



# AB Phillips Tax Audit

## Policy Wording

Issued by Agile Underwriting Services Pty Ltd  
ABN 48 607 908 243 — AFSL 483374

Pol V2.2021

### **Important Information about AB Phillips Pty Ltd and the Product Disclosure Statement**

*This Product Disclosure Statement (PDS) is exclusive to, and distributed by, AB Phillips Pty Ltd, ABN 91 007 075 934, AFSL 234457, and does not take into account your particular objectives, financial situation or needs. Before you make any decisions about whether to purchase this insurance, we recommend you read this insurance policy PDS.*

*AB Phillips does not act as the agent of the Insurer and does not issue, guarantee or underwrite this policy.*

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# PART A: PRODUCT DISCLOSURE STATEMENT

This document is a Product Disclosure Statement and is also the Agile Underwriting Services Pty Ltd (Agile) Policy Wording.

This document contains important information required under the *Corporations Act 2001 (Cth)* 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 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.

This Policy is a legal contract between the Insured and the Insurer. The Insured has paid, or agreed to pay, the Insurer the required Premium and the Insurer will provide indemnity as specified in this Policy and as set out in the Policy Schedule. It is essential that the Insured reads all of the Policy terms and conditions before they purchase it to ensure that this Policy provides them the protection they require and that they are aware of the insured amounts provided and the amounts the Insurer will pay (including any Deductible that applies). Some of these insured amounts will be stated in the Policy itself (these are our standard policy limits) and the remainder will be stated in the policy schedule. The Insured must ensure that they are aware of the Definitions of this Policy.

The Insured must comply with all provisions of this Policy, otherwise the Insurer 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 Policy Schedule or until cancelled.

## Claims Made Notice

This policy operates on a "claims made and notified" basis. This means that this policy covers the Insured for claims made against them and notified to the Insurer during the Period of Insurance.

# General Information

In this PDS, “We”, “Us”, “Our” means Agile Underwriting Services Pty Ltd (**Agile**) and “You”, “Your” means the **insured**.

## 1.1 WHO CAN I CONTACT IF I HAVE QUESTIONS?

We have simplified our contact points so you can easily get in touch with Us.

FOR ENQUIRIES RELATING TO	PLEASE CONTACT
<b>General enquiries, including policy questions and coverage, and policy amendments.</b> Any questions, just call or email.	1300 705 031 <a href="mailto:finlines@agileunderwriting.com">finlines@agileunderwriting.com</a>
<b>Cancelling your policy</b> You can cancel your policy at any time.	1300 705 031 <a href="mailto:cancel@agileunderwriting.com">cancel@agileunderwriting.com</a>
<b>Making a claim online</b> You can claim directly through our online portal.	<a href="https://agileunderwriting.com/claims-and-help/">agileunderwriting.com/claims-and-help/</a>
<b>Making a claim</b> Get in touch straight away and we can help.	1300 705 031 <a href="mailto:claims@agileunderwriting.com">claims@agileunderwriting.com</a>
<b>Making a complaint</b> If you're not happy...we want to know.	1300 705 031 <a href="mailto:intlcomplaint@qicglobal.com">intlcomplaint@qicglobal.com</a>
<b>Family/Domestic Violence</b> For further information please visit <a href="https://www.agileunderwriting.com/claims-and-help/family-domestic-violence-policy/">https://www.agileunderwriting.com/claims-and-help/family-domestic-violence-policy/</a>	1300 705 031 <a href="mailto:family@agileunderwriting.com">family@agileunderwriting.com</a> In an emergency or you are not feeling safe, call 000
<b>Support for customers experiencing vulnerability</b> For further information please visit <a href="https://www.agileunderwriting.com/claims-and-help/supporting-customers-experiencing-vulnerability-policy/">https://www.agileunderwriting.com/claims-and-help/supporting-customers-experiencing-vulnerability-policy/</a>  <a href="https://www.agileunderwriting.com/claims-and-help/financial-hardship/">https://www.agileunderwriting.com/claims-and-help/financial-hardship/</a>	1300 705 031 <a href="mailto:hardship@agileunderwriting.com">hardship@agileunderwriting.com</a>

## 1.2 ABOUT AGILE UNDERWRITING SERVICES

This insurance is issued by **Agile Underwriting Services Pty Ltd** (ABN 48 607 908 243, AFS Licence No. 483374) (**Agile**). **Agile** arranges policies for and on behalf of certain Underwriters at Lloyd’s (the Insurer).

