

1.0 INSURING CLAUSES

Subject to the terms, conditions, limitations and exclusions of this **Policy**, **We** will cover **You** for:

SECURITY and PRIVACY LIABILITY

- 1.1 Any **Claim** first made against **You** and reported to **Us** during the **Insurance Period** arising from a **Cyber Event**, and any **Defence Costs** and **Expenses** associated with that **Claim**.

For the purposes of 1.1, a **Claim** does not mean a civil or regulatory action brought by a government regulator.

PRIVACY REGULATORY DEFENCE and PENALTIES

- 1.2 Any **Claim** first made against **You** and reported to **Us** during the **Insurance Period** arising from a **Cyber Event**, and any **Defence Costs** and **Expenses** associated with that **Claim**. To the extent to which they are insurable by law, **We** will pay any fines and penalties arising from that **Claim**.

For the purposes of 1.2, a **Claim** means a civil or regulatory action brought by a government regulator.

CRISIS MANAGEMENT COSTS and NOTIFICATION & BREACH RESPONSE EXPENSES

- 1.3 **Crisis Management Costs** and **Notification & Breach Response Expenses** incurred by **You** and arising from a **Cyber Event** reported to **Us** during the **Insurance Period**.

CYBER EXTORTION

- 1.4 **Cyber Extortion Monies** payable by **You** and arising from a **Cyber Extortion Threat** first made against **You** and reported to **Us** during the **Insurance Period**.

CYBER BUSINESS INTERRUPTION and DATA RESTORATION

- 1.5 **Cyber Costs** and **Expenses** and **Loss of Business Income** arising from a **Cyber Event** reported to **Us** during the **Insurance Period**.

MULTIMEDIA LIABILITY

- 1.6 Any **Claim** first made against **You** and reported to **Us** during the **Insurance Period** arising from a **Multimedia Event**, and any **Defence Costs** and **Expenses** associated with that **Claim**.

CYBER TERRORISM

- 1.7 **Cyber Costs** and **Expenses** and **Loss of Business Income** arising from a **Cyber Terrorism** threat reported to **Us** during the **Insurance Period**.

2.0 DEFINITIONS

These definitions apply to this **Policy** wherever these words or phrases appear in bold except where otherwise stated.

- 2.1 **Breach of Privacy** means: a breach of confidentiality, infringement or violation of any right to privacy including public disclosure of commercial information or an individual's personal information.
- 2.2 **Breach of Security** means: an intentional, malicious or wilful act that results in:
- a) the misuse of a **Computer Network** to modify, delete, corrupt or destroy **Data**; or
 - b) a denial of service attack against a **Computer Network**.
- 2.3 **Claim** means:
- a) any written demand received by **You** for monetary damages or non-monetary relief, including the service of a civil suit or institution of arbitration proceedings; and/or
 - b) the threat or initiation of a civil suit against **You** seeking injunctive relief (meaning a temporary restraining order or a preliminary or permanent injunction; and/or
 - c) a civil or regulatory action brought by a government regulator against **You** with respect to **Insuring Clause 1.2**.
- 2.4 **Computer Network** means: a computer that is capable of directing **Hardware**, software and **Data** resources according to electronic computer programs formulated and introduced to the computer's operating system by the user. All input, output, processing, storage and communication facilities including related communication or open systems networks which are physically connected to such a device, as well as the device's off-line media libraries and **Portable Media Devices** are deemed to be part of the computer system. **Computer Network** also includes a **Computer Network** that is under the operational control of a **Service Provider**.
- 2.5 **Computer Virus** means:
- a) a program that possesses the ability to create replicas of itself (commonly known as 'auto-reproduction' program) within other programs or operating system areas or which is capable of spreading copies of itself wholly or partly to other computer systems/networks.
 - b) non-replicating malware.
- 2.6 **Crisis Management Costs** means: any fees reasonably and necessarily incurred by **You** and approved by **Us**, for the appointment of a public relations consultant, advertising expenses and legal expenses if **You** reasonably consider that such appointment is needed in order to avert or mitigate any material damage to any of **Your** brands. Any appointment and fees to be incurred shall be notified by **You** to **Us** within 7 working days of the appointment being made.
- 2.7 **Cyber Costs and Expenses** means: any costs reasonably and necessarily incurred by **You** and approved by **Us** for:
- a) **Your** own costs to restore, re-collect or replace **Data** owned by **You** including expenses for materials, working time and overhead cost allocation associated with restoring or replacing **Data** owned by **You** to the level or condition at which it existed prior to the **Cyber Event**.
 - b) **Your** own reasonable and necessary costs and expenses of specialists, investigators, forensic auditors, or loss adjusters retained by **You** for the purpose of conducting a review or audit to substantiate that a **Cyber Event** is occurring or has occurred and to assist in the resolution of the **Cyber Event**.
- 2.8 **Cyber Event** means: one or more of the following incidents which occur on **Your Computer Network**:
- a) A **Breach of Security**.
 - b) A **Computer Virus**.
 - c) Accidental damage or destruction of **Hardware** so that the **Data** stored is not machine readable.
 - d) A **Breach of Privacy**.
 - e) An actual or alleged breach of **Privacy Regulations**.
- 2.9 **Cyber Extortion Monies** means: monies payable by **You** and approved by **Us** to any party reasonably believed by **You** and **Us** to present a **Cyber Extortion Threat** for the purpose of terminating such a threat.

