

EMERGENCY



Cyber 1st Aid

**IMPORTANT INFORMATION
& CONTRACT**

Important Information

It is important that you read and understand all parts of this document.

ABOUT EMERGENCE INSURANCE PTY LTD

Emergence Insurance Pty Ltd (ABN 46 133 037 153, AFSL 329634) ('Emergence') acts under a binding authority given to it by **us** to administer and issue policies, alterations and renewals. In all aspects of arranging this **policy**, Emergence acts as an agent for **us** and not for **you**. Contact details are:

Email: contractadmin@emergenceinsurance.com.au

Telephone: +61 2 8280 3000

Postal address: PO Box A2016 Sydney South NSW 1235

OUR AGREEMENT

This **policy** wording, together with the **schedule** and any other documents **we** send to **you** forms **your** contract with **us**.

HOW THIS POLICY WORKS

Your policy is made up of several sections.

It is important to understand the type of cover you have purchased and how the limits apply. Not every financial loss caused by a cyber event is covered under the policy. The type of losses covered are set out in Sections A, B and C.

Section A – losses to your business responds to a **cyber event** in **your business** and covers reasonable costs to bring **your business** back to the condition it was immediately before the **cyber event**. These costs are called **impact on business costs**.

Section B – legal expenses if there is a **cyber event** in **your business and you** require legal advice from a **legal practitioner**.

Section C – cyber event response costs sets out the **cyber event response costs** that **we** pay in responding to a **cyber event**.

Section D – What certain words means explains the meaning of defined words used in the **policy**. These words may be used in one or more sections of the **policy**. The meaning of the words "**cyber event**" is also explained.

Section E – Exclusions sets out what the **policy** does not cover. These are the **policy's** exclusions.

Note: This policy does not cover breakdown of your equipment or IT infrastructure. It does not cover you for legal liability at common law or under statute to pay damages, compensation, penalties or fines. This policy is not a substitute for fidelity or comprehensive crime insurance. You should speak to your insurance broker about what this policy covers and what other insurance covers you need.

Section F – Claims Conditions explains what **you** must do if there is a **cyber event**.

Section G - General Conditions which **you** have to comply with under this **policy**.

YOUR DUTY OF DISCLOSURE

Before **you** enter into an insurance contract, **you** have a duty to tell **us** anything that **you** know, or could reasonably be expected to know, 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 an insurance **policy**.

You do not need to tell **us** anything that:

- reduces the risk **we** insure **you** for; or
- is common knowledge; or
- **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 policy** or reduce the amount we will 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 **policy** as if it never existed.

YOUR 'COOLING OFF' RIGHTS

You can return **your policy** to **us** within 14 days of its commencement or renewal, which is stated on **your schedule**. If **we** receive **your** written request to cancel this **policy** within the 14 day period, **we** will cancel the **policy** effective from the commencement or renewal date and give **you** a full refund. **You** cannot use this right where, before the 14 day period ends, **you** have exercised any of **your** rights or powers under the **policy** (e.g. **you** have made a claim).

After the cooling off period ends **you** still have cancellation rights under the **policy** (see **our** General Conditions).

COMPLAINTS

Step 1:

Any enquiry or complaint relating to this insurance should be referred to Emergence in the first instance.

Please contact Emergence:

In writing: Emergence Complaints, PO Box A2016 Sydney South NSW 1235

By email: contractadmin@emergenceinsurance.com.au

By phone: +61 2 8280 3000

If Emergence requires additional information, Emergence will contact **you** to discuss. If **your** complaint is not immediately resolved Emergence will respond within fifteen (15) business days of receipt of **your** complaint or agree a reasonable alternative timeframe to respond.

Step 2:

If this does not resolve the matter or **you** are not satisfied with the way a complaint has been dealt with, **you** can contact Lloyd's Underwriters' General Representative in Australia:

In writing: Level 9, 1 O'Connell St, Sydney NSW 2000

In email: ldraustralia@lloyds.com

By fax: +61 2 8298 0788

By phone: +61 2 8298 0783

Lloyd's Underwriters' General Representative in Australia will respond to **your** complaint within fifteen (15) business days, unless an alternative timetable has been agreed with **you**.

