

# Associations Liability Insurance

## Product disclosure statement and policy

Please read this policy in conjunction with the  
Certificate of Insurance



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# Ansvar Insurance – Insurance products with flexible solutions

## Our history

Ansvar Insurance has been a trusted name in Australia since 1961. Owned by UK insurance company, Ecclesiastical Insurance Office plc, we enjoy substantial financial backing and are proud to meet the rigorous regulatory requirements imposed on an insurer serving Australians.

## Why insure through Ansvar Insurance?

With almost 50 years of experience in Australia we understand what customers are seeking in their insurance company: a trusted, responsible and professional organisation where you are treated with respect and care and offered choice and flexibility. Offering value for money, personal service and a demonstrated commitment to community programs explains why we are the insurer of choice for our Australia wide customers.

## Developing our young Australians

In 2007, we are honoured to provide support to 64 community organisations throughout Australia. Each organisation provides valuable support to improve and enrich the lives of Australian youth so that they may contribute positively to the community in which they live. To find out more about our grants to Community Education Program please visit our website **[ansvar.com.au](http://ansvar.com.au)**

## An extensive range of insurance products

Ansvar Insurance has products to suit individuals, families and business alike. From your home, precious contents, and boats to tailored insurance to meet the needs of businesses, faith organisations, educational facilities, not-for-profit and the aged care sector, we have insurance to meet your needs.

## More than just insurance

We believe in offering more than just insurance. Our dedicated staff is committed to helping clients protect their assets by providing:

- specialist insurance advice in our core markets
- flexibility in underwriting
- independent, on-site, risk management inspections and expert advice to find solutions
- risk management seminars and advice on helping clients develop their risk management programs

For more information on how we can help you, please phone us on **1300 650 540** or visit us at **[ansvar.com.au](http://ansvar.com.au)**

# Product Disclosure Statement (PDS)

## About this PDS

The financial product offered in this Product Disclosure Statement (PDS) is provided by Ansvr Insurance Limited.

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 PDS sets out the significant features of the insurance policy including its benefits, risks and information about how the insurance premium is calculated.

You will also need to read the basic policy wording which is covered in the section 'Your contract with Ansvr Insurance'. The basic policy wording, in conjunction with the certificate of insurance we issue upon acceptance of your application and any endorsements attached to the certificate, provides a full description of the terms, conditions and limitations of the insurance cover.

This Product Disclosure Statement was prepared in April 2008.

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

Ansvr Insurance Limited, ABN 21 007 216 506, is the issuer of this insurance policy. The registered office of Ansvr Insurance is Level 18, 303 Collins Street, Melbourne, Victoria 3000. 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 9614 1545
- writing to any office of Ansvr Insurance
- email to [insure@ansvar.com.au](mailto:insure@ansvar.com.au)

## Changes to this insurance policy

The policy wording may be subject to change from time to time and the changes will generally only affect you at the time the insurance cover is renewed each year. Changes in insurance policy wordings will be communicated to you in several ways and these are:

- if a change would affect you adversely, Ansvr Insurance will issue you with a new Product Disclosure Statement (PDS) or a Supplementary PDS;
- 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 [ansvar.com.au](http://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 insurance policy and certificate of insurance to your nearest Ansvr Insurance office.

You will **not** receive a refund if you have made a claim, or intend to make a claim, under the insurance policy.

## Significant features and benefits

The cover provided under this policy is under four distinct sections which your association or entity (you) can select on payment of the appropriate premiums. These covers are:

- Section A - General Public and Products Liability insurance (compulsory section);
- Section B - Professional Indemnity insurance;
- Section C - Directors & Office-Bearers Liability insurance;
- Section D - Employment Practices Liability insurance.

It must be noted that cover is provided under sections B, C and D on a **claims-made** basis – see further information on this on page 12.

The policy will only cover those parties named in the certificate of insurance as well as the persons and entities entitled to cover as stated in the policy. The maximum amount we pay under the policy will not exceed the limit of liability applicable against each section shown in the current certificate of insurance.