- 2.10 **Cyber Extortion Threat** means: a credible threat or series of related threats, including a demand for money, directed at **You** to avoid a **Cyber Event**.
- 2.11 **Cyber Terrorism** means: any electronic or digital threat of any person or group(s) of persons, whether acting alone or on behalf of, or in conjunction with any organisation(s) or government(s) which disrupt the **Computer Network**.
- 2.12 **Data** means: any machine readable information including ready for use programs or electronic data irrespective of the way it is used and rendered including but not limited to text or digital media.
- 2.13 **Defence Costs and Expenses** means:
- a) all necessary and reasonable legal costs, disbursements, witness costs, assessor costs or expert costs incurred by **Us** solely in investigating, defending or settling any **Claim**;
 - b) all necessary and reasonable expenses (other than loss of earning or profits) that are incurred by **You** and approved by **Us** in assisting **Us** or **Our** representatives in the investigation, defence or settlement of any **Claim**;
 - c) any interest accruing after the date of entry of judgement against **You** and until the date **We** pay, tender or deposit in court the judgement sum or such part of that judgement sum as is required to satisfy **Our** liability to **You** for any **Claim** under this **Policy**.
- 2.14 **Excess** means: the amount specified in the **Schedule** to be paid by **You** for each and every **Claim** under this **Policy**, and/or for claims for payment under Insuring Clauses 1.3, 1.4, 1.5 or 1.7.
- 2.15 **Hardware** means: any and all physical components of **Your Computer Network**.
- 2.16 **Insurance Period** means: the period specified in the **Schedule**.
- 2.17 **Loss of Business Income** means: the net income that **You** would have earned had the **Cyber Event** not occurred with the calculation of **Loss of Business Income** being made from the expiration of 12 hours following the **Cyber Event** until service is restored, taking into account the financial performance of **Your** business during the 12 months immediately prior to the **Cyber Event**. If **You** and **We** are unable to agree the **Loss of Business Income**, then **You** and **We** will submit the assessment of **Loss of Business Income** to a member of Chartered Accountants Australia and New Zealand for determination.
- 2.18 **Multimedia Event** means: the release, transmission, publication or display of any electronic media including images, graphics, sounds, text and **Data** on **Your** internet website or non-electronic media for which **You** are solely responsible that directly results in the following:
- a) defamation, libel, slander, product disparagement, trade libel, infliction of emotional distress, outrage or outrageous conduct directly resulting from the foregoing;
 - b) invasion of or interference with the right to privacy or publicity;
 - c) infringement of copyright, domain name, trade dress, title, slogan, trademark, service mark, service name or trade name;
 - d) plagiarism, piracy or misappropriation of ideas.
- 2.19 **Notification & Breach Response Expenses** means: any costs reasonably and necessarily incurred by **You** and approved by **Us**:
- a) to notify any third party or employee following an actual or suspected **Cyber Event**, including call centre services to handle inquiries from affected persons. **We** will only approve these sums where **You** are legally obliged to incur them, OR where their expenditure will mitigate **Your** losses under this **Policy** or will mitigate damage to **Your** brand or reputation;
 - b) for the retention of computer forensic experts to determine the cause and extent of an actual or suspected **Breach of Security** or actual or suspected **Breach of Privacy**;
 - c) in providing credit monitoring services or other credit protection services to persons affected by an actual or suspected **Cyber Event** for a period of up to 12 months after the actual or suspected **Cyber Event** has occurred.
- 2.20 **Policy** means: this wording, the **Schedule** and any endorsements.
- 2.21 **Portable Media Device** means: disks, tapes, USB or flash memory data storage devices, laptops, Blackberry's or any type of smart phone, tablet or removable device capable of storing data.

