

Combined Association Liability Policy



01

SECTION A: ASSOCIATION LIABILITY

Insuring clauses

1. Officer's indemnity
2. Association professional indemnity

Automatic extensions applicable to Section A

1. Advancement of defence costs
2. Amalgamation/merger
3. Continuous cover

02

4. Defamation
5. Employment disputes
6. Estate and legal representatives/
spousal liability
7. Fair Trading Act 1986
8. Fidelity

03

9. Innocent non-disclosure
10. Intellectual property
11. Internet liability extension
12. Loss of documents
13. Official investigations
and inquiries

04

14. Preservation of indemnity
15. Retired officers
16. Severability and non-imputation
17. Successful defence of
criminal prosecution

Optional extensions applicable to Section A

1. Automatic reinstatement
2. Exemplary damages

05

3. Extended reporting period
4. Outside directorships

Definitions applicable to Section A

1. 'Acquitted by a Court'
2. 'Association'
3. 'Association Services'
4. 'Claim'

06

5. 'Defence Costs'
6. 'Defence Costs' Limit
of Indemnity'
7. 'Documents'
8. 'Employee'
9. 'Employment Dispute'
10. 'Excess'
11. 'Family Member'
12. 'Insured'
13. 'Insured Person'
14. 'Loss'
15. 'Outside Entity'
16. 'Pollutants'
17. 'Secondary Committee'

07

18. 'Valid Claim'
19. 'Wrongful Act'

Exclusions applicable to Section A

1. Bodily injury/property damage
2. Employee benefits
3. Family members
4. Financial condition
5. Fines and penalties
6. Fraud
7. Harassment/Discrimination
8. Insured v insured
9. Jurisdiction
10. Liability assumed

08

11. Pollution
12. Prior or pending
13. Refund of fees
14. Related or associated entities
15. Supply of goods
16. Territorial limit

Conditions applicable to Section A

1. Apportionment

09

2. Authorisation clause
3. Defence and settlement of a claim
4. Excess
5. Insured's co-operation
6. Limit of indemnity
7. Notification of circumstance
8. Reporting and notice.
9. Subrogation

10

10. Termination of appointment/alteration to risk

SECTION B: GENERAL LIABILITY

Insuring clauses

1. Public and products liability
2. Limit of indemnity
3. Costs and expenses
4. Excess

Automatic coverage clauses applicable to Section B

1. Business advice or service
2. Forest and Rural Fires Act

11

3. Landlord's Liability
4. Mechanical plant liability
5. Product withdrawal costs
6. Property in care, custody or control
7. Punitive or exemplary damages
8. Tenant's liability

12

9. Underground services
10. Vehicle and watercraft service/repair liability
11. Vibration or removal of support
12. Visits to the North American countries

Definitions applicable to Section B

1. 'Aircraft'
2. 'Business of the Insured'

13

3. 'Costs and Expenses'
4. 'Damages'
5. 'Insured'
6. 'Insured's Products'
7. 'Medical Persons'
8. 'North American Countries'
9. 'Occurrence'
10. 'Personal Injury'
11. 'Policy Territory'
12. 'Pollutants'

14

13. 'Property Damage' means:
14. 'Vehicle' means:
15. 'Watercraft' means:

Exclusions applicable to Section B

1. Aircraft and watercraft
2. Aircraft products
3. Contractual liability
4. Defamation
5. Defective materials, design and workmanship
6. E-commerce

15

7. Failure to insure
8. Fines and penalties
9. Insured's products
10. Loss of use
11. North American countries
12. North American exports
13. Offshore gas or oil platforms
14. Personal injury to employees
15. Pollution
16. Professional liability
17. Property being worked upon
18. Property owned
19. Vehicles

16

20. Withdrawal or repair of products

Conditions applicable to Section B

1. Claims
2. Claims notification
3. Constructive notice/No waiver
4. Cross-liability/Joint insureds
5. Discharge of liabilities
6. Due diligence
7. Hot work

17

SECTION C: STATUTORY LIABILITY

Insuring clauses

1. Cover
2. Defence costs
3. Excess
4. Limit of indemnity

Optional extensions applicable to Section C

1. Consolidation or merger
2. Newly created or acquired subsidiary company

Definitions applicable to Section C

1. 'Acquitted'
2. 'Act of Parliament'

18

3. 'Business of the Insured'
4. 'Civil Defence Legal Costs'
5. 'Defence Costs'
6. 'Event'
7. 'Excluded Act'
8. 'Fine'
9. 'Inception Date'
10. 'Insured'
11. 'Offence'

Exclusions applicable to Section C

1. Daily continuing offences/orders and costs

19

2. Deliberate disregard
3. Dishonest acts
4. Personal grievances
5. Private prosecutions
6. Retroactive date

Conditions applicable to Section C

1. Apportionment of costs
2. Claims notification and duties
3. Conduct of defence
4. Extended reporting period

20

5. Prejudice
6. Progress payment of legal expenses
7. Reasonable precautions

SECTION D: EMPLOYER'S LIABILITY

Insuring clauses

1. Cover A
Cover B
2. Defence costs

Limits of indemnity applicable to Section D

1. Limit of indemnity

21

2. Defence costs

Definitions applicable to Section D

1. 'Business of the Insured'
2. 'Claim'
3. 'Damages'
4. 'Defence Costs'
5. 'Employee'
6. 'Insured'
7. 'Personal Injury'
8. 'Punitive or Exemplary Damages'

Exclusions applicable to Section D

Specific exclusions to Cover A of section D

22

Specific exclusions to Cover B of section D

General exclusions applicable to Section D

Conditions applicable to Section D

1. Additional insureds
2. Circumstances notified
3. Claims notification and duties
4. Conduct of defence

23

5. Excess
6. Extended reporting period
7. Prejudice
8. Reasonable precautions

SECTION E: LEGAL DEFENCE FOR SPORTS AND EVENTS

Insuring clauses

Types of legal action

1. Criminal prosecution
2. Traffic prosecution
3. Other actions

Exclusions applicable to Section E

24

Definitions applicable to Section E

1. 'Insured'
2. 'Lawyer'
3. 'Legal Action'
4. 'Legal Expenses'

Conditions applicable to Section E

1. Appeals
2. Claims conduct
3. Co-operation

25

4. Financial condition
5. Reporting and notice

General definitions: Applicable to all sections of this policy

1. 'Limit of Indemnity'
2. 'Period of Insurance'
3. 'Policy'
4. 'QBE'
5. 'Retroactive Date'
6. 'Schedule'

General exclusions: Applicable to all sections of this policy

1. Asbestos
2. Nuclear

26

3. Radioactivity
4. Sanctions
5. Terrorism
6. War

General conditions: Applicable to all sections of this policy

1. Assignment
2. Cancellation
3. Cessation
4. Dishonest claim
5. Goods and services tax
6. Fraud
7. Inspection

27

8. Insured's right to contest
9. Interpretation of Words
10. Jurisdiction
11. Legal counsel
12. Material change of risk
13. Notices by QBE
14. Other insurance
15. Policy disputes
16. Severability and non-imputation
17. Subrogation
18. Written Notice

Welcome to QBE Insurance and thank you for trusting us with your insurance.

QBE has been committed to New Zealand and its commerce since 1888. We are Australasia's largest international insurance and reinsurance group and have specialist staff operating all over the globe, providing insurance to clients in over 140 countries. Our standing in the insurance marketplace has been achieved through consistent delivery of quality service to both our brokers and policyholders.

This is your Combined Association Liability Policy document, which should be read in conjunction with your Policy Schedule. Together, they form your contract of insurance and tell you what you are, and are not, insured for.

We want your experience with QBE Insurance to be the best. To allow us to make your claims experience fast and easy, it is important that you provide us with all the information that could influence our decision about your insurance. You need to tell either QBE or your broker about facts known to you as well as those facts you become aware of, which you could have been reasonably expected to know about. If you are in any doubt as to whether or not a fact may be material to your insurance, you can discuss this with QBE or your broker who will guide you.

By not telling us something that it was your duty to tell us it may mean that your claim may not be accepted or an entitlement under the policy could be reduced.

If you need help understanding any aspect of your insurance cover, please contact your insurance broker.

Combined Association Liability Policy

In consideration of the payment of the premium to QBE Insurance (Australia) Limited ('QBE') and in reliance on the written proposal, declaration and any other underwriting information provided, which will be deemed to be incorporated into and to be the basis of this Policy, QBE will indemnify the Insured as follows.

SECTION A: ASSOCIATION LIABILITY

Insuring clauses

1. Officer's indemnity

- 1.1 QBE will pay on behalf of each Insured Person all Loss arising from any Valid Claim. QBE further agrees to indemnify the Association when it is legally required or permitted to indemnify the Insured Person for Loss arising from any Valid Claim.
- 1.2 QBE will pay on behalf of each Insured Person or the Company all Defence Costs by reason of a Claim under paragraph 1.1 above in addition to the Limit of Indemnity. QBE's maximum liability to indemnify the Insured Person or the Company for all such Defence Costs in the aggregate during the Period of Insurance will not exceed the Defence Costs Limit of Indemnity specified in the Schedule.

2. Association professional indemnity

- 2.1 QBE will indemnify the Insured against all Loss arising from any Valid Claim, provided that this Insuring Clause is noted in the Policy Schedule as 'Included'.
- 2.2 QBE will also pay Defence Costs in respect of any Valid Claim covered in paragraph 2.1 above, in addition to the Limit of Indemnity, provided that QBE's maximum liability for all such Defence Costs in the aggregate during the Period of Insurance will not exceed NZD 1,000,000 or an amount equivalent to the Limit of Indemnity, whichever is the least amount.

Automatic extensions applicable to Section A

The following extensions to the Policy are included automatically, provided that each extension is subject to the terms of this Policy (unless otherwise stated). The total of all payments made under these extensions will be part of and not in addition to the Limit of Indemnity.

1. Advancement of defence costs

QBE will pay on behalf of an Insured Person, Defence Costs, as part of and subject to the Limit of Indemnity as and when they are incurred, provided that QBE reserves the right to recover any Defence Costs from the Insured, severally according to their respective interests, in the event and to the extent that it is subsequently established by judgment, settlement or other final adjudication that the Insured was not entitled to the Defence Costs so advanced.

2. Amalgamation/merger

If, subsequent to the commencement of the Period of Insurance, the Association merges, amalgamates with or creates any other association, which undertakes similar activities to the Association, QBE will indemnify such association and its members as if they were an Insured under this Policy, Provided that:

- 2.1 notice of the merger or acquisition has been given to QBE within sixty (60) days of the merger or amalgamation
- 2.2 QBE will be entitled to any additional information We may require and will have the right to charge an additional premium
- 2.3 no cover is provided for Loss or Defence Costs arising from any Wrongful Act committed by such other entity prior to the date of merger or amalgamation
- 2.4 cover provided by this extension does not include any takeover or acquisition of the Association by any other entity.

3. Continuous cover

If any Claim, fact or circumstance that should have been notified to QBE under an earlier policy is notified during the Period of Insurance, QBE will accept the notification,

Provided that:

- 3.1 QBE has continuously been the insurer of the Insured under an Association Liability Policy between the date when such notification should have been given and the date on which such notification was, in fact, given
- 3.2 cover under this extension will be subject to the terms of this Policy or the terms of the previous insurance, whichever QBE, at Our sole discretion, decides
- 3.3 where QBE has been prejudiced by such late notification, Our liability will be reduced to the amount for which QBE would have been liable had the notification been made at the correct time.

4. Defamation

QBE will indemnify the Insured for Loss or Defence Costs arising from any Valid Claim for unintentional defamation.

5. Employment disputes

Under Insuring Clause 1 (Officer's Indemnity) above only, and notwithstanding Exclusion 7 (Harassment/Discrimination) and Exclusion 8 (Insured v Insured) of this section, this Policy is extended to indemnify the Insured for any Valid Claim alleging or arising out of any Employment Dispute, as defined in this Policy,

Provided that:

- 5.1 QBE's liability in respect of this extension will be a maximum of NZD 100,000, inclusive of all Defence Costs and expenses for any one (1) Claim or in the annual aggregate.
- 5.2 this sub-limit will be part of and not in addition to the Limit of Indemnity specified in the Schedule.
- 5.3 this extension will be subject to the Employment Disputes Excess as specified in the Schedule.

Optional Extension 1 (Automatic Reinstatement) of this section will not apply to this extension.

