

# General Public & Product Liability Insurance

PRODUCT DISCLOSURE STATEMENT



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# Introduction

## General Public & Product Liability Insurance for your organisation from one of Australia's leading specialist insurers.

Our liability insurance policy has been specifically designed to protect your organisation against liability claims for personal injury and property damage.

## About Ansvr

Ansvr is a leading specialist commercial and consultative insurer offering tailored insurance products and services to the Care, Community Service (including Not-for-Profit), Education, Faith and Heritage sectors. With more than 50 years of experience in the Australian insurance industry we've developed a deep understanding of our clients' needs, risks and challenges they face, as well as the environments in which they operate.

Ansvr is owned by the Ecclesiastical Insurance Office plc, est. 1887, a leading insurer of heritage, religious and charitable organisations in the UK.

## Our approach

Service is paramount at Ansvr, and our team is committed to consistently providing the best client experience possible.

Our dedicated Claims team are focused on quickly solving the problems of our clients. With a compassionate approach they are always mindful of the reputation of our clients, particularly when handling sensitive claims.

Because Ansvr understands the varied and vast risk exposure of our clients in our core sectors, we offer expert Risk Management advice and practical solutions to help our clients protect their assets and importantly, their people.

Through our expertise and flexible underwriting approach, Ansvr offers tailored insurance solutions to provide the right cover to suit the unique needs of our client's within our core sectors.

## Supporting our community

Our goal is to be a valued and recognised contributor to the community. This has been the ethos of Ansvr since our inception.

Each year, through our Community Education Program, Ansvr donates a percentage of our profits to organisations that provide valuable support to improve and enrich the lives of young Australians, so that they may contribute positively to the community in which they live.

# About this Product Disclosure Statement (PDS)

This product disclosure statement (PDS) contains two sections:

- 1. Important Information**  
Provides general information about your General Public and Product Liability Insurance policy.
- 2. The Contract between you and Ansvr Insurance**  
Details the terms and conditions of your General Public and Product Liability Insurance policy.

The financial product offered in the PDS is provided by Ansvr Insurance Limited.

The Table of Contents provides a summary of the content of the PDS. The purpose of this PDS is to assist you to understand your insurance policy and enable you to make an informed choice about your insurance requirements.

The General Public and Product Liability Insurance policy in conjunction with the certificate of insurance and any endorsements we issue upon acceptance of your proposal, provide a full description of the terms, conditions and limitations of the insurance cover.

You will need to read the entire PDS for a full understanding of these terms, conditions and limitations including the benefits, risks and information about how the insurance premium is calculated.

Please read this PDS before you apply for this insurance.

This PDS was prepared in March 2013.

## Who is the insurer and how can we be contacted?

Ansvr Insurance Limited (Ansvr Insurance), ABN 21 007 216 506, is the issuer of this insurance policy. The registered office of Ansvr Insurance is Level 12, 432 St Kilda Road, Melbourne, VIC 3004. The Ansvr Insurance Australian Financial Services Licence number is 237826.

You can contact us by:

- calling in person at any Ansvr Insurance office
- telephoning 1300 650 540
- facsimile on 03 9804 5001
- writing to any office of Ansvr Insurance
- email to [insure@ansvar.com.au](mailto:insure@ansvar.com.au)

# Important Information

## Changes to the PDS

Information in this PDS is subject to change from time to time. Changes in your Liability Insurance policy will be communicated to you in several ways and these are:

- if a change will affect you adversely, Ansvar Insurance will issue you with a new product disclosure statement (PDS) or a supplementary PDS prior to the renewal of the insurance each year;
- for minor changes which are not materially adverse to you, we will communicate the changes to you in writing at the earliest opportunity;
- information can be obtained by telephoning our toll free number (1300 650 540), calling at one of our offices or visiting our website at [www.ansvar.com.au](http://www.ansvar.com.au) to find out what changes might have occurred;
- if changes have occurred, we will be pleased to provide you with a paper copy of them on request.

## Cooling off Period

We will refund the entire premium you have paid for cover under this insurance policy if you cancel the policy within 21 days of its commencement. To do this, you must advise us in writing and return the certificate of insurance to your nearest Ansvar Insurance office. The policy will be cancelled with effect from the inception date. You will not receive a refund if you have made a claim or intend to claim under the insurance policy.

## Significant features and benefits

Cover is available under this insurance policy for events happening during the period of insurance, and on payment of the appropriate premiums and up to the limits of liability which are shown in the policy and the certificate of insurance and any endorsements we issue.

The cover provided under the policy is summarised below but it is a summary only of the type of cover available and does not form part of the terms of your insurance.

You need to read the full terms and conditions contained in this document to make sure this insurance matches your needs and expectations.

Cover Available	Summary of cover
General Public and Products Liability Insurance	<p>This <b>policy</b> covers <b>you</b> for <b>your</b> legal liability (including legal liability arising out of your <b>products</b>) to pay <b>compensation</b> during the <b>period of insurance</b> for <b>property damage, personal injury</b> (occurring to a third party, other than an employee) or <b>advertising injury</b> caused by an <b>occurrence</b> happening in connection with <b>your operations</b> during the <b>period of insurance</b>.</p> <p>A number of optional extensions are also provided.</p>

## Terrorism

This policy excludes cover as a result of terrorism.

In the event that property damage and/or property owners liability occur linked to an event declared a terrorism incident by the responsible Government Minister, then you may be afforded protection within the limits of indemnity of this policy by virtue of the *Terrorism Insurance Act 2003 (Cth)*.

A more detailed explanation of the operation of the *Terrorism Insurance Act 2003 (Cth)* can be obtained at [www.arpc.gov.au](http://www.arpc.gov.au).

## Costs

The premium payable by you for this insurance policy is shown in your certificate of insurance.

The premium payable will be determined considering factors such as those listed below.

Your premium may alter if you make changes to your insurance cover or your circumstances change during the period of insurance.

Relevant Rating Factor	Factors which may increase your premium	Factors which may decrease your premium
Limit of liability	Higher limit of liability	Lower limit of liability
Excess	Low excess	High excess
Extent of activities	High number of hazardous activities	Low number of hazardous activities
Location of operations	Locations in other countries	Locations in Australia

If you do not wish to provide us with your personal information, we will not be able to supply our policy to you.

Relevant Rating Factor	Factors which may increase your premium	Factors which may decrease your premium
Number of locations	The higher the number of locations	The lower the number of locations
Claims history	Adverse previous claims	Low number of previous claims
Size of Operation	High numbers of employees, members and volunteers within the organisation	Low numbers of employees, members and volunteers within the organisation
Turnover	Higher turnover or income of your activities	Lower turnover or income of your activities
Use of Sub-contractors	High usage of sub-contractors	Low usage of sub-contractors
No. of Years in Operation	New business venture with minimal history	Well established business operations with documented history

## Complaints and disputes

Ansvar is committed to resolving any complaint you may have in relation to our products, services or handling of your personal information. Our process has 3 key stages.

### 1. Make a complaint

Please refer your complaint to us using one of the following options:

Phone: 1300 650 540  
 Email: insure@ansvar.com.au  
 Post: Ansvar Customer Disputes Resolution  
 GPO Box 1655, Melbourne, Victoria 3001

Your complaint will be reviewed and a response provided to you within 7 business days of us receiving notice of the complaint. Please ensure you provide a telephone number at which you may be contacted.

### 2. Refer for internal dispute resolution

If you are not satisfied with our response, you may ask us to refer your complaint to our Internal Dispute Resolution Committee. The committee is made up of representatives from across our organisation that have the appropriate knowledge and authority to deal with your complaint. The committee will review your complaint and provide their decision in writing to you within 7 business days from the date of receiving all necessary information about your concerns.

### 3. Refer for external dispute resolution

Ansvar is a member of the Australian Financial Complaints Authority (AFCA). AFCA was established in 2018 as an independent service to deal with complaints from consumers and small business about financial services and products. If we are unable to resolve your complaint, you may seek advice from AFCA.

Contact the Australian Financial Complaints Authority

Website: www.afca.org.au  
 Phone: 1800 931 678  
 Email: info@afca.org.au  
 Post: GPO Box 3, Melbourne, Victoria 3001

Premiums and fees are subject to Commonwealth and State taxes and levies which include Goods and Services Tax and Stamp Duty. All are shown in your certificate of insurance.

## Code of Practice and Privacy Act

As a signatory to the General Insurance Code of Practice we are committed to raising standards of service to our customers. This voluntary code sets out the minimum standards we will uphold in the services we provide to you. More information can be found at [www.codeofpractice.com.au](http://www.codeofpractice.com.au) or by contacting us.

The Privacy Act sets out how we are to collect, use, disclose and protect your personal information. It also describes the circumstances for you to access and, if necessary, correct your personal information.

You may access your personal information by contacting any of our offices. The information we collect is used to assist us to provide you with our general insurance products and to manage our relationship with you.

At times we rely on third party suppliers (agents, lawyers, other insurance companies, assessors, investigators, loss adjusters, market research and mailing houses) to perform specialised activities for us. Your personal information may be provided to them so that they can carry out their agreed activities.

