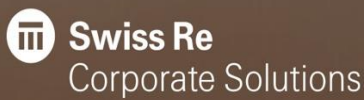




# Statutory Review Insurance



# Important Notices

## Understanding the Policy

You should read the entire **Policy** carefully, including the definitions and the exclusions to ensure that it meets your requirements. We recommend that you consult an insurance adviser to ensure a clear understanding of your rights and obligations under this insurance contract.

## Claims Made and Notified Policy

This is a claims made and notified policy which means we shall only cover you for claims made against you during the **Policy Period** and notified to us as soon as practicable during the **Policy Period** the **Policy** does not provide cover in relation to facts known to you before the commencement of the **Policy**.

## Your duty of disclosure

When you are completing the **Proposal** it is important that you understand you are answering questions for yourself and anyone else that you want to be covered by the **Policy**.

Before you enter into the **Policy**, you have a duty to tell us anything that you know, or could reasonably be expected to know, which may affect our decision to insure you and on what terms. You have this duty until we agree to insure you.

You have the same duty before you renew, extend, vary or reinstate the **Policy**.

You do not need to tell us anything that:

- reduces the risk we insure you for;
- is common knowledge;
- we know or should know as an insurer; or
- we waive your duty to tell us about.

## If you do not tell us something

If you do not tell us anything you are required to, we may cancel your contract or reduce the amount we shall pay you if you make a claim, or both.

If your failure to tell us is fraudulent, we may refuse to pay a claim and treat the contract as if it never existed.

## Notification of Facts that might give rise to a claim

Section 40(3) of the *Insurance Contracts Act 1984* (Cth) provides that if you give notice in writing to us of facts that might give rise to a claim against you as soon as reasonably practicable after you become aware of such facts but before the insurance cover provided by the **Policy** expires, then we are not relieved of liability under the **Policy** in respect of the claim, when made, by reason only that it was made after the expiration of the period of the insurance cover provided by the **Policy**.

## Privacy Statement - Privacy Information

We are bound by the Australian Privacy Principles set out under the *Privacy Act 1988* (Cth) when we collect and handle your personal and or sensitive information. We shall only collect personal and or sensitive information that is necessary in order for us to process and administer the **Policy** and any claims made under the **Policy**. Where possible, we shall collect personal information directly from you or, where that is not reasonably practical, from other sources. We may also use your personal and or sensitive information for the purpose of designing or underwriting new insurance products, for research and analytical purposes, to perform administrative functions, and to comply with our legal obligations.

We may disclose your personal and or sensitive information to third parties for the purposes described above, including insurers, reinsurers, reinsurance brokers, loss adjusters, external claims data collectors, investigators and others involved in the claims handling process,

agents and service providers and related entities some of whom may be located in overseas countries, including Hong Kong, India, Singapore, Switzerland, the United States of America and the Slovak Republic.

In providing personal and or sensitive information, you consent to the collection, use and disclosure, including overseas disclosure of your personal and or sensitive information for the purposes described above. Where you provide us with personal and or sensitive information about others, you represent to us that you have made them aware of that disclosure and of our privacy policy and that you have obtained their consent.

If you do not consent to provide us with the personal and or sensitive information that we request, or withdraw your consent to the use and disclosure of your personal and or sensitive information at any stage, we may not be able to offer or continue to offer you the products or provide the services that you seek including claims assessment and handling.

We realise that this information is often very sensitive in nature and shall treat it with the utmost care and security. Information on how we handle your personal and or sensitive information is explained in our privacy policy, including:

- What information we collect and how we use it;
- When do we disclose your information overseas;
- How do we hold and protect your information;
- How we disclose the information;
- How you can check, update or change the information we are holding;
- What happens if you wish to complain.