In all aspects of this policy, **Agile** acts as agent for the Insurer and not for the **insured**.

Our contact details are:

**Head Office:** Level 5, 63 York St, SYDNEY NSW 2000  
**Postal Address:** Level 5, 63 York St, SYDNEY NSW 2000

**Telephone:** 1300 705 031  
**E-mail:** [service@agileunderwriting.com](mailto:service@agileunderwriting.com)  
**Website:** [www.agileunderwriting.com](http://www.agileunderwriting.com)

## 1.3 ABOUT LLOYD'S

Lloyd's is the world's specialist insurance and reinsurance market. With expertise earned over centuries, Lloyd's is the foundation of the insurance industry and the future of it. Led by expert underwriters and brokers who cover more than 200 territories, the Lloyd's market develops the essential, complex and critical insurance needed to underwrite human progress.

Backed by diverse global capital and excellent financial ratings, Lloyd's works with a global network to grow the insured world – building resilience for businesses and local communities and strengthening economic growth around the world.

## 1.4 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 Us, 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 Australian law and practice.

### Your certificate of insurance

Your certificate of insurance contains important details about your policy such as the **period of insurance**, your **premium**, what cover options and excesses 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. stamp duty and GST) that apply to your policy. You will find these amounts on your certificate of insurance.

## 1.5 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 required under the *Corporations Act 2001 (Cth)* (the Act) 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 Us a **premium**, We 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 Us 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, We will require You to provide receipts and other documentary evidence to Us before We pay a claim.

## Check Your documents

It's important that You check all the details on the documents We send You. If You notice an error or if You have a question, please contact Us at [www.agileunderwriting.com/contact](http://www.agileunderwriting.com/contact). If You find You need to change the cover for whatever reason, get in contact with Us.

## General Insurance Code of Practice

Lloyds has adopted the General Insurance Code of Practice (the Code) on terms agreed with the Insurance Council of Australia. The Code sets out minimum standards that We will uphold in respect of the products and services that We provide. Further information about the Code is available at [www.codeofpractice.com.au](http://www.codeofpractice.com.au) and on request.

## 1.6 YOUR DUTY OF DISCLOSURE

This Policy is subject to the *Insurance Contracts Act 1984*. Under that Act the Insured has a duty of disclosure. Before the Insured enters into a contract of insurance they have a duty to tell the Insurer everything that the Insured knows, or could reasonably be expected to know, that is relevant to the Insurer's decision to provide this Policy. If the Insured is not sure whether something is relevant they should inform the Insurer anyway. This duty applies until Insurer agrees to insure you. The Insured has the same duty to inform the Insurer of those matters before they renew, extend, vary, or reinstate this Policy.

The Insured's duty however does not require disclosure of matters that:

1. reduce the risk;
2. are common knowledge;
3. the Insurer knows or, in the ordinary course of business, should know; or
4. the Insurer has indicated they do not want to know.

If the Insured does not comply with their duty of disclosure obligations, the Insurer may be entitled to:

1. reduce their liability for any claim; or
2. cancel this Policy; or
3. refuse to pay a claim; or
4. avoid this Policy from its beginning, if the Insured's non-disclosure was fraudulent.

## What You must tell Us

We will ask You various questions when You apply for cover. When You answer those questions, You must take reasonable care not to make a misrepresentation to Us. We will use the answers in deciding whether to insure You, and anyone else to be insured under the Policy, and on what terms. You have this same duty to disclose those matters to Us before You renew, extend, vary or reinstate Your Policy.

## If You do not tell Us

If You do not answer Our questions in this way, We may reduce Our liability under contract in respect of a claim or refuse to pay a claim, or cancel the Policy. If You answer Our questions fraudulently, We may refuse to pay a claim and treat the Policy as never having commenced.

## 1.7 WHO CAN PURCHASE THIS POLICY

Certain eligibility criteria apply. This policy can only be purchased by customers domiciled in Australia.

## 1.8 GENERAL CONDITIONS

### 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**.

### 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 in to existence for one (1) year from the renewal date.

### 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.

### Australian Law

The Underwriters accepting this Insurance agree that:

- (i) if a dispute arises under this Insurance, this Insurance will be subject to Australian law and practice and the Underwriters will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
- (ii) any summons notice or process to be served upon the Underwriters may be served upon:
  - Lloyd's Underwriters' General Representative in Australia
  - Suite 1603 Level 16
  - 1 Macquarie Place
  - Sydney NSW 2000who has authority to accept service on the Underwriters' behalf;
- (iii) if a suit is instituted against any of the Underwriters, all Underwriters participating in this Insurance will abide by the final decision of such Court or any competent Appellate Court.