6. Estate and legal representatives/spousal liability

QBE will pay all Loss and Defence Costs arising from a Claim made against the:

- 6.1 spouse of an Insured Person solely based on his/her status as such, which seeks damages recoverable from:
 - 6.1.1 matrimonial property;
 - 6.1.2 property jointly held by the Insured Person and the spouse; or
 - 6.1.3 property transferred from an Insured Person to the spouse; and
- 6.2 estate, heirs, legal representatives or assigns of any deceased, incompetent, insolvent or bankrupt Insured Person.

Provided that any estate, heirs, legal representatives, assigns or spouse will observe and be subject to all the provisions of this Policy insofar they can apply.

7. Fair Trading Act 1986

QBE will indemnify the Insured for all Loss and Defence Costs arising from any Valid Claim for compensation made against the Insured alleging breach of Sections 9 to 14 of the Fair Trading Act 1986.

8. Fidelity

Notwithstanding Exclusion 6 (Fraud) of this section, if, during the Period of Insurance, the Insured discovers that it has sustained Loss, which occurred after the Retroactive Date, in consequence of any dishonest act or omission by any specific and identifiable Employee or Employees, acting alone or in collusion with others, then QBE will indemnify the Insured by payment or by making good the Loss,

Provided that:

- 8.1 for the purposes of this Endorsement, 'Loss' will mean actual loss of money, securities or other property that has been illicitly taken from and belonged to the Insured, with intent to deprive the Insured of the money, securities or property and confer the benefit of them on the Employee or any other person
- 8.2 all cheques drawn by the Insured are signed by two (2) persons and a duly qualified accountant undertakes an independent audit of the Insured's trust and firm accounting records at least annually
- 8.3
 - 8.3.1 any money due by the Insured to any Employee whose dishonest act or omission has resulted in a claim payable under this extension; and
 - 8.3.2 any money or property of the Employee that is in the Insured's possession or control, or that comes into the Insured's possession or controlwill be applied, in priority to any other claim on that money or property, as a recovery in respect of the Loss for which the claim under this Policy is made
- 8.4 QBE will not be liable to indemnify the Insured against Loss of which there is no proof as to its existence and/or amount other than by an inventory or profit and loss computation
- 8.5 QBE will not be liable to indemnify the Insured against any consequential loss whatsoever
- 8.6 QBE will not be liable to indemnify the Insured against Loss resulting directly or indirectly out of an Employee's dishonest input, alteration, deletion or inaction of any data or instructions to, in or from any computer system or communication system
- 8.7 the Insured, when required by QBE, at the expense of QBE, must use all diligence in prosecuting or assisting to prosecute any person for any criminal act or omission in respect of which a Claim is made under this Policy
- 8.8 the Limit of Indemnity applying to this extension is NZD 100,000 for any one (1) Claim and in the aggregate
- 8.9 this extension will be subject to the Fidelity Excess as specified in the Schedule.

Optional Extension 1 (Automatic Reinstatement) of this section will not apply to this extension.

9. Innocent non-disclosure

QBE will waive Our right to avoid this Policy for material non disclosure or misrepresentation,

Provided that:

- 9.1 QBE has continuously been the insurer of the Insured under an Association Liability policy between the date when such disclosure or representation should have been given and the date on which it was, in fact, given;
- 9.2 the Insured can establish to the satisfaction of QBE that such non-disclosure or misrepresentation was innocent and free from any dishonesty or intent to deceive;
- 9.3 cover under this extension will be subject to the terms of this Policy or to the terms of the previous insurance, whichever QBE, at Our sole discretion, decides;
- 9.4 the premium and terms of the current Policy will be adjusted at the discretion of QBE to those which would have applied had such disclosure or representation been made at the correct time; and
- 9.5 QBE's liability to indemnify will be no greater than the indemnity for which We would have been liable had the proper disclosure or representation been made at the correct time.

10. Intellectual property

QBE will indemnify the Insured for all Loss and Defence Costs arising from any Valid Claim for unintentional infringement of copyright, trademark, registered design or patent, plagiarism or breach of confidentiality, arising directly from Association Services.

11. Internet liability extension

QBE will indemnify the Insured against any Valid Claim made against the Insured in connection with the Association Services as defined in the Policy Schedule for unintentional:

- 11.1 infringement or unauthorised use of intellectual property rights or alleged intellectual property rights
- 11.2 defamation;
- 11.3 unauthorised use of names (including domain names), trade names, trade address, service marks, service names, titles, slogans, formats, characters, character names, characterisations, plots, musical compositions, performances, logos, artwork, graphics, photographs or program materials;
- 11.4 passing off;
- 11.5 breach of confidentiality or infringement of any right to privacy, including any alleged breach of the terms of the Privacy Act 1993;
- 11.6 misuse of information which is either confidential or subject to statutory restrictions on use;
- 11.7 transmission of any computer virus or program or code that causes loss or damage to any computer system and/or prevents or impairs any computer system from performing and/or functioning accurately and/or properly;
- 11.8 belittling of a product or work (whether completed or not) of others; or
- 11.9 unauthorised taking for use of any advertising idea, material, slogan, style or title of others committed or alleged to have been committed by the Insured in the provision of its website, use of the internet, electronic mail or any electronic network,

Provided that QBE will not be liable in respect of any Claim arising out of or connected with any chat rooms, electronic bulletin boards or electronic open-forum debates.

The maximum aggregate amount payable by QBE under the extension during the Period of Insurance:

- (a) for all Loss will be NZD 100,000, which is part of and not in addition to the Limit of Indemnity; and
- (b) for all Defence Costs will be NZD 100,000 which is part of and not in addition to the Defence Costs Limit of Indemnity.

12. Loss of documents

QBE will indemnify the Insured for all Loss and Defence Costs arising from any Valid Claim for loss of any Documents that have been destroyed, damaged, lost or mislaid, provided that such coverage will be limited to loss of Documents:

- 12.1 which were in the physical custody or control of the Insured or any other person to whom the Insured entrusted, lodged or deposited such Documents in the ordinary course of business; and
- 12.2 that has occurred within the territorial limits of New Zealand or Australia.

13. Official investigations and inquiries

QBE will pay:

- 13.1 Defence Costs arising out of any legally compellable attendance by an Insured Person; or
- 13.2 Defence Costs arising out of or costs awarded against the Insured Person challenging or bringing court proceedings to set aside any official investigation, examination or inquiry in relation to the affairs of the Association where such official investigation, examination or inquiry may lead to a Valid Claim,

Provided that:

- 13.3 QBE may, at Our discretion, appoint legal counsel to represent an Insured Person involved in the investigation, examination or inquiry;
- 13.4 the actual or notice of intended investigation, examination or inquiry is first notified to the Insured Person during the Period of Insurance and also notified to QBE during the Period of Insurance;

- 13.5 in the event that an Insured Person withdraws his/her claim or QBE withdraws or declines cover, QBE will cease to advance Defence Costs and the Insured Person will refund any Defence Costs advanced by QBE to the extent that We are satisfied that the Insured Person was not entitled to such Defence Costs, unless QBE agrees in writing to waive recovery of such Defence Costs; and
- 13.6 the maximum aggregate amount payable under this extension will be NZD 250,000, which is part of and not in addition to the Defence Costs Limit of Indemnity.

14. Preservation of indemnity

If an Insured Person is unable to enforce a right to indemnity against the Association to which he/she is entitled, whether at common law, under statute or otherwise, by reason only of the Association being placed in liquidation (other than voluntary liquidation) or similar closure process, and therefore having insufficient funds available to indemnify the Insured Person, then QBE will indemnify the Insured Person against Loss and Defence Costs arising from any Valid Claim. The Excess applicable to Insuring Clause 1 (Officers Indemnity) above will apply.

The burden of establishing satisfactory proof to obtain the benefit of this extension will rest entirely with the Insured Person and will include the production of documentary evidence of the Association's assets and liabilities and any official statements issued by the liquidator or accountant.

15. Retired officers

Notwithstanding Optional Extension 3 (Extended Reporting Period) below, if the Insured does not renew this Policy, a discovery period of twelve (12) months after the date of such non-renewal will be provided under Insuring Clause 1 (Officer's Indemnity) of this section, during which time written notice may be given to QBE of any Claim first made against any Insured Person who ceased to act as an Insured Person before the date of non-renewal and otherwise covered by this Policy.

16. Severability and non-imputation

It is agreed that:

- 16.1 the written proposal form completed in application for this insurance will be construed to be a separate proposal for indemnity under this Policy in respect of each Insured Person and any fact or misstatement in the proposal pertaining to or known by any Insured Person will not be imputed to any other Insured Person for the purpose of determining indemnity under this Policy;
- 16.2 failure by one (1) Insured Person to observe and fulfil the terms of this Policy will not prejudice this insurance in relation to any other Insured Person; and
- 16.3 no fact pertaining to, or knowledge possessed by, or conduct of, or dishonesty, or Wrongful Act of any Insured Person will be imputed to any other Insured Person for the purposes of determining the applicability of the exclusions.

17. Successful defence of criminal prosecution

Notwithstanding the exclusions of this Policy, QBE will pay on behalf of an Insured Person any Defence Costs arising out of a criminal prosecution in which he/she is Acquitted by a Court.

Provided that:

- 17.1 no Defence Costs other than those incurred with the prior written consent of QBE will be payable;
- 17.2 notwithstanding Automatic Extension 1 (Advancement of Defence Costs) of this section, QBE will not be under any obligation to advance Defence Costs as they are incurred, but may agree to advance Defence Costs at Our sole and absolute discretion; and
- 17.3 in the event that any Insured Person is not entitled to such payment under this Policy, each Insured Person will repay to QBE any payments made, according to his/her respective interests.

Optional extensions applicable to Section A

The following extensions are optional, and are not included in this Policy unless specifically noted under Optional Extensions in the Schedule, provided that each extension is subject to the terms of this Policy (unless otherwise stated).

1. Automatic reinstatement

If any Valid Claim or Valid Claims exhausts the Limit of Indemnity under this Policy, QBE agrees to one (1) reinstatement only of the Limit of Indemnity,

Provided that QBE's total liability under this Policy will not exceed:

- 1.1 the Limit of Indemnity in respect of any one (1) Valid Claim or all related Valid Claims; and
- 1.2 twice the Limit of Indemnity in respect of all Valid Claims which are not related.

This extension will only apply to Insuring Clause 2 (Association Professional Indemnity) of this section.

For the purpose of this extension, Valid Claims are related if they arise out of the same, identical or a series of acts, errors, omissions or conduct, or arise out of or are attributable to the same originating source or cause.

2. Exemplary damages

Notwithstanding Exclusions 1 (Bodily Injury/Property Damage) and 5 (Fines and Penalties) below, QBE agrees to indemnify the Insured for any Loss arising from any Valid Claim made against the Insured for exemplary damages arising from the provision of medical, welfare, counselling and other social services,

Provided that:

- 2.1 the maximum aggregate amount payable will be NZD 1,000,000, or the Limit of Indemnity, whichever is the lesser, which is part of and not in addition to the Limit of Indemnity; and

- 2.2 the Excess applicable to Claims will be NZD 10,000 for each and every Claim, inclusive of Defence Costs;
- 2.3 cover is limited to Wrongful Acts occurring and Claims brought within the territorial limits of New Zealand; and
- 2.4 this extension will only apply to Insuring Clause 1 (Officer's Indemnity) of this section.

3. Extended reporting period

If QBE cancels or refuses to offer any renewal terms to take effect from the expiry date of the Period of Insurance specified in the Schedule, then the Insured Persons and/or the Association will have the right to extend the specified expiry date for a twelve (12) month period,

Provided that:

- 3.1 the right to such extension is exercised within ten (10) days after the effective date of cancellation or of the specified expiry date;
- 3.2 this Policy will not provide cover in respect of any Wrongful Act alleged to have occurred on or after the effective date of cancellation or of the specified expiry date;
- 3.3 the Limit of Indemnity available under this extension is part of and not in addition to the Limit of Indemnity and the Defence Costs Limit of Indemnity available under this extension is part of and not in addition to the Defence Costs Limit of Indemnity; and
- 3.4 an additional premium of seventy-five per cent (75%) of the expiring annual premium has been paid; and
- 3.5 this extension will only apply to Insuring Clause 1 (Officers Indemnity) of this section.

4. Outside directorships

If an Insured Person has been, now is or becomes a director or officer of an Outside Entity, and holds that position as a representative of the Association, this Policy will extend to include Loss alleged in respect of a Wrongful Act in his/her capacity as a director or officer of the Outside Entity, subject to all other terms of this Policy,

Provided that:

- 4.1 this cover will be specifically in excess of any payment received from any other applicable insurance in force in respect of the Outside Entity and any payment received as indemnification by such Outside Entity;
- 4.2 if the Outside Entity holds insurance provided by QBE, any amounts covered by this Policy will be reduced by the limit of indemnity of such other insurance provided by QBE;
- 4.3 cover will not apply to any Claim brought:
 - 4.3.1 by a director or officer of the Outside Entity; or
 - 4.3.2 by or on behalf or in the name of the Outside Entity at the instigation of or in solicitation, co-operation or enticement of or with a director or officer of the Outside Entity; and
- 4.4 cover will not extend to the Outside Entity or to any of its other directors, officers or employees.