Step 3:

If **we** are unable to resolve **your** complaint within 45 business days of the date **we** first received **your** complaint or if **you** remain unsatisfied, **you** can seek a review by the Financial Ombudsman Service Australia (FOS Australia) depending on eligibility related to **your** policy. FOS Australia is an independent external dispute resolution scheme and their service is free to **you**. Any decision FOS makes is binding on **us**. **You** do not have to accept their decision and **you** have the right to seek further legal assistance.

You can contact FOS Australia:

By phone: 1800 367 287 (or 1800 FOS AUS)

By Fax: +61 3 9613 6399

By email: info@fos.org.au

In writing to: Financial Ombudsman Service Australia
GPO Box 3, Melbourne VIC 3001

By visiting: www.fos.org.au

If **your** complaint is not eligible for FOS Australia, it may be eligible for referral to the Financial Ombudsman Service Ltd (UK). Further details will be provided at the appropriate stage of the complaints process.

GENERAL INSURANCE CODE OF PRACTICE

We proudly support the General Insurance Code of Practice. The purpose of the Code is to raise the standards of practice and service in the general insurance industry.

For further information on the Code, please visit www.codeofpractice.com.au

PRIVACY

In this Privacy Notice the use of “**we**”, “**our**” or “**us**” means the Insurer and Emergence, unless specified otherwise.

We are committed to protecting **your** privacy.

We need to collect, use and disclose your personal information (which may include sensitive information) in order to consider **your** application for insurance and to provide the cover you have chosen, administer the insurance and assess any claim. **You** can choose not to provide **us** with some of the details or all of **your** personal information, but this may affect **our** ability to provide the cover, administer the insurance or assess a claim.

The primary purpose for **our** collection and use of **your** personal information is to enable **us** to provide insurance services to **you**.

Personal information will be obtained from individuals directly where possible and practicable to do so.

Sometimes it may be collected indirectly (e.g. from **your** insurance intermediary or co-insureds). If **you** provide personal information for another person **you** represent to **us** that:

- **you** have the authority from them to do so and it is as if they provided it to **us**;
- **you** have made them aware that **you** will or may provide their personal information to **us**, the types of third parties **we** may provide it to, the relevant purposes **we** and the third parties **we** disclose it to will use it for, and how they can access it. If it is sensitive information **we** rely on **you** to have obtained their consent on these matters. If **you** have not done or will not do either of these things, **you** must tell **us** before **you** provide the relevant information.

We may disclose the personal information **we** collect to third parties who assist **us** in providing the above services, such as related entities, distributors, agents, insurers, reinsurers and service providers. Some of these third parties may be located outside of Australia. In all instances where personal information may be disclosed to third parties who may be located overseas, **we** will take reasonable measures to ensure that the overseas recipient holds and uses your personal information in accordance with the consent provided by **you** and in accordance with **our** obligations under the *Privacy Act 1988* (Cth).

In dealing with **us**, **you** consent to **us** using and disclosing **your** personal information as set out in this statement. This consent remains valid unless **you** alter or revoke it by giving written notice to Emergence’s Privacy Officer. However, should **you** choose to withdraw **your** consent, **we** may not be able to provide insurance services to **you**.

The Emergence Privacy Policy available at www.emergenceinsurance.com.au or by calling Emergence, sets out how:

- Emergence protects **your** personal information;
- you may access **your** personal information;
- you may correct **your** personal information held by **us**;
- **you** may complain about a breach of *the Privacy Act 1988* (Cth) or Australian Privacy Principles and how Emergence will deal with such a complaint.