They are bound by confidentiality and non-disclosure agreements and are prohibited from using the information for any other purpose. These service providers are aware of their obligations under the Privacy Act and the General Insurance Code of Practice.

## Critical documents

It is important to read/retain the following documents and keep them in a safe and convenient place:

- this document;
- your current certificate of insurance;
- any endorsements.

Remember to regularly review your insurance policy, particularly at renewal to ensure your insurance policy provides the cover that you currently need.

## Claims Made

Automatic Extension 2 - Indemnifiable Fines and Penalties and Optional Extension 4 - Retroactive Liability operate on a 'claims made' basis, which means that you are covered under these sections for:

1. claims made against you during the period of insurance and notified to us during the period of cover, or during an extended notification period of 30 days, provided you were not aware at any time prior to the commencement of the period of insurance of any circumstances which could lead to the claim being made against you; and
2. claims made against you after the period of insurance has expired as a result of circumstances you first became aware of during the period of insurance, provided you have notified us in writing before the expiry of the period of insurance of such known circumstances.

The cover provided is in respect of claims arising out of acts, errors, omissions, conduct, events or circumstances that occur after any retroactive date shown in the certificate of insurance and notified to us during the period of insurance.

After expiry of the policy and the extended notification period, no new claim can be made or circumstances notified under the policy even though the event giving rise to the claim may have occurred during the period of insurance, except where allowed by law.

## Engagement of Third Parties (contractors/subcontractors)

Where engaging third parties (contractors/subcontractors) to perform activities on your behalf, those third parties must carry their own insurance. As part of your risk management, we recommend you sight the certificate of currency as proof this cover is in place. A valid certificate of currency needs to display the Insurer's name, the Policy Number, the Period of Insurance and the Limit of Liability.

## Retention of Documents

**IMPORTANT:** a special note relating to record keeping.

Incidents which may be claimable under the policy sometimes only come to light after a long period of time, in some cases many years.

The long-term security of relevant documents including your Risk Management Procedures, any employment records and your Liability Insurance policy and endorsements and the certificate of Insurance can be of crucial importance should allegations arise in future years. All such documents should be securely retained for many years to ensure that they are available in the event of any allegations arising. (We recommend a period of 50 years).

The individuals mentioned in the documents should be notified that information about them may be held for a long period of time as part of a client protection risk management programme. This may be best handled by use of a general statement in employment contracts and your published customer information literature.

In addition, storage provisions for all such documents should be arranged in the event the organisation ceases operations. Generally acceptable methods of storage in these circumstances would be at the office of a solicitor, accountant or at a professional secure storage company.

## Duty of disclosure

Before you enter into an insurance contract, you have a duty of disclosure under the Insurance Contracts Act 1984.

If we ask you questions that are relevant to our decision to insure you and on what terms, you must tell us anything that you know and that a reasonable person in the circumstances would include in answering the questions. You have this duty until we agree to insure you.

You have the same duty to disclose these matters to us before you renew, extend, vary or reinstate an insurance contract.

### **If you do not tell us something**

If you do not tell us anything you are required to tell us, we may cancel your contract 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 contract as if it never existed.

# Goods and Services Tax (GST)

This insurance policy has provision for payment of Goods and Services Tax:

- by you in relation to premiums;
- by us in relation to claims.

## The contract between you and Ansvar Insurance

In consideration of payment of your premium, we will insure you under this policy, and as shown in your certificate of insurance. Your insurance commences from the time we accept your proposal or variation and premium and concludes at 4.00pm local standard time on the dates shown in the certificate of insurance.

If the terms of this policy are not observed, cover may be reduced or cancelled.

- infringement of any patent, copyright, title, logo, slogan, design, or trademark; or
- unfair competition, misappropriation of advertising ideas, passing off or style of doing business; or
- any breach of the misleading or deceptive conduct provisions of the Competition and Consumer Act 2012 (Cth) or any Fair Trading or similar legislation; or
- invasion of privacy

committed or alleged to have been committed during the **period of insurance** in any advertisement, publicity, broadcast, telecast, electronic mail, internet, or exhibit and arising out of **your** advertising or promotional activities or any activities conducted on **your** behalf in the course of advertising or promoting **your products**, goods or services.

**aggregate limit of liability** means the amount shown in the **certificate of insurance** which is the maximum amount of **compensation we** will pay for all **occurrences** in any **period of insurance** or other period indicated.

**aircraft** means any vessel, craft or thing made or intended to fly, glide or move in or through the atmosphere or space, or over water, and includes hovercraft.

**asbestos** means asbestos, asbestos fibres or any derivatives of asbestos including any product containing any asbestos, asbestos fibres or any derivatives of asbestos.

**certificate of insurance** means the certificate of insurance attaching to this **policy** or any certificate of insurance subsequently issued during the **period of insurance**, and which shows;

- **your operations**;
- the sums insured and/or **limits of liability** applicable;
- the premiums payable for this insurance;
- any endorsements to this **policy**.

**claim** means any writ, summons, application, or other originating legal or written demand or arbitral proceedings, cross claim or counter-claim alleging any liability from an **occurrence** issued against and served upon **you** or any **official**, who is entitled to indemnity under this **policy**.

**Client Protection Policy** means **your** written policy for the prevention, reporting and investigation of injury to **your** clients including **sexual abuse** in **your operations**.

**committee** means any committee established by **you**, for the internal running of **your operations**, including any auxiliary committee, foundation, trust (other than a superannuation trust), or fundraising committee, or disciplinary, examining or research body or committee, or sporting or social club committee.

**compensation** means monies paid or agreed to be paid (including damages) by judgment, award or settlement (including all legal costs and interest and all other costs, expenses and charges recoverable from **you**) for any **claims** covered by this **policy**.

**counselling services** means the giving or provision of counselling or advice, to a person in connection with **your operations**.

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## General definitions applicable to this policy

Certain words and phrases that appear in this **policy** in **bold italics** have special meanings as set out below

Where used in this **policy**:

**Act of Parliament** shall mean any Act of the Parliament of the Commonwealth of Australia or the State or Territories of Australia, including any subordinate or delegated legislation or regulation made under and any amendment, consolidation or re-enactment of any of those Acts.

**advertising injury** means:

- libel, slander, defamation; or

**defence costs** means all reasonable costs and expenses (other than regular or overtime wages, salaries or fees of any **official** or **employee**) incurred by **us** or by **you** with **our** prior written consent (such consent not to be unreasonably withheld), including costs incurred by **us** or by **you** for legal representation in defending, investigating, attending or monitoring any **claim** or proceedings, official investigations, examinations, inquiries and the like, or for any subsequent appeals, together with all reasonable costs of bringing such appeals.

**discrimination** means any actual or alleged breach of State or Federal discrimination law.

**employee** means any person who is under a contract of service or apprenticeship:

- with **you**; or
- with another employer but seconded to work for **you**; or
- with **you** under a work experience scheme; or
- is deemed under workers compensation legislation to be in **your** employ.

**excess** means the amount **you** must contribute towards each and every **claim** under this **policy** and is shown in the **certificate of insurance** or any endorsement.

**geographic limits** means anywhere in the World subject to exclusion 9.

**limit of liability** means the amount shown in the **certificate of insurance** which is the maximum amount **we** will pay for any one **claim**.

**location(s)** means the place(s) where **you** carry out **your operations** as stated in the **certificate of insurance**.

**medical practitioner** means an individual who:

- is defined as a Medical Practitioner under the **National Law** or regulations made under the **National Law**; and
- is registered under the **National Law** to practice that profession.

**National Law** means the *Health Practitioner Regulations National Law (Victoria) Act 2009 (Vic)* and equivalent legislation enacted in any other State or Territory of Australia.

**occurrence** means an event or series of events, including continuous or repeated exposure to substantially the same general conditions, which results in **personal injury** or **property damage** or **advertising injury** neither expected nor intended from **your** standpoint. All **personal injury** or **property damage** attributable to one source or original cause shall be deemed to be the result of one occurrence. All **advertising injury** arising out of the same injurious material or act, regardless of the frequency or repetition thereof, the number and kind of media used or the number of claimants, shall be deemed to be the result of one occurrence.

**official** means any past, present or future director, trustee, office bearer, executive, **committee** member or manager of **yours** or other person elected by **you** to represent **your** organisation and act on behalf of **your** governing body in directing, managing or supervising

**your operations. Official** does not include a liquidator, external auditor, receiver, receiver and manager, official manager, administrator, registrar, trustee or person administering a compromise or scheme of arrangement of the **operations** or any **employee** of such person.

**operations** means the **operations**, activities or services specified in the **certificate of insurance** and includes:

- the organisation by **you** of working bees;
- the provision by **you** or on **your** behalf of fire and security services maintained only for the protection of **your locations** and property belonging to **you** or for which **you** are responsible;
- the provision by **you** of catering and first aid services for **your officials, employees, volunteers**, residents in **your** care and/or visitors;
- any activities involving parents or residents **committees** and/or similar support groups for **your** benefit;
- the ownership and/or occupation of **location(s)** used solely in connection with the activities and services specified in the **certificate of insurance**;
- the repair or maintenance of commercial **location(s)** belonging to **you** or for which **you** are responsible;
- any incidental work undertaken for **your** benefit or the benefit of any organisation or entity specified in the definition of **you**, by **your employees, volunteers** or **officials**;
- any other activities or services **we** have specifically agreed in writing.

