

Agile Miscellaneous Professional Liability

Combined Wording and
Product Disclosure Statement (PDS)

Issued by Agile Insurance Group NZ Limited
NZBN 9429052286766

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Miscellaneous Wording & Product Disclosure Statement (PDS)

Prepared on 1st September 2026

Any general advice that may be contained within this Miscellaneous 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.

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

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 ***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.
- 1.2 ***aggregate limit of liability*** shall mean the total amount we will pay in any one ***period of insurance***. The ***aggregate limit of liability*** applicable to the ***Insureds policy*** is the amount shown in ***schedule***.
- 1.3 ***bodily injury*** shall mean physical injury, sickness, disease, death, mental injury, mental anguish, nervous shock or emotional distress of any person.
- 1.4 ***claim*** shall mean:
 - (a) demand for compensation made by a third party against the ***Insured***.
 - (b) any writ, statement of claim, summons, application or other originating legal or arbitral process, cross-claim, counter claim or third or similar party notice served upon the ***Insured*** which contains a demand for compensation made by a third party.
- 1.5 ***costs & expenses*** shall mean the reasonable legal costs and other expenses incurred by or on behalf of the ***Insured*** or by ***Agile*** in the investigation defence or settlement of a ***claim***. ***Costs & expenses*** does not include regular or overtime wages, salaries or fees of the ***Insured***.
- 1.6 ***court attendance costs*** shall mean the reasonable costs incurred by the ***insured*** in attending a civil proceeding as a witness in a ***claim***. These costs shall include, but not be limited to travel expenses, locum expenses, meals, and accommodation.
- 1.7 ***deductible*** means the first amount of each ***claim(s)*** arising out of any one occurrence, act, error or omission for which the ***Insured*** is responsible and is to be borne by the ***Insured***. The ***deductible*** applicable to this insurance is specified in the ***schedule***. The ***deductible*** applies to all amounts indemnified under this policy, including indemnity provided by the Insuring Clause(s) 1.2 Additional Payments unless otherwise specified in the ***schedule***.
- 1.8 ***documents*** shall mean deeds, wills, agreements, maps, plans, books, letters, policies, certificates, forms and documents of any nature whatsoever, whether written, printed or reproduced by any method including computer records and electronic data material but shall not include bearer bonds or coupons, stamps, bank or currency notes or any other negotiable instrument.

- 1.9 **employee** shall mean any person employed under a contract of service or apprenticeship by the **Insured** during or prior to the commencement of the **period of insurance**.
- 1.10 **family member** shall mean:
- (a) any spouse, domestic partner, or companion;
 - (b) any parent, or parent of the spouse, domestic partner or companion;
 - (c) any sibling or child;
- of an **Insured**.
- 1.11 **inquiry costs** shall mean the reasonable legal costs & expenses incurred by the **Insured** arising out of any notice from an inquiring body informing the **Insured** of an investigation, requiring a response from the **Insured** or requiring the **Insured's** attendance at an investigation, inquiry or hearing before the inquiring body.
- 1.12 **Insured** shall mean:
- (a) the person, persons, partnership, company, corporation or other entity specified as the **Insured** in the Schedule;
 - (b) any person who is, during the **period of insurance**, a principal, partner or director of the **Insured** but only in respect of **professional services** performed while a principal, partner or director of the **Insured**;
 - (c) any person who is, during the **period of insurance**, and **employee** of the **Insured** but only in respect of **professional services** performed while an **employee** of the **Insured**;
 - (d) any former principal, partner, director or **employee** of the **Insured**, but only in respect of **professional services** performed while a principal, partner, director or **employee** of the **Insured**;
 - (e) any Subsidiary of the **Insured** named in the **proposal**; or
 - (f) the estate, heirs, legal representatives or assigns of an **Insured** in the event of the death or incapacity of that **Insured**.
- 1.13 **limit of liability** means the maximum amount we will pay in respect of any one claim unless provided by the **policy**. The **limit of liability** applicable to the **Insured's policy** is the amount shown in **schedule**.
- 1.14 **loss** means those amounts the **insured** is legally obligated to pay as a result of a **claim**. **Loss** does not include **costs & expenses**, **court attendance costs**, or **inquiry costs**.
- 1.15 **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.
- 1.16 **policy** shall mean:
- (a) the **schedule**, Insuring Clause, Exclusions, Automatic Extensions, Optional Extensions, General Conditions, Definitions and other terms contained herein;

- (b) any endorsement attaching to and forming part of this *policy* either at inception or during the *period of insurance*, and
- (c) the *proposal*.

1.17 *pollutants* shall mean:

- (a) any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, alkalis, chemicals; or
- (b) any waste materials including materials recycled, reconditioned or reclaimed; or
- (c) any other air emission, odour, wastewater, oil, oil products, infectious or medical waste or any noise emission.