If **you** would like additional information about privacy or would like to obtain a copy of the Privacy Policy, please contact the Emergence Privacy Officer by:

Postal Address: PO Box A2016, Sydney South NSW 1235

Phone: +61 2 9307 6656

Fax: +61 2 9307 6699

Email: privacyofficer@steadfastagencies.com.au

You can download a copy of the Emergence Privacy Policy by visiting www.emergenceinsurance.com.au

Covers

Subject to **you** paying the **premium**, this **policy** will respond to a **cyber event** which is first discovered by **you** and notified to **us** during the **policy period**. **We** will pay up to the **policy limit** stated in the **schedule**.

Section A – losses to your business

If a **cyber event** happens in **your business**, then **we** will pay **you** the **impact on business costs**.

Section B – legal expenses

If there is a **cyber event** in **your business** **we** will pay **your legal expenses** to obtain legal advice from a **qualified legal practitioner**.

Section C – cyber event response costs

If there is a **cyber event** in **your business**, then **we** will pay **your cyber event response costs**.

The **limit** for each section of the **policy** stated on **your schedule**, is exclusive of GST.

Section D – What certain words mean

The words listed below have been given a specific meaning in this **policy** and these specific meanings apply when the words appear in **bold** font.

act(s) of terrorism includes any act which may or may not involve the use of, or threat of, force or violence where the purpose of the act is to further a political, religious, ideological aim or to intimidate or influence a government (whether lawfully constituted or not) or any section of the public.

business means the name of **your business** set out in **your schedule**. **Your business** must be domiciled in or operate from Australia.

business activity means the activity carried on by **your business** set out in **your schedule**.

business activity statement means the Business Activity Statement that is submitted by **your business** to the Australian Taxation Office for taxation purposes.

claim means any written demand, notice of pending action or civil, criminal, administrative, regulatory or arbitral proceedings against **you** seeking compensation or other legal remedy caused by or in connection with a **cyber event**.

cyber event must happen in **your business** and means the following:

- **crimeware** which is any malware of any type intentionally designed to cause harm to **your IT infrastructure** but does not include **cyber espionage** or **point of sale intrusion**.
- **cyber espionage** which includes unauthorised access to an item of **your IT infrastructure** linked to a state affiliated or criminal source exhibiting the motive of espionage.
- **cyber extortion** which is a crime involving an attack or threat of attack against **your IT infrastructure**, coupled with a demand for money to avert or stop the attack
- **denial of service** which is uniquely intended to compromise the availability of **your IT infrastructure**.
- **hacking** which is malicious or unauthorised access to **your IT infrastructure**.
- **insider and privilege misuse** which is unapproved or malicious use of **your IT infrastructure** by **your** employees, outsiders in collusion with **your** employees and **business** partners who are granted privilege access to **your IT infrastructure**.
- **miscellaneous errors** where unintentional actions directly compromise a security attribute of an item of **your IT infrastructure** but does not include theft or **cyber theft**.
- **payment card skimming** involving a skimming device being physically implanted through tampering into an item of **your IT infrastructure** that reads data from a payment card.
- **physical theft and loss** where an item of **your IT infrastructure** is missing or falls into the hands of a third party or the public whether through misplacement or malice.

- **point of sale intrusion** being a remote attack against **your IT Infrastructure** where retail transactions are conducted, specifically where purchases are made by a payment card.
- **web app attacks** where a web application was the target of attack against **your IT infrastructure**, including exploits of code level vulnerabilities in the application.

cyber event response costs means the reasonable costs and expenses being:

- **credit and identity monitoring costs** incurred in engaging monitoring services by a third party for persons affected by a **cyber event** for a period of up to 12 months.
- **customer notification costs** incurred in notifying any person whose data or information has been wrongfully accessed or lost.
- **cyber extortion costs** paid with **our** agreement and consent to respond to a **cyber event** where a third party is seeking to obtain financial gain from **you** through extortion.
- **data restoration costs** incurred in restoring or replacing data or programs in **your IT infrastructure** that have been lost, damaged or destroyed and the cost to mitigate or prevent further damage and includes the cost of **you** purchasing replacement licences, if necessary, but does not include any costs relating to redesign, replication or reconstitution of proprietary information, facts, concepts or designs.
- **data securing costs** incurred in securing **your IT infrastructure** to avoid ongoing **impact on business costs** and **cyber event response costs**.
- **external management costs** incurred in responding to a **cyber event** including the external communication and public relations management engaged in by **you** that is agreed to by **us**.
- **virus extraction costs** incurred to remove a virus from **your IT infrastructure**.

