



Agile Insurance Group NZ Limited

Agile Liability Public and Products Liability, Statutory Liability, and Employers Liability

Combined Policy Wording and
Product Disclosure Statement (PDS)

Issued by Agile Insurance Group NZ Limited
NZBN 9429052286766

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Policy Wording & Product Disclosure Statement (PDS)

Prepared on 1st September 2026

Any general advice that may be contained within this Policy Wording and Product Disclosure Statement (PDS) or accompanying material does not take into account Your individual objectives, financial situation or needs. You need to decide if the limits, type and level of cover are appropriate for You.

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Part A – Product Disclosure Statement

General Information

In this PDS, “We”, “Agile”, “Our”, “Us” means Agile Insurance Group NZ Limited (**Agile**) and “You”, “Your” means the **Insured** (the person who has entered into this contract of insurance with Us).

This document is a Product Disclosure Statement (**PDS**) and is also the Agile Insurance Group NZ Limited (**Agile**) **policy** wording.

This document contains important information and has been prepared to assist You in understanding Your policy and making an informed choice about Your insurance requirements. It is up to You to choose the cover You need.

This policy is a non-consumer product and is not intended to be used wholly or predominantly for personal, domestic or household purposes.

It is important that You carefully read and understand this document before making a decision. Other documents may form part of **Agile’s policy** wording and PDS and if they do, **Agile** will tell You in the relevant document. Please keep this document and any other documents that **Agile** tell You form part of Your **policy** and keep in a safe place in case You need to refer to them in the future.

Throughout this document, certain words are highlighted in **bold & italic**. These words have special meaning and are included in [General Definitions](#), and Definitions applicable to the coverage sections of this **policy** wording and PDS. Please refer to the Definitions for their meaning. Any reference to an Act, legislation or legislative instrument in this document also refers to that Act, legislation or legislative instrument as amended and may be in force from time to time.

This **policy** is a legal contract between the You and **Agile**. You have paid, or agreed to pay, **Agile** the required **premium** and **Agile** will provide indemnity as specified in this **policy** and as set out in the **schedule**. It is essential that You read all of the **policy** terms and conditions before You purchase it to ensure that this **policy** provides You the protection You require and You are aware of the **limits of liability** provided and the amounts **Agile** will pay (including any **deductible** that applies) noting that some of these will be stated in the **policy** itself (these are Our standard **policy** limits) and the remainder will be stated in the **schedule**. You must ensure that You are aware of the Definitions of this **policy**.

You must comply with all provisions of this **policy**, otherwise **Agile** may be entitled to refuse to pay a claim or reduce its liability under this **policy**. This **policy** is in force for the **period of insurance** set out in the **schedule** or until cancelled

1. Who Can I Contact If I Have Questions?

We have simplified Our contact points so You can easily get in touch with Agile.

For Enquiries Relating To	Please Contact
General enquiries, including policy questions and coverage, and policy amendments. Any questions, just call or email.	+64 9 888 4512 nz@withagile.com
Cancelling Your policy You can cancel Your policy at any time.	+64 9 888 4512 nz@withagile.com
Making a claim Get in touch as soon as possible and We can help. You can claim directly through Our online portal.	+64 9 888 4512 claims@withagile.com Link to Online Portal
Making a complaint If You are not happy...We want to know.	+64 9 888 4512 complaints@withagile.com

2. About Agile Insurance Group NZ Limited

This insurance is issued by Agile Insurance Group NZ Limited (NZBN: 9429052286766) (*Agile*). Agile arranges policies for and on behalf of certain Underwriters at Lloyd's led by Agile Syndicate 2427 managed by Asta Managing Agency.

In all aspects of this *policy*, Agile acts as agent for subscribing insurers and not for You.

Our contact details are:

Head Office:	Ground Floor, 48 Broadway, Newmarket, Auckland, New Zealand, 1023
Postal Address:	Ground Floor, 48 Broadway, Newmarket, Auckland, New Zealand, 1023
Telephone:	+64 9 888 4512
E-mail:	hello@withagile.com
Website:	www.withagile.com

3. About Lloyd's

Lloyd's is the world's leading insurance and reinsurance marketplace. Through the collective intelligence and risk-sharing expertise of the market's underwriters and brokers, Lloyd's helps to create a braver world. The Lloyd's market does this by sharpening the insight to anticipate and understand

risk, and the knowledge to develop relevant and innovative forms of insurance for customers globally. Lloyd's offers the efficiencies of shared resources in a marketplace that covers risks from more than 200 territories, in any industry, at any scale. Lloyd's promises a trusted partnership – helping people, businesses and communities to recover in times of need and build resilience for the future. Lloyd's is a 330-year-old start up, founded by a few brave entrepreneurs in a coffee shop. Three centuries later, the Lloyd's market continues that proud tradition – sharing risk and inspiring courage everywhere.

4. About This Policy

We agree to provide You with insurance in accordance with the terms, conditions, and exclusions of the *policy* based on the information You have provided or that was provided on Your behalf to Agile, subject to payment of the *premium* required. The policy consists of this document, the *schedule* and any *endorsements* affixed (or intended to be affixed) to it and the proposal form. All of them should be read as if they were one document. This *policy* is subject to New Zealand law and practice.

Your certificate of insurance

Your *schedule* of insurance contains important details about Your *policy* such as the *period of insurance*, what cover options and *deductibles* will apply, and any changes to the *policy* wording.

What makes up Your *premium*

Your *premium* is determined by a number of factors and of course, the higher the risk is, the higher the *premium*. Your *premium* also includes amounts that We are required to pay, such as government charges, taxes or levies (e.g. GST) that apply to Your *policy*. You will find these amounts on Your quotation.

5. Important Information About This Policy Wording and Product Disclosure Statement

This document is a PDS and is also Our insurance *policy* wording.

This document contains important information and has been prepared to assist You in understanding Your policy and making an informed choice about Your insurance requirements. It is up to You to choose the cover You need.

It is important that You carefully read and understand this document before making a decision. Other documents may form part of Our Policy Wording and PDS and if they do, We will tell You in the relevant document.

In return for You paying *Agile a premium*, *Agile* insure You for the events described in the *policy* wording and PDS, subject to the terms, conditions and exclusions of Your *policy*. Please keep this document, Your *schedule* and any other documents that We tell You form part of Your *policy* in a safe place in case You need to refer to them in the future. Please check these documents to make sure all the information in them is correct. Please let *Agile* know as soon as possible if any alterations are needed or if You change

Your address or payment details. For certain types of cover under the policy, **Agile** will require You to provide receipts and other documentary evidence to **Agile** before We pay a claim.

Check Your documents

It's important that You check all the details on the documents **Agile** send You. If You notice an error or if You have a question, please contact **Agile** at www.withagile.com/contact/. If You find You need to change the cover for whatever reason, get in contact with Us.

New Zealand Fair Insurance Code

The Insurance Council of NZ has developed the Fair Insurance Code, which is a self-regulatory code which sets out the standard of service member companies must provide to their customers. The Fair Insurance Code aims to raise the standards of practice and service in the insurance industry.

This **policy** is subject to the protections afforded by the Fair Insurance Code. For further information on the Code please visit [Fair Insurance Code – ICNZ](http://www.fairinsurancecode.co.nz/).

6. Your Duty of Disclosure

You have a duty of disclosure under this non-consumer **policy** to make a fair presentation of the risk. You must tell Us about all “material circumstances”, which are matters that a prudent insurer would want to know when deciding whether to provide insurance and, if so, on what terms and **premium**. This is not limited to answering any questions We ask. If You are not sure whether something is relevant, You should tell Us anyway.

This duty applies in relation to things You know or ought to know by carrying out a reasonable search. If You are an individual then this duty applies in relation to things that You (i.e. the individual) know or ought to know. If You are not an individual, then this duty applies in relation to things that are known to 1 or more individuals who are part of Your senior management (individuals who play significant roles in making decisions about how Your activities are to be managed or organised) and/or are responsible for Your insurance. If this **policy** covers Your subsidiaries, this duty applies in relation to things You ought to know by carrying out a reasonable search and making reasonable enquiries of Your subsidiaries.

Your duty to make a fair presentation of the risk applies before You enter into this **policy** and before You renew, extend, vary, or reinstate this **policy**. You also have a separate contractual duty to notify us of any Change in Risk during the course of the policy as set out in the General Conditions below.

When You provide information to Us, You must do so honestly and make sure it is factually correct. You must also present the information in a clear and accessible way.

If You do not comply with Your duty of disclosure, We will consider what We would have done if We had the correct information. Depending on the circumstances, We may increase Your premium, change

the terms of Your *policy*, reduce what We pay for a claim, and/or refuse a claim. If We would not have agreed to Your *policy*, or a change to it, We may treat the policy as if it had never existed or had never been changed and refuse all claims.

If We treat Your *policy* as if it had never existed or never been changed on the basis of a breach that is not deliberate or reckless, We will refund Your *premium* or any additional *premium* charged as a result of the change.

If You deliberately or recklessly do not meet Your disclosure duties, We may treat your *policy* as if it had never existed or had been ended at the time it was changed, refuse all claims, and keep any *premium* You have paid.

7. Who Can Purchase This Policy

Certain eligibility criteria apply. This *policy* can only be purchased by customers domiciled in New Zealand.

8. General Terms

Commencement and Period of Your Policy

Your *policy* begins on the date shown on the *schedule* and continues for the period as shown in the *schedule* after which time it expires, or until it is cancelled. This is Your *period of insurance*.

Change in risk

Every change materially affecting the facts or circumstances existing at the commencement of or during the course of this *policy*, shall be notified to **Agile** within thirty (30) days that such change comes to Your notice.

Agile reserves the right to accept or deny coverage at the time of such notification and to establish a separate rate and *premium* for any such coverage.

With regard to the Public & Products Liability Coverage Section, if any entity becomes an *acquired business* this condition will apply notwithstanding Definition 5.9 *insured* (e).

Renewal of Your Policy

This insurance may be renewed for further consecutive yearly periods upon payment of the *premium*. Payment of Your *premium* is deemed to be acceptance of an offer of renewal for a further yearly period.

If You continue to pay Your *premium*, then unless Your *policy* is cancelled or We advise You prior to the renewal date that We will be updating Your *policy* or not be renewing, a *policy* on the same terms and conditions automatically comes into existence for one (1) year from the renewal date.

The duty of disclosure set out above also applies on each renewal or variation of this *policy*.

Expiry of Your Policy

Your *policy* expires at the end of the *period of insurance*. We may decide not to renew Your *policy*. If We decide not to renew Your *policy*, We will send You an expiry notice at least fourteen (14) days before the expiry of Your *policy*. If Your policy is cancelled or otherwise terminated, the *period of insurance* will be from the commencement date or renewal date, whichever is the later, up to and including the date of cancellation or termination.

Jurisdiction

The law of New Zealand applies to this *policy*, and the New Zealand Courts have exclusive jurisdiction. In the event of any dispute arising under this *policy* including, but not limited to, its construction and/or validity and/or performance and/or interpretation, You and We will submit to the exclusive jurisdiction of any competent Court in New Zealand.

If a suit is instituted against any one of the subscribing insurers, all subscribing insurers' will abide by the final decision of such Court or any competent Appellate Court.

New Zealand Currency

All payments by You to *Agile* and *Agile* to You or someone else under Your *policy* must be in New Zealand currency.

If a loss under this *policy* is stated in a currency other than New Zealand dollars, payment under this *policy* shall be made in New Zealand dollars at the cash rate of exchange for the purchase of New Zealand dollars as reported in the Reserve Bank of New Zealand on the date the final judgment is reached, the amount of the settlement is agreed upon or the element of loss is due, as the case may be.

9. Cancellation of Your Policy

Your *policy* may be cancelled in one of two (2) ways:

When You can cancel

You can cancel Your *policy* at any time by emailing *Agile* at nz@withagile.com or calling +64 9 888 4512.

The cancellation will take effect at 4pm Local Standard Time on the day We receive Your notice of cancellation or at 4pm Local Standard Time on the date that You request the *policy* to be cancelled.

On cancellation, We will refund the *premium* for Your policy, less an amount which covers the period for which You were insured. However, We will not refund any *premium* if We have paid or are obliged to pay a claim under Your *policy*.

When We can cancel

We can cancel Your *policy* by giving You written notice to the address on file, where:

- (a) You have breached a provision of Your *policy* (including one requiring payment of *premium* within sixty (60) days);

- (b) A change in risk occurs such that We are no longer willing/able to provide You with insurance cover
- (c) You have made a fraudulent claim or used any fraudulent means under any *policy* of insurance;
- (d) If You are placed in liquidation, receivership or administration or bankruptcy or if any application is made to the Court or meeting convened for any these purposes

On cancellation, unless You have been fraudulent, We will refund the *premium* for Your *policy*, less an amount which covers the period for which You were insured. However, We will not refund any *premium* if We have paid or are obliged to pay a benefit under Your *policy*.