Please read the policy wording detailed in the section 'Your contract with Ansvar Insurance' before you make a decision to purchase this product. The policy provides a full description of the terms, conditions and limitations of the cover provided to you. The following is only a summary of some significant features and benefits of the policy.

### Basis of Cover

Are all losses arising from a mishap or unwanted event covered?	Although the cover provided by this policy is very broad, losses arising in certain circumstances are not covered by this insurance, such as losses arising through war, nuclear events, terrorism. Cover for some liabilities excluded may be available through other more specialised insurers providing workers compensation, marine, motor compulsory third party liability etc. - for details refer to the exclusions under each section on pages 28, 32, 36, 38 and the general exclusions on pages 39-40 of the policy.
Are all claims made on you under sections B, C and D covered?	No; the policy will not cover claims arising from circumstances which predate the retroactive date and from circumstances you know about when this insurance is taken. See further explanations on the scope of the claims-made covers on pages 12, 30, 33, 37 of this document.
Acquisition of other business	The policy automatically covers a new subsidiary, organisation or entity acquired by you, provided it carries on substantially the same business as yours. Where the business differs substantially, you need to tell us of such acquisition – See definition of insured on page 26.
Admission of liability	Saying sorry or apologising is not an admission of liability. However, you should not admit liability before consulting with us. We will have full discretion in the conduct and defence of any claim against you - See the claims procedures on pages 40-41 of this document.
Cross Liability	Where the policy is issued in the name of more than one business entity, the policy operates as if a policy had been issued to each business entity in respect of the liability of one insured against another insured. However, there is no increase to the limits of liability or the excess applicable in respect of each claim – See page 13.

Jurisdiction	The policy provisions are governed and construed in accordance with the laws of Australia. Consequently all judgments against the insured must be enforceable in the courts of Australia, even when action is brought against the insured in a foreign court of law.
New activities	The policy covers all activities disclosed to and agreed by us. Where you engage in new activities which are significantly different from those disclosed to us, we must be advised of the new activity for cover to be extended - see definition of business p20.
Waiver of any rights	We will not pay any claim where you have agreed not to recover from persons liable to compensate you in respect of that claim. Disclaimers you sign under maintenance contracts are permitted.
Wilful acts	Cover does not extend to any dishonest, fraudulent, reckless, criminal or malicious act or omission by you or any of your employees, including conduct intended to cause personal injury, property damage or liability with a reckless disregard for the consequences, or any deliberate breach of any statute or regulation by you or any of your employees with your consent –p39.

### **Main Provisions - Section A Public Liability**

Occurrence-based	Under this section, cover is provided for occurrences which happen during the period of insurance. A claim for liability for property damage or personal injury can be lodged any time during or after expiry of the policy – See page 27.
Scope of cover	The policy provides cover if, as a result of an accident occurring during the period of insurance in connection with the business, the insured entity is called upon to compensate an injured party for: <ul style="list-style-type: none"> <li>▪ loss or damage to their property or the loss of use of such property;</li> <li>▪ death of a person or personal injury sustained in the accident;</li> <li>▪ court and legal costs (if any) incurred by the injured party to assert their right to compensation.</li> </ul>
Are all losses arising from an occurrence covered under this section?	No; only claims arising from property damage, bodily injury, advertising injury, libel, slander, defamation, or a breach of copyright are covered under this section of the policy; A financial loss suffered by a third party not involving any of these (such as a trading loss suffered by a client, a loss of goodwill following wrong advice given by you, liability arising from a breach of professional duty) are not covered. Other exclusions appear on pages 28-30 of the policy wording.
Building in course of construction, renovations and additions	Liability is covered if building works do not exceed \$500,000 – see exclusion A8, p29. The policy excludes all liability arising from asbestos in any shape or form; and liability attaching to builders from completed projects after they have left the site.