cyber theft means the unauthorised electronic transfer of funds that results in the theft of funds or money that remain unrecoverable. The **cyber theft** must happen because of a **cyber event** that happens using **your IT infrastructure** without **your** knowledge.

defence costs means the reasonable costs, charges, fees and expenses incurred in defending, investigating, appealing or settling a **claim**.

excess means the amount of money that **you** are responsible for before **we** make a payment under the **policy**. The **excess**, including the **excess** for any optional cover, is set out in **your schedule**.

impact on business costs means:

- a. the amount by which the **revenue you** earn during the **indemnity period** falls short of the **revenue you** earned during relevant periods 12 months prior directly as a result of a **cyber event**, less any consequent savings. This is calculated by reference to the amounts shown on G1 (less the amount in G9) of **your business activity statement** for the prior relevant periods.

If **you** have not been trading for a 12 month period **your** daily **revenue** during the **indemnity period** shall be calculated using the daily average **revenue** from G1 (less any amount in G9) in **your** most recent **business activity statement** less any savings in **your business** costs as a consequence of the **cyber event**,

and

- b. The net increased costs incurred to avoid a reduction in **revenue** as a consequence of a **cyber event** provided the amount of increased cost paid is less than **we** would have paid for a reduction in standard **revenue** in a. above.

We will not pay **impact on business costs** incurred in the first 24 hours after a **cyber event**.

indemnity period means the period starting from discovery of the **cyber event** until **your IT infrastructure** is restored to its usual function, however in total length not exceeding 15 days.

IT contractor is a third party contracted to provide, maintain or manage IT infrastructure.

IT infrastructure means all of the hardware, software, networks, facilities, and the like, owned, leased, rented or licensed by **you** and used in support of **your business activity**, that are required to develop, test, deliver,

monitor, control or support IT services. The term **IT Infrastructure** includes all of the information technology but not the associated people, processes and documentation.

limit means the amount set out in the **schedule** for each of Section A - losses to your business, Section B – legal expenses and Section C – cyber event response costs of **your policy** and applies to any one **cyber event**, irrespective of the number of claim(s). One aggregate **limit** applies to **your policy** for the entire **policy period** and is set out in **your schedule**. The aggregate **limit** is the most **we** will pay for all sections.

legal expenses means the cost of **you** obtaining legal advice from a **qualified legal practitioner** to advise **you** of the remedies, obligations, options or steps **you** can take if a **cyber event** happens in **your business**. **Legal expenses** does not include any **defence costs** whatsoever and does not include any legal advice about this **contract**. The legal advice provided will be confidential to **you**.

loss means any sums payable pursuant to judgments (including orders for costs), settlements, awards and determination including damages, regulatory and civil fines and penalties in respect of a **claim**, and any costs as a consequence of a mandatory notice from a regulatory authority as a consequence of the failure to secure information held by **you**. **Loss** includes **defence costs**.

policy means this document, the **schedule** and any endorsement stated in **your schedule**.

policy period means the period set out in **your schedule**.

premium means the amount **you** pay to **us**. The **premium** is set out in **your schedule**.

qualified legal practitioner means a solicitor, barrister or legal practitioner admitted to practice in the High Court or in a state Supreme Court in Australia.

revenue means the money paid or payable to **you** for goods sold, work done and services rendered in the course of **your business** and is calculated on the basis specified in the definition of **impact on business costs**.

schedule means the document **we** provide to **you** which sets out the personalised details of **your policy** with **us**.

utility provider includes providers of gas, electricity, water, sewage, telecommunications, satellite, cable, internet access, internet backbone, DNS servers or other core infrastructure of the internet.

we/our/us/the insurer means certain underwriters at Lloyd's (the underwriters), **the insurer**/issuer of this policy.

