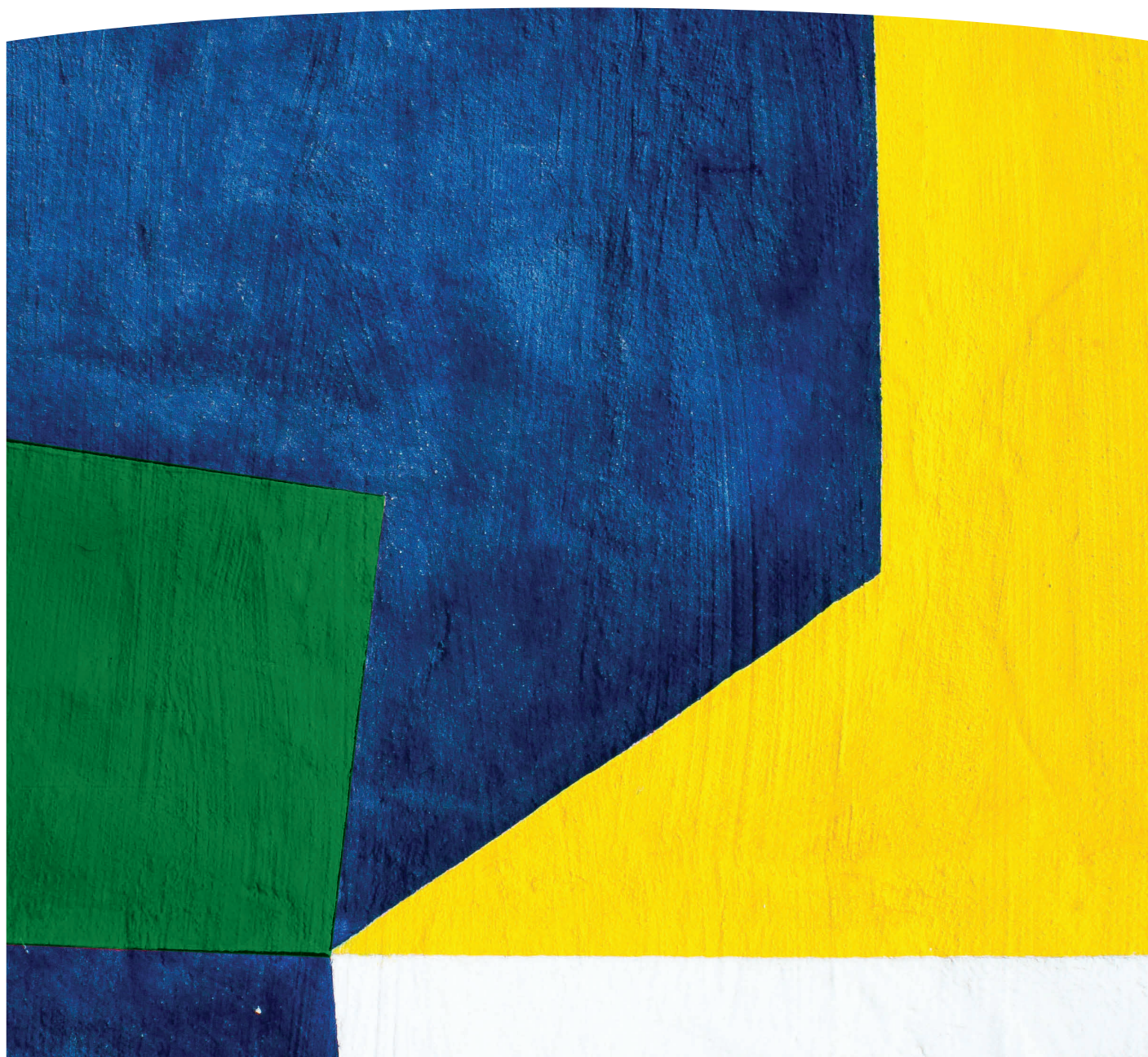


Professional Indemnity, Public & Products (Claims made) Policy Wording



General Information & Important Notices

Your Duty of Disclosure

Before You enter into an insurance contract, You have a duty to tell Us anything You know, or could reasonably be expected to know, that 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 contract.

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, You may breach Your duty of disclosure. In that event 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.

Privacy Statement

We are committed to complying with the obligations of the Privacy Act 1988 (Cth) in how We collect, hold, use and share Your personal and sensitive information. Sensitive information may include information about Your claims history, health history, memberships and criminal record.

We collect Your personal and sensitive information in order to enable Us to offer Our products and services to Our customers, assess Your application for insurance, determine whether to issue a policy and if We do so on what terms and conditions, administer and manage Our products and services, investigate and handle any claims.

We collect information from You or from Your agents. We may also collect information from Our service providers, other insurers, relevant organisations, professional bodies and from publicly available sources. We will only use Your information for the purposes for which it was collected and any other related purpose as permitted or required by law.

We may share Your information with other parties who provide services to Us or on Our behalf such as reinsurers, lawyers, claims adjusters, investigators and other parties as required by law. Some of these recipients may be located outside of Australia.

By requesting insurance from Us, renewing or using any of Our products or services You consent to the collection, use, disclosure of Your personal and sensitive information for the purposes set out in Our

privacy policy. If You do not provide all or part of the personal information required by Us We may not be able to provide You with Our products and services and You may be in breach of Your duty of disclosure.

We will ensure that Your personal information is accurate, up to date and complete. You have the right to seek access to Your personal information and correct it at any time by contacting Us. If You would like to make a complaint about how We have handled Your personal information You may contact Us at any time. Your complaint will be managed and resolved through Our internal privacy complaint procedures. For more information on this procedure please refer to Our privacy policy. Our privacy policy may be accessed at: www.eosu.com.au.

General Insurance Code of Practice

We are a signatory to the General Code of Practice and are committed to supporting its objectives. The Code aims to raise standards of practice and service in the general insurance industry. If You would like further information about the Code please contact Us. You can view the code at: www.codeofpractice.com.au.

Complaints and Dispute Resolution Process

Any inquiry or complaint relating to this insurance should be referred to Us in the first instance. We have a complaints handling and internal dispute resolution process to assist You. Information about Our complaints handling procedures is available on request.

About EOS Underwriting Pty Ltd

EOS Underwriting Pty Ltd ACN 55 624 013 029 and AFSL 506938 (also referred to as 'EOS') specialises in providing Professional Risks Insurance and General Liability Insurance to professionals in the Australian market. In arranging this insurance EOS are acting on behalf of Mitsui Sumitomo Insurance Company Limited ABN 49 000 525 637.

Subrogation waiver

If after a Claim has occurred, You have agreed to limit, exclude or prejudice Your right to seek recovery from another entity that may be liable to compensate You for any liability which is Covered under this Policy, We may not Cover You under this Policy for some or all of that liability.

Claims Made

This Policy operates on a 'claims made and notified' basis. This means that this Policy only Covers You for Claims first made against You and notified to Us during the Period of Insurance. This Policy does not provide Cover for:

- any Claim that arises out of acts, errors, omissions or conduct occurring or committed before the Retroactive Date stated in the Schedule (if such a date is actually stated);
- any Claims made, threatened or intimated against You prior to the commencement of the Period of Insurance;
- any Claims made, threatened or intimated against You after the expiry of the Period of Insurance (even if the act, error, omission or conduct giving rise to the Claim may have occurred during the Period of Insurance) unless the facts that gave rise to that Claim were notified to Us during the Period of Insurance; or
- Claims arising from facts or circumstances of which You first became aware of prior to the Period of Insurance and which You knew or ought reasonably to have known had the potential to give rise to a Claim.

Where You give notice in writing to Us of any facts or circumstances that may give rise to a Claim against You as soon as reasonably practical after You first become aware of those facts or circumstances but before the expiry of the Period of Insurance, You may have rights under Section 40(3) of the Insurance Contracts Act 1984 to be indemnified in respect of any Claim subsequently made against You arising from those facts or circumstances notwithstanding that the Claim is made after the Period of Insurance has expired. Any such rights arise under the legislation only. The terms of this Policy and the effect of this Policy is that You are not Covered for Claims made against You after the expiry of the Period of Insurance.