1.18 *premium* shall mean the amount payable by the *Insured* for this *policy* including any applicable charges as advised by *Agile*.

1.19 *privacy breach* shall mean a common law breach of confidence, infringement, or violation of any rights to privacy, including but not limited to breach of the *Insured's* privacy statement, , intrusion upon a person's seclusion, public disclosure of a person's privacy information, or misappropriation of a person's picture or name for commercial gain.

1.20 *professional services* shall mean the profession, as specified in the *schedule*, which are conducted by the *Insured*. If the *Insured* should change the *Insured's* name and there is no other change which materially alters the risk, then the *Insured's* profession will continue to be covered by this *policy*.

1.21 *property damage* shall mean damage to or loss or destruction of tangible property or loss of use thereof.

1.22 *proposal* shall mean the *proposal* made by the *Insured* to *Agile* containing particulars and statements which, together with other information provided by the *Insured*, are the basis of this *policy* and are considered as incorporated herein.

1.23 *retroactive date* means the earliest date of provision of *professional services* performed by the *Insured* applicable to this *policy*. The applicable *retroactive date* will be specified in the *schedule*.

1.24 *schedule* means the schedule to this *policy* and any endorsements

1.25 *senior counsel* shall mean a barrister in active practice who is entitled to use the post-nominals QC or KC in any one or more superior court in New Zealand.

1.26 *subsidiary* shall mean:

- (a) any entity which by virtue of any applicable legislation or law is deemed to be a *subsidiary* of the *Insured* specified in the *schedule*; or
- (b) any entity over which a *Insured* is in a position to exercise effective direction or control.

1.27 *sub-limit of liability* shall mean a *sub-limit of liability* which is set out in the *schedule* and/or in this *policy* wording and which is applicable to any one *claim* under a specified Insuring Clause. Any *sub-limit of liability* is included in and does not apply in addition to the *limit of liability* and is also subject to the *aggregate limit of liability*.

1.28 *terrorism* shall mean an act, including by not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, or government(s), which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons including the intention to influence any government and / or put the public, or any section of the public, in fear.

Section 1: Insuring Clause

1.1 What Agile Cover

Subject to the terms and conditions of this *policy*, *Agile* agrees to indemnify the *Insured* for *loss*, up to the *limit of liability*, payable to any third party arising from any *claim* that results from the conduct of the *Insured's professional services* that:

- (a) is first made against the *Insured* during the *period of insurance*, and
- (b) is notified to *Agile* during the *period of insurance*, and
- (c) arises from an act, error or omission committed after the *retroactive date*.

1.2 Additional Payments

Subject to the terms and conditions of this *policy*, *Agile* will pay *costs and expenses* incurred by *Agile*, or the *Insured* with *Agile's* written consent, up to the *limit of liability*, in the settlement or defence of any *claim* in respect of which the *Insured* is entitled to indemnity under this *policy*, or if sustained, would be so entitled.

1.3 Automatic Extensions

Subject to the terms and conditions of this *policy*, *Agile* shall provide indemnity in accordance with clauses 3.1 to 3.14, for no additional *premium*, provided always that:

- (a) the indemnity provided is subject to the *schedule*, Insuring Clauses, Conditions, Definitions, Exclusions, *deductible* and other terms of this *policy* (unless otherwise expressly stated herein);
- (b) the inclusion of such automatic extension shall form part of and not increase the applicable *limit of liability*.

Section 2: Exclusions

Agile will not be liable under this *policy* for any actual or alleged liability, cost or expense, or other amounts:

2.1 Assumed Duty or Obligation

directly or indirectly based upon, attributable to, or in consequence of any duty or obligation assumed by an *Insured* by way of contract, warranty, guarantee or indemnity, to the extent that such liability exceeds the liability the *Insured* would have incurred in the absence of such contract, warranty, guarantee or indemnity.

2.2 Asbestos

directly or indirectly based upon, attributable to, or in consequence of asbestos, asbestos fibres or derivatives of asbestos in whatever form or quantity.

2.3 Bodily Injury and Property Damage

directly or indirectly based upon, attributable to, or in consequence of *bodily injury* or *property damage* unless such injury or damage arises directly out of any breach of a professional duty owed by the *Insured* arising from the provision of *professional services*.

2.4 Deregistration

directly or indirectly based upon, attributable to, or in consequence of acts, errors or omissions by or on behalf of the *Insured* subsequent to the suspension or cancellation of registration, in so far as the *Insured* is required by law to maintain a statutory registration in order to be entitled to practice or provide the *professional services*.