A copy of our privacy policy is available by contacting your broker or available on our website: [www.corporatesolutions.swissre.com](http://www.corporatesolutions.swissre.com)

### **Contact Details**

You may seek access to, and correction of, the personal information we hold about you by contacting our Privacy Compliance Officer on (02) 8295 9500 or by writing to:

Privacy Compliance Officer

Swiss Re International SE Australia Branch

Level 36, Tower Two, International Towers Sydney

200 Barangaroo Avenue, Sydney NSW 2000

Email: [complaints\\_anz@swissre.com](mailto:complaints_anz@swissre.com)

We shall respond to your request within a reasonable time after we receive it.

## **Complaint & Dispute Resolution Process**

We have Complaints Handling and Dispute Resolution processes in place. We aim to respond to a complaint or to a dispute within 15 business days once we have all necessary information and have completed any investigation that may be needed.

If we cannot respond within 15 business days, we shall let you know as soon as practicable within the 15 business day time frame, and nominate a reasonable alternative time. When doing this we shall attempt where possible to meet any reasonable time requirements you express.

We shall keep you informed about the progress of your complaint or dispute every 10 business days until we have responded to you on it.

Should you wish to make a complaint, you can contact our Complaints Officer on (02 8295 9500) or by writing to:

The Complaints Manager  
Swiss Re International SE, Australia Branch  
Level 36, Tower Two, International Towers Sydney  
200 Barangaroo Avenue, Sydney NSW 2000  
Email: [complaints\\_anz@swissre.com](mailto:complaints_anz@swissre.com)

If you feel our response does not resolve your complaint you may tell us and ask us to treat it as a dispute. It will then be independently reviewed by our Internal Dispute Resolution Panel comprising employees with appropriate experience, knowledge and authority who have not been involved in the matter before.

## **The General Insurance Code of Practice**

We abide by the General Insurance Code of Practice (Code). The Terms of the Code require us to be open, fair and honest in our dealings with you. The Code outlines the standards by which we have agreed to deal with you in relation to the standards for our employees, authorised representatives, financial hardship, information and education and access to information. The Code aims to:

- Commit us to high standards of service.
- Promote more informed relations between you and us.
- Promote trust and confidence in the insurance industry.

## **LEGAL PANEL**

### **Proclaim Management Solutions Pty Ltd**

Email: [claim@proclaim.com.au](mailto:claim@proclaim.com.au)

Freecall: 1300 858 329

Address: Locked Bag 32012, Collins Street East, VIC 8003

# TABLE OF CONTENTS

<b>SECTION 1: INSURING CLAUSE .....</b>	<b>5</b>
1.1 STATUTORY & REVIEW INSURANCE .....	5
1.2 THE TYPES OF AUDITS THE INSURER WILL COVER .....	5
<b>SECTION 2: EXCLUSIONS.....</b>	<b>5</b>
2.2 PRIOR OR PENDING AUDITS.....	5
2.3 FRAUD, DISHONESTY AND CRIMINAL OR MALICIOUS ACTS.....	5
2.4 FALSE OR MISLEADING STATEMENTS.....	5
2.5 CRIMINAL PROSECUTION.....	6
2.6 FINANCIAL CULPABILITY ABOVE 75% .....	6
2.7 KNOWLEDGE OF DEFICIENT INFORMATION .....	6
2.8 WORK AND SERVICES PROVIDED OUTSIDE AUSTRALIA .....	6
2.9 AUDIT OF THE INSURED.....	6
2.10 FINES, PENALTIES AND PROSECUTIONS .....	6
2.11 TAX MINIMISATION SCHEMES AND ARRANGEMENTS .....	6
2.12 LEGAL ACTION.....	6
2.13 CLIENT'S FINANCIAL POSITION .....	7
2.14 LATE RETURNS .....	7
2.15 TERRORISM.....	7
2.16 APPEAL OF REVIEWABLE DECISIONS .....	7
2.17 COMPLETED AUDITS.....	7
<b>SECTION 3: CLAIMS CONDITIONS .....</b>	<b>8</b>
3.1 REPORTING AND NOTICE.....	8
3.2 AUDIT CO-OPERATION .....	8
3.3 INSURER MAY PROTECT ITS POSITION .....	9
3.4 SETTLEMENT AND GST .....	9
<b>SECTION 4: GENERAL CONDITIONS .....</b>	<b>9</b>
4.1 LIMIT OF LIABILITY .....	9
4.2 DE-REGISTRATION .....	9
4.3 POLICY CONSTRUCTION AND INTERPRETATION .....	9
4.4 CURRENCY.....	9
4.5 GOVERNING LAW.....	9
4.6 DISCLOSURE OF INFORMATION TO INSURER.....	10
4.7 ALTERATION OF RISK .....	10
4.8 CANCELLATION .....	10
4.9 NOTICES AND INFORMATION .....	11
4.9 THIRD PARTY INTERESTS .....	11
4.10 ELECTRONIC COMMUNICATIONS.....	11
4.11 CONFIDENTIALITY.....	11
<b>SECTION 5: DEFINITIONS .....</b>	<b>12</b>