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Combined Professional Indemnity, Public & Products Liability Insurance

Preamble

In consideration of payment of the Premium, We agree to provide Cover subject to all of the terms, conditions, exclusions, general exclusions, limits and definitions set out in this Policy.

Section – Professional Indemnity

We will Cover You, up to the Limit of Liability, for Your civil liability to pay compensation including the claimants' costs and expenses as a result of any Claim first made against You and notified to Us during the Period of Insurance arising from the provision of the Professional Services by You.

The Cover provided under this Section includes (but is not limited to) Your civil liability as a result of a Claim for any of the following arising from the provision of the Professional Services by You:

any unintentional:

- a. **Consumer Protection**
breach of the Competition and Consumer Act 2010 (Cth), Corporations Act 2001 (Cth), National Consumer Credit Protection Act 2009 (Cth) or any Australian State or Territory fair trading legislation.
- b. **Fiduciary duty**
breach of fiduciary duty owed by You.
- c. **Intellectual Property Infringement**
infringement of copyright, patent, trademark, service mark, registered design.
- d. **Libel and Slander**
libel, slander or defamation by You.
- e. **Privacy and Confidentiality**
breach of any Australian privacy laws, including any breach of the duty of confidentiality.
- f. **Agents, Consultants and Contractors**
act, error or omission of Your agent, consultant or contractor whilst such agent, consultant or contractor is performing the Professional Services on Your behalf and for whose acts, errors or omissions You are legally liable. There is no Cover available to Your contractor, sub contractor, agent or consultant for their own legal liability arising from such act, error or omission.

Defence Costs

We agree to pay for Defence Costs arising from any Claim Covered under this Section:

Provided always that:

- i. the maximum amount We will pay in respect of any one Claim including Defence Costs shall not exceed the Limit of Liability; and

- ii. the maximum amount We will pay for all Claims, Defence Costs and all other amounts Covered under this Policy in the aggregate shall not exceed the Limit of Liability stated in the Schedule.

Limit of Liability

The Limit of Liability is the maximum amount We will pay in respect of any one Claim Covered under this Section during the Period of Insurance. The Limit of Liability in the Aggregate stated in the Schedule is the maximum amount We will pay in respect of all Claims and all other amounts Covered under this Section during the Period of Insurance.

We will not be obliged to pay any Claim or judgment nor to defend any Claim or legal action after the Limit of Liability has been exhausted by payment of any judgment, settlement, compensation amount including the claimants' costs and expenses Defence Costs or any other amounts Covered under this Section.

Automatic Extensions applicable to Section – Professional Indemnity

Each of the following automatic extensions of Cover apply subject to the Schedule, exclusions, general exclusions, general conditions, claim conditions, definitions and all other terms of this Policy. The inclusion of any automatic extension shall not increase the Limit of Liability stated in the Schedule. Where there is an applicable sublimit stated in respect of any automatic extension, then that sublimit is included within and not in addition to the Limit of Liability.

Continuous Cover

We will Cover You, up to the Limit of Liability, for Your civil liability to pay compensation including the claimants' costs and expenses as a result of any Claim made against You arising from the provision of the Professional Services by You where:

- a. You first became aware of the facts and circumstances likely to give rise to such Claim prior to the Period of Insurance; but
- b. You have not notified Us of such facts or circumstances prior to the Period of Insurance:

Provided always that:

- i. there has not been any fraudulent non-disclosure or fraudulent misrepresentation by You in respect of such facts or circumstances; and
- ii. We were Your professional indemnity insurer when You first became aware of such facts or circumstances and have continued without interruption to be Your professional indemnity insurer up until this Policy came into effect; and
- iii. if You had notified Us of such facts or circumstances when You first became aware of them, then You would have been entitled to Cover under the Policy in force at the time but are now not entitled to be Covered under that Policy; and
- iv. You would otherwise be entitled to Cover under this Policy but for the exclusion Prior or Pending; and
- v. You have not previously notified any other insurer of such facts or circumstances or the Claim.

The Limit of Liability provided for any Claim Covered by this extension is the lesser of the amount of cover available under the terms of the Policy in force at the time when You could have first notified Us and the Limit of Liability of this Policy. The terms of this Policy otherwise apply.

We may reduce the amount We pay under this extension by the amount of any prejudice We may suffer in consequence of Your failure to notify the facts or circumstances giving rise to the Claim prior to the Period of Insurance.

The Cover provided under this extension shall not be subject to exclusion Prior or Pending.

Court Attendance Costs

Where We agree to Cover You for a Claim under this Section, Your Defence Costs will include the court attendance costs of Your Principal or Employee who may be required by Us to attend court as a witness in connection with such Claim. We will pay You the following maximum rates per day per person whose attendance in court is required by Us:

- a. Your Principal - \$500; and
- b. Your Employee - \$250.

Dishonesty

We will Cover You, up to the Limit of Liability, for Your civil liability to pay compensation including the claimants' costs and expenses as a result of any Claim first made against You and notified to Us during the Period of Insurance arising from any dishonest, fraudulent, criminal or malicious act or omission by an Employee or Principal of the Named Insured in the provision of the Professional Services:

Provided always that:

there is no Cover under this extension:

- a. for any Employee, Principal of the Named Insured or any other one of You who committed or condoned, or subsequently excused, any such dishonest, fraudulent, criminal or malicious act or omission;
- b. in respect of a Claim arising from the dishonest, fraudulent, criminal or malicious act or omission of any Principal who is the sole Principal or director of the Named Insured;
- c. for any loss sustained as a result of any act or omission occurring after the date on which You first discovered or had reasonable cause for suspicion of any dishonest, fraudulent, criminal or malicious conduct on the part of the Employee or Principal of the Named Insured;
- d. in respect of a Claim arising from or in any way connected with the loss or unauthorised transfer of, money, negotiable instruments, shares, bearer bonds, coupons, stamps, bank or currency, crypto currency, electronic funds, records of any electronic funds or real property.

The Cover provided under this extension shall not be subject to general exclusion Fraud and Dishonesty.

Extended Reporting Period

In the event that this Policy is not renewed for any reason other than fraud or non payment of the Premium, then You have until such time as You effect another insurance Policy which Covers substantially the same risk as this Section, either with Us or with another insurer, or a period of sixty (60) days commencing on the day immediately following expiry of this Policy, whichever is the lesser period, to notify Us of any Claims first made against You while this Policy was in force:

Provided always that:

Cover under this extension:

- a. does not reinstate or increase the Limit of Liability or extend the Period of Insurance;
- b. will only apply to acts, errors, omissions or conduct committed or alleged to have been committed by You on or after the Retroactive Date and prior to the expiry of the Period of Insurance;
- c. does not apply if this Policy is cancelled by You or by Us.

Fines and Penalties

We will Cover You:

- a. for Defence Costs incurred in defending legal proceedings issued against You for actual or alleged breach of Australian workplace health and safety laws or environmental protection laws by You in Your provision of the Professional Services;
- b. to the extent permitted at law for any pecuniary penalty or compensatory civil penalty imposed on You arising from legal proceedings issued against You for a breach of Australian workplace health and safety laws or environmental protection laws by You in Your provision of the Professional Services;

Provided always that:

- i. the notice of such proceedings was first served on You and notified to Us during the Period of Insurance; and
- ii. We will not Cover You under this extension for any legal proceedings resulting from an act, error or omission occurring prior to the Retroactive Date.

The Cover provided under this extension shall not be subject to the following exclusions and general exclusions:

- Employers Liability;
- Fines, Penalties, Punitive, Multiple or Exemplary Damages;
- Occupier's Liability; or
- Pollution.

The maximum amount payable by Us under this extension is \$250,000 in the aggregate for all Defence Costs, pecuniary penalties or compensatory civil penalties incurred during the Period of Insurance. The Excess applicable to the Cover under this extension shall be \$1000 costs inclusive in respect of each and every Covered legal proceeding, pecuniary penalty or compensatory civil penalty.