10. Claims

In the event of an *occurrence, claim, event* or *fine* or circumstance which may result in a claim under Your *policy* You must comply with the requirements under General Conditions 3. Notice and proof of claim, claims assistance and cooperation and General Condition 4. Claims control.

Claims Documentation

To facilitate the settlement of Your claim, please provide Us with any requested documentation, including the following:

- ☒ a written claim form or claim notification detailing the nature and extent of the loss or damage
- ☒ copies of all correspondence exchanged with any third party
- ☒ repair quotations
- ☒ details of any other insurance that may exist on the insured property.

In the event of a claim arising under this insurance notice should be given as soon as possible to:

For Enquiries Relating To	Please Contact
Making a claim Get in touch as soon as possible and We can help.	+64 9 888 4512 Link to Online Portal claims@withagile.com

11. Complaints and Dispute Resolution

If You have any concerns or wish to make a complaint in relation to this *policy*, Our services or Your insurance claim, please let *Agile* know and We will attempt to resolve Your concerns in accordance with Our Internal Dispute Resolution procedure. Please contact Agile Insurance Group NZ Limited in the first instance:

Address: The Complaints Officer
 Agile Insurance Group NZ Limited
 Suite 1, Level 6, 171 Clarence Street, SYDNEY, NSW, 2000

Telephone: [+64 9 888 4512](tel:+6498884512)
Email: complaints@withagile.com

We will acknowledge receipt of Your complaint within five (5) business days and attempt to resolve the complaint to Your satisfaction within ten (10) business days, unless We require further information in which case, We will agree an alternate time frame with You.

If We cannot resolve Your complaint to Your satisfaction, You can escalate the matter to Lloyd's General Representative in New Zealand to carry out an independent review:

Address: Lloyd's General Representative in New Zealand
C/- Hazelton Law
PO Box 5639, Wellington
Email: ldrnz@lloyds.com
Telephone: [+64 4 472 7670](tel:+6444727670)

Following receipt of Your complaint, You will be advised whether Your dispute will be handled by the Complaints team at Lloyd's Australia or the Lloyd's Complaints team in the UK, or what other avenues are available to You.

A final decision will be provided to You within two months of the date on which You first made the complaint unless certain exceptions apply.

If Your complaint is not resolved in a manner satisfactory to You or We do not resolve Your complaint within two months of originally receiving it, You may refer the matter to the Insurance and Financial Services Ombudsman (IFSO). IFSO can be contacted as follows:

Address: PO Box 10-845 Wellington New Zealand
Telephone: [0800 888 202](tel:0800888202) or [+64 4 499 7612](tel:+6444997612)
Email: info@ifso.nz or via their website www.ifso.nz.

Your complaint must be referred to the IFSO within 3 months of Our final decision, unless IFSO considers special circumstances apply. If Your complaint is not eligible for consideration by IFSO, 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.

12. Updating Our PDS

We may update the information contained in Our PDS when necessary. A paper copy of any updated information is available to You at no cost by calling Us on [+64 9 888 4512](tel:+6498884512).

If We need to make any changes to this PDS or the policy wording, we will let You know by email and/or post.

A copy of any new PDS or supplementary PDS will be available to You at no cost by calling **Agile**.

You may, following receipt of the updated PDS, either accept the new PDS or supplementary PDS, or alternatively cancel the *policy*.

If You wish to accept the new PDS or supplementary PDS, You do not need to do anything. If You decide to cancel the policy, then clause 9. Cancellation of Your Policy, will apply.

13. Data Privacy Statement

This Data Privacy Statement document sets out how We collect, store, use and disclose personal information.

Introduction

The privacy of Your personal information is very important to Us. For the purposes of this Statement "You" includes individuals who engage with Us on the Insured's behalf. This Statement details how We collect, store, use, disclose and protect an individual's personal information in accordance with Our obligations under the *Privacy Act 2020* (NZ) ("Privacy Act").

The terms of Our Privacy Policy may change from time to time. The current terms will be displayed on the website.

About the Privacy Act

The Privacy Act regulates the way both public and private agencies can collect, use, keep, secure and disclose personal information about a person.

Personal information means any information about an identifiable individual. This includes basic personal identifiers, such as your name, address and age, but also details of the devices you use, Your preferences and personal traits, and more sensitive information such as Your health and biometric information, religious beliefs, and financial information.

The aim of the law is to ensure that organisations that collect, hold, use and disclose personal information about people, handle that information responsibly. It also gives people some control over the way information about them is handled. For example, it gives individuals the right to know what personal information an organization holds about them and a right to correct that information if it is wrong.

Information Collected

We collect personal information from You that is necessary for the purpose of providing Our products and services. This includes personal information collected via our proposal form and policy application process, and via our website.

Where possible, We collect it directly from You. Where We collect personal information about You indirectly, We will do so in accordance with the Privacy Act (for example, with your authorisation, where indirect collection would not prejudice Your interests, or direct collection is not reasonably practicable).

If You do not provide all or part of the personal information We request We may not be able to provide Our products or services to You, including provision of quotes, issuing of policies, and managing claims.

Online Privacy

We may collect some personally identifiable information about You at different times depending on how You choose to access Our website.

If You submit Your e-mail address for a request it will be used to complete that request and send a reply.

We may request Your e-mail address for the inclusion into a mailing list. If You choose to submit Your e-mail address an option to remove this address from Our database will be offered to You via e-mail correspondence. All opt-in e-mails sent to the mailing list will comply with the *New Zealand Unsolicited Electronic Messages Act 2007*.

Use of Cookies

From time to time, We may use data collection devices such as 'cookies' in conjunction with Our website. Cookies are commonly used on the internet. They are a small file placed onto a computer by a server. A cookie can later be identified by a server. We may use both 'persistent' and 'session cookies'. We use the services of a marketing company to help Us measure the effectiveness of Our advertising and how visitors use Our site. Although Our marketing company manages the information coming from Our site on Our behalf, We control how that data may and may not be used. Any information that is collected in this way is used in an aggregated form, We do not use it to identify You as an individual.

We may use cookies for various purposes such as:

- to provide You with better and more customised service and a more effective website.
- collecting anonymous statistical information on things such as how many visitors Our sites receive, how those visitors use the sites and where they came from.
- If You wish, You can configure Your browser so it does not accept cookies, but this may affect the functionality of the website.

Use of Information

We use the personal information We collect for the purposes of providing our products and services. This includes, for example, providing quotations and issuing policies. We also use that information to administer Your policy, to process any claims You may have and to enhance Our relationship with You. In addition, We may use the information to provide You with updates of Our products and services, and products and services provided by affiliated companies.

Disclosure to Other Parties

The personal information that We collect from You may be disclosed to other parties which are involved with the provision of Our products and services to You. Such parties include the insurance administrator and underwriter.

Personal information may also be provided to Our affiliated companies to enable them to offer related products and services directly to You.

We will also disclose Your personal information where the disclosure is required or authorised by or under law. As an example, We may disclose information to government agencies.

Any third parties We provide information to, can use or disclose personal information provided to them, only for the specific purpose for which it was provided.

Access to and correction of Personal Information

You can request access to the personal information We hold about You. Access will not be denied unless there are exceptional circumstances as allowed for under the Privacy Act. For example, where We are involved in legal proceedings or where the request is frivolous. We may charge a fee for access and if We do, We will advise You of the fee prior to proceeding with the request.

If you consider Your personal information is incorrect you also have the right to request it be corrected.

Accuracy of Information

We will take reasonable measures to ensure that the personal information We hold about You is accurate and up to date. If You believe Your personal information is not accurate and up to date, please inform Us. We will promptly update any information that is incorrect.

Information Security

We will take reasonable precautions to ensure that the personal information that We have about You is protected against any unlawful use or access and is kept safe and secure.

While We undertake reasonable steps to protect Your personal information, no guarantee can be given that information sent over the internet is always 100% secure. Sending and receiving information over the internet is at the user's own risk, however We will take all reasonable steps to ensure Your data security once We receive it.

For Enquiries Relating To Privacy	Please Contact
Contact Our Privacy Officer at Agile by Email	privacy@withagile.com
Contact Our Privacy Officer at Agile by Phone	+64 9 888 4512
Contact Our Privacy Officer at Agile by Mail by writing to	Privacy Officer, Agile Underwriting Services Pty Ltd Suite 1, Level 6, 171 Clarence Street, SYDNEY, NSW, 2000

Part B – Policy Wording

General Definitions

When used in ***bold & italic*** in this policy (including its endorsements) the words below have the following meanings and are applicable to all sections of the policy unless otherwise specified.

- 1.1 ***act of terrorism*** means any act, or preparation to perform an act, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological or similar purposes to intimidate the public or a section of the public of any nation 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) de jure or de facto, and which:
- (a) involves violence against one or more persons;
 - (b) involves damage to property;
 - (c) endangers life other than that of the person committing the action;
 - (d) creates a risk to health or safety of the public or a section of the public; or
 - (e) is designed to interfere with or to disrupt an electronic system.
- 1.2 ***Agile*** means Agile Insurance Group NZ Limited (NZBN: 9429052286766) as agent for certain Underwriters at Lloyd's Led by Agile Syndicate 2427 managed by Asta Managing Agency.
- 1.3 ***business*** means all activities and operations specified in the ***schedule*** and includes the following in connection with the ***insured's business***:
- (a) at the ***insured's*** discretion, private work carried out by an ***employee*** for a director or business partner or ***employee*** of the ***insured's***;
 - (b) attendance at or participation in trade fairs, shows and exhibitions by any ***employee*** or director in connection with their employment;
 - (c) the ownership, maintenance, repair and occupation of premises or facilities belonging to the ***insured***;
 - (d) the provision and management of catering, social, sports, welfare, childcare, theatrical and related facilities including galas for the benefit of ***employee's***;
 - (e) the provision of sponsorship; and
 - (f) the provision of fire, first aid, ambulance and security services.
- 1.4 ***computer virus*** means corrupting or harmful instructions or code introduced into a ***computer system*** that propagate themselves through that ***computer system***.
- 1.5 ***computer system*** means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud 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, owned or operated by the insured or any other party.

- 1.6 **cyber act** means an unauthorised, malicious or criminal act, or the threat or hoax thereof, involving access to, processing of, use of or operation of a **computer system**.
- 1.7 **cyber incident** means:
- (a) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **computer system**; or
 - (b) any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **computer system**.
- 1.8 **data** means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a **computer system**.
- 1.9 **deductible** means the first amount of each claim or series of claims arising out of any one **occurrence** for which the **insured** is responsible. The **deductible** applicable to this insurance is specified in the **schedule**. The **deductible** applies to all amounts for which **Agile** will be liable, including indemnity provided by the Insuring Clause(s) 1.2 Additional payments.
- 1.10 **defence costs** means legal costs and expenses including but not limited to lawyer fees, investigator fees, expert fees incurred by the **insured** with **Agile's** prior written consent in respect of the **claim**. **Defence costs** do not include any compensation, expenses or benefits of the **insured**.
- 1.11 **employee** means any person who is employed by the **insured** in connection with the **insured's business** and in respect of whose remuneration the **insured** deducts pay-as-you-earn (PAYE) tax at source.
- 1.12 **internet operations** means:
- (a) transfer of **data** or programmes by use of electronic mail systems by the **insured** or the **insured's employee's**, including for the purpose of this definition only, part-time and temporary staff, contractors and others within the **insured's** organisation whether or not such **data** or programmes contain any malicious or damaging code, including but not limited to **computer virus**, worm, logic bomb, or trojan horse;
 - (b) access through the **insured's** network to the world wide web or a public internet site by the **insured** or the **insured's employee's**, including for the purposes of this definition only, part-time and temporary staff, contractors and others within the **insured's** organisation;
 - (c) access to the **insured's** intranet (meaning internal company information and computing resources) which is made available through the world wide web for the **insured's** customers or others outside the **insured's** organisation; and
 - (d) the operation and maintenance of the **insured's** web site.
- 1.13 **insured** means the person(s) described in the relevant coverage section or, for the General Conditions and General Exclusions sections that apply to the entire document, it means any **insured** in this document.

- 1.14 ***IT network incident*** means any unexpected non-malicious partial or total unavailability of or inability to access, process, use or operate any ***IT network***.
- 1.15 ***IT network*** means any computer hardware (or components thereof), software (or components thereof), communication system networks, ***internet operations***, websites wheresoever hosted, online, or offline media libraries, ***data***, or any other peripheral devices.
- 1.16 ***limit of liability*** means the amounts specified in the ***schedule***.
- 1.17 ***period of insurance*** means the period specified in the ***schedule*** and any extension thereof which may be agreed between the ***insured*** and ***Agile*** in writing.
- 1.18 ***pollutants*** means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapour, soot, fumes, acid, alkalis, chemicals, or waste. Waste includes but is not limited to material to be recycled, reconditioned, or reclaimed.
- 1.19 ***premium*** means the amount shown in the quote.
- 1.20 ***retroactive date*** means the date specified in the ***schedule***.
- 1.21 ***schedule*** means the schedule attaching to and forming part of this policy, including any schedule substituted for the original schedule.
- 1.22 ***worksite*** means any premises or site where any work is performed for or in connection with the ***business*** together with all areas surrounding such premises or site or all areas in between such premises or site that the ***insured*** shall use in connection with such work.