Subject to payment of the **Premium**, and subject to all the provisions of the **Policy**, and, in reliance upon the disclosures made in the **Proposal**, the **Insured** and the **Insurer** agree as follows:

## SECTION 1: INSURING CLAUSE

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### 1.1 Statutory & Review Insurance

The **Insurer** shall pay **Costs**, up to the **Audit Limit**, arising in connection with an **Audit**:

- (a) which commenced while this **Policy** is in force. For the purpose of this **Policy** the **Audit** will have commenced from the date of receipt of the **Audit Notice**; and
- (b) which the **Insurer** has been told about in writing as soon as reasonably practicable and while this **Policy** is in force; and
- (c) which arises from a **Return** and gives rise to one or more of the types of **Audits** described in Section 1.2.

### 1.2 The types of Audits the Insurer will cover

The **Insurer** will provide **Cover** in respect of any **Audit** conducted by:

- (a) the Australian Taxation Office; or
- (b) any other Australian (Federal, State or Territory) government authority or agency which has the statutory responsibility to conduct **Audits** in relation to taxation, duties, levies or other such statutory imposts in connection with a **Return**.

## SECTION 2: EXCLUSIONS

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No **Cover** shall be provided under the **Policy** for, arising out of, or in any way connected with:

### 2.1 Australian Prudential Regulatory Authority Audits

any **Audit** conducted by the Australian Prudential Regulatory Authority.

### 2.2 Prior or Pending Audits

any **Audit** where the **Audit Notice**, or other facts, circumstances or information as to the likely conduct of an **Audit**, was received by, or known to, the **Insured** or the **Client** or any person acting on either of their behalf prior to the **Inception Date**.

### 2.3 Fraud, Dishonesty and Criminal or Malicious Acts

any fraudulent, dishonest, criminal or malicious act or omission committed by or on behalf of the **Insured** or **Client**.

### 2.4 False or Misleading Statements

any false or misleading statements in a material particular and where the reason for such statement can be attributed to deliberate evasion, recklessness or carelessness by or on behalf of the **Insured** or the **Client**.

This exclusion shall not apply where a false or misleading statement results from such **Insured** or **Client** being misled by the Australian Taxation Office or other Australian (Federal, State or Territory) government authority or agency conducting such **Audit**, or where such **Insured** or

**Client** could not have reasonably been expected to know that a statement was false or misleading.

2.5 **Criminal Prosecution**

any criminal prosecution of the **Insured** or **Client**.

2.6 **Financial Culpability Above 75%**

any **Audit** conducted by the Australian Taxation Office only, in respect of which the Australian Taxation Office has imposed a final culpability penalty in excess of 75% of the tax payable.

2.7 **Knowledge of Deficient Information**

any **Audit** which results from the **Insured** or **Client** or any person acting on their behalf becoming aware of an error or deficiency in any information, **Return** or other documentation furnished to the Australian Taxation Office or other Australian (Federal, State or Territory) government authority or agency conducting such **Audit** and not notifying the relevant government authority or agency of the error or deficiency within 3 months of becoming aware of the said error or deficiency.