**penalty** shall mean any monetary sum payable by **you** and required by an order of a court of competent jurisdiction, to any regulatory authority pursuant to any **Act of Parliament** but excluding:

- any amounts payable as **compensation**;
- any compliance, remedial, reparation or restitution costs;
- any amounts payable for income tax, customs duties, excise duty, stamp duty, sales tax or any other State or Federal tax or duty;
- any exemplary or punitive damages;
- liabilities that are not insurable at law;
- any legal and other costs associated with the penalties levied on **you**; and
- any consequential or economic loss.

**period of insurance** means the time and date cover under this **policy** starts to the time and date cover under this **policy** expires as shown in the **certificate of insurance**.

**personal injury** means:

- bodily injury (which expression includes death, disease or illness), disability, shock, fright, mental anguish or mental injury);

- assault or battery committed by **you** or at **your** direction, but only when reasonably necessary for the purpose of preventing or eliminating danger to persons or property;
- the publication or utterance of defamatory or disparaging material, after the commencement of this **policy**;
- wrongful entry upon, wrongful eviction from or other invasion of right to private occupancy of property;
- invasion of privacy;
- false arrest, wrongful detention, false imprisonment, malicious prosecution or humiliation.

**policy** means this contract of insurance entered into between **you** and **us**.

**pollutants** means the discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant of any type whatsoever including but not limited to smoke, vapour, soot, acids, alkalis, chemicals, fumes, radioactivity from nuclear material or any other toxic or harmful waste (waste includes material to be recycled, reconditioned or reclaimed).

**product(s)** means anything (after it has ceased to be in **your** physical custody or control) which is or is deemed by law to have been manufactured, constructed, grown, extracted, produced, processed, assembled, altered, imported or exported, sold, supplied, distributed, installed, erected, serviced, repaired, or treated by **you** in the course of **your operations** (including **your** predecessors in the **operations** for which **you** are responsible) and includes:

- the labels, packaging and containers of any product;
- the design, formula or specification of any product;
- directions, markings, instructions, warnings or advice given or omitted to be given in connection with any product.

**property damage** means:

- physical loss of or damage to tangible property including loss of use resulting therefrom;
- loss of use of tangible property which has not been damaged or destroyed where such loss of use is caused by an **occurrence** not excluded by the **policy**, happening during the **period of insurance**.

**Registered Health Professional** means an individual who:

Is defined as a Health Professional under the **National Law** or regulations made under the **National Law** and is required to have their own Professional Indemnity Insurance in order to be registered.

**senior counsel** means a barrister in active practice who is entitled to use the post-nominal's Q.C. or S.C. in any one or more superior courts in Australia or New Zealand.

**sexual abuse** means any assault or abuse of a sexual nature, sexual molestation, indecent exposure, sexual harassment or intimidation, whether such act is the subject of criminal investigation or not.

**subsidiary** means any organisation or other incorporated entity which by law is either directly or indirectly under **your** control and

over which **you** exercise active management and whose accounts are consolidated with **your** accounts in accordance with the relevant accounting standard.

**terrorism act** means 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 of that nation, or in pursuit of political, religious, ideological, ethnic or similar purposes or reasons to intimidate the public or a section of the public of any nation, by any person or groups of persons whether acting alone or on behalf of or in connection with any organisation or government de jure or de facto, and which:

- involves force or violence against one or more persons, or threat thereof; or
- involves damage to property or injuries to persons; or
- endangers life of persons other than that of the person committing the action; or
- creates a risk to health or safety of the public or a section of the public; or
- is designed to interfere with or disrupt an electronic or computer system.

**tool of trade** means in the case of a **vehicle** fitted with an item of mechanical, hydraulic and/or pneumatic plant, use of the plant for the purpose for which the item was designed, devised or constructed and not being use of the **vehicle** solely as a mode of conveyance.

**vehicle** means any type of machine on wheels or on self laid tracks including trains made or intended to be propelled other than by manual or animal power and any trailer intended to be drawn by such machine. Vehicle does not mean mowers, garden implements and mobility aids.

**volunteer** means any person who is engaged by **you** to work or to provide services to **you** or on **your** behalf for **your** benefit in the carrying out of **your operations** and who receives no remuneration or **compensation in money** or any other benefit for carrying out their duties for **you**.

**watercraft** means any vessel, craft or thing made or intended to float on or in or travel on or through water.

**we, us, our** means Ansvar Insurance Limited ABN 21 007 216 506 AFS Licence No 237826.

**wrongful act** means any actual or alleged breach of duty, breach of trust, neglect, error, misstatement, misleading statement, omission, breach of warranty of authority or other act wrongly committed or attempted by **you** in the discharge of **your** duties or any liability asserted against **you** while acting in the course of **your** duties in **your** individual or collective capacities.

**you, your, yours** means:

1. the persons, entities or organisations named as the insured in the **certificate of insurance**;
2. all **your subsidiaries** under your control and over which you exercise active management, both existing at the commencement date of the **period of insurance** and disclosed by you at the time of entering into the **policy**;

# General conditions applicable to the policy

The following conditions apply to this **policy**.

## Additional parties

Where this **policy** insures more than one party, legal entity or person, it shall apply to each party in the same manner as if a separate **policy** had been issued to each of them, provided that, in so doing, **our limit of liability** or the **sum insured** shown in the **certificate of insurance** in respect of any one event or **claim** (and any **aggregate limit of liability** that may be applicable) for the **period of insurance** shall not be increased.

Any:

- failure by one party to comply with the duty of disclosure under the *Insurance Contracts Act 1984 (Cth)*; or
- failure by one party to comply with any obligation under this **policy**; or
- misrepresentation by one party to **us** before this **policy** commences, or
- dishonest, fraudulent, criminal or malicious conduct by one party,

shall not prejudice the right of the remaining party or parties to indemnity under this **policy** provided that such remaining party or parties did not have prior knowledge of any such failure, non-compliance, misrepresentation and/or conduct and shall, as soon as practicable after becoming aware of any such failure, non-compliance, misrepresentation and/or conduct advise **us** in writing of all relevant circumstances.

**We** agree to waive all rights of subrogation or action which **we** may be entitled to against any party to whom cover under this **policy** extends.

## Adjustment of premium

Where cover under any section of this **policy** is arranged on an adjustable basis, **you** must keep accurate records and make declarations to **us** so that the necessary adjustment of premium may be applied, subject to **us** retaining **our** minimum premium.

## Allocation of costs

In the event of a **liability claim** for which the **limit of liability** under this **policy** is insufficient or which is only partly covered by this **policy**, **we** will use **our** best efforts to ensure a fair and proper allocation of the **claim** and **defence costs** between insured and uninsured portions.

3. any new **subsidiary** acquired or created by you during the **period of insurance** through consolidation, merger or purchase of its assets or shares or in respect of which you assume effective control during the **period of insurance** provided:
  - 3.1 such company, organisation or entity is carrying on substantially the same **operations** as yours;
  - 3.2 such acquisition or assumption of control increasing your assets under management by more than 10% is reported to **us** within 90 days after it is effected; and
  - 3.3 **we** confirm continuation of cover for such new **subsidiary** company, organisation or entity by endorsement of this **policy**.
4. the **officials, employees** and **volunteers** of the insured designated in 1, 2 or 3 above but only whilst acting within the scope of their duties in such capacity;
5. any **official, member** or **volunteer** of:
  - 5.1 **social** and **sporting clubs**;
  - 5.2 canteen and welfare **organisations**;
  - 5.3 **first aid, fire** and **security services**;
  - 5.4 **residents associations**;
  - 5.5 **committee**,which is incidental to your **operations**, formed with the consent of and operating under the control and supervision of the insured designated in 1, 2 or 3 above but only whilst such **official, member** or **volunteer** is performing duties or activities in connection with such clubs, organisations, services, **committees** or associations.
6. every principal in respect of the liability of such principal arising out of the performance of the insured designated in 1, 2, or 3 of this clause of any contract or agreement for the performance of work for such principal, but limited to the scope of the work required by the contract or agreement and subject always to the extent of coverage and **limit of liability** provided by this **policy**.
7. any permanent resident of an aged care facility but only if they do not have a separate insurance policy covering their liability for any **personal injury** or **property damage** caused by them other than fire damage to the aged care facilities.
8. the **committee** and members for the time being of an unincorporated association named in the **certificate of insurance**.

## Authorisation clause

The person(s) authorised to accept this **policy** of insurance on behalf of **you** and **your officials** and other persons or entities insured by this **policy**, agrees to act on their behalf with respect to the giving and receiving of any notice of cancellation, the payment of premiums, the receiving of any return premiums that may become due and the acceptance of endorsements or other notices.

## Cancellation

**You** may cancel this **policy** at any time by notifying **us** in writing. **You** may be required to pay a cancellation fee if **you** cancel this **policy** mid-term, unless cancellation occurs within 21 days of its commencement.