Good Samaritan Acts

We will Cover You, up to the Limit of Liability, for Your civil liability to pay compensation including the claimants' costs and expenses as a result of any Claim first made against You and notified to Us during the Period of Insurance arising from the provision of or failure to provide first aid or medical assistance at the scene of an unforeseen emergency:

Provided always that:

the aid or assistance or failure to provide aid or assistance is:

- a. given without expectation of payment or reward;
- b. Your presence at the unforeseen emergency is by chance or in response to an emergency call.

Inquiry Costs

We will Cover Your Inquiry Costs incurred by Us or by You with Our prior written consent for Your representation at any Inquiry:

Provided always that:

the notice from an Inquiring Body requiring Your response or attendance at the Inquiry was first served upon You and notified to Us during the Period of Insurance.

The maximum amount payable by Us under this extension is \$250,000 in the aggregate for any one Inquiry and all Inquiries Covered during the Period of Insurance. No Excess will apply to this extension.

Joint Venture Liability

We will Cover You, up to the Limit of Liability, for Your civil liability to pay compensation including the claimants' costs and expenses as a result of any Claim first made against You and notified to Us during the Period of Insurance arising from the provision of the Professional Services by You as a partner in a joint venture. There is no Cover available under this extension for any of the other joint venture partners.

Locum Tenens

We will Cover Your Locum Tenens, up to the Limit of Liability, for their civil liability to pay compensation including the claimants' costs and expenses as a result of any Claim first made against such Locum Tenens and notified to Us during the Period of Insurance arising from the provision of the Professional Services by Your Locum Tenens on Your behalf.

Loss of Documents

In the event of the unintentional physical loss of or unintentional physical damage to Documents belonging to You or which are in Your care, custody or control in the provision of the Professional Services by You, We will Cover You for the reasonable costs and expenses incurred by You in replacing or restoring any such Documents:

Provided always that:

- i. such physical loss of or damage to Documents occurred and was first discovered by You, during the Period of Insurance;
- ii. You have notified Us as soon as reasonably practicable prior to the expiry of the Period of Insurance; and

- iii. in respect of any Documents held in electronic format, You had in place at the time of the physical loss or damage, proper procedures for the security and daily back-up of such Documents.

There is no Cover under this extension for physical loss or damage to Documents or Data:

- i. directly or indirectly arising out of any computer virus, vermin activity, mould, mildew, any wear or tear or other gradual operational deterioration however caused; or
- ii. occurring outside the territorial limits of Australia.

The maximum amount payable by Us under this extension is \$500,000 in the aggregate for all costs and expenses Covered during the Period of Insurance. No Excess will apply to this extension.

Merger, Takeover, Winding Up

If during the Period of Insurance You are subject to a merger, takeover, sale or winding up, then the Cover provided under this Section shall continue until the expiry of this Policy, but shall apply only in respect of Claims resulting from Professional Services provided by You prior to the date of the merger, takeover, sale or winding up.

New subsidiary

We will Cover any Subsidiary Company newly acquired or created by You during the Period of Insurance:

Provided always that:

Cover will only extend for:

- a. a maximum period of 60 days from the date of its acquisition or creation by You but in no circumstances shall Cover extend beyond the expiry date of the Period of Insurance; and
- b. Claims arising from an act, error or omission in the provision of the Professional Services by such Subsidiary Company on or after the date of its acquisition or creation by You.

At Our sole discretion, We may extend Cover to the Subsidiary Company newly acquired or created by You during the Period of Insurance to the expiry date of this Policy. In order to consider doing so, We may require additional information relating to such Subsidiary Company which You must supply to Us at Our request and pay any additional Premium We may require.

Past Subsidiary

We will Cover those entities which were a Subsidiary Company of Yours but are now no longer Your Subsidiary Company in respect of their civil liability to pay compensation including the claimants' costs and expenses as a result of any Claim first made against such former Subsidiary Company and notified to Us during the Period of Insurance. Cover under this extension is limited to the provision of the Professional Services by Your former Subsidiary Company prior to the date when it ceased to be Your Subsidiary Company.

There is no Cover under this extension for any Claim arising from an act, error or omission that occurred on or after the date such subsidiary ceased to be Your Subsidiary Company or ceased to trade.

Public Relations Cover

We will Cover You for the Public Relations Expense of independent and qualified public relations consultants engaged by You with Our prior written consent (which shall not be unreasonably withheld), for the sole purpose of protecting Your professional reputation which has been significantly impaired as a direct result of a Claim Covered under this Section.

The maximum amount payable by Us under this extension is \$50,000 in the aggregate for all Public Relations Expense incurred in respect of any one Claim and all Claims Covered during the Period of Insurance. The Excess applicable to the Cover under this extension shall be \$1000 costs inclusive for Public Relations Expense incurred in respect of each and every Covered Claim.

Reinstatement

In the event that the Limit of Liability set out in the Schedule has been entirely exhausted during the Period of Insurance by a Claim, Claims, Defence Costs or any other amounts Covered under this Policy, then the Limit of Liability will be reinstated twice for any subsequent Claim or Claims Covered under this Section:

Provided always that:

- a. such reinstatement will only apply to subsequent Claims and Defence Costs arising from acts, errors or omissions entirely separate from and unrelated to those acts, errors and omissions that gave rise to the Claim, Claims and Defence Costs that We have already agreed to Cover and which have reduced or exhausted the Limit of Liability; and
- b. We agree to just two full reinstatements of the aggregate Limit of Indemnity stated in the Schedule for Section – Professional Indemnity during the Period of Insurance; and
- c. there shall be no reinstatement of any sublimit.

Students

We will Cover Your Student Practitioner, up to the Limit of Liability, for their civil liability to pay compensation including the claimants' costs and expenses as a result of any Claim first made against such Student Practitioner and notified to Us during the Period of Insurance arising from the provision of the Professional Services for You by Your Student Practitioner.

Vicarious Liability for Medical Practitioners

We will Cover You, up to the Limit of Liability, against Your civil liability to pay compensation including the claimants' costs and expenses as a result of any Claim first made against You and notified to Us during the Period of Insurance arising from Your vicarious liability for an act, error or omission committed or alleged

to have been committed by a Medical Practitioner providing Professional Services for You or on Your behalf:

Provided always that:

there is no Cover available under this extension for the Medical Practitioner's own liability in respect of a Claim.

Optional Extensions applicable to Section – Professional Indemnity

Each of the following optional extensions of Cover apply only if noted in the Schedule as included under Section – Professional Indemnity. If the optional extension is noted as included the Cover is subject to the Schedule, exclusions, general exclusions, general conditions, claim conditions, definitions, and all other terms of this Policy. The inclusion of any optional extension shall not increase the Limit of Liability stated in the Schedule. Where there is an applicable sublimit stated in respect of any optional extension, then that sublimit is included within and not in addition to the Limit of Liability.

Agent, Consultant and Contractor Cover

Notwithstanding anything to the contrary expressed elsewhere in this Policy, We will Cover the agent, consultant or contractor of the Named Insured, up to the Limit of Liability, for their civil liability to pay compensation including the claimants' costs and expenses as a result of any Claim first made against such agent, consultant or contractor and notified to Us during the Period of Insurance arising from the provision of the Professional Services for the Named Insured by such agent, consultant or contractor:

Provided always that:

the act, error or omission giving rise to the Claim occurred at the time when such agent, consultant or contractor was under the direct control and supervision of the Named Insured.

