

DECLARATION

PASSPORT D&O

IMPORTANT NOTICES

Pursuant to the provisions of the *Insurance Contracts Act 1984*, Underwriters are required to notify you of the following relevant information.

Your Duty of Disclosure

In accordance with the provisions of the *Insurance Contracts Act 1984*, you have a duty to disclose to the Underwriters every matter that you know, or could reasonably be expected to know, that is relevant to the Underwriter's decision whether to accept the risk of the insurance and, if so, on what terms.

This duty does not require disclosure of matters that diminish the risk to be undertaken by the Underwriter, that are common knowledge, or that the Underwriter knows or, in the ordinary course of its business, should know, or as to which compliance with your duty is waived by the Underwriter.

It should be noted that this duty continues until the Policy is entered into with the Underwriters, and extends to any renewal, reinstatement, variation or extension to the Policy.

Non-Disclosure

The Underwriters may be entitled to either reduce their liability under the contract in respect of a Claim, cancel the contract or avoid the contract from its beginning in accordance with the provisions of the *Insurance Contract Act 1984* if you fail to comply with your duty of disclosure, or if any non-disclosure is fraudulent.

Claims Made

This is a "claims made" policy of insurance, which means that it only covers claims made against an insured and notified to the Underwriters during the period of insurance. By operation of Section 40 (3) of the *Insurance Contracts Act 1984*, where the insured gives notice in writing to the insurer of facts that might give rise to a claim against the insured as soon as was reasonably practicable after the insured became aware of those facts but before the insurance cover provided by the contract expired, the insurer is not relieved of liability under the contract in respect of the claim, when made, by reason only that it was made after the expiration of the period of the insurance cover provided by the contract.

Retroactive Liability

The Policy may be limited by a retroactive date stated in the schedule. The Policy does not provide cover in relation to any claim arising from any actual or alleged act, error, omission or conduct that occurs before the commencement of the Policy, unless retroactive liability cover is extended by the Underwriters.

Average Provision

One of the insuring provisions of the proposed Policy provides that where the amount required to dispose of a claim exceeds the limit of indemnity, the insurer shall be liable only for a part of the total costs and expenses which shall be the same proportion of the total expenses as the limit of indemnity bears to the total amount required to dispose of the claim.

Liability Assumed Under Agreement

Cover provided by this form of liability insurance does not cover liability which you have agreed to accept unless you would have been so liable in the absence of such agreement.

Utmost Good Faith

In accordance with Section 13 of the *Insurance Contracts Act 1984*, the policy of insurance is based on utmost good faith requiring the Underwriter(s) and the proposer/insured(s) to act towards each other with the utmost good faith in respect of any matter relating to the insurance contract.

Privacy Notice

In order for the Underwriters to provide you with insurance products and the processing of claims, it is necessary to obtain personal information from you. The Underwriters are bound by the provisions of the *National Privacy Principles* as set out in the *Privacy Act (Cwlth) 1988*.

You may elect not to provide the Underwriters with this information; however, this may prevent the Underwriters from providing you with the products or services sought.

The Underwriters may disclose this information to other insurers, re-insurers, an insurance reference service, or other advisers used by the Underwriters such as loss adjusters, lawyers or others who may be engaged to assist in claims handling. These third parties will all be contractually required to adhere to the Underwriters privacy obligations.

Should you require access to your personal information, the Underwriters may be contacted on (02) 8912 6400.

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