2.5 Financial Services

directly or indirectly based upon, attributable to, or in consequence of:

- (a) any failure to effect and/or maintain insurance;
- (b) actual or alleged financial advice, application for or provision of, or any representation in relation to finance;
- (c) actual or alleged financial advice in relation to tax matters;
- (d) any estimate, warranty or guarantee of returns;
- (e) any valuation made by or on behalf of the *Insured*.

2.6 Fines and Penalties

directly or indirectly based upon, attributable to, or in consequence of punitive, aggravated or exemplary damages, or fines or penalties imposed by law, including but not limited to, civil penalties.

2.7 Fraud and Dishonesty

directly or indirectly based upon, attributable to, or in consequence of:

- (a) any actual or alleged dishonest, fraudulent, criminal, or malicious act or omission of an *Insured*, or
- (b) any act or omission of an *Insured*, committed or alleged to have been committed with a reckless disregard for the consequences thereof; or
- (c) any wilful breach of any statute, contract or duty by an *Insured*.

2.8 Insolvency

directly or indirectly based upon, attributable to, or in consequence of the *Insured's* insolvency, bankruptcy or liquidation.

2.9 Investment Performance

directly or indirectly based upon, attributable to, or in consequence of:

- (a) loss (or failure to appreciate) in value of any investments, including but not limited to securities, commodities, currencies, options and futures transactions; or
- (b) any actual or alleged representation, advice or guarantee provided by or the *Insured's* behalf as to the performance of any such investments.

2.10 Mergers or Acquisitions

directly or indirectly based upon, attributable to, or in consequence of advice in relation to mergers or acquisitions.

2.11 Mould

directly or indirectly based upon, attributable to, or in consequence of the action or effects of mould, fungi, mildew, rot, decay, gradual deterioration, micro-organisms, bacteria, protozoa or any similar like forms, in any building or structure.

2.12 Nuclear

directly or indirectly based upon, attributable to, or in consequence of ionising radiation or contamination by radioactivity from any:

- (a) nuclear fuel or any nuclear waste;
- (b) the combustion of any nuclear fuel; or
- (c) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear device or assembly, or a nuclear component thereof.

2.13 Other Risks

directly or indirectly based upon, attributable to, or in consequence of:

- (a) the *Insured's* liability as an employer; or
- (b) actual or alleged unlawful discrimination (or other unlawful act, error or omission) by any *Insured* against any *employee* or employment applicant; or
- (c) the *Insured's* functions and duties as a director and / or officer of the *Insured* or any legal entity, corporation or other incorporated body; or
- (d) the occupation of land or buildings by an *Insured*; or
- (e) the *Insured's* liability as an owner or operator of any aircraft, marine craft or motor vehicles of any kind.

2.14 Pollutants

directly or indirectly based upon, attributable to, or in consequence of the actual or threatened discharge, dispersal, seepage, release or escape of any *pollutant* into or onto real or personal property, water or the atmosphere.

2.15 Prior or Pending

- (a) made, threatened or intimated against an *Insured* prior to the *period of insurance*; or
- (b) directly or indirectly based upon, attributable to, or in consequence of any fact or circumstance:
 - i) of which written notice has been given, or ought reasonably to have been given, under any previous policy; or
 - ii) of which an *Insured* first became aware prior to the *period of insurance*, and which such *Insured* knew or ought reasonably to have known had potential to give rise to a claim under this Policy.

2.16 Professional Fees

for or in connection with the *Insured's* entitlement or otherwise to fees or charges for work performed.

2.17 Related or Associated Entities

brought or maintained by or on behalf of:

- (a) an *Insured* or any *subsidiary* or parent of an *Insured*; or
- (b) any person who, at the time of the act, error or omission giving rise to the *claim* is a *family member* or company owned or controlled by a *family member* unless such person or company is acting without any prior direct or indirect solicitation or cooperation of an *Insured*.
- (c) any company or trust which is operated or controlled by the *Insured* or its nominees or trustees and which an *Insured* has a direct financial interest.

2.18 Retroactive Date

directly or indirectly based upon, attributable to, or in consequence of work performed prior to the *retroactive date* specified in the *schedule*.

2.19 Sale or Supply of Goods

directly or indirectly based upon, attributable to, or in consequence of the sale, manufacture, installation, construction, alteration, repair, servicing or treating of any goods or products sold, distributed or supplied by the *Insured*.

2.20 Terrorism

directly or indirectly based upon, attributable to, or in consequence of any actual or alleged *terrorism* or any action taken in controlling, preventing, suppressing or in any way relating to any actual or alleged *terrorism*.

This exclusion operates in connection with any *terrorism* regardless of any other cause or event and regardless of the sequence of the *terrorism* and the other cause or event.

2.21 Trading Debts

directly or indirectly based upon, attributable to, or in consequence of any trading debt incurred by an *Insured* or any guarantee given by an *Insured* for a debt.