Fidelity

Where Fidelity Cover is noted as included in the Schedule, We will Cover the Named Insured against loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes belonging to the Named Insured or for which the Named Insured is legally liable, where such loss results directly from the dishonest or fraudulent act or omission of any Employee:

Provided always that:

- a. such loss is first discovered by the Named Insured during the Period of Insurance and notified to Us in writing as soon as reasonably practicable after the date of such discovery (but never beyond the expiry date of the Period of Insurance);
- b. there is no Cover for loss sustained in consequence of any dishonest or fraudulent act or omission occurring after discovery by You or after You had reasonable cause for suspicion of any dishonest or fraudulent conduct on the part of the Employee concerned;
- c. there is no Cover available to any of You committing or condoning any dishonest or fraudulent act or omission;

- d. there is no Cover for any indirect or consequential losses of any nature, including but not limited to liability to any third party, damages, interest or Your trading losses; and
- e. You will at Your own cost substantiate the loss claimed under this extension. We will be under no obligation to provide Cover for loss until We are satisfied that such loss has in fact been sustained.

The maximum amount payable by Us under this extension is \$50,000 in the aggregate for all loss Covered during the Period of Insurance. An Excess of \$1000 costs inclusive will apply to each and every loss incurred by the Named Insured.

Multi Year Run off

Where the Multi Year Run Off Cover is noted as included in the Schedule, and if during the Period of Insurance You are subject to a merger, takeover, sale or winding up, then We will Cover You for an additional period of up to six (6) years beyond the expiry of the Period of Insurance but only in respect of the Cover provided under this Section for any Claim or Inquiry first made against You and notified to Us on or after Your merger, takeover, sale or winding up:

Provided always that:

Cover under this extension is available only if:

- a. You provide Us with written notice of Your merger, takeover, sale or winding up prior to the expiry of the Period of Insurance;
- b. You have been insured with Us for a period of at least 12 months immediately prior to Your merger, takeover, sale or winding up;
- c. at Our sole discretion, We have confirmed in writing prior to the expiry of the Period of Insurance that You are Covered under this extension;
- d. You pay Us any additional Premium We may require and agree to any additional terms, conditions or Excess We may impose; and
- e. the Claim or Inquiry arises out of an act, error, omission or conduct occurring prior to the date of Your merger, takeover, sale or winding up.

Cover under this extension ceases:

- i. if You are no longer subject to a merger, takeover, sale or winding up;
- ii. if another insurance policy is arranged to insure You for any liability arising from Your merger, takeover, sale or winding up; or
- iii. the Policy is cancelled by Us including the Multi Year Run Off Cover.

Sexual Misconduct Defence Costs

If the Sexual Misconduct Defence Costs extension is noted as included in the Schedule, We will reimburse You for Your reasonable Defence Costs incurred by You with Our prior written consent, for Your successful defence of any Claim or Inquiry first made against You and notified to Us during the Period of Insurance arising from any actual or alleged molestation, interference with, mental or physical abuse of any patient of the Named Insured by Your Employee or Principal directly out of the provision of the Professional Services by You:

Provided always that:

reimbursement of Your Defence Costs under this extension is available if and when:

- a. in respect of a Claim, there is a final judgment in favour of Your Employee or Principal; or
- b. in respect of an Inquiry, You have been exonerated and no finding of professional misconduct has been made against Your Employee or Principal or the Inquiry has been permanently discontinued; and
- c. all appeal rights of any party in relation to the allegations made against Your Employee or Principal have been exhausted.

There is no Cover under this extension for:

- i. any of Your Employees or Principals who have perpetrated any such molestation, interference with, mental or physical abuse of any patient of the Named Insured;
- ii. You if by act or omission You have committed or condoned such molestation, interference with, mental or physical abuse of any patient of the Named Insured; or,
- iii. any Claim or Inquiry directly or indirectly related to any matter, evidence, investigation, fact, finding or recommendation arising from any Royal Commission.

The maximum amount payable by Us under this automatic extension is \$50,000 for any one Claim or Inquiry and all Claims and Inquiries in the aggregate Covered under this extension during the Period of Insurance. No Excess will apply to this extension. The Cover provided under this extension shall not be subject to exclusion Fraud and Dishonesty.

Exclusions applicable to Section – Professional Indemnity

Section – Professional Indemnity does not Cover and We will not be liable for any Claim, Inquiry, liability, loss, Defence Costs, cost, expense, penalty or any other amount claimed under this Section, directly or indirectly arising out of, related to, or in any way connected with:

Directors and Officers, Trustee Liability

Your acting in the capacity of:

- a. a director, secretary or officer of any company, association or other legal entity; or
- b. a trustee of any superannuation fund.

Occupier's Liability

Your occupation, lease, control or ownership of any real property.

Product

the manufacture, preparation, recall, modification, repair, installation of goods or products by You or on Your behalf other than the sale or supply of any goods or products directly in connection with the provision of the Professional Services.

Section – Public and Products Liability

We will Cover You for Your legal liability to pay compensation including the claimants' costs and expenses in respect of any Claim for:

- a. Personal Injury;
- b. Property Damage; or
- c. Advertising Injury,

where such Claim is first made against You and notified to Us during the Period of Insurance as a result of an Occurrence happening in connection with Your Business or with the nature, condition or quality of Your Products.

Defence Costs

We agree to pay for Defence Costs arising from any Claim Covered under this Section:

Provided always that:

- i. the maximum amount We will pay in respect of any one Claim including Defence Costs shall not exceed the Limit of Liability; and
- ii. the maximum amount We will pay for all Claims, Defence Costs and all other amounts Covered under this Policy in the aggregate shall not exceed the Limit of Liability stated in the Schedule.

Limit of Liability

The Limit of Liability is the maximum amount We will pay in respect of any one Claim Covered under this Section during the Period of Insurance. The Limit of Liability in the Aggregate stated in the Schedule is the maximum amount We will pay in respect of all Claims and all other amounts Covered under this Section during the Period of Insurance.

We will not be obliged to pay any Claim or judgment nor to defend any Claim or legal action after the Limit of Liability has been exhausted by payment of any judgment, settlement, compensation amount including the claimants' costs and expenses Defence Costs or any other amounts Covered under this Section.

Automatic extensions applicable to Section – Public and Products Liability

Each of the following automatic extensions of Cover apply to this Section subject to the Schedule, exclusions, general exclusions, general conditions, claim conditions, definitions, and all other terms of this Policy. The inclusion of any automatic extension shall not increase the Limit of Liability stated in the Schedule. Where there is an applicable sublimit stated in respect of any automatic extension, then that sublimit is included within and not in addition to the Limit of Liability.

Continuous Cover

We will Cover You for Your legal liability to pay compensation including the claimants' costs and expenses in respect of any Claim for Personal Injury, Property Damage or Advertising Liability where such Claim is made against You during the Period of Insurance as a result of an Occurrence:

- a. You first became aware of prior to the Period of Insurance ; and
- b. You have not notified Us of such Occurrence prior to the Period of Insurance; and
- c. such Occurrence happened in connection with Your Business or the nature, condition or quality of Your Products:

Provided always that:

- i. there has not been any fraudulent non-disclosure or fraudulent misrepresentation by You in respect of such Occurrence; and
- ii. We were Your public and products liability insurer when You first became aware of such Occurrence; and
- iii. We have continued without interruption to be Your public and products liability insurer up until this Policy came into effect; and
- iv. if You had notified Us of such Occurrence when You first became aware of that Occurrence, then You would have been entitled to Cover under the Policy in force at the time but are now not entitled to be Covered under that Policy; and
- v. You would otherwise be entitled to Cover under this Policy but for the exclusion Prior or Pending; and
- vi. You have not previously notified Us or any other insurer of such Occurrence or the Claim; and
- vii. if You were entitled to have given notice under any other policy of insurance not issued by Us and did not do so, then this extension does not apply to provide Cover under this Policy.

The Limit of Liability provided for any Claim Covered by this extension is the lesser available under the terms of the Policy in force at the time when You could have first

notified Us and the Limit of Liability of this Policy. The terms of this Policy otherwise apply.

We may reduce the amount We pay under this extension by the amount of any prejudice We may suffer in consequence of Your failure to notify such Occurrence giving rise to the Claim prior to the Period of Insurance.

The Cover provided under this automatic extension shall not be subject to exclusion Prior or Pending.

