical or surgical relief, to expenses incurred with respect to bodily injury, sickness, disease or death resulting from the hazardous properties of nuclear material and arising out of the operation of a nuclear facility by any person or organisation.
- III. Under any Liability Coverage, to injury, sickness, disease, death or destruction resulting from the hazardous properties of nuclear material, if:
 - (a) the nuclear material (1) is at any nuclear facility owned by, or operated by or on behalf of, an insured or (2) has been discharged or dispersed therefrom;
 - (b) the nuclear material is contained in spent fuel or waste at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
 - (c) the injury, sickness, disease, death or destruction arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any nuclear facility, but if such facility is located within the United States of America, its territories or possessions or Canada, this exclusion (c) applies only to injury to or destruction of property at such nuclear facility.
- IV. As used in this endorsement:

"hazardous properties" include radioactive, toxic or explosive properties; "nuclear material" means source material, special nuclear material or by-product material;

"source material", "special nuclear material", and "by-product material" have the meanings given them in the Atomic Energy Act 1954 or in any law amendatory thereof; "spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a nuclear reactor; "waste" means any waste material (1) containing by-product material and (2) resulting from the operation by any person or organisation of any nuclear facility included within the definition of nuclear facility under paragraph (a) or (b) thereof; "nuclear facility" means:

- (a) any nuclear reactor,
- (b) any equipment or device designed or used for (1) separating the isotopes of uranium or plutonium, (2) processing or utilizing spent fuel, or (3) handling, processing or packaging waste,
- (c) any equipment or device used for the processing, fabricating or alloying of special nuclear material if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235,
- (d) any structure, basin, excavation, premises or place prepared or used for the storage or disposal of waste,

and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations; "nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material. With respect to injury to or destruction of property, the word "injury" or "destruction" includes all forms of radioactive contamination of property.

All other terms and conditions of this Policy remain unchanged.



Authorised Representative