

A photograph of a scientist in a blue lab coat and glasses, holding a prosthetic hand. Another person is visible in the background, also in a lab coat, looking through a magnifying glass. The scene is set in a laboratory with various equipment and a bright light source.

Life Science Package Policy

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Part 1 – Important Information

About this Document

This is an important document that must be read carefully before making a decision in relation to this insurance (which is not compulsory). The Insurer is responsible for the content of this document.

This document can help You to:

- decide whether this insurance will meet Your needs; and
- compare it with other products You may be considering.

See the General Definitions section page for details of terms that have special meaning. In some cases, a word with special meaning may be defined in a specific part of the Policy.

What You Need to Read and Understand

This document contains:

- this Part 1 – Important Information section which contains certain important notices, terms and other information;
- Part 2 – Policy Cover Sections which sets out the sections of cover this insurance can provide (subject to eligibility) and the other standard terms and conditions which will apply to the covers (including any applicable limits and exclusions). It includes General Definitions which set out the special meaning We give to certain words used in the Policy. Other words may be specially defined in a Policy section, term or condition.

If We issue You with a Policy, You will be given a Schedule. The Schedule sets out certain additional terms applicable to the Policy and other matters specific to You such as the cover You have been issued and the Policy Limits of Liability.

The Schedule must be read together with this document and any other documents We agree with You will form part of the Policy that We issue. Where We agree, documents other than this document and the Schedule will form part of the Policy, any such documents will be dated and will include a statement identifying them as part of the Policy.

Together they form the Policy/contract with Us. These are all important documents and should be carefully read together and kept in a safe place for future reference.

About SURA Life Sciences

SURA Life Sciences is a trading name of SURA Technology Risks Pty Ltd ABN 84 664 644 482 (SURA Life Sciences) who is an Authorised Representative (AR No. 1301575) of SURA Pty Ltd (SURA) ABN 36 115 672 350 AFSL 294313 In issuing this Policy, SURA and its Authorised Representative SURA Technology Risks will be acting under an authority given to it by the Insurers. This means that when issuing this Policy, SURA and its Authorised Representative SURA Technology Risks will be acting as an agent for the Insurers, not for you.

Our contact details are:

Level 14, 141 Walker Street
North Sydney NSW 2060
Telephone: (02) 9930 9500

About the Insurers

This insurance is underwritten by certain Lloyd's Underwriters (referred to as We, Our, Us or Insurer) led by HDU Managing Agent Ltd, Syndicate 382.

Lloyd's and Lloyd's Underwriters have been involved in the insurance of Australian risks for over 150 years. Lloyd's Underwriters are authorised to carry on general insurance business under the Insurance Act 1973 (Cth). You can obtain further details of the syndicate numbers and the proportions of this insurance for which each of the Lloyd's Underwriters is liable by requesting them from Us. In the event of loss, each Lloyd's Underwriter (and their Executors and Administrators) is only liable for their own share of the loss. Refer to the Several Liability notice for more information on the specified Lloyd's Underwriter's liability.

You should contact SURA Technology Risks in the first instance in relation to this insurance.

Lloyd's contact details are:

Lloyd's Australia Limited
PO Box R1745 Royal Exchange NSW 1225
Telephone: (02) 8298 0700

Claims Made and Notified Insurance

Section 5 – Medical Professional Liability and Section 6(2) – Third Party Cyber Liability are issued on a Claims made and notified basis.

This means that those sections of the Policy cover Claims that are first made against You by another person as defined in those sections and notified to Us during that Period of Insurance, (not claims You submit for cover under the Policy).

Where Your Policy has an extended or additional reporting period, subject to the terms of the Policy, You may have:

- an additional period to tell Us about claims first made against You during the Period of Insurance; and/or
- cover for claims first made against You during the extended reporting period and which You tell Us about during the extended or additional reporting period – provided the claim is based on an act, error, or omission alleged to have been committed prior to the expiry of the Period of Insurance.

The Policy doesn't cover facts or circumstances of which You first became aware prior to the Period of Insurance, and which You knew or ought reasonably to have known had the potential to give rise to a claim against You, subject to any continuity of cover term which may, subject to its terms, provide an exception to this.

If a retroactive date is applied or shown on the Schedule, the Policy also doesn't cover claims arising directly or indirectly from any acts, errors, omissions, or events actually or allegedly occurring before that date.

The above is only a high-level overview. You must refer to the Policy for full terms and conditions that apply.

Operation of section 40(3) of the Insurance Contracts Act 1984 (Cth)

This notice and explanation does not form part of and is not a term of the Policy.

However, if, during the Period of Insurance, You become aware of facts that might give rise to a Claim against You, section 40(3) of the Insurance Contracts Act 1984 (Cth) provides You with an option to notify Us of those facts during the Period of Insurance. If You give Us written notification of such facts during the Period of Insurance pursuant to section 40(3), as long as You were not aware of such facts prior to the commencement of the Period of Insurance, the Policy will apply to a Claim (arising from those facts) made against You, even if the Claim is made against You after expiry of the Period of Insurance, subject to other terms, conditions and exclusions of the Policy.

For Your information, section 40(3) is detailed below:

“(3) Where the insured gave notice in writing to the insurer of facts that might give rise to a claim against the insured as soon as was reasonably practicable after the insured became aware of those facts but before the insurance provided by the contract expired, the insurer is not relieved of liability under the contract in respect of the claim, when made, by reason only that it was made after the expiration of the period of insurance provided by the contract”.

Complaints and Dispute Resolution Process

If you have any concerns or wish to make a complaint in relation to the Policy, Our services or your insurance claim, please let Us know and We will attempt to resolve your concerns in accordance with Our Internal Dispute Resolution procedure. Please contact SURA Technology Risks in the first instance:

Complaints Officer

SURA Technology Risks

Level 14, 141 Walker Street

North Sydney NSW 2060

Telephone: (02) 9930 9500

Email: IDR@SURA.com.au

We will acknowledge receipt of your complaint and do Our utmost to resolve the complaint to your satisfaction within 10 business days.

If We cannot resolve your complaint to your satisfaction, We will escalate your matter to Lloyd’s Australia who will determine whether it will be reviewed by their office or the Lloyd’s UK Complaints team. Lloyd’s contact details are:

Lloyd’s Australia Limited

PO Box R1745 Royal Exchange NSW 1225

Telephone: (02) 8298 0700

Email: idraustralia@lloyds.com

A final decision will be provided to you within 30 calendar days of the date on which you first made the complaint unless certain exceptions apply.

You may refer your complaint to the Australian Financial Complaints Authority (AFCA), if your complaint is not resolved to your satisfaction within 30 calendar days of the date on which you first made the complaint or at any time. AFCA can be contacted as follows:

Australian Financial Complaints Authority

GPO Box 3

Melbourne VIC 3001

Telephone: 1800 931 678

Email: info@afca.org.au

Website: www.afca.org.au

Your complaint must be referred to AFCA within 2 years of the final decision, unless AFCA considers special circumstances apply. If your complaint is not eligible for consideration by AFCA, you may be referred to the Financial Ombudsman Service (UK) or you can seek independent legal advice. You can also access any other external dispute resolution or other options that may be available to you.

Service of Suit

The Insurers accepting this insurance agree that:

- a) if a dispute arises under the Policy, the Policy will be subject to Australian law and practice and the Insurers will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
- b) any summons to be served upon the Insurers may be served upon:

Lloyd's Underwriters' General Representative in Australia

PO Box R1745 Royal Exchange NSW 1225

Email: serviceofsuitaus@lloyds.com

who has authority to accept service on the Insurers' behalf;

- c) if a suit is instituted against any of the Insurers, all Insurers participating in the Policy will abide by the final decision of such Court or any competent Appellate Court.

In the event of a claim arising under the Policy immediate notice should be given to SURA Technology Risks.

Disclaimer

When the First Named Insured enters into the Policy they confirm and warrant that they have read the Policy documents provided to them.

Excess

If You make a claim under the Policy, You may be required to pay one or more Excesses. The descriptions of these Excesses and the circumstances in which they are applied are explained in this document, the Schedule and other documents forming the Policy.

The amount of any Excess(es) applicable to the Policy will be provided to the Insured before they agree to enter into a Policy with Us.

If You don't pay the Excess(es) to Us or as We direct, We may deduct the Excess(es) from the amount We pay in relation any claim. Unless We expressly state otherwise, the relevant Limit of Indemnity We pay up to is less any applicable Excess(es).

When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim

We may only ever refuse to pay or reduce the amount We pay under a claim to the extent permitted by applicable law.

Some situations in which We may refuse to pay or reduce the amount We pay under a claim under the Policy (to the extent permitted by applicable law) include (but are not limited to):

- a) when You apply for cover (this includes new business, variations, extensions, reinstatements and renewals) and do not comply with Your Duty of Disclosure;
- b) if You do not comply with or meet a Policy term or condition or We can rely on an extension or other limitation (all referred to as terms when used in the Policy) – see Our rights regarding the operation of or breach of a term of the Policy;
- c) if You make a fraudulent claim – see Fraudulent claims for more detail;
- d) where You have not or are not acting in accordance with Your duty of utmost good faith under the Insurance Contracts Act 1984 (Cth) – see Duty of Utmost Good Faith for more detail.

We may also have cancellation rights in the above circumstances to the extent permitted by applicable law.

Subject to applicable law, the amount of any claim entitlement can also be affected and/or reduced by other things, including any limits (e.g. monetary or time limits) or Excess(es), any outstanding Premium and recoveries You or We might make relevant to a loss as set out in the Policy terms.

See Our rights regarding the operation of or breach of a term of the Policy for more detail.

Our rights regarding the operation of or breach of a term of the Policy

We will only rely on any rights We have regarding the operation of or breach of a term of the Policy to the extent permitted by law (including Our right to refuse or reduce a claim if You do not comply with or meet a Policy term or condition or where an exclusion or other limitation applies). The law can be complex and We provide a high-level summary below of some key examples on how the Insurance Contracts Act 1984 (Cth) may affect matters depending on the circumstances. To the extent of any inconsistency the Insurance Contracts Act 1984 (Cth) will prevail.

Other laws can apply beyond the Insurance Contracts Act 1984 (Cth) such as the Corporations Act 2001 (Cth) and the Australian Securities and Investment Commissions Act 2001 (Cth) and You need to seek Your own advice regarding all relevant legal rights You may have.

Terms allowing Us to refuse to pay or reduce a claim (in whole or part) by reason of an act by You or some other person that occurred after the Policy was entered into

Subject to Our rights in relation to fraudulent claims explained below, by reason of section 54 of the Insurance Contracts Act 1984 (Cth), where the effect of the Policy (this includes all terms or conditions, including any exclusion or other limitation) is to allow Us to refuse to pay or reduce a claim (in whole or part) by reason of an act by You or some other person that occurred after the Policy was entered into, We will exercise Our rights under the Policy as explained below.

(Refer to the Insurance Contracts Act 1984 (Cth) for full details.)

Under section 54, an act by You or some other person includes an omission and inaction and an act or omission that has the effect of altering the state or condition of the subject-matter of the Policy or of allowing the state or condition of that subject-matter to alter.

How We exercise Our rights where section 54 applies (unless there is a fraudulent claim)

- Where:
 - the act was necessary to protect the safety of a person or to preserve Property;
 - it was not reasonably possible for You or the other person not to do the act; or
 - You prove no part of the loss that gave rise to the claim was caused by the act,We will not refuse to pay or reduce the claim by reason only of that act.
- Where the act:
 - could not reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy; or
 - could reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy but You prove that some part of the loss that gave rise to the claim was not caused by the act, so far as the claim concerns that part of the loss,

We may not refuse to pay or reduce the claim by reason only of that act, but We can reduce Our Liability in respect of the claim by an amount that fairly represents the extent to which Our interests were prejudiced as a result of that act.

- Otherwise, where the act could reasonably be regarded as being capable of causing or contributing to a loss in respect of which insurance cover is provided by the Policy, We may refuse to pay the claim.

(Refer to the Insurance Contracts Act 1984 (Cth) for full details.)

Terms allowing Us to refuse or reduce a claim because of pre-existing defects or imperfections existing before the Policy was entered into

Only where section 46 of the Insurance Contracts Act 1984 (Cth) is applicable to the Policy:

- where a claim is made in respect of a loss that occurred as a result, in whole or in part, of a defect or imperfection in a thing; and
- at the time when the contract was entered into the First Named Insured was not aware of, and a reasonable person in the circumstances could not be expected to have been aware of, the defect or imperfection,

We may not rely on any provision included in the Policy that has the effect of limiting or excluding Our liability under the Policy by reference to the condition, at a time before the Policy was entered into, of the thing. This does not apply if the Policy is in an excluded class to which section 46 does not apply.

(Refer to the Insurance Contracts Act 1984 (Cth) for full details.)

Fraudulent claims

In all cases, where a claim is made fraudulently under:

- the Policy; or
- the Insurance Contracts Act 1984 (Cth) against Us by a person who is not the First Named Insured,

We may refuse payment of the claim to the extent permitted by law. Under section 56(2) of the Insurance Contracts Act 1984 (Cth) a court may, if only a minimal or insignificant part of the claim is made fraudulently and non-payment of the remainder of the claim would be harsh and unfair, order Us to pay, in relation to the claim, such amount (if any) as is just and equitable in the circumstances.

(Refer to the Insurance Contracts Act 1984 (Cth) for full details.)

Duty of Utmost Good Faith

The following can also (where applicable) affect Our and Your rights and obligations regarding the operation of, reliance on, or breach of a term of the Policy:

- section 13 of the Insurance Contracts Act 1984 (Cth) requires each party to the Policy to act towards the other party, in respect of any matter arising under or in relation to it, with the utmost good faith. The obligation also extends to Third Party Beneficiaries as defined in the Insurance Contracts Act 1984 (Cth) but only applies to them after the contract is entered into.
- section 14 of the Insurance Contracts Act 1984 (Cth) provides that if reliance by a party to the Policy on a provision of the Policy would be to fail to act with the utmost good faith, the party may not rely on the provision.

(Refer to the Insurance Contracts Act 1984 (Cth) for full details.)

Terms Apply to Extent Enforceable

A term (or part of a term) of the Policy will be applied to the extent it is not unenforceable under applicable law.

Your Duty of Disclosure

Before the First Named Insured enters into an insurance contract (referred to as You and Your in this notice), You have a duty to tell Us anything that they know, or could reasonably be expected to know, may affect Our decision to insure You and on what terms. You have this duty until We agree to insure You.

You have the same duty before they renew, extend, vary, or reinstate an insurance contract.

You do not need to tell Us anything that:

- reduces the risk We insure You for;
- is of common knowledge;
- We know or should know as an insurer; or
- We waive the duty to tell Us about.

If You do not tell Us something

If You fail to comply with Your Duty of Disclosure, and We would not have entered into the contract, for the same premium and on the same terms and conditions, had the failure not occurred, We may, subject to applicable law:

- be entitled to cancel Your contract or reduce the amount We will pay You if You make a claim, or both; or
- if Your failure to tell Us is fraudulent, refuse to pay a claim and treat the contract as if it never existed.

Subject to applicable law or unless We state otherwise, a breach of the duty by one contracting Insured affects all contracting insureds in these ways.

Avoiding misrepresentations

Under the Insurance Contracts Act 1984 (Cth) if the First Named Insured (referred to as You and Your in this notice) makes a misrepresentation to Us before the insurance contract is entered into (this includes before each renewal, extension, variation, replacement or reinstatement of an insurance contract) and We would not have entered into the contract, for the same premium and on the same terms and conditions, had the misrepresentation not occurred, We may, subject to applicable law:

- be entitled to cancel Your contract or reduce the amount We will pay You if You make a claim, or both; or
- if Your misrepresentation was fraudulent, refuse to pay a claim and treat the contract as if it never existed.

Subject to applicable law or unless We state otherwise, a breach of the duty by one Insured affects all insureds in these ways.

A misrepresentation includes a statement that is in any way false, misleading, dishonest or which does not fairly reflect the truth. For example, a statement of fact that is not true, a statement of opinion that is not the subject of an honestly held belief or a statement of intent that never existed at the time provided. We will not treat something as a misrepresentation merely because You failed to answer a question or gave an obviously incomplete or irrelevant answer to a question.

Refer to the Insurance Contracts Act 1984 (Cth) for full details as this is only a summary.

Answering Our questions

Answers to Our questions help Us decide whether to provide this insurance and if so, on what terms. When answering Our questions:

- take reasonable care to make sure Your answers are true, honest, up to date and complete in all respects. You may breach the duty if You answer without any care as to its truth or if You only guess or suspect the truth. If in doubt, pause the application and obtain the true facts before answering; and

- if another person is answering for You, We will treat their answers as Yours. In such a case, You should check the questions have been answered correctly on Your behalf by them.