Court Attendance Costs

Where We agree to Cover You for a Claim under this Section, Your Defence Costs will also include the court attendance costs of Your Principal or Employee who may be required by Us to attend court as a witness in connection with such Claim. We will pay You the following maximum rates per day per person whose attendance in court is required by Us:

- a. Your Principal - \$500; and
- b. Your Employee - \$250.

Locum Tenens

We will Cover Your Locum Tenens for their legal liability to pay compensation including the claimants' costs and expenses in respect of any Claim for:

- a. Personal Injury;
- b. Property Damage; or
- c. Advertising Injury

where such Claim is first made against Your Locum Tenens and notified to Us during the Period of Insurance as a result of an Occurrence happening in connection with Your Business or with the nature, condition or quality of Your Products.

New subsidiary

We will extend Cover under this Section to any Subsidiary Company newly acquired or created by You during the Period of Insurance:

Provided always that:

Cover will only extend for:

- a. a period of 60 days from the date of its creation or acquisition by You but in no circumstances shall Cover extend beyond the expiry date of the Period of Insurance; and
- b. any Personal Injury, Property Damage or Advertising Injury happening on or after the date of the Subsidiary Company's creation or acquisition by You and before the expiry of the Period of Insurance.

At Our sole discretion, We may extend Cover to the Subsidiary Company newly acquired or created by You during the Period of Insurance to the expiry date of this Policy. In order to do so, We may require additional information relating to such Subsidiary Company which You must supply to Us on Our request and pay any additional Premium We may require.

Reinstatement

In the event that the Limit of Liability set out in the Schedule has been entirely exhausted during the Period of Insurance by a Claim, Claims, Defence Costs or any other amounts Covered under Section – Public Liability, then the Limit of Liability will be reinstated twice for any subsequent Claim or Claims Covered under Public Liability:

Provided always that:

- a. such reinstatement will only apply to subsequent Claims and Defence Costs arising from acts, errors or omissions entirely separate from and unrelated to those acts, errors and omissions that gave rise to the Claim, Claims and Defence Costs that We have already agreed to Cover and which have reduced or exhausted the Limit of Liability; and
- b. We agree to just two full reinstatements of the aggregate Limit of Indemnity stated in the Schedule for Public Liability only during the Period of Insurance;
- c. there shall be no reinstatement of any sublimit under this Policy; and
- d. there is no reinstatement of the original Limit of Liability available for any Claim or Claims Covered under Section – Products Liability.

Vicarious Liability for Student Practitioners, Agents and Contractors

We will Cover You for Your legal liability to pay compensation including the claimants' costs and expenses in respect of any Claim for:

- a. Personal Injury;
- b. Property Damage; or
- c. Advertising Injury

which arises from Your vicarious liability for the conduct of Your Locum Tenens, Student Practitioners, consultants, agents or contractors other than a Medical Practitioner, as a result of an Occurrence happening in connection with Your Business or with the nature, condition or quality of Your Products:

Provided always that:

such Claim is first made against You and notified to Us during the Period of Insurance.

Exclusions applicable to Section – Public and Products Liability

Section – Public and Products Liability does not Cover and We will not be liable for any Claim, liability, loss, Defence Costs, cost, expense or any other amount claimed under this Section, directly or indirectly arising out of, related to, or in any way connected with:

Advertising Injury

Advertising Injury arising from:

- a. acts committed or alleged to have been committed prior to the Period of Insurance;
- b. statements or publications made by You or at Your direction with knowledge that such statements or publications are false;
- c. failure of performance of contract other than Claims for unauthorised appropriation of advertising ideas under an implied contract;
- d. incorrect description in the advertised price of Your Products, goods or services;
- e. infringement of trade mark, service mark or trade name, apart from infringement of titles or slogans;
- f. failure of Your Products or services to conform with advertised performance, quality, fitness or durability;
- g. liability incurred by You if Your Business is that of advertising, broadcasting, publishing or telecasting.

Defamation, Libel, Slander

the publication or utterance of defamatory or disparaging material:

- a. made prior to the Period of Insurance;
- b. made by You or at Your direction with knowledge of its falsity; or
- c. related to advertising, broadcasting or telecasting activities conducted by You or on Your behalf.

Electronic Data

- a. total or partial destruction, distortion, erasure, corruption, alteration, misuse, misinterpretation or misappropriation or other use of Electronic Data;
 - b. error in creating, amending, entering, deleting or using Electronic Data; or
 - c. total or partial inability or failure to receive, send, access or use Electronic Data for any time at all,
- from any cause whatsoever, regardless of any other contributing cause or event contributing concurrently or in sequence.

Faulty Workmanship

the cost of rectifying, correcting, completing, improving or remedying any defects of workmanship or materials in work performed by You or on Your behalf.

Loss of Use

any loss of use of tangible property which has not been physically injured, lost or destroyed as a result of:

- a. a delay in or lack of performance by You or on Your behalf of any contract or agreement; or
- b. the failure of Your Products to meet the level of performance, quality, fitness or durability warranted or represented by You.

However clause b) of this exclusion does not apply to the loss of use of other tangible property resulting from the sudden, unexpected and unintended physical damage to or loss or destruction of Your Products after such products have been put to use by any person or organization other than You.

Product Defect

Property Damage to Your Products if such damage is caused by or attributable to any defect contained within them or to their harmful nature or unsuitability for intended purpose.

However this exclusion is limited to the defective, harmful or unsuitable part of Your Product and shall not apply to any resultant damage caused to the remainder of Your Product.

Product Recall

any recall, withdrawal, inspection, repair, replacement, removal or disposal of including the making of any refund on the purchase price paid in respect of:

- a. any of Your Products; or
- b. any property of which Your Products form a part of,

if withdrawn from the market or from use because of any known or suspected defect, deficiency or dangerous condition in them.

Professional Liability

the rendering of or failure to render professional advice or service by You other than advice provided by You in respect of the use or storage of Your Products.

Pandemic

We shall not be liable to indemnify the Insured in respect of any claim, liability, loss, cost, expense, Fine or Penalty directly or indirectly arising out of, related to, or in connection with a Listed Human Disease or any directly or indirectly related condition or threat or fear thereof (whether actual or perceived).

Listed Human Disease shall mean any disease declared to be a listed human disease under the Biosecurity Act 2015 (Cth) or its current equivalent, as amended or replaced from time to time, or any infectious disease that is declared a pandemic by the World Health Organisation.

General Exclusions

This Policy does not Cover and We will not be liable for any Claim, Inquiry, liability, loss, Defence Costs, cost, expense, penalty or any other amount claimed under this Policy directly or indirectly arising out of, related to, or in any way connected with:

Abuse

actual or alleged physical or sexual abuse, molestation, harassment, assault or interference of any person by You or others acting on Your behalf.

However this exclusion shall not apply to the extent that Cover is specifically available under optional extension Sexual Misconduct Defence Costs.

Asbestos

the existence or presence of asbestos in whatever form or quantity and however arising.

Childbirth

the provision of or failure to provide any obstetric or midwifery services.

Clinical Trials

Your participation in or sponsorship of any clinical trial unless specifically stated as Covered by Endorsement in the Schedule.

Contract works

any alteration, addition, renovation, construction, erection, demolition work to any building or structure of any kind by You or on Your behalf where the total contract or estimated value of all works and activities forming part of one project or series of related projects exceeds \$250,000.

Contractual Liability

any duty, obligation or liability assumed by You under any contract, warranty, guarantee, indemnity, release, hold harmless or agreement unless such duty, obligation or liability would have attached to You in the absence of such contract, warranty, guarantee, indemnity, release, hold harmless or agreement:

Provided always that:

this exclusion shall not apply to:

- a. liability assumed under any statutory guarantee of fitness or quality regarding Your Products as required under Australian law; or
- b. liability We have specifically agreed to in writing and stated in the Schedule.