Contractual liability	Cover is provided for liability which arises under contracts you enter into during your business activities and which would have existed whether the contract was in force or not. The policy will cover liability assumed by you under leases and disclaimers you sign under maintenance contracts. Any liability you assume under contract other than these will need to be agreed with us and endorsed on to the policy.
Faulty workmanship	Cover is provided for damage to property of third parties as a consequence of your faulty work, but not for the cost of rectifying or improving the actual work performed by you – See exclusion A14, p29.
Hazardous pursuits	Cover is provided for hazardous pursuits disclosed to and agreed by us – See duty of disclosure p12 and exclusion A4, p29 for some excluded activities.
Hired equipment	Cover is provided for your legal liability to the owner of equipment you hire in respect of damage to the property temporarily in your care. Note cover is restricted to legal liability and therefore all claims for damage to the hired equipment would not be payable – See page 28.
Indemnity to landlords	Cover is provided for damage to landlords premises which you are legally liable for, including liability which may accrue to them arising from your business – See definition of insured on page 26 and extent of property in custody cover on page 28.
Information technology	Cover is provided for use of the internet for email, intranet and website in connection with your business.
Libel and slander	Cover is provided for liability arising from libellous, slanderous, defamatory or disparaging material unintentionally uttered in the course of your business.
Livestock, animals, birds or fish	Cover is provided for your legal liability arising from livestock (when farming is disclosed as part of your business).
Motor vehicles	Cover is provided for liability arising from unregistered vehicles or plant used in the business, but not for liability from the use of registered vehicles on the roads or where compulsory statutory insurance is required. The policy also excludes liability arising from the organisation of and participation in motor races and rallies, unless agreed by us – See exclusion A3, p28.
Pollution	The policy provides liability for sudden accidental pollution but excludes gradually occurring pollution and all pollution in the USA or Canada – See exclusion G9, p39.
Principals	Indemnity is provided to Principals for their legal liability arising from your business during the performance of a contract, but no cover is provided for fines and penalties for late or uncompleted work, or liability which you assume under your contract with the principals and which would not have existed in the absence of the contract.

Property in your care, custody and control	Cover is provided for your legal liability for damage to property you have assumed responsibility for in connection with your business. There is a limit for certain types of property - refer page 28 of the policy. Please note there must be a breach of the duty of care to give rise to legal liability, otherwise repair or replacement of the property is the owners responsibility.
Social clubs, sports clubs, canteens, first aid, fire and security services	Cover is provided for liability arising from such incidental activities related to the business carried out with your consent – See p26.
Tenants	Cover is provided for your legal liability for damage to properties of tenants in premises rented out by you.
Territorial/Geographical Limits	The policy covers liability arising from your business carried out in and from Australia, including exports from Australia, and overseas visits by travelling executives - See definitions on p21/22. By prior agreement with us, the territorial limits can be extended to cover operations in other countries, provided these countries permit overseas insurance.
Visitors	Cover is provided for your legal liability for damage to properties of visitors and bodily injury to them when on your premises in relation to your business.
Watercraft	Cover is provided for your legal liability for non-powered pleasure craft and powered crafts up to 8 metres in length. We may consider covering water skiing for an extra premium.
Workers compensation	The policy covers liability to your employees when not on active duty and visiting your premises or to employees of contractors on your premises, but does not cover liability to your employees (for which you must effect compulsory statutory workers compensation).

### **Main provisions – Products Liability**

Defective design, error in specification or formula of products	The policy covers liability arising from errors in the manufacture or assembly of a product or service, but does not extend to defective design, error in specification or formula of products – See exclusion A12, p29.
Hazardous products or services	The policy covers your liability arising from services and products you produce or provide, other than certain products of a hazardous nature such as asbestos, chemicals or explosives. In case of doubt please check with us.
Products Guarantee	The policy covers liability arising from defects in products manufactured but not arising from the harmful nature or unsuitability of products or the failure of products to meet guarantees of performance given by you.
Products in USA and/or Canada	The policy provides cover for liability arising from products manufactured in Australia and exported to USA or Canada, but not when products are manufactured, assembled, enhanced or altered in these countries – Exclusion A15, p30.
Products Recall	The policy covers liability arising from defects in products in use by your customers, but it is your duty to recall products

which are defective. The policy does not cover the cost of the recall, nor the rectification or replacement of defective work, nor the defective product itself – See pages 29-30.

Professional advice or services      The cover provided does not extend to errors and omissions in the rendering of professional advice or services except for limited medical treatment when agreed by us – See page 29.