Please note that You have obligations beyond these pre contractual duty of disclosure and avoiding misrepresentation obligations once the contract is entered into, which are set out in the contract terms and applicable law.

General Insurance Code of Practice

The Insurance Council of Australia Limited has developed the General Insurance Code of Practice (the Code), which is a voluntary self-regulatory code for use by all insurers. The Code aims to raise the standards of practice and service in the general insurance industry.

Lloyd's Australia Limited has adopted the Code on terms agreed with the Insurance Council of Australia. For further information on the Code, please visit www.codeofpractice.com.au.

The Code Governance Committee (CGC) is an independent body that monitors and enforces insurers' compliance with the Code. For more information on the Code Governance Committee (CGC) go to <https://insurancecode.org.au>.

Goods and Services Tax (GST)

The amount payable by the First Named Insured for the Policy includes an amount for GST.

When We pay a Claim, Your GST status will determine the amount We pay.

The amount that We are liable to pay under the Policy will be reduced by the amount of any Input Tax Credit (ITC) that You are or may be entitled to claim for the supply of goods or services indemnified by that payment.

You must advise Us of Your correct Australian Business Number (ABN) and Taxable Percentage. Taxable Percentage is Your entitlement to an ITC on the premium as a percentage of the total GST on that premium. Any GST liability arising from Your incorrect advice is payable by You.

Where the settlement of a claim is less than the applicable Limit of Indemnity or the other limits applicable to this Policy, We will only pay the GST (less Your ITC) applicable to the settlement. This means that if these amounts are not sufficient to indemnify the whole claim, We will only pay the GST relating to Our share of the settlement for the whole claim.

We will pay the claim by reference to the GST exclusive amount of any supply made by any Business of Yours which is relevant to the claim.

GST and ITC have the same meaning as given to those words or expressions in A New Tax System (Goods and Services Tax) Act 1999 (Cth) and related or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable).

Our Contract with the First Named Insured

Where We agree to enter into a Policy with the First Named Insured it is a contract of insurance between Us and the First Named Insured.

If We issue the First Named Insured with a Policy, they will be given a Schedule. The Schedule sets out certain additional terms applicable to the Policy and other matters specific to the Policy such as the cover issued and the Limit(s) of Indemnity.

The Schedule must be read together with this document and any other documents We agree with the First Named Insured will form part of the Policy that We issue. Any new or replacement Schedule We may send the First Named Insured detailing changes to the Policy or the Period of Insurance, will become the current Schedule, which the First Named Insured should carefully read and retain.

Where We agree, documents other than this document and the Schedule will form part of the Policy (often called endorsements), any such documents will be dated and will include a statement identifying them as part of the Policy.

Together they form the First Named Insured's Policy/contract with Us. These are all important documents and should be carefully read together and kept in a safe place for future reference.

The Policy also extends cover to certain persons or entities who are not contracting parties but are entitled to access cover by reason of section 48 of the Insurance Contracts Act 1984 (Cth) as third party beneficiaries.

They are persons other than the First Named Insured set out in the definition of You, Your, Insured in the General Definitions section.

No insurance is provided in relation to the interest of any persons not specified as being entitled to benefit under the Policy under the definition of You, Your, Insured.

For details on the rights and obligations of such Third Party Beneficiaries see Third Party Interests on page 18.

Privacy Statement

In this Privacy Statement the use of We, Our or Us means SURA Technology Risks trading as SURA Life Sciences, SURA Pty Ltd and the Insurers unless specified otherwise.

In this Privacy Statement the use of personal information includes sensitive information.

We are committed to protecting the privacy of the personal information You provide to Us.

The Privacy Act 1988 (Cth) contains the Australian Privacy Principles which require Us to tell You that We collect, handle, store and disclose Your personal and sensitive information for the specific purpose of:

- deciding whether to issue a policy,
- determining the terms and conditions of Your Policy,
- compiling data to help develop and identify other products and services that may interest clients, and
- handling claims.

Personal information is information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- a) whether the information or opinion is true or not;
- b) whether the information or opinion is recorded in a material form or not.

Sensitive information includes, amongst other things, information about an individual's racial or ethnic origin, political opinions, membership of a political organisation, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual orientation or practices, criminal record, health information about an individual, genetic information, biometric information or templates.

You have given Us Your consent to collect, use and disclose Your personal and sensitive information in order to provide You with the relevant services and/or products.

When You give Us personal information about other individuals, We rely on You to have made or make the individual aware that You will or may provide their personal information to Us and the types of other parties and service providers We may provide it to, the relevant purposes We and the other parties and service providers will use it for, and how they can access it. If You have not done or will not do either of these things, You must tell Us before You provide the relevant personal information to Us.

We will protect Your information using physical, technical, and administrative security measures to reduce the risks of loss, misuse, unauthorised access, disclosure and alteration. Some of the safeguards that We use are firewalls and data encryption, physical access controls to Our data centres, and information access authorisation controls.

We disclose personal information to other parties and service providers whom We believe are necessary to assist Us and them in providing the relevant services and/or products. For example, in handling claims, We may have to disclose Your personal and other information to other parties and service providers such as Our claim management partner, other insurers, reinsurers, loss adjusters, external claims data collectors, investigators and agents, facilitators, assessors or other parties as required by law. We limit the use and disclosure of any personal information provided by Us to them to the specific purpose for which We supplied it.

We may disclose Your personal information to Our insurers, reinsurers, related entities and service providers overseas where it is reasonably necessary for, or directly related to, the functions, services or activities We provide to You. When We transfer Your information to other countries, including countries which may not have data protection laws that provide the same level of protection that exists in Australia, We will protect the information as described in this Privacy Policy.

If You do not provide the personal information requested and/or do not provide Us with Your consent to the use and disclosure of Your personal information as set out in this Privacy Statement, Your insurance application may not be accepted, or We may not be able to administer Your Policy, or You may be in breach of Your duty of disclosure, the consequences of which are set out under the heading Your Duty of Disclosure in this document.

We will notify you as soon as possible if Your personal information is involved in a data breach that is likely to result in serious harm to You.

If You would like a copy of Our Privacy Policies, would like to seek access to or correct Your personal information, opt out of receiving materials We send, complain about a breach of Our privacy or You have any query on how Your personal information is collected or used, or any other query relating to Our Privacy Policies, please contact Us.

Sanctions

We shall not be deemed to provide cover and We shall not be liable to pay any claim or provide any benefit under the Policy to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose Us, Our parent company or Our ultimate controlling entity to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, the Commonwealth of Australia, United Kingdom or the United States of America.

Several Liability

The liability of an Insurer under this contract is several and not joint with other Insurers party to the Policy. An Insurer is liable only for the proportion of liability it has underwritten.

An Insurer is not jointly liable for the proportion of liability underwritten by any other Insurer. Nor is an Insurer otherwise responsible for any liability of any other Insurer that may underwrite the Policy.

The proportion of liability under the Policy underwritten by an Insurer (or, in the case of a Lloyd's syndicate, the total of the proportions underwritten by all the Lloyd's Underwriters of the syndicate taken together) is shown in the Schedule.

In the case of a Lloyd's syndicate, each Lloyd's Underwriter of the syndicate (rather than the syndicate itself) is an Insurer.

Each Lloyd's Underwriter has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the Lloyd's Underwriters of the syndicate taken together). The liability of each Lloyd's Underwriter of the syndicate is several and not joint with any other Lloyd's Underwriter. A Lloyd's Underwriter is liable only for that Lloyd's Underwriter's proportion.

A Lloyd's Underwriter is not jointly liable for any other Lloyd's Underwriter's proportion. Nor is any Lloyd's Underwriter otherwise responsible for any liability of any other Insurer that may underwrite this contract. The business address of each Lloyd's Underwriter is Lloyd's, One Lime Street, London EC3M 7HA. The identity of each Lloyd's Underwriter of a Lloyd's syndicate and their respective proportion may be obtained by writing to Market Services, Lloyd's, at the above address.

Although reference is made at various parts in this clause to this contract in the singular, where the circumstances so require this should be read as a reference to contracts in the plural.

The Insurers bind themselves each and for their own part and not one for another.

Each Insurer's liability under the Policy shall not exceed that percentage or amount of the risk shown against that Insurer's name.

Third Party Interests

The contracting insureds (the First Named Insured) are the only parties to the Policy. No insurance is provided in relation to the interest of any persons not specified as being entitled to benefit under the Policy.

The benefit of the cover under the Policy is extended automatically to Third Party Beneficiaries. They are not contracting parties and only access the benefit of cover by reason of the operation of section 48 of the Insurance Contracts Act 1984 (Cth). The following sets out how the Policy operates in relation to such persons (subject always to the operation of applicable law).

Access to cover only applies from the time they become a Third Party Beneficiary and ends when they are no longer a Third Party Beneficiary.

Nothing in the Policy is intended to give any such Third Party Beneficiaries any right to enforce any term of the Policy which that person would not have had but for the Insurance Contracts Act 1984 (Cth). Their rights and obligations are subject to the operation of the Insurance Contracts Act 1984 (Cth) as it applies to such persons and other applicable law.

They:

- have, in relation to a claim, the same obligations to Us as they would have if they were the First Named Insured; and
- may discharge the First Named Insured's obligations in relation to the loss, damage or liability.

We also have the same defences to an action by such persons as We would have in an action by the First Named Insured including, but not limited to, defences relating to the First Named Insured's conduct (whether the conduct occurred before or after the Policy was entered into). Any exclusions applying to the First Named Insured also apply to a Third Party Beneficiary claiming under the Policy.

Such persons have no right to cancel or vary the Policy or its cover – only the First Named Insured (as the contracting party) and We can do this. If We cancel or vary the Policy or its cover, We do not need to obtain such persons' consent to do so.

We also do not provide any notices in relation to this insurance to such persons as they are not a contracting party to the Policy. We only send notices to the First Named Insured who We have contractual obligations to under the Policy.

Neither We nor the First Named Insured hold anything on trust for, or for the benefit or on behalf of, any such persons under this insurance arrangement.

The First Named Insured:

- does not act on Our behalf in relation to the insurance;
- is not authorised to provide any financial product advice, recommendations or opinions about the insurance.

Policy Interpretation

Headings are for convenience only and do not affect interpretation; and unless the context indicates a contrary intention:

- a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, successors, re-enactments and replacements thereof;
- a word importing the singular includes the plural (and vice versa);
- a word indicating a gender includes every other gender;
- the words include, including, for example, particularly or such as or equivalent are not used as, nor are they to be interpreted as, words of limitation, and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- any examples provided are subject always to the Policy terms and applicable law; and
- a reference to \$ or dollar is to Australian currency.

Part 2 – Policy Cover Sections

General Definitions

Some key words and terms used in the Policy have a special meaning that appear below when the word starts with a capital letter in this document. Other words may be specially defined to have a meaning when used in relation to a Policy section, term or condition.

Additional Costs means:

- a) reasonable costs of legal representation in respect of an official investigation, examination, enquiry or other proceeding ordered or commissioned by any official body or institution empowered by law to investigate Your professional conduct;
- b) reasonable costs of legal representation in respect of any interview or investigation of any Insured by the police or criminal investigatory body;
- c) reasonable defence costs in respect of criminal proceedings or appeal in any criminal proceedings brought against You; or
- d) reasonable costs of legal representation at any coronial inquiry or any local equivalent.

Advertising Injury means:

- a) infringement of copyrighted advertising materials, titles or slogans;
- b) misappropriation of advertising ideas or style of doing business;
- c) oral, broadcast, telecast or written publication of material that slanders or libels a person or disparages a person's goods, products or services;
- d) oral, broadcast, telecast or written publication of material that violates an individual's right of privacy; in the course of advertising Your Goods, Products or Services, however Advertising Injury shall not include or provide any indemnity for:
 - i. the oral, broadcast, telecast or written publication of material whose first publication took place before the inception of the Period of Insurance;
 - ii. the failure of Goods, Products or Services to conform with advertised quality or performance; or
 - iii. the incorrect description or mistake in advertised price of Goods, Products or Services sold, offered for sale or advertised;
 - iv. the infringement of registered trademarks, patents, registered designs, service marks or trade names (other than infringement of copyrighted advertising materials, titles or slogans);
 - v. the breach of contract (other than liability for unauthorised misappropriation of advertising ideas based upon breach or alleged breach of an implied contract);
 - vi. the advertising activities undertaken on behalf of another party by any Insured engaged in the Business of advertising or undertaken for a fee;
 - vii. any offence committed by You whose Business is advertising, broadcasting, publishing or telecasting;
 - viii. Advertising Injury in the United States of America or Canada or any territory within their jurisdiction.

Asbestos and Silica Risks means:

- a) the mining, processing, manufacturing, use, testing, ownership, sale or removal of asbestos, silica, asbestos fibres, silica particles/dust or material containing asbestos or silica;
- b) exposure to asbestos, silica, asbestos fibres, silica particles/ dust or material containing asbestos or silica; or
- c) the provision of instructions, recommendations, notices, warnings, supervision or advice given, or which should have been given, in connection with asbestos, silica, asbestos fibres, silica particles/ dust or structures or materials containing asbestos or silica.

Batch means all Products produced within a single manufacturing cycle and specifically marked with a date, distinctive combination of letters, numbers or symbols, or any combination of the foregoing from which it can be determined that an individual item of the Products was produced during that cycle:

- a) intended for use in the diagnosis, cure, mitigation, treatment or prevention of injury, sickness or disease in humans or animals and which affects the structure or functioning of the body; or
- b) as a component of any Products described above;

but will not include any Pharmaceutical Drug, Medical Device or food.

Bio Science Product means any virus, therapeutic serum, toxin, anti-toxin or analogous product that is recognised in the Australian Pharmaceutical Formulary or any supplement thereto (in Australia) or the equivalent publication in any other applicable jurisdiction:

- a) intended for use in the diagnosis, cure, mitigation, treatment or prevention of injury, sickness or disease in humans or animals and which affects the structure or functioning of the body; or
- b) as a component of any Products described above;

but will not include any Pharmaceutical Drug, Medical Device or food.

Bodily Injury means death, injury, disease, or any recognised psychiatric illness.

Business means any business conducted by You.

Circumstance(s) means any circumstances of which the Insured knows, becomes aware, or could reasonably be expected to know, that may reasonably have been expected to give rise to a Claim.

Claim(s) means:

- a) a civil proceeding; or
- b) a written demand for monetary damages or non-monetary relief; or
- c) an arbitration commenced by receipt of a written request, demand or invitation to arbitrate, or similar communication; or
- d) an invitation to enter into alternative dispute resolution; or
- e) an investigation or charge brought by any governmental or regulatory body when covered under the Policy as an extension;

including, where applicable, any appeal that subsequently follows.

Clinical Trial means the organised study(ies) or test(s) as stated in the Schedule undertaken in accordance with the applicable therapeutic goods legislation, using human Research Subjects, and may include establishing the effectiveness, bioequivalence or safety of a pharmaceutical drug, bio science product or medical device, in accordance with a written protocol and including any pre-trial assessment.

Clinical Trial Compensation Guidelines means:

1. the Medicines Australia (MA) Compensation Guidelines version 160104 issued 16 January 2004;
2. the Medical Technology Association of Australia (MTAA) Compensation Guidelines (Version 1) issued 8 April 2010;
3. the Medicines New Zealand Guidelines On Clinical Trials Compensation For Injury Resulting From Participation In An Industry Sponsored Clinical Trial version: August 7 2015 or subsequent revisions;
4. the Association of British Pharmaceutical Industries (ABPI) Clinical Trial Compensation Guidelines (issued 2014);
5. the ABPI Guidelines for Phase 1 Clinical Trials (2014 Edition);
6. the Association of British Health-Care Industries Medical Devices Clinical Investigation Compensation Guidelines (1995);
7. compulsory guidelines that are imposed by governmental or regulatory authority; or
8. written guidelines that are voluntarily agreed to by the Insured and accepted by Us as described in an endorsement to the Policy;

(including any amendments to, or successor guidelines or standards (as applicable)) which set forth the manner and rules which determine if, and to what extent, a Research Subject in a Clinical Trial should be paid compensation and related expenses by the Insured for injury or damage sustained by such Research Subject as a result of their participation in a Clinical Trial to which this insurance applies.

Combined Single Limit means the amount stated in the Schedule and which shall be the maximum amount We shall pay in total under the sections or covers to which the combined single limit applies in the event that two (2) (or more) sections or covers under the Policy provide coverage in respect of a Claim or event.