- 2.22 **Privacy Regulations** means: the following as well as similar statutes and regulations as they currently exist and as amended, associated with the confidentiality access control and use of personally identifiable non-public information including but not limited to:
- a) Privacy Act 1988 and related state privacy laws;
 - b) State and Commonwealth statutes and regulations regarding the security & privacy of consumer information, health information and credit related information;
 - c) Similar privacy laws worldwide.
- 2.23 **Retroactive Date** means: the date specified in the **Schedule**. If no date shown, and the word “unlimited” appears then Exclusion 4.11 will not apply.
- 2.24 **Security** means: certain Underwriters at Lloyd’s, each of whom (including their executors and administrators) is only liable for their share of any claim, loss, liability or expense payable by this Policy. Details of each Syndicate and its share can be obtained from Nova Underwriting Pty Ltd. The subscribing Underwriters obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing Underwriters are not responsible for the subscription of any co-subscribing Underwriter who for any reason does not satisfy all or part of its obligations.
- 2.25 **Schedule** means: the **Schedule** attached to this **Policy**.
- 2.26 **Service Provider** means: any third party that is responsible for the processing, maintenance, protection or storage of **Your Data** pursuant to a written contract directly with **You**. A **Service Provider** does not include any provider of telecommunication services, including internet access, to **You**.
- 2.27 **Sum Insured** means: the **Sum Insured** specified in the **Schedule**.
- 2.28 **We/Us/Our** means: Nova Underwriting Pty Ltd on behalf of the **Security**.
- 2.29 **You / Your** means:
- a) Any party named in the Schedule against “NAME” and its subsidiaries; and
 - b) Any past, present or future principal, partner, director, officer or employee of the above to the extent that they are acting under the direction and control of the above.

3.0 GENERAL CONDITIONS

CANCELLATION

- 3.1 **You** may cancel this **Policy** at any time by notifying **Us** in writing, **We** may also cancel this **Policy**, but **We** can only do so in accordance with the law. In either event, **We** shall be entitled to retain the premium for the **Insurance Period** for which this **Policy** has been in force calculated pro-rata as at the date of cancellation plus 15% of that amount.

CONTINUITY CLAUSE

- 3.2 **We** will not apply exclusion 4.4(d) if:
- a) **You** have, without interruption, held a valid **Cyber** policy with **Us** from the date that **You** first became aware of such **Claim** or circumstance until the start of this **Insurance Period**; and
 - b) There has not been any fraudulent non-disclosure or fraudulent misrepresentation by **You** in respect of such **Claim** or circumstance.

Provided that where **We** have been prejudiced by such late notification **Our** liability will be reduced to the amount for which **We** would have been liable had the notification been made to **Us** at the time **You** first became aware of the circumstance.

EXCESS

- 3.3 **You** must bear the amount of the **Excess** in respect of each **Claim** under this **Policy**, and/or for claims for payment under Insuring Clauses 1.3, 1.4, 1.5 or 1.7. Where the **Excess** is described in the **Schedule** as “Costs Inclusive”, all expenses incurred by **Us** in connection with a **Claim**, and/or for claims for payment under Insuring Clauses 1.3, 1.4, 1.5 or 1.7, will be borne by **You** up to the limit of the **Excess**.

GENERAL INSURANCE CODE of PRACTICE

- 3.4 Other than for **Claims** managed outside Australia, this **Policy** complies with the Insurance Council of Australia's General Insurance Code of Practice. The purpose of the Code is to raise standards of practice and service in the general insurance industry and is proudly supported by the **Security**. Any enquiry or complaint relating to this **Policy** should be referred to **Us**, but if **You** are not satisfied with the way **We** dealt with the complaint, **You** should write to:

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

who will refer the matter to Policyholder and Market Assistance at Lloyd's. If they are unable to resolve the complaint, it may be referred to the Financial Ombudsman Service (UK), but further details will be provided at the appropriate juncture.