Definitions applicable to Section A

In this Policy, including any endorsements, unless specifically stated to the contrary:

1. 'Acquitted by a Court' means:

- 1.1 dismissal of all charges prior to a hearing; or
- 1.2 after a defended hearing:
 - 1.2.1 a dismissal of all the charges; or
 - 1.2.2 a verdict of not guilty on all the charges,

but will not include, other than with the prior written consent of QBE, which will not be unreasonably withheld, a dismissal pursuant to a plea bargain where multiple charges have been laid or a criminal prosecution where the Insured Person is charged with more than one (1) offence and convicted on at least one (1) of the charges.

2. 'Association' means:

The organisation specified in the Schedule as the 'Insured'.

3. 'Association Services' means:

The services or activities conducted by the Association as specified in the Schedule.

4. 'Claim' means:

- 4.1 legal or arbitral proceedings instituted and served on the Insured claiming damages caused by a Wrongful Act;
- 4.2 any allegation of a Wrongful Act by the Insured or for which the Insured is legally liable, together with a demand for damages; or
- 4.3 any administrative or regulatory proceeding, official investigation, official examination or official inquiry or prosecution (as it applies to cover provided under Automatic Extension 17 (Successful Defence of Criminal Prosecution) above), regarding a specified Wrongful Act of any Insured.

5. 'Defence Costs' means:

- 5.1 all necessary and reasonable legal costs, disbursements, witness costs, assessor costs or expert costs incurred by QBE solely in investigating, defending or settling any Valid Claim
- 5.2 all necessary and reasonable expenses (other than loss of earnings or profits) incurred by the Insured with the prior written consent of QBE solely in assisting Our solicitors in the investigation, defence or settlement of any Valid Claim

6. 'Defence Costs' Limit of Indemnity' means:

The Defence Costs Limit of Indemnity specified in the Schedule.

7. 'Documents' means:

Deeds, wills, agreements, maps, plans, books, letters, policies, certificates, forms and documents of any nature whatsoever, whether written, printed or reproduced by any method including computer records and electronic data material but will not include bearer bonds or coupons, stamps, bank currency notes or any other negotiable instrument.

8. 'Employee' means:

Any person employed by the Association under a contract of service or apprenticeship, on a full-time, part-time, seasonal or voluntary basis. In respect to Automatic Extension 8 (Fidelity) above, this definition will not include people employed on a voluntary basis.

9. 'Employment Dispute' means:

Any actual or threatened Claim or grievance by any former, current or prospective employee in connection with that person's previous, current or prospective employment with the Insured.

10. 'Excess' means:

The amount specified as such in the Schedule.

11. 'Family Member' means:

- 11.1 any spouse, domestic partner, or companion;
- 11.2 any parent, or parent of the spouse; or
- 11.3 any sibling or child
of the Insured.

12. 'Insured' means:

- 12.1 in respect of Insuring Clause 1 (Officer's Indemnity) of this section - the Insured Person
- 12.2 in respect of Insuring Clause 2 (Association Professional Indemnity) of this section - the Insured Person and the Association

13. 'Insured Person' means:

Any person who:

- 13.1 was, is or may become a director, secretary, officer, trustee, committee member or Employee of the Association, on a full-time, part-time, seasonal or voluntary basis;
- 13.2 is acting on behalf of the Association at the direction of an officer or board of directors or board of trustees or committee of management of the Association; or
- 13.3 is an appointed member of a Secondary Committee, but excluding any externally appointed officers such as receivers, managers, liquidators, administrators, mortgagees in possession or the like.

14. 'Loss' means:

The amount payable in respect of any Valid Claim made against the Insured for a Wrongful Act, including any interest accruing after the date of entry of judgment against the Insured and until the date QBE pays, tenders or deposits in court the judgment sum or such part of that judgment sum as is required to satisfy QBE's liability to the Insured in terms of the Limit of Indemnity.

15. 'Outside Entity' means:

- 15.1 any non-profit organisation; or
- 15.2 any other entity that is specified in the Schedule under 'Outside Directorships' or endorsed onto the Policy document.

16. 'Pollutants' means:

Any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acid, alkalis, radioactive material of any sort, chemicals and waste. (Waste includes, but is not limited to, material to be recycled, reconditioned or reclaimed.)

17. 'Secondary Committee' means:

- 17.1 any auxiliary committee, foundation, trust (other than a superannuation trust), charity, or fundraising committee
- 17.2 any disciplinary, examining or research body or committee
- 17.3 any social club or social sporting committee, established by the Insured in support of or in connection with its Association Services.

18. 'Valid Claim' means:

Any Claim:

- 18.1 first made against the Insured during the Period of Insurance;
- 18.2 notified in writing by the Insured to QBE during the Period of Insurance; and
- 18.3 alleging a Wrongful Act that occurred subsequent to the Retroactive Date.

Any Claims that do not satisfy paragraphs 18.1, 18.2 and 18.3 of this definition will not be covered under this Policy.

19. 'Wrongful Act' means:

In respect of Insuring Clause 1 (Officer's Indemnity) of this section

Any actual or alleged breach of duty, breach of trust, neglect, error, misstatement, misleading statement, omission, breach of warranty, breach of contract, or other act done or attempted by any or all Insured Persons in the course of his/her duties to or on behalf of the Association.

In respect of Insuring Clause 2 (Association Professional Indemnity) of this section

Any act, error, omission or conduct actually or allegedly committed or attempted by the Insured in the course of rendering or failing to render Association Services.

All causally connected wrongful acts will be deemed interrelated wrongful acts and will jointly constitute a single Loss under this Policy.

Exclusions applicable to Section A

QBE will not be liable in respect of any Claim:

1. Bodily injury/property damage

Alleging or in respect of:

- 1.1 death, bodily injury or illness; however, this exclusion will not apply to mental injury, mental anguish or emotional distress
- 1.2 damage to or destruction of any tangible property, whether or not it is damaged or destroyed, including loss of its use.

2. Employee benefits

Alleging or arising out of a breach of fiduciary duty, responsibility or obligation in connection with any employee benefit or pension plan, or to any amounts due under any fringe benefit or retirement program.

3. Family members

Brought or maintained by or on behalf of any person who, at the time of the act, error or omission giving rise to the Claim, is a family member.

4. Financial condition

Under Insuring Clause 2 (Association Professional Indemnity) above, alleging or in respect of the insolvency, bankruptcy, receivership, statutory management or liquidation of the Insured.

5. Fines and penalties

Alleging or in respect of any liability to pay taxes, fines or penalties, or liquidated, aggravated, multiple, punitive or exemplary damages.

6. Fraud

Alleging or brought about or contributed to by any dishonest, fraudulent, criminal, malicious or deliberate act or omission, or any wilful violation or breach of any statute or regulation, of or on behalf of the Insured or of any person at any time employed by the Insured.

7. Harassment/Discrimination

Alleging or arising out of harassment (including but not limited to sexual harassment or molestation) or discrimination of any kind.

8. Insured v insured

Brought by an Insured, but this exclusion will not apply in respect of cover provided under Automatic Extension 5 (Employment Disputes).

9. Jurisdiction

In respect of any legal action:

- 9.1 first brought in a court outside the jurisdiction of the countries specified in the Schedule; or
- 9.2 brought in a court within the jurisdiction of the countries specified in the Schedule to enforce a judgment of a court outside the jurisdiction of the countries specified in the Schedule whether by way of a reciprocal agreement or otherwise; or
- 9.3 in which the proper law to be applied to the issues or any of them is that of a country other than the countries specified in the Schedule.

10. Liability assumed

10.1 alleging or in respect of any promise, guarantee, condition or representation that the Insured's services will meet a particular level or standard, or timeframe, or produce a particular result; however, this exclusion will not apply to liability that would have attached in the absence of such promise, guarantee, condition or representation

- 10.2 in respect of liability incurred by or on behalf of the Insured arising from an agreement, where liability would not otherwise have existed in the absence of the agreement; however, this exclusion will not apply to an agreement by or on behalf of the Insured to provide professional services to a client or customer, except to the extent that the Insured has agreed to accept a liability regardless of fault
- 10.3 in respect of a trading debt or a trading liability incurred, or financial or other guarantee granted by the Insured
- 10.4 in respect of which the Insured has, without the written consent of QBE, surrendered or waived any right of contribution or indemnity to which the Insured might otherwise have been entitled.

11. Pollution

Alleging or in connection with or arising from or by reason of or directly or indirectly caused by the actual, alleged or threatened discharge, release, escape or dispersal of Pollutants into or on real or personal property, water or the atmosphere, or any direction or request that the Insured test for, monitor, clean up, remove, contain, treat, detoxify or neutralise Pollutants, or any voluntary decision to do so, including but not limited to any Claim for financial loss to the Association or its beneficiaries.

For the purposes of this exclusion, Insured will include Outside Entity.

12. Prior or pending

- 12.1 made, threatened or in any way intimated prior to the commencement of the Period of Insurance; or
- 12.2 arising from any circumstance of which the Insured had or should have become aware, prior to the commencement of the Period of Insurance, and which the Insured or a reasonable Insured should have considered may give rise to a Claim, whether notified under any other insurance or not.

13. Refund of fees

For a refund of professional or membership fees, by way of damages or otherwise.

14. Related or associated entities

Brought or maintained by or on behalf of any person, firm, company or entity:

- 14.1 operated or controlled by any Insured;
- 14.2 operated or controlled by any Employee, partner, nominee or trustee of any Insured;
- 14.3 in which any Insured has a direct or indirect financial interest (a shareholding of less than five per cent (5%) in a publicly listed company will not constitute a financial interest); or
- 14.4 advised or induced by the Insured to invest in or lend money to any person, firm, company or entity referred to in any of paragraph 14.1, 14.2 or 14.3 above or to the Insured.

For the purposes of this clause, the term 'Insured' will include both the Insured and any Family Member.

15. Supply of goods

Under Insuring Clause 2 (Association Professional Indemnity) above, alleging or arising from the sale, supply, installation, efficacy, or manufacture of goods by or on behalf of the Insured.

16. Territorial limit

Alleging or arising from any Wrongful Act that occurred outside the territorial limit specified in the Schedule.

Conditions applicable to Section A

1. Apportionment

If the allegations against an Insured, or an investigation or inquiry:

- 1.1 include both insured and uninsured allegations; and/or
- 1.2 are also directed at uninsured parties (including the Association itself),

then QBE will:

- (a) pay all the Defence Costs - ie those solely attributable to the Insured's defence of a Valid Claim
- (b) not be liable to pay any of the costs or expenses solely attributable to the Insured's defence of uninsured allegations and/or to the defence of uninsured parties
- (c) pay seventy per cent (70%) of the common costs or expenses attributable to the Insured's defence of insured and uninsured allegations and/or to the defence of insured and uninsured parties.

In respect of any particular Claim, the Insured and QBE may agree on a global apportionment of total costs and expenses in a manner that fairly reflects the allocations in (a) to (c) above. However, in the absence of such agreement, the separate allocations in (a) to (c) above will apply.

QBE will pay the Defence Costs and Our allocated share of the common costs or expenses as and when they are incurred.

2. Authorisation clause

By acceptance of this Policy any Insured Person (or their appointed replacements) who signs the proposal form agrees to act on behalf of all Insured Persons with respect to:

- 2.1 the giving and receiving of notice of Claim or cancellation;
- 2.2 the payment or receiving of premiums payable or returned; and
- 2.3 the acceptance of endorsements or other notice provided by this Policy.

Each Insured Person agrees that the Insured Person so nominated will act on his/her behalf.

Provided that the above authorisation is in addition to and not in derogation of the rights, powers and obligations of each Insured Person and the authorisation conferred imposes no additional obligation upon the Insured Person so nominated with respect to any of the matters set out above, whether towards the Association or any Insured Person.

3. Defence and settlement of a claim

The Insured will not admit liability for or settle any Claim or incur any Defence Costs without the written consent of QBE, whose consent will not be unreasonably withheld. QBE will be entitled, at any time, to take over and conduct in the name of the Insured the defence or settlement of any Claim and any counterclaim.

4. Excess

Insuring Clause 1 (Officer's Indemnity) of this section

In respect of each and every Claim against the Insured Person, the amount of the Excess is payable by the Association with regard to all Loss for which the Association has indemnified or is permitted or required to indemnify the Insured Person. Otherwise, no Excess will apply.