2.22 War

directly or indirectly based upon, attributable to, or in consequence of:

- (a) war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power; or
- (b) confiscation, nationalisation, requisition of, or damage to property by or under the order of any government, public or local authority.

2.23 Cyber

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

For the purpose of this exclusion 2.23 the following definitions apply:

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.

computer virus means corrupting or harmful instructions or code introduced into a *computer system* that propagate themselves through that *computer system*.

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*.

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*.

IT network incident means any unexpected non-malicious partial or total unavailability of or inability to access, process, use or operate any *IT network*.

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.

2.24 Communicable Disease

Notwithstanding any provision to the contrary within this policy, all 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 purposes of this exclusion, loss, liability, damage, compensation, injury, sickness, disease, death, medical payment, defence cost, cost, 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 threaten bodily injury, illness, emotional distress, damage to human health, human welfare or *property damage*.

Section 3: Automatic Extensions

3.1 Advancement of Costs

Agile will advance to the *insured costs and expenses* and *inquiry costs* incurred by *Agile* or the *Insured* with *Agile's* prior written consent, as they are incurred and prior to final adjudication of a *claim*.

Agile may not refuse to advance insured *costs and expenses* or *inquiry costs* by reason only that *Agile* considers that conduct referred to in Exclusion 2.7 Fraud and Dishonesty, has occurred, until such conduct is established by a formal written admission by the relevant *Insured* or final, adjudication of a judicial or arbitral tribunal.

If and to the extent that the *Insured* is not entitled to coverage under the terms and conditions of this *policy*, then *Agile* will cease to advance such costs and any amounts previously advanced shall be repaid to *Agile*.

3.2 Loss of Documents

Agile agrees, in the event of loss or damage to *documents*, to indemnify the *Insured* against all costs and expenses reasonably incurred by the *Insured* in replacing and restoring such *documents* provided that:

- (a) such loss or damage is sustained during the *period of insurance* while the *documents* are either in transit or in the custody of the *Insured* or any person to whom the *Insured* has entrusted them in the course of the normal conduct of the *professional services*;
- (b) where the *documents* are in electronic format, the *Insured* or any person to whom the *Insured* has entrusted them, have in place sufficient and proper procedures for the security and daily back-up of the *documents*;
- (c) the amount of such *costs and expenses* shall be supported by bills and / or accounts which shall be subject to approval by *Agile* or a competent person nominated by *Agile*.

Agile shall not be liable for loss or damage to *documents* caused by:

- i) riot or civil commotion
- ii) fading, mould, vermin, pest infestation, wear, tear or any other gradually operating cause
- iii) interference with electronically stored data by any person who is not a current principal, partner, director or *employee* of the *Insured*.

Cover under this extension will be deemed to be *costs & expenses* and shall be part of and not in addition to the *limit of liability* for *costs and expenses* as shown on the schedule.

3.3 Fraud and Dishonesty

Agile agree to indemnify the *Insured* against civil liability for compensation arising from any *claim* made against that *Insured*, which would otherwise be excluded by reason of Exclusion 2.7 Fraud and Dishonesty, solely arising from any dishonest, fraudulent, criminal or malicious act or omission, by any *Insured*.

Provided always that such indemnity shall not be provided to any director, officer or shareholder who committed, allowed, or condoned any dishonest, fraudulent, criminal or malicious act or omission.

3.4 Inquiry Costs

Agile will indemnify the *Insured* for *inquiry costs* provided that:

- (a) notice informing the *Insured* of an investigation, requiring the *Insured's* response or attendance is first received by the *Insured* and is notified to *Agile* during the *period of insurance*;
- (b) such notice arises directly from conduct committed or allegedly committed by the *Insured* in the performance of the *professional services*;
- (c) such indemnity is subject to the written consent of *Agile* prior to the incurring of the *inquiry costs*;
- (d) regular or overtime wages, salaries or fees of the *Insured* are excluded from indemnity under *inquiry costs* cover.

Our total aggregate liability during any one *period of insurance* in respect of *inquiry costs* made under this clause shall be the amount stated in the *schedule* and shall be part of and not in addition to the *limit of liability* for *costs & expenses* as shown in the *schedule*.

Cover under this extension will be deemed to be *costs & expenses*.

3.5 Court Attendance Costs

Agile agree to provide up to \$500 per day for *court attendance costs* incurred by *employees* of the *Insured*, or up to \$1,000 per day for *court attendance costs* incurred by partners, principals or directors of the *Insured* if they are legally compelled to attend a civil proceeding as a witness in a *claim* covered by this *policy*.

Our total aggregate liability during any one *period of insurance* for all *court attendance costs* shall be the amount stated in the *schedule* and \$2,500 per day and shall be part of and not in addition to the *limit of liability* for *costs & expenses* as shown on the *schedule*.