### **Main provisions – Advertising Liability**

Extent of advertising liability coverage      The policy covers legal liability arising from the advertising or promotion of your products or services, but not advertising liability if your principal business is advertising, broadcasting, publishing or telecasting – See definition of advertising injury on page 19 and exclusion A1, p28.

Fair trading legislation      The policy covers your legal liability arising from breaches of the Trade Practices Act and other fair trading legislation in force throughout Australia.

False advertisements      The policy does not cover liability arising from advertisements made by you or on your behalf with your knowledge of their illegality or falsity.

Errors in advertisements      The policy covers your legal liability arising from offensive and injurious content in advertisements, but does not cover your liability arising from incorrect pricing of your products or services; or the failure of your products or services to match the advertised performance, quality, fitness or durability.

Infringement of copyright      The policy covers your liability arising from unintentional infringement of a patent, copyright, title, logo, design, or trademark.

Libel and slander      The policy covers your liability arising from libellous, slanderous, defamatory or disparaging material unintentionally uttered in the course of advertising and promotional activities of your business.

Website      The policy covers your liability arising from material posted on your website in support of your products or services other than material known by you to be illegal or false – See exclusion G4, p39.

### **Main provisions – Section B Professional Indemnity**

Claims made basis      Cover is provided under this section of the policy on a claims-made basis – See page 30 of the policy.

Scope of cover      The policy provides cover for a claim made against you during the period of insurance as a result of a breach of your professional duty.

Automatic extensions      The following are provided at no extra cost – refer pages 30-32 of the policy:

- Defence costs in attendance at official investigations or inquiries in respect of professional conduct
- Liability arising from breach of confidentiality
- Disciplinary inquiry costs
- Liability arising from dishonesty of office bearers &

- employees
- Liability arising from loss of documents not belonging to you
- Liability under the Trade Practices Act and fair trading legislation.

Exclusions Liability arising in certain circumstances is excluded – refer to the specific exclusions on pages 32-33 and the general exclusions on pages 39-40 of the policy.

### **Main provisions – Section C Directors & Office-Bearers Liability**

Claims made cover Cover is provided under this section of the policy on a claims-made basis – See pages 34-37 of the policy.

Scope of cover The policy provides cover for a claim made against the officers of the insured entity during the period of insurance as a result of a breach of their duty as a director or office bearer.

The policy also provides “Entity Cover”, which is liability which can be inputted to the insured entity as a result of the wrongful act of the director or office-bearer.

Automatic extensions The following are provided at no extra cost – refer pp 34-36 of the policy:

- Attendance at official investigations or inquiries
- Insured v s Insured Cover
- Occupational health & safety
- Outside Office-Bearership
- Preservation of indemnity
- Run-off cover for subsidiaries

Exclusions Liability arising in certain circumstances is excluded - refer to the specific exclusions on pages 36-37 and the general exclusions on pages 39-40 of the policy.

### **Main provisions – Section D Employment Practices Liability**

Claims made cover Cover is provided under this section of the policy on a claims-made basis – See page 37 of the policy.

Scope of cover Cover is provided for a claim made against the insured entity during the period of insurance as a result of an error or omission in the employment practices of the organisation.

Automatic extensions The following are provided at no extra cost – refer pages 37-38 of the policy:

- New subsidiaries
- Run-off cover for subsidiaries.

Exclusions Liability arising in certain circumstances is excluded – refer to the specific exclusions on pages 38-39 and the general exclusions on pages 39-40 of the policy.

### **Other benefits of this policy**

First aid Section A of this policy covers, in addition to the limit of liability, the costs of first aid rendered to persons at the time of an occurrence.

Legal costs All sections of the policy cover legal costs and other expenses in defence of a claim, in addition to the limit of liability. However, these defence costs may be reduced where the limit of liability is inadequate or where the expenses are occasioned by a suit in the United States of America or Canada.

Reinstatement of limit after loss For public and advertising liability, there is no reduction of cover after a claim, as the limit applies to each and every occurrence irrespective of the total number of occurrences in any one period of insurance.

For products liability, professional indemnity, directors & office-bearers liability and employment practices liability, cover is limited for all claims to the annual aggregate limit under the appropriate section of the policy.