## Australian Currency

All payments by You to Us and Us to You or someone else under Your Policy must be in Australian currency. If a loss under this policy is stated in a currency other than Australian dollars, payment under this policy shall be made in Australian dollars at the cash rate of exchange for the purchase of Australian dollars as reported in the Australian Financial Review 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.

## Cooling off period

You have fourteen (14) days from the date We confirmed, electronically or in writing, that You are covered under Your policy to decide if the policy meets Your needs. You may cancel Your policy simply by calling Us on 1300 705 031 or advising Us in writing within those fourteen (14) days to cancel it. If You do this, We will refund any **premiums** You have paid during this period. These cooling off rights do not apply if You have made or You are entitled to make a claim during this period.

## 1.9 CANCELLATION OF YOUR POLICY

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

### When You can cancel

You can cancel all or part of Your Policy at any time by emailing Us at [cancel@agileunderwriting.com](mailto:cancel@agileunderwriting.com) or calling 1300 705 031.

If You:

- a) pay Your premium by instalments and wish to cancel, We will cancel on the date to which You have paid Your premium in advance.
- b) do not pay Your premium by instalments, the cancellation will take effect at 4pm Local Standard Time on the day We receive Your notice of cancellation.

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 benefit under Your policy.

### When We can cancel

We can cancel Your Policy by giving You written notice to the address on file and in accordance with the *Insurance Contracts Act 1984 (Cth)*, including where You have:

- a) breached the Duty of Disclosure;
- b) breached a provision of Your policy (including one requiring payment of **premium**);
- c) made a fraudulent claim under any policy of insurance. If We cancel, We will refund the **premium** for Your policy less an amount to cover the period for which You were insured;
- d) undertaken deception, fraud or Illegal Use, We may be entitled to void this policy or withdraw from it in the event of intentional misrepresentation or deception. If it is determined at the final adjudication that a fraudulent claim has been made, all entitlements and benefits which We have provided to You will be forfeited, and information may be forwarded to the police and the prosecuting authorities.



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 benefit under Your policy.

## 1.10 CLAIMS

In the event of an **occurrence** which may result in a claim under Your policy You must comply with the requirements under Conditions 5.1 and 5.2.

### Claims Documentation

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

- a written claim detailing the nature and extent of the loss or damage
- copies of all correspondence exchanged with any third party
- details of any other insurance that may exist.

## 1.11 COMPLAINTS AND DISPUTE RESOLUTION

**Agile** takes the concerns of its customers very seriously. **Agile** has detailed complaint handling and dispute resolution procedures that You may access, at no cost to You. To obtain a copy of Our procedures, please contact Us on 1300 705 031 or [complaints@agileunderwriting.com](mailto:complaints@agileunderwriting.com). To assist **Agile** with Your enquiries, please provide Us with Your claim or policy number (if applicable) and as much information You can about the reason for Your complaint or dispute. **Agile's** complaints and dispute procedures are as follows:

### Stage 1: Complaint Handling Procedure

Any enquiry or complaint relating to a Lloyd's policy or claim should be addressed to Antares Managing Agency Limited who will be handling your claim in the first instance - in most cases this will resolve your grievance.

If You are dissatisfied with any of Antares products or services and You wish to lodge a complaint, please contact Us at:

<b>Head Office:</b>	The Complaints Officer
<b>Postal Address:</b>	Level 5, 63 York St, SYDNEY NSW 2000
<b>Telephone:</b>	1300 705 031
<b>E-mail:</b>	<a href="mailto:complaints@agileunderwriting.com">complaints@agileunderwriting.com</a>
<b>Website:</b>	<a href="http://www.agileunderwriting.com">www.agileunderwriting.com</a>

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

### Dispute Resolution Procedure

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

**Postal address:** Lloyd's Australia Limited  
Suite 1603 Level 16, 1 Macquarie Place, Sydney NSW 2000

**Telephone:** (+61 2) 8298 0783

**Email:** [ldraustralia@lloyds.com](mailto:ldraustralia@lloyds.com)

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

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

**Postal address:** Australian Financial Complaints Authority (AFCA)  
GPO Box 3, Melbourne VIC 3001

**Telephone:** 1800 931 678

**Email:** [info@afca.org.au](mailto:info@afca.org.au)

Your complaint must be referred to AFCA within 2 years of the final decision. If your complaint is not eligible for consideration by AFCA, you may be referred to the Financial Ombudsman Service (UK) or provided with other options.