Cover under this extension will be deemed to be *costs & expenses*.

3.6 Mitigation of Costs

Agile will indemnify the *Insured* for reasonable costs and expenses directly incurred in taking action taken to mitigate a potential *claim* that otherwise would be the subject to indemnity under the *policy* provided that:

- (a) the *insured* first became aware of the error or omission during the *period of insurance* and notified *Agile* during the *period of insurance*; and
- (b) where the anticipated costs and expenses to mitigate a potential *claim* are likely to exceed \$50,000, and the action is not urgent, then the *Insured* must first provide written notice to *Agile* during the *period of Insurance* of the *Insureds* intention to incur such costs and expenses, and obtain from *Agile* prior written consent. Such consent will not be unreasonably withheld; and
- (c) the *Insured* shall not, without *Agile's* written consent, admit liability, negotiate or make any offer, promise or payment in connection with any potential *claim*; and
- (d) the onus of proving entitlement to indemnity under this clause rests with the *Insured*; and
- (e) the costs and expenses incurred by the *Insured* in proving entitlement to indemnity pursuant to this extension shall be met by the *Insured*.

Agile will not provide indemnity for any indirect costs and expenses, including but not limited to overheads, loss or diminution of profit, bonus, incentive payments, or opportunity costs.

Our total liability for all costs and expenses incurred under this clause shall be the amount stated in the *schedule* in the *aggregate* during the *period of insurance* which will be part of and not in addition to the *limit of liability* for *costs and expenses* as shown on the *schedule*.

Notification under this clause must be made to *Agile*, and the *Insured* must provide *Agile* with such information and co-operation as it may reasonably require, in accordance with General Condition 3 Claims control and 4 Claims Mitigation.

Cover under this extension will be deemed to be *costs & expenses*.

3.7 Privacy Breach Costs

Notwithstanding exclusion 2.23 Cyber **Agile** will indemnify the **Insured** for the reasonable direct costs of notifying individuals or corporations of a **privacy breach**, resulting from the conduct of the **professional services**.

If the costs and expenses to take such action are likely to exceed \$50,000, and should such action not be urgent, the **Insured** should first provide written notice to **Agile** during the **period of insurance** of the **Insured's** intention prior to incurring any such costs or expenses, in order to obtain from **Agile** a written consent prior to incurring such costs. Such consent will not be unreasonably withheld.

The total liability of **Agile** for all **privacy breach** costs will not exceed in the aggregate, during the **period of insurance** shall be the amount stated in the **schedule** and shall be part of and not in addition to the **limit of liability** for **costs & expenses** as shown in the **schedule**.

For the purposes of this clause, the Exclusion 2.18 Retroactive Date, is amended to read 'any costs resulting from any **privacy breach** occurring prior to the **retroactive date**'.

Cover under this extension will be deemed to be **costs & expenses**.

3.8 Public Relations Expenses

Agile agrees to pay any reasonable fee, costs, and expenses of a public relations consultant incurred by the **Insured** for the sole purpose of protecting the **Insured's** reputation as a direct result of a **claim** covered by this **policy**. Provided always that:

- (a) the **Insured** notifies **Agile** on first becoming aware of the **Insured's** reputation requiring protection, and provide full written details outlining the circumstances surrounding the event; and
- (b) **Agile** has given prior written consent to retain the services of such public relations consultant; and
- (c) The total aggregate liability for **Agile** during any one **period of insurance** for all public relations expenses shall be the amount stated in the **schedule** and shall be part of and not additional to the **limit of liability** for **costs & expenses** as shown in the **schedule**.

Cover under this extension will be deemed to be **costs & expenses**.

3.9 Newly Created or Acquired Subsidiary

Agile agrees to include in the definition of **Insured** any **subsidiary** created or acquired by the **Insured** during the **period of insurance** for a period of up to fourteen (14) days (but never beyond the expiry date of the **period of insurance**) from the date of such creation unless we have agreed to include that **subsidiary**.

Provided always that:

- (a) this extension of **policy** definition will only apply in respect of any **claim(s)** against the **subsidiary** or **costs & expenses** arising from an act, error or omission occurring subsequent to the date of creation or acquisition of the **subsidiary**; and

- (b) the *claim* or *costs & expenses* arise(s) out of the exercise and conduct of the entity or *subsidiary's* business which is the same as or substantially similar to the *Insured's professional services*.

3.10 Run Off Cover Insured Entity

Agile agrees that in the event that an *Insured* entity ceases to exist or operate or is consolidated with, merged into or acquired by any other entity then the coverage provided under this *policy* with respect to such *Insured* entity shall continue until the expiry date of the *period of insurance*.