**We** can cancel this **policy** in accordance with the *Insurance Contracts Act 1984* (Cth). **We** will be entitled to retain premium for the period during which this **policy** has been in force.

**We** may also retain reasonable administrative costs related to the acquisition and termination of the **policy** and any government taxes or duties **we** cannot recover.

In the event that **you** have made a **claim** under this **policy** and **we** have paid or agreed to pay any part of the **claim** under this **policy**, no premium will be refunded.

## Changes to risk insured

**You** must tell **us** as soon as possible of any changes to **your operations** or **products** which significantly or materially increase the risk insured by this **policy** (including the unoccupancy of any building used in connection with **your operations** for more than 60 consecutive days).

**We** will advise **you** in writing if **we** agree to accept the material changes and **you** must pay any additional premium **we** may require.

If **you** do not tell **us** of any material changes, or if **we** do not agree to accept the material changes, or if **you** do not pay **us** any additional premium **we** require, then in all such cases, **we** will not be liable to indemnify **you** for any liability to pay **compensation**, caused by or contributed to by the material changes.

## Defence costs

**We** agree that in relation to any **claim** for which indemnity may be available under this **policy**,

- where indemnity has been confirmed in writing by **us**, and subject to any independent review or assessment **we** may require, **we** will meet the reasonable **defence costs** as they are incurred;
- where indemnity has been confirmed in writing by **us** **we** retain the sole and absolute right to take over and conduct the defence and settlement of the **claim**;
- where **we** have not confirmed indemnity and **we** elect to take over and conduct the defence or settlement of any **claim** while reserving **our** rights on indemnity under this **policy**, **we** will pay reasonable **defence costs** to which **we** have consented as they are incurred;

- where **we** have not confirmed indemnity and **we** elect not to take over conduct of the defence or settlement of any **claim**, **we** will pay reasonable **defence costs** which have been incurred at **our** direction.

Provided always that advancement of **defence costs** is at **our** sole and absolute discretion, and

- in the event that the **claim** is withdrawn or that indemnity under this **policy** is subsequently withdrawn or denied, **we** shall cease to advance **defence costs**; and
- **we** reserve the right to recover any **defence costs** paid by **us** under this **policy** from **you** or the insured person severally according to the respective interests, in the event and to the extent that it is subsequently established by judgment or other final adjudication, that there was no entitlement to indemnity under this **policy**.

## Estate and legal representatives

This **policy** will provide cover for the estate or legal representatives of any natural person insured under this **policy** in the event of their death or legal incapacity, to the extent to which such person would have been entitled to indemnity under this **policy** had such death or legal incapacity not occurred and provided always that such estate and legal representatives shall observe and be subject to all the terms of this **policy** so far as they can apply.

## Excess

The **excess** payable by **you** in respect of each and every **claim** under this **policy** is shown in the **certificate of insurance** or any endorsement and will be deducted from any **compensation** which **you** are legally liable to pay before applying any **limit of liability** under this **policy**.

The **excess** also applies to any amount expended by **us** for **defence costs**.

Additional excesses may be payable for the following types of claims as detail in the **certificate of insurance**.

- **personal injury** claims for contractors/subcontractors
- **personal injury claims** for **volunteers**
- others as applied by **us**

## Goods and Services Tax

**You** must inform **us** of the extent to which **you** are entitled to an Input Tax Credit (ITC) for the premium each time that a **claim** is made under this **policy**. No payment will be made to **you** for any GST liability that **you** may acquire on the settlement of a **claim** if **you** have not informed **us** of **your** entitlement or correct entitlement to an ITC.

Notwithstanding anything contained in this **policy**, **our** liability in respect of a **claim** under this **policy** will be calculated taking into account any Input Tax Credit (ITC) to which **you** are entitled for any acquisition relevant to a **claim**, or to which **you** would have been entitled if **you** were to have made the relevant acquisition.

If the **limit of liability** is not sufficient to cover **your** loss, **we** will only pay GST (less any relevant ITC) that relates to **our** proportion of **your** loss. **We** will pay the GST amount in addition to the **limit of liability**, sub **limit of liability** or any **sum insured**.

For the purposes of this General condition, 'GST', 'ITC', 'acquisition' and 'supply' have the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999*.

## Headings

In this **policy**, unless the context otherwise requires, headings are merely descriptive and not to aid interpretation.

## Jurisdiction

This **policy** shall be governed by and construed in accordance with the laws of Australia. Any dispute shall be resolved in accordance with the laws of Australia.

## Monthly installments

**You** may pay **your** premium by monthly instalments direct from a financial institution or from **your** credit card. **You** should note that this may incur an additional cost. However, if any monthly instalment is dishonoured by **your** financial institution this **policy** may not operate. **We** may refuse to pay a **claim** in whole or in part if, at the date of a loss or **claim**, any monthly instalment has remained unpaid for at least 14 days, unless **we** have agreed otherwise in writing.

If **we** settle **your claim** by paying the full **limit of liability** of this **policy**, **we** will deduct any outstanding instalments from the amount **we** pay on **your** behalf.

Should the financial institution holding **your** account return or dishonour a direct debit payment due to lack of funds in **your** account, **we** will charge **you** for any direct or indirect costs which **we** incur arising from the payment being returned or dishonoured.

## Non accumulation

Where a party insured under this **policy** is also entitled to indemnity under another insurance policy issued by **us**, the respective limits of liability of the policies shall not be increased by virtue of the existence of such other insurances and, in the event of a **claim** arising, **our** maximum **limit of liability** shall be equivalent to the highest **limit of liability** under the respective policies.

## Precautions by you

**You** are required to:

- ensure **your location(s)** that are not being used or occupied for extended periods of time are kept secured and are maintained in a reasonable condition of upkeep;
- take all reasonable precautions to prevent loss, damage or injury to third parties and their property;
- comply with all statutory obligations, regulations and safety requirements imposed by any authority;

- take reasonable action at **your** own expense to trace, recall or modify any of **your products** containing any defect or deficiency of which **you** have knowledge or have reason to suspect, including any such **products** subject to government or statutory ban.

## Service of legal process

**You** may effect service of any legal process on **us** in connection with this **policy** by delivering that process by hand or by post to the address for service stated in the **certificate of insurance** and such service shall be deemed to be personal service upon **us**.

## Third party interests

**You** cannot transfer interests in this **policy** without **our** written consent.

All persons entitled to any benefit under this **policy** are bound by the terms of this **policy**.

**We** insure those interests **you** notify to **us** when **we** issue cover or which are notified to **us** during the currency of this **policy** and which **we** agree to insure or which are imposed by law.

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# Claims conditions applicable to this policy

The following conditions (**claims** conditions) apply to all sections of this **policy**.

## Your responsibility when making a claim

Following any event which results in **personal injury, property damage** or **advertising injury**, and which may or is likely to give rise to a **claim** under this **policy**, it is **your** responsibility to advise **us** by telephone, email, internet, letter or in person as soon as reasonably possible but no later than 30 days after this occurs and promptly provide any information **we** request.

A **claim** form may be sent to **you** to provide the information **we** may require. **You** must complete and return this form promptly. Alternatively, **we** may appoint a loss adjuster, lawyer or investigator to make enquiries on **our** behalf and **you** must co-operate fully with any such appointee.

## Letters of demand, other proceedings

**You** must forward to **us** every letter of demand, writ, summons, or legal process of any description immediately upon receipt or service thereof and must immediately inform **us** in writing of any prosecution, inquest or fatal accident inquiry of which **you** are given notice.

**You** are required at **your** expense:

- to take all reasonable steps to prevent or minimise any **personal injury, property damage, or advertising injury** or from any other liability to pay **compensation** covered by this **policy** and to prevent further **claims** arising out of the same or similar conditions;
- to use **your** best endeavours to preserve and make available for **our** testing and inspection any of **your** property, **products**, appliances, plant, machines, equipment, computers, files, notes, memoranda, or other documents or any other things which might prove necessary or useful by way of evidence in any way connected with any **claim**; and
- so far as may be reasonably practicable, with due regard to safety, to permit no alteration or repair to any building, fencing, machinery, furnishings, fittings, appliances or plant without **our** consent.

In the event of a dispute between **us** and **you**, or between **us** and any **official** about whether legal proceedings should be contested, a **senior counsel** (mutually agreed upon by **us** and **you** or the **official** or, in default of such agreement, selected by the chairperson or president of the local Bar Council) will be retained to advise on whether such proceedings should be contested. In formulating his or her advice, **senior counsel** shall take into consideration the economics of the matter, having regard to the damages and costs which are likely to be recovered by the plaintiff, the likely **defence costs** and the prospects of **you** or the **official** successfully defending the action.

The costs of such **senior counsel's** opinion shall, for the purpose of this section, be regarded as part of the **defence costs**. In the event that counsel advises that, having regard to all the circumstances, the matter should not be contested but settled within certain limits which, in **senior counsel's** opinion, are reasonable, then **you** or the **official** shall not object to any such settlement and shall co-operate with **us** to effect such settlement in accordance with this **policy**.