PUBLIC & PRODUCTS LIABILITY COVERAGE SECTION

Insuring Clauses: Public & Products Liability

1.1 What Agile cover

Subject to the terms and conditions of this policy, **Agile** will indemnify the **insured** for all amounts which the **insured** becomes legally liable to pay as **compensation** up to the **limit of liability**:

- (a) arising out of **personal injury, property damage, or advertising liability** happening during the **period of insurance**;
- (b) as a result of an **occurrence** within the **territorial limits** in connection with the **business or products**; and
- (c) provided that **Agile** will only be liable to indemnify the **insured** in excess of the **deductible** stated in the **schedule**.

1.2 Additional payments

Subject to the terms and conditions of this policy, **Agile** will pay:

- (a) legal costs and expenses incurred by **Agile**, or the **insured** with **Agile's** written consent, in the settlement or defence of any claim for **compensation** in respect of which the **insured** is entitled to indemnity under this policy, or if sustained, would be so entitled.
- (b) the expenses incurred by the **insured** for first aid to others at the time of **personal injury** caused by an **occurrence** (other than medical expenses prohibited by law).
- (c) **compensation** to the **insured** if, at **Agile's** request, an **insured** attends court as a witness in connection with an **occurrence** in respect of which the **insured** is entitled to indemnity under this policy, at the following rates per day for each day on which attendance is required:
 - 1. any director, officer or business partner of the **insured** \$300 per day;
 - 2. any **employee** of the **insured** \$200 per day.

The amount of such costs and expenses as described under clause 1.2 (a), (b), and (c) are payable by **Agile** in addition to the **limit of liability** specified in the **schedule**.

However, in respect of any *occurrence* in *North America*, or *occurrences* in respect of which a claim for *compensation* is brought in a court in *North America*, the *limit of liability* specified in the *schedule* shall be inclusive of all additional payments under this clause.

1.3 Representation at inquiry

Upon request from an *insured*, *Agile* will provide the *insured* with legal representation at any *inquiry* where the *inquiry* arises from an *occurrence* likely to give rise to a liability covered clause 1.1 What *Agile* cover of this policy. *Agile's* liability under this clause will not exceed \$250,000 in respect of any one claim or series of claims arising out of any one *occurrence* and in the aggregate during the *period of insurance*.

1.4 Temporary protection

Agile will pay expenses incurred by the *insured* for:

- (a) temporary protection of damaged or undamaged property of any person or part, including temporary repairs, shoring up or underpinning thereof;
- (b) purchasing or hiring or erection and dismantling of hoarding, barriers, fences and any other form of temporary protection, including such protection which the insured must provide in compliance with the requirements of any Government, Local Government or other Statutory Authority.

This extension of cover does not apply to any *occurrence* in connection with *pollutants*.

1.5 Overseas personal liability

Where the *insured* is not entitled to indemnity under any other policy of insurance, self-insurance or deductible programme effected by or on behalf of the *insured*, subject to the terms and conditions of this policy, *Agile* will indemnify *employees* and directors (and their spouses whilst accompanying the *employee* or director) for legal liability to pay *compensation* as a result of an *occurrence* happening:

- (a) during the *period of insurance*
- (b) in connection with the *business*; and
- (c) whilst the *employee* or director is travelling outside their country of domicile in connection with the *business*.

1.6 Claims preparation costs

In addition to the amount of cover provided by this policy, *Agile* will pay up to \$25,000 in respect of each claim or series of claims arising out of any one *occurrence* for professional fees and such other expenses incurred by the *insured* for the preparation of a claim under this policy.

The amount of such costs and expenses as described under this clause are payable by *Agile* in addition to the applicable *limit of liability*.

Exclusions:

Public & Products Liability

In respect of this Coverage Section, the following exclusions override any inconsistent General Exclusions unless otherwise stated.

Agile will not be liable under the Public & Products Liability Coverage Section of this policy in respect of:

2.1 Advertising liability

advertising liability in connection with or contributed to by:

- (a) failure of performance of contract, but this shall not relate to claims resulting from unauthorised appropriation of ideas based upon alleged breach of an implied contract;
- (b) incurred by any insured where the principal business of that insured is advertising, broadcasting, publishing or telecasting;
- (c) resulting from statements made at the insured's direction knowing that such statements are false;
- (d) failure of the insured's products or services to conform with advertised performance, quality, fitness or durability;
- (e) incorrect description of any insured's products, article or commodity; or
- (f) mistake in advertised price of any insured's products.

2.2 Aircraft products

any liability whatsoever in connection with or contributed to by any of the **insured's products**, which the **insured** knew, or ought to have known, are intended for incorporation into any **aircraft** or **drone**.

2.3 Aircraft, watercraft, hovercraft

- (a) any liability whatsoever in connection with or contributed to by the ownership, maintenance, possession, use or operation, loading or unloading, of any aircraft or hovercraft;
- (b) the ownership, operation or use by the insured of any watercraft except on inland or coastal waters, where the watercraft does not exceed fifteen (15) metres in length, and the watercraft is owned by others and used by the insured for business entertainment. Coastal waters are to be defined as within one (1) kilometre off the coast of the territory from where the insured operates.

It is noted and agreed that 2.3 (a) does not apply to a **drone**.

2.4 Contractual liability

any liability or obligation assumed by the **insured** under any agreement or contract except to the extent that the liability or obligation arises from **endorsed contracts** or a provision in a contract (whether written or oral):

- (a) for lease of real or personal property (save for a provision which obliges the *insured* to effect insurance or provide indemnity in respect of the subject matter of the lease);
- (b) with any public supplier for the supply of water, gas, electricity, fuel, sewerage or waste removal services, telephone and communications services (save for contracts with such suppliers for the performance of work by the *insured*);
- (c) with any railway authority, railway company or other independent carrier for the loading, unloading and/or transport of the *insured's products*;
- (d) where such liability or obligation would otherwise have been implied by law.

2.5 Employer's Liability

any liability to indemnify or pay *compensation* in connection with:

- (a) *personal injury* to any *employee* of the *insured* arising out of or in the course of employment of such person in the *insured's business*; or
- (b) any obligation for which the *insured* may be held liable under the *Accident Compensation Act 2001*, or any amending or replacement legislation; or
- (c) any liability in respect of which the *insured* is entitled to seek compensation under any policy of insurance required to be taken out pursuant to any legislation relating to workers' compensation whether or not the *insured* has effected such a policy, arising out of or based upon or attributable to any *personal injury*.

2.6 Loss of use

for loss of use of tangible property, which has not been physically lost, destroyed or damaged, directly arising out of:

- (a) a delay in or lack of performance by the insured or on behalf of the insured of any contract or agreement; or
- (b) failure of any products or work performed by the insured or on behalf of the insured to meet the level of performance, quality fitness or durability expressly or impliedly warranted or represented by the insured.

2.7 Motor vehicle liability

any liability whatsoever in connection with, caused by, the use of, or contributed to a *motor vehicle* owned by, operated, or in the physical or legal control of the *insured*

- (a) which is registered or in respect of which insurance is required by virtue of any legislation.

However, exclusion 2.8 (a) shall not apply to:

1. any *motor vehicle* whilst being used or operated as a *tool of trade* by the *insured* or on behalf of the *insured* at the *insured's* premises or *worksite*;
2. a *motor vehicle* (other than a *motor vehicle* owned or used by or on behalf of the *insured*) whilst that *motor vehicle* is in a car park owned or operated by the *insured* for no income or reward as a car park operator; or

3. *personal injury* or *property damage* occurring during the loading or unloading of a *motor vehicle* caused by or arising from the collection or delivery of any goods from or to the *motor vehicle* where such *personal injury* or *property damage* occurs beyond the limits of any carriageway or thoroughfare, and where applicable legislation does not require insurance against such liability.

2.8 North America

any liability in *North America* in connection with or contributed to by the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to existence of, or presence of any:

- (a) fungi or bacteria; or
- (b) substance, vapour or gas produced by or arising out of any fungi or bacteria.

2.9 Other insurance

any liability whatsoever which forms the subject of:

- (a) insurance procured to cover specific work(s), contract(s) or agreement(s).

2.10 Pollution

any liability whatsoever in connection with or contributed to by:

- (a) *personal injury* or *property damage* in connection with or contributed to by the discharge, seepage, migration, dispersal, release or escape of *pollutants* into or upon any property, land, the atmosphere or any watercourse or body of water (including ground water);
- (b) *personal injury* or *property damage* in connection with or contributed to by the discharge, seepage, migration, dispersal, release or escape of *pollutants* caused by any *product* that has been discarded, dumped, abandoned or thrown away by others;
- (c) the cost of removing, nullifying or cleaning up *pollutants*; or
- (d) the cost of preventing the escape of *pollutants*.

However, exclusion 2.11 (a) and 2.11 (c) shall not apply where the claim:

1. has no connection with *North America*, and
2. arises from a sudden identifiable, unintended and unexpected event from the *insured's* standpoint which takes place in its entirety at a specific time and place during the *period of insurance* and is in connection with the *insured's business*.

2.11 Professional liability

any liability whatsoever in connection with or contributed to by the rendering or failure to render professional advice or service by the *insured*, or any error or omission in connection therewith.

However, this clause shall not apply to:

- (a) the *insured's* liability in respect of *personal injury* or *property damage* resulting from the provision of professional advice or services which is not given for any fee or reward; or
- (b) the rendering or failure to render professional advice by any *employee* to provide first aid or other medical services at the *insured's* premises. Medical services excludes advice or services provided by *medical persons*.

2.12 Property owned by the insured

for *property damage* to property owned by the *insured*.

2.13 Punitive or liquidated damages

any amount which constitutes:

- (a) fines or penalties; or
- (b) liquidated, punitive, aggravated or exemplary damages or multiplication of awards.

2.14 Repair and replacement

any liability whatsoever in connection with or contributed to by:

- (a) rectifying defective work carried out by or on behalf of the *insured*;
- (b) the recall, removal, repair, recovery, alteration or replacement of the *insured's products* arising from a defect in or an error in connection with the sale or supply of such *products* or the guaranteed performance of the *insured's products* or the unsuitability thereof for the use for which they are supplied; or
- (c) the failure of the *insured's products* to meet the level of performance, quality, fitness or durability expressly or implied warranted or represented by an *insured*.

It is noted and agreed that 2.15 (c) shall not apply to resultant *property damage* or *personal injury*.

2.15 Toxic Mould Exclusion

any claim for liability, loss, *property damage*, costs or expenses, or any duty to defend a claim directly or indirectly caused by, arising out of, contributed to by, in connection with, or resulting from exposure to algae, archaea, bacteria, fungi, lichen, plasmids, protozoa, any virus or any similar organism or any actual, or alleged, disease or *personal injury* involving the presence, existence, detection, removal, elimination or avoidance of such organisms or exposure to them.

2.16 Waived or limited rights

any injury, loss, damage, cost or expense whatsoever where the *insured* has waived, limited or reduced its rights to:

- (a) recovery of, or contribution to the injury, loss, damage, cost or expense from any other party; or
- (b) to raise a defence, set off or counter claim in answer to its legally liability for any injury, loss, damage, cost or expense whatsoever.

However, this exclusion does not apply to *endorsed contracts*.

2.17 Jurisdiction

Any:

- (a) legal proceedings, wherever brought, in any court of *North America*, or under the laws of *North America*, or brought under the laws outside *North America* to enforce a judgment or order made under the laws of *North America*;
- (b) coronial inquests, disciplinary hearings, or occupational health and safety proceedings brought outside New Zealand.

2.18 Vibration and removal of support

Any claim, loss, damage, liability, or costs and expenses incurred directly or indirectly, out of, through, from or in connection with *personal injury* or *property damage* arising from:

- (a) vibration; or
- (b) removal of the support; or
- (c) weakening of the support; or
- (d) interference with the support,

of land, buildings or structures owned or occupied by the *insured*.

2.19 External Moisture, Water or Building Defects Exclusion

Any claim, loss, damage, liability, or costs and expenses incurred directly or indirectly, out of, through, from or in connection with *personal injury* or *property damage* arising from:

- (a) moisture or water build-up or the penetration of external moisture or water;
- (b) as detailed in 2.16 Toxic Mould Exclusion, including any costs and expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralising, remediating or disposal of, or in any way responding to or assessing the effects of such organisms as detailed in 2.16 Toxic Mould Exclusion;
- (c) the failure of any building or structure to comply with or perform to the requirements of any building code or standard or to meet the level of performance, quality, fitness, or durability expressly or implied, warranted or represented by the *insured* to be fit for its intended purpose.