2.8 **Work and Services Provided Outside Australia**

any work performed or services provided by the **Insured**, or any other provider of accounting or related work and services, to the **Client** outside of the Commonwealth of Australia.

2.9 **Audit of the Insured**

any **Audit** conducted on or in respect of the **Insured**, or any holding company, subsidiary, service, trust or administration company of the **Insured**.

2.10 **Fines, Penalties and Prosecutions**

any **Audit** conducted for the sole purpose of determining to what extent, if any, a fine or penalty should be imposed, or whether any prosecution action should be commenced against the **Client**.

2.11 **Tax Minimisation Schemes and Arrangements**

any **Audit** which is initiated to determine the **Client's** liability to pay any form of tax, levy, duty, penalty, as a result of participation in any marketed or mass marketed tax avoidance or tax minimisation scheme or arrangement, unless the scheme or arrangement has received a prior product ruling in its favour from the relevant government agency.

2.12 **Legal Action**

any legal action taken against, or commenced by or on behalf of, the **Insured** or the **Client**, unless such action is taken with the **Insurer's** prior written consent.

### 2.13 **Client's Financial Position**

any **Audit** or **Return** where the **Client**, at the commencement of the **Audit**:

- (a) is bankrupt within the meaning of the *Bankruptcy Act 1966* (Cth), or insolvent as defined under the *Corporations Act 2001* (Cth), or in liquidation or in administration or in receivership; or
- (b) has collective turnover in the last completed financial year which is greater than \$75,000,000.

### 2.14 **Late Returns**

any **Return** lodged more than three months after the lodgement date prescribed in any authorised extension of time for lodgement and approved in writing by the relevant government authority or agency.

### 2.15 **Terrorism**

any **Audit** directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with:

- (a) any act of **Terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the loss, damage, illness, injury, death, cost or expense;
- (b) any action in controlling, preventing, suppressing, retaliating against, or responding to any act of **Terrorism**.

### 2.16 **Appeal of Reviewable Decisions**

any appeal to:

- (a) reconsider a **Reviewable Decision** (except in respect of a **Self Managed Superannuation Fund**) to an administrative tribunal constituted to hear appeals; or
- (b) reconsider a **Reviewable Decision** in respect to a **Self Managed Superannuation Fund**, which was lodged without the **Insurer's** prior written consent.

### 2.17 **Completed Audits**

any work performed or services provided in connection with an objection or in respect of a **Completed Audit**.



### 3.1 Reporting and Notice

As soon as reasonably practicable and in no event later than the **Expiry Date** the **Insured** shall give written notice to the **Insurer** of any **Audit** or of any facts or circumstances that may give rise to an **Audit**.

All such notices shall include, but not be limited to, the following:

- (a) a copy of the **Audit Notice** and details of when the **Insured** first became aware of the **Audit Notice**;
- (b) where no **Audit Notice** has been issued, details of facts and circumstances that may give rise to an **Audit**, including when those details first became known to the **Insured** and the **Client**.; and
- (c) the **Insured's** best estimate of the likely **Costs** to be incurred in connection with the **Audit Notice**.

The **Insured** shall keep the **Insurer** fully informed as regards all developments relating to such **Audit** in relation to which the **Insured** has sought indemnity under this **Policy**.

### 3.2 Audit Co-operation

The **Insured** must:

- (a) diligently do, and allow to be done, everything reasonably practicable to avoid or lessen the **Costs** incurred in relation to an **Audit** or **Covered Audit**;
- (b) do all things reasonably necessary to assist the **Insurer** to:
  - (i) investigate any **Audit**; and
  - (ii) assess the **Costs** incurred in respect of an **Audit** for which **Cover** is sought under this **Policy**;including but not limited to providing:
  - (1) the names of partners and staff used in connection with an **Audit** and their respective hourly rate(s);
  - (2) an itemised narrative of the of the tasks undertaken, including the time spent on each task;
  - (3) itemised disbursement costs supported by invoices; and
  - (4) full details as described in (2) and (3) above in respect of **Costs** incurred when other professionals are engaged by the **Insured**.