## 1.12 UPDATING OUR PDS

We may update the information contained in Our PDS when necessary, and may also issue other documents forming part of Our PDS and the Policy where required or permitted by law. A paper copy of any updated information is available to You at no cost by calling Us on 1300 705 031.

We will issue You with a new PDS or a supplementary PDS where the update is to rectify a misleading or deceptive statement or when an omission is materially adverse from the point of view of a reasonable person deciding whether to buy this product. A paper copy of any new PDS, supplementary PDS, or other compliant document will be provided to You at no cost within a reasonable amount of time after the PDS has been updated, except in limited cases.

If the information is not correcting a misleading or deceptive statement or omissions, or is not something that would be materially adverse from the point of view of a reasonable person considering whether to buy this insurance, then Agile may provide You with notice of this information in other forms. 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 1.9 will apply.

## 1.13 PRIVACY STATEMENT

At **Agile**, we are committed to protecting Your privacy in accordance with the *Privacy Act 1988* (Cth).

**FOR ENQUIRIES RELATING TO PRIVACY**

**PLEASE CONTACT**

<b>Contact our Privacy Officer at Agile by Email</b>	<a href="mailto:privacy@agileunderwriting.com">privacy@agileunderwriting.com</a>
<b>Contact our Privacy Officer at Agile by Phone</b>	1300 705 031
<b>Contact our Privacy Officer at Agile by Mail by writing to</b>	Privacy Officer, Agile Underwriting Services Pty Ltd Level 5, 63 York Street Sydney NSW 2000

We need to collect the personal information on the applicable proposal form to consider your application for insurance and to determine the premium (if your application is accepted) when you are applying for, changing or renewing an insurance policy with us. This information will also be used if you lodge a claim under your policy. We may also need to request additional information from you in connection with your application or a claim. If you do not provide us with this information, or any additional information we request, we may not be able to process your application or offer you insurance cover or respond to any claim.

We may disclose the personal information we collect:

- a) To our relevant employees involved in delivering our services;
- b) If your insurance broker collects this form from you, to that broker;
- c) To facilitators such as legal firms, professional experts such as accountants, actuaries, engineers and technology experts;
- d) To the insurance companies with whom we transact business;
- e) To the Lloyd’s Syndicates we represent (which are located in the United Kingdom);
- f) To insurance reference bureau or credit reference bureau;
- g) To reinsurers or reinsurance brokers (which may include reinsurers located outside of Australia).

Where we do disclose the information as above the recipient may hold the information in accordance with its own privacy policies. Those may include, by way of example, disclosing the information to and storage of that information by its associated entities which may be located overseas. We may also be required to provide your personal information to others for purposes of public safety and law enforcement and if required by law or by a law enforcement body to do so.

You may request access to your personal information, and where necessary, correct any errors in this information (some restrictions and costs may apply). If you would like to access a copy of your personal information or you wish to correct or update your personal information, please also contact us on 1300 705 031.

## 1.14 WORDS WITH SPECIAL MEANINGS

Throughout this document, certain words have special meaning and are included in Definitions (Part B, Section 1) 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.

# PART B: POLICY TERMS

## Section 1: The Cover

Subject to payment of the Premium or as agreed in writing, We agree to provide indemnity in accordance with and subject to the terms and conditions of this Policy.

Before this Policy commenced We received information provided on behalf of the Insured in the Proposal and in other ways. We have relied on this information to decide whether to enter into this contract and on what terms. If any of this information is wrong or false it may affect the cover provided to You by this Policy.

Any word or expression in which a specific meaning has been attached shall bear that special meaning wherever they appear, and the meanings of these words can be found in the Definitions sections of the Policy.

### 1.1 What We Pay

- a) We will pay for a Tax Audit commenced during the period of insurance relating to all policyholders up to the insured amounts specified in the policy schedule; or
- b) Self-Managed Superannuation Fund Cover, then the most we will pay in respect of a Tax Audit (including the professional fees in connection with an appeal of a reviewable decision) for any or all of the self-managed superannuation funds of the policyholder specified in the policy schedule.

### 1.2 When We Pay

We will pay the professional fees reasonably and necessarily invoiced by You in connection with your qualified representative responding to a Tax Audit by an authority where:

- a) your claim is covered under “Insuring Clause”;
- b) your claim is not excluded under “Exclusions”; and
- c) the Tax Audit has been completed.