GOVERNING LAW

- 3.5 This **Policy** will be construed in accordance with the laws of Australia and the state or territory where the **Policy** was issued. All disputes relating to interpretation of this **Policy** will be determined by the courts (or a federal court) based in that state or territory.

HEADINGS

- 3.6 Paragraph titles used in this **Policy** are included for descriptive purposes only and do not form part of this **Policy** for the purpose of its construction or interpretation.

LIMITED LIABILITY

- 3.7 a) **Our** liability under this **Policy** will not exceed in the aggregate, in respect of any one **Claim**, and for all **Claims**, the **Sum Insured**, EXCEPT THAT **We** will, in addition, pay **Defence Costs and Expenses**, PROVIDED THAT, if a payment greater than the **Sum Insured** is required to dispose of a **Claim**, **Our** liability for **Defence Costs and Expenses** will be limited to the proportion that the **Sum Insured** bears to the payment required to dispose of the **Claim**. **Our** liability will be reduced by any payments **We** have made (or agreed to make) under clause 3.7 (b).
- b) **Our** liability under this **Policy** for claims for payment under INSURING CLAUSES 1.3, 1.4, 1.5 or 1.7 will not exceed in the aggregate, in respect of any one claim, and for all claims, the **Sum Insured**. **Our** liability will be reduced by any payments **We** have made (or agreed to make) under clause 3.7 (a).

MANAGEMENT OF CLAIMS

- 3.8 **You** must not admit liability for or settle any **Claim**, or incur any costs or expenses in connection with any **Claim**, without **Our** consent.

We may assume conduct of the defence and settlement of any **Claim** and may appoint legal advisers for that purpose, but we will not force **You** to contest any **Claim** unless **Counsel** [agreed to by **You** and **Us**] advises that the **Claim** should be contested having regard to the economics and prospects of the defence of the **Claim**.

Legal advisers retained by **Us** to act on **Your** behalf are free to disclose to **Us** any information obtained while acting for **You** and **You** agree to waive any legal professional or client privilege to the extent that such privilege may have prevented such disclosure to **Us**.

We may allow **You** to conduct the defence of the **Claim** if **We** believe the **Claim** will not exceed the **Excess**. If **We** do this, **You** will be required to provide **Us** with regular progress reports and **We** reserve the right to take over conduct of the defence of the **Claim** at any time.

We may settle the **Claim** if **We** so choose upon such terms as **We** have been properly advised and, in doing so, may take into account the economics of the defence of the **Claim**.

MULTIPLE CLAIMS

- 3.9 For the purposes of determining the **Sum Insured** and the **Excess**, all **Claims** and all claims for payment under INSURING CLAUSES 1.3, 1.4, 1.5 or 1.7 ("claim") that are based upon, arising from or in consequence of the same or related facts, circumstance or events or series of related facts, circumstances or events shall be deemed one **Claim** or claim.

REPORTING CLAIMS

- 3.10 As soon as **You** can, and within the **Insurance Period**, **You** must give **Us** written notice of any **Claim**, and give **Us** such information and assistance as **We** consider necessary in connection with the **Claim**, including identification of any parties against whom **You** may have rights.

SANCTIONS

- 3.11 No **Security** shall be deemed to provide cover and no **Security** shall be liable to pay any **Claim** or provide any benefit under this **Policy** to the extent that the provision of such cover, payment of such **Claim** or provision of such benefit would expose the **Security** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, Australia or United States of America.

SERVICE OF SUIT

- 3.12 Any Summons or process to be served upon the **Security** may be served upon:

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

who has authority to accept service and to enter an appearance on behalf of the **Security**, and who is directed at **Your** request to give a written undertaking to **You** that they will enter an appearance on behalf of the **Security**.

SUBROGATION

- 3.13 Where **We** have made a payment under this **Policy**, **We** become entitled to any rights **You** may have against any party in relation to that payment [subject to law]. **You** must assist **Us** [including giving evidence at any civil trial] and provide such information [including signed statements] as **We** reasonably require to exercise such rights.