### 3.3 Insurer May Protect its Position

The **Insurer** may, upon notification of an **Audit** or of a any fact or circumstance that may give rise to an **Audit** which may be **Covered** under this **Policy**, take whatever action it considers appropriate to protect its position. This does not, however:

- (a) indicate that the **Insured** is entitled to be **Covered** under this **Policy**; or
- (b) jeopardise the **Insurer's** rights under the **Policy** or at law.

### 3.4 Settlement and GST

Where payment is made under this **Policy** for the acquisition of goods, services or other supply, the **Insurer** will reduce the amount of the payment by the amount of any input tax credit that the **Insured** is, or will be, entitled to under *A New Tax System (Goods and Services Tax) Act 1999* (Cth) in relation to that acquisition, whether or not that acquisition is made. Where payment is made under this **Policy** as compensation instead of payment for the acquisition of goods, services or other supply, the **Insurer** will reduce the amount of the payment by the amount of any input tax credit that the **Insured** would have been entitled to under *A New Tax System (Goods and Services Tax) Act 1999* (Cth) had the payment been applied to such goods, services or other supply.

## SECTION 4: GENERAL CONDITIONS

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### 4.1 Limit of Liability

The **Insurer's** maximum liability under the **Policy** for each and every **Covered Audit** will not exceed the **Audit Limit**.

The **Insurer's** maximum liability under the **Policy** for all **Covered Audits** will not exceed the **Aggregate Limit**.

### 4.2 De-Registration

The **Insured** must tell the **Insurer** in writing if the **Insured's** statutory registration, which is relevant to the provision of services relating to the types of **Returns** in respect of which **Cover** is provided under this **Policy**, is cancelled, suspended or terminated or has had conditions imposed upon it during the **Policy Period**.

### 4.3 Policy Construction and Interpretation

The headings in the **Policy** are included for descriptive purposes only and do not form part of the **Policy** for the purpose of its construction or interpretation.

Under the **Policy**, where appropriate, the masculine includes the feminine, and the singular includes the plural and vice versa. For the meaning of any words in bold refer to the **Schedule** or to Section 5 – Definitions.

### 4.4 Currency

All amounts payable under this **Policy** are expressed and payable in the **Currency** stated in Item 7 of the **Schedule**.

### 4.5 Governing Law

The construction, interpretation and meaning of the provisions of the **Policy** shall be determined in accordance with the law in force in the Australian State or Territory in which the

**Policy** is issued. All matters relating to the construction or operation of the **Policy** shall be submitted to the exclusive jurisdiction of the courts exercising jurisdiction under the law of that State or Territory.

#### 4.6 Disclosure of Information to Insurer

Solicitors instructed by the **Insurer** to act on behalf of the **Insured** and/or the **Client** for any **Audit** (or **Covered Audit**) are at liberty to disclose to the **Insurer** any information they receive in that capacity, wherever they obtain it from, including from the **Insured** and/or the **Client**. The **Insured**, by claiming under this **Policy**, authorises such solicitors to disclose this information to the **Insurer** under a common interest privilege or a limited waiver of privilege but does not otherwise waive its claim to any legal professional privilege that might otherwise attach to the disclosed information.

#### 4.7 Alteration of Risk

The **Insured** shall give to the **Insurer** written notice as soon as reasonably practicable of any material alteration to the risk during the **Policy Period**. This shall include, but not be limited to the **Insured**:

- (a) being acquired by another company, accounting practice or tax agency;
- (b) acquiring, consolidating with or merging into another company, accounting practice or tax agency;
- (c) being unable to pay its debts as and when they fall due.

In the event of material alteration to the risk during the **Policy Period** the **Insurer** reserves the right to impose additional terms and conditions and to charge an additional premium.