This exclusion does not apply to any *occurrence* for *personal injury* or *property damage* that is caused by the leakage of internal pipes, internal water system or internal cisterns.

2.20 Care, Custody and Control

property damage to property owned by, hired to or in the legal custody or control of the *insured* or any *employee* or any party acting on behalf of the *insured*.

2.21 Underground Services Exclusion

Any claim, loss, damage, liability, or costs and expenses incurred directly or indirectly, out of, through, from or in connection with **property damage** to underground property and services including but not limited to underground cables, underground pipes and other underground facilities.

Automatic Extensions: Public & Products Liability

The following Automatic Extensions are subject to the policy terms and conditions unless otherwise stated. Some extensions have specified sub-limits of liability and **deductibles** specified in the **schedule**.

3.1 Goods on Hook

Notwithstanding Exclusion 2.20 Care, Custody and Control, **Agile** will indemnify the **insured** for all sums that the **insured** shall become legally liable to pay for **personal injury** and **property damage** in New Zealand during the **period of insurance** in connection with the **business** in respect of loss or damage to goods or property of others, while in the legal custody or control of the **insured** or any **employee** or any party acting on behalf of the **insured**, directly arising from the dropping or slipping of the goods or property whilst it slung on or on the hook of any crane or similar lifting apparatus.

It is a condition precedent to liability under this clause that adequate transportation and loading and unloading equipment is used and that the weight of goods or property being lifted, loaded or unloaded does not exceed the registered manufacturer's guaranteed lifting or weight capacity of any equipment including but not limited to ropes, cables, blocks, and tackle.

The sub-limit of liability under this Automatic Extension shall be the amount stated in the **schedule**. This Extension shall be subject to the **deductible** stated in the **schedule**.

So far as concerns this Automatic Extension, Exclusions and Conditions applicable to all sections of the policy will also apply.

3.2 Innkeepers Liability

Notwithstanding Exclusion 2.20 Care, Custody and Control, **Agile** will indemnify the **insured** for all sums that the **insured** shall become legally liable to pay for **personal injury** and **property damage** in New Zealand during the **period of insurance** in connection with the **business** in respect of loss or damage to goods or property of others, while in the legal custody or control of the **insured** covered under the **Innkeepers Act 1962** and any amendments thereafter where **property damage** happens during the **period of insurance** in connection with the **insured's business**.

The Sublimit of Liability under this Automatic Extension shall be the amount stated in the *schedule*. This Extension shall be subject to the *deductible* stated in the *schedule*.

So far as concerns this Automatic Extension, Exclusions and Conditions applicable to all sections of the policy will also apply.

3.3 Lost or Stolen Keys

Notwithstanding Exclusion 2.20 Care, Custody and Control **Agile** will indemnify the *insured* for all sums that the *insured* shall become legally liable to pay for *personal injury* and *property damage* in New Zealand during the *period of insurance* in connection with the *business* in respect of the reasonable costs of re-cutting keys and/or the replacement of locks, where keys, locks or security codes have been lost by or stolen from the *insured* during the *period of insurance* and in connection with the *business* provided that the *insured* does not own the property to which the keys or locks relate.

The Sublimit of Liability under this Automatic Extension shall be the amount stated in the *schedule*. This Extension shall be subject to the *deductible* stated in the *schedule*.

So far as concerns this Automatic Extension, Exclusions and Conditions applicable to all sections of the policy will also apply.

3.4 Product Withdrawal Costs

Notwithstanding Exclusion 2.14 (b) Repair and replacement **Agile** will indemnify the *insured* in respect of Expenditure incurred by the *insured* with **Agile's** prior consent for the recall of any *products* (or any part thereof) in New Zealand only, as a result of a decision taken by the *insured* during the *period of insurance* and first notified to **Agile** during the *period of insurance* that it is necessary to recall any *products* because their use or consumption (or continued use or consumption) may cause *personal injury* or *property damage* for which the *insured* may incur a legal liability.

For this Automatic Extension, Expenditure means:

- (a) The reasonable and necessary financial outlay incurred by the *insured* in arranging for the return of the *products* or any part thereof:
 - 1. to the *insured's* premises; or
 - 2. to the premises of the manufacturer (or manufacturers nominated agent);

and such financial outlay includes the cost of correspondence, newspaper and magazine advertising, radio or television announcements, transportation costs, packaging or temporary storage charges and if necessary, the cost to the *insured* of physically destroying the recalled *products*.

- (b) The costs of examination of the *products* (or any part) whether incurred by the *insured* or their nominated agent arising out of a recall as described.

This Automatic Extension does not apply to or include claims:

- i) for the *deductible* in respect of the first amount of each *occurrence* (or series of *occurrences* arising out of one originating cause) as specified in respect of this Insuring Clause;

- ii) for the costs incurred in the repair, alteration, treatment, modification, reconditioning, resupply, or replacement of any **products** (or part thereof);
- iii) which form the subject of indemnity by any other section of this policy and this section shall not be drawn into contribution with such other section;
- iv) for any Expenditure arising from the **insureds** decision to recall any **products**
 - (a) which have not been delivered to customers by the **insured** and which remain in the care, custody and control of the **insured** or their parent or subsidiary companies, or any of the **insureds** agents;
 - (b) solely as a result of the **products** having been misdelivered or misdirected by or on behalf of the **insured**;
 - (c) where recall is brought about solely due to exposure to weather or due to external loss or damage or gradual deterioration. This exclusion shall not apply where a defect in the **product** supplied is merely exacerbated by exposure to weather or the passage of time.
- v) for claims arising out of deliberate or alleged deliberate contamination, alteration, or adulteration of any **product**.

The Sublimit of Liability under this Automatic Extension shall be the amount stated in the **schedule**. This Extension shall be subject to the **deductible** stated in the **schedule**.

So far as concerns this Automatic Extension, except where expressly stated otherwise, Exclusions and Conditions applicable to all sections of the policy will also apply.

3.5 Punitive and Exemplary Damages

Notwithstanding Exclusion 2.13 Punitive or liquidated damages, **Agile** will indemnify the **insured** for all sums that the **insured** shall become legally liable to pay by way of punitive or exemplary damages awarded for **personal injury** (for which coverage is determined to exist under the *Accident Compensation Act 2001* or any amending or replacing legislation) where such **personal injury** happened in New Zealand during the **period of insurance** and in connection with the **business**.

Provided that:

- (a) any liability arising from trespass to the person, assault, battery, false imprisonment, malicious prosecution, sexual harassment or sexual abuse is excluded;
- (b) any punitive or exemplary damages awarded by any court outside New Zealand are excluded;
- (c) The Sublimit of Liability under this Automatic Extension shall be the amount stated in the **schedule**. This Extension shall be subject to the **deductible** stated in the **schedule**.

So far as concerns this Automatic Extension, Exclusions and Conditions applicable to all sections of the policy will also apply.

3.6 Service and Repair – Machinery

Agile will indemnify the *insured* for all sums that the *insured* shall become legally liable to pay for *personal injury* and *property damage* in New Zealand during the *period of insurance* in connection with the *business* arising from the service and repair by the *insured* of any machinery, other than any *motor vehicle* or *watercraft* or its internal combustion engine, accessories or fittings, provided that the machinery is not owned, hired, leased or rented by the *insured*.

Exclusion 2.14 Repair and replacement, does not apply to this Automatic Extension.

The Sublimit of Liability under this Automatic Extension shall be the amount stated in the *schedule*. This Extension shall be subject to the *deductible* stated in the *schedule*.

So far as concerns this Automatic Extension, except where expressly stated otherwise, Exclusions and Conditions applicable to all sections of the policy will also apply.

3.7 Service and Repair – Vehicle & Watercraft

Agile will indemnify the *insured* for all sums that the *insured* shall become legally liable to pay for *personal injury* and *property damage* in New Zealand during the *period of insurance* in connection with the *business* arising from:

- (a) the service and repair by the *insured* of any
 - i) *motor vehicle*;
 - ii) *watercraft* not exceeding fifteen (15) metres in length;
 - iii) an internal combustion engine, accessories, or fittings for either (i) or (ii) above;
- (b) to a *motor vehicle* or *watercraft* not exceeding fifteen (15) metres in length, that is in the *insured's* custody or control for the purpose of service and repair, including while it is being driven or operated by the *insured*;

provided that the *motor vehicle* or *watercraft* is not owned, hired, leased or rented by the *insured*.

Exclusion 2.14 Repair and replacement and Exclusion 2.7 Motor vehicle liability, do not apply to this Automatic Extension.

The Sublimit of Liability under this Automatic Extension shall be the amount stated in the *schedule*. This Extension shall be subject to the applicable *deductible* stated in the *schedule*, where "GVM" means gross vehicle mass.

So far as concerns this Automatic Extension, except where expressly stated otherwise, Exclusions and Conditions applicable to all sections of the policy will also apply.

3.8 Specified Property in Custody and control

Notwithstanding Exclusion 2.20, *Agile* will indemnify the *insured* for all sums that the *insured* shall become legally liable to pay for *property damage* in New Zealand during the *period of insurance* in connection with the *business* to property owned by, hired to or in the legal custody or control of the *insured* or any *employee* or any party acting on behalf of the *insured*, solely comprising:

- (a) guests', visitors', directors', officers', **employees'** or business partners' personal effects;
- (b) **motor vehicles** in a car park, unless the car park is owned or operated by the **insured** for reward;
- (c) premises at which the **insured** is undertaking work (excluding the construction of a new building) in connection with the **business**;
- (d) any building (including its fixtures and fittings) leased, hired or rented to the **insured** provided **Agile** shall not be liable in respect of liability assumed by the **insured** under a tenancy or other agreement which would not have been implied by law in the absence of such agreement;
- (e) any other property temporarily in the **insured's** possession for the purpose of being worked upon, but no indemnity is granted for damage to that part of any property upon which the **insured** is or has been working if the damage arises solely out of such work; or
- (f) notwithstanding Exclusion **Error! Reference source not found. Error! Reference source not found.** any other property (except property owned by the **insured** and not mentioned in (a), (b), (c) (d) or (e) above) in the **insured's** legal custody or control for which the **insured** has not assumed any responsibility to obtain insurance, subject to the Sublimit of Liability stated in the **schedule**.

3.9 Certain Underground Services

Notwithstanding Exclusion 2.21, **Agile** will indemnify the **insured** for all sums that the **insured** shall become legally liable to pay for **property damage** in New Zealand during the **period of insurance** in connection with the **business** to underground property and services including but not limited to underground cables, underground pipes and other underground facilities, provided that prior to the commencement of work, the **insured** has inquired with the relevant authorities or owners of such underground property and services and recorded in writing their locations.

However; this Extension shall not apply to:

- i. any liability arising out of work carried out more than 10 meters below ground level;
- ii. any liability arising out of work carried out by directional drilling or by a thrusting or boring machine.

The **deductible** applicable to this Extension is the amount stated in the **schedule**.

3.10 Vibration and removal of support

Notwithstanding Exclusion 2.18 Vibration and removal of support, **Agile** will indemnify the **insured** for all sums that the **insured** shall become legally liable to pay for **property damage** in connection with such vibration or removal of, weakening of or interference with support, in New Zealand during the **period of insurance** in connection with the **business** if the land, buildings or structures are not owned or occupied by the **insured**.

The Sublimit of Liability under this Extension shall be the amount stated in the **schedule** for any one **occurrence** and in the aggregate during the **period of insurance**. The **deductible** stated in the **schedule** will apply to any one **occurrence**.

Optional Extensions: Public & Products Liability

The following Optional Extensions only apply when they are shown in the *schedule* and are subject to the policy terms and conditions.

4.1 Rectification of Defective Work

Agile will indemnify the *insured* for all sums that the *insured* shall become legally liable to pay for, when shown in the *schedule*.

- (a) Defective Work for *property damage* to property the *insured* is or has been working on, where the *property damage* occurs in New Zealand during the *period of insurance* as a result of an *occurrence* and in connection with the *business*, provided that the property is not owned, hired, leased or rented by the *insured*; or
- (b) Faulty Products where the *product* has caused physical loss or destruction to other tangible property, where the accidental physical loss or destruction happens in New Zealand during the *period of insurance* caused by an *occurrence* and in connection with the *business*.

Provided that:

- (a) any defect in design, plan or specification is excluded;
- (b) construction of new buildings is excluded;
- (c) concreting activities is excluded;
- (d) any property that is machinery, a *motor vehicle* or *watercraft* is excluded; except where indemnity is provided under Automatic Extension 3.6 Service and Repair – Machinery or Automatic Extension 3.7 Service and Repair – Vehicle & Watercraft

For the purposes of this Optional Extension, Defective Work means:

- i) defective construction work;
- ii) defective erection work;
- iii) defective installation work;
- iv) defective repair work;
- v) defective service work;
- vi) defective treatment work; or
- vii) defective alteration work performed by the *insured* on *products*.