## Section 2: Insuring Clause

This policy covers professional fees (such as accountant’s fees) incurred by You in connection with your qualified representative responding to a Tax Audit of a return by the Australian Taxation Office, or by a Commonwealth, State or Territory department, body or agency authorised to conduct a tax audit.

You can claim for professional fees as described below if:

- a) the tax audit was commenced and is notified to us during the period of insurance; and
- b) the claim is not excluded under “Exclusions”.

We cover professional fees reasonably and necessarily incurred by You in connection with your qualified representative responding to a Tax Audit by an authority, which is commenced and notified to us during the period of insurance.

## Section 3: Exclusions

We shall not be liable under this policy to provide indemnity in respect of any claim against You:

### 3.1 Returns Not Prepared by a Tax Agent

Any professional fees relating to, arising from or in connection with any income return that has not been prepared or reviewed prior to dispatch by a tax agent. However, this exclusion does not apply to any return for:

- a) prescribed sales tax;
- b) income derived from:
  - i) any payment under a contract of employment of service between You and any other person, company or entity, other than when that payment is paid by a company for which You are a director or have a controlling interest;
  - ii) any payment from superannuation, pension or other retirement benefit; or
  - iii) personal investments that You are not wholly or mainly dependent on.

### 3.2 Representations, Errors in Information and Improper Conduct

Any professional fees relating to, arising from or in connection with:

- a) Your tax agent making a statement to the authority that is false or misleading except that this exclusion will not apply where a false or misleading statement results from you being misled by the authority or where you did not and could not be expected to know that a statement was false or misleading;
- b) any fraudulent act or fraudulent omission or statement made to an authority arising from any act committed deliberately or with your wilful intent;
- c) an authority, or its authorised representative, having assessed your behaviour or the behaviour of your Tax Agent as being a case of deliberate evasion or recklessness;
- d) any return lodged or submitted dishonestly or fraudulently where the supporting documents have been falsely created or collected.

### 3.3 Delay

Any professional fees relating to, arising from or in connection with:

- a) a tax audit which is commenced due to your failure to lodge taxation or any other return within the time limit prescribed by law or within the extended time granted by an authority;
- b) a tax audit which is commenced due to your failure to pay all taxes by the due date or within any extension of time granted by the authority; or
- c) Your failure to respond to the authority within the time it has specified for you to give your response.

However, this exclusion does not apply if the Tax Audit is not directly related to such Delay

### 3.4 Imposition of Penalties

The imposition of or the seeking to impose any tax, penalty tax, costs, interest, fine or penalty by any regulatory authority, court or tribunal.

### 3.5 Shortfall Tax Audits

Any professional fees relating to, arising from or in connection with a tax audit where an authority imposes or seeks to impose a penalty due to any shortfall amount, or part of that amount, resulting from:

- a) intentional disregard of a designated tax by you or your tax agent; or
- b) recklessness by you or your tax agent as to the operation of a designated tax.

except that this exclusion will not apply where disregard or recklessness results from you or your Tax agent being misled by the authority or where you did not and could not be expected to know that a statement was false or misleading.

### 3.6 Subrogation Agreements

Any amount that you are unable to recover because of a contract or agreement that you have entered into that excludes or limits your rights to recover that amount.

### 3.7 Territorial Limitations

- a) Any return:
  - i) prepared by a person who ordinarily resides outside Australia and its external territories; or
  - ii) for a company, firm or entity which operates outside Australia and its external territories.
- b) Any professional fees that are:
  - iii) associated with any return lodged outside Australia and its external territories; or
  - iv) in respect of any person or organisation ordinarily resident outside Australia and its external territories.

### 3.8 Prior Tax Audits

Any claim arising from or in connection with any tax audit for which verbal or written notice or information was received by you or your tax agent before the inception of this Policy Section.

### 3.9 Unjustified Refusal or Failure to Comply

Any claim or claims caused by or arising from any improper, unwarranted or unjustified refusal or failure to comply with any lawful request made by the authority.

### 3.10 Professional Fees after Completion of Tax Audit

Other than an appeal or objection which has been agreed in advance by Us under 6.15 Professional Fees, we shall not be liable for any professional fees incurred after the tax audit has been completed.