Insuring Clause 2 (Association Professional Indemnity) of this section

In respect of each and every Claim against the Insured, the amount of the Excess is payable by the Insured.

QBE will only be liable for the amount beyond the Excess up to the amount of the Limit of Indemnity or the Defence Costs Limit of Indemnity but only one (1) Excess will apply in respect of any one (1) Valid Claim.

Any costs and expenses incurred by QBE to determine whether QBE has a liability to indemnify the Insured under this Policy will not be subject to the Excess but will be borne by QBE.

For the purpose of this condition, 'Claim' means any and all Valid Claims which arise by reason of the same or interrelated Wrongful Acts.

5. Insured's co-operation

The Insured will take all reasonable steps to avoid or diminish any costs in relation to any possible Claim, and will immediately disclose all information and give assistance to QBE to enable us to investigate and defend the Claim or determine Our liability under this Policy.

QBE may, upon receipt of notice from the Insured of any request for indemnity under this Policy, take whatever action that We consider appropriate to protect the Insured's position in respect of the Claim, and such action by QBE will not be regarded in any way as prejudicing the Insured's or Our own position and will not be an admission of the Insured's entitlement to indemnity.

The Insured irrevocably waives all claims to legal professional privilege between itself and any solicitor retained by QBE to act on the Insured's behalf in relation to any Claim. The Insured will allow the solicitor to disclose to QBE and Our reinsurers any information obtained in the course of his/her duties.

6. Limit of indemnity

The total Limit of Indemnity payable by QBE for all Loss in respect of any one (1) Valid Claim (including all legal costs and expenses for which the Insured will become legally liable to the claimant), or all such Valid Claims in the aggregate, including any Automatic Extensions, will not exceed the Limit of Indemnity.

7. Notification of circumstance

If, during the Period of Insurance, the Insured notifies QBE of any circumstance which the Insured or a reasonable Insured should have considered may give rise to a Claim, and this circumstance later gives rise to a Claim first made against the Insured after expiry of the Period of Insurance, QBE will treat the Claim as first made against the Insured during the Period of Insurance. In this context, a 'circumstance' must be sufficiently specific that the Insured can and does provide to QBE details of the name of any potential claimant and potential Wrongful Acts/omissions.

8. Reporting and notice

Irrespective of the alleged or actual quantum, the Insured will give to QBE immediate notice in writing of:

- 8.1 any Claim;
- 8.2 the receipt of notice from, or information as to any intention by, any party to make a Claim; or
- 8.3 any circumstance of which any Insured becomes aware, and which the Insured or a reasonable Insured should consider may give rise to a Claim.

9. Subrogation

If any payment is made under this Policy, QBE is subrogated to all the Insured's rights of recovery in any way related to the Claim. The Insured will give all such assistance in the exercise of rights of recovery as QBE may reasonably require. Any such recovery will be applied first to QBE's Defence Costs incurred, regardless of how the recovery may be described in any settlement agreement between the Insured and the claimant.

However, QBE will not exercise any subrogated rights of recovery against:

- 9.1 the Association; or
- 9.2 any Insured Person to whom protection is afforded under this Policy, provided that, if such Insured Person is protected from such Claim by any other collectable policy of insurance, the right of subrogation is not waived to the extent and up to the amount of payment from such other policy.

10. Termination of appointment/alteration to risk

The Insured will give immediate notice in writing to QBE should:

- 10.1 the appointment of an Insured Person be suspended, terminated or revoked; or
- 10.2 there be any other material alteration to the risk, facts or circumstances.

SECTION B: GENERAL LIABILITY

Insuring clauses

1. Public and products liability

Subject to the Policy terms, QBE will indemnify the Insured for all sums that the Insured will become legally liable to pay as Damages in respect of Personal Injury or Property Damage happening during the Period of Insurance within the Policy Territory and caused by an Occurrence in connection with the Business of the Insured.

2. Limit of indemnity

QBE's maximum liability in respect of any claim, or any series of claims, arising out of one (1) Occurrence, or in the aggregate during the Period of Insurance in respect of an Occurrence involving the Insured's Products, will not exceed the Limit of Indemnity stated in the Schedule, or the sub-limit in any applicable Automatic Coverage Clause. All Personal Injury or Property Damage in respect of continuous or repeated exposure to substantially the same general conditions will be construed as arising out of one (1) Occurrence.

Provided that:

- 2.1 immediately that QBE has paid the Limit of Indemnity in respect of any judgment or settlement, Our liability in relation to Costs and Expenses will cease
- 2.2 if a payment exceeding the Limit of Indemnity has to be made to dispose of a claim, QBE's liability in relation to Costs and Expenses will be limited to the same proportion as the Limit of Indemnity bears to the amount required to dispose of the claim.

3. Costs and expenses

In addition to the applicable Limit of Indemnity or sub-limit, QBE will pay Costs and Expenses necessarily and reasonably incurred in relation to a claim against the Insured for which there is cover under this Policy (irrespective of whether or not the Insured is found legally liable).

4. Excess

The amount shown in the Schedule, or in any applicable Automatic Coverage Clause, as the excess will be borne by the Insured in respect of each and every claim, or series of claims arising out of one (1) Occurrence.

Automatic coverage clauses applicable to Section B

To be read in conjunction with the Insuring Clauses above.

The following sub-limits and excesses apply unless there is a different sub-limit or excess shown in the Schedule.

The sub-limits are included in, are not in addition to and may be less than the Limit of Indemnity in the Schedule.

1. Business advice or service

Notwithstanding Exclusion 16 (Professional Liability) of this section, QBE will indemnify the Insured in respect of Personal Injury or Property Damage arising out of an error or omission in:

- 1.1 advice or services rendered by the Insured without charge
- 1.2 professional medical advice by Medical Persons employed by the Insured to provide first aid and other medical services on the Insured's premises.

2. Forest and Rural Fires Act

QBE will indemnify the Insured in respect of liability under the Forest and Rural Fires Act 1977 for:

- 2.1 costs and losses incurred during the Period of Insurance recoverable under Section 43 of the Act
- 2.2 levies imposed by a fire authority and apportioned to the Insured during the Period of Insurance under Section 46 of the Act

This clause applies:

- 2.3 regardless of whether or not Property Damage has occurred
- 2.4 to Vehicles, notwithstanding Exclusion 19 (Vehicles) of this section,

Provided that:

- 2.5 a Limit of Indemnity of NZD 250,000 for any one (1) Period of Insurance will apply;
- 2.6 an excess of NZD 1,000 will apply.

3. Landlord's Liability

QBE will indemnify the Insured in respect of Personal Injury or Property Damage arising from the Insured's legal ownership, but not physical occupation, of any premises.

4. Mechanical plant liability

Notwithstanding Exclusion 19 (Vehicles) of this section, QBE will indemnify the Insured in respect of Personal Injury or Property Damage:

- 4.1 arising from loading or unloading any Vehicle used by or on behalf of the Insured but not in the Insured's care, custody or control
- 4.2 arising from any Vehicle while it is being operated for its specialised function or purpose, and not as a Vehicle
- 4.3 relating to the operation or ownership of a car park so as to cause damage to Vehicles within it (other than to Vehicles belonging to, or used by or on behalf of the Insured)
- 4.4 relating to any bridge, viaduct, weighbridge, road or anything beneath the Vehicle caused by vibration or by the weight of any Vehicle and/or its load,

Provided that:

- 4.4.1 any designated weight restrictions were not exceeded
- 4.4.2 an excess of NZD 2,500 will apply.

5. Product withdrawal costs

Notwithstanding Exclusion 20 (Withdrawal or Repair of Products) of this section, QBE will indemnify the Insured for up to eighty per cent (80%) of those costs reasonably incurred in the withdrawal or recall from use in New Zealand of the Insured's Products which have the same defect as a product that has already given rise to a claim in respect of which the Insured is entitled to indemnity under Insuring Clause 1 (Public and Products Liability).

provided that:

- 5.1 a Limit of Indemnity of NZD 100,000, inclusive of Costs and Expenses, will apply in respect of all such withdrawals or recalls during any one (1) Period of Insurance
- 5.2 an excess of NZD 2,500, inclusive of Costs and Expenses, will apply to each such withdrawal or recall.

6. Property in care, custody or control

Notwithstanding Exclusion 18 (Property Owned) of this section, but subject to Exclusions 5 (Defective Materials, Design and Workmanship) and 17 (Property Being Worked Upon) of this section, QBE will indemnify the Insured in respect of Property Damage to property, including employees' property, where the liability arises while the property is in the care, custody or control of the Insured.

provided that:

- 6.1 real property or property owned by, hired, leased or rented to or by the Insured is excluded
- 6.2 property held under a contract of bailment for reward is excluded
- 6.3 a Limit of Indemnity of NZD 250,000 for any one (1) Period of Insurance will apply
- 6.4 an excess of NZD 1,000 will apply.

7. Punitive or exemplary damages

Notwithstanding Exclusion 8 (Fines and Penalties) and Definition 4 (Damages) of this section, QBE will indemnify the Insured in respect of punitive or exemplary damages awarded for Personal Injury in New Zealand.

provided that:

- 7.1 any liability arising from trespass to the person, assault, battery, false imprisonment, malicious prosecution, sexual harassment or sexual abuse is excluded
- 7.2 any award of punitive or exemplary damages by any court outside New Zealand is excluded
- 7.3 a Limit of Indemnity of NZD 1,000,000, inclusive of Costs and Expenses, for any one (1) Period of Insurance will apply
- 7.4 an excess of NZD 1,000, inclusive of Costs and Expenses, will apply.

8. Tenant's liability

Notwithstanding Exclusion 18 (Property Owned) of this section, QBE will indemnify the Insured in respect of Property Damage to premises (including landlord's fixtures and fittings) leased or rented, but not owned, by the Insured.

9. Underground services

QBE will indemnify the Insured in respect of Personal Injury or Property Damage in New Zealand to existing underground services, cables, pipes or equipment,

provided that:

- 9.1 prior to the commencement of any work, the Insured enquired of the relevant authority, corporation or company as to the location of such services
- 9.2 the Insured took all reasonable precautions to prevent Personal Injury or Property Damage
- 9.3 a Limit of Indemnity of NZD 250,000 for any one (1) Period of Insurance will apply
- 9.4 an excess of NZD 5,000 will apply.

10. Vehicle and watercraft service/repair liability

Notwithstanding Exclusions 17 (Property Being Worked Upon), 18 (Property Owned) and 19 (Vehicles) of this section, QBE will indemnify the Insured in respect of Personal Injury or Property Damage in New Zealand arising from the service or repair by the Insured of any Vehicle, and/or Watercraft not exceeding ten (10) metres in length, and/or its internal combustion engine, accessories or fittings,

provided that:

- 10.1 the Vehicle or Watercraft is not owned, hired, leased or rented by the Insured, and is in the care, custody or control of the Insured for the purposes of the service or repair
- 10.2 the cost of rectifying defective workmanship in respect of the actual part or parts worked on is excluded
- 10.3 a Limit of Indemnity of NZD 250,000 for any one (1) Period of Insurance will apply
- 10.4 an excess of NZD 2,500 will apply.

11. Vibration or removal of support

QBE will indemnify the Insured in respect of Personal Injury or Property Damage in New Zealand arising from vibration, or from removing, weakening or interfering with the support of land or buildings,

provided that:

- 11.1 the land or buildings are not owned or occupied by the Insured
- 11.2 the Personal Injury or Property Damage arises from the actions of the Insured
- 11.3 a Limit of Indemnity of NZD 250,000 for any one (1) Period of Insurance will apply
- 11.4 an excess of NZD 5,000 will apply.

12. Visits to the North American countries

Notwithstanding Exclusions 11 (North American Countries) and 12 (North American Exports) of this section, QBE will indemnify the Insured in respect of Personal Injury or Property Damage in the North American Countries arising solely out of the actions of non-resident directors, executives and salespersons temporarily visiting the North American Countries in the course of the Business of the Insured,

provided that:

- 12.1 the Insured has no premises, branch or subsidiary operation in the North American Countries
- 12.2 any work performed in, on or in connection with the manufacture, assembly, repair, servicing, maintenance, amendment, alteration or enhancement to any of the Insured's Products is excluded
- 12.3 the ownership, possession, control, or maintenance or use of any Vehicle or Watercraft is excluded
- 12.4 the Limit of Indemnity, inclusive of Costs and Expenses, for any one (1) Period of Insurance will be the Limit of Indemnity in the Schedule.