For the purposes of this Optional Extension, Faulty Product means the cost of repairing, correcting, removing, or replacement of the whole or part of the *product*, which is faulty, defective, harmful or has failed to perform the function for which it was sold, supplied, manufactured or installed.

Exclusion 2.14 Repair and replacement does not apply to this Optional Extension.

The Sublimit of Liability under this Optional Extension shall be the amount stated in the *schedule*. This Extension shall be subject to the *deductible* stated in the *schedule*.

So far as concerns this Optional Extension, Exclusions and Conditions applicable to all sections of the *policy* will also apply.

Definitions:

Public & Products Liability

When used in ***bold & italic*** in this policy (including its endorsements) the words below have the following meanings. Where an equivalent definition to a definition below is provided in another Coverage Section, the definition below will not apply to such Coverage Section. Further, the definitions below will override any inconsistent policy General Definition insofar as it relates to this Coverage Section unless otherwise stated.

5.1 ***advertising liability*** means:

- (a) infringement of copyright of, or passing off of a title or slogan;
- (b) unfair competition, piracy or idea misappropriation contrary to an implied contract;
- (c) invasion of privacy;
- (d) defamation, libel, slander;

committed or alleged to have been committed during the ***period of insurance*** in any advertisement, publicity article, broadcast or telecast arising out of the ***insured's*** advertising activities or any advertising activities conducted on the ***insured's*** behalf, in the course of advertising the ***products***, or goods or services related to those ***products***.

For the purpose of this definition, advertisement means any manner of communication given to the public including but not limited to any form of print media, publication, telecommunication, radio or television broadcast, electronic mail, internet, World Wide Web, social media platforms or exhibit.

5.2 ***aircraft*** means any vessel, craft or object made, or intended, to travel through air or space but does not include a ***drone***.

5.3 ***acquired business*** means any company or companies acquired or established or created by the ***insured*** provided that:

- (a) its business is consistent with the ***business*** as described in the ***schedule***;
- (b) its turnover does not exceed 10% of the turnover that was used to calculate the ***premium***; and
- (c) it is domiciled in New Zealand.

5.4 ***compensation*** means monies paid or pursuant to any judgment, award, or settlement, and is only payable in respect of an ***occurrence*** to which this insurance applies, for:

- (a) ***personal injury***;
- (b) ***property damage***; or
- (c) ***advertising liability***.

5.5 ***drone*** means a remotely piloted aircraft (RPA) but only to the extent that:

- (a) the RPA is being used in strict accordance with all relevant legislation, rules or regulations put in place, administered or enforced by the Civil Aviation Authority of New Zealand (whether or not the legislation, rules or regulations have territorial application); and
- (b) any injury, loss, damage, cost or expense under consideration has no connection with invasion or breach of privacy through the use or operation of the RPA.

- 5.6 **endorsed contracts** means the contract(s) specified in the **schedule**.
- 5.7 **hovercraft** means any vessel, craft or device made to float on or in or travel on or through the atmosphere or water on a cushion of air provided by a downward blast.
- 5.8 **inquiry** means any inquest, coronial inquiry, or criminal proceedings:
- (a) regarding **personal injury** or **property damage**; and
 - (b) not connected with the laws of **North America**.
- 5.9 **insured** means the entity(ies) named in the **schedule** and includes:
- (a) any of the **insured's** subsidiary companies (including subsidiaries thereof) and any other entity under the **insured's** control, and over which the **insured** exercises active management;
 - (b) any of the **insured's** directors, officers, **employees** or business partners but only whilst acting within the scope of their duties in such capacity;
 - (c) any student or person undertaking work for the **insured** under a work experience or similar scheme;
 - (d) any voluntary helper;
 - (e) any **acquired business** but only for ninety (90) days following the takeover or formation of the company or companies at which time the **acquired business** will no longer be included as an **insured**, unless agreed otherwise by **Agile**;
 - (f) any social and/or sporting clubs, first aid, fire and ambulance services formed with the **insured's** consent and includes any office bearer or member thereof in their respective capabilities as such;
 - (g) any of the **insured's** directors or senior executives in respect of private work undertaken by the **insured's employees** for such director or senior executive;
 - (h) any principal in respect of the vicarious liability of such principal arising out of the performance by the **insured** of any contract or agreement for the performance of work for such principal to the extent required by such contract or agreement but limited to the coverage provided by this policy;
 - (i) any contractor or sub-contractor but only while they are engaged and working in New Zealand for and on behalf of the **insured** provided that they are not otherwise insured. General Condition 5. Cross liability does not apply in respect of such contractors or sub-contractors.
- 5.10 **medical persons** means qualified medical practitioners, dentist, nurses and first aid attendants
- 5.11 **motor vehicle** means any type of machine and attachments thereto (including a trailer) which:
- (a) travels on wheels or on self-laid tracks; and
 - (b) is propelled by other than manual or animal power.
- 5.12 **North America** means:
- (a) the United States of America and Canada; and

- (b) any state or territory incorporated in, or administered by, the United States of America or Canada including any country or territory subject to the laws of the United States of America or Canada.

5.13 **occurrence** means an event, including continuous or repeated exposure to conditions, that results in **personal injury**, **property damage** or **advertising liability** that is neither expected nor intended (except for the matters set out in clause (f) of the definition of **personal injury**) from the **insured's** standpoint, during the **period of insurance**.

With respect to **personal injury** or **property damage**, all events of a series consequent upon or attributable to one source or original cause shall be deemed to be one **occurrence**.

All **advertising liability** arising out of the same injurious material or act (regardless of the frequency or repetition thereof) shall be deemed to be one **occurrence**.

5.14 **personal injury** means:

- (a) bodily injury, death, disease, illness, disability, sickness, nervous shock, mental anguish or mental injury or loss of consortium;
- (b) false arrest, false detention, wrongful imprisonment, malicious prosecution or humiliation;
- (c) wrongful entry or wrongful eviction or other invasion of privacy;
- (d) discrimination as a result of race, religion, sex, sexual orientation, marital status, age, intellectual impairment, disability or otherwise (unless insurance thereof is prohibited by law) not committed by the **insured** or at the **insured's** direction, but only with respect to liability other than fines and penalties imposed by law;
- (e) defamation, libel or slander; and
- (f) assault and/or battery committed by or at the direction of the **insured** whilst engaged in the **business** and for the purpose of preventing or eliminating danger to persons or property.

5.15 **products** means any goods or **products** manufactured, grown, extracted, produced, processed, treated, altered, handled, sold, supplied, distributed, imported, exported, repaired, serviced, installed, assembled, erected or constructed by the **insured** (including packaging, containers or any associated instructions) in connection with the **business** in or from the **territorial limits**, and after it has ceased to be the **insured's** property or in the **insured's** custody or legal control.

5.16 **products liability** means the **insured's** legal liability in respect of **personal injury** or **property damage** caused by or arising out of any **products** or the reliance upon a representation or warranty made at any time with respect to such **products**; but only where such **personal injury** or **property damage** occurs away from premises owned or leased by or rented to the **insured** and after physical possession of such **products** has been relinquished to others.

- 5.17 **public liability** means the *insured's* legal liability in respect of *personal injury*, *property damage* or *advertising liability* happening in connection with the *business* and caused by or arising out of an *occurrence* other than *products liability*.
- 5.18 **property damage** means:
- (a) physical damage to, or loss of or destruction of tangible property, including the subsequent loss of use of that property;
 - (b) loss of use and/or loss of value of tangible property that has not been physically damaged, physically lost or physically destroyed provided such loss of use and/or loss of value is caused by physical damage to, physical loss of or physical destruction of other tangible property; and includes denial of access to property, premises, services or facilities, interference with or stoppage of vehicular or pedestrian traffic; and
 - (c) trespass, nuisance or interference with right of way or right to light air or water, easement or quasi-easement.
- 5.19 **tool of trade** means a *motor vehicle* that has tools, implements, machinery or plant attached to or towed by the *motor vehicle* and is being used by the *insured* at their premises or any *worksite*. *Tool of trade* does not include any *motor vehicle* whilst travelling to or from a *worksite* or *motor vehicle* that are used to carry goods to or from any premises.
- 5.1 **territorial limits** means as stated in the *schedule*, and in respect of *North America* only with respect to:
1. overseas *business* visits by any of the *insured's* directors, business partners, officers, executives, or *employee's*, who are non-residents in *North America*, but not where they perform manual work in *North America*;
 2. *products* exported to *North America* without the *insured's* knowledge.
- 5.20 **watercraft** means any vessel, craft or thing made, or intended to float on or in, or travel on or through or under water.

STATUTORY LIABILITY COVERAGE SECTION

Insuring Clauses: Statutory Liability

1.1 What Agile cover

Subject to the terms and conditions of this policy, **Agile** will pay for any *fine* that a New Zealand Court or tribunal imposes any *order for reparation* or *statutory damages* on the *insured* arising out of a *claim* or *event* that occurs in New Zealand in connection with the *business* up to the *limit of liability* provided that:

- (a) the *insured* first became aware of the *claim* during the *period of insurance*;
- (b) the *insured* has advised **Agile** of the *prosecution* as soon as possible but no later than last day of the *period of insurance*;
- (c) the *claim* or *event* has occurred on or after the *retroactive date*; and
- (d) provided that **Agile's** liability will only be in excess of the *deductible* stated in the *schedule*.

1.2 Additional payments

Subject to the terms and conditions of this policy, **Agile** will pay *defence costs* for:

- (a) a prosecution that if proven could result in a *fine* that would be insured under this policy;
- (b) a *proceeding* that if proven could result in *statutory damages* that would be insured under this policy;
- (c) a prosecution under an *Act of Parliament*; and
- (d) compensation to the *insured* if, at **Agile's** request, an *insured* attends court as a witness in connection with a *claim* or *event* in respect of which the *insured* is entitled to cover under this policy, at the following rates per day for each day on which attendance is required:
 - 1. any director, officer or business partner of the *insured* \$300 per day;
 - 2. any *employee* of the *insured* \$200 per day.

The *defence costs* as described under clause 1.2 (a), (b), (c), and (d) are payable by **Agile** in addition to the *limit of liability* for Statutory Liability and up to the *limit of liability* for *defence costs* and as specified in the *schedule*.

1.3 Free legal advice helpline

Agile will pay for up to one hour's advice from an appropriately qualified lawyer via the Legal Advice Helpline whose details appear in the *schedule* in respect of any matter that may in the reasonable opinion of an *executive* result in a *claim* covered under this Coverage Section.

Cover under this Insuring Clause is not subject to the *deductible* and is in addition to the *limit of liability*.

Use of the Legal Advice Helpline does not constitute a notice to **Agile** of any *claim* or *event* or of any circumstance which may reasonably be expected to give rise to a claim under this Coverage Section and the requirements under General Condition 3. Notice and Proof of Claim, Claims Assistance and Cooperation shall apply. Furthermore:

- (a) the provision of assistance under this Insuring Clause is not confirmation there is or will be cover under this Coverage Section for any related *claim*; and
- (b) use of the Legal Advice Helpline is on the basis neither **Agile** nor the relevant legal expert assumes any responsibility for any legal assistance provided and is not a substitute for the *insured* obtaining its own expert advice where needed.

1.4 Claims preparation costs

In addition to the amount of cover provided by this policy, **Agile** will pay up to \$25,000 in respect of each *claim* or series of *claims* for professional fees and such other expenses incurred by the *insured* for the preparation of a *claim* under this policy.

The amount of such costs and expenses as described under this clause are payable by **Agile** in addition to the *limit of liability* for *defence costs*.

Exclusions: Statutory Liability

The following Exclusions are included and in respect of this Coverage Section override any inconsistent *policy* General Exclusions unless otherwise stated.

Agile will not be liable under the Statutory Liability section of this *policy* in respect of:

2.1 Compliance Costs

- (a) for payment of any *fine* (or part of a *fine*) which is a penalty imposed for failing to comply with any enforcement order or remedial order or enforceable undertaking; or
- (b) for the cost incurred by the *insured* in complying with any enforcement order or remedial order or enforceable undertaking.

2.2 Continuing fine

for payment of any *fine* (or part of a *fine*) which is imposed in relation to a period of time after the

insured first received notice from the prosecuting body of the intention to commence a prosecution in relation to the offence.

2.3 Damages and Non-criminal Penalties

any proceeding seeking:

- (a) damages, including punitive, aggravated, liquidated, multiple or exemplary damages; or
- (b) compensation for injury suffered, including physical or mental injury, humiliation, distress or damage to reputation except an order of reparation; or
- (c) civil *pecuniary penalties* under any *Act of parliament*

2.4 Dishonesty and Fraud

any *claim* in connection with:

- (a) deliberate breach of duty or deliberate breach of an Act; or
- (b) dishonest, fraudulent or malicious act or omission; or
- (c) act or omission committed with criminal intent; or
- (d) unlawful profit or advantage; or
- (e) insider trading.