## Settlement of claims

**We** may take legal action in **your** name against any person, other than any person entitled to cover under this **policy**, to recover any payment which **we** have made or may make to **you** or on **your** behalf under this **policy** whether or not **we** have fully indemnified **you** for the loss or damage which gave rise to the **claim**. **We** will be entitled to conduct and settle any **claim** brought in **your** name. **You** must give **us** all information and assistance that **we** may require in conducting or settling any such **claim**.

**We** shall be entitled to attend any inquest or fatal accident inquiry in respect of which there may arise any **claim** under this **policy**.

If **you** refuse to consent to any settlement recommended by **us** and

elect to contest or continue any legal proceedings in connection therewith, **our** liability for the **claim** shall not exceed the amount for which the **claim** could have been settled, less the applicable **excess**, plus costs and expenses incurred with **our** prior consent up to the date of such refusal.

If at the time any **claim** arises under this **policy**, there is other insurance in force covering the same liability, **you** must promptly notify **us** of the full details of such other insurance, including the identity of the insurer and the policy number, and such further information as **we** may reasonably require.

## Fraudulent claims

As a protection for all insurance policyholders, **we** will take legal action against any person who makes a fraudulent **claim**.

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# General Public & Products Liability Insurance - Coverage

## What is covered

**We** will cover **you** against **your** legal liability to pay **compensation** in respect of:

1. **personal injury**, and/or
2. **property damage**; and/or
3. **advertising injury**,

happening within the **geographic limits** and caused by an **occurrence** in connection with **your operations** or **your products** during the **period of insurance**.

The costs of any first aid rendered to persons who suffer **personal injury**, at the time of an **occurrence** will also be covered.

## What is not covered

**We** will not cover **you** under this **policy** for any liability to pay **compensation** directly or indirectly caused by or contributed to by or resulting from or arising out or in connection with:

### 1. Aircraft

- 1.1 the ownership, possession, manufacture, maintenance, repair, operation or use by **you** of any **aircraft**;
- 1.2 the operation of any **aircraft** landing pad or strip, airfield or airport;
- 1.3 the use of **your products** with **your** knowledge:
  - 1.3.1 as **aircraft** component parts used for maintaining an **aircraft** in flight or moving upon the ground;
  - 1.3.2 for incorporation into the hull, controls or machinery of any **aircraft**;
- 1.4 the fuelling or refuelling of any **aircraft** by **you** or on **your** behalf.

### 2. Advertising Injury

**advertising injury** caused by or resulting from:

- 2.1 any statements or publication, including those which are defamatory or malicious, made by **you** or at **your** direction with knowledge of the falsity thereof;
- 2.2 any mistake in the advertised price of **your products** or services;
- 2.3 any failure of **your products** or services to conform with advertised or represented performance, quality, fitness or durability;
- 2.4 any incorrect description of **your products** or services;
- 2.5 any deliberate breach of copyright, infringement of any trademark, service mark, or trade name on any of **your products** or services, including any passing off of **your products** or services as those of a third party;
- 2.6 any conduct, activity or omission by any insured organisation or entity whose principal business is advertising, broadcasting, publishing or telecasting;
- 2.7 any breach of contract, but this exclusion shall not apply to misappropriation of advertising ideas under an implied contractual term.

### 3. Asbestos

**asbestos** in whatever form or quantity but this exclusion shall not apply to any **claim** for **personal injury** which is unrelated to the inherently hazardous nature of **asbestos**.

#### 4. Building Demolitions or Construction Work

demolition or construction work (including additions or alterations to or erection of buildings), except demolition, construction, alterations and additions not exceeding 12 metres in height and/or not exceeding \$500,000 or any other such amount specified in the **certificate of insurance** for the total cost of the job or project.

#### 5. Contractual Liability

- 5.1 any liability or obligation assumed by **you** under any contract, warranty or agreement unless such liability or obligation;
- a. would have attached to **you** in the absence of such contract, warranty or agreement;
  - b. arises under any written rental, lease or hiring agreements of real or personal property, other than with respect to any term or condition contained in such rental, lease or hiring agreement that requires **you** to insure such property;
  - c. arises under a warranty of fitness of **your products** implied by law;
  - d. arises under any written contract with any authority or entity responsible for the supply of electricity, fuel, gas, natural gas, air, water, sewerage reticulation control systems, waste disposal facilities, telephone and communication services or other essential services, except those contracts in connection with work done for such authorities or entities;
  - e. arises under any contract, warranty or agreement to indemnify or not to seek contribution, recovery or indemnity from a Statutory Authority, Government Agency or Government Department, provided;
    - i. **Your** obligation to indemnify or not seek contribution from the Statutory Authority, Government Agency or Department does not extend to the negligent acts, negligent omissions or negligent defaults of the Statutory Authority, Government Agency or Department;
    - ii. **You** are allowed to seek indemnity, recovery or contribution from the Statutory Authority, Government Agency or Department for any of negligent acts, negligent omissions or negligent defaults of the Statutory Authority, Government Agency or Department;
    - iii. The agreement relates to the provision of goods, services, facilities and/or funding relating to **your operations**;
- 5.2 any liability or obligation assumed by **you** under any contract, warranty or agreement to indemnify or not to seek contribution, recovery or indemnity from a Statutory Authority, Government Agency or Government Department irrespective of any negligent acts, negligent omissions or negligent defaults of the third party except where cover is provided under Optional Extension 5 of this **policy** and **you** paid any additional premium;
- 5.3 any liability or obligation assumed by **you** under any other contract, warranty or agreement not mentioned in 5.1e or 5.2 above unless specified in the **certificate of insurance** as having been agreed by **us**.

#### 6. Employer's Liability and Employment Practices

- 6.1 any **personal injury** to any **employee** in respect of which **you** are or would be entitled to indemnity under any policy of insurance, fund, scheme or self insurance pursuant to or required by any legislation relating to workers compensation or accident compensation whether or not such policy, fund, scheme or self insurance has been effected, provided that this **policy** will respond to the extent that **your** liability would not be covered under any such policy, fund, scheme or self insurance arrangement had **you** complied with its obligations pursuant to such law;
- 6.2 any liability imposed by the provisions of any industrial award or agreement or determination or any contract of employment or workplace agreement where such liability would not have been imposed in the absence of such industrial award or agreement or determination or contract of employment or workplace agreement;
- 6.3 any mental anguish suffered by any **employee** arising out of or in the course of his/her employment by **you**;
- 6.4 any **personal injury** arising out of the harassment, libel, slander, defamation or humiliation of, victimisation of, or **discrimination** against, any **employee** whilst in **your** employment;
- 6.5 the hiring, promotion, alleged wrongful or unfair dismissal, misleading representation, or advertising, demotion of, or **discrimination** against an **employee**.

#### 7. Faulty Workmanship

- 7.1 the performing, completing, correcting, modification, repairing, re-doing, replacing, reinstallation or improving of any work or service

undertaken by **you** or on **your** behalf. This exclusion shall not apply to liability to pay **compensation** for damage to other property resulting from such work or service;

- 7.2 the adjustment, disposal, repair, reconditioning, removal or replacement of **your products** or in making any refund on the price paid for any of **your products**.

## 8. Fines and Penalties

any fines, penalties, punitive, exemplary, aggravated, liquidated or multiplication of compensatory damages, taxes, levies, imposts or duties imposed by a court of law or under any statute, regulation or other legislation except to the extent that cover is provided under Automatic Extension 2 of this **policy**.

## 9. Geographic Limits

- 9.1 any **claim** made and/or legal action or proceeding instituted within the United States of America and/or Canada or any other territory coming within the jurisdiction of the courts of the United States of America and/or Canada;
- 9.2 any **claim** made and/or legal action or proceeding to which the laws of the United States of America and/or Canada apply;
- 9.3 any **claim** made and/or legal action or proceeding instigated within any country, state or territory outside Australia that require insurance to be arranged or secured with an insurer or organisation licensed in that country, state or territory to grant such insurance.

Provided that exclusion 9.1 and 9.2 shall not apply to any claim(s) in connection with **your products** exported to the United States of America and/or Canada without **your** knowledge.

Provided that these exclusions 9.1, 9.2 and 9.3 shall not apply to such **claim** and/or legal action or proceeding arising from the temporary presence outside Australia of any person who is not performing any manual or supervisory work whatsoever whilst in the United States of America and/or Canada or any other territory coming within the jurisdiction of the courts of the United States of America and/or Canada.

## 10. High Risk Activities

- 10.1 any of **your operations** or any other activities organised by **you** which involve any of the following: motor races, motor rallies, motor speed tests, canyoning, caving, rifle/firearms, shooting, **aircraft**, hang gliding, parachuting, para gliding, white water canoeing/kayaking/rafting (above class 2 rapids), scuba diving, dune buggies, vertical and horizontal bungee jumping, hot air ballooning, gladiator games, unsupported rock climbing, go karts, motocross, martial arts or boxing activities.

Provided that this exclusion 10.1 shall not apply to such of the above activities that **we** have agreed by endorsement to this **policy** to cover subject always to the terms and conditions of the endorsement and the terms, conditions and exclusions of this **policy** and to the **limit of liability** specified in the **certificate of insurance**.

- 10.2 any of **your operations** or any other activities organised by **you** which involve the use of mechanical amusement devices or rides involving animals.