Definitions applicable to Section B

In this Policy, including any endorsements, unless specifically stated to the contrary:

1. 'Aircraft' means:

Any machine, craft or object made or intended to fly or move in or through the atmosphere or space.

2. 'Business of the Insured' means:

2.1 the activities stated in the Schedule, which will include:

- 2.1.1 the provision and management of lunch-room facilities, and/or social, sports, welfare and similar organisations for the benefit of the Insured's employees
- 2.1.2 Fire Brigade, first aid, medical and ambulance services.

2.2 any other activity that the Insured may undertake, provided that the Insured gives prior written notice to QBE and obtains Our acknowledgement of coverage.

3. 'Costs and Expenses' means:

- 3.1 any legal costs, disbursements, witnesses' costs, assessors or adjusters' costs or experts' costs incurred by QBE, or by the Insured, with Our prior written consent
- 3.2 any first-aid expenses incurred by the Insured arising from a Personal Injury.

4. 'Damages' means:

Any amount payable as compensation, including interest.

5. 'Insured' means:

- 5.1 the insured(s) named in the Schedule.
- 5.2 all subsidiaries incorporated in New Zealand, and any other organisation under the sole control of a named insured and which it actively manages:
 - 5.2.1 as at the commencement of the Period of Insurance
 - 5.2.2 acquired or taken control of during the Period of Insurance, provided that a named insured gives written notice to QBE and obtains Our acknowledgement of coverage within sixty (60) days of acquisition or taking control
- 5.3 every director, officer, employee, partner or shareholder of an insured designated in paragraphs 5.1 and 5.2 while acting within the scope of their duties as such, except in respect of any liability under the Companies Act
- 5.4 every principal, in respect of its vicarious liability arising solely out of the performance by an insured, as defined under paragraph 5.1, 5.2 or 5.3, of any contract of work for such principal, but always subject to the terms of this Policy
- 5.5 every office bearer or member of social and sporting clubs formed with the consent of the insured (other than an insured designated in paragraph 5.4 or 5.6) in respect of claims arising from the duties connected with the activities of any such club
- 5.6 each joint venturer, co-venturer or joint lessee of a named insured but only with respect to liability incurred as a joint venturer, co-venturer or joint lessee, provided that a named insured gives written notice to QBE and obtains Our written acknowledgement of coverage for such joint venture, co-venture or joint lease.

6. 'Insured's Products' means:

Any goods, products, including labels, instructions for use and advice and property after they have ceased to be in the possession of or under the control of the Insured, manufactured, constructed, erected, installed, repaired, serviced, treated, sold, supplied or distributed by the Insured (including any container, other than a Vehicle).

7. 'Medical Persons' means:

Any legally qualified medical practitioner, legally qualified registered nurse, dentist or first-aid attendant.

8. 'North American Countries' means:

The United States of America and Canada, including those territories to which the legal jurisdiction of the United States of America or Canada extends or applies.

9. 'Occurrence' means:

An event, including continuous or repeated exposure to substantially the same general conditions, which results in Personal Injury or Property Damage that is neither expected nor intended from the standpoint of the Insured.

10. 'Personal Injury' means:

Bodily injury (including resulting death, illness or care), disability, shock, fright, mental anguish or mental injury, including such injury arising from the following by the Insured:

- 10.1 false arrest, wrongful detention, false imprisonment or malicious prosecution or humiliation
- 10.2 wrongful entry or eviction or other invasion of the right of privacy
- 10.3 assault and battery, provided that this was not committed by or at the direction of the Insured except for the purpose of preventing or eliminating danger to persons or property
- 10.4 trespass to the person.

11. 'Policy Territory' means:

Worldwide, unless otherwise stated in the Schedule, and subject to Exclusions 11 (North American Countries) and 12 (North American Exports) and the limitations to New Zealand only in Automatic Coverage Clauses 5 (Product Withdrawal Costs), 7 (Punitive or Exemplary Damages), 9 (Underground Services), 10 (Vehicle and Watercraft, Service/Repair Liability) and 11 (Vibration or Removal of Support) of this section.

12. 'Pollutants' means:

Any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acid, alkalis, chemicals and waste. (Waste includes material to be recycled, reconditioned or reclaimed.)

13. 'Property Damage' means:

- 13.1 physical injury to or destruction or loss of tangible property including resulting loss of use; or
- 13.2 loss of use of tangible property which has not been physically injured or destroyed.

14. 'Vehicle' means:

Any type of machine on wheels or on self-laid tracks made or intended to be propelled by other than manual or animal power and any trailer or other attachment made or intended to be drawn by any such machine, and includes its accessories, tools, specialised equipment and spare parts.

15. 'Watercraft' means:

Any vessel, craft or object made or intended to float on or in or travel on or through water.

Exclusions applicable to Section B

QBE will not indemnify the Insured for any claim in respect of or alleging:

1. Aircraft and watercraft

Personal Injury or Property Damage arising out of the ownership, possession, control, operation, use, service or repair, loading or unloading by the Insured of any:

- 1.1 Aircraft or hovercraft
- 1.2 Watercraft exceeding ten (10) metres in length.

2. Aircraft products

Personal Injury or Property Damage arising out of any of the Insured's Products which, with the Insured's knowledge, were, or were intended to be, incorporated into the structure, machinery or controls of any Aircraft or aerial device.

3. Contractual liability

Liability assumed by the Insured under any contract or agreement except to the extent that the Insured would have been liable even if there had been no contract in existence. However, this exclusion will not apply to liability pursuant to any:

- 3.1 lease or hire of real or personal property
- 3.2 representation or warranty of fitness or quality in respect of the Insured's Products, or a representation or warranty that work performed by or on behalf of the Insured will be done in a workmanlike manner
- 3.3 contracts or agreements noted in the Schedule.

4. Defamation

Libel or slander.

5. Defective materials, design and workmanship

Liability for the cost of:

- 5.1 rectifying, repairing or replacing defective materials
- 5.2 remedying any defect in any design, plan or specification
- 5.3 remedying defective workmanship
- 5.4 correcting or improving any work undertaken by the Insured.

6. E-commerce

- 6.1 Personal Injury or Property Damage arising, directly or indirectly, out of, or in any way involving, the Insured's 'Internet Operations':

This exclusion does not apply to Personal Injury or Property Damage arising out of any material which is already in print by the manufacturer in support of its product, including but not limited to product use and safety instructions or warnings, and which is also reproduced on its site.

For the purposes of this exclusion, 'Internet Operations' means the following:

- 6.1.1 use of electronic mail systems by the Insured or the Insured's employees, including part-time and temporary staff, contractors and others within the Insured's organisation;
- 6.1.2 access through the Insured's network to the world wide web or a public internet site by the Insured's employees, including part-time and temporary staff, contractors and others within the Insured's organisation
- 6.1.3 access to the Insured's intranet (meaning internal company information and computing resources) which is made available through the world wide web for customers of the Insured or others outside the Insured's organisation
- 6.1.4 the operation and maintenance of the Insured's website.

Nothing in this exclusion will be construed to extend coverage under this Policy to any liability which would not have been covered in the absence of this exclusion.

- 6.2 Property Damage to computer data or programs and their storage media arising directly or indirectly out of or caused by, through or in connection with:
- 6.2.1 the use of any computer hardware or software
 - 6.2.2 the provision of computer or telecommunication services by the Insured or on the Insured's behalf
 - 6.2.3 the use of computer hardware or software belonging to any third party, whether authorised or unauthorised, including damage caused by any computer virus.
- 7. Failure to insure**
Any breach of an obligation to insure property.
- 8. Fines and penalties**
Liability arising for any fines, penalty, performance warranty or liquidated damages, or punitive and/or exemplary damages.
- 9. Insured's products**
Property Damage to the Insured's Products.
- 10. Loss of use**
Loss of use of tangible property which has not been physically damaged or destroyed resulting from:
- 10.1 a delay in or lack of performance by or on behalf of the Insured of any contract or agreement; or
 - 10.2 the failure of the Insured's Products to meet the level of performance, quality, fitness or durability that has been warranted or represented expressly or impliedly by the Insured.
- 11. North American countries**
Personal Injury or Property Damage happening in or instituted against the Insured in the North American Countries, including any liability from or based on a settlement or arbitration in, or a judgment or order of a court in the North American Countries.
- 12. North American exports**
Liability arising from any of the Insured's Products knowingly exported by the Insured (or exported by the Insured's agents or distributors with the Insured's knowledge) to the North American Countries, including any liability arising from or based on a settlement or arbitration in, or a judgment or order of a court in the North American Countries.
- 13. Offshore gas or oil platforms**
Liability arising from work performed on or about any offshore gas or oil platform.
- 14. Personal injury to employees**
- 14.1 personal Injury arising directly or indirectly out of or in the course of employment with the Insured
 - 14.2 an obligation on the Insured under any accident or worker's compensation legislation or any industrial award, employment contract, agreement or determination.
- 15. Pollution**
Personal Injury or Property Damage, including costs and expenses incurred in prevention, removing, nullifying or clean-up, arising out of the discharge, dispersal, release or escape of Pollutants into or on land, the atmosphere, or any watercourse or body of water, unless the discharge, dispersal, release or escape is sudden, identifiable, unexpected and unintended from the standpoint of the Insured and takes place in its entirety at a specific time and place.
- 16. Professional liability**
An error or omission in professional advice or service.
- 17. Property being worked upon**
Property Damage to property on which the Insured is or has been working, and which arises out of such work.
- 18. Property owned**
Property Damage to any property owned by, or in the care, custody or control of the Insured.
- 19. Vehicles**
Personal Injury or Property Damage arising out of the ownership, possession, repair, operation, control, maintenance or use by or on behalf of the Insured of any Vehicle which is:
- 19.1 required by legislation to be registered and/or licensed and/or insured
 - 19.2 being operated while in an unsafe condition
 - 19.3 being operated by any person who is under the influence of any liquor, substance or drug
 - 19.4 insured, or in respect of which the Insured is insured under any other policy, even if the other insurance is not collectable because of a breach of condition or applicable exclusion.

20. Withdrawal or repair of products

The recall (including making any refund on the price paid), repair, withdrawal, inspection, removal, altering, treating, modification, replacement or loss of use of the Insured's Products or any property of which such products form a part, or of work undertaken by or for the Insured, if such products, property or work are withdrawn from the market or from use, because of any defect or deficiency which the Insured knew of or had reason to suspect or because of any Government or statutory ban, order or notice.

Conditions applicable to Section B

1. Claims

- 1.1 The Insured will not (without the prior consent in writing of QBE) make any admission, offer, promise or payment in connection with any Occurrence or claim. QBE will be entitled to take over and conduct in the name of the Insured the defence or settlement of any claim, and the prosecution of any available counterclaim. QBE will have full discretion in the conduct of any proceedings in connection with any claim or available counterclaim.
- 1.2 The Insured will use its best endeavours to preserve all property, products, appliances and plant and all other things which may assist in the investigation or defence of a claim or in the exercise of rights of subrogation and, so far as may be reasonably practicable, no alteration or repair will be effected without the written consent of QBE until We have had an opportunity of inspection and authorised such repairs.
- 1.3 In the event of an Occurrence, or the likelihood of an Occurrence, the Insured will promptly take, at its own expense, all reasonable steps to prevent Personal Injury or Property Damage arising from or continuing out of the same or similar conditions, but such expense will not be recoverable from QBE.
- 1.4 The Insured will give all information, co-operation and assistance as QBE may require in the prosecution, defence or settlement of any claim, including any available counterclaim.

2. Claims notification

The Insured will advise in writing as soon as practicable and provide all information to QBE of any:

- 2.1 Occurrence or circumstances which might give rise to a claim under this Policy
2. notice of claim, writ, summons, proceedings, impending prosecution or inquest which might give rise to a claim under this Policy, regardless of whether the Insured believes that:
 - 2.2.1 a claim will not in fact proceed
 - 2.2.2 any claim which, should it proceed, would fall below the applicable excess
 - 2.2.3 any claim which, should it proceed, would be groundless.

3. Constructive notice/No waiver

- 3.1 Except as provided by statute, notice to any agent or broker or knowledge possessed by any agent, broker or other person will not constitute notice to QBE.
- 3.2 The terms of this Policy will not be waived or changed, except by written agreement with QBE.

4. Cross-liability/Joint insureds

If more than one (1) legal entity is insured under this Policy, each entity is covered in the same manner as though QBE had issued them with a separate policy. If there is a claim against more than one (1) entity in respect of the same Occurrence, only one (1) excess and one (1) Limit of Indemnity will apply, regardless of the number of entities indemnified. Where the Limit of Indemnity is insufficient to fully indemnify all insured entities, it will apply in priority to the named Insured.