Employer's Liability

- a. Personal Injury (including mental injury) or death of any Employee sustained during the course of their employment with You or whilst under Your direction, control or supervision;
- b. liability imposed under any worker's compensation legislation, industrial award or agreement;

- c. a breach of duty owed by You as an employer to Your Employee; or
- d. any liability relating to Employment Practices unless otherwise stated in the Schedule.

Fines, Penalties, Punitive, Multiple or Exemplary Damages

- a. fines or penalties;
- b. punitive, aggravated, multiple, exemplary or liquidated damages; or
- c. non compensatory damages.

Fraud and Dishonesty

any actual or alleged:

- a. dishonest, fraudulent, criminal or malicious act, error, omission or conduct;
- b. wilful or intentional breach of statute, regulation, contract or duty at law; or
- c. conduct intended to cause harm, loss, damage or injury to a third party or conduct committed with a reckless disregard for the consequences,

by You or any third party for whose acts, errors, omissions or conduct You are legally liable for.

Insolvency

Your insolvency, bankruptcy or liquidation.

Intoxication

any act, error or omission by You or other person acting on Your behalf while under the influence of alcohol, intoxicants or narcotics.

Jurisdictional and Territorial Limits

- a. any act, error, omission or Occurrence happening in the United States of America or Canada or their dominions or protectorates;
- b. any legal proceeding, arbitration, mediation, action or matter of any nature brought in a court of the United States of America or Canada or their dominions or protectorates;
- c. the enforcement of any judgment, order, award or legal action determined by any court in the United States of America or Canada or their dominions or protectorates; or
- d. any legal proceeding, arbitration, mediation, action or matter of any nature brought in a court where We are legally prohibited from providing insurance or Cover to You in the applicable jurisdiction.

Medical Practitioners

any act, error or omission of a Medical Practitioner whilst acting in their capacity as a qualified Medical Practitioner other than as specifically permitted under Section – Professional Indemnity extension Vicarious Liability for Medical Practitioners.

Nuclear Risks

- a. ionizing radiation or contamination by radioactivity from any nuclear fuel or from nuclear waste or from the combustion of nuclear fuel;
- b. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear installation, nuclear reactor, nuclear assembly, nuclear weapon or component thereof; or
- c. the radioactive, toxic, explosive or hazardous properties of any radioactive material.

Pollution

- a. the actual or threatened discharge, dispersal, release, migration, presence or escape of any Pollutant; or
- b. the prevention, testing, removal, containment, treatment or cleanup of any contamination or pollution caused by any Pollutant.

Prior or Pending

- a. any Claim or notice of Inquiry first made or served on You or threatened against You or others Covered under this Policy, at any time prior to the Period of Insurance;
- b. a fact, matter or circumstance, known to You or known to others Covered under this Policy, prior to the commencement of the Period of Insurance, that You or such others recognised or a reasonable person in the circumstances would have recognised as facts, matters or circumstances which might give rise to a Claim, Inquiry or any other claim under this Policy; or
- c. any Claim, Inquiry, fact, matter or circumstance which may give rise to a Claim or Inquiry, which You have previously notified to Us prior to the Period of Insurance, whether in the Proposal or otherwise;
- d. any Claim, Inquiry, fact, matter or circumstance notified by You to any other insurer prior to the Period of Insurance.

Professional Registration Breach

any Professional Services provided by You at a time when You were not registered to practice the Professional Services as required under Australian law.

Property in Care, Custody or Control

any Property Damage to property owned, leased, rented by You or in Your physical or legal care, custody, control or possession.

Related Entities

any Claim or Inquiry made against You brought by or on behalf of any:

- a. other one of You;
- b. entity which is owned, managed, operated, controlled by You or related to You;

- c. of Your joint venture partners;
- d. trust in which any of You have a direct or indirect financial interest, whether as a beneficiary or otherwise.

Retroactive Date

any act, error, omission, conduct committed or Occurrence happening prior to the Retroactive Date (if any) stated in the Schedule.

Toxic Mould

toxic mould of any kind.

Trading Debts

- a. the refund of professional fees, commissions, disbursements, charges or any other consideration paid to You or due to You;
- b. trading losses, trading costs or trading debt incurred by You;
- c. any guarantee given by You for the repayment of any loan or other debt;
- d. cost guarantees, contract price estimates or cost estimates being exceeded; or
- e. cost and expenses incurred by You in complying with any contractual obligations.

Transport

Your ownership, possession, use, operation or legal control of any:

- a. any Aircraft or Aircraft landing area including any land, building or structure in an area where Aircraft take off, are housed, maintained, operated, refuelled or stored; or
- b. any Watercraft, Hovercraft, railway, tram, tramway, trolleybus or Vehicle.

War, Terrorism

- a. any act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss, damage, illness, injury, death, cost or expense including any action taken in controlling, preventing, suppressing, retaliating against or responding to any act of Terrorism; or
- b. any war, invasion, acts of foreign enemies, civil or military uprisings, hostilities (even if war is not declared), civil war, mutiny, civil commotion, coup, rebellion, revolution, insurrection, military or usurped power, confiscation, nationalisation, requisition, looting, sacking or pillage, destruction of or damage to property by or under the order of any government or local authority.

General Conditions

The following general conditions apply to the Cover under this Policy.

Alteration to Risk

You must advise Us as soon as reasonably practicable of any material change in the risk during the Period of Insurance. A material change to the risk consists of:

- a. Your becoming insolvent or going into bankruptcy, liquidation, administration or receivership;
- b. any advice, activities or Professional Services provided by You which are materially different from those You have declared to Us in the Proposal;
- c. the cancellation, lapse or conditions imposed on Your licence, registration or authority to practice the Professional Services;
- d. changes to the nature of Your Business or Your Products which make it or them materially different from those You have previously disclosed to Us.

Where such notice is given and/or where there is any material alteration to the risk, We will be entitled to cancel this Policy in accordance with the Insurance Contracts Act 1984 (Cth) or to alter the Premium and/or the terms of this Policy.

Assignment of interest

This Policy and any rights under it cannot be assigned by You without Our prior written consent.

Authorisation

The Named Insured stated in the Schedule is responsible and authorised to act on behalf of all persons or entities Covered under this Policy with respect to the giving and receiving of any notice under or in connection with this Policy including and not limited to: cancellation notices, payment of or receive the return of the Premium, negotiate and accept Endorsements. Any notification of such which We receive from the Named Insured and any negotiation, consent or agreement with respect to the same shall bind all Insureds and any persons entitled to the benefit of Cover under this Policy, equally.

Cancellation

You may cancel this Policy at any time by providing notice in writing to Us. We will allow a pro rata refund of the Premium for the unexpired Period of Insurance less an administration fee of \$250 plus statutory charges, which We will retain.

We may cancel this Policy in accordance with the provisions of the Insurance Contracts Act 1984. Where We do so We will provide You with a pro rata refund of the Premium for the unexpired Period of Insurance.

If a Claim or circumstances that may give rise to a Claim has been notified to Us during the Period of Insurance under this Policy, We will not be obliged to refund any part of the Premium to You in the event of cancellation of this Policy by You or by Us.

Excess

Our liability to pay any amount under this Policy shall be limited to that amount (up to the available Limit of Liability) above the Excess stated in the Schedule. The Excess must be paid by You and shall be applicable to each and every Claim or other amount Covered under this Policy. We will have no liability whatsoever for the amount of any Excess.

Where the Excess is stated in the Schedule as 'costs inclusive', You must pay the Excess amount in respect of any compensation, claimant's costs and expenses and Your Defence Costs. Where the Excess amount is stated in the Schedule as 'costs exclusive', You must pay the Excess amount in respect of any compensation and the claimant's costs and expenses.

Governing Law

This Policy is to be governed by Australian law. Any dispute arising under this Policy shall be determined by Australian courts and in accordance with the laws of the State or Territory of Australia where this Policy was issued.