VALIDITY

- 3.14 To be valid, this **Policy** must have a **Schedule** attached to it which has been signed by an authorised officer of **Ours**.

4.0 EXCLUSIONS

We shall not cover **You** for any **Claim**, or any claim for payment under INSURING CLAUSES 1.3, 1.4, 1.5 or 1.7 ("claim"), arising from:

WEAR and TEAR

- 4.1 the wear and tear drop in performance progressive or gradual deterioration or ageing of electronic equipment and other property or **Hardware** used by **You** or the failure of **You** or those acting on **Your** behalf to adequately maintain **Your Computer Network**; or

PROPERTY

- 4.2 property damage, which means physical injury to, impairment, destruction, or corruption of any tangible property, including the loss thereof save for where cover is expressly provided under this **Policy**. **Data** is not considered tangible property; or

INJURY

- 4.3 bodily injury, however, this exclusion shall not apply to mental anguish, nervous shock or emotional distress as a result of a **Cyber Event** and for which **You** are legally liable; or

KNOWN CLAIMS/CIRCUMSTANCES

- 4.4 a) first made, threatened or intimated against or to **You** prior to the **Insurance Period**; or
b) any matter disclosed or notified to **Us** or any other insurer prior to the **Insurance Period** as being either a **Claim** or claim, or circumstances which might result in a **Claim** or claim; or
c) any litigation or inquiry that was in progress or pending prior to the **Insurance Period**; or

d) circumstances of which **You** were aware prior to the **Insurance Period** and which **You**, or a person in **Your** position, ought reasonably to have realised to be circumstances which might result in a **Claim** or claim; or

UNENCRYPTED PORTABLE DEVICES

- 4.5 or involving the **Loss** of any **Portable Media Device**, or any **Breach of Security**, **Breach of Privacy** or **Breach of Privacy Regulations** by **You** or others on **Your** behalf, arising from the **Loss** or theft of any **Portable Media Device** unless such **Portable Media Device** is encrypted; or

CRIMINAL ACT

- 4.6 any intentional, criminal or fraudulent acts by **You** which acts are either admitted by **You**, or found by an appropriate independent authority, to have occurred. For the purposes of this exclusion, **Your** acts, knowledge or conduct will not be imputed to other parties insured by this **Policy**; or

UTILITY FAILURE

- 4.7 the failure or malfunction of any satellite, any electrical or mechanical failure and/or interruption including, but not limited to, electrical disturbance, spike, brownout, or blackout; or any outage to utilities, telecommunications or other infrastructure, unless such infrastructure is under **Your** operational control or, if applicable, under the operational control of **Your Service Provider**; or

EMPLOYER'S LIABILITY

- 4.8 **Your** liability as an employer; or

INTELLECTUAL PROPERTY

- 4.9 any actual or alleged infringement of any patent rights or misappropriation, theft, copying, display or publication of any trade secret by **You**. However, this exclusion shall not apply to Insuring Clause 1.6 **Multimedia Liability**; or

STATUTES

- 4.10 the actual or alleged:
- a) violation of the responsibilities, obligations or duties imposed upon fiduciaries by the Employment Retirement Income Security Act of 1974 and any amendment thereto, or any rules or regulations promulgated thereunder;
 - b) violation of the Racketeer Influenced and Corrupt Organisations Act, 18 USC Sections 1961 et seq., and any amendments thereto, or any rules and regulations promulgated thereunder;
 - c) violation of any of the provisions of the Securities Act of 1933, the Securities Exchange Act 1934 or any similar Federal or State law or any common law relating thereto; or

PRIOR EVENT

- 4.11 any **Cyber Event**, **Multimedia Event** or **Cyber Terrorism** threat that occurs prior to the **Retroactive Date**.

NUCLEAR

- 4.12 attributable to, or as a consequence of nuclear weapons materials, or radiation or contamination from any nuclear fuel or waste; or

WAR

- 4.13 or in connection with war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority; or

TERRORISM

- 4.14 or in connection with any act of terrorism. "Terrorism" includes an act involving the use or threat of force or violence by any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s) which from its nature or context is committed for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any Government and/or to put the public or any section of the public in fear. However, this exclusion shall not apply to Insuring Clause 1.7 **Cyber Terrorism**.

We will not cover You for Your liability to pay punitive or exemplary damages.