The coverage under this condition does not apply to entities which are insured under this Policy by Definition 5.4 or 5.6 in this section.

5. Discharge of liabilities

At any time, QBE will be entitled to pay to the Insured the balance of indemnity available up to the applicable Limit of Indemnity or such lesser sum for which the claim can be settled. Upon such payment, QBE will be under no further liability to the Insured under this Policy, except for Costs and Expenses already incurred up until the time of payment.

6. Due diligence

The Insured will take all reasonable steps to avoid the happening of any Occurrence and, in particular, will ensure that:

- 6.1 all employees are properly trained and supervised
- 6.2 every employee complies with all statutory obligations
- 6.3 there are proper safety systems, equipment, practices and procedures in place, and that all employees use and comply with them at all times
- 6.4 all plant is kept properly maintained.

7. Hot work

Where the Insured carries out any welding and/or cutting work, it is warranted that the Insured will comply with the New Zealand Standard 4781:1973 Code of Practice for Safety in Welding and Cutting (or any similar or substitute legislation).

SECTION C: STATUTORY LIABILITY

Insuring clauses

1. Cover

QBE will indemnify the Insured for:

- 1.1 any Fine payable by the Insured upon its conviction for an Offence
- 1.2 Defence Costs, except where it is alleged that the Insured has acted or omitted to act knowingly, wilfully or intentionally unless the Insured is subsequently Acquitted
- 1.3 Civil Defence Legal Costs incurred under any Act of Parliament, except an Excluded Act, arising out of an Event.

Provided that the Event:

- (a) happened on or after the Retroactive Date; and
- (b) is first notified in writing to QBE by the Insured during the Period of Insurance, or within twenty-one (21) days after its expiry.

2. Defence costs

QBE will pay Defence Costs and Civil Defence Legal Costs in addition to the Limit of Indemnity, provided that QBE's maximum liability to pay for all Defence Costs and Civil Defence Legal Costs during the Period of Insurance for any claim covered under this section will not exceed NZD 1,000,000 in the aggregate or an amount equivalent to the Limit of Indemnity, whichever is lesser amount.

3. Excess

The excess specified in the Schedule will be borne by the Insured in respect of each and every Event, inclusive of Defence Costs.

4. Limit of indemnity

- 4.1 QBE's liability to indemnify the Insured for all claims under this Policy is limited in the aggregate to the amount specified in the Schedule applicable for the Period of Insurance within which the Insured has or should have first notified QBE of the Event.
- 4.2 Where an Event is alleged to have taken place on, over or between a number of specified dates, which fall within more than one (1) Period of Insurance, for the purposes of the applicable Limit of Indemnity and excess, the Event will be treated as if it occurred in the Period of Insurance in which the Insured has or should have first notified QBE of the Event.

Optional extensions applicable to Section C

The terms of this Policy apply to each extension to this Policy unless expressly stated otherwise. The terms of each extension apply only to that extension and not to the rest of the Policy unless expressly stated otherwise.

1. Consolidation or merger

If the Insured acquires by merger, consolidates with, is merged into or acquired by any other entity after the commencement of the Period of Insurance, the Insured will give written notice to QBE as soon as practicable, together with such information as QBE may require; and the Insured will pay QBE any required additional premium.

2. Newly created or acquired subsidiary company

If any Subsidiary Company is created or acquired by the Insured after the commencement of the Period of Insurance, such Subsidiary Company will be included as an Insured,

provided that;

- 2.1 written notice of such creation or acquisition is given to QBE, together with appropriate underwriting information and payment of any required additional premium; and
- 2.2 in respect of acquisitions, cover granted under this Policy will only apply to any Event discovered by the Insured after the date of such acquisition and which took place after the Retroactive Date, and if the Insured has agreed to indemnify the Subsidiary Company in respect of the Event.

Definitions applicable to Section C

1. 'Acquitted' means:

Dismissal of charges before or after a defended hearing, or entry of a not guilty verdict (but will not include the disposition of a charge pursuant to a plea bargain where multiple informations have been laid).

2. 'Act of Parliament' means:

Any Act of the New Zealand Parliament, other than an Excluded Act (including any amendment to or re-enactment, and any code, rules, regulations, by-laws or other subordinate legislation made under such Act).

3. 'Business of the Insured' means:

The activities specified in the Schedule, and any other commercial activity which the Insured now undertakes or may undertake, provided that the Insured has given written notice to QBE and has obtained Our acknowledgement.

4. 'Civil Defence Legal Costs' means:

The legal costs and expenses, including witness costs and expenses, necessarily and reasonably incurred in relation to:

- 4.1 a formal inquiry by a regulatory body which could lead to a prosecution for an Offence
- 4.2 proceedings before a human rights or privacy complaints review tribunal.

5. 'Defence Costs' means:

The legal costs and expenses, including defence witness costs and expenses, necessarily and reasonably incurred with the prior consent of QBE in investigating and/or defending any prosecution or threatened prosecution alleging the commission of an Offence.

6. 'Event' means:

Any occurrence, act, circumstance or omission in the course of the Business of the Insured that gives rise, or may give rise, to a prosecution for an Offence, a formal inquiry by a regulatory body, which could lead to a prosecution for an Offence, or proceedings before a human rights or privacy complaints review tribunal.

7. 'Excluded Act' means:

Arms Act 1983
Aviation Crimes Act 1972
Crimes Act 1961
Proceeds of Crime Act 1991
Summary Offences Act 1981
Transport Act 1962
Transport (Vehicle and Driver Registration and Licensing) Act 1986
and any other Act of Parliament specified in the Schedule as an excluded act.

8. 'Fine' means:

Any fine, infringement fee, court costs, witness expenses or solicitor's costs, ordered by a court to be paid by the Insured upon its conviction for an Offence, for which QBE may legally indemnify the Insured. This does not include a fine imposed pursuant to the Health and Safety in Employment Act, but this definition is extended to include a sentence of reparation imposed following a conviction under that Act.

9. 'Inception Date' means:

The commencement date of the Period of Insurance specified in the Schedule.

10. 'Insured' means:

The named insured specified in the Schedule, and includes any person who is, or was at the time of the Event, a trustee, director, officer, sole trader, partner or employee of the Insured. If the named insured is a company, the insured also includes any company that is, or was at the time of the Event, a subsidiary of the named insured for the purposes of the Companies Act 1993 (subject to Optional Extension 2 (Newly Created or Acquired Subsidiary Company) of this section, if applicable).

11. 'Offence' means:

Any information alleging the commission by the Insured of an offence under an Act of Parliament, for which the Insured is liable to a Fine if convicted.

Exclusions applicable to Section C

QBE will not indemnify the Insured in respect of:

1. Daily continuing offences/orders and costs

- 1.1 the cost or payment of any enforcement order, remedial order or compliance order
- 1.2 any fine imposed in relation to a daily continuing Offence where the fine is imposed in relation to a period of time after the Insured first received notice from the informant or his/her employing body of the intention to commence a prosecution in relation to that Offence
- 1.3 any pecuniary penalty, restitution, compensation or order for payment pursuant to Section 78, 80, 83 or 89(3)(b) of the Commerce Act 1986
- 1.4 any order for payment of costs made under the Commissions of Inquiry Act 1908
- 1.5 any court order in the nature of damages or compensation, except a sentence of reparation following a Health and Safety in Employment Act prosecution
- 1.6 any action, proceeding, inquiry, investigation or prosecution taken against the Insured by the Inland Revenue Department or any other revenue-collecting authority.

2. Deliberate disregard

A prosecution, unless the Insured is Acquitted, for any Offence which has allegedly resulted from the:

- 2.1 deliberate disregard by the Insured of any of the provisions of any Act of Parliament which the Insured is alleged to have contravened
- 2.2 Insured instructing another person to discharge one (1) or more of its obligations under any of the provisions of the Acts and failing to take all reasonable steps to ensure that the Insured's obligations were discharged as instructed
- 2.3 failure by the Insured to comply with any lawful abatement notice or enforcement order, improvement notice, prohibition notice or suspension notice, building consent, notice to rectify, compliance schedule, gazetted notice, or order made by a human rights or privacy complaints review tribunal.

3. Dishonest acts

Any Event actually or allegedly brought about or contributed to by any dishonest, fraudulent or malicious act or omission by or on behalf of the Insured.

4. Personal grievances

Any contract of service or any intended contract of service with any current, former or prospective employee, including any personal grievance or like action by an employee, but this exclusion will not apply to any investigation, inquiry or prosecution by the Department of Labour pursuant to the Health and Safety in Employment Act 1992.

5. Private prosecutions

Any investigation of and defence of any action, proceeding, inquiry, investigation or prosecution taken against the Insured by a person other than the statutory authority or enforcement agency given that responsibility under the Health and Safety in Employment Act 1992.

6. Retroactive date

Any Event after the Retroactive Date but before the Inception Date, if the Insured knew, or ought reasonably to have known, of the Event and failed to notify the Event to QBE before the Inception Date.

Conditions applicable to Section C

1. Apportionment of costs

- 1.1 If there are claims against the Insured which contain uninsured allegations or allegations against other parties than the Insured, and QBE, will use their best efforts to agree upon fair and proper allocation of Defence Costs between insured and uninsured allegations.
- 1.2 If the Insured and QBE disagree over the allocation of Defence Costs, then QBE will advance such Defence Costs We believe to be covered under this Policy, until a different allocation is negotiated, arbitrated or judicially determined. In this case, QBE will, if requested by the Insured, refer the dispute for determination of allocation to an expert mutually agreeable to all parties and such determination will apply retrospectively to all Defence Costs incurred in the defence of that particular claim or Event.

2. Claims notification and duties

As a condition precedent to QBE's liability, the Insured will give QBE immediate notice in writing of any Event. At the same time, or as soon thereafter as possible, the Insured will:

- 2.1 provide full details of any notice, circumstance or Event, together with any documentation, information and details, that are relevant to the claim
- 2.2 use its best endeavours to preserve all property, products, appliances, plant and other items which may assist QBE in the investigation or conduct of a claim. So far as may be reasonably practical no alteration or repair will be effected until QBE has first had the opportunity of inspection
- 2.3 co-operate with QBE or Our authorised representatives in all aspects of the claim
- 2.4 not make any admission of fact or liability, offer, promise or payment or settlement without the prior consent in writing of QBE
- 2.5 if the Offence alleged is a continuing one, immediately take, at its expense, all reasonable steps to prevent its continuation.

3. Conduct of defence

- 3.1 Upon acceptance by QBE of the Insured's claim to be indemnified, QBE will have the right to nominate a solicitor to act as the Insured's solicitor and will have the total discretion as to the conduct and control of the Insured's defence, including strategy, in respect of any prosecution, inquiry, settlement negotiation or proceedings against the Insured.
- 3.2 Where the Insured disagrees with QBE over the Insured's defence, including strategy, QBE will provide the Insured in writing with Our reasons and will refer them to an independent barrister for a final determination as to their reasonableness. This independent determination will be binding on both the Insured and QBE.

4. Extended reporting period

If QBE refuses to renew this Policy, the Insured may, upon payment of an additional premium not exceeding one hundred per cent (100%) of the full annual premium payable for the expiring Period of Insurance, extend the cover under this Policy for a further twelve (12) months from the date of expiry,

Provided that:

- 4.1 this option to extend the Policy is notified in writing to QBE within thirty (30) days of the date of expiry
- 4.2 the extension will only apply in respect of an Event before the expiry date
- 4.3 an offer by QBE of any renewal terms or premiums different from expiring terms or premiums will not constitute a refusal to renew
- 4.4 the Limit of Indemnity available under this extension is part of and not in addition to the Limit of Indemnity and the Defence Costs Limit of Indemnity available under this extension is part of and not in addition to the Defence Costs Limit of Indemnity specified in the Policy Schedule.

5. Prejudice

Where the Insured's breach or non-compliance with Conditions 2 (Claims Notification and Duties) and 7 (Reasonable Precautions) of this section results in prejudice to QBE in relation to the handling of any claim, the indemnity afforded by this Policy in respect of such claim will be reduced to such sum as would have been payable by QBE in the absence of such prejudice.

6. Progress payment of legal expenses

In the event of an Event for which QBE has agreed to indemnify the Insured, on production of acceptable evidence of expenditure prior to the final settlement of the claim, QBE will pay Defence Costs or Civil Defence Legal Costs necessarily and reasonably incurred by the Insured.

7. Reasonable precautions

As a condition precedent to QBE's liability, the Insured will take all reasonable precautions to:

- 7.1 avoid, prevent or minimise any circumstances that may give rise to an Event
- 7.2 comply with all relevant statutory obligations.