Computer Virus means, but is not limited to, unauthorised computer code that is designed and intended to transmit, infect and multiply itself over one or more networks, and cause:

- a) computer code or programs to perform in an unintended manner;
- b) the deletion or corruption of electronic data or software; or
- c) the disruption or suspension of a network.

Contractually Assumed means a written contract or agreement in which You have assumed the liability of another person or organisation (such assumption of liability not being retrospective), in connection with Your Business.

Costs means the reasonable and necessary fees (including but not limited to legal fees and experts' fees), charges, costs and expenses, consented to in advance by Us (such consent not to be unreasonably withheld) and incurred by You, or on Your behalf, in the investigation, adjustment, defence or appeal of any Claim which is covered by the Policy.

Costs does not include:

- a) regular or over-time salaries, wages, fees, overhead or benefit expenses associated with You;

- b) costs and expenses incurred subsequent to a plea or finding of guilt on Your part, or in the event that counsel (or where there is no counsel, the lawyers appointed in the defence of the prosecution) advises that there are no reasonable prospects of successfully defending the proceedings, except for costs incurred solely for the purpose of making a plea in mitigation before sentencing or costs incurred in making an appeal if counsel (or where there is no counsel, the lawyers appointed in the defence of the prosecution) advises that the prospects of a successful appeal following a finding of guilt are reasonable.

Costs form part of and are not in addition to any Limit of Indemnity, except under Section 1 – Public Liability unless stated otherwise in the Policy.

Cyber Occurrence means any loss, event, incident, accident or credible threat, or series of losses, events, incidents, accidents or credible threats, arising out of, consequent upon or directly or indirectly attributable to one source or original cause or common underlying causes being Unauthorised Access, infection by a Computer Virus, Cyber Terrorism, Denial of Service Attack, or System Failure, whether or not occurring at the same time or location.

Cyber Terrorism means any act including, but not limited to, the use of force or violence or the threat thereof, by any person or group of persons (whether acting alone or on behalf of or in connection with any organisation or government) committed for political, religious, ideological or similar purpose, including the intention to overthrow or influence any government, whether or not legally constituted, or to put the public or any section of the public in fear.

Damages means compensatory monetary amounts payable to a claimant in relation to a Claim and claimants' costs and expenses in judgments, arbitration awards and settlement (if such settlement is made with Our prior written consent (such consent not to be unreasonably withheld) and is in relation to a Claim for which You would otherwise be legally liable to pay).

Damages shall also include amounts agreed as compensation under applicable Clinical Trial Compensation Guidelines together with related expenses for the purposes of Insuring clause 1.1.

Damages does not include:

- a) disciplinary proceeding; or
- b) prosecution costs, except in relation to Claims made under Section 1 – Public Liability;
- c) any:
 - i. fines, penalties, punitive, exemplary, aggravated Damages, where such Damages have been identified separately within any award of a court; or
 - ii. the multiple portion of any multiplied Damages, additional Damages under any federal, state, territory or foreign statute, law, ordinance, or regulation that protects copyright, design or patents and any other restitutionary or non-compensatory damages; except in relation to (where legally insurable in the relevant jurisdiction) Claims made under:
 - a. Section 2 – Products and Services Liability; or
 - b. Section 3 – Clinical Trials Liability;
 - c. Section 4 – Professional Indemnity;
 - d. Section 6(2) – Third Party Cyber.

- d) return, restitution, recall, reduction, compromise, disgorgement or refund of commissions, fees, charges or other remuneration; or
- e) non-monetary orientated proceedings (other than injunctive relief); or
- f) taxes or debts; or
- g) any matters or amounts that may be deemed uninsurable under the law governing the Policy or the jurisdiction in which a Claim is brought;

unless the civil fine, penalty or damages are legally insurable in the relevant jurisdiction.

Denial of Service Attack means an attack carried out over one or more networks or the internet and specifically designed and intended to disrupt the operation of Your Network.

Director means where You are a company incorporated under the Corporations Act 2001 (Cth), a director of Yours as defined described in ss (a) of the definition of director under s9 of the Corporations Act 2001 (Cth) (including any amendments to, delegated legislation thereof, or successor standards or legislation (as applicable)).

Document means all documents, separable programme, instruction or data for incorporation into any computer system for which You are legally responsible, or in the custody of any person to whom they have been entrusted in the ordinary course of Your Business.

Document does not include stamps, currency, coins, bank notes and bullion, travellers cheques, cheques, postal orders, money orders, Securities or similar items that have or represent a monetary value.

Emergency Medical Expenses means reasonable expenses for necessary:

- a) ambulance, hospital or professional nursing services;
- b) dental, medical, surgical or x-ray services, including prosthetic devices;
- c) first aid administered at the time of an accident; or
- d) funeral services.

Employee means any person who, while engaged in working for You in connection with Your Business is:

- a) acting in the capacity of a non-executive Director; or
- b) under a contract of service or apprenticeship with You; or
- c) not under a contract of service or apprenticeship with You but who, at Your request, is supplied to, hired or borrowed by You in connection with the Business, including but not limited to any:
 - i. drivers or operators of hired-in plant; or
 - ii. labour master or labour only sub-contractor or person supplied by them; or
 - iii. person on secondment from another company that is not an Insured under the Policy; or
 - iv. person participating in any Government or otherwise authorised work experience, training, study, exchange or similar scheme; or
 - v. prospective employees who are being assessed by You as to their suitability for employment; or
 - vi. self-employed person; or
 - vii. unpaid or voluntary person; or

- d) deemed to be an employee by a court that exercises jurisdiction under the law of the Commonwealth of Australia or the laws of the states or territories of Australia (as applicable); or
- e) any registered nurse or ancillary medical staff when acting under a contract of employment with You or when self employed but engaged on behalf of You and acting at Your direction; or
- f) in relation to Section 3 – Clinical Trials Liability and Section 5 – Medical Professional Liability only, Registered Practitioners, the details of which have been supplied to and agreed by Us as being covered by the Policy, but only to the extent that You are vicariously liable for their actions.

Excess means, the amount(s) specified either in a section or in the Schedule which You shall first bear in respect of any Claims or losses, including claimants' costs and Costs, before We shall be liable to make any payment under the Policy.

The Excess does not apply to Our appointed breach response services as described in Claims-Cyber Breach Response.

The Excess(es) will be advised to the First Named Insured before they enter into a Policy with Us.

Financial Loss means pure economic loss sustained by a person or organisation as a result of Your Clinical Trials, Goods, Products or Services.

Financially Associated Party means:

- a) any business controlled or managed by You;
- b) any company in which You own or control more than twenty percent (20%) of the issued share capital;
- c) any person with an executive or managerial role in Your Business or who would be deemed a shadow director (as described in ss(b) of the definition of director under s9 of the Corporations Act 2001 (Cth), (and related or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable)), of Yours;
- d) any company that owns or controls any of Your issued share capital;
- e) any company whose issued share capital is owned or controlled by any other company or person who owns or controls any of Your issued share capital.

First Named Insured means the person(s), companies, organisations or other entities shown as the insured on the Schedule. They are the contracting insured(s).

Forensic Investigation Costs means reasonable and necessary fees, charges, costs and expenses, consented to in advance by Us (such consent not to be unreasonably withheld) and incurred by You, or on Your behalf for:

- a) a third party forensic audit or information technology consultant to investigate the cause and scope of an actual or alleged Cyber Occurrence; or
- b) retention of a cyber incident response manager to coordinate response to an actual or alleged Cyber Occurrence.

Forensic Investigation Costs do not include regular or over-time salaries, wages, fees, overhead or benefit expenses associated with You.

Goods means tangible physical property that:

- a) has economic value; and
- b) is either held by You in Your inventory for sale or is shipped by You to Your customers via land, sea or air; and
- c) is sold or exchanged by You in trade or commerce.

Good Samaritan Act means treatment or care administered at the scene of a medical emergency, accident or disaster by any Insured who is present either by chance or in response to an SOS/ emergency call following a disaster, where You have no expectation of payment or other reward.

Healthcare Services means:

- a) services performed by or on behalf of any Insured to care for, treat or assist Research Subjects in Clinical Trials. Healthcare Services will include the provision of medication or appliances, food and beverages in connection with such services, and the post mortem handling of human bodies; and
- b) education and training conducted by an Insured in connection with the Business; and
- c) services performed by You as a member of a formal accreditation committee, standards review committee, ethics committee or similar professional committee of the First Named Insured.

Interrelated Claims means any one Claim, series of Claims, or multiple Claims arising out of or originating from:

- a) an act, error or omission; or
- b) Occurrence or Cyber Occurrence or a series of Occurrences or Cyber Occurrences; or
- c) one originating cause (or a continuation or resumption thereof), including but not limited to any one Batch,

whether or not occurring at the same time or location.

Legionella means any discharge, release or escape of legionella bacteria or other airborne pathogens from water tanks, water systems, air-conditioning plants, cooling towers or other property of a similar kind.

Limit of Indemnity means the limit applicable to any relevant operative section or any sub-limit of indemnity as shown in the Schedule or otherwise specified in the Policy as applicable.

Lloyd's means the society of that name incorporated by the Act of the United Kingdom known as Lloyd's Act 1871.

Lloyd's Underwriter means an underwriting member of Lloyd's.

Medical Device means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, components, part or accessory which is subject to regulatory approval within the Territorial Limits and is intended for the use in diagnosis, cure, mitigation, treatment or prevention of injury, sickness or disease and which affects the structure or the functioning of the body.

Medical Device does not include any Pharmaceutical Drug or Bio Science Product.

Member means one of Your co-owners or investors where You are a legally registered or incorporated limited partnership in accordance with the laws prevailing in Your country or state or territory of domicile that permits such structures.

Money means any of the following, but only to the extent that they exist solely in a digital or electronic format:

- a) cash, currency, bank notes, travellers cheques, registered cheques, money orders;
- b) a record of credit held in Your account by another; or
- c) a record of an amount owed to You by another.

Non-Public Corporate Information means proprietary and confidential information, including trade secrets, of a third-party entity.

Occurrence means any loss, event, incident or accident, or series of losses, events, incidents or accidents arising out of, consequent upon or directly or indirectly attributable to one source or original cause or common underlying causes, whether or not occurring at the same time or location. An Occurrence does not include a Cyber Occurrence.

Opioid means a class of pain relieving drugs that act by binding to opioid receptors.

Partner means one of Your co-owners or investors where You are an unincorporated trading partnership.

Period of Insurance means the time during which the Policy is in existence. It:

- a) starts from the beginning of the period of insurance specified in the Policy Schedule; and
- b) finishes 4:00pm on the last day of the end of that period of insurance, unless ending earlier in accordance with the Policy terms or applicable law. Each renewal results in a new contract and new period of insurance.

Personal Information means information or an opinion about an identified individual, or an individual who is reasonably identifiable, whether the information or opinion is true or not and whether the information or opinion is recorded in a material form or not and which is not available to the general public. Personal Information includes, but is not limited to, an individual's name, address, telephone number, government issued ID number(s) such as a tax file number, Medicare number or Centrelink customer reference number, financial information such as account relationships, account numbers and account histories and healthcare information.

Pharmaceutical Drug means a synthetic or natural chemical recognised in the Australian Pharmaceutical Formulary or any supplement thereto (in Australia) or the equivalent publication in any other applicable jurisdiction intended for use:

- a) in the diagnosis, cure, mitigation, treatment or prevention of injury, sickness or disease in humans or animals and which affects the structure or functioning of the body; or
- b) as a component of any Product.

Policy means this document (except to the extent part of it is expressly excluded), the Schedule and any other documents We agree with the First Named Insured will form part of the Policy that We issue. Together they form Your contract with Us. These are all important documents and should be carefully read together and kept in a safe place for future reference.

Pollution means the discharge, dispersal, seepage, migration, release or escape, whether permanent or transitory, of any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fibres, fumes, acids, alkalis, chemicals and any other hazardous materials and waste (including material to be recycled, reconditioned or reclaimed) into or upon buildings or other structures, land, the atmosphere or any water course or body of water.

Products means any products or Goods, other than real estate including their packaging, containers, labelling and instructions provided in connection with the products or goods, manufactured, sold, supplied, distributed, processed, installed, serviced, repaired, altered, treated or renovated by any Insured in connection with the Business.

Products do not include products or goods which are the subject of a continuing Clinical Trial.

Product Recall Expenses means reasonable and necessary expenses for:

- a) any communication costs incurred to announce the recall, including but not limited to:
 - i. telephone, radio, television, newspaper and internet announcements; and
 - ii. production costs of the announcements, such as printing costs, stationary, envelopes and postage;
 - b) transporting the Products from any purchaser, distributor or user to locations designated by You;
 - c) expenses incurred to properly dispose of the Products, including packaging that cannot be reused;
 - d) remuneration paid to Your Employees for overtime to perform the actions in points a), b) or c) above, and, if necessary, the cost to hire and pay additional persons other than Your regular Employees to perform those actions in points a), b) or c) above;
 - e) rental expense incurred for temporary locations used to store the Products;
- as a result of a recall of Your Products.

Property means property which is both material and tangible.

Property Damage means all physical loss of or physical damage to Property including the loss of use at any time resulting from such physical loss or physical damage.

Registered Practitioners means:

- a) doctors who are licenced and maintain registration with the relevant Medical Board of Australia or appropriate professional body; or
- b) dentists who are licenced and maintain registration with the relevant Dental Board of Australia or appropriate professional body.

Regulatory Defence Costs means reasonable and necessary fees (including but not limited to legal fees and experts' fees, charges, costs and expenses) consented to in advance by Us (such consent not to be unreasonably withheld) and incurred by You, or on Your behalf. However, Regulatory Defence Costs does not include regular or over-time salaries, wages, fees, overhead or benefit expenses associated with You or Your Business, other than where incurred with Our prior written consent.

Remediation means works or operations to treat, remove or dispose of Pollution.

Research Subject means any person participating or taking part in a Clinical Trial or any pre-trial assessment, or their dependants, heirs, estate or legal representatives or assigns in the event of the death or incapacity of any such person.

Retroactive Date means the date stated as such in the Schedule or otherwise referred to in a section of the Policy.

Schedule means the numbered policy schedule, renewal schedule or endorsement schedule issued by Us in connection with the Policy for the applicable Period of Insurance.

Securities means negotiable and non-negotiable instruments or contracts, including the digital or electronic equivalents of these.

Service means service, advice or instruction performed by or on behalf of You, including:

- a) related consulting, staffing, training and other support services;
- b) representations or warranties made with regard to fitness, performance, quality or use of Your Product or Service;
- c) the providing or failure to provide instructions or warnings in connection with Your Product or Service; or
- d) clinical, design or development review, laboratory or research services in connection with a Medical Device, Pharmaceutical Drug or Bio Science Product.

Service does not include:

- i. work or activities performed by You or on Your behalf or for You as an accountant, financial advisor, architect, surveyor, solicitor or barrister, insurance or real estate agent or broker, or civil or structural engineer; or
- ii. Healthcare Services or a Good Samaritan Act.

Sub-Contractor means any person or entity contracted to provide Services to You or on Your behalf pursuant to a written agreement between You and such person or entity.

Subsidiary means a company in which the First Named Insured has a controlling interest (being the beneficial ownership of shares carrying more than 50% of votes capable of being cast), but only to the extent that the company is engaged in carrying on Your Business or activities which are substantially of the same kind or related to that Business.

System Failure means any accidental, operational, unintentional, or negligent act, error or omission by an Employee, or by an employee of a third party providing services to You, in the operation of Your Network resulting in the loss, destruction or alteration of data or disruption in the operation of Your Network.

Territorial Limits means the territories to which cover is limited as stated in the Schedule.

Terrorism means any act including, but not limited to, the use of force or violence or the threat thereof, by any person or group of persons (whether acting alone or on behalf of or in connection with any organisation or government) committed for political, religious, ideological or similar purpose, including the intention to overthrow or influence any government, whether or not legally constituted, or to put the public or any section of the public in fear.

Third Party Beneficiary/ies means persons who are not contracting parties to the policy but to whom the benefit of cover is extended by reason of section 48 of the Insurance Contracts Act (1984) that:

- a) are expressly specified in the Policy as a person or type of person to which the benefit of cover is extended; or

- b) are listed in the Schedule as Third Party Beneficiaries,

unless otherwise excluded, but only to the extent of their interest specified. See Third Party Interests clause for details on the rights and obligations of third party beneficiaries.

Third Party Custodian means any third party to whom You entrust Non-Public Corporate Information or Personal Information by virtue of a contract.

Third Party Network means any information technology system which is not owned or operated by You or by a third party service provider to whom You have outsourced the operation of such system. Third Party Network shall not include any:

- a) buildings or structures in which any information technology system may be located; or
- b) contents or property, other than computers, servers, cables and other system hardware which can be reasonably regarded as forming part of the information technology system.