#### 4.8 Cancellation

- (a) The **Insurer** may cancel this **Policy** at any time in accordance with the relevant provisions of Section 60 of the *Insurance Contracts Act 1984* (Cth), by giving notice in writing to the **Insured** of the date from which cancellation is to take effect.
- (b) Under Section 60 of the *Insurance Contracts Act 1984* (Cth) the **Insurer** may cancel this **Policy** at any time where:
  - (i) it is in force by virtue of Section 58 of the *Insurance Contracts Act 1984* (Cth);  
or
  - (ii) it is an interim contract of general insurance.
- (c) The **Insured** may cancel this **Policy** at any time by giving written notice to the **Insurer**.
- (d) Should the **Insurer** or the **Insured** exercise their respective right to cancel the **Policy** the **Insurer** will refund the **Premium** on a pro-rated basis calculated by reference to the date of the cancellation in relation to the **Expiry Date**, less any non-refundable duties. No refund will be paid if:
  - (i) the **Insured** has paid **Costs** under the **Policy** in connection with an **Audit** or **Covered Audit**; or
  - (ii) Unfinalised notified **Audit**.
  - (ii) the **Insured** has made a fraudulent claim under the **Policy**.

#### 4.9 Notices and Information

All written notices and information for the attention of the **Insurer** in connection with this Policy should be sent in to:

**Proclaim Management Solutions Pty Ltd**

Email: [claim@proclaim.com.au](mailto:claim@proclaim.com.au)

Freecall: 1300 858 329

Address: Locked Bag 32012, Collins Street East, VIC 8003

#### 4.9 Third Party Interests

No right or interest with respect to the **Policy** can be assigned without the **Insurer's** prior written consent. The **Policy** is not intended to confer rights to any person or entity not a party to the **Policy**.

#### 4.10 Electronic Communications

The **Insurer** may issue notices to the **Insured** which are required to be given pursuant to the *Insurance Contracts Act 1984* (Cth) by electronic mail or post.

#### 4.11 Confidentiality

The existence and terms of the **Policy** are confidential as between the **Insurer** and the **Insured** and shall not be disclosed by the **Insured** to any person except:

- (a) to the Client, as necessary, to give effect to this **Policy**;
- (b) to professional advisers, including legal advisers;
- (c) as required by law or in accordance with an order of a court; or
- (d) with the written consent of the **Insurer**.

## SECTION 5: DEFINITIONS

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5.1 **Audit (Statutory Review)** means any official inquiry, investigation, review, examination or audit (including record keeping, record retention and client risk reviews) conducted by the Australian Taxation Office or an Australian (Federal, State or Territory) government authority or agency in respect of a:

- (a) **Return** prepared by a qualified accountant or tax agent and submitted by, or on behalf of, the **Client**; or
- (b) **Compliance Obligation**.

But **Audit** does not mean:

- (i) a review relevant to the **Client** maintaining its industry status, license to conduct or operate its business, gain or maintain membership or any form of occupational health and safety type compliance;
- (ii) any form of practice or procedural audit of the **Insured's** client or practice files;
- (iii) any activity involving a government authority or agency gathering information or data that is not part of an **Audit** of a **Return** or **Compliance Obligation**;
- (iv) any activity involved in the familiarisation, education, training, application, implementation, process or operation of:
  - (1) any amendments or changes to existing legislation or industry regulations, or
  - (2) the introduction of new legislation or industry regulations.
- (v) telephone communication from the Australian Tax Office.

5.2 **Auditor** means an officer who is authorised under Commonwealth, State or Territory legislation to carry out an **Audit**.

5.3 **Audit Notice** means a written notice issued by the Australian Taxation Office or an Australian (Federal, State or Territory) government authority or agency that is addressed to the **Insured** or the **Client** and gives notice of an **Audit**.

5.4 **Client** means any:

- (a) person; and/or
- (b) company, firm, partnership or trust, that is not a superannuation fund; and/or
- (c) **Self Managed Superannuation Fund**,

to whom the **Insured** has provided professional accounting or tax agent services, or a letter of engagement to provide those services, prior to the receipt by the **Insured** or **Client** of an **Audit Notice**.