SECTION D: EMPLOYER'S LIABILITY

Insuring clauses

QBE will indemnify the Insured in respect of legal liability for any Claim brought by an Employee for:

1. Cover A

Damages as a result of that Employee sustaining Personal Injury in New Zealand that arose out of, or in the course of, such Employee's employment in the Business of the Insured, provided that the Personal Injury WAS NOT a Personal Injury for which coverage is determined to exist under the Accident Rehabilitation and Compensation Insurance Act 1992 or the Accident Insurance Act 1998 or any amending or replacement legislation; or

Cover B

Punitive or Exemplary Damages as a result of that Employee sustaining Personal Injury in New Zealand that arose out of, or in the course of, such Employee's employment in the Business of the Insured, provided that the Personal Injury WAS a Personal Injury for which coverage is determined to exist under the Accident Rehabilitation and Compensation Insurance Act 1992 or the Accident Insurance Act 1998 or any amending or replacement legislation,

Provided that in respect of Cover A and B above:

- 1.1 the Claim against the Insured was first made during the Period of Insurance;
- 1.2 the Claim was immediately notified in writing to QBE by the Insured during the Period of Insurance or within twenty-one (21) days of expiry, time being of the essence; and
- 1.3 the Personal Injury arose out of an event, circumstance, accident or happening which occurred subsequent to the Retroactive Date and before the expiry of the Period of Insurance,

Provided that claims which do not accord with paragraphs 1.1, 1.2 and 1.3 of this Insuring Clause are not the subject of this insurance or any indemnity.

2. Defence costs

In addition to the Limit of Indemnity, QBE will indemnify the Insured for Defence Costs:

- 2.1 in the defence of any Claim covered under Covers A and B; and
- 2.2 incurred where, in respect of a Claim, the Insured makes an application to the Court to determine whether the Personal Injury is properly the subject of cover pursuant to the Accident Rehabilitation and Compensation Insurance Act 1992 or the Accident Insurance Act 1998 or any amending or replacement legislation.

Limits of indemnity applicable to Section D

1. Limit of indemnity

QBE's maximum liability for all Claims that are notified to QBE during the Period of Insurance is limited to the Limit of Indemnity specified in the Schedule, irrespective of:

- 1.1 the number of Claims made;
- 1.2 the number of Personal Injuries sustained; or
- 1.3 whether indemnity is granted for Claims under either or both Cover A or B of this Policy,

Where:

- 1.4 the Insured gives notice of any Claim to QBE during the Period of Insurance; and
- 1.5 the Employee in a subsequent period of insurance makes further Claims, or alleges further and/or different injuries (the additional claims) were suffered in the event, circumstance, accident or happening which first gave rise to the original Claim; then all such additional claims will be treated for the purposes of the Limit of Indemnity and excess as if they had been incurred in the Period of Insurance in which the first notice of Claim was originally made.

2. Defence costs

QBE's maximum liability for all Defence Costs during the Period of Insurance for any claim covered under this section will not exceed NZD 1,000,000 in the aggregate or an amount equivalent to the Limit of Indemnity, whichever is the lesser.

Definitions applicable to Section D

1. 'Business of the Insured' means:

The activities specified in the Schedule and any other activity which the Insured now undertakes or may undertake in accordance with its Memorandum of Association or Constitution.

2. 'Claim' means:

- 2.1 legal proceedings instituted and served upon the Insured;
- 2.2 any threat or intimation of a claim; or
- 2.3 any circumstance which may give rise to a claim.

3. 'Damages' means:

For the purposes of Cover A, moneys ordered to be paid or agreed to be paid pursuant to (respectively) a judgment or settlement of any common law claim brought or capable of being brought in the District or High Court of New Zealand in respect of Personal Injury to an Employee of the Insured, but not including any such moneys payable pursuant to any remedy or relief provided in any statute of New Zealand, whether by way of damages, penalty, fine, reparation or other order.

4. 'Defence Costs' means:

The costs and expenses and/or defence witness costs and expenses and/or defence expert costs and expenses incurred in investigating and/or defending any Claim.

5. 'Employee' means:

Any person who is directly employed by the Insured in connection with the Business of the Insured and in respect of whose remuneration the Insured deducts PAYE tax at source; and includes any temporary employees engaged either directly or indirectly by the Insured to be employed in connection with the Business of the Insured.

6. 'Insured' means:

The named insured specified in the Schedule and, if the insured is a Company, it includes its directors and any Subsidiary Company and its directors.

7. 'Personal Injury' means:

Bodily injury, sickness, disease or infection, including death resulting therefrom, and will further include disability, shock, fright, mental anguish or mental injury sustained by an Employee, which arose out of or in the course of such Employee's employment in the Business of the Insured.

8. 'Punitive or Exemplary Damages' means:

For the purposes of Cover B, moneys ordered to be paid as punitive or exemplary damages pursuant to a judgment of the District or High Court of New Zealand in respect of a common law action brought by an Employee against the Insured in relation to Personal Injury.

Exclusions applicable to Section D

Specific exclusions to Cover A of section D

Under Cover A, QBE will not indemnify the Insured in respect of any Claim:

1. in respect of Personal Injury suffered by an Employee for which cover to any extent is provided by the Accident Rehabilitation and Compensation Insurance Act 1992, or would be so provided if the Insured were not an exempt employer under the Act, or the Accident Insurance Act 1998 or any amending or replacement legislation, or would have been so provided had a claim been lodged under such legislation
2. seeking aggravated, punitive or exemplary damages

3. as a result of an Employee sustaining Personal Injury which arose out of any wilfully intentional or deliberate conduct of the Insured which it knew or should have known could cause injury to any Employee
4. resulting from or contributed to by any dishonest, fraudulent, criminal, or malicious act or omission of the Insured
5. as a result of an Employee sustaining Personal Injury which arose out of the failure by the Insured to comply with any improvement, prohibition or suspension notice issued to the Insured or its Employees under the Health and Safety in Employment Act 1992.

Specific exclusions to Cover B of section D

Under Cover B, QBE will not indemnify the Insured in respect of:

1. any Claim in respect of Personal Injury suffered by an Employee which, if made the subject of a claim under the Accident Rehabilitation and Compensation Insurance Act 1992 or the Accident Insurance Act 1998 or any amending or replacement legislation, would not be eligible for cover under such legislation
2. any Claim seeking any relief other than Punitive or Exemplary Damages
3. any Claim by an Employee as a result of that Employee sustaining Personal Injury which was caused by any wilfully reckless and/or contumelious conduct of the Insured
4. any Claim as a result of an Employee sustaining Personal Injury which arose out of the wilfully reckless omission of the Insured to comply with any improvement, prohibition or suspension notice issued to the Insured under the Health and Safety in Employment Act 1992 or any amending or replacement legislation.

General exclusions applicable to Section D

QBE will not indemnify the Insured in respect of any Claim:

1. for Damages or Punitive or Exemplary Damages sought by, or awarded to, an Employee pursuant to a cause of action pleading or alleging against the Insured trespass to the person, assault, battery, false imprisonment, intentional physical harm, malicious prosecution, sexual harassment or sexual abuse
2. as a result of the Insured directing an Employee to undertake activities otherwise than in the course of or in connection with the usual activities of the Business of the Insured
3. as a result of an Employee sustaining Personal Injury that arose out of any event, circumstances or accident that occurred prior to the Retroactive Date
4. for liability under any judgment entered in any court other than a New Zealand court or any debt incurred by the Insured as the result of such a judgment.
5. arising from any event, circumstance, accident or happening of which the Insured had become aware prior to the inception of the Period of Insurance and which a reasonable person in the Business of the Insured would at any time prior to such inception have considered may give rise to a Claim
6. alleging, resulting from, arising directly or indirectly out of, in consequence of, or in any way involving the existence, mining, handling, processing, manufacture, sale, distribution, storage or use of asbestos, asbestos products and/or products containing asbestos.

Conditions applicable to Section D

1. Additional insureds

The Insured will be entitled to request QBE to add as an Insured any new company or entity formed or acquired by it during the Period of Insurance, provided that the Insured exercises active management control over its activities and first obtains QBE's written consent and endorsement to its inclusion as an Insured. QBE will be entitled to charge an additional premium for such Additional Insureds.

2. Circumstances notified

Provided that notice referred to in Condition 3 (Claims Notification and Duties) of this section has been given to QBE prior to the expiration of the Period of Insurance, any Claim arising from the circumstances thus notified which is subsequently made after the expiration of such Period of Insurance will be deemed to have been made and notified to QBE during the currency of this Policy.

3. Claims notification and duties

The Insured will give QBE prompt advice in writing upon becoming aware of any circumstance(s) or event(s) that may constitute a Personal Injury or Claim. At the same time, or as soon thereafter as possible, the Insured will:

- 3.1 provide full details of such, together with any documentation, information and details that are relevant to the Claim
- 3.2 co-operate with QBE or their authorised representatives in the investigation, settlement or defence of the Claim
- 3.3 not make any admission of liability, offer, promise, payment or settlement in connection thereto without the prior consent in writing of QBE
- 3.4 if the Personal Injury is a continuing one, promptly take, at its expense, all reasonable steps to prevent its continuation.

4. Conduct of defence

Upon acceptance by QBE of the Insured's Claim to be indemnified, QBE will have the right to nominate a solicitor to act as the Insured's solicitor and will have total discretion as to the conduct or defence of any Claim, prosecution, inquiry, settlement negotiation, or proceedings instituted by any person against the Insured.

5. Excess

The excess specified in the Schedule will be borne by the Insured, uninsured and at its own risk, in respect of each and every Claim under this Policy. QBE's liability will be in excess of this amount.

6. Extended reporting period

If QBE refuses to renew this Policy, the Insured may, upon payment of an additional premium of fifty per cent (50%) of the full annual premium payable for the expiring Period of Insurance, extend the cover under this Policy for a further twelve (12) months from the date of expiry, but only in respect of Claims arising out of any Personal Injury which occurred before such expiry. This option to extend the Policy must be notified in writing to QBE within thirty (30) days of the Policy expiring.

7. Prejudice

Where the Insured's breach or non-compliance with General Conditions 2 (Cancellation) and 3 (Cessation) of this Policy results in prejudice to QBE in relation to the handling of any Claim which in all other respects qualifies to be indemnified under this Policy, the indemnity afforded by this Policy in respect of such Claim will be reduced to such sum as would have been payable by QBE in the absence of such prejudice.

8. Reasonable precautions

The Insured will take all reasonable precautions to prevent Personal Injury and comply with all statutory obligations relating to the Business of the Insured.

SECTION E: LEGAL DEFENCE FOR SPORTS AND EVENTS

In consideration of the payment to QBE Insurance (Australia) Limited ('QBE') of the premium and in reliance on the written proposal, declaration and any other underwriting information provided, which will be deemed to be incorporated into and to be the basis of this Policy, QBE will indemnify the Insured as follows.

Insuring clauses

1. QBE will indemnify the Insured for the Legal Expenses of defending Legal Action arising out of any events or activities run by the Insured for fundraising or charitable purposes.
2. QBE's maximum liability for all claims that are notified to Us during the Period of Insurance is limited to the Limit of Indemnity specified in the Schedule.

Types of legal action

1. Criminal prosecution

Any alleged offence under any statute, other than a traffic offence (see paragraph 2.2 below); however, the Insured must:

- 1.1 be reasonably intending to plead not guilty; and
- 1.2 not have been charged with any similar offence in the five (5) years before the first date of the Period of Insurance.

2. Traffic prosecution

Any alleged offence or infringement under the Transport Act 1962 or the Traffic Regulations 1976 or their amendments, for which the Insured is liable to be disqualified from driving. However, the Insured must:

- 2.1 be reasonably intending to plead not guilty;
- 2.2 not have been charged with a similar offence or infringement in the five (5) years before the first date of the Period of Insurance; and
- 2.3 if the Insured is under twenty-five (25) years old at the date of the alleged offence, be at risk of being imprisoned for more than three (3) months.

3. Other actions

- 3.1 civil actions arising out of or subsequent to any criminal prosecution covered by this Policy
- 3.2 any other action against the Insured, which, at QBE's sole option and absolute discretion, We elect to treat as covered by this Policy.