Unauthorised Access means any accessing of Your Network or information stored on Your Network by an unauthorised person, or by an authorised person in an unauthorised manner including theft of any information storage device used to store, retrieve or transport information, but does not include any unauthorised access to any voice mail system or telephone.

We/Our/Us/Insurer means certain Lloyd's Underwriters acting through their agent SURA Technology Risks trading as SURA Life Sciences.

You/Your/Insured means:

- a) the First Named Insured; and
- b) any current or former principal, Partner, Member, Director or Employee of the First Named Insured.

Any Registered Practitioner that has not been accepted and agreed by Us as an Employee either:

- i. as at the date of inception of the Policy; or
- ii. within 14 days of becoming an Employee;

will not constitute an Insured and will be excluded except for the vicarious liability You may incur in relation to such Registered Practitioner;

- c) in the event of death, bankruptcy or legal incompetence of any principal, Partner, Member, Director or Employee of the First Named Insured, the estate or personal representatives or trustees liquidator or trustee or assignee in bankruptcy of such person;

The estate or personal representatives or trustees liquidator or trustee or assignee in bankruptcy of a Registered Practitioner that has not been accepted and agreed by Us as an Employee either:

- i. as at the date of inception of the Policy; or
- ii. within 14 days of becoming an Employee;

will not constitute the Insured and will be excluded except for the vicarious liability You may incur in relation to such Registered Practitioner;

- d) any Subsidiary or newly acquired or created Subsidiary of the First Named Insured subject to the Acquisitions and Formations of Companies clause;
- e) with respect to Section 3 – Clinical Trials Liability only an Ethics Committee or its members approving a Clinical Trial;
- f) with respect to Section 1 – Public Liability, Section 2 – Products and Services Liability and Section 3 – Clinical Trials Liability only, persons or organisations that You or any Subsidiary are obligated to insure pursuant to a written contract, unless more specifically identified elsewhere;
- g) with respect to Section 1 – Public Liability only, persons or organisations that lease premises to You or any Subsidiary.

Your Network means any information technology system owned by You or by a third party service provider to whom You have outsourced the operation of Your information technology system.

What Is Covered

Where We agree to enter into a Policy with the First Named Insured, and subject to the applicable Limit of Indemnity, the Combined Single Limit and all other terms, conditions and provisions of the Policy, We shall indemnify You under the following Policy Cover Sections where these are shown as covered in the Schedule as follows.

Section 1 – Public Liability

This section of the Policy applies to an Occurrence happening in connection with the Business anywhere within the Territorial Limits during the Period of Insurance and notified to Us in accordance with the Policy terms and conditions, unless stated otherwise.

1. Insuring clause

We shall indemnify You in respect of Costs and Damages which You will be legally liable to pay, including Contractually Assumed liability in respect of any Claim for:

- 1.1. Bodily Injury; or
- 1.2. Property Damage; or
- 1.3. Advertising Injury, or any defamation, whether written or spoken, caused by:
 - 1.3.1. You; or
 - 1.3.2. any other person, limited liability partnership, or company but only if directly appointed by You and acting for and on Your behalf within the scope of their appointment,

arising from an Occurrence happening in connection with the Business during the Period of Insurance anywhere within the Territorial Limits.

2. Limit of Indemnity

Our liability under this section will be in excess of the applicable Excess, and will not exceed the Limit of Indemnity (or sub limit as applicable) for each Occurrence, or the aggregate for all Occurrences during the Period of Insurance, as stated in the Schedule.

3. Extensions

Unless stated otherwise on the Schedule, We will provide the following extensions within the cover provided under this section. The cover provided under these extensions is otherwise subject to the Insuring clause of this Section 1 – Public Liability and all other terms, conditions, exclusions, definitions and Limit(s) of Indemnity applicable to the Policy. All of the following extensions form part of and are not in addition to the Limit of Indemnity under this section.

Where a Limit of Indemnity or sub-limit of indemnity is stated in the Policy Schedule as in the aggregate, that aggregate is the maximum We will pay for all insured events during the Policy Period under this Section 1 – Public Liability.

3.1 Contingent liability (Non-owned vehicles)

We will indemnify You in respect of Your legal liability to third parties to pay Damages in respect of accidental Bodily Injury to any person and accidental Property Damage arising out of the use of any motor vehicle being used in connection with Your Business which is neither Your property nor provided by You.

However, this extension shall not apply in respect of legal liability for Damages and claimant's costs and expenses for:

- a) physical loss or accidental damage to any such motor vehicle; or
- b) Bodily Injury or Property Damage while such motor vehicle is being driven by any person other than an Employee; or
- c) Bodily Injury or Property Damage while such motor vehicle is being driven by an unlicensed driver with Your knowledge of, and consent to this, unless such person has held and is not disqualified from holding or obtaining such a licence; or
- d) Bodily Injury or Property Damage while such motor vehicle is engaged in racing, pace-making, reliability trials or speed testing; or
- e) Bodily Injury or Property Damage while such motor vehicle is being used outside of Australia.

We will not be liable for any amount in excess of the Limit of Indemnity stated in the Schedule.

3.2 Obstruction and physical loss of amenities

We will indemnify You against legal liability in respect of accidental obstruction, physical loss of amenities to a property, trespass, nuisance or interference with any right of way of light, air or water.

We will not be liable for any amount in excess of the Limit of Indemnity stated in the Schedule for Public Liability.

3.3 Wrongful arrest

We will indemnify You against legal liability in respect of Bodily Injury arising from false detention, false imprisonment, wrongful eviction, malicious prosecution or invasion of right of privacy.

We will not be liable for any amount in excess of the Limit of Indemnity stated in the Schedule for Public Liability.

3.4 Sudden and unintended Pollution

We will indemnify You against legal liability in respect of either third party Bodily Injury or third party Property Damage caused solely by Pollution which results from a sudden, identifiable, unintended and unexpected incident where the incident takes place in its entirety at a specific and identified time and place during the Period of Insurance, provided that:

- 3.4.1 Pollution which arises out of any one incident will be deemed to have occurred at the time the incident takes place;
- 3.4.2 Our liability is the Limit of Indemnity;
- 3.4.3 incidents occurring in the United States or Canada are excluded.

3.5 Legionella

This section's Exclusion 4.2 h) i.) shall not apply to any discharge, release or escape of Legionella, provided that all Legionella which arises out of one incident will be deemed to have occurred at the time such incident takes place.

This extension shall not apply in respect of any Claims which arise out of or in connection with:

- a) Bodily Injury to any Insured Person, which arises out of and in the course of their employment or engagement by You; or
- b) loss or damage to Products; or
- c) Services.

We shall not be liable under this extension for any amount in excess of the Limit of Indemnity stated in the Schedule in respect of any one Occurrence and in the aggregate during any one Period of Insurance. This amount shall be inclusive of any Costs.

3.6 Pollution clean up costs

We shall indemnify You in respect of legal liability for:

- a) the cost of any Remediation legally required or ordered by any enforcing authority to be conducted by You; and
- b) the cost of any Remediation conducted by any enforcing authority and legally sought from You by that enforcing authority in accordance with the terms of any environmental legislation, provided that:
 - c) the Pollution occurred in Australia and is caused by a sudden, identifiable, unintended and unexpected incident that takes place in its entirety at a specific and identified time and place during the Period of Insurance and that all Pollution, which arises out of any one incident, shall be deemed to have occurred at the time such incident takes place.

We shall not be liable under this extension for:

- i. the cost of reinstatement or reintroduction of flora or fauna;
- ii. the costs of achieving any improvement or alteration in the condition of the land, the atmosphere or any watercourse or body of water beyond that required under any relevant and applicable environmental legislation at the time any Remediation commences;
- iii. the cost to restore natural habitats or species protected under environmental legislation;
- iv. Remediation arising from pre-existing Pollution;
- v. the costs to curtail or minimise Pollution once it has occurred or for any prevention of the spread of Pollution or removal of an imminent or actual threat of environmental damage;
- vi. any costs and expenses incurred by the Insured or prosecution costs and expenses awarded against You in connection with any criminal proceedings arising out of the Pollution;
- vii. any costs and expenses in respect of removal of any risk of an adverse effect on human health on Your land, premises, watercourse or body of water whether owned, leased, hired, tenanted or otherwise in Your care, custody or control;
- viii. for damage resulting from an alteration to subterranean stores of groundwater or to flow patterns or for the removal or disposal of any waste deposited by You or on Your behalf;

- ix. for damage caused deliberately or intentionally by You or where You have knowingly deviated from environmental protection rulings or where You have knowingly omitted to inspect, maintain or perform necessary repairs for which You are responsible, or caused by persons aware of the defectiveness or harmfulness of products they have placed on the market or works or other services they have performed;
- x. any amount payable by way of compensation to third parties affected by Pollution;
- xi. damage or the cost of any Remediation which is covered by a more specific insurance policy, in which case the Policy will only provide cover in respect of some or all of the loss which is not covered by the more specific insurance policy.

This extension does not cover any costs, or any liability for costs, of Remediation carried out on or in order to protect any property belonging to You or in Your charge or control other than premises not belonging, leased, rented or hired to You but temporarily in Your charge for the purpose of carrying out work in connection with Your Business.

Our total liability under this extension shall not exceed the Limit of Indemnity stated in the schedule for Pollution Liability in respect of any one Occurrence and in the aggregate during any one Period of Insurance.

This amount:

- a) is the maximum amount We shall pay regardless of the number of Insured Persons entitled to indemnity; and
- b) shall be inclusive of any Costs.

4. Exclusions

The following only apply to the extent relevant and subject to applicable law which may restrict Our rights in certain circumstances. For more detail on these restrictions see When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim.

In addition to the General Exclusions applicable to the Policy We will not indemnify You under this section in respect of any Occurrence:

4.1 based on or arising out of Property Damage to any Property owned by You or in Your custody or control or of any of Your Employees, provided that this exclusion does not apply to:

- a) premises (including landlords fixtures and fittings) which are leased or rented by You;
- b) premises (or their contents) not owned, leased or rented by You but temporarily occupied by You for work therein;
- c) property belonging to a visitor, patient or Employee of Yours;
- d) damage to that part of any Property upon which You are or have been working if the loss or damage arises from such work; or
- e) other Property temporarily in Your physical or legal control and for which a Limit of Liability is shown in the Schedule.

4.2 based on or arising out of:

- a) Products (except for legal liability arising solely from an actual or alleged public liability Occurrence happening in connection with the Business as set out in the insuring clause above);

- b) Clinical Trials (except for legal liability arising solely from an actual or alleged public liability Occurrence happening in connection with the Business as set out in the insuring clause above);
- c) Bodily Injury to:
 - i. an Employee during the course of engagement by You or any Bodily Injury to the spouse, child, parent, brother or sister of such Employee arising out of such Employee's Bodily Injury. This exclusion applies whether You may be liable as an employer or in any other capacity; or
 - ii. a patient (except for legal liability arising solely from an actual or alleged public liability Occurrence happening in connection with the Business as set out in the insuring clause above); or
 - iii. a Research Subject (except for legal liability arising solely from an actual or alleged public liability Occurrence happening in connection with the Business as set out in the insuring clause above);
- d) any act, error or omission in the provision of Services;
- e) any act, error or omission in the provision of Healthcare Services or a Good Samaritan Act;
- f) Bodily Injury or Property Damage arising from a Cyber Occurrence;
- g) any costs of Remediation other than as insured under any extension to this section;
- h) liability which arises out of:
 - i. except as covered under extensions 3.4, 3.5 or 3.6 (as applicable), Pollution or Legionella, or any request or demand or works to test for, monitor, clean up, assess, remove, dispose, contain, treat, detoxify or neutralise or in any way respond to the effect of Pollution or Legionella, other than caused by a sudden, identifiable, unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance. All Pollution or Legionella which arises out of one incident will be deemed to have occurred at the time such incident takes place;
 - ii. Pollution or any request or demand or works to test for, monitor, clean up, assess, remove, dispose, contain, treat, detoxify or neutralise or in any way respond to the effect of, happening anywhere in the United States of America or Canada or any territory within their jurisdiction, or in respect of any liability arising from any Claim or action brought within and under the jurisdiction of the United States of America or Canada or any territory operating in accordance with such jurisdiction.

Section 2 – Products and Services Liability

Cover under this section is only operative if shown as such on the Schedule. Cover is on a claims made basis as set out in the insuring clause below.

1. Insuring clause

We shall indemnify You in respect of Costs and Damages which You become legally liable to pay, including Contractually Assumed liability, in respect of any Claim made against You during the Period of Insurance for:

1.1 Bodily Injury; or

1.2 Property Damage,

arising from an Occurrence happening on or after the Retroactive Date and caused by, through or in connection with Your Products or Services anywhere within the Territorial Limits.

2. Limit of Indemnity

Our liability under this section will be in excess of the applicable Excess, and will not exceed the Limit of Indemnity for each Claim, or in the aggregate for all such Claims during the Period of Insurance, as stated in the Schedule. Costs form part of and are not in addition to any Limit of Indemnity.

For the purpose of the Limit of Indemnity and the Excess, all Interrelated Claims are deemed to be a single Claim.

3. Extensions

Unless stated otherwise on the schedule, We will provide the following extensions within the cover provided under this section. The cover provided under these extensions is otherwise subject to the Insuring clause of this Section 2 – Products and Services Liability and all other terms, conditions, exclusions, definitions and Limit(s) of Indemnity applicable to the Policy, and are part of and not in addition to the Limit of Indemnity.

Where a Limit of Indemnity or sub-limit of indemnity is stated in the Policy Schedule as in the aggregate, that aggregate is the maximum We will pay for all insured events during the Policy Period under this Section 2 – Products and Services Liability.

3.1 Product Recall Expenses

We shall indemnify You for any Product Recall Expenses necessary because the use of any Products or Services has resulted in, or has a high likelihood of resulting in, Bodily Injury, illness or disability, or physical damage to or destruction of Property due to:

- a) any unintentional error or deficiency in the manufacture, design or labelling of the Product; or
- b) a ruling of a Government or other regulatory body requiring You to recall any Product as a result of any matters set out above.

Coverage under this extension is subject to:

- i. You first discovering during the Period of Insurance that the use of any Product has resulted in, or is likely to result in, Bodily Injury, illness or disability or physical damage to or destruction of Property; and

- ii. the Bodily Injury, illness or disability or physical damage to or destruction of Property being indemnifiable under this section.

We will not be liable under this extension for any:

- a) amount in excess of the sub-limit of indemnity stated in the schedule; or
- b) amount of the co-payment percent shown in the schedule that You are required to contribute toward a claim under this extension (after application of the Excess).

3.2 Public relations expenses

We will reimburse You for reasonable and necessary expenses approved by Us (such approval not to be unreasonably withheld) to respond to adverse or unfavourable publicity or media attention including the development of a crisis communication plan to mitigate damage to Your reputation arising as a result of an actual or potential Claim against You under this section during the Period of Insurance.

We will not be liable for any amount in excess of the sub-limit of indemnity stated in the schedule.

3.3 Mitigation Costs

We will pay on Your behalf necessary fees, costs and expenses incurred by You as a result of action taken by You to mitigate an actual or potential Claim under this section, provided that:

- a) such reasonable fees, costs and expenses arise solely as a result of an actual or potential Claim against You during the Period of Insurance; and
- b) You notify Us of the action taken by You as soon as reasonably practicable in accordance with the Policy terms and conditions; and
- c) no admission of liability is made by You.

Mitigation Costs shall not include the refund of fees, costs or expenses incurred to comply with any governmental or regulatory requirement which does not directly result from a potential Claim.

We will not be liable for any amount in excess of the sub-limit of indemnity for each Claim, or in the aggregate for all such Claims during the Period of Insurance, as stated in the Schedule. An Excess applies to each claim under this extension as stated in the Schedule.

3.4 Mitigation of fees

We will pay Your outstanding fees where You have waived outstanding fees to prevent a Claim that would be payable under this section; provided always that:

- a) the outstanding fees relate to the performance of Services or provision of Products; and
- b) the amount payable by Us is fifty percent (50%) of the outstanding fees that are in excess of the Excess.

This extension is subject to an aggregate sub-limit of indemnity and Excess as stated in the Schedule.

3.5 Patent

We will indemnify You up to the sub-limit of indemnity stated in the schedule for Your liability to third parties for Damages and Costs for patent disputes arising out of Products or Services supplied by You or on Your behalf.

This extension does not apply to any intentional breach of patent by You or on Your behalf.