Provided always that such coverage shall only apply in respect of *claim(s)* or *costs & expenses* arising from an act, error or omission occurring prior to the effective date that such *Insured* entity ceased to exist or operate or was consolidated with, merged into or acquired by another entity.

3.11 Joint Venture Liability

Agile agrees to indemnify the *Insured* in respect of any *claim* or *costs & expenses* resulting from the *Insured's* participation in any joint venture in connection with the *professional services* provided that:

- (a) the indemnity provided shall only relate to the *Insured's* proportion of any liability by such joint venture; and
- (b) the *Insured's* income derived from participation in the joint venture has been included in the calculation of income furnished by the *Insured* in the *proposal* Form; and
- (c) no cover is provided to the joint venture partner of the *Insured*.

3.12 Continuous Cover

Where the *Insured*:

- (a) first became aware of facts or circumstances that might give rise to a *claim*, prior to the *period of insurance*; and
- (b) had not notified *Agile* of such facts or circumstances prior to the *period of insurance*,

then Exclusion 2.15 Prior and Pending, will not apply to any notification during the *period of insurance* of any *claim* or *costs & expenses* resulting from such facts or circumstances, provided that:

- i) the *Insured's* failure to notify is not fraudulent; and
- ii) the *Insured* has been continuously insured, without interruption at the time of notification of the *claim* or *costs & expenses* to *Agile*, under a policy issued by Agile Insurance Group NZ Ltd, and was insured by Agile Insurance Group NZ Ltd or Agile Underwriting Services Pty Ltd, at the time the *Insured* first became aware of such facts or circumstances; and
- iii) *Agile* may reduce their liability under the Policy to the extent of any prejudice *Agile* may suffer in connection with the *Insured's* failure to notify the facts or circumstances giving rise to a *claim* or *costs & expenses* prior to the *period of insurance*; and
- iv) the *limit of liability* *Agile* provides shall be the lesser available under the *policy* in force when the *Insured* first became aware of the facts or circumstances or under this *policy*. The terms of this *policy* otherwise apply.

3.13 Vicarious Liability (Contractors and Consultants)

Agile will indemnify the *Insured* for civil liability arising from any acts, errors or omissions of the *Insured's* Contractors, sub-contractors or consultants provided that:

- (a) the work is carried out whilst acting for the *Insured* or on the *Insured* behalf and in connection with the *Insured's professional services* as detailed in the *schedule*, and
- (b) there is no separate contract in place between the contractor, sub-contractor or consultant and the client, and
- (c) full rights of subrogation against the Contractor, sub-contractor or consultant are maintained by the *Insured*.

Such contractors, or sub-contractors or consultants, however, are not otherwise covered by this *policy*.

3.14 Spousal Liability

If a *claim* against an *Insured* includes a *claim* against such *Insured's* spouse solely by reason of:

- (a) such spouse's legal status as a spouse of such *Insured*; or
- (b) such spouse's ownership interest in property which the Claimant seeks as recovery for *claim(s)* made against such *Insured*, then the spouse's legal liability for compensation resulting from such *claim* will be treated for the purposes of this *policy* as the liability of the *Insured*. This clause does not apply to the extent the *claim* alleges any act, error or omission by such *Insured's* spouse.

Section 4: Optional Extensions

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

4.1 Fidelity

Agile agrees to provide indemnity to the *Insured* against loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes belonging to the *Insured* where any such loss is sustained in consequence of any dishonest or fraudulent act or omission in which an *Insured* participated. Provided always that:

- (a) such loss is first discovered by the *Insured* during the *period of insurance* and is notified in writing to *Agile* within the *period of insurance* and within twenty-eight (28) days of the date of such discovery;
- (b) *Agile* shall not be liable for any loss sustained in consequence of any act or omission occurring after the date of the discovery of, or the reasonable cause for suspicion of, dishonest or fraudulent conduct on the part of *Insured* concerned;
- (c) *Agile* shall not be liable to indemnify any *Insured* who committed or condoned any dishonest or fraudulent conduct in consequence of which the loss occurred;

- (d) the *Insured* shall bear the burden of adducing satisfactory proof to substantiate any loss hereunder (including any legal, investigative, accounting or other costs incurred in such process) and *Agile* will be under no obligation to provide indemnity to the *Insured* until such time as *Agile* are satisfied that such loss has, in fact, been sustained;
- (e) *Agile's* liability for each loss under this Optional Extension and *Agile's* aggregate liability for all losses under this Optional Extension shall be the amount stated in *schedule* and shall be part of and not in addition to the *limit of liability* as shown in the *schedule*.
- (f) the *deductible* specified in the *schedule* applies to any one event, events or series of events caused by acts or omissions of the same person or persons (whether identifiable or not) and events in which such person or persons is/are involved or implicated shall be treated as one event.