Note: You can obtain further details of the underwriters from Emergence upon request.

you/your means the insured entity referred to in **your schedule**. It includes its subsidiaries together with any current, future or former employee (including directors and officers) of the insured entity.

Section F - Exclusions

The following Exclusions apply to all sections of the **policy**.

We will not pay **impact on business costs**, legal expenses, **cyber event response costs**, or any damages, expense or benefit:

1. arising from or for physical damage to or the repair or replacement of tangible property or equipment.
2. arising from or as a consequence of death or bodily injury.
3. for any fact or circumstance known to **you** or discovered by **you** before the **policy period**.
4. arising from or based upon any intentional, criminal or fraudulent acts by **you**. For the purpose of applying this exclusion the acts, knowledge or conduct of any person covered under this **policy** will not be imputed to any other person covered under this **policy**.
5. arising from or as a consequence of **your** bankruptcy, liquidation or insolvency or the bankruptcy, liquidation or insolvency of any of **your IT contractors**.
6. arising from **claim** or **loss** at common law or under statute to pay damages (including punitive or exemplary damages), compensation, penalties or fines.
7. in connection with any products, hardware, software, software as a service, or related services or IT infrastructure **you** sell, lease, license or otherwise provide to others for a fee.
8. arising from, attributable to, or as a consequence of ionising, radiation or contamination by radioactivity from any nuclear fuel, waste or other hazardous properties of any nuclear assembly or component.
9. arising from, attributable to, or as a consequence of pollution.
10. arising from any physical act of war, invasion or warlike operation, civil war, riot, civil commotion, rebellion, revolution, insurrection or civil uprising.
11. caused by or arising out of any **act of terrorism**.
12. arising from, attributable to, or in consequence of any electromagnetic field, electromagnetic radiation or electromagnetism.
13. caused by defective equipment, ordinary wear or deterioration, faulty design or construction or insufficient capacity of **your IT infrastructure**.
14. arising out of or caused by outage of a **utility provider**.
15. caused by **cyber theft**. This exclusion does not apply to **cyber event response costs** incurred solely and directly by **cyber theft**.
16. to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose **us** or any (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

Section G – Claims Conditions

The following Claims Conditions apply to all sections of the **policy**.

What **you** must do if a **cyber event** happens:

1. If a **cyber event** happens **you** must immediately ring the Emergence cyber event reporting line on 1300 799 562.
2. After contacting 1300 799 562 **you** must also notify Emergence in writing at emergence@cl-au.com of the **cyber event**.
3. **We** will immediately assess whether it is a **cyber event** under the **policy**.
4. If it is not a **cyber event** under the **policy** we will advise **you** to engage **your** own service resources.
5. If it is a **cyber event** covered under this **policy** we will implement a technical management response for **cyber event response costs** and a claims management response for legal expenses and **impact on business costs**.
6. **You** are required to fully cooperate with **our** technical management and claims management response teams and with any providers **we** appoint in response to a **cyber event**.
7. **You** must do everything reasonably possible to assist in the reduction or mitigation of the **impact on business costs** or **cyber event response costs**.
8. **You** must at, **your** own cost, provide all necessary information to us to enable **us** to assess **impact on business costs** or **cyber event response costs**.
9. **You** must obtain **our** prior approval before **you** incur **legal expenses**. **We** will nominate the **qualified legal practitioner** for **you** to use or **we** will agree with one nominated by **you**.
10. If **we** assess a **cyber event** under the **policy** we will not reimburse **you** for any payment made by **you** unless it is approved by or recommended by **us** or the technical management and claims management response teams.
11. If **you** report a **cyber event** to **us** and either, or all, of **impact on business costs**, **legal expenses** or **cyber event response costs**, are incurred then **we** will apply the aggregate **limit** set out in Item in **your schedule** as if one **cyber event** happened.
12. **You** will pay the **excess** set out in **your schedule** before **we** pay or incur a payment.
13. If cost is incurred in response to a **cyber event** and some of that cost is not **impact on business costs**, **legal expenses** or **cyber event response costs** it is **your** responsibility to pay some or all of the cost. **We** will determine a fair and reasonable allocation of cost between what is covered and what is not covered under the **policy**.