3.6 Sub-Contractors

We will indemnify You against Your legal liability for a Claim arising out of Products or Services supplied to You or to third parties on Your behalf, by independent Sub-Contractors or consultants under a written contract.

4. Exclusions

The following only apply to the extent relevant and subject to applicable law which may restrict Our rights in certain circumstances. For more detail on these restrictions see When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim.

In addition to the General Exclusions applicable to the Policy We will not indemnify You under this section in respect of any Claim:

- 4.1. for Bodily Injury and/or Property Damage which is intended by You or which could be expected by You acting reasonably except that this exclusion will not apply to:
 - a) Bodily Injury or Property Damage resulting from the use of reasonable force to protect persons or Property; or
 - b) Bodily Injury or Property Damage which is intended or can be expected to result from reasonable use of the Product in accordance with instructions for use;
- 4.2. based on or arising out of any Product:
 - a) that does not have appropriate regulatory approval for the purpose for which it is being, or was, used;
 - b) where You have not used, supplied or provided the Product in full accordance with any user instructions or manufacturer's recommendations provided to You;
 - c) which after supply, distribution or sale by You:
 - i. has been re-labelled by any other party and this includes the Product or any part of it being used as a container for any other thing or substance;
 - ii. has been mixed and/or used as an ingredient or component part of any other thing or substance except insofar as legal liability would have arisen under any section of the Policy solely in relation to the Product in the absence of said mixing and/or said use of the Product;
- 4.3. based on or arising out of performance delay and/or delivery delay of a Product, but this exclusion will not apply to liability for Damages for the loss of use of Property that has been physically damaged;
- 4.4. based on or arising out of:
 - a) Clinical Trials (except for legal liability arising solely from actual or alleged Bodily Injury or Property Damage caused by, through, or in connection with, any Product or Service Occurrence as set out in the insuring clause above);
 - b) Bodily Injury, Property Damage or Advertising Injury arising from a public liability Occurrence in connection with the Business;
 - c) Bodily Injury to an Employee in the course of engagement by You;
 - d) any act, error or omission in the rendering of professional services other than Healthcare Services or Good Samaritan Act;
 - e) Bodily Injury or Property Damage arising from a Cyber Occurrence;

4.5. liability which arises out of:

- i. Pollution or any request or demand to test for, monitor, clean up, assess, remove, contain, treat, detoxify or neutralise or in any way respond to the effect of Pollution, other than caused by a sudden, identifiable, unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance, subject always to clause ii). below. All Pollution which arises out of one incident will be deemed to have occurred at the time such incident takes place;
- ii. Pollution or any request or demand to test for, monitor, clean up, assess, remove, contain, treat, detoxify or neutralise or in any way respond to the effect of, happening anywhere in the United States of America or Canada or any territory within their jurisdiction, or in respect of any liability arising from any Claim or action brought within and under the jurisdiction of the United States of America or Canada or any territory operating in accordance with such jurisdiction.

4.6. based on or arising out of any intra-articular use of any pain pump or continuous infusion device to deliver any type of medication to the patient.

4.7. based on or arising out of the testing, sale, supply, prescription, endorsement or other use of any Product, Good, Pharmaceutical Drug, Medical Device, Bio Science Product, food, or similar item made of or containing the following:

- a) Dexfenfluramine;
- b) Fenfluramine;
- c) Phentermine;
- d) Thalidomide;
- e) Silicone Gel used as an injection or as a part of an implantable device;
- f) Accutane;
- g) Birth Control devices and medications;
- h) Diethylstilbestrol (DES);
- i) Swine Flu vaccine;
- j) Phenylpropanolamine;
- k) Metoclopramide;
- l) Testosterone;
- m) implantable mesh products used in anterior or posterior pelvic floor repair;
- n) any Metal-on-Metal (use of femoral head articulating in conjunction with a metal liner or metal cup) hip replacement systems, including components thereof;

4.8. based on or arising out of the testing, sale, supply, prescription, endorsement or other use of any Product, Goods, Pharmaceutical Drug, Medical Device, Bio Science Product, food, or similar item intended to cure, treat, diagnose or prevent any of the following:

- a) Acquired Immune Deficiency Syndrome (AIDS);
- b) Transmissible Spongiform Encephalopathies (TSE); or
- c) Viral Hepatitis.

4.9. any action, involvement, production, process, sale, distribution, installation, or involvement, howsoever arising from, or related to any Opioid.

Section 3 – Clinical Trials Liability

Cover under this section is only operative if shown as such on the Schedule. Cover is on a claims made basis as set out in the insuring clause below.

1. Insuring clause

We shall cover You:

1.1 for amounts agreed under applicable Clinical Trial Compensation Guidelines. For the purposes of this clause 1.1 such amounts agreed as compensation together with related expenses will be Damages; or

1.2 if compensation cannot be agreed under applicable Clinical Trial Compensation Guidelines, for Costs and Damages which You are legally liable to pay, including any liability of another person or organisation that You have Contractually Assumed,

arising from Bodily Injury sustained by any Research Subject as a result of their participation in a Clinical Trial, which results in a Claim being first made against or served on You during the Period of Insurance, provided that the Clinical Trial giving rise to the Claim takes place within the Territorial Limits and on or after the Retroactive Date stated in the Schedule.

2. Limit of Indemnity

Our liability in respect of Claims is subject to the applicable Limit of Indemnity as stated in the Schedule, which is the most We will pay in respect of all Claims for the Period of Insurance. Our liability is in excess of the applicable Excess. Costs (or related expenses under clause 1.1) form part of and are not in addition to any Limit of Indemnity.

For the purpose of the Limit of Indemnity and the Excess all Interrelated Claims are deemed to be a single Claim.

3. Extensions

Unless stated otherwise on the Schedule, We will provide the following extensions within the cover provided under this section. The cover provided under these extensions is otherwise subject to the insuring clause of this Section 3 – Clinical Trials Liability and all other terms, conditions, exclusions, definitions and Limit(s) of Indemnity applicable to the Policy, and are part of and not in addition to the Limit of Indemnity, except for Emergency Medical Expenses per Research Subject as shown on the schedule.

Where a Limit of Indemnity or sub-limit of indemnity is stated in the Policy Schedule as in the aggregate, that aggregate is the maximum We will pay for all insured events during the Policy Period under this Section 3 – Clinical Trials Liability.

3.1 Product Recall Expenses

We shall indemnify You for any Product Recall Expenses necessary because the use of any Products during a Clinical Trial has resulted in or has a high likelihood of resulting in Bodily Injury, illness or disability or physical damage to or destruction of Property due to:

- a) any unintentional error or deficiency in the manufacture, design or labelling of the Product; or
- b) a ruling of a Government or other regulatory body requiring You to recall any Product as a result of any matters set out above.

Coverage under this extension is subject to:

- i. You first discovering during the Period of Insurance that the use of any Product has resulted or is likely to result in Bodily Injury, illness or disability or physical damage to or destruction of Property; and
- ii. the Bodily Injury, illness or disability or physical damage to or destruction of Property being indemnifiable under this section.

We will not be liable under this extension for any:

- a) amount in excess of the sub-limit of indemnity stated in the Schedule; or
- b) amount of the Co-Payment Percent shown in the Schedule that You are required to contribute toward a claim under this extension (after application of the Excess).

3.2 Public relations expenses

We will reimburse You for reasonable and necessary expenses approved by Us (such consent not to be unreasonably withheld) to respond to adverse or unfavourable publicity or media attention including the development of a crisis communication plan to mitigate damage to Your reputation arising as a result of an actual or potential Claim against You under this section during the Period of Insurance.

We will not be liable for any amount in excess of the sub-limit of indemnity stated in the Schedule.

3.3 Emergency Medical Expenses

To the extent it is legally permissible, We will reimburse You for necessary Emergency Medical Expenses incurred as a result of Bodily Injury to a Research Subject participating in Your Clinical Trial, provided that:

- 3.3.1 such Bodily Injury occurred during the Period of Insurance but after the Clinical Trial commenced;
- 3.3.2 the Bodily Injury is not otherwise excluded under the Policy;
- 3.3.3 You provide Us with written notification as soon as reasonably practicable, but no later than 1 year after the end of the Period of Insurance; and
- 3.3.4 the Research Subject who suffered the Bodily Injury submits to any medical examination(s) as may reasonably be required by Us. Such examination costs will be paid by Us.

No Excess applies to this extension.

We will not be liable for any amount in excess of the sub-limit of indemnity shown in the Schedule for each Research Subject.

Any amount payable in addition to under this extension will not reduce the Limit of Indemnity applicable to Clinical Trials Liability stated in the Schedule.

4. Exclusions

The following only apply to the extent relevant and subject to applicable law which may restrict Our rights in certain circumstances. For more detail on these restrictions see When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim.

In addition to the General Exclusions applicable to the Policy, We will not indemnify You under this section in respect of any Claim for:

4.1 any Research Subject:

- a) that is pregnant at the time of commencing or during any part of the Clinical Trial;
- b) that is under 5 years of age at the time of commencing or during any part of the Clinical Trial.

4.2 any Financial Loss which does not arise as a direct result of Bodily Injury sustained in a Clinical Trial.

4.3 any:

- a) use of medical apparatus or equipment;
- b) treatment or nursing or the failure to render treatment or nursing of or to any Research Subject;
- c) exercise of professional skill or any fault, error or omission in the exercise of professional skill by You or any Director, Partner, Employee or independent consultant, doctor or nurse or clinical trial contractor,

except where arising as a direct result of a Clinical Trial undertaken by You.

4.4 any continued use whatsoever of any bio science product, medical device, pharmaceutical drug or product after the Clinical Trial has been completed.

4.5 Any Products, except for legal liability arising solely from actual or alleged Bodily Injury sustained by any Research Subject as a result of their participation in a Clinical Trial.

4.6 any Bodily Injury or Property Damage arising solely from the Insured owning or occupying any Property including real property.

4.7 Bodily Injury or Property Damage arising from a Cyber Occurrence.

4.8 any Bodily Injury to a Research Subject which has been caused by the actions of the Research Subject which were contradictory to explicit instructions given to the Research Subject by the person in charge of the Clinical Trial.

4.9 any loss, or liability, directly or indirectly based on, arising out of, in connection with, or in consequence of any cause, including but not limited to any action, involvement, production, process, sale, distribution, installation, or involvement, howsoever arising from, or related to:

- a) Acquired Immune Deficiency Syndrome (AIDS);
- b) Transmissible Spongiform Encephalopathies (TSE); or
- c) Viral Hepatitis.

Provided that a), b) and c) above do not apply to Bodily Injury to a Research Subject arising from a pharmaceutical drug specifically designed or intended for use as treatment of these diseases.

Section 4 – Professional Indemnity

Cover under this section is only operative if shown as such on the Schedule. Cover is on a claims made basis as set out in the insuring clause below.

1. Insuring clause

We will indemnify You in respect of Costs and Damages which You will be legally liable to pay, including Contractually Assumed liability, in respect of any Claim for Financial Loss first made against You during the Period of Insurance:

1.1 in relation to any act, error or omission committed by You in the provision of Products or Services arising from:

1.1.1 a defect, deficiency, inadequacy or dangerous condition in Your Products or Services; or

1.1.2 a failure of Your Products or Services to perform in accordance with the terms and conditions of a contract or agreement;

1.2 in relation to the physical destruction, damage, loss or mislaying of any Document which after a relevant search cannot be found,

happening on or after the Retroactive Date in the course of the Business anywhere within the Territorial Limits.

2. Limit of Indemnity

Our liability under this section shall be in excess of the applicable Excess, and shall not exceed the Limit of Indemnity for each Claim, or in the annual aggregate for all such Claims during the Period of Insurance, as stated in the Schedule.

3. Extensions

Unless stated otherwise on the Schedule, We will provide the following extensions within the cover provided under this section. The cover provided under these extensions is otherwise subject to the insuring clause of this Section 4 – Professional Indemnity and all other terms, conditions, exclusions, definitions and Limit(s) of Indemnity applicable to the Policy and are part of and not in addition to the Limit of Indemnity.

Where a Limit of Indemnity or sub-limit of indemnity is stated in the Policy Schedule as in the aggregate, that aggregate is the maximum We will pay for all insured events during the Policy Period under this Section 4 – Professional Indemnity.

3.1 Public relations expenses

We will reimburse You for reasonable and necessary expenses approved by Us (such approval not to be unreasonably withheld) to respond to adverse or unfavourable publicity or media attention including the development of a crisis communication plan to mitigate damage to Your reputation arising as a result of an actual or potential Claim against You under this section during the Period of Insurance.

We will not be liable for any amount in excess of the sub-limit of indemnity stated in the Schedule.

3.2 Mitigation Costs

We will pay on Your behalf reasonable fees, costs and expenses incurred by You as a result of action taken by You to mitigate an actual or potential Claim under this section, provided always that:

- a) such reasonable fees, costs and expenses arise solely as a result of an actual or potential Claim against You during the Period of Insurance; and
- b) You notify Us of the action taken by You as soon as reasonably practicable in accordance with the Policy terms and conditions; and
- c) no admission of liability is made by You.

Mitigation Costs shall not include the refund of fees, or fees, costs or expenses incurred to comply with any governmental or regulatory requirement which does not directly result from a potential Claim.

This extension is subject to an aggregate sub-limit of indemnity for all claims during the Period of Insurance and Excess as specified in the Schedule.

3.3 Mitigation of fees

We will pay Your outstanding fees where You have waived outstanding fees to avoid a Claim that would be payable under this section, provided always that:

- a) the outstanding fees relate to the performance of Services; and
- b) the amount payable by Us is fifty percent (50%) of the outstanding fees that You have waived in excess of the Excess.

This extension is subject to an aggregate sub-limit of indemnity for all claims during the Period of Insurance and Excess as specified in the Schedule.

3.4 Patent

We will indemnify You up to the sub-limit of indemnity stated in the Schedule for Your liability to third parties for compensatory damages, claimant's legal costs and expenses and Costs for patent disputes arising out of Services supplied by You or on Your behalf which gives rise to a Claim.

This extension does not apply to any intentional breach of patent by You or on Your behalf.

3.5 Sub-Contractors

We will indemnify You for Your legal liability for a Claim arising out of Services to You or to third parties on Your behalf, by independent Sub-Contractors or consultants under a written contract.

3.6 Dishonesty of Employees

We shall indemnify You up to the Limit of Indemnity for Your liability to third parties for Damages and Costs arising out of any dishonest or fraudulent act or omission by an Employee or Sub-Contractor, committed in the conduct of the Services carried on by You, or on Your behalf, which gives rise to a Claim, provided that:

- a) You will, by any reasonable means and at Our cost, seek to recover or obtain reimbursement of all such amounts;
- b) no indemnity shall be provided to any person committing, condoning or ignoring such dishonest or fraudulent act or omission;
- c) You shall take any reasonable steps necessary to prevent dishonest and fraudulent acts and omissions;

- d) We shall be entitled to deduct from any payment to be made to You, or be reimbursed in respect of any payment already made to You, any amounts:
- i. recovered or reimbursed pursuant to action taken in accordance with Part a). of this extension;
 - ii. which, but for such act or omission, would be otherwise payable by You to the person committing, condoning or ignoring such act or omission;
 - iii. held by You belonging to the person committing, condoning or ignoring such act or omission;
 - iv. which, but for such dishonest or fraudulent act or omission, would not be the subject of a Claim under this extension.

Nothing in this extension shall preclude Us from exercising any right of subrogation against any person committing, condoning or ignoring such dishonest or fraudulent act or omission.

4. Exclusions

The following only apply to the extent relevant and subject to applicable law which may restrict Our rights in certain circumstances. For more detail on these restrictions see When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim.

In addition to the General Exclusions applicable to the Policy We shall not pay or indemnify You under this section in respect of any Claim:

- 4.1 for any Bodily Injury, however this exclusion will not apply to Financial Loss resulting from Bodily Injury;
- 4.2 for any Property Damage (other than as provided for in insuring clause 1.2 above);
- 4.3 arising from an Occurrence in connection with Your Business that is otherwise covered under Section 1 – Public Liability;
- 4.4 Bodily Injury or Property Damage arising from a Cyber Occurrence;
- 4.5 based on or arising out of performance delay and/or delivery delay of a Product or in the rendering of Services;
- 4.6 in relation to Your involvement in joint ventures or acting in concert or association with any other party, other than any legal liability attributable only to Your act, error or omission in any such venture or association;
- 4.7 made against You by any:
 - 4.7.1 entity participating in a joint venture with You, other than any legal liability attributable only to Your act, error or omission;
 - 4.7.2 parent company ultimate holding company or Subsidiary;
 - 4.7.3 legal or natural person or entity having or acquiring a controlling interest in Your operation, or is a Financially Associated Party;
 - 4.7.4 entities in which any Director, officer, Partner or Member of Yours has a controlling interest, or is a Financially Associated Party;
- 4.8 made against You alleging infringement of any intellectual property rights save for unintentional breach of confidentiality.