### Additional benefits

On payment of an extra premium, the policy may be extended to provide the following additional covers:

#### Section A – Public & Products Liability

Contractual liability Liability arising from all contracts which have been referred to and agreed by us in writing.

Malpractice or treatment risk Legal liability arising from the negligent act, error or omission of a nurse or personal care assistant employed by you, or a volunteer providing healthcare on your behalf.

The extension does not cover legal liability arising from professional services given on your premises or on your behalf by a medical practitioner – see exclusion A10, p29.

#### Section C – Directors & Office-Bearers Liability

Indemnifiable fines & penalties Liability of the director or office-bearer for fines and penalties which are insurable at law – refer p35 of the policy.

### Significant risks

The cover provided by this policy is subject to the following:

Conditions of cover The cover provided is subject to you complying with all the terms and conditions of this policy. Non-compliance may result in non-payment of claims.

Consumer Price Indexation There is no automatic adjustment of the limit of liability at the end of each period of cover. You must review the adequacy of the limit for each renewal of the policy. This will ensure the cover is adequate for the compensation awarded against you, at the time of a claim.

Duty of disclosure You have a duty at law, to tell us anything you know which may affect our decision to insure you – refer important notices in this PDS, p12.

Where there is non-disclosure, we may be entitled to cancel the policy, reduce the sum insured or treat the policy as never having existed.

Duty to take precautions	A condition of this policy requires you to take all reasonable precautions to prevent damage to property or injury to persons – See page 18.
Excess	Minor loss or damage may be less than the applicable excess under the policy and consequently not payable. The excesses applicable under each section of the policy are specified in the certificate of insurance.
Exclusions	This policy has exclusions and affects the cover provided to you - refer pages 28, 32, 36, 38-40 of the policy.
Limits of liability	Our liability is limited to the amounts you select and insure for. You therefore need to ensure the limits you select are adequate to protect your interests. You are responsible for any amount which exceeds the limit of liability. You should also be aware there may be limitations to the cover provided under the policy, in the form of conditions, exclusions and endorsements.
Multiple insureds	When the policy is issued in the name of more than one person/entity and a claim is made against more than one party, the limit of liability is not compounded, but is shared between all insureds.
Non-payment of premium	Cover is conditional on the payment of the premium. The policy will also be terminated if monthly premiums are unpaid for 2 months in a row – See page 17.

## Costs

The premium payable by you is shown in your Certificate of Insurance. The factors used to determine the premium payable under this policy include:

- the structural framework of your organisation i.e. incorporated/unincorporated etc;
- the occupation and main activities of the proposing entity;
- the products and/or services supplied by the business;
- the size and annual income of the entity;
- the number of employees and persons engaged in the business and their professional qualifications;
- the sections of the policy selected;
- the extent of cover required and the limits of liability;
- the excess selected;
- the period of insurance (short-term/annual), and length of retroactive cover;
- past claims, incidents, proceedings and complaints history.

The premium is payable either when the product is purchased or by direct bank debit when you elect to pay it monthly. If you elect to pay monthly there is an additional fee. A cancellation fee may apply if you cancel your insurance policy before expiry.

Premiums and fees are subject to Commonwealth and State taxes and levies which include the Goods and Services Tax and Stamp Duty, if applicable to your state. All are shown on 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.

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.

## Complaints

If you are not satisfied with our service we recommend that you use the complaints procedure set out below. The type of complaint could relate to the behaviour of or advice given by an Ansvr Insurance employee or authorised representative, a decision on a claim, the privacy of your personal information or any other matter relating to your insurance that is of concern to you. These procedures are available free of charge to you.

First, contact the employee or authorised representative with whom you have had contact to see if he or she can resolve the problem. If that is not possible, then contact the Regional Manager in your state. The Regional Manager will review the information and give you a response as quickly as possible; but no later than three working days from the date when the complaint is received.

If you are not satisfied with the response given by the Regional Manager, then please either telephone or write to:

The Secretary  
Internal Dispute Resolution Committee  
Ansvr Insurance Limited  
GPO Box 1655N Melbourne VIC 3001  
PH +61 3 8630 3100  
FX +61 3 9614 2740

The Secretary will refer your complaint to the Committee which comprises the CEO, Operations Manager and one of the non executive directors of Ansvr Insurance Limited, for a decision.