### 3.11 Other Matters

- a) Any professional fees relating to, arising from or in connection with:
  - i) any criminal prosecution;

- ii) any tax audit relating to customs legislation;
  - iii) any tax audit conducted by the Australian Prudential Regulation Authority; or
  - iv) any tax audit that includes a refund or claim for tax or duty relief arising out of an arrangement, facility, financial structure or the like adopted for the principal purpose of obtaining that refund or relief, unless the arrangement has received prior written approval from the relevant government or government authority or agency before being offered to you or the general public;
- b) Any claim or claims caused by, arising from or in connection with:
- i) amounts sought by any amended notice of assessment, additional tax, duty government impost or the like; costs to pursue or defend any legal actions against you or initiated by you (unless it is agreed to by us);
  - ii) any inquiry from an authority which is not related to either an identified intention to conduct a tax audit or is not directed at obtaining information or data for a possible future tax audit;
  - iii) any routine enquiries, which are not identified as being either preliminary to, or relating to a tax audit of a return; or
- c) Any form of activity involving a periodic review, routine inquiry or compliance review relevant to you maintaining industry status, license, compliance, membership, any form of workplace health and safety compliance or similar requirements.

## Section 4: Claims conditions

### 4.1 Claims notification

For any claim:

- a) you must notify us within thirty (30) days of you first becoming aware of the first notice of a tax audit;
- b) you must keep us informed of all developments as they occur that are relevant to the claim;
- c) you must take all necessary and reasonable steps to minimise any delays and costs incurred or likely to be incurred;
- d) we have the right to directly access you or your tax agent and lawyers and any documented advice they have given you relevant to the tax audit;
- e) you must ensure you, and any tax agent will assist us with any matter we may pursue with the authority; and
- f) you must submit to us all accounts for professional fees that relate to your claim upon completion of the tax audit.

All Claim notifications should be forwarded to;

The Claims Manager, Agile Underwriting Services Pty Ltd  
Level 5, 63 York Street, Sydney, NSW 2000

Or Email: [claims@agileunderwriting.com](mailto:claims@agileunderwriting.com)

It is the Insured's responsibility to ensure such notification has been forwarded to and received by Agile Underwriting Services Pty Ltd.



## 4.2 Cooperation

You must:

- a) diligently do, and allow to be done, everything reasonably practicable to avoid or lessen the Costs incurred in relation to a Tax Audit covered by this Policy;
- b) immediately give Us all the help and information that We reasonably require to:
  - i) investigate any Tax Audit; and
  - ii) assess the Costs incurred in respect of a Tax Audit for which cover is sought under this Policy; including but not limited to:
    - 1) the number of partners and staff used in connection with a Tax Audit;
    - 2) the work undertaken;
    - 3) the number of hours involved and the hourly rate;
    - 4) the total disbursement costs and the total Costs incurred where they exceed \$500; and
    - 5) provide full details as described in (1) to (4) above in respect of Costs incurred when other professionals are engaged by the You.

## 4.3 Conduct

When We receive a notification of an Tax Audit, or of a fact or circumstance which may give rise to an Tax Audit which may be covered under this Policy, then We can take whatever action We consider appropriate to protect Our position which may include appointing a legal or other representative to assist in the conduct of such Tax Audit. This does not, however:

- a) indicate that You are entitled to be Covered under this Policy; or
- b) jeopardise Our rights under the Policy or at law.

## 4.4 Fraud and Dishonesty

In the event that you, or anyone on your behalf, seeks to or obtains any benefit under this policy by way of fraudulent or dishonest means, then in accordance with the provisions of the Insurance Contracts Act, we will not be liable to pay the claim and may terminate the policy with effect from the time of the fraudulent or dishonest act.

## 4.5 Excess

You must pay the excess that applies to claims under this policy. Any excess that is applied to your claim must be paid in full prior to settlement of that claim.

We have no liability to you under this policy until you have paid the excess. If the excess has been requested but remains unpaid we may:

- a) decline to settle the claim pending full payment of the excess; or
- b) deduct the excess from the settlement.

The excess that applies will depend on the circumstances of the claim and is specified in the policy schedule. When multiple excesses apply, you might have to pay more than one type of excess when you make a claim. We will tell you how to pay your excess and who to pay it to.

## Section 5: General Conditions

### 5.1 Alteration to risk

You must notify Us as soon as reasonably practicable of any material change in the risk insured by this Policy. We are entitled to amend the terms of this Policy and / or charge an additional premium based on Our assessment of any change in the risk insured by this Policy.