2.5 Employment disputes

any *claim* arising out of any contract of employment or service or any intended contract of employment or service with any current, former or prospective *employee*, including any personal grievance or similar action by an *employee* but this exclusion will not apply to any investigation, inquiry or prosecution by the Ministry of *Business*, Innovation and Employment pursuant to the *Health and Safety at Work Act 2015*.

2.6 Excluded Acts

any *claim* whatsoever in connection with or contributed to by the following *Acts of Parliament*

- (a) *Anti-Money Laundering and Countering Financing of Terrorism Act 2009*
- (b) *Arms Act 1983*
- (c) *Aviation Crimes Act 1972*
- (d) *Commerce Act 1986*
- (e) *Crimes Act 1961*
- (f) *Criminal Investigations (Bodily Samples) Act 1995*
- (g) *Criminal Proceeds (Recovery) Act 2009*
- (h) *Financial Markets Conduct Act 2013*
- (i) *Financial Service Providers (Registration and Dispute Resolution) Act 2008*
- (j) *Financial Markets Authority Act 2011*
- (k) *Land Transport Act 1998*

- (l) *Misuse of Drugs Act 1975*
- (m) *Proceeds of Crime Act 1991*
- (n) *Summary Offences Act 1981*
- (o) *Waste Minimisation Act 2008*

and any other *Act of parliament* specified in the *schedule* as an excluded *Act of parliament*

2.7 Acts of Parliament

any *fine* or infringement fee ordered to be paid by the *insured* following conviction under any Acts of Parliament where *Agile* is prohibited from indemnifying or reimbursing the *insured* for any *fine* or infringement fee.

2.8 Infringement Fees

any fee imposed that is associated with a strict liability offence.

2.9 Intentional or deliberate disregard

any *claim* arising out of or based upon, attributable to, or in any way involving the *insured's* intentional or reckless disregard of the provisions of any *Act of parliament*, including the *insured's* intentional or reckless disregard of prior warnings from a regulator or enforcement action taken by a regulator against the *insured*.

2.10 Known claims and circumstances

- (a) *claims* made against, or intimated to, the *insured* prior to the commencement of the *period of insurance*, or
- (b) *claims* notified under any previous policy; or
- (c) arising out of or connected with any *claim* that:
 - i) the *insured* was aware of prior to commencement of the *period of insurance*; and
 - ii) a reasonable person in the *insureds* position would have considered give rise to a *claim*.

2.11 Legal Jurisdiction

any *claim* in connection with:

- (a) where the proceeding, prosecution, investigation or inquiry is brought or may be brought in a court outside of New Zealand; or
- (b) where the proceeding, prosecution, investigation or inquiry is brought in a court in New Zealand to enforce a judgement or *fine* made by a court outside of New Zealand; or
- (c) in which the proper law to be applied is that of a country other than New Zealand.

2.12 Monetary amounts paid or offered before sentence

any sum paid, or offered to be paid, by the *insured* prior to sentencing by the court where the sum is paid or offer made without *Agile's* prior written consent.

2.13 Other activities

any *claim* arising out activities that are not in course of or in connection with the *insured's business*.

2.14 Private prosecution

any *claim* arising out of or related to any *private prosecution*.

2.15 Punitive or exemplary damages

any *claim* for damages, including punitive, aggravated, liquidated, or exemplary damages imposed by a court for the breach of any Act.

2.16 Retroactive Date

any *claim* that occurred prior to the *retroactive date*.

2.17 Taxes

any payment of any tax, including any *fine* or penalty resulting from the failure to pay any tax.

Automatic Extensions: Statutory Liability

The following Automatic Extensions are included and are subject to the *policy* terms and conditions unless otherwise stated. Some extensions have specified Sublimits of Liability and *deductibles* specified in the *schedule*.

3.1 Defence costs if acquitted

Agile will reimburse the *insured's* reasonable *defence costs* where it is alleged the *insured* has acted knowingly, wilfully or intentionally and the *insured* is *acquitted* of the charge to which the allegation was made.

The Sublimit of Liability under this Automatic Extension shall be the amount stated in the *schedule* and the *deductible* stated in the *schedule* will apply under this Automatic Extension.

3.2 Enforceable Undertakings

Agile will cover the *insured* for amounts which the *insured* is required to pay as part of an enforceable undertaking accepted by the regulator under the *Health and Safety at Work Act 2015*, and *defence costs* incurred in relation to the enforceable undertaking, provided that:

- (a) the enforceable undertaking arises out of a valid *claim* which would have resulted in an *order for reparation* if the *insured* were convicted; and
- (b) the maximum amount **Agile** will pay under this Automatic Extension (excluding *defence costs*) is no greater than the amount **Agile** would expect to pay as an *order for reparation* had the *insured* been convicted; and
- (c) the maximum amount of *defence costs* **Agile** will pay under this Automatic Extension is \$100,000.
- (d) The Sublimit of Liability under this Automatic Extension shall be the amount stated in the *schedule* and the *deductible* stated in the *schedule* will apply under this Automatic Extension.

Provided that **Agile** will not indemnify the *insured* for:

- i) any amounts in respect of undertaking or agreement that have been made by the *insured* without **Agile's** prior written consent; or
- ii) any costs of or in connection with compliance, training or remedial actions; or
- iii) any costs of compliance, monitoring activities or meeting any non-financial terms of the enforceable undertaking; or
- iv) any amount payable to any party other than a 'victim' (as defined under section 4(1) of the *Sentencing Act 2002*) had the *event* resulted in a conviction; or
- v) any amounts that may result from the *insured's* failure to comply with or contravention of any of the terms of the enforceable undertaking.

Exclusion 2.1 Compliance Costs will not apply to this Automatic Extension.

3.3 Extended Reporting Period

If **Agile** cancel or refuse to offer a renewal for the Statutory Liability Coverage Section, the *insured* can extend, upon payment of 90% of the expiring annual *premium*, for the period of twelve (12) months following the effective date of such cancellation or non-renewal, but only in respect of an *event* otherwise covered under this Coverage Section that takes place prior to the effective date of such cancellation or non-renewal. Provided that:

- (a) This right of extension will lapse unless written notice of such election, together with payment of the additional *premium* due, is given to **Agile** within thirty (30) days following the effective date of cancellation or non-renewal. If the right of extension lapses, then cover under this Coverage Section ceases as at the effective date of the cancellation or non-renewal.
- (b) Any *claim* made during the extended reporting period will be treated as if it had been made during the last *period of insurance* and is subject to the remaining *limit of indemnity* at the effective date of cancellation or non-renewal.
- (c) The entire *premium* for the extended reporting period is non-refundable.

3.4 Mergers and consolidations

If the *insured*:

- (a) is merged, amalgamated, or consolidated with or becomes a subsidiary of another company; or
- (b) sells all or substantially all of its assets to another company;

then this policy will be extended to insure the new company, provided:

- i) the operations and activities of the merged, amalgamated or consolidated company are the same as those undertaken by the *insured's business* as described in the *schedule*; and
- ii) the *insured* gives *Agile* notice that the *insured* wishes to extend cover to the new company within thirty (30) days of the merger, amalgamation, consolidation or sale, and *Agile* agree to extend cover to the new company; and
- iii) cover provided for the merger, acquisition, or consolidation is subject to the *retroactive date* shown in the *schedule*; and
- iv) *Agile* will be entitled to vary the policy terms, conditions and Exclusions and/or charge an additional *premium*.

If the *insured* fails to meet the provisions of subparagraphs (i), (ii), (iii), and (iv), then no indemnity shall be granted by *Agile* to the *insured* for any *claim* that has occurred prior to the date of the merger, amalgamation or consolidation.

3.5 Official Investigation

Agile will pay *defence costs* for the *insured* to be represented at any *official investigation*, public examination or commission, provided that:

- (a) the investigation arises out of an *event*, or potential *event*, that occurred after the *retroactive date*, in New Zealand, and in connection with the *business*; and
- (b) the *insured* first knew, or ought to have known, during the *period of insurance*, of the *official investigation*, public examination or commission in relation to that *event*; and
- (c) the *insured* have notified *Agile* of the *official investigation*, public examination or commission, as soon as possible, but before the *period of insurance* ends.

The Sublimit of Liability under this Automatic Extension shall be the amount stated in the *schedule* and the *deductible* stated in the *schedule* will apply under this Automatic Extension.

3.6 Pecuniary penalties

Agile will pay any amount which the *insured* are ordered to pay as a *pecuniary penalty*, provided that:

- (a) *Agile* are not legally prohibited from insuring the *insured* for the *pecuniary penalty*; and
- (b) the *pecuniary penalty* arises out of an act, error or omission that occurred after the *retroactive date*, in New Zealand, and in connection with the *business*; and
- (c) the *insured* first knew, or ought to have known, during the *period of insurance*, of the proceeding to which the *pecuniary penalty* relates; and

- (d) the *insured* have notified *Agile* of the proceeding to which the *pecuniary penalty* relates, as soon as possible, but no later the last day of the *period of insurance*.

The Sublimit of Liability under this Automatic Extension shall be the amount stated in the *schedule* and the *deductible* stated in the *schedule* will apply under this Automatic Extension.

Exclusion 2.3 Damages and Non-criminal Penalties will not apply to this Automatic Extension.

3.7 Private Prosecutions

Agile will pay on behalf of the *insured* any *order for reparation* and *defence costs* arising out of a *private prosecution* under the *Health and Safety at Work Act 2015*, provided that the *private prosecution* arises out of the same *event* as a valid *claim* which was previously notified to *Agile*. An *order of reparation* and *defence costs* paid under this Automatic Extension are inclusive to the *limit of liability* as specified in the *schedule*.

The Sublimit of Liability under this Automatic Extension shall be the amount stated in the *schedule* and the *deductible* stated in the *schedule* will apply under this Automatic Extension.

Exclusion 2.14 Private prosecution will not apply to this Automatic Extension.

3.8 Public relations expenses

Agile will pay the reasonable costs and expenses of a public relations consultant for the sole purpose of protecting the *insured's* reputation as a direct result of a *claim*, provided:

- (a) The *insured* must notify *Agile* within 30 days of first becoming aware of the *insured's* reputation requiring protection and provide full written details outlining the circumstances surrounding the *event*; and
- (b) *Agile* must have given prior written consent to retain the services of the public relations consultant.

The Sublimit of Liability under this Automatic Extension shall be the amount stated in the *schedule* and the *deductible* stated in the *schedule* will apply under this Automatic Extension.

3.9 Reparation at restorative justice conference

Agile will pay reparation that is offered by the *insured* at a restorative justice conference as appropriate to be paid prior to sentencing, provided that:

- (a) the restorative justice conference relates to charges which have been notified to *Agile* as a valid *claim*; and
- (b) *Agile's* written agreement is obtained prior to the restorative justice conference as to whether any reparation should be offered at the restorative justice conference, and as to the amount of the reparation to be paid, which will be no greater than the amount *Agile* would expect to pay as an *order for reparation* upon the *insured's* conviction.

The Sublimit of Liability under this Automatic Extension shall be the amount stated in the *schedule* and the *deductible* stated in the *schedule* will apply under this Automatic Extension.

Exclusion 2.12 Monetary amounts paid or offered before sentence will not apply to this Automatic Extension.

Definitions: Statutory Liability

When used in ***bold & italic*** in this *policy* (including its endorsements) the words below have the following meanings. Where an equivalent definition to a definition below is provided in another Coverage Section, the definition below will not apply to such Coverage Section. Further, the definitions below will override any inconsistent *policy* General Definition insofar as it relates to this Coverage Section unless otherwise stated.