Section H - General Conditions

The following General Conditions apply to all sections of the **policy**.

1. **You** must immediately notify **us** of any change in **your business activity**.
2. Subject to **your** rights under the *Insurance Contracts Act 1984 (Cth)*, **you** must notify **us** in writing as soon as practicable of any material alteration to the risk during the **policy period** including:
 - a. if **you** go into voluntary bankruptcy, receivership or liquidation; or
 - b. **you** become aware of a pending appointment of a receiver or the commencement of bankruptcy or winding up proceedings to **your business**.
3. The aggregate **limit** stated in **your schedule** is the maximum amount the **policy** will pay irrespective of the number of **cyber events** during the **policy period**.
4. If during the **policy period** any other entity acquires control of more than 50 percent of **your** insured entity this **policy** shall be restricted so as to apply only to a **cyber event** happening prior to the date of such acquisition of control, unless **we** agree to extend coverage under the **policy** and **you** agree to the terms of any such extension of coverage.
5. This **policy** and any rights under it cannot be assigned without **our** written consent.
6. GST, Goods & Services Tax and Input Tax Credit have the meanings attributed to them under the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*.

No payment will be made to **you** for any GST liability on account of a **cyber event response cost**.

It is **your** responsibility to inform **us** whether or not **you** are entitled to an Input Tax Credit for any amounts claimed under this **policy**.

All **policy limits** stated on **your schedule** are exclusive of GST.
7. **You** may cancel the **policy** in accordance with **your** 'cooling off rights' within the first 14 days from commencement or renewal.

After this 14 day period **you** may cancel the **policy** at any time by providing **us** with written notice stating when thereafter cancellation is to take effect. As long as there has been no **cyber event**, **we** will refund **premium** to **you** calculated on a pro rata basis plus an administrative charge of \$55 inclusive of applicable GST.

We can only cancel the **policy** in accordance with the provisions of the *Insurance Contracts Act 1984 (Cth)*.
8. This **policy** including its construction, application and validity, is governed by the laws of the Commonwealth of Australia and/or the State or the Territory of Australia where the **policy** was issued. Any dispute relating to the interpretation of this **policy** will be submitted to the exclusive jurisdiction of the Courts of the State or Territory where the **policy** was issued.
9. If **we** make a payment under this **policy**, then **we** are entitled to assume **your** rights against any third party to the extent of **our** payment. **You** must at **your** own cost assist **us** and provide necessary information to **us** to enable **us** to bring the subrogation or recovery claim. The proceeds of any subrogation or recovery action will be applied between **you** and **us** in accordance with the provisions of the *Insurance Contracts Act 1984 (Cth)*.
10. To the extent permitted by the *Insurance Contracts Act 1984 (Cth)*, this **policy** will only cover a **cyber event** to the extent that any payment under the **policy** is in excess of an indemnity or cover available to the **you** for a **cyber event** under any other policy or contract that **you** entered into.
11. **You** may not disclose the existence and terms of this **policy** however **you** may disclose the existence of this **policy** to the extent that **you** are required to do so by law or **you** need to prove **you** have the cover as part of a work tender or contract.
12. The **premium**, **limit** and other amounts under this **policy** are expressed and payable in Australian currency. Except as otherwise provided, if any element of 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 in accordance with the Reserve Bank on the date the amount of the settlement is agreed upon or the other element of loss becomes due.

13. The underwriters accepting this Insurance agree that:

(i) if a dispute arises under this Insurance, this policy 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

Level 9

1 O'Connell Street

Sydney NSW 2000

who has authority to accept service and to appear on the underwriters' behalf;

(iii) if a suit is instituted against any of the underwriters, all the underwriters participating in this policy will abide by the final decision of such Court or any competent Appellate Court.

In the event of a claim arising under this policy IMMEDIATE NOTICE should be given to Emergence

14. The subscribing insurers' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

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EMERGENCE

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