A material change in the risk shall include, but is not limited to; You going into voluntary bankruptcy, receivership, liquidation or any other form of external administration or an Insured failing to pay debts or breaching any other obligation giving rise to the appointment of a receiver or bankruptcy or winding up proceedings;

### 5.2 Cancellation

- a) You may cancel this Policy at any time in writing to Us. Upon receipt of such request We will retain a short period premium calculated at the pro rata portion of the annual premium for the time they have been on risk and the Insured shall receive a refund of any balance of the Premium actually paid.
- b) We may cancel this Policy in accordance with the *Insurance Contracts Act 1984*.
- c) If there have been any Claims made under the Policy no refund shall be given.

### 5.3 Interpretation

In this Policy;

- a) the single includes the plural and the masculine includes the feminine and vice versa
- b) the titles and headings to the various sections of the Policy are included solely for ease of reference and do not in any way limit or expand or otherwise affect the terms of such sections.

### 5.4 Sanctions

We shall not provide cover and We 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 Us to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, Singapore, United Kingdom or United States of America.

### 5.5 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 Underwriting Services Pty Ltd.

### 5.6 Limit of Liability

The Insurers maximum liability under the Policy for each and every Covered Tax Audit will not exceed the Audit Limit.

The Insurers maximum liability under the Policy for all Covered Tax Audits will not exceed the Aggregate Limit.

The Insurers maximum liability under the Policy for each and every Covered Tax Audit will not exceed the Audit Limit specified in the schedule.

The Insurers maximum liability under the Policy for all Covered Tax Audits will not exceed the Aggregate Limit specified in the schedule.

## 5.7 Service of Suit Clause (Australia)

The Underwriters accepting this Insurance agree that:

- i) if a dispute arises under this Insurance, this Insurance will be subject to Australian law and practice and the Underwriters will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
- ii) any summons notice or process to be served upon the Underwriters may be served upon:  
*Lloyd's Underwriters' General Representative in Australia*  
*Suite 1603 Level 16*  
*1 Macquarie Place*  
*Sydney NSW 2000*  
who has authority to accept service on the Underwriters' behalf;
- iii) if a suit is instituted against any of the Underwriters, all Underwriters participating in this Insurance will abide by the final decision of such Court or any competent Appellate Court.

In the event of a claim arising under this Insurance IMMEDIATE NOTICE should be given to:

The Claims Manager, Agile Underwriting Services Pty Ltd  
Level 5, 63 York Street, Sydney, NSW 2000

Or Email: [claims@agileunderwriting.com](mailto:claims@agileunderwriting.com)

## Section 6: Definitions

### 6.1 Authority

Shall mean:

- a) the Australian Taxation Office;
- b) a revenue office of an Australian State or Territory;
- c) a Commonwealth, State or Territory government department, body or agency, duly authorised to conduct a tax audit.

### 6.2 Claim

Shall mean a claim under this policy for professional fees, including any claim which is not specifically excluded by the Policy (or any Endorsement) due to a Cyber Act or Cyber Incident.

### 6.3 Computer System

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 You or any other party.

### 6.4 Cyber Act

An unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any Computer System.

### 6.5 Cyber Incident

- 1.1 any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any Computer System; or
- 1.2 any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any Computer System.

### 6.6 Designated Tax

Shall mean any tax assessable in accordance with the provisions, as amended, of the:

- a) *Income Tax Assessment Act 1936* (Cth);
- b) *Income Tax Assessment Act 1997* (Cth);
- c) *Fringe Benefits Tax Assessment Act 1986* (Cth);
- d) *Fringe Benefits Act 1986* (Cth);
- e) *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- f) *Superannuation Guarantee (Administration) Act 1992* (Cth); or
- g) any law of an Australian State or Territory relating to payroll tax.

### 6.7 Endorsement or Endorsements

Shall mean a written change or addition made to the policy. Any endorsement or endorsements which apply to the policy will form part of the policy and be specified in the policy schedule, unless we send you the endorsement separately.

### 6.8 Input Tax Credit

Shall mean the amount you are entitled to claim as a credit against GST that you have paid.

### 6.9 Premium

Shall mean the insurance premium you have paid or are required to pay for this policy.

### 6.10 Insured Amount

Shall mean the maximum amount that we will pay under the policy as specified in the policy schedule. The insured amount includes GST.

### **6.11 Period of Insurance**

Shall mean the period of time specified in the policy schedule during which insurance is provided under the policy.

### **6.12 Policy**

Shall mean your insurance contract. It consists of this policy wording, any endorsements and the policy schedule.