- 5.5 **Completed Audit** means the **Auditor**:
- (a) has given written notice to that effect; or
  - (b) notifies the **Insured** or the **Client** that it has made a **Concluded Decision**; or
  - (c) has issued an assessment or amended assessment of a **Return** the subject of an **Audit**.
- Or in the alternative to (a) to (c) above, where the **Insured** or **Client** declare in writing that the **Audit** has been completed.
- 5.6 **Compliance Obligation** means an official inquiry, investigation, review, examination or audit conducted by:
- (a) the Australian Taxation Office; or
  - (b) any other Australian (Federal, State or Territory) government authority or agency that is authorised to undertake such inquiry, investigation, review, examination or audit of a **Return**;
- in relation to whether or not the **Client** has met their tax or financial compliance obligations with that government authority or agency.
- 5.7 **Costs** means fees, charges and disbursements reasonably and properly charged by the **Insured** or by any other external professional person or consultant engaged by the **Insured** for work undertaken solely in respect of a **Covered Audit**.
- But **Costs** does not mean amounts payable pursuant to an amended **Return** including, but not limited to, any additional tax, duty, government impost or similar, penalties or fines, imposed by a government agency or authority following an **Audit**.
- 5.8 **Concluded Decision** means a written notification of the **Auditor's** concluded views in connection with a **Return** the subject of an **Audit** and includes any written statement which is intended by the **Auditor** to be its findings in connection with such **Return** or the basis upon which it proposes to act in connection with such **Return**.
- 5.9 **Cover** means the grant of indemnity by the **Insurer** to the **Insured** under the terms of this **Policy**.
- 5.10 **Covered Audit** means an **Audit**, the **Costs** of which the **Insurer** has agreed to cover under the terms of this **Policy**.
- 5.11 **Insured** means the person(s), companies or firms shown as the **Policyholder** In the **policy schedule**.
- 5.12 **Insurer** means: Swiss RE International SE, Australia Branch, Level 36, Tower Two, International Towers, 200 Barangaroo Avenue, Sydney 2000, Australia
- 5.13 **Policy** means the **Schedule**, Insuring Clause, Conditions, Exclusions, Definitions and any other terms contained or incorporated herein.

- 5.14 **Policy Period** means the period from **Inception Date** to the **Expiry Date** or to any earlier cancellation of the **Policy**.
- 5.15 **Premium** means the amount of money that the **Insured** must pay the **Insurer** for the **Policy**. The **Premium** shall include any premium adjustments required to be paid to the **Insurer**.
- 5.16 **Proposal means** any proposal form completed and signed for the **Policy** or for any other policy issued by the **Insurer** for which the **Policy** is a replacement or renewal (including any attachments thereto) and any information and statements or materials requested by the **Insurer** or supplied to the **Insurer** by or on behalf of the **Insured** included therewith or incorporated therein.
- 5.17 **Return** means any documentation legally required to be lodged with the Australian Taxation Office, or any other Australian (Federal, State or Territory) government authority or agency including a nil return for Stamp Duty, Payroll Tax and/or Land Tax liabilities only.
- 5.18 **Reviewable decision** has the meaning prescribed in Section 10 of the *Superannuation Industry (Supervision) Act 1993* (Cth).
- 5.19 **Self Managed Superannuation Fund** means a fund which is a complying superannuation fund under the *Superannuation Industry (Supervision) Act 1993* (Cth) and which has:
- (a) fewer than five members; and
  - (b) each individual trustee of the fund or director if a corporate trustee of the fund is a member of that fund; and
  - (c) each member of the fund is a trustee; and
  - (d) no trustee of the fund receives remuneration for their services from the fund.
- 5.20 **Schedule** means the schedule attached to this **Policy** and signed by two people authorised by the **Insurer**.
- 5.21 **Terrorism** includes any act, or preparation in respect of action, 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; or
  - (b) involves damage to property; or
  - (c) endangers life other than that of the person committing the action; or
  - (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.