Provided this exclusion 10.2 shall not apply to **your** vicarious liability arising from the hire and use of such devices or animals from other parties provided that **you** have obtained certificates of insurance confirming such parties hold valid liability insurance policies covering them for a minimum of \$5,000,000 any one **occurrence**.

Provided this exclusion 10.2 shall not apply to model railways used for amusement rides or coin operated amusement rides that are fitted to the ground surface, operate at low speed, are designed for young children and used under adult supervision.

## 11. High Hazard Products

any of **your products** that are:

- 11.1 veterinary **products** which are required to be prescribed and administered by a qualified veterinarian;
- 11.2 fire works, ammunition, fuses, cartridges, gun powder, nitroglycerin or any explosives (other than the sale or supply of fertiliser, fuel, or ammonium nitrate provided it is incidental to your main operation);
- 11.3 medicines which are required to be prescribed by a registered **medical practitioner**;
- 11.4 herbicides, insecticides, defoliant or stock feed;
- 11.5 tobacco;

11.6 blood and/or blood components as defined within the *Therapeutic Goods Act 1989 (Cth)*;

11.7 second-hand electrical goods unless appropriately tested and certified as complying with any applicable legislation, regulations or standards.

## 12. High Hazard Operations

any of **your operations** that involve:

12.1 the manufacture, storage, filling, breaking down or transport of fireworks, ammunition, fusees, cartridges, gun powder, nitroglycerine or any explosives unless purely incidental to **your main operations**;

12.3 the manufacture, storage, filling, breaking down or transport of gases and/or air under pressure in containers, other than the storage and transport of:

- butane or other cooking gases when contained in low pressure containers; and
- medical gases used in health care facilities or by organizations that provide assisted living care subject to the storage and transport of medical gases being compliant with Australia safety standards.

12.4 the manufacture, importing or exporting of **vehicles**.

## 13. Information Technology

13.1 **your** use or design of computer systems or programs but this exclusion shall not apply to liability to pay **compensation** arising out of:

- a. **your** normal everyday use of the internet for email, intranet and associated activity;
- b. any material on **your** website in support of **your products** or services;

13.2 any damage to any computer, computer data, programs or storage media involving the use or provision by **you** or on **your** behalf of:

- 13.2.1 any computer hardware or software;
- 13.2.2 any computer or telecommunications services;

13.3 any computer hardware or software of any third party, whether authorised or unauthorised, including any damage caused by any computer virus.

## 14. Intentional Acts, Improper Benefit

14.1 any intentional or wilful act or omission, or any fraudulent or dishonest act by **you, your officials, employees** and **volunteers** except as where specifically provided for; or

14.2 any **official** having improperly benefited from securities transactions as a result of information that was not available to other sellers and/or purchasers of such securities; or

14.3 any **official** having gained any personal advantage to which he/she was not legally entitled.

Provided this exclusion shall only apply to the extent that the **officials** relevant conduct has been established by a judgment or other final adjudication.

## 15. Exports to and Goods Manufactured in the United States of America and/or Canada

**your products** if they are:

15.1 manufactured, constructed, installed, erected, assembled, maintained, amended, enhanced, altered or otherwise processed, serviced, repaired or treated by **you** in the United States of America and/or Canada; or

15.2 sold, supplied or distributed in the United States of America and/or Canada.

Provided that exclusion 15.2 shall not apply to any clam(s) in connection with your products exported to the United States of America and/or Canada without your knowledge.

## 16. Loss of Use

Loss of use of tangible property which has not been physically damaged or destroyed resulting from:

16.1 a delay in or lack of performance by **you** or on **your** behalf of any contract or agreement;

16.2 the failure of **your products** to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by **you**.

Provided that this exclusion 16.2 shall not apply to the loss of use of other tangible property resulting from the sudden, unexpected and unintended physical damage to or destruction of **your products** after such **products** have been put to use by any person or organisation other than **you**.

## 17. Nuclear

17.1 ionising radiations or contamination by radioactivity from any nuclear waste or from the combustion of nuclear fuel.

For the purposes of this exclusion only, **combustion** shall include any self-sustaining process of nuclear fission;

17.2 nuclear weapons materials.

## 18. Pollution

18.1 the discharge, dispersal, release, seepage, migration or escape of **pollutants** into or upon land, the atmosphere, or any water course or body of water;

18.2 the removal, nullification or cleaning up of **pollutants**;

18.3 the prevention of the escape of **pollutants**.

Provided that these exclusions shall not apply to liability to pay **compensation** which arises from a sudden, identifiable, unintended and unexpected event referred to in 18.1, 18.2 or 18.3 which takes place in its entirety at a specific time and place within one **period of insurance** outside the United States of America and/or Canada.

## 19. Product Defect

**property damage** to **your products** if the damage is attributed to any defect in them or to their harmful nature or unsuitability.

## 20. Product Recall

the withdrawal, recall, inspection, repair, replacement or loss of use of **your products** or any property of which they form a part, if such **products** or property are withdrawn from the market or from use because of any known or suspected defect, deficiency, inadequacy or dangerous conditions in them.

## 21. Professional Liability

21.1 the rendering of or failure to render professional advice or service by any **Medical Practitioner**, midwife or **Registered Health Professional** who is required to have Professional Indemnity Insurance in order to be registered as defined by the **National Law** for any error or omission connected therewith or any **claim** made against any such person;

Provided that exclusion 21.1 shall not apply to your vicarious liability arising from the appointment or engagement of such **Medical Practitioner**, midwife or **Registered Health Professional**.

21.2 the rendering of or failure to render professional advice or service by **you** or any error or omission connected therewith, except to the extent that cover is provided under Automatic Extension 1 or Optional Extension 3 of this **policy**;

21.3 the rendering of or failure to render **counselling services** by **you** or by anyone appointed or authorized by **you**, or any error or omission connected therewith, except as provided in Automatic Extension 1 of this **policy**.

## 22. Property in Physical or Legal Control

any **property damage** to:

22.1 property owned by **you**;

22.2 property undergoing any process or being worked on by **you**; or;

22.3 property in **your** physical or legal control.

Provided that this exclusion shall not apply to **property damage** to:

- a. leased or rented **location(s)** (including fixtures and fittings) not owned by **you**;
- b. **location(s)** at which **you** are undertaking work in connection with **your operations** and the content of such **location(s)** which are in **your** physical or legal control;
- c. **vehicles** (including spare parts and accessories thereon) not belonging to or used by **you** in connection with **your operations** whilst within a car park belonging to or under **your** control, provided the car park is not used for any commercially operated carpark where a fee is charged or motor trade purposes;
- d. property belonging to any persons authorised to be on **your location(s)** for the **limit of liability** as specified in **your certificate of insurance**;
- e. any other property not mentioned in clauses a. to d. above which is in **your** physical or legal control and in which case **our limit of liability** for any one **claim** arising from any one **occurrence** and in the aggregate for all such **claims** in any one **period of insurance** will be limited to \$250,000 or any other such amount specified in **your certificate of insurance**.

**23. Public Demonstrations, Rallies or Protests**

**property damage** and/or **personal injury** caused by participants in any public demonstration rally or protest organised or attended by **you**.

**24. Sexual Abuse**

any actual or alleged **sexual abuse**, except where cover is provided under Optional Extension 1 of this **policy** and **you** have paid an additional premium.

**25. Specific Medical/Dental Procedures**

- 25.1 the performance of any tracheostomy, provided this exclusion shall not apply to the activities associated with tracheostomy care.
- 25.2 the provision of general anaesthesia;
- 25.3 the performance or recommendation of any operation to produce sterility, unless pathologically indicated;
- 25.4 the use of drugs for weight reduction; or
- 25.5 the performance by dentists and dental surgeons of any procedure carried out under general anaesthetic.

**26. Terrorism**

any **terrorism act**, regardless of any other cause or event contributing concurrently or in any other sequence to the liability or loss, or any action taken in controlling, preventing, suppressing, retaliating against, responding to or in any way whatsoever relating to a **terrorism act**.

**27. Vehicles**

the ownership, possession, maintenance, operation or use by **you** of any **vehicle**:

- 27.1 which is registered or required to be registered by virtue of any legislation (whether or not such registration has been effected or renewed); or
- 27.2 in respect of which compulsory statutory liability or accident **compensation** indemnity insurance is required by virtue of any legislation (whether or not such insurance has been effected or renewed or its terms and conditions complied with).

Provided always that these exclusions shall not apply to:

- a. liability for **personal injury** where such compulsory statutory liability or accident **compensation** indemnity insurance scheme:
  - i. does not indemnify **you** for such liability;
  - ii. does not provide indemnity for such liability for reasons that do not involve a breach by **you** of the relevant legislation or **your** failure to lodge a **claim** against the particular scheme;
- b. liability arising out of the loading or unloading of goods to or from a **vehicle**;
- c. use of a **vehicle** as a **tool of trade**;

## What is not covered *continued*

- d. liability which attaches to **you** by reason of the operation or use of a **vehicle** belonging to **you** by any person without **your** consent and for which **you** have no indemnity under any other policy of insurance.