Section 5 – Medical Professional Liability

Cover under this section is only operative if shown as such on the Schedule. Cover is on a claims made and notified basis as set out in the insuring clause below.

1. Insuring clause

We will indemnify You against civil liability for Damages and Costs in respect of any Claim for Bodily Injury in connection with the provision of any Healthcare Services or Good Samaritan Acts anywhere within the Territorial Limits, provided that:

- 1.1 any such Claim is both first made against You during the Period of Insurance and reported to Us during the Period of Insurance; and
- 1.2 any such Claim arises out of or relates to an act, error or omission in the provision of any Healthcare Services or Good Samaritan Acts happening on or after the Retroactive Date.

2. Limit of Indemnity

Our liability under this section will be in excess of the applicable Excess, and will not exceed the Limit of Indemnity for each Claim, or in the aggregate for all such Claims during the Period of Insurance, stated in the Schedule.

Costs form part of and are not in addition to any Limit of Indemnity.

For the purpose of the Limit of Indemnity and the Excess, all Interrelated Claims are deemed to be a single Claim.

3. Extensions

Unless stated otherwise on the Schedule, We will provide the following extensions within the cover provided under this section. The cover provided under these extensions is otherwise subject to the insuring clause of this Section 5 – Medical Professional Liability and all other terms, conditions, exclusions, definitions and Limit(s) of Indemnity applicable to the Policy and are part of and not in addition to the Limit of Indemnity.

Where a Limit of Indemnity or sub-limit of indemnity is stated in the Policy Schedule as in the aggregate, that aggregate is the maximum We will pay for all insured events during the Policy Period under this Section 5 – Medical Professional Liability.

3.1 Public relations expenses

We will reimburse You for reasonable and necessary expenses approved by Us (such approval not to be unreasonably withheld) to respond to adverse or unfavourable publicity or media attention including the development of a crisis communication plan to mitigate damage to Your reputation arising as a result of an actual or potential Claim against You under this section during the Period of Insurance.

We will not be liable for any amount in excess of the sub-limit of indemnity stated in the Schedule.

3.2 Compliance committee

We will indemnify You in respect to any Claim made against You arising from any act, error or omission committed or alleged to have been committed by any member of a compliance committee or medical review board but only while acting for or on behalf of the First Named Insured.

3.3 Vicarious liability

We will indemnify You in respect to any claim made against You arising from any act, error or omission committed or alleged to have been committed by a Registered Practitioner or any other party for whose acts, errors or omissions You are legally liable for and who are not otherwise insured by the Policy, but always subject to the Registered Practitioners clause.

4. Exclusions

The following only apply to the extent relevant and subject to applicable law which may restrict Our rights in certain circumstances. For more detail on these restrictions see When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim.

In addition to the General Exclusions applicable to this Policy We will not indemnify You under this section in respect of any Claim:

4.1 based on or arising out of any:

- 4.1.1. Products and Services (except for civil liability arising solely from actual or alleged Bodily Injury in connection with the provision of Healthcare Services or Good Samaritan Acts as set out in the insuring clause of this section);
- 4.1.2. Clinical Trials (except for civil liability arising solely from actual or alleged Bodily Injury in connection with the provision of Healthcare Services or Good Samaritan Acts as set out in the insuring clause of this section);
- 4.1.3. Bodily Injury, Property Damage or Advertising Injury arising from an Occurrence in connection with Your Business that is otherwise covered under Section 1 – Public Liability;
- 4.1.4. Bodily Injury or Property Damage arising from a Cyber Occurrence.

4.2 based on or arising out of the provision of any Healthcare Services or Good Samaritan Acts by any Insured while under the influence of intoxicants (including but not limited to alcohol) or narcotics or any illegal substance, however this will not affect the First Named Insured's cover under the Policy for its liability arising from such acts provided that the First Named Insured had no knowledge of and did not condone the Insured providing such services or acts while under the influence of any such intoxicant, narcotic or illegal substance.

Section 6 – Cyber

Cover under this section is only operative if shown as such on the Schedule. Cover for First Party Cyber is on an occurrence basis, and for Third Party Cyber on a claims made and notified basis as set out in the insuring clauses below.

1. First party cyber

This section covers reasonable and necessary expenses incurred under the insuring clauses below for a period of up to twelve (12) months from the date the Cyber Occurrence first became known to You.

1.1 Insuring clause

Where stated as operative in the Schedule, We will reimburse You, for loss arising from a Cyber Occurrence which occurs during the Period of Insurance within the Territorial Limits in respect of:

1.1.1 Cyber loss or damage

reasonable and necessary expenses incurred by You in the restoration of:

- a) Your Network; or
- b) information stored on Your Network; or
- c) any other data, including Your own physical documents.

We will not be liable for any amount in excess of the Limit of Indemnity stated in the Schedule.

1.1.2 Incident response and notification expenses

reasonable and necessary expenses approved by Us (such consent not to be unreasonably withheld), following an actual or suspected Cyber Occurrence:

- a) to comply with a security breach notice requirement under the law of any jurisdiction within the Territorial Limits (including any regulatory queries that arise from complying with those laws) and provide customer support services such as credit monitoring services, call centre costs and identity theft education, assistance costs and associated legal costs;
- b) to notify relevant individuals of such disclosure where no such security breach law exists and provide customer support services such as credit monitoring services, call centre costs and identity theft education and assistance costs;
- c) for Forensic Investigation Costs, legal costs, and cyber risk and cyber incident advisory services for the purposes of responding to a loss that is indemnified under the insuring clause 1.1.2 a) or b) above.

We will not be liable for any amount in excess of the Limit of Indemnity stated in the Schedule.

1.2 Limit of Liability

Our liability in respect of any one Cyber Occurrence is subject to the applicable Limits of Indemnity as specified in the Schedule, which is the most We will pay in the aggregate in respect of all Cyber Occurrences for the Period of Insurance.

1.3 Extensions

Unless stated otherwise on the Schedule, We give the following extensions within the cover provided under this Policy. The cover provided under these extensions is otherwise subject to the insuring clause of this Section 6 – 1. First Party Cyber and all other terms, conditions, exclusions, definitions and Limit(s) of Indemnity applicable to the Policy and are part of and not in addition to the Limit of Indemnity.

1.3.1 Public relations expenses

We will reimburse You for reasonable and necessary expenses approved by Us (such approval not to be unreasonably withheld) to respond to adverse or unfavourable publicity or media attention including the development of a crisis communication plan to mitigate damage to Your reputation arising as a result of an actual or potential Claim against You under this section during the Period of Insurance.

We will not be liable for any amount in excess of the sub-limit of indemnity stated in the Schedule.

1.3.2 Loss of physical documents

We will indemnify You, for Claims first made against You during the Period of Insurance and notified to Us in the Period of Insurance, for the loss of physical documents by You that leads to a Claim from a third party in respect of Personal Information or Non-Public Corporate Information.

1.4 Exclusions

The following only apply to the extent relevant and subject to applicable law which may restrict Our rights in certain circumstances. For more detail on these restrictions see When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim.

The following exclusions apply to Section 6 – 1. First Party Cyber only, in addition to the General Exclusions.

We shall not be liable under Section 6 – 1. First Party Cyber in respect of loss or liability arising in whole or in part, either directly or indirectly out of or from:

1.4.1 Betterment

any restoration of Your Network or data stored on Your Network or that of a Third Party Custodian to a level beyond that which existed prior to the loss occurring.

However, You may, with Our prior written consent (such consent not to be unreasonably withheld), elect to improve to a better condition where such costs are the same or less than otherwise would be incurred by Us.

1.4.2 Computer and Network breakdown

any breakdown of Your Network due to any cause other than Unauthorised Access, Computer Virus, Denial of Service Attack, or System Failure.

1.4.3 Infrastructure Interruptions or Disturbances

in respect of Insuring Clause 1.1 – Cyber Loss or Damage, any national or global failure, outage or disruption of core internet infrastructure, electrical grids and distribution networks and/or satellites, including a failure of core DNS root servers or IP addressing systems.

1.4.4 Intellectual Property Rights

any loss of intellectual property rights, trade secrets or goodwill.

2. Third party cyber

2.1 Insuring clauses

Where stated as operative in the Schedule, We will indemnify You, for Claims first made against You during the Period of Insurance and notified to Us during the Period of Insurance arising from a Cyber Occurrence occurring on or after the Retroactive Date within the Territorial Limits stated in the Schedule, including Costs in respect of:

2.1.1. Privacy liability and loss of Documents

Your legal liability to third parties or Employees to pay Damages, in respect of:

- a) a breach of an individual's right of privacy or wrongful public disclosure of Personal Information by You or a Third Party Custodian; or
- b) a breach of Your privacy policy, including breach of any common law or other law governing the confidentiality, integrity or accessibility of Personal Information, including any failure of Yours to provide notice of an actual or potential wrongful disclosure of Personal Information.

We will not be liable for any amount in excess of the Limit of Indemnity stated in the Schedule.

2.1.2. Breach of confidentiality liability

Your legal liability to third parties to pay Damages, in respect of disclosure of Non-Public Corporate Information or trade secrets in Your custody or a Third Party Custodian, including Your failure or that of a Third Party Custodian, to provide notice of an actual or potential wrongful disclosure of Non-Public Corporate Information.

We will not be liable for any amount in excess of the Limit of Indemnity stated in the Schedule.

2.1.3. Cyber security liability

Your legal liability to third parties to pay Damages, in respect of Your failure to prevent a Cyber Occurrence resulting in:

- a) the inability of others to access Your Network; or
- b) damage to a Third Party Network or loss of, or damage to, data stored on a Third Party Network; or
- c) loss of, or damage to, data of others stored on Your Network or with a Third Party Custodian; or
- d) loss of or damage to Money or Securities deposited with a Third Party Custodian by You;
- e) transmission of malware to a Third Party's Network;
- f) Your Network being used to carry out a Denial of Service Attack;
- g) failure to prevent Unauthorised Access to information stored or applications hosted on Your Network or a Third Party's Network.

We do not provide any cover under this insuring clause for any System Failure.

We will not be liable for any amount in excess of the Limit of Indemnity stated in the Schedule.

2.1.4. Regulatory actions and fines

- a) Your legal liability to pay regulatory compensatory awards, civil penalties or fines, but only to the extent insurable by law;

- b) Regulatory Defence Costs in respect of a criminal or civil actions or proceedings in connection with an investigation, adjustment, inquiry, formal hearing, defence or appeal of any regulatory investigation or any other similar procedure in connection with Your Business activities.

This insuring clause excludes all legal liability more specifically covered by Breach of Privacy Actions and Fines below.

We will not be liable for any amount in excess of the Limit of Indemnity stated in the Schedule.

2.1.5. Breach of privacy actions and fines

- a) Your legal liability to pay regulatory compensatory awards, civil penalties or fines but only to the extent insurable by law arising from the Privacy Act 1988 (Cth), the General Data Protection Regulation (EU) 2016/679 or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable) in Australia or other similar privacy laws in other jurisdictions; or
- b) Regulatory Defence Costs in respect of criminal or civil actions or proceedings in connection with an investigation, adjustment, inquiry, formal hearing, defence or appeal arising from the Privacy Act 1988 (Cth), or the General Data Protection Regulation (EU) 2016/679 or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable) in Australia or other similar privacy laws in other jurisdictions.

We will not be liable for any amount in excess of the Limit of Indemnity stated in the Schedule.

2.1.6. Contractually Assumed incident response and notification expenses

Contractually Assumed liability for reasonable and necessary expenses approved by Us (such approval not to be unreasonably withheld):

- a) to comply with a security breach notice requirement under the law of any jurisdiction within the Territorial Limits, and provide customer support services such as credit monitoring services, call centre costs and identity theft education and assistance costs;
- b) to notify relevant individuals of such disclosure where no such security breach law exists and provide customer support services such as credit monitoring services, call centre costs and identity theft education and assistance costs; or
- c) for Forensic Investigation Costs, legal costs, and cyber risk and cyber incident advisory services for the purposes of responding to a loss that is indemnified under the insuring clauses in 2.1.6 a) or b) above.

We will not be liable for any amount in excess of the sub-limit of indemnity stated in the Schedule.

2.2 Limit of Liability

Our liability in respect of Claims is subject to the applicable Limit of Indemnity as specified in the Schedule, which is the most We will pay in the aggregate in respect of all Cyber Occurrences for the Period of Insurance.

Costs and expenses, Forensic Investigation Costs and any legal costs and expenses insured under the insuring clause, above, will be payable as part of and not in addition to the applicable limits as specified in the Schedule.

The Limits of Liability under this section shall be in addition to the Excess.

2.3 Extensions

Unless stated otherwise on the Schedule, We will provide the following extensions within the cover provided under this section.

The cover provided under these extensions is otherwise subject to the insuring clause of this Section 6 – 2. Third Party Cyber and all other terms, conditions, exclusions, definitions and Limit(s) of Indemnity applicable to the Policy, and are part of and not in addition to the Limit of Indemnity.

2.3.1. Loss of physical Documents

We will indemnify You, for Claims first made against You, for the loss of physical documents by You that leads to a Claim from a third party in respect of Personal Information or Non-Public Corporate Information.

We will not be liable for any amount in excess of the Limit of Indemnity stated in the Schedule.

2.3.2. Mitigation Costs

We will pay on Your behalf reasonable fees, costs and expenses incurred by You as a result of action taken by You to mitigate an actual or potential Claim under this section, provided always that:

- a) such reasonable fees, costs and expenses arise solely as a result of an actual or potential Claim against You during the Period of Insurance; and
- b) You notify Us of the action taken by You as soon as reasonably practicable in accordance with the Policy terms and conditions; and
- c) no admission of liability is made by You.

Mitigation Costs shall not include the refund of fees, or fees, costs or expenses incurred to comply with any governmental or regulatory requirement which does not directly result from a potential Claim.

This extension is subject to an aggregate sub-limit of indemnity for any one claim and all claims during the Period of Insurance and Excess as specified in the Schedule.

We will not be liable for any amount in excess of the Limit of Indemnity stated in the Schedule.

2.3.3. Public relations expenses

We will reimburse You for reasonable and necessary expenses approved by Us (such approval not to be unreasonably withheld) to respond to adverse or unfavourable publicity or media attention including the development of a crisis communication plan to mitigate damage to Your reputation arising as a result of an actual or potential Claim against You under this section during the Period of Insurance.

We will not be liable for any amount in excess of the sub-limit of indemnity stated in the Schedule.

2.4 Exclusions

The following only apply to the extent relevant and subject to applicable law which may restrict Our rights in certain circumstances. For more detail on these restrictions see When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim.

The following exclusions apply to Section 6 – 2. Third Party Cyber only, in addition to the General Exclusions.

We shall not be liable under Section 6 – 2. Third Party Cyber to pay for any third party liability or Costs resulting from any Claim based upon, arising directly or indirectly from, or in consequence of:

2.4.1. Intellectual property rights

any intellectual property rights, trade secrets or goodwill except to the extent of the coverage provided under Insuring clause – Breach of Confidentiality Liability of this section.

2.4.2. Misappropriation by an Insured

any actual or alleged misappropriation of trade secrets by You or an Employee of Yours.

2.4.3. Professional services

any Claim or loss arising from Your rendering or failure to render professional services to others, except for any Claim or loss arising directly from a Cyber Occurrence.

Policy Extensions Applicable To All Sections

We will provide the following extensions within the cover provided and the Limit of Liability under the Policy unless otherwise stated on the Schedule. Other than as amended, cover provided under these extensions is otherwise subject to the terms, conditions, exclusions, definitions and Limit of Liability applicable to the Policy.

Acquisitions and Formations of Companies

Where the First Named Insured acquires or forms a company subsequent to the inception date of this Policy and the turnover relating to such acquired or formed company does not exceed fifteen percent (15%) of the estimated turnover of the companies covered under the Policy at the inception date of this Policy, then the Policy shall include as a First Named Insured any such acquired or formed company automatically from the date of acquisition or formation without additional premium provided that:

- a) the business services carried out by such company are the same or substantially similar to the First Named Insured's Business; and
- b) We shall not be liable for any Claim where the acquired company is still able to claim under a previous insurance policy, or circumstances which prior to the acquisition, the acquired company was aware, or ought reasonably to have been aware might reasonably be expected to give rise to a Claim; and
- c) the Retroactive Date applicable to the business services of the new entity is deemed to be the date of acquisition (if acquired by the First Named Insured) or formation (if formed by the First Named Insured); and
- d) the First Named Insured controls the composition of the board of directors or control more than half the voting power at a general meeting of shareholders or hold more than half of the issued share capital, regardless of class of share; and
- e) the acquired or formed company is not domiciled or incorporated or listed in the United States of America, its territories or possessions; and
- f) the acquired or formed company does not derive in excess of twenty percent (20%) of its turnover from the United States of America, its territories or possessions.