4.2 Previous Business

Agile agrees to provide indemnity in respect of any *claim* for compensation made against any person who is or becomes or ceases to be during the *period of insurance* a principal, partner or director of the *Insured* for any civil liability arising from a breach of professional duty and incurred on the part of such person in the conduct of the same profession as the *Insured's professional services* before that person joined the *Insured*, subject to the terms and conditions of the *policy*.

4.3 Contractors & Consultants

This *policy* is extended to include any *claim(s)* arising directly from the actions of any contractors, sub-contractors or consultants engaged by the *Insured* for the *professional service* activities as detailed in the *schedule*.

Agile will also indemnify any such contractors, sub-contractors or consultants, provided that the circumstance giving rise to such *claim* occurred:

- (a) in the course of the conduct by the contractors, sub-contractors or consultants of the insured *professional services* whilst acting for the *Insured* or on the *Insured's* behalf;
- (b) at the time when the contractors, sub-contractors or consultants were under the *Insured's* control and supervision.

For the purposes of any cover provided under this clause, any such contractors, sub-contractor or consultants are subject to the same terms and obligations of this *policy* as if they were an *Insured*.

General Conditions

The definitions, terms and conditions set out on these General Conditions apply to this *policy*.

Any words in these General Conditions, which are defined shall have the meaning provided for such terms for purpose 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, the definitions, terms and conditions

These General Conditions, the policy 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 *Agile's* consent.

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

Upon the discovery of any *claim* 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 in accordance with General Condition 4 – Claims Mitigation; 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:

- (d) 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;
- (e) furnish to *Agile* details of any other insurance covering, or which may cover, the same loss;
- (f) 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

- (g) supplying *Agile* with all information and assistance reasonably required. *Agile* will only request information relevant to the *claim*.

3. Claims control

- (a) The *Insured* shall not, without *Agile's* written consent, admit 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 name of the *Insured*, or any other party covered by the *Insured's policy*, the defence, negotiation 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*.
- (c) *Agile* may, if they believe that any *claim* will not exceed the *deductible*, instruct the *Insured* to conduct the defence of a *claim*. In such a situation, *Agile* will reimburse the *Insured* for all reasonable *costs & expenses* incurred in the defence of the *claim* in the event that any payment made to dispose of the *claim* exceeds the *deductible*.

4. Claims mitigation

- (a) if the *Insured*, either prior to or during the *period of insurance*, becomes aware of a circumstance which could, if not rectified, lead to a *claim* or increase the quantum of a *claim*, the *Insured* shall use due diligence and do and concur in doing all things reasonably practicable to avoid or diminish any liability hereunder.
- (b) compliance with this condition shall be at the *Insured's* own cost, unless otherwise agreed in writing by *Agile* and in accordance with the Automatic extension 3.6 Mitigation of Costs

5. Deductible

The *deductible* is the first amount payable by the *Insured* for each *claim*. *Agile* will never be liable to indemnify the *Insured* for the *deductible*.

Where the *deductible* is specified to be inclusive of *costs & expenses*, the *Insured* shall pay the *costs & expenses* as they are incurred, up to the amount of the *deductible*.

Where the *deductible* is specified to be exclusive of *costs & expenses*, the *deductible* shall not apply to the *costs & expenses* incurred.

If any expenditure is incurred by *Agile* which, by virtue of this clause, is the responsibility of the *Insured*, then such amount shall be reimbursed to *Agile* by the *Insured* promptly.

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 an applicable *deductible*), or any lesser sums for which any *claim* or *claim(s)* can be settled and shall then be under no further liability in respect thereof except for the payment of amounts referred to in clause 1.2 Additional Payments, incurred prior to such payment. Always subject to the *limit of liability* noted in the *schedule*.

In the event of a *claim* or series of *claim(s)* resulting in liability of the *Insured* to pay a sum in excess of the *limit of liability*, *Agile's* liability under 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 or payable by or on behalf of the *Insured* in satisfaction of the *claim* or *claim(s)*.

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*.

8. Severability and Non-Imputation

Where the *Insured* is comprised of more than one legal entity, any failure on the part of any of the parties to:

- (a) comply with the duty of disclosure under the *Contracts of Insurance Act 2024*;
- (b) comply with any obligation under this policy (other than the obligation to pay the *premium*);
- or
- (c) refrain from conduct which is dishonest, fraudulent, criminal or malicious;

Shall not prejudice the right of the remaining party or parties to indemnity under this policy, provided that such remaining party, or parties shall:

- (a) be entirely innocent of and have no prior knowledge of any such failure;
- (b) as soon as practicable after becoming aware of any such failure, advise *Agile* in writing of all its relevant circumstances.

This clause is in all respects subject to, and does not attempt to contract out of, the *Contracts of Insurance Act 2024*.