GST Basis of Settlement

- a. Where We make a payment under this Policy for the acquisition of goods, services or other supply, We will reduce the amount of the payment by the amount of any input tax credit that You are, or will be, or would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 (Cth) in relation to that acquisition, whether or not that acquisition has been made.
- b. Where We make a payment under this Policy as compensation instead of payment for the acquisition of goods, services or other supply, We will reduce the amount of the payment by the amount of any input tax credit that You are, or will be, or would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 (Cth) had the payment been applied to acquire such goods, services or other supply.
- c. Where You are entitled to claim an input tax credit under A New Tax System (Goods and Services Tax) Act 1999 (Cth) in respect of Your payment of the Excess, then the monetary amount of the Excess shall be net of any entitlement You have to the input tax credit.

Hazardous Goods

You may only use and store hazardous goods and substances in Your Business in accordance with relevant legislation.

Heirs, Estates and Legal Representatives

In the event of Your death, legal incompetency, insolvency or bankruptcy, We will provide Cover to Your estate, heirs, legal representatives or assigns to the same extent as Cover would otherwise have been available to You under this Policy. This extension does not provide Cover for any act, error or omission on the part of the estate, heirs, legal representatives or assigns themselves.

Inspection of Property, Books and Records

We will be permitted but not obligated to inspect Your Business property and operations at any time during the Period of Insurance and after providing You with reasonable notice, with any such inspection restricted to matters that relate to this Policy. Neither Our right to inspect nor Our failure to inspect nor the making of any inspection or reporting of an inspection shall constitute an undertaking by Us on Your behalf or for Your benefit to determine or warrant that such property or operations are safe or compliant with relevant legislation.

We may examine and audit Your books and records at any time during the Period of Insurance after providing you with reasonable notice. Such examination and audit will be restricted to matters that relate to this Policy.

Medical Practitioners

You must ensure that all Medical Practitioners are covered under their own medical malpractice policies for any claims made against such Medical Practitioner arising from Professional Services or work performed by them for or on Your behalf.

Multiple Claims

Where two or more Claims arise out of or in connection with a single act, error or omission, or a series of related acts, errors or omissions, or are consequent upon or attributable to one source or original cause then all such Claims will constitute one Claim under this Policy and one Excess shall apply to that Claim and the maximum amount payable by Us shall be the Limit of Liability in relation to that Claim.

Reasonable care

You must:

- a. exercise reasonable care that only competent Employees are employed by You and take all reasonable measures to maintain all Your Business premises, fittings and plant in good order and condition;
- b. take all reasonable precautions to prevent Personal Injury and Property Damage and ensure that Your Employees comply with all relevant legislation enacted for the safety of persons or property;
- c. take all reasonable precautions to ensure that Your Products are free from defects, and at Your own expense take any action to trace, recall or modify any of Your Products containing any defect or deficiency of which You have knowledge or have reason to suspect such defect or deficiency.

Payments in Australian currency

Payment of all Premiums, Limit of Liability, Excess and all other amounts referred to in this Policy must be paid in Australian currency only.

Policy construction and interpretation

The headings used in this Policy are used for description only and do not form part of this Policy for the purposes of its interpretation and construction.

In this Policy a reference to the masculine includes the feminine and the singular includes the plural and vice versa.

Premiums

The Cover We provide is subject to full payment of the Premium stated in the Schedule. There is no Cover under this Policy if You do not pay Your Premium in full.

Severability and non-imputation

Where this Policy Covers more than one entity or party, any failure on the part of any entity or party to comply with:

- a. the duty of disclosure under the Insurance Contracts Act 1984; and/or
- b. any of the provisions of this Policy,

shall not prejudice the right to Cover of any other remaining party or entity who is an Insured under the Policy where such other remaining party or entity is innocent of and has no prior knowledge of any such failure.

Waiver of Rights and Subrogation

No provision of this Policy shall be considered to have been waived by Us unless We have expressly stated in writing the provision is to be waived by Us.

Where We make any payment under this Policy to You or on Your behalf, We will be subrogated to all rights of recovery that any of You may have against any person or entity. At Our request You will provide Us with all reasonable assistance required by Us in the exercise of any right of recovery We undertake in Your name. You must refrain from doing anything, which may prejudice or limit in any way Our actual or potential rights of recovery against any person or entity. Should we recover a sum in excess of the amount we have paid You we will account to You for the balance, less our costs of recovery.

Claim Conditions

The following claims conditions apply to the Cover under this Policy.

Admission of liability

You must not, without Our prior written consent, make any admission of liability or any offer, promise, settlement or payment in connection with any Claim, Inquiry or any other matter claimed under this Policy.

Claims control and conduct

We may at any time and at Our full discretion take over and conduct in Your name the defence, settlement or mitigation of any Claim, Inquiry or any other matter claimed under this Policy, for which we have undertaken to provide you with a full indemnity. We will then have sole control and discretion with respect to that Claim, Inquiry or matter. We reserve Our rights under this Policy including Our right to agree or deny Cover while We investigate a Claim, Inquiry or any other matter claimed under this Policy.

Claims co-operation and mitigation

Each of You must at Your own cost and upon Our request provide all the information and assistance We require in order for Us to:

- a. investigate, defend or mitigate any Claim, Inquiry or other matter claimed under this Policy;
- b. determine Our liability under this Policy.

You must use due diligence and do all that is reasonably practical to avoid or lessen Your liability in relation to a Claim or Inquiry.

Legal Privilege & Confidentiality

If We instruct lawyers to act on your behalf under the Claims control and conduct Condition above, then should they become aware in the course of that engagement of any information or evidence to which we are legally entitled, because You ought to have disclosed it to us in accordance with your duty of disclosure or the obligations of cooperation and utmost good faith which govern this Policy, then You agree that they may disclose it to Us. You agree to waive confidentiality and legal professional privilege, as between You and Us but not as against any other person(s), with respect to such evidence or information. You also agree that We may act upon it as We see fit, including by revoking, qualifying or otherwise adjusting the terms of the indemnity provided, to the extent the law permits Us to do so.

Other Insurance

Where a Claim, Inquiry or other matter claimed under this Policy may also be insured under any other insurance policy or policies, then You must advise Us

of the details of that other insurance policy in order that We may enforce any right We may have to recover contribution from such other insurer.

Reporting and notice

You are required to provide to Us written notice as soon as reasonably possible and during the Period of Insurance of any Claim, Inquiry, impending legal action, Occurrence or other matter that is made or raised against You, that may give rise to a claim by You under this Policy.

Failure to report promptly may affect Your entitlement to Cover under this Policy.

Senior Counsel Clause

We shall not require You to contest any Claim unless a Senior Counsel (to be mutually agreed upon by You and Us) advises that the Claim should be contested. In formulating such advice the Senior Counsel must take into consideration the prospects of a successful defence of the Claim, the likely costs of the defence, the damages and costs likely to be recovered by the plaintiff. The costs of such Senior Counsel's opinion shall be included as part of Your Defence Costs.

Your right to contest

Where We or a Senior Counsel recommend a settlement in respect of a Claim Covered under this Policy and You do not agree that such Claim should be settled, then You may elect to contest such Claim. However Our liability shall not exceed the amount for which the Claim could have been settled if the matter had not been contested plus any Defence Costs incurred up to the date the Claim could have been settled.

Definitions

In this Policy, for the purposes of Cover:

Advertising Injury means any unintentional:

- a. libel, slander or defamation;
- b. infringement of copyright, title or slogan;
- c. unfair competition or misappropriation of advertising ideas under an implied contract;
- d. invasion of privacy;
- e. breach of the misleading or deceptive conduct provisions of the Competition and Consumer Act 2012 (Cth) or any Fair Trading or similar Australian consumer protection legislation,

arising out of Your advertising of Your Business or Your Products.

Aircraft means any vessel, craft or thing designed or intended to move through air, space or atmosphere other than model aircraft.

Claim means

- a. a writ, statement of claim, summons, application or other originating legal or arbitral process, cross-claim, counter claim, third party, contribution or concurrent wrongdoer notice issued against and served on You claiming compensatory relief from You;
- b. an oral or written demand for compensation made by a third party against You;
- c. in respect of the Cover provided under extension Fines and Penalties only, any legal proceeding served on You seeking to impose pecuniary penalties or compensatory civil penalties.