If all of the above criteria cannot be satisfied, We require a detailed underwriting submission to consider inclusion of the acquired or formed company, which shall not be deemed covered until confirmed in writing by Us.

Additional Costs

We will indemnify You up to a sub-limit of \$250,000 for Additional Costs incurred by You with Our prior written consent (such consent not to be unreasonably withheld), in relation to an Occurrence happening in connection with the Business during the Period of Insurance which is likely to give rise to a Claim which would be the subject of indemnity under the Policy.

Additional Insureds

We shall indemnify any third party as an additional Insured under the Policy, but only in respect of sums which We become legally obliged to pay (including liability for claimants' costs and expenses) as a result of a Claim arising solely out of an act, error or omission committed by You or arising solely out of accidental Bodily Injury or Damage caused by You, provided that:

- a) You contracted in writing to indemnify the third party for such a Claim prior to it first being made against them; and
- b) had the Claim been made against You, then You would be entitled to indemnity under the Policy;
- c) the additional Insured must reasonably prove that the Claim arose solely out of an act, error or omission committed by You or arose solely out of accidental Bodily Injury or damage caused by You;
- d) the additional Insured shall fully comply with all Policy terms and conditions applicable as if they were the Insured; and
- e) We have the sole conduct and control of the Claim.

Where a third party makes a claim under this extension, it is understood and agreed that when making any Claim against You independent to this extension, they shall not be covered under this extension in respect of that independent Claim.

This extension shall not apply to:

- a) any Claim arising out of the liability of others which You have assumed in a written or verbal contract; and
- b) which does not arise solely out of accidental Bodily Injury or damage caused by You.

Continuous Cover

We shall indemnify You for Claims first notified to Us during the Period of Insurance which arise out of Circumstances which, prior to the inception of this Policy, You knew, or ought to have reasonably known, might give rise to a Claim but failed to notify Us, provided that:

- a) You were and have continued to be insured under a similar policy or policies (as may be applicable to the relevant section) prior to the date of such circumstances; and
- b) You have not given notice of such circumstances under any other contract of insurance, whether underwritten by Us or by others; and
- c) You shall reasonably establish that the failure to notify did not involve any fraudulent conduct or any intent to deceive;
- d) the amount of cover available under this extension shall be limited to the lesser of the amount of cover remaining under the policy of insurance in force at the time You knew, or ought reasonably to have known, of such circumstances or Claim, or the amount of cover available under the Policy;
- e) if the cover available under the Policy is greater or wider in scope than that to which You would have been entitled under the policy of insurance in force at the time You knew, or ought reasonably to have known, of such circumstances or Claim then We shall only be liable to cover You for such amount and on such terms as would have been available to You under the policy of insurance in force at the time You knew, or ought reasonably to have known, of such circumstances or Claim, save that nothing in this extension shall entitle You to cover wider or more extensive than is otherwise available under the Policy;
- f) cover for any company formed or acquired after the inception of the Policy will be subject to the terms of the Acquisitions and Formations of Companies extension of the Policy.

This extension shall apply in respect of the following sections only:

- Section 2 – Products and Services Liability;
- Section 3 – Clinical Trials Liability;
- Section 4 – Professional Indemnity;
- Section 5 – Medical Professional Liability;
- Section 6(2) – Third Party Cyber.

The General Exclusion – Prior Knowledge does not apply to this extension.

Court Attendance Compensation

We shall compensate You if We or Our legal advisers require You, any Employee or other relevant person to attend any court, arbitration, adjudication or other similar legal process as a witness in connection with a Claim indemnified under the Policy, up to the following rates per day of attendance:

- a) any principal, Partner, Member or Director of Yours \$2,000;
- b) any Employee \$1,000;
- c) any other relevant person \$1,000.

Data Protection Costs

We shall indemnify You in respect of Your legal liability under the General Data Protection Regulation (EU) 2016/679 dated 27 April 2016 (GDPR) and the Data Protection Act 2018 (or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable)) to pay compensation in respect of:

- a) non-material damage arising:
 - i. under Article 82 of the GDPR (or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable)), including claimants' costs and expenses and prosecution costs awarded against You; and
 - ii. under section 168 and section 169 of the Data Protection Act 2018 (UK) (or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable));

provided that:

the alleged offence was committed or alleged to have been committed during the Period of Insurance and in the course of Your Business and You have taken all reasonable care to comply with the requirements of the GDPR and the Data Protection Act 2018 (UK) (or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable)).

Our liability under this extension, is subject to a sub-limit of \$1,000,000 any one Claim and in the aggregate or such other limit as specified in the Schedule.

Exclusion

We will not provide indemnity under this extension in respect of:

- a) the payment of fines or penalties of any kind; or

- b) the costs of replacing, reinstating, rectifying, rewriting or erasing, blocking or destroying any Personal Information or restricting of processing of Personal Information; or
- c) liability arising from or caused by a fraudulent, dishonest, deliberate or intentional act or omission by any Employee or any person eligible for indemnity under this extension, the result of which could reasonably have been expected by any Employee or any person eligible for indemnity under this extension having regard to the nature and circumstances of such act or omission; or
- d) the failure of You to comply with a notice issued under section 14 Part 2 Chapter 2, section 50 Part 3 Chapter 3, section 97 or 99 Part 4 Chapter 3 of the Data Protection Act 2018 (UK) (or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable)) and/or the equivalent section(s) of the GDPR; or
- e) the failure of You to comply with a request under section 98 Part 4 Chapter 3 of the Data Protection Act 2018 (UK) (or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable)) and/or the equivalent section(s) of the GDPR; or
- f) liability arising from the recording processing or provision of data or Personal Information for reward or to determine the financial status of any person; or
- g) liability for which indemnity is provided under any other more specific insurance or to the extent that cover is provided elsewhere in this Policy.

Defence Against Fraudulent Claims

The Policy will cover Costs incurred by You in respect of groundless, false or fraudulent Claims from third parties that would have otherwise been covered under the Policy.

Duty to Defend

We shall have the right and duty to take control of and conduct the investigation, settlement or defence of any Claim in Your name. We shall also pay on Your behalf Costs incurred with Our prior written consent (such consent not to be unreasonably withheld and subject always to Limits of Indemnity shown in the Schedule where inclusive of such).

Payment of Costs shall not be prejudiced by Your refusal to reveal the identity of a confidential newsgathering source.

Refusal of Settlement

If You refuse to agree to a settlement We recommend and the claimant will accept, You may continue the defence and investigation of that Claim. However, the Defence Costs and Expenses subsequently incurred will be paid by You and Us on a proportional basis, with eighty percent (80%) payable by Us and twenty percent (20%) payable by You. Any increased claimant costs resulting from such continuance will also be paid on the same proportional basis.

Exclusion

We shall not pay for the Defence Costs and Expenses of any part of a Claim that is not covered by the Policy.

Extended Reporting Periods

Applicable to Sections 2 – Products and Services Liability, Section 3 – Clinical Trials Liability or Section 4 – Professional Indemnity only.

1.1 Automatic Extended Reporting Period (applicable to Claims Made sections of cover only)

If You or We have not cancelled the Policy or it is not renewed, You will have one Automatic Extended Reporting Period of 60 (sixty) days following expiry of the Period of Insurance. Under such Automatic Extended Reporting Period, We will indemnify You in accordance with the insuring clause in respect of any Claim otherwise insured under the Policy which is made or served on You and notified to Us during the Automatic Extended Reporting Period, provided that the event giving rise to the Claim takes place after the Retroactive Date but prior to expiry of the Period of Insurance and is subject to all other terms and conditions of the Policy.

The Automatic Extended Reporting Period begins immediately following the end of the expiring Period of Insurance and ends on the earlier of 4.00pm Local Standard Time 60 (sixty) days later, or at the time on the effective date on which You obtain insurance that covers substantially the same risk exposure as the Policy.

The coverage afforded under this extension is subject to the coverage terms, conditions, exclusions and Limits of Indemnity stated in the Schedule.

In no event will any Automatic Extended Reporting Period operate to increase the Limits of Indemnity stated on the Schedule and provided under the Policy.

1.2 Optional Extended Reporting Period (applicable to Claims Made sections of cover only)

An Optional Extended Reporting Period is available only by endorsement for an additional premium as determined by Us, provided that:

- 1.2.1 only the First Named Insured has the right to purchase an Optional Extended Reporting Period and it must be purchased within 60 days of the end of the Period of Insurance;
- 1.2.2 the Optional Extended Reporting Period replaces the Automatic Extended Reporting Period and commences and ends on the dates specified in the endorsement Schedule;
- 1.2.3 the Optional Extended Reporting period can only be purchased once, and cannot be cancelled once purchased.

In no event will any Optional Extended Reporting Period operate to increase the Limits of Indemnity stated on the Schedule and provided under the Policy.

General Conditions

The following only apply to the extent relevant and subject to applicable law which may restrict Our rights in certain circumstances. For more detail on these restrictions see When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim.

These General Conditions apply to all sections of this Policy. There are additional conditions applicable to individual sections, including the Claims section.

Alteration

During the Period of Insurance You must tell Us as soon as reasonably possible after You become aware (or a reasonable person in Your circumstances would become aware of) of any changes:

- a) to the most recent information provided by You to Us in relation to the Policy which You know, or could reasonably be expected to know, may affect the risks insured by Us;
- b) whereby Your Business is wound up or conducted by a liquidator or receiver, or put into administration or permanently discontinued;
- c) whereby Your insurable interest ceases otherwise than by will or by operation of the law; or
- d) in the description of the Business.

Except to the extent the Policy expressly provides otherwise and subject to applicable law and the type of change notified, We may (amongst other things):

- i. if the notified change would require a variation to the policy terms, agree (on terms acceptable to Us) or refuse to agree to any such variation;
- ii. if We agree to a variation and the change affects the Premium payable, provide You with a premium adjustment (up or down);
- iii. cancel the Policy; or
- iv. choose not to renew the Policy.

Assignment

Any assignment or transfer of this Policy or of any of Your rights shall not be valid without Our prior written consent (such consent not to be unreasonably withheld).

Cancellation

Cancellation by the First Named Insured

The First Named Insured may cancel the Policy at any time by contacting Us in writing at the address shown in About SURA Technology Risks. Cancellation will take effect from 4:00pm on the day We receive the First Named Insured's notice of cancellation, or such time as may be otherwise agreed between Us and the First Named Insured.

Cancellation by Us

Subject to applicable law, We may cancel the Policy as set out in the Insurance Contracts Act 1984 (Cth) by giving the First Named Insured written notice to that effect. This can include where:

- a) You failed to comply with the duty of the utmost good faith;
- b) You failed to comply with the duty of disclosure where that duty applied to You, or made a misrepresentation to Us before entering into, varying, extending or renewing the Policy;
- c) You failed to comply with a provision of the Policy, including a provision with respect to payment of the Premium;
- d) You made a fraudulent claim under the Policy or any other contract of insurance (whether with Us or with some other insurer) that provided insurance cover during any part of the period during which the Policy provides insurance cover; or
- e) You failed to notify Us of any specific act or omission or failure that has occurred after the Policy is entered into where notification is required under the terms of the Policy; or
- f) the effect of the Policy is to authorise Us to refuse to pay a claim, either in whole or in part, by reason of an act or omission or failure of You or of some other person and, after the Policy was entered into, such an act or omission or failure has occurred.

When We cancel the policy, it will have effect from whichever of the following times is the earliest (unless We tell You otherwise in Our cancellation notice and subject to applicable law):

- i. the time when another policy of insurance replacing the Policy is entered into by You with Us or another insurer; or
- ii. 4:00pm of the third (3rd) business day after the day on which notice was given to the First Named Insured unless specified otherwise or the Policy is in force because of section 58 of the Insurance Contracts Act 1984 (Cth), in which case the cancellation will have effect from 4:00pm on the fourteenth (14th) business day after the day on which notice was given to the First Named Insured.

Effect of cancellation

Subject to applicable law, the Policy with Us ends from the time of cancellation. However, cancellation by Us or the First Named Insured does not affect any rights that You had under the Policy when it was in force. For Your rights to any premium refund in relation to a cancellation see Premium refund section.

Premium refund

If the Policy is cancelled by either You or Us, We will refund the premium for the Policy less a pro-rata proportion of the premium to cover the period for which insurance applied less any government fees, taxes and duties We cannot recover. We will not refund the administration fee or policy fee shown on the invoice.

We will not refund any premium if a claim has been notified to Us or We have paid a Claim to You or on Your behalf under the Policy.

Governing Law

The Policy will be governed in accordance with the laws of the Commonwealth of Australia. Any disputes arising out of the Policy will be subject to determination by an Australian Court within the State or Territory in which the Policy was issued and according to the laws applicable to the jurisdiction.

Cross Liabilities

If the Insured comprises more than one party, We shall treat each party as though a separate Policy had been issued to each of them. However, nothing in this clause shall increase Our liability to pay any amount in excess of the applicable Limit of Indemnity.

Declarations

If any part of the premium is based on estimates provided by You, You shall keep an accurate record containing all relevant particulars, and shall allow Us to inspect such record upon our reasonable request. You shall, within one (1) month after the expiry of the Period of Insurance, provide such information as We may require and the premium shall then be adjusted and the difference paid by or allowed to the First Named Insured subject to any applicable minimum premium.

Excess

We shall only be liable for any amount which is in excess of the applicable Excess as specified in the Schedule. The Excess shall be uninsured and We shall have no liability for all or any portion of such Excess.

If You don't pay the Excess to Us or as We direct, We may deduct the Excess from the amount We pay for any claim. The relevant Limit of Liability We pay up to is less any applicable Excesses, unless We expressly state otherwise.

Indemnity to Principal

We will, at Your request, indemnify any principal with whom You have entered into an agreement but only to the extent that liability arises out of work performed for the principal by or on Your behalf, provided that:

- a) You would have been entitled to indemnity under the Policy had the Claim been made against You; and
- b) the principal is not indemnified or entitled to be indemnified under any other insurance or in any other way; and
- c) the principal complies with the terms of the Policy in so far as they can apply; and
- d) nothing will increase Our liability to pay any amount in respect of any Claim in excess of the applicable Limit of Indemnity.

Other Insurance

If any loss otherwise covered under the Policy is also covered under any other insurance, coverage under the Policy shall be deemed to be the more specific insurance and shall respond as primary coverage.

Reasonable Precautions

You shall:

- a) take all reasonable precautions to prevent, diminish or cease any activity which may give rise to any Claim under the Policy;
- b) exercise care in the selection and supervision of Employees;

- c) comply with statutory requirements, regulations and manufacturers' recommendations relating to the inspection and use of property and the health and safety of persons; and
- d) as soon as reasonably practicable after discovery, cause any defect or danger to be made good or remedied, and in the interim take all additional precautions as may be required, with effect from the date of the Occurrence or Cyber Occurrence.

Registered Practitioners

- a) All Registered Practitioners must be registered with the Medical Board of Australia or the Dental Board of Australia (as applicable) throughout the Period of Insurance; and
- b) except for such Registered Practitioners accepted and agreed by Us as Employees under the Policy, all Registered Practitioners must hold adequate and suitable private insurance covering the scope of their services including their own malpractice, and any acts, errors or omissions, and the insurance must apply and provide coverage for all services offered or provided by the Registered Practitioners to or on behalf of You or at Your request.

Subrogation and Waiver of Rights

If You have waived Your right of recovery against such person or organisation in a contract or agreement that is executed before a loss, then We agree to waive Our rights of recovery against such person or organisation.

In the event that We have a right to recover any monies payable under the Policy from any other person, You must co-operate with any reasonable request made by Us in any proceeding, available to Us at law, which We may take.

Third Party Rights

Unless expressly stated, nothing in the Policy is intended to confer a directly enforceable benefit on any third party, whether pursuant to any statute or otherwise.

General Exclusions

The following only apply to the extent relevant and subject to applicable law which may restrict Our rights in certain circumstances. For more detail on these restrictions see When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim.

We shall not be liable under the Policy in respect of:

Aircraft, Watercraft, Vehicles and Property

any ownership, possession or use by You or on Your behalf of any land, buildings, aircraft, watercraft, hovercraft, vessel or mechanically propelled vehicle, including any Goods or Property that are leased or rented by You or on Your behalf, or any Property of Yours or in which You have an interest.