9. Limit of liability

Agile's liability for any one *claim* will not exceed the applicable *limits of liability* specified in the *schedule*, and *Agile's* total liability in the aggregate, during the *period of insurance*, will not exceed the *aggregate limit of liability* specified in the *schedule*.

10. Multiple Claims

All *claim(s)* arising out of a single act, error or omission or series of acts, errors or omissions shall be considered to be one *claim* for the purpose of this *policy*.

11. Other Insurance

If any *claim* arises under the *policy* where there is any other insurance *policy* in force, covering the same *claim*, the *insured* shall promptly provide *Agile* with full details of such other insurance, including the identity of the other Insurer, the policy number and such further information as *Agile* may reasonably require.

Subject to the *Contracts of Insurance Act 2024* this *policy* will attach in excess of such insurance

12. Reinstatement of the Limit of Liability

If the *limit of liability* is either partially or totally exhausted by the payment of a *claim* under this *policy*, *Agile* agree to reinstate the *limit of liability* by an amount equal to the *limit of liability* (or a multiple of such *limit of liability* if there is more than one reinstatement specified in the *schedule*) provided that:

- (a) *Agile's* total liability under this *policy* shall not exceed the *aggregate limit of liability* as specified in the *schedule*.
- (b) such reinstatement is only available for subsequent *claim(s)* or *costs & expenses* totally unrelated to those that give rise to the partial or total exhaustion of the *limit of liability*.

13. Right to Contest

In the event that *Agile* recommend a settlement in respect of any *claim* and the *Insured* does not agree that the *claim* should be settled, then the *Insured* may elect to contest the *claim*.

In electing to contest a *claim*, *Agile* and the *Insured* can invoke the *senior counsel clause*, in order to obtain advice from senior counsel as to the proposed settlement and whether the *claim* should be settled.

Agile's liability in connection with such a *claim* shall not exceed the amount for which the *claim* could have been settled, plus *costs & expenses* incurred with *Agile's* written consent up to the date of the Right to Contest election, less the *deductible*.

14. Senior Counsel Clause

Agile and the *Insured* shall not be required to contest any legal proceedings unless a senior counsel, to be mutually agreed upon by *Agile* and the *Insured*, shall advise that such proceedings should be contested. Failing agreement for the appointment, the Senior Counsel is to be appointed by the President of the New Zealand Bar Association.

In formulating such advice, the senior counsel shall take into consideration the economics of the matter, damages and costs which are likely to be recovered by the plaintiff, the likely *costs & expenses* to be borne by *Agile*.

The cost of such Senior Counsel's opinion shall be regarded as part of the *costs & expenses* to be borne by *Agile*.

15. Sanctions

Agile shall not provide cover and *Agile* shall not be liable to pay any *claim* or provide any benefit hereunder to the extent that the provision of such cover, payment of such *claim* or provision of such benefit would expose *Agile* to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of New Zealand, Australia, the European Union, United Kingdom or United States of America.

16. Subrogation

- (a) if any payment is made under this *policy*, *Agile* are subrogated to the *insured's* rights or recovery and the *Insured* must assist and provide such information as *Agile* reasonably require to exercise such rights.
- (b) *Agile* agree not to exercise any such rights against any director, principal or *employee* of the *Insured* unless the *claim* is brought about or contributed to by the dishonest, fraudulent, criminal or malicious act or omission of the director, principal or *employee*.
- (c) the *Insured* shall not, without prior written consent of *Agile*, enter into any contract or agreement which excludes, limits or prejudices a right of recovery which the *Insured* may have in respect of any *claim* covered by this policy.

17. 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.

18. Goods and Services Tax (GST)

Agile will only pay amounts over a sum insured or sub limit to the value of GST which are 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.

19. Clause 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.

20. Service of Suit Clause

Agile, and any other Underwriters accepting this insurance, agrees that:

- (a) if a dispute arises under this *policy*, the insurance will be subject to New Zealand law and practise and *Agile*, and any other underwriters accepting this insurance, will submit to the jurisdiction of any competent Court in the Commonwealth of New Zealand.
- (b) any summons notice or process to be served upon *Agile*, or any other underwriters accepting this insurance, may be served upon:
 - Lloyd's General Representative in New Zealand
 - c/o Hazelton Law
 - PO Box 5639, Wellington, New Zealand
- (c) if a suit is instituted against *Agile*, or any other Underwriters accepting this insurance, all underwriters participating in this insurance will abide by the final decision of such Court or any competent Appellate Court.

21. Premium Payment

- (a) as a condition precedent to the right to be indemnified under this *policy*, the *Insured* undertakes that the *premium* will be paid in full to *Agile* 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* 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.

22. Variation of the Policy

No variation of this *policy* will be effective unless made by endorsement which is signed by a properly authorised employee of *Agile*.