### **6.13 Policyholder**

Shall mean the person or entity named as such in the policy schedule.

### **6.14 Policy Schedule**

Shall mean the policy schedule forming part of the policy. If the policy is renewed, the renewal schedule becomes your current policy schedule.

### **6.15 Professional Fees**

Shall mean the fees, costs and disbursements payable to a tax agent or professional person in connection with a tax audit by an authority.

Professional fees does not mean any fees, costs or disbursements:

- a) charged by you or your tax agent for administrative services; or
- b) that relate to any subsequent appeal or objection lodged with an authority in respect of a tax audit unless agreed in advance; or
- c) that relate to, or are associated with the preparation of any accounts, financial statements or documents which would or should have been ordinarily or prudently prepared prior to or at the time that the lodgement of any return or documents was required to be lodged; or
- d) incurred after the tax audit has been completed; or
- e) incurred after 12 months from the commencement date of a tax audit other than when you can demonstrate to our satisfaction that the delay in completing the tax audit was caused primarily by the authority.
- f) With respect to (b) the maximum We will pay for such an appeal or objection is 20% of the Insured amount.

### **6.16 Return**

Shall mean any return legally required to be, and that is actually lodged with, an Australian Commonwealth, State or Territory government department, body or agency by you or on your behalf.

### **6.17 Reviewable Decision**

Has the meaning given by section 10 of the *Superannuation Industry (Supervision) Act 1993* (Cth).

### **6.18 Shortfall Amount**

A shortfall amount arises when:

- a) your tax related liability, worked out on the basis of your disclosure or statement, is less than it

would be if the disclosure or statement:

- i) was not false or misleading; or
  - ii) did not treat a designated tax as applying in a way that was not reasonably arguable.
- b) an amount the authority must pay or credit to you under a designated tax, worked out on the basis of your disclosure or statement, is more than it would be if the disclosure or statement:
- i) was not false or misleading; or
  - ii) did not treat a designated tax as applying in a way that was not reasonably arguable.

## 6.19 Tax Agent

Shall mean any person who is recognised by the authority as a registered tax agent, as appropriate to the type of designated tax, who prepares returns or statements required by that authority in respect of your liability to pay a designated tax, including supervision of the preparation of, and review prior to dispatch of, those returns or statements.

Tax audit means:

- a) the audit by an authority of a return in respect of your liability to pay any designated tax (including the amount of tax payable or refundable) following lodgement of a return for that designated tax;
- b) any official inquiry, investigation, examination or review undertaken by an authority in respect of your liability to pay any designated tax (including the amount of tax payable) following lodgement of a return for that designated tax;
- c) a workers' compensation wage audit or investigation by an authority in respect of your liability to pay a workers' compensation premium.

If an official inquiry, investigation, examination or review referred to in paragraph (b) above escalates or results in an audit as referred to in paragraph (a) above, then this would be viewed as one tax audit for the purposes of this policy.

Where 'Self-Managed Superannuation Fund Cover' is specified in the policy schedule, tax audit will also mean any audit of a self-managed superannuation fund recorded in the policy schedule for the purpose of determining any matter relating to that fund, or its trustees' compliance with any of the provision of the *Superannuation Industry (Supervision) Act 1993* (Cth).

## 6.20 Tax Audit

Shall mean any official inquiry, investigation, review, examination or audit (including record keeping, record retention and client risk reviews) conducted by an Authority in respect of a:

- a) Return prepared by a qualified, registered accountant or tax agent and submitted by, or on behalf of you; or
- b) Your Compliance Obligations.

But Audit does not mean:

- i) a review relevant to You 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 your tax agents client or practice files;
- iii) any activity involving a government authority or agency gathering information or data that is not part of a Tax Audit of a Return or Your 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 unless such communication is related to a Tax Audit.

### **6.21 ATO**

Shall mean The Australian Taxation Office or appropriate government authority or state authority or agency authorised to conduct the relevant activity Tax Audit Investigation

### **6.22 We, Us or Our**

Shall mean certain underwriters at Lloyd's through their coverholder Agile Underwriting Services Pty Ltd and includes any reference to Insurer in this policy.

### **6.23 You/Your/Yours**

Shall include:

- a) the policyholder;
- b) any reference to Insured or Insureds in this policy.

### **6.24 Agile Underwriting Services Pty Ltd**

Shall mean Agile Underwriting Services Pty Ltd, ABN 48 607 908 243, AFSL 483374