Asbestos and Silica

any Asbestos and Silica Risks except for the rendering of Healthcare Services or a Good Samaritan Act under any operative sections to any patient injured or ill as a result of asbestos.

Chargebacks

any whole or partial payment where a bank or credit card company has prevented or reversed a payment transaction.

Claims by Other Insured or Owned Entities

Claims brought by or on behalf of:

- a) any Insured, except by an Employee in relation to the First Named Insured's disclosure of Personal Information of Employees;
- b) any parent or Subsidiary company of the First Named Insured;
- c) any person or entity having any financial, executive or controlling interest in the First Named Insured; or
- d) any entity in which the First Named Insured has any financial interest,

except as otherwise specifically provided for under the Policy.

Conversion, Commingling or Misuse of Funds

any conversion, commingling or misuse of funds or any form of Money.

Cost Representations

arising out of:

- a) the inaccurate, inadequate or incomplete description of the price of Products or Services; or
- b) Your costs guarantees, cost representations, contract price or estimates of probable costs or cost estimates being exceeded.

Dishonest, Malicious, Criminal or Deliberate Illegal Acts

except to the extent cover is provided under the Dishonesty of Employees extension in respect of Section 4 – Professional Indemnity, any dishonest, malicious, criminal, deliberate, reckless or illegal acts committed by any of Your board members, executive officers, in-house lawyers, risk managers, chief operating officers, chief technology officers, chief information, risk or privacy officers, including any action to condone or wilfully ignore such acts unless such person was no longer in Your employment or working for You at the time such act was committed.

Directors and Others

any duty, capacity, performance or non-performance as a Director, officer, secretary, Member or trustee.

Employers' Liability

any liability to pay any Claim or provide any benefit related to:

- a) Bodily Injury to any Insured which arises out of their employment or engagement by You;
- b) any obligation for which any Insured may be held liable under any Workers Compensation Act enacted by the Commonwealth of Australia or its States or Territories, or any similar legislation in a different jurisdiction.

With respect to Section 1 – Public Liability only, part b) above does not apply to the liability for damages to which this insurance applies for:

- a) Bodily Injury Contractually Assumed by You in a contract indemnity; or
- b) Bodily Injury or Personal Injury to a person in Your service in Western Australia where You are deemed the employer of such person by reason of section 175 of the Workers' Compensation and Injury Management Act 1981 (WA) or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable).

With respect to Section 3 – Clinical Trials Liability only, this exclusion will not apply to Bodily Injury to an Employee in the course of their treatment as a patient of an Insured or as a volunteer Research Subject.

Employment Practices Dispute

any liability which arises out of:

- a) anyone's employment with or work for You, or any breach of any obligation owed by You as an employer to an Employee or prospective Employee resulting in a dispute being referred, or capable of being referred, to an employment tribunal including such appeal courts or tribunals as are available from an employment tribunal as provided by the Fair Work Act 2009 (Cth) or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable); or
- b) a settlement or adjudication of or under the auspices of an employment tribunal or the Fair Work Commission;
- c) any matter which is or is capable of being insured under a generally available Employment Practices Liability Insurance Policy;

except where a Claim is brought under Section 6(2) – Third Party Cyber by or on behalf of an Employee in relation to Your disclosure of Personal Information of Employees.

Excluded Territories

any liability to pay any Claim or provide any benefit hereunder in relation to any entity or individual domiciled in, or any Claim or activity involving any entity or person domiciled in or involving the territory of:

- a) Cuba;
- b) Iran;
- c) North Korea;
- d) Syria;
- e) Ukraine (all regions);
- f) Russia;
- g) Belarus.

Notwithstanding the Territorial Limits applicable to the Policy, all such territories stated above are excluded from the Policy and no cover whatsoever shall be deemed given under the Policy and no Business activity being undertaken in that territory or the provision of any Service to or shipment of any Products to, from or within that territory will be covered by the Policy.

Guarantee and Warranty Liability

any liability incurred by You pursuant to provisions in a contract or other agreement which:

- a) guarantee or warrant a particular outcome beyond the scope of any duty that would otherwise be implied by common law or statute; or
- b) provide for a level of service or produce a result beyond the scope of any duty that would otherwise be implied by common law or statute; or
- c) impose any other liability wider than the liability You would have at law in the absence of such contract or other agreement;

except as specifically insured under:

- i. Insuring clause – Contractually Assumed Incident Response and Notification Expenses of Section 6(2) – Third Party Cyber; or
- ii. Section 1 – Public Liability; or
- iii. Section 2 – Products and Services Liability; or
- iv. Section 3 – Clinical Trials Liability; or
- v. Section 4 – Professional Indemnity.

Information Technology

any:

- a) failure of any programme, instruction or data, for use in any computer or other electronic processing device equipment or system, other than a Medical Device or a medical device which is the subject of a Clinical Trial, to function in the way expected or intended; and/or
- b) transmission or receipt of any virus programme or code that causes loss or damage to any computer system or prevents or impairs its proper function or performance; and/or
- c) Business conducted or transacted via the Internet, Intranet, Extranet or Your own website, or via the transmission of electronic mail or documents by electronic means;

except for:

- i. the rendering of Healthcare Services or Good Samaritan Act under any operative sections to any patient involving the use of information technology; or
- ii. any Claim indemnifiable under the Policy under Section 6 – Cyber.

Insolvency

any insolvency or bankruptcy of You or any Subsidiary, associated, joint venture or affiliated company of Yours.

Joint Ventures

any association with others while acting in partnership, consortium or joint venture, except:

- a) where the Claim emanates solely from a third party unconnected with said consortium or joint venture; and
- b) the act, error or omission giving rise to such Claim is committed or omitted in the course of Services within the Territorial Limits, which Services are provided as part of Your contribution, obligation, share or input into such partnership, consortium or joint venture; or
- c) unless agreed writing by Us and referenced in the Schedule.

Nuclear Hazards and Radioactive Contamination

any:

- a) emission, release or escape of electromagnetic radiation; or
- b) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- c) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter; or
- d) the radioactive, toxic, explosive or other hazardous properties of any:
 - i nuclear installation, nuclear reactor or other nuclear assembly or nuclear component thereof; or
 - ii radioactive matter.

The exclusion in this sub-clause does not extend to radioactive isotopes (other than nuclear fuel) when such isotopes are being prepared, carried, stored or used for commercial, agricultural, medical, scientific or other similar peaceful purposes; or

- e) any chemical, biological, bio-chemical or electromagnetic weapon.

However, so far as Bodily Injury to any Employee which arises out of, and in the course of, his or her employment or engagement by You, this exclusion shall only apply in respect of:

- 1) liability of any party other than Yours; and
- 2) liability assumed by You by agreement which would not have attached in the absence of such agreement.

Provided that this exclusion does not apply to:

- a) the supply or use of radioactive isotopes as part of or in connection with a Medical Device or used in medical research; or
- b) the provision of Healthcare Services or a Good Samaritan Act under Section 5 – Medical Professional Liability, if operative, to any patient injured or ill as a result of any radiation or radioactive contamination or in the provision of nuclear medicine or radiation therapy in the normal course of the Business.

Opioids

any loss, or liability, directly or indirectly based on, arising out of, in connection with, or in consequence of any cause, including but not limited to any action, involvement, production, process, sale, distribution, installation, or involvement, howsoever arising from, or related to any Opioid.

Patents

any liability to pay any Claim or provide any benefit related to any actual or alleged patent infringement except as insured under Extension 3.5 of Section 2 – Products and Services Liability and Extension 3.4 of Section 4 – Professional Indemnity.

Pollution

any liability arising in connection with or resulting from or the Remediation of Pollution, except where specifically insured under Section 1 – Public Liability or the rendering of Healthcare Services under any operative section or a Good Samaritan Act to any patient injured or ill as a result of any Pollution.

Prior Knowledge

- any:
- a) Claim made, commenced or threatened against You prior to the inception of the Policy; or
 - b) Circumstance known to, or which ought reasonably to have been known to You prior to the inception of the Policy; or
 - c) Claim or Circumstance notified, or which ought reasonably to have been notified under any other insurance prior to the inception of the Policy; or
 - d) Claim or Circumstance which ought reasonably to have been notified to Us prior to the inception of the Policy.

This exclusion shall only apply to the following sections:

- i. Section 2 – Products and Services Liability; or
- ii. Section 3 – Clinical Trials Liability; or
- iii. Section 4 – Professional Indemnity; or
- iv. Section 5 – Medical Professional Liability; or
- v. Section 6(2) – Third Party Cyber.

Property Damage

any Property Damage, including loss of use of Property, that is not caused by physical damage.

Retroactive Date

any act, error or omission actually or allegedly committed or omitted prior to the Retroactive Date.

This exclusion shall only apply to the following sections:

- i. Section 2 – Products and Services Liability; or
- ii. Section 3 – Clinical Trials Liability; or
- iii. Section 4 – Professional Indemnity; or
- iv. Section 5 – Medical Professional Liability; or
- v. Section 6(2) – Third Party Cyber.

Taxation, Competition, Restraint of Trade

based upon or arising out of actual or alleged:

- a) unfair competition, dilution, deceptive trade practices, civil actions for consumer fraud; or
- b) charges of price fixing, monopolization or restraint of trade; or
- c) violation of the Competition and Consumer Act 2010 (Cth) (or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable)) or any anti-trust legislation or regulation regarding anti-trust, monopoly, price fixing, price discrimination, predatory pricing or restraint of trade in a different jurisdiction.

Terrorism

any loss based on or arising out of or in any way connected to Terrorism.

Tobacco

any loss based on or arising out of or in any way connected to tobacco or tobacco products, including electronic nicotine delivery systems or their components.

Trading and Investment Losses

any:

- a) trading loss or trading liability including those arising from the loss of any client, account or business of Yours; or
- b) guarantee or undertaking given by You for any debt or performance or any other obligation by a third party; or
- c) depreciation, failure to appreciate or loss of any investments or property for such investment purposes when such depreciation, failure to appreciate or loss is a result of normal fluctuations in financial, stock, commodity or other markets which are outside Your control or influence.

Unsolicited Communications

any actual or alleged violation by You of:

- a) the Spam Act of 2003 (Cth) (or similar legislation, including any amendments to, delegated legislation thereof, or successor legislation (as applicable)) or
- b) any other federal, state or foreign anti-spam statute, law, ordinance or regulation that prohibits or limits the sending, transmitting, communication or distribution of material or information in any foreign jurisdiction.

War and Cyber Operation

any loss, damage, liability, cost, or expense, of any kind:

- i. directly or indirectly arising from a War, and/or
- ii. arising from a Cyber Operation that is carried out as part of a War or the immediate preparation for a War, and/or
- iii. arising from a Cyber Operation that causes a State to become an Impacted State.

Paragraph iii. shall not apply to the direct or indirect effect of a Cyber Operation on a Computer System used by the Insured or their third party service providers that is not physically located in an Impacted State but is affected by a Cyber Operation.

Definitions applicable to this exclusion:

Computer System means any computer, hardware, software, communications system, electronic device (including but not limited to, smart phone, laptop, tablet, wearable device), server, cloud infrastructure or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility. If there is any inconsistency between definitions of **Computer System** in this exclusion and the Policy, the definition in the Policy shall apply.

Cyber Operation means the use of a Computer System by, at the direction of, or under the control of a State to:

- a) disrupt, deny access to or, degrade functionality of a Computer System, and/or
- b) copy, remove, manipulate deny access to or destroy information in a Computer System.

Essential Service means a service that is essential for the maintenance of vital functions of a State including, but not limited to, financial institutions and associated financial market infrastructure, health services or utility services.

Impacted State means any State where a Cyber Operation has had a major detrimental impact on:

- a) the functioning of that State due to disruption to the availability, integrity or delivery of an Essential Service in that State, and/or
- b) the security or defence of that State.

State means sovereign state.

War means armed conflict involving physical force:

- a) by a State against another State, or
- b) as part of a civil war, rebellion, revolution, insurrection, military action or usurpation of power,

whether war be declared or not.

Wear and Tear

any wear, tear or gradual deterioration of data and software or Your Network or any part thereof.

Claims

The following only apply to the extent relevant and subject to applicable law which may restrict Our rights in certain circumstances. For more detail on these restrictions see When We Can Refuse to Pay or Reduce the Amount We Pay Under a Claim.

Allocation of Loss

If any Claim includes both insured and uninsured loss, We will only cover any insured portion based upon the Policy terms and You and We will mutually agree on a reasonable proportionate allocation of costs and liability between insured and uninsured losses.

Cyber Breach Response

In the event of a Cyber Occurrence or where You require immediate response to a cyber breach event, please contact Our appointed breach response service providers via the contact information stated in the Schedule.

No Excess applies to the appointed breach response services.

Defence of Claims

- a) You shall provide any relevant information We may reasonably request related to the defence of any Claim;
- b) You must co-operate with Us and Our appointed agents wherever reasonably requested to do so, in respect of all circumstances, Claims, Occurrences and Cyber Occurrences to enable You to comply with any applicable pre-action protocols, practice directions or other laws governing the conduct of claims; and
- c) in the event that a dispute arises between Us and You regarding whether or not to contest any legal proceedings, neither We nor You shall be required to contest any legal proceedings unless senior counsel that is agreed by You and Us, or in default of such agreement appointed by the bar association of the jurisdiction of the dispute shall advise that the proceedings should be contested. We shall bear the costs of such senior counsel.

Discharge of Liability

We may, at Our sole discretion, pay to You in connection with any Claim against You, the applicable Limit of Indemnity (after deducting any sums already paid), or any lesser amount for which such Claim can be settled. We will then relinquish the conduct and control of the Claim and incur no further liability relating to the Claim except for the amount of any Costs incurred prior to the date of payment where these are outside of the Limit of Indemnity.

Interrelated Claims

If Interrelated Claims are subsequently made against You and reported to Us, all such Interrelated Claims, whenever made, shall be considered a single Claim first made and reported to Us within the Period of Insurance in which the earliest of the Interrelated Claims was first made and reported to Us.

Notice of Claims

You shall give written notice of any Claim to Us as soon as reasonably practicable after You first become aware of the Claim and during the Period of Insurance where the applicable cover section operates on a claims made and notified basis, using the e-mail address stated in the Incident Notification Details in the Schedule.

Notice of Occurrences and Cyber Occurrences

You shall give written notice to Us of any Occurrence or Cyber Occurrence, which may give rise to any liability of Ours under the Policy as soon as reasonably practicable after You first become aware of such Occurrence or Cyber Occurrence, using the e-mail address stated in the Incident Notification Details in the Schedule.

Payment of Costs

We shall not be liable for any Costs to which We have not consented in writing (such approval not to unreasonably withheld).

Payment of Costs shall be subject to the following Conditions:

- a) if You and We agree on an allocation of insured and uninsured Costs, We shall pay the amount of insured Costs; or
- b) if You and We cannot, after exerting our best efforts, agree on an allocation of insured and uninsured Costs, We shall pay the percentage of Costs which We in Our opinion believe are fair and reasonable, until a different allocation is agreed upon or determined pursuant to the provisions of the Policy and applicable law; and
- c) You agree to repay Us any Costs finally established not to be insured; and
- d) any allocation or advancement of Costs shall not commit or bind Us to any other liability.

Provision of Information

You must, as soon as reasonably practicable, provide:

- a) to Us, at Your own expense unless We agree otherwise, all information relating to the circumstances, Claim, Occurrence or Cyber Occurrence reasonably requested by Us. Every writ, claim form or summons must be forwarded to Us immediately on receipt; and
- b) details of any other insurance relating to the circumstances, Claim, Occurrence or Cyber Occurrence; and
- c) all such business books, documents, proofs, information, explanation and other evidence as may be reasonably required, all of which information and details may be produced by Your professional accountants or auditors, provided they regularly act as such; and
- d) if reasonably required by Us, a statutory declaration of the truth of the circumstance, Claim, Occurrence or Cyber Occurrence and any matter connected with it.

Settlement/Admission of Liability

You shall not admit or assume any liability, consent to any judgment, agree to any settlement or make any settlement offer without Our prior written consent.

NSW

Level 14, 141 Walker Street
North Sydney NSW 2060
PO Box 1813
North Sydney NSW 2059
Telephone: (02) 9930 9500

SURA Technology Risks Pty Ltd ABN 84 664 644 482 acts as an agent for Certain Underwriters at Lloyd's and is authorised to arrange, enter into/bind and administer this insurance on their behalf.

SURA Technology Risks Pty Ltd is an Authorised Representative (AR No. 1301575) of SURA Pty Ltd ABN 36 115 672 350 AFSL 294313.

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