### 28. Watercraft

the ownership, possession, manufacture, maintenance, repair, operation or use by **you** of any **watercraft** exceeding 12 metres in length, other than **your** liability arising out of the use of:

- a. **watercraft** operated and owned by others and used by **you** for business entertainment;
- b. floating jetties and/or floating pontoons and/or buoys.

### 29. War, Confiscation

- 29.1 war, civil war, invasion, act of foreign enemy, hostilities (whether war be declared or not), rebellion, revolution, insurrection, military or usurped power;
- 29.2 confiscation, lawful seizure, nationalisation, requisition of, or damage to, property by or under the order of any government or public or local authority (other than damage caused in the process of preventing or diminishing imminent damage covered by this **policy** to any insured property)

## How much we will pay

### Limit of Liability

Except where **we** agree otherwise in writing, the cover **we** provide under this **policy** shall not exceed the applicable **limit of liability** shown in the **policy** or in the **certificate of insurance** or any endorsement for any one **occurrence**.

For legal liability arising out of **your products**, Automatic Extensions and Optional Extensions, the maximum **we** will pay in respect of any one **claim** or series of **claims** arising out of any one **occurrence** and in the aggregate for all such **claims** during any one **period of insurance** is the **limit of liability** specified in the **policy** or in the **certificate of insurance**.

### Additional Payments

We will make the following additional payments in addition to the **limit of liability** or any sub **limit of liability** applicable under this **policy**:

- All reasonable **defence costs** incurred with **our** prior consent even if any of the allegations of such claim or suit is groundless, false or fraudulent. Such costs may include but are not limited to :
  - the legal costs incurred by **you** with **our** consent for representation at any Coronial Enquiry, any proceedings in any court or tribunal, any Royal Commission or Government Enquiry arising out of any alleged breach of statutory duty, or other similar judicial enquiry into circumstances relating to any **occurrence**, claim or potential claim which would be the subject of indemnity under this insurance.
  - loss of salaries or wages nett of taxable income because of **your** attendance at hearings or trials at **our** request, subject to such loss not be recoverable from any other source.
- All expenses incurred by **you** for emergency first aid rendered to third parties at the time of an **occurrence** covered by this **policy**.
- The expenses incurred by **you** associated with purchasing and/or hiring and/or erection and dismantling of hoarding, barriers, fences and any other form of temporary protection, including such protection which **you** must provide in compliance with the requirements of any Government, Local Government or other Statutory Authority required to avoid further injury or damage as a result of an **occurrence** covered by this **policy**.

Provided always that:

- where the amount required to settle a **claim** exceeds the **limit of liability** or applicable sub **limit of liability**, **our** liability to make the Additional payments will be limited to that proportion of the Additional payments as the **limit of liability** or sub **limit of liability** bears to the amount required to settle the **claim**;
- the additional payments made in connection with **claims** and/or actions instituted against **you** in the United States of America and/or Canada or to which the laws of the United States of America and/or Canada apply will form part of the **limit of liability** or applicable sub **limit of liability** and will not be additional to the **limit of liability** or applicable sub **limit of liability**.

# Automatic extensions

What is covered	What is not covered
<p><b>1. Counselling Services</b></p> <p><b>Your</b> legal liability to pay <b>compensation</b> in respect of <b>personal injury</b> caused by any act, error or omission committed or alleged to have been committed during the <b>period of insurance</b> by anyone appointed or authorised by <b>you</b> to provide <b>counselling services</b> in connection with <b>your operations</b>.</p> <p>This extension covers any persons appointed or authorised by <b>you</b> to provide <b>counselling services</b> separately in the same manner and to like extent as though cover under this extension had been issued in their separate names but subject always to the terms and conditions of this <b>policy</b> and <b>our</b> sub <b>limit of liability</b> not being increased.</p> <p>For the purposes of this extension:</p> <p>1.1 all causally connected or interrelated acts, errors or omissions shall jointly constitute a single act, error or omission;</p> <p>1.2 where a single act, error or omission gives rise to more than one <b>claim</b>, all such <b>claims</b> shall <b>claims</b> shall jointly constitute one <b>claim</b>.</p> <p><b>NOTE:</b> It is a condition of the cover under this extension that <b>you</b> must take all reasonable care and diligence in the selection, appointment and supervision of persons undertaking <b>counselling services</b> on <b>your</b> behalf.</p>	<p><b>We</b> will not:</p> <ul style="list-style-type: none"> <li>pay more than \$1,000,000 (including <b>defence costs</b>) or any other such amount specified in the <b>certificate of insurance</b> for any one <b>claim</b> and in the aggregate for all <b>claims</b> in any one <b>period of insurance</b>;</li> <li>cover liability to pay <b>compensation</b> for any <b>claim</b> that is insured under any other insurance policy except in excess of the <b>limit of liability</b> under such policy.</li> </ul>
<p><b>2. Indemnifiable Fines and Penalties</b></p> <p>Notwithstanding 'What is not covered 8. Fines and penalties' and on the basis that <b>you</b> do not have a Directors or Officers, Management Liability or similar contract of insurance, <b>we</b> will indemnify <b>you</b> against any <b>penalty</b> insurable at law and payable by <b>you</b> upon conviction for an offence under the Education and Care Services National Regulations (2011) arising from criminal proceedings:</p> <ul style="list-style-type: none"> <li>first brought against <b>you</b> during the <b>period of insurance</b>; and</li> <li>notified to <b>us</b> during the <b>period of insurance</b>; and</li> <li>which arises from a <b>wrongful act</b> committed or alleged to have been committed by <b>you</b>.</li> </ul> <p><b>Compensation</b> under this extension shall mean any monies payable or agreed by <b>us</b> to be paid (including damages) by judgment, award or settlement including all charges, expenses and legal costs recoverable from <b>you</b>. It does not include the costs of complying with any non-monetary relief.</p>	<p><b>We</b> will not:</p> <ul style="list-style-type: none"> <li>provide indemnity for any <b>penalty</b> arising out of <b>your</b> failure to comply with any lawful consent, demand, determination, notice, order, or the like issued under the Education and Care Services National Regulations (2011);</li> <li>pay more than \$100,000 (including <b>defence costs</b>) any one <b>period of insurance</b>.</li> </ul>

# Optional extensions

(Only applicable if the **certificate of insurance** shows **you** have selected the Optional extension and **you** have paid any additional premium)

What is covered	What is not covered
<p><b>1. Sexual Abuse</b></p> <p><b>Your</b> legal liability to pay <b>compensation</b> in respect of <b>personal injury</b> for <b>sexual abuse</b> first committed or alleged to have been committed during the <b>period of insurance</b> where the perpetrator of the <b>sexual abuse</b> was</p> <p>1.1 a representative, member, <b>employee, volunteer</b> or service provider of <b>yours</b>; and</p> <p>1.2 <b>you</b> had in place the necessary <b>client protection policy</b> required by <b>us</b> and/or by legislation to limit or prevent such abuse.</p> <p>Provided always that:</p> <ol style="list-style-type: none"> <li>This extension does not provide cover to the actual perpetrator of any <b>sexual abuse</b>.</li> <li>If one person suffers <b>sexual abuse</b> on more than one occasion, then all acts of <b>sexual abuse</b> of this person are to be treated as one <b>occurrence</b> notwithstanding that they occurred within different <b>periods of insurance</b>.</li> <li>The date of the first incidence of <b>sexual abuse</b> against a person is deemed as the date of the <b>occurrence</b> for the purposes of this <b>policy</b>.</li> </ol>	<p>any liability to pay <b>compensation</b> where;</p> <ol style="list-style-type: none"> <li>the <b>sexual abuse</b> is committed with <b>your</b> consent or knowledge.</li> <li>the <b>sexual abuse</b> is committed by <b>you</b> against any <b>official</b> or <b>employee</b>.</li> <li>any of <b>your officials</b> knew or ought reasonably to have known that the perpetrator of the <b>sexual abuse</b> had previously: <ol style="list-style-type: none"> <li>committed <b>sexual abuse</b>; and/or</li> <li>been convicted of committing <b>sexual abuse</b>; and/or</li> <li>whilst being a representative, member, <b>employee, volunteer</b> or service provider of <b>yours</b>, been the subject of a prior complaint or <b>reasonable suspicion</b> in respect of a <b>sexual abuse</b> which had not been dealt with by <b>you</b> in accordance with <b>your client protection policy</b>.</li> </ol> <p>For the purposes of Exclusion 3.3 above, <b>reasonable suspicion</b> means fair and practical reason to believe an incident involving <b>sexual abuse</b> has occurred.</p> </li> <li><b>you</b> have engaged or appointed the perpetrator of the <b>sexual abuse</b> as a new contractor to perform duties on <b>your</b> behalf, <b>employee</b> or <b>volunteer</b>, without making the investigations required under any legislation and pursuant to <b>your client protection policy</b>.</li> <li>the amount of the <b>compensation</b> exceeds the <b>limit of liability</b> specified in <b>your certificate of insurance</b> for <b>sexual abuse</b>.</li> </ol>
<p><b>2. Replacement Wages of Stood Down Staff Extension</b></p> <p>Reimbursement of additional salary/wages associated with engaging an additional staff member to replace an existing staff member who has been stood down whilst being investigated for allegations of <b>sexual abuse</b>.</p> <p>Provided that:</p> <ul style="list-style-type: none"> <li><b>You</b> have selected Optional Extension 1 of this <b>policy</b> and that the alleged <b>sexual abuse</b> is not excluded as detailed under "What is not covered" in Optional Exclusion 1.</li> <li>Cover only applies to the additional wages/salary costs incurred by <b>you</b> whilst the investigation is taking place and whilst both <b>employees</b> remain on <b>your</b> payroll.</li> </ul>	<p><b>We</b> will not:</p> <ul style="list-style-type: none"> <li>pay any costs beyond those incurred within a three month period from the date of the commencement of the investigation;</li> <li>pay more than \$20,000 for any one <b>claim</b> and in the aggregate for all <b>claims</b> in any one <b>period of insurance</b>.</li> </ul>