Cover, Covered refers to the indemnity provided by Us under this Policy.

Defence Costs means the reasonable legal costs and other expenses incurred by Us or by You with Our prior written consent in the investigation, reporting, defence and settlement of any Claim or other matter Covered under this Policy but does not include any of Your internal or overhead expenses, salaries or remuneration paid to any of Your Employees or Your loss of profit.

Documents means documents of any nature including electronically stored data or computer records but does not include bearer bonds, coupons, bank notes, currency coins or currency notes, crypto currency, authorised gift vouchers or stored value cards, stamps, share certificates, postal orders, cheques, tickets or any other negotiable instruments of any kind.

Electronic Data means facts, concepts and information converted to a form usable for communications, display, distribution, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instruction for such equipment.

Employee means any natural person who is or was a party to a contract of service or apprenticeship with You and includes any of Your trainees, casual, part time, temporary or work experience personnel under Your direct control and supervision.

Employment Practices means any work or employment related:

- a. dismissal or discipline;
- b. denial of natural justice;
- c. defamation;
- d. misrepresentation;
- e. harassment, bullying or intentional infliction of emotional distress;
- f. invasion of privacy;
- g. unlawful discrimination;
- h. breach of employment contract; or
- i. wrongful failure to employ or to promote.

Endorsement means written notification stated in the Schedule of any change to the Cover provided by this Policy.

Excess means the amount stated in the Schedule or elsewhere in this Policy, that You must pay in respect of any Claim Covered or any other amount Covered under this Policy.

Hovercraft means any vessel, craft, object or device made or intended to float on or in or travel on or through the atmosphere or water on a cushion of air.

Inquiry means any official inquiry, examination, investigation or hearing by an Inquiring Body directly related to Your provision of the Professional Services. Inquiry does not include any routine regulatory oversight or non-specific, general review of or investigation into Your industry at large or the laws, regulations and professional standards to which it is subject.

Inquiring Body means any official body or institution empowered by law to inquire, examine, investigate or hear proceedings into the provision of the Professional Services by You including but not limited to any tribunal, registration board, statutory regulatory authority, coroners court or legally constituted professional board or industry body. Inquiring Body does not include royal commission(s).

Inquiry Costs means the necessary and reasonable legal costs and expenses incurred by Us or by You with Our prior written consent in respect of an Inquiry but does not include Your regular or overtime salary, wages, fees, travel or accommodation expenses.

Insured, You, Your means

- a. the Named Insured;
- b. any past or present Principal or Employee of the Named Insured but only whilst acting in that capacity in respect of the provision of the Professional Services or Your Business; or

- c. any Subsidiary Company of the Named Insured during its continued subsistence as such.

Limit of Liability means the maximum amount as stated in the Schedule that We will pay under each Section of this Policy and under the Policy in total, in respect of all Claims including Defence Costs and all other amounts Covered under each Section of this Policy during the Period of Insurance.

Locum Tenens means a qualified healthcare professional who is engaged by You as an independent contractor so as to stand in for You on an interim basis whilst You are absent temporarily from the provision of the Professional Services or conduct of Your Business. Locum Tenens does not include any healthcare professional who is a Medical Practitioner.

Medical Practitioner means a person registered as a medical practitioner under the laws of the Commonwealth or a state or territory of Australia that provides for the registration of medical practitioners.

Named Insured means the person, legal entity, partnership or company so designated in the Schedule.

Occurrence means an event 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 by You.

With respect to Personal Injury or Property Damage all events of a series consequent upon or attributable to one source or original cause, are deemed to be one Occurrence under this Policy.

All Advertising Injury arising out of the same injurious material or act regardless of the frequency or repetition thereof or the number or type of media used, or the number of claimants shall be deemed to be one Occurrence under this Policy.

Period of Insurance means the period stated in the Schedule during which the Cover provided by this Policy is in force, unless this Policy is cancelled earlier in which case the Period of Insurance will end on the effective date of the cancellation.

Personal Injury means

- a. bodily injury, death, illness, disability, shock, fright, mental anguish or mental injury, loss of consortium or servitium resulting from any them;
- b. the physical or mental effects of:
 - false arrest, wrongful detention, false imprisonment or malicious prosecution;
 - wrongful entry or wrongful eviction or other invasion of the right to private occupancy; or
 - assault and battery not committed by You or at Your direction unless committed for the purpose of preventing or eliminating danger to persons or property.

Policy means this Policy document, the Proposal, Schedule and any Endorsements attaching to and forming part of this Policy either at commencement of or during the Period of Insurance.

Pollutant means any solid, liquid, gas, or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acid, alkalis, chemicals or waste. Waste includes material to be recycled, reconditioned or reclaimed.

Premium means the premium amount stated in the Schedule or in any Endorsement that You must pay to Us in consideration for the Cover, continuance or extension thereof, provided to You under this Policy.

Principal means the sole practitioner or a partner of a partnership firm or a director of the Named Insured.

Products Liability means Your legal liability to pay compensation as Covered under this Policy which arises out of or is connected with Your Products but does not include Public Liability or Advertising Injury.

Professional Services means the professional services provided by You or on Your behalf as stated in the Schedule.

Property Damage means

- a. physical damage to or loss or destruction of tangible property including any resulting loss of use of that property; or
- b. loss of use of tangible property which has not been physically injured or destroyed, provided such loss of use is caused by physical damage to, loss or destruction of other tangible property.

Proposal means the proposal form, any attaching documentation and any information or statements provided by You to Us and relied on by Us to effect this Policy.

Public Liability means Your legal liability to pay compensation as Covered under this Policy in connection with Your Business but does not include Products Liability. Public Liability includes Advertising Injury.

Public Relations Expense means the reasonable costs, charges, fees and expenses charged by an independent and qualified public relations consultant who is not Your Employee. Public Relations Expense does not include any of Your own costs, charges, overheads, profit, staff remuneration, third party compensation claims.

Retroactive date means the date stated as such in the Schedule.

Schedule means the Schedule attached to this Policy or any Schedule subsequently issued during the Period of Insurance and duly signed, stamped and dated by Us.

Student Practitioner means a person who at the time of the act, error or omission giving rise to the Claim or other matter Covered under this Policy was under Your direction or control as part of the academic requirements of the Student Practitioner's course at any Australian university, college, TAFE or other government registered training institution.

Subsidiary Company means any company or other legal entity that is incorporated and domiciled in Australia and was or is a subsidiary of the Named Insured under Australian law as at the date of commencement of this Policy.

Terrorism means an act, including but not limited to the use of force or violence and/or threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government(s) and/or to put the public, or any section of the public, in fear.

Vehicle means any type of machine on wheels or on self laid tracks made or intended to be propelled by other than manual or animal power, and any trailer or other attachment to be utilised in conjunction with or drawn by any such machine.

Watercraft means any vessel, craft or thing made or intended to float on or in, or travel on or through, water other than model boats.

We, Us, Our means EOS Underwriting Pty Ltd ABN 55 624 013 029 and AFSL 506938 on behalf of Mitsui Sumitomo Insurance Co. Ltd ABN 49 000 525 637 and AFS Licence No 240816.

Your Business means: in respect of the Cover provided under Section –Public and Products Liability only, all the activities and operation of Your Business stated in the Schedule including:

- a. ownership or occupation of premises for the purposes of conducting Your Business;
- b. participation in any exhibitions or conferences by You in connection with Your Business or Your Products;
- c. provision or management of internal first aid, medical, emergency services in the conduct of Your Business; or
- d. canteen, social sports, educational or welfare services provided for the benefit of Your Employees.

Your Products means any goods or products (after they have ceased to be in Your possession or under Your control) sold, supplied or distributed by You in the course of Your Business including any labelling, packing materials, packaging, container (other than a Vehicle), instructions, directions or advice in the use of the goods or product. Your Products does not include food and beverages sold or supplied by You or on Your behalf to any Employee or visitors for consumption at Your Business premises.



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