Exclusions applicable to Section E

QBE will not be liable in relation to:

1. Legal Action arising from anything which, as at the date on which the Insured first bought continuous legal defence insurance from QBE, had already happened or is alleged to have already happened and/or was still happening or is alleged to have still been happening, if the Insured were or should reasonably have been aware that it might give rise to Legal Action
2. Legal Action arising from any:
 - 2.1 alleged breach of professional duty, or duty as a director, trustee or power of attorney
 - 2.2 business or commercial activities, or any other activities from which the Insured derives income or revenue, other than the activities specified in the Schedule
 - 2.3 agreement under which the Insured has agreed to accept a liability that the Insured would not otherwise have had

3. Legal Action in which more than one (1) person within the definition of Insured is involved, and have conflicting positions and interests
4. Legal Action that the Insured has intentionally encouraged
5. Legal Expenses for which the Insured did not first obtain Our written consent
6. Fines, penalties, damages of any type or any other form of compensation payment, and interest.

Definitions applicable to Section E

1. 'Insured' means:

The named insured specified in the Schedule, and includes any person who is, or was at the time of the Legal Action, a trustee, director, officer, sole trader, partner or employee of the insured.

2. 'Lawyer' means:

Any solicitor, firm of solicitors or barrister appointed to act for the Insured in relation to any Legal Action.

3. 'Legal Action' means:

Any legal proceedings, including appeals, in any court or tribunal in New Zealand. However:

- 3.1 the conduct which has caused them must have all taken place in New Zealand;
- 3.2 the Insured must have been first threatened with the legal action during the Period of Insurance; and
- 3.3 the Insured must also have notified QBE of the legal action during the Period of Insurance or within twenty-one (21) days of its expiry.

4. 'Legal Expenses' means:

The amount which the Insured had to spend, and which it was reasonable for the Insured to spend, on Legal Action in relation to:

- 4.1 lawyers' fees, expenses and disbursements
- 4.2 costs ordered against the Insured by a court or tribunal, or agreed to pay as part of an out-of-court settlement. However, before the Insured agrees to pay these costs, it first must have to obtain written consent from QBE
- 4.3 witnesses' expenses.

Conditions applicable to Section E

1. Appeals

QBE will not be liable for Legal Expenses in relation to any appeal unless:

- 1.1 QBE receives written notice of the Insured's intention to appeal at least five (5) clear days before any time limit for bringing the appeal expires
- 1.2 QBE has given prior written consent to the appeal.

2. Claims conduct

- 2.1 The Insured must take all reasonable care and precautions to avoid any circumstances that might give rise to a claim under this Policy.
- 2.2 The Insured must not appoint a lawyer to defend any Legal Action without first obtaining QBE's written consent, except in an emergency in which case the Insured can call QBE's emergency assistance service. QBE can:
 - 2.2.1 withhold or withdraw consent to any lawyer whom the Insured proposes to appoint or have appointed;
 - 2.2.2 require the Insured to appoint a lawyer from Our preferred panel.
- 2.3 QBE can immediately stop reimbursing the Insured's Legal Expenses if:
 - 2.3.1 the Insured unreasonably refuses to follow the appointed lawyer's advice about how the Legal Action should be conducted, including about making or accepting any offer, compromise or payment, or discontinuing the Legal Action or any step in it;
 - 2.3.2 the Insured does not give QBE or the appointed lawyer full co-operation and assistance; or
 - 2.3.3 a barrister of at least twenty (20) years' experience advises QBE that the Legal Action has no reasonable prospect of being economically successful and the Insured declines to accept QBE's written instructions on how to resolve or terminate the Legal Action.

3. Co-operation

- 3.1 In relation to any Legal Action, the Insured must:
 - 3.1.1 give QBE all information and documents which We request
 - 3.1.2 keep QBE fully and continually informed of all significant developments
 - 3.1.3 advise QBE immediately of any offer or compromise proposal, or recommendations to make any offer or compromise proposal
 - 3.1.4 authorise and instruct the Insured's lawyer to do likewise.

- 3.2 If QBE instructs the Insured in writing to do so, the Insured must direct the appointed lawyer to have any account referred to any appropriate officer, authority or body to be taxed, assessed or audited.
- 3.3 The Insured must let QBE have any amounts that are recovered on account of Legal Expenses and co-operate with and assist QBE in any steps which QBE wants to take, at Our own cost, to recover these amounts.

4. Financial condition

Unless the Insured notifies QBE and it is agreed in writing to continue cover under this Policy, the Insured immediately stops being insured under this Policy if the Insured:

- 4.1 commits any act of bankruptcy;
- 4.2 is made bankrupt; or
- 4.3 makes any arrangement with creditors, including a compromise or assignment.

5. Reporting and notice

The Insured must give QBE immediate notice in writing of any:

- 5.1 circumstances that might give rise to a claim under this Policy, as soon as the Insured becomes aware of them. It does not matter whether or not the Insured believes that a claim is justified or Legal Action is likely
- 5.2 notice or any indication that someone intends or may intend to make a claim against the Insured that might result in Legal Action. It does not matter whether or not the Insured believes that a claim is justified or Legal Action is likely
- 5.3 claim against the Insured that might result in Legal Action. It does not matter whether or not the Insured believes that a claim is justified or Legal Action is likely
- 5.4 document served on the Insured in relation to Legal Action.

General definitions: Applicable to all sections of this policy

1. 'Limit of Indemnity' means:

The limit of indemnity specified in the Schedule.

2. 'Period of Insurance' means:

The period of insurance specified in the Schedule.

3. 'Policy' means:

This document, the Schedule and any endorsements.

4. 'QBE' means:

QBE Insurance (Australia) Limited.

5. 'Retroactive Date' means:

The date specified as such in the Schedule.

6. 'Schedule' means:

The current schedule to this Policy.

General exclusions: Applicable to all sections of this policy

QBE will not be liable for any loss or claim:

1. Asbestos

Alleging, resulting from, arising directly or indirectly out of, in consequence of, or in any way involving the existence, mining, handling, processing, manufacture, sale, distribution, storage or use of asbestos, asbestos products and/or products containing asbestos.

2. Nuclear

Alleging or directly or indirectly caused by or contributed to or arising from nuclear energy operations, including but not limited to:

- 2.1 the erection, installation, occupation, repair, maintenance, control, use or ownership of any nuclear power station, similar reactor building or nuclear reactor; or
- 2.2 any process of nuclear fission or fusion or handling radioactive material or irradiated nuclear fuel which operations include but are not limited to:
 - 2.2.1 the use of nuclear reactors such as atomic piles, particle accelerators or generators or similar devices; or
 - 2.2.2 the use, handling or transportation of radioactive materials; or
 - 2.2.3 the use, handling or transportation of any weapon of war or explosive device employing nuclear fission or fusion.

3. Radioactivity

Alleging or directly or indirectly caused by, contributed to or arising from:

- 3.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. For the purpose of this exclusion only, combustion will include any self-sustaining process of nuclear fission
- 3.2 nuclear weapons material.

4. Sanctions

For liability arising where the provision of such cover, payment of such claim or provision of such indemnity would expose QBE to any sanction, prohibition or restriction under United Nations' resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, United States of America, Australia or New Zealand.

5. Terrorism

Alleging or directly or indirectly caused by, resulting from or in connection with death, injury, illness, loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any Act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purposes of this exclusion, 'Act of Terrorism' means an act, including but not limited to the use of force or violence and/or threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), which from its nature or context is done for, or in connection with, political, religious, ideological or similar purposes or reasons, including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This exclusion will also apply to death, injury, illness, loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any Act of Terrorism.

6. War

Alleging or directly or indirectly caused by, resulting from or in connection with war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, military rising, rebellion, revolution, insurrection, military or usurped power, martial law or looting or pillaging in connection therewith, strike, lock-out, riot, civil commotion, mutiny, confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority or any act or condition incidental to any of the above.

General conditions: Applicable to all sections of this policy

1. Assignment

No assignment of interest under this Policy will bind QBE unless We have has endorsed its written consent on the Schedule.

2. Cancellation

- 2.1 The Insured may cancel this Policy at any time by notifying QBE in writing.
- 2.2 QBE may cancel this Policy at any time by sending thirty (30) days' notice in writing to the Insured of the date from which cancellation is to take effect. Such notice may be delivered personally, posted or emailed to the Insured or its representative at the address last notified to QBE.

In either event, QBE will retain or be entitled to the premium for the period during which this Policy has been in force, based on QBE's cancellation rates.

3. Cessation

The Insurance provided by this Policy ceases absolutely at the time and date specified in the Schedule.

4. Dishonest claim

If any Insured or any person or entity who is entitled to indemnity under this Policy makes any dishonest statement in respect of an application for indemnity under this Policy, this insurance will be voidable from the commencement of the Period of Insurance, and all benefits under this Policy will be forfeited.

5. Goods and services tax

Where, upon receiving any indemnity payment under this Policy, the Insured Person or the Association (or both) are liable to pay tax under Section 5 (13) of the Goods and Services Tax (GST) Act 1985 (or any statutory amendment or re-enactment of the section or Act) and/or under the equivalent legislation in any other jurisdiction specified in the Schedule, QBE will indemnify the Insured Person or the Association (or both) for the amount of that tax. The indemnity under this clause is payable by QBE in addition to the Limit of Indemnity.

6. Fraud

If any answers or statements in support of any claim, or in any information provided to obtain, amend or renew this insurance, are false in any way, QBE will not provide any indemnity under this Policy.

7. Inspection

QBE will be permitted, but not obligated to, inspect the Insured's property and operations at any reasonable time.

8. Insured's right to contest

If the Insured will refuse to consent to any settlement recommended by QBE and will elect to contest or continue any legal proceedings, QBE's liability will not exceed the amount for which the claim or circumstance could have been settled, less any Excess, plus the Defence Costs incurred up to the date of such refusal.

9. Interpretation of Words

Words importing persons will include companies and other legal entities. The singular includes reference to the plural and vice versa, and reference to any gender includes all other genders.

10. Jurisdiction

This insurance will be governed by the laws of New Zealand whose courts will have jurisdiction in any dispute arising hereunder.

11. Legal counsel

Neither QBE nor the Insured will require each other to contest any legal proceedings in respect of any Claim against the Insured, unless legal counsel (to be mutually agreed upon by the Insured and QBE, or in default of agreement, nominated by QBE) will recommend that such proceedings should be contested.

In formulating such recommendation, counsel will take into account the economics of the matter - the damages and costs that are likely to be recovered by the plaintiff, the likely costs of defence and the prospects of the Insured successfully defending the action. The cost of counsel's opinion will, for the purposes of this Policy, be regarded as part of the Defence Costs.

In the event that counsel recommends that, having regard to all the circumstances, the matter should not be contested but should be settled, provided that settlement can be achieved within limits which, in counsel's opinion, are reasonable, then the Insured will not object to any such settlement and will co-operate with QBE to effect such settlement in accordance with this Policy, subject to General Condition 8 (Insured's Right to Contest) above.

12. Material change of risk

The Insured will give immediate notice to QBE of any material change to any of the facts or circumstances existing at the commencement of the Period of Insurance. QBE will be entitled to charge an additional premium.

13. Notices by QBE

- 13.1 Any notice given in writing by QBE to the first named Insured in the Schedule, or to the broker through which the Insured arranged this Policy with QBE, will be deemed to be notice to each Insured.
- 13.2 Any notices by QBE may be effected by sending an email or letter to the last known contact number or address.
- 13.3 Any such notice will be deemed to have been received, if sent by email, at the time of transmission, and if sent by post, three (3) business days after the date of posting.

14. Other insurance

The Insured will immediately advise QBE of any other insurance or indemnity from which it is entitled to receive any benefit in respect of any notified claim or circumstance.

This Policy will only cover the part of the loss which exceeds the amount of indemnity payable under such other insurance or indemnity - even if the other insurance or indemnity has a term to that effect. However, this will not apply if the other insurance or indemnity is a specific excess layer cover over this Policy.

15. Policy disputes

This Policy will be governed by the laws of New Zealand whose courts will have exclusive jurisdiction in relation to any dispute that may arise.

16. Severability and non-imputation

To the extent that this Policy insures more than one (1) Insured, the application of any exclusion to any Insured will not prejudice the right of any other Insured to indemnity under this Policy,

provided that such remaining parties will:

- 16.1 be entirely innocent of such fact or misstatement; and
- 16.2 QBE's total liability in the aggregate will not exceed the Limit of Indemnity or the Defence Costs Limit of Indemnity.

17. Subrogation

In the event of a payment under this Policy to or on behalf of the Insured, QBE will be subrogated to and/or receive assignment of all the Insured's rights of recovery against all persons and organisations and the Insured will do all that is necessary to assist QBE in the exercise of such rights including prosecuting proceedings in the name of the Insured at QBE's expense. Any such amount so recovered will first be apportioned, firstly, to reimburse QBE to the extent of its actual payment hereunder and, secondly, to pay the Insured's excess.

18. Written notice

All notices, including notification of Claims, will be sent to QBE in writing at the postal or email address stated on this Policy.