- 4.1 ***acquitted*** means the dismissal of charges before or after a defended hearing, or a not guilty verdict. This does not include the withdrawal of a charge pursuant to a plea bargain or agreement with the prosecutor where multiple charges are laid.
- 4.2 ***Act of Parliament*** means any Act of the New Zealand Parliament, including any amendments, re-enactments, replacement legislation or any statutory regulations, rules or codes issued under such Act except for Exclusion 2.6 Excluded Acts.
- 4.3 ***claim*** means any:
- (a) judicial, administrative or regulatory proceeding instituted against, and served upon, the ***insured***; or
 - (b) threat or indication that a judicial, administrative or regulatory proceeding will be established against the ***insured***; or
 - (c) circumstance that the ***insured*** may reasonably believe may give rise to a ***claim*** against the ***insured*** under (a) or (b) above
- 4.4 ***event*** means any act or omission by the ***insured*** in connection with the ***business*** that may result in an allegation that the ***insured*** has committed an offence under an ***Act of parliament*** punishable by a conviction or a proceeding.
- 4.5 ***fine*** means any monetary penalty for which the ***insured*** are liable on conviction of any offence under an ***Act of parliament*** in connection with an ***event***. The ***fine*** will include amounts ordered to be paid, upon conviction, towards the costs of the prosecution. ***Fine*** does not include the cost or payment of any enforcement order, or compliance order, or a ***fine*** imposed pursuant to the *Health and Safety at Work Act 2015*.
- 4.6 ***insured*** means the entity(ies) named in the *schedule* and includes:
- (a) any of the ***insured's*** subsidiary companies (including subsidiaries thereof) and any other

- entity under the *insured's* control, and over which the *insured* exercises active management;
- (b) any of the *insured's* directors, officers, *employee's* or business partners but only whilst acting within the scope of their duties in such capacity;
 - (c) any student or person undertaking work for the *insured* under a work experience or similar scheme;
 - (d) any voluntary helper;
 - (e) any social and/or sporting clubs, first aid, fire and ambulance services formed with the *insured's* consent and includes any office bearer or member thereof in their respective capabilities as such;
 - (f) any of the *insured's* directors or senior executives in respect of private work undertaken by the *insured's employees* for such director or senior executive;
- 4.7 ***official investigation*** means any statutory registration board or similar regulatory inquiry, investigation or proceeding.
- 4.8 ***order for reparation*** means an amount the *insured* is ordered to pay as reparation under section 32 of the *Sentencing Act 2002*, or as superseded.
- 4.9 ***pecuniary penalties*** means a monetary penalty ordered by a New Zealand Court or in a civil proceeding which is to be paid to a Crown entity pursuant to an *Act of parliament* which provides for a pecuniary penalty.
- 4.10 ***private prosecution*** means any investigation, defence, proceeding, inquiry or prosecution taken by a person or entity other than the statutory authority or enforcement agency given that responsibility under an *Act of parliament*.
- 4.2 ***statutory damages*** means damages payable by the *insured* for an alleged breach under the applicable Act.

EMPLOYERS LIABILITY COVERAGE SECTION

Insuring Clauses: Employers Liability

1.1 What Agile cover

Subject to the terms and conditions of this policy, *Agile* will indemnify the *insured* for *damages* the *insured* becomes legally liable to pay for a *claim* by an *employee*.

- (a) for *personal injury* sustained by such *employee* in New Zealand and that arose out of, and in the course of, such *employee's* employment in the *insured's business*; and
- (b) for which the *employee* is not covered under the *Accident Compensation Act 2001*, provided always that:
 - i) the *claim* is first made during the *period of insurance*; and
 - ii) the *personal injury* arose out of an *event*, circumstance or accident that occurred on or after the *retroactive date* and before the expiry of the *period of insurance*.
 - iii) *Agile's* liability will only be in excess of the *deductible* stated in the *schedule*.

1.2 Additional Payments

Subject to the terms and conditions of this policy, *Agile* will pay *defence costs* for the *insured* as agreed under 1.1 What Agile cover (a) and (b), including:

- (a) compensation to the *insured* if, at *Agile's* request, an *insured* attends court as a witness in connection with a *claim* or *event* in respect of which the *insured* is entitled to cover under this policy, at the following rates per day for each day on which attendance is required:
 - 1. any director, officer or business partner of the *insured* \$300 per day;
 - 2. any *employee* of the *insured* \$200 per day.

The *costs* as described under clause 1.2 (a) are payable by *Agile* in addition to the *limit of liability* for Employers Liability and up to the *limit of liability* for *defence costs* and as specified in the *schedule*.

1.3 Claims preparation costs

In addition to the amount of cover provided by this policy, **Agile** will pay up to \$25,000 in respect of each *claim* or series of *claims* for professional fees and such other expenses incurred by the *insured* for the preparation of a *claim* under this policy.

The amount of such costs and expenses as described under this clause are payable by **Agile** in addition to the *limit of liability* for *defence costs*.

Exclusions: Employers Liability

The following Exclusions are included and in respect of this Coverage Section override any inconsistent policy General Exclusions unless otherwise stated.

Agile will not be liable under the Employers Liability section of this policy in respect of:

2.1 Accident Compensation Act 2001

compensation that is available under the *Accident Compensation Act 2001* or would have been available under that Act, except for the *insured's* status as an exempt employer under that Act.

2.2 Defamation

any liability based on or in any way arising out of a *claim* based on defamation or injurious falsehood.

2.3 Dishonesty and Fraud

any *claim* alleging, resulting from or contributed by any dishonest, fraudulent, criminal or injurious falsehood.

2.4 Employment Disputes

any liability in connection with:

- (a) an employment relationship problem or for an *employee* or former *employee* seeking compensation under the *Employment Relations Act 2000*; or
- (b) unpaid wages or other benefits due to any *employee*.

2.5 Health and Safety at Work Act

any *claim* as a result of an *employee* sustaining *personal injury* that arose out of the failure by the *insured* to comply with any improvement, prohibition or suspension notice issue to the *insured* or at its *employees* under the *Health and Safety at Work Act 2015* or any amending or replacing legislation.

2.6 Intentional Torts

Any *claim* alleging, based on or in any way arising out of intentional wrongdoing or conscious recklessness on the *insureds* part, including, but not limited to, intentional infliction of harm, trespass to the person, assault, battery, false imprisonment, malicious prosecution, sexual harassment or sexual abuse.

2.7 Known claims and circumstances

- (a) *claims* made against, or intimated to, the *insured* prior to the commencement of the *period of insurance*, or
- (b) *claims* notified under any previous policy; or
- (c) arising out of or connected with any *claim* that:
 - i) the *insured* was aware of prior to commencement of the *period of insurance*, and
 - ii) a reasonable person in the *insureds* position would have considered give rise to a *claim*.

2.8 Legal Jurisdiction

Any *claim* in connection with:

- (a) any legal action or litigation first brought in a court outside of New Zealand; or
- (b) any legal action or litigation brought in a court within New Zealand to enforce a judgement handed down in a court outside New Zealand whether by way of a reciprocal agreement or otherwise; or
- (c) any legal action in which the proper law to be applied is that of a country other than New Zealand.

2.9 Other Activities

Any *claim* arising out activities that are not in course of or in connection with the *insured's business*.

2.10 Retroactive date

Any *claim* or *event* that occurred prior to the *retroactive date*.

Automatic Extensions: Employers Liability

The following Automatic Extensions are included and are subject to the policy terms and conditions unless otherwise stated. Some extensions have specified sub-limits of liability and *deductibles* specified in the *schedule*.

3.1 Continuous Cover

Agile will indemnify the *insured* for any *claim* that would be covered under this policy but is excluded by Exclusion 2.7 Known claims and circumstances (c), subject to the following additional conditions:

- (a) **Agile** were the *insured's* Employers Liability Insurer at the primary level under a policy ('the former policy') at the time when the *insured* first became aware of the circumstances that subsequently gave rise to the *claim*, and
- (b) **Agile** continued without interruption as the *insured's* Employers Liability Insurer at the primary level from the time when the *insured* first became aware of the circumstances up until such time as the *claim* was made against the *insured* and notified to **Agile**, and
- (c) **Agile's** liability is limited to the amount for which **Agile** would have been liable at the time referred to in 3.1(a) (*claim*) in accordance with the terms and conditions of the former policy; and
- (d) **Agile's** liability will be reduced by the amount that fairly represents the extent to which liability for the *claim* could have been reduced had the circumstances been duly reported under the former policy.

3.2 Extended Reporting Period

If **Agile** cancel or refuse to offer a renewal for this policy, the *insured* can extend, upon payment of 90% of the expiring annual *premium*, the cover granted by this policy for the period of twelve (12) months following the effective date of such cancellation or non-renewal, but only in respect of an *event* otherwise covered under this policy that takes place prior to the effective date of such cancellation or non-renewal. Provided that:

- (a) This right of extension will lapse unless written notice of such election, together with payment of the additional *premium* due, is given to **Agile** within thirty (30) days following the effective date of cancellation or non-renewal. If the right of extension lapses, then cover under this policy ceases as at the effective date of the cancellation or non-renewal.
- (b) Any *claim* made during the extended reporting period will be treated as if it had been made during the last *period of insurance* and is subject to the remaining *limit of indemnity* at the effective date of cancellation or non-renewal.
- (c) The entire *premium* for the extended reporting period is non-refundable.

3.3 Mergers and consolidations

If the *insured*:

- (a) is merged, amalgamated, or consolidated with or becomes a subsidiary of another company;
or
- (b) sells all or substantially all of its assets to another company;

then this policy will be extended to insure the new company, provided:

- i) the operations and activities of the merged, amalgamated or consolidated company are the same as those undertaken by the *insured* as described in the *schedule*, and
- ii) the *insured* gives *Agile* notice that the *insured* wishes to extend cover to the new company within thirty (30) days of the merger, amalgamation, consolidation or sale; and
- iii) cover provided for the merger, acquisition, or consolidation is subject to the *retroactive date* shown in the *schedule*, and
- iv) *Agile* will be entitled to vary the policy terms, conditions and Exclusions and/or charge an additional *premium*.

If the *insured* fails to meet the provisions of subparagraphs (i), (ii), (iii) and (iv), then no indemnity shall be granted by *Agile* to the *insured* for any *claim* that has occurred prior to the date of the merger, amalgamation or consolidation.

Definitions: Employers Liability

When used in ***bold & italic*** in this policy (including its endorsements) the words below have the following meanings. Where an equivalent definition to a definition below is provided in another Coverage Section, the definition below will not apply to such Coverage Section. Further, the definitions below will override any inconsistent policy General Definition insofar as it relates to this Coverage Section unless otherwise stated.

4.1 *claim* means:

- (a) any legal proceedings against the *insured* in connection with an *employee* sustaining *personal injury*;
- (b) any notice the *insured* receives from any person that they intend to commence a proceeding against the *insured* in connection with an *employee* sustaining *personal injury*;
- (c) any circumstance that a reasonable *insured* would have considered may give rise to a demand for *damages*.

4.2 *damages* means monetary compensation ordered to be paid or agreed to be paid pursuant to a judgement or settlement of any action brought in a New Zealand court in respect of *personal injury* to an *employee* but does not include any compensation payable pursuant to any remedy, relief or

penalty provided in any New Zealand statute by way of *damages*, fine, reparation or other order.

- 4.3 *event* means any act or omission by the *insured* in connection with the *business*.
- 4.4 *insured* means the entity(ies) named in the *schedule* and includes:
- (a) any of the *insured's* subsidiary companies (including subsidiaries thereof) and any other entity under the *insured's* control, and over which the *insured* exercises active management;
 - (b) any of the *insured's* directors, officers, *employees* or business partners but only whilst acting within the scope of their duties in such capacity;
 - (c) any student or person undertaking work for the *insured* under a work experience or similar scheme;
 - (d) any voluntary helper;
 - (e) any social and/or sporting clubs, first aid, fire and ambulance services formed with the *insured's* consent and includes any office bearer or member thereof in their respective capabilities as such;
 - (f) any of the *insured's* directors or senior executives in respect of private work undertaken by the *insured's employees* for such director or senior executive;
- 4.5 *personal injury* means bodily injury, sickness, disease or infection, including death resulting therefrom, and shall include disability, shock, fright, mental anguish or mental injury.

General Exclusions

Agile will not be liable under any section of this policy in respect of:

1. Cyber

any loss, liability, or costs resulting from any *computer virus, cyber act, or IT network incident*,

2. Deliberate acts

any liability or claim whatsoever in connection with or contributed to by any deliberate act or omission of the *insured* or any *employee* and which could reasonably have been expected, having regard to the nature and circumstances of such an act or omission.

3. Radioactive contamination

any liability or claim whatsoever in connection with or contributed to by:

- (a) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- (b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

4. Specific products and substances

any liability whatsoever in connection with or contributed to by:

- (a) AIDS, HIV or HIV related illness;
- (b) asbestos or asbestos products;
- (c) human biological materials including extracts thereof (e.g. blood, plasma, plasma proteins, immunoglobulins, cells, tissue, organs, urine, excretions, etc.);
- (d) polychlorinated biphenyls including polychlorinated biphenyl generated dibenzofurans and dioxins;
- (e) PFAS, or per- and polyfluoroalkyl substances;
- (f) Human implants;
- (g) the manufacture or supply of all pharmaceutical active ingredients including medical implants;
- (h) e-cigarettes, vapes and related products; or
- (i) tobacco and tobacco related products.

5. Terrorism

any injury, loss, damage, liability, claim, cost or expense whatsoever in connection with any *act of terrorism* regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

This clause also excludes injury, loss, damage, liability, claim, cost or expense of whatsoever nature in connection with any action taken in controlling, preventing, suppressing or in any way relating to any *act of terrorism*.

If **Agile** alleges that, by reason of this clause, any injury, loss, damage, liability, claim, cost or expense is not covered by this policy the burden of proving the contrary shall be upon the *insured*.

6. War

any liability or claim whatsoever in connection with or contributed to by or arising from any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.