# Optional extensions

What is covered	What is not covered
<p><b>3. Medical Malpractice</b></p> <p><b>Your</b> legal liability to pay <b>compensation</b> in respect of <b>personal injury</b> caused by any act, error or omission or conduct by any nurse or other health care provider who is not required to be registered by <b>National Law</b> or any <b>volunteer</b> involving the rendering of medical services during the <b>period of insurance</b>.</p>	<p>any legal liability for <b>compensation</b> which exceeds the <b>limit of liability</b> as stated in <b>your certificate of insurance</b>, for Medical Malpractice.</p>
What is covered	What is not covered
<p><b>4. Retroactive Liability (Prior Claims Made)</b></p> <p>Where <b>you</b> have</p> <ol style="list-style-type: none"> <li>had previous continuous <b>claims</b> made public and/or <b>products</b> liability insurance cover and provided <b>us</b> with documentary evidence of <b>your</b> current retroactive date under such cover;</li> <li>provided <b>us</b> with a confirmation of no known or reported <b>claims</b> prior to the inception of this <b>policy</b>;</li> </ol> <p>then notwithstanding the requirement under this <b>policy</b> for the <b>occurrence</b> to happen during the <b>period of insurance</b>, <b>we</b> will indemnify <b>you</b> in accordance with the provisions which follow and the other applicable terms, definitions, exceptions, conditions and provisions set out in the <b>policy</b>, for <b>your</b> legal liability to pay <b>compensation</b> as a result of any <b>claim(s)</b> first made against <b>you</b> during the <b>period of insurance</b> and notified to <b>us</b> in writing during that <b>period of insurance</b> in respect of:</p> <ol style="list-style-type: none"> <li><b>personal injury</b>; and/or</li> <li><b>property damage</b>; and/or</li> <li><b>advertising injury</b>;</li> </ol> <p>happening within the <b>geographic limits</b> and caused as a result of an <b>occurrence</b> in connection with <b>your occupation</b> or <b>your products</b> during the <b>retroactive liability period</b> immediately preceding the inception of this <b>policy</b>.</p> <p>For the purpose of this extension, the following Definitions apply:</p> <p><b>known circumstance</b> means any fact, situation, event or circumstance which <b>you</b> were aware of prior to the inception of this <b>policy</b> and which a reasonable person would have considered at any time might result in a <b>claim</b> covered under a liability insurance policy.</p>	<p>the indemnity granted by this extension shall not apply to:</p> <ol style="list-style-type: none"> <li>any event or circumstance if <b>you</b> had no insurance policy in force at the time of the <b>occurrence</b>;</li> <li>a <b>claim</b> or <b>claims</b> arising from any <b>known circumstance</b>;</li> <li>any event or circumstance if written notice of such has been given and accepted under any public and/or <b>products</b> policy the term of which had expired prior to the inception of this <b>policy</b>;</li> <li>any event or circumstance where <b>you</b> would be entitled to indemnity under this <b>policy</b> solely by reason of the operation of this retroactive liability (prior <b>claims</b> made) extension and <b>you</b> would also have been entitled to indemnity under the prior <b>claims</b> made insurance or other liability insurance policy at the time of the <b>occurrence</b>, but are prevented from doing so by reason of, but not limited to:             <ol style="list-style-type: none"> <li>the inability to recover losses by virtue of exclusions or any other condition under the prior Public and/or <b>Products</b> or other liability policy;</li> <li>the inability to recover the full amount of loss by virtue of inadequate limits under the prior Public and/or <b>Products</b> or other liability policy; or;</li> <li>the failure of <b>your</b> past insurers.</li> </ol> </li> <li><b>Our</b> liability under this Retroactive Liability (Prior <b>Claims</b> Made) Extension shall not exceed the cover, <b>limit of liability</b> and <b>aggregate limit of liability</b> provided by <b>your</b> previous insurer and insurance policy at the time <b>your</b> previous insurance policy was replaced by this <b>policy</b> and is stated in <b>your certificate of insurance</b> under this Retroactive Liability (Prior <b>Claims</b> Made) Extension;</li> </ol>

# Optional extensions

What is covered	What is not covered
<p><b>4. Retroactive Liability continued.</b></p> <p><b>retroactive liability period</b> means the period of time from the date <b>you</b> started <b>your</b> business or the date <b>you</b> first purchased <b>claims</b> made public and <b>products</b> liability insurance coverage, which ever is the later, to the inception date of this <b>policy</b> during which <b>you</b> held continuous <b>Claims</b> Made Public and <b>Products</b> Liability insurance coverage.</p> <p><b>NOTE:</b></p> <ol style="list-style-type: none"> <li>If this extension is applied to <b>sexual abuse</b> cover as shown in the <b>certificate of insurance</b>, this extension does not provide cover to the actual perpetrator of any <b>sexual abuse</b>.</li> <li>If one person suffers <b>sexual abuse</b> on more than one occasion, then all acts of <b>sexual abuse</b> of this person are to be treated as one <b>occurrence</b> notwithstanding that they occurred within different <b>periods of insurance</b>.</li> </ol>	<ol style="list-style-type: none"> <li><b>Our limit of liability</b> in respect of any <b>sexual abuse claim</b> shall not exceed <b>limit of liability</b> as stated in <b>your certificate of insurance</b>, for <b>sexual abuse</b> under this Retroactive Liability (Prior <b>Claims</b> Made) Extension plus costs with an aggregate of \$2,000,000 any one <b>period of insurance</b>;</li> <li>If this extension is applied to <b>sexual abuse</b> cover, as stated in the <b>certificate of insurance</b>, 1, 2, 3.1 and 3.2 which apply to the <b>Sexual Abuse</b> Optional Extension 1 also apply to this Retroactive Liability (Prior <b>Claims</b> Made) Extension 3.</li> </ol>
<p><b>5. Contractual Liability</b></p> <p>Legal liability assumed by <b>you</b> under any contract, warranty or agreement with a Statutory Authority, Government Agency or Department that <b>you</b> will;</p> <ol style="list-style-type: none"> <li>indemnify; and/or</li> <li>not seek indemnity, recovery or contribution from;</li> </ol> <p>the Statutory Authority, Government Agency or Department , irrespective of any negligent acts, negligent omissions or negligent defaults of the Statutory Authority, Government Agency or Department, provided the contract, warranty or agreement relates to the provision of goods, services, facilities and/or funding relating to <b>your operations</b>.</p> <p>Provided this extension is subject always to the standard <b>policy</b> terms, conditions and exclusions.</p>	
<p><b>6. Member to Member Liability</b></p> <p>The definition of <b>you, your, yours</b> is extended to indemnify all members of <b>your</b> organisation, <b>your</b> guests and visitors to <b>your</b> organisation in respect of <b>claims</b> against any of them by any other member or guest or visitor to the organisation arising in connection with the activities of the organisation.</p> <p>Provided that indemnity granted to any such member shall only apply in respect of any amount in excess of that provided by any other policy of insurance under which the said member is entitled to indemnity.</p> <p>Provided this extension is subject always to the standard <b>policy</b> terms, conditions and exclusions.</p>	

# Optional extensions

What is covered	What is not covered
<p><b>7. Trauma Counselling Costs Extension</b></p> <p>Reimbursement of <b>your</b> costs to provide trauma counselling services to insured persons, <b>employees</b> or members of the public who have witnessed the accidental, unexpected and unforeseen traumatic death or significant physical impairment of a person on <b>your</b> premises or in <b>your</b> care.</p> <p>Provided that:</p> <ul style="list-style-type: none"><li>• the trauma counselling services are deemed necessary in the reasonable opinion of <b>your</b> managing director or chief executive officer to prevent damage to <b>your</b> reputation and/or to assist with prevention of long term psychological disorders.</li><li>• The trauma counselling services are being provided by a professional Trauma Counselling Service provider, independent to the insured and;</li><li>• The trauma counselling service provider is engaged within a 30 day period immediately following the day on which the event occurred.</li></ul>	<p><b>We</b> will not:</p> <ul style="list-style-type: none"><li>• pay more than \$10,000 for any one <b>claim</b> and in the aggregate for all <b>claims</b> in any one <b>period of insurance</b>.</li></ul>



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AUSPOLGPL 310313 V2.4