7. Communicable Disease Exclusion

Notwithstanding any provision to the contrary within this policy, the policy does not cover any actual or alleged loss, liability, damage, *compensation*, injury, sickness, disease, death, medical payment, defence cost, cost, expense or any other amount, directly or indirectly and regardless of any other cause contributing concurrently or in any sequence, originating from, caused by, arising out of, contributed to by, resulting from, or otherwise in connection with a *communicable disease* or the fear or threat (whether actual or perceived) of a *communicable disease*.

For the purpose of this exclusion, loss, liability, damage, *compensation*, injury, sickness, disease, death, medical payment, defence cost, costs, expense or any other amount, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor or test for a *communicable disease*.

As used herein, a *communicable disease* means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:

- (a) the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
- (b) the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid liquid or gas or between organisms, and
- (c) the disease, substance or agent can cause or threatened bodily injury, illness, emotional distress, damage to human health, human welfare or *property damage*.

General Conditions

The definitions, terms and conditions set out on these General Conditions apply to all purchased Coverage Sections of this policy.

Any words in these General Conditions, which are defined in a specific Coverage Section, shall have the meaning provided for such terms in such Coverage Section for purposes of determining coverage.

If any of the definitions, terms or conditions in these General Conditions are inconsistent or in conflict with the definitions, terms and conditions of any specific Coverage Section, the definitions, terms and conditions of such specific Coverage Section shall take priority.

These General Conditions, the policy (for each and every purchased Coverage Section together with any appendices), including any endorsements, and the *schedule* constitute the entire agreement between the *insured* and *Agile* or any of their agents relating to this insurance.

1. Assignment

No assignment of interest under this policy shall bind *Agile* without Our consent.

2. Notice and proof of claim, claims assistance and cooperation

Upon the discovery of any *claim, event, personal injury, property damage, advertising liability, damages, fine* or circumstance giving rise, or which may give rise to a claim under this policy (whether or not the *insured* believes the claim amount might fall below the applicable *deductible*) the *insured* shall, as soon as reasonably practicable:

- (a) advise *Agile* of the cause and the amount of loss and any other proof or information with respect to the claim that may be reasonably required;
- (b) take reasonable steps to prevent further loss; and
- (c) at all reasonable times permit *Agile* to inquire into, investigate and examine the circumstances of any loss.

For Enquiries Relating To	Please Contact
Making a claim Get in touch as soon as possible and We can help.	+64 9 888 4512 claims@withagile.com

The *insured* must assist and cooperate with *Agile* fully and promptly in relation to a claim, including:

- (a) allowing *Agile* to negotiate, defend or settle the claim or *inquiry*:
 - i) in the *insured's* name and on the *insured's* behalf; or
 - ii) in the name of and on behalf of any other party covered by the *insured's* policy;
- (b) as far as possible, preserve any product, appliance, plant or other items which might prove

necessary or useful as evidence until **Agile** have had an opportunity of inspection.

- (c) furnish to **Agile** details of any other insurance covering or which may cover the same loss;
- (d) sending to **Agile** any claim, writ, summons, or full details of other relevant legal or other proceedings such as an impending prosecution or inquest the **insured** receives or becomes aware of; and
- (e) supplying **Agile** with all information and assistance We may reasonably require. **Agile** will only request information relevant to the claim.

3. Claims control

- (a) The **insured** shall not, without **Agile's** written consent, admit or repudiate liability, negotiate or make any offer, promise or payment in connection with any claim.
- (b) **Agile** shall be entitled, but not obliged, to take over and conduct in the **insured's** name, the defence or settlement of any claim or **inquiry** or to prosecute in the name of the **insured** at its own expense and for its own benefit, any claim against any persons, and shall have full discretion in the conduct of any proceedings and in the settlement of any claim.

4. Cross liability

Subject to General Condition 9. Joint responsibility when an **insured** consists of more than one party, the **insured** shall be considered as a separate **insured** as though a separate policy had been issued to each of the said parties, but nothing herein contained shall operate to increase the **limit of liability**.

5. Deductible

The **deductible** is the first amount payable by the **insured** for each **claim, event, occurrence, personal injury, property damage, advertising liability, damages, or fine**. **Agile** will never be liable to indemnify the **insured** for the **deductible**.

6. Discharge of any liability

Agile may at any time pay the **limit of liability** (after deduction of any sum or sums already paid), or any lesser sums for which any claim or claims can be settled and shall then be under no further liability in respect thereof except for the payment of amounts referred to in Public & Products Liability clause 1.2 Additional payments, Statutory Liability Clause 1.2 Additional payments, and Employers Clause 1.2 Additional Payments, incurred prior to such payment.

In the event of a claim or series of claims arising from an **occurrence** resulting in liability of the **insured** to pay a sum in excess of the **limit of liability**, **Agile's** liability under clause Public & Products Liability clause 1.2 Additional payments, Statutory Liability Clause 1.2 Additional payments, and Employers Clause 1.2 Additional Payments, shall not exceed an amount being in the same proportion as **Agile's**

payment bears to the total payment made by or on behalf of or to be made by the *insured* in satisfaction of the claim or claims.

7. Fraud

If any claim is, in any respect, fraudulent or if any fraudulent means or devices are used by the *insured* or anyone acting on the *insured's* behalf to obtain any benefit under this policy, or if any loss hereunder be occasioned by the wilful act or with the connivance of the *insured*, then **Agile**, without prejudice to any other rights(s) **Agile** might have under this policy or at law, shall be entitled to refuse to pay that claim and may cancel the policy with **Agile** having no liability to make any payment for any item claimed after the date of the fraudulent act

8. Inspection and audit

Agile shall be permitted to inspect the *insured's* property and operations at any reasonable time. Neither **Agile's** right to make inspections nor the making thereof nor any report thereon shall constitute an undertaking on behalf of or for the benefit of an *insured* or others to determine or warrant that such property or operations are safe or healthy, or are in compliance with any law, rule or regulation.

Agile may examine and audit the *insured's* books and records at any time during the *period of insurance* and within three years after the final termination of the policy, as far as they relate to the subject matter of this insurance.

9. Joint responsibility

Where the *insured* is comprised of more than one legal entity, information supplied to **Agile** shall be deemed to have been furnished by and on behalf of all such entities, and any information supplied to **Agile** or any omission or non-disclosure in relation to any renewal or extension hereof, shall likewise be deemed to have been furnished, omitted or withheld on behalf of all such entities.

Any and all *insureds* and any persons deriving benefit under this policy are jointly liable and responsible for any breach of any terms of this policy and/or misrepresentation and/or non-disclosure and/or fraud.

10. Limit of liability

Agile's liability shall not exceed the *limit of liability* as specified in the *schedule* for:

Public & Products Liability

any one *occurrence* or series of claims for *public liability* and for any one *occurrence* and in the aggregate during the *period of insurance* for *products liability*.

Statutory Liability

any one *claim* and in the aggregate during the *period of insurance*, with *defence costs* being 100% in addition to the *limit of liability* during the *period of insurance*.

Employers Liability

any one *claim* and in the aggregate during the *period of insurance*, with *defence costs* being 100% in addition to the *limit of liability* during the *period of insurance*.

11. Occurrence series clause

With regard to the [Public & Products Liability Coverage Section](#) of this policy, the following Occurrence series clause applies:

- (a) An *occurrence* or series of *occurrences* which are attributable directly or indirectly or allegedly attributable directly or indirectly to the same event, condition, defect or hazard, or failure to warn shall be added together and treated as one occurrence, irrespective of the period of time after the commencement of the period of insurance or the number of persons or entities that sustain property damage and/or personal injury.
- (b) All such occurrences shall be deemed to have occurred on the day of the first of such occurrences.
- (c) The limit of liability is non-cumulative.
- (d) Agile shall not indemnify the insured for any liability of whatsoever nature in connection with personal injury or property damage where such personal injury or property *damage* is in any way connected with an *occurrence* or events or circumstances, whether of a continuous, intermittent or repeated exposure, which had occurred or commenced or existed prior to the commencement of the *period of insurance*.

12. Premium

When shown in the *schedule*, the *premium* is minimum and deposit and is adjustable. The *insured* shall, within sixty (60) days after the expiry of each *period of insurance*, provide such information as *Agile* may require adjusting the *premium*.

Any difference in *premium* shall be paid by or allowed to the *insured*, provided that the adjusted *premium* will not be less than any minimum *premium* specified in the *schedule*. The *insured* shall at all times allow *Agile* to inspect such records.

13. Reasonable precautions

It is a condition of this policy to *Agile's* liability under this policy that the *insured* shall, at its own expense:

- (a) take, and cause to be taken, reasonable precautions to prevent any *claim, event, occurrence, personal injury, property damage, advertising liability, damages, and/or fine*.

- (b) comply with all statutory or local authority law, obligations and requirements or equivalent;
- (c) take, and cause to be taken, reasonable precautions to prevent the manufacture, sale or supply of defective *products*, and
- (d) withdraw, inspect, repair, replace, trace, recall or modify any of the *products* containing any defect or deficiency of which the *insured* has knowledge or has reason to suspect.

14. Release

Where the *insured* is required by contractual agreement to release any Government or Public or Local Authority or other Statutory Authority from liability in respect of loss, destruction or damage or legal liability insured against under this policy, such a release is allowed without prejudice to this insurance.

Notwithstanding General Condition 18. Subrogation of this policy, *Agile* agrees to waive all rights of subrogation against any such Authority in the event of any *occurrence* for which a claim for indemnity may be made under this policy.

15. Double Insurance

Subject to Public and Products Exclusion Clause 2.10 below, if You have a policy with another insurer in respect of any claim for which cover would otherwise be available under this policy, then this policy will apply only to the amount of any loss or liability in excess of that recoverable under that other policy. This clause applies even if the other insurance policy has a clause to this effect.

16. Sanctions

Agile shall not make any payments nor provide any benefit to any *insured* or any other party to the extent that such payment, benefit and/or any *business* or activity of the *insured* would violate any applicable trade or economic sanctions, law or regulation.

17. Subrogation

With regard to the [Public & Products Liability Cover Section](#) of this policy, the following Subrogation clause applies:

Agile waive all rights of subrogation under this policy against any *insured* except if such *insured* is protected from such loss by any other contract or policy of indemnity or insurance. In that event, *Agile's* right of subrogation is not waived to the extent of the indemnity or insurance under such other contract or policy.

18. Subrogation and allocation of the proceeds of recoveries

With regard to the [Public & Products Liability Cover Section](#) of this policy, the following Subrogation and allocation of the proceeds of recoveries clause applies:

- Subject to General Condition 16. Subrogation, any corporation, organisation or person claiming under this insurance shall, at **Agile's** request and expense, do and concur in doing and permit to be done all such acts and things and provide information that may be necessary or may be reasonably required by **Agile** for the purpose of enforcing any rights and remedies, or for obtaining relief or indemnity from any other organisation(s) or person(s), to which **Agile** shall be or would become entitled upon **Agile** paying for or indemnifying the **insured** in respect of legal liability under this policy.
- Should the **insured** incur any legal liability which is not covered by the policy (aside from the **deductible**),
- the **insured** will be entitled to the first call on the proceeds of all recoveries made, by either the **insured** or **Agile**, on account of such legal liability until fully reimbursed for such uninsured amounts (less the actual costs of making such recoveries where those costs are incurred by **Agile**), and any remaining amount(s) will be applied to reimburse **Agile**.

19. Interpretation

This policy incorporates the **schedule**, definitions, insuring clauses, exclusions and conditions and any other terms contained or endorsed in or to this policy, which are to be read together. Where any word or expression has been given specific meaning in any part of this policy such word or expression shall bear this meaning wherever it may appear unless such meaning is inapplicable to the context in which such word or expression appears.

Words importing the singular gender shall include the plural and vice versa, and words importing the masculine gender shall include the feminine gender.

Headings have been included for ease of reference, and it is understood and agreed that the terms and conditions of this policy are not to be construed or interpreted by reference to such headings.

20. Goods and Services Tax (GST)

Agile will only pay amounts over a sum insured or sub limit to the value of GST which is recoverable by **Agile** under the *Goods and Services Tax Act 1985*.

Any **deductible** applied includes GST and GST will be added where applicable to claim payments.

Agile will not indemnify the **insured** or any other recipient of a claim settlement payout pursuant to this policy, for any GST liability, fines or penalties that arise from or are attributable to that entity's failure to discharge their tax output obligations or notify **Agile** of an entitlement (or correct entitlement) to an input tax credits applicable to the **premium** or a claim settlement payout.

21. Severability

In the event any clause of this policy, or part of any clause, is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

22. Several Liability Notice

The subscribing insurer(s)' 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 insurer(s) are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

23. Premium Payment

- (a) As a condition precedent to the right to be indemnified under any of the policy sections of this policy, the *insured* undertakes that the *premium* will be paid in full to Agile Insurance Group NZ Limited within sixty (60) days of inception of the policy.
- (b) If the *premium* has not been so paid by the sixtieth (60th) day from the inception of the policy Agile Insurance Group NZ Limited shall have the right to cancel the policy from inception by notifying the *insured* in writing or via the *insured's* insurance agent in writing.