The Internal Dispute Resolution Committee has appropriate authority to deal with unresolved complaints. You will receive a response within seven (7) working days from the time the Internal Dispute Resolution Committee receives your unresolved complaint, or alternatively you will be asked for further information. If further information is required, you will receive a decision within seven (7) working days from the time Ansvr Insurance receives the additional information.

## What if we don't resolve your problem?

Once the Internal Dispute Resolution Committee gives you an answer, we will provide you with information about external dispute resolution if that is available.

For many complaints this is the Insurance Ombudsman Service (IOS), which costs you nothing. You have three months from the date of the decision by the Internal Dispute Resolution Committee to lodge your complaint with the IOS. The IOS may be contacted by calling 1300 78 08 08 for the cost of a local call, or by writing to them at PO Box 561, Collins Street West, Melbourne 8007.

Alternatively, you may further pursue your unresolved complaint through a formal legal process such as the courts, mediation, or arbitration.

For privacy complaints you may approach the Federal Privacy Commissioner. A copy of the General Insurance Code of Practice and privacy principles can be obtained from our website [ansvar.com.au](http://ansvar.com.au) or from one of our offices.

## Important notice to Policyholders

It is important that *you* carefully read the following documents and retain them in a safe and convenient place:

- this document;
- *your* current *certificate of insurance* and endorsements attached to it.

Please refer to the *certificate of insurance* for information about the *excess*, *period of insurance*, name of *insured*, *retroactive date* and details of the cover *we* provide.

Please also remember to regularly review *your* insurance policy, particularly at renewal to ensure *your* insurance policy provides the cover that *you* currently need.

### Claims made

The Professional Indemnity, Directors & Office-Bearers Liability and Employment Practices Liability sections of the policy operate on a claims-made basis, which means that *you* are covered under the sections for:

- a. *claims* made against *you* during the *period of insurance* and notified to *us* during the period of cover, or during the extended notification period of 30 days allowable under this *policy*, 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
- b. *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 circumstances.

The cover provided is in respect of *claims* arising out of acts, errors, omissions, conduct, events or circumstances that occur after the *retroactive date* shown in the *certificate 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.

### Duty of disclosure

Before *you* enter into an insurance contract with *us*, *you* are required to tell *us* every matter that is known to *you*, being a matter that:

- a. *you* know to be relevant to the decision by *us* to accept the risk and, if so, on what terms; or
- b. a reasonable person in the circumstances could be expected to know to be a matter so relevant.

If the *insured* consists of more than one party, the information supplied to *us* and any misrepresentation, omission or non-disclosure shall be deemed to have been provided or committed by or on behalf of all parties.

If *you* do not tell *us* all relevant matters *we* can reduce the amount *we* pay for any claim or cancel this insurance policy. If *your* non-disclosure is fraudulent *we* can void the insurance policy from the beginning.

### Subrogation

*Your* particular attention is drawn to the claims procedures in this *policy* which require that no admission of liability, offer, promise, payment or indemnity shall be made or given by *you* or on *your* behalf without *our* consent.

Subject to the Insurance Contracts Act 1984, if *you* agree or have agreed not to seek compensation from any other party who would otherwise be liable to compensate *you* for any liability insured by this *policy*, *we* may not compensate *you* with respect to that liability.

## The contract between you and Ansvar Insurance

Subject to payment of the premium, we will cover the *organisation*, its *office-bearers* and all insured parties under this *policy* in accordance with the following provisions.

The cover provided under section A of this *policy* is in respect of *occurrences* during the *period of insurance*. The cover provided under sections B, C, and D of this *policy* operates on a claims-made basis, which means that *you* are covered for *claims* first made against *you* during the *period of insurance*, or *claims* made subsequently against *you* as a result of facts or circumstances *you* first became aware of during the *period of insurance*;

Provided that:

1. *you* notify *us* during the *period of insurance*, or no later than 30 days after expiry of the *policy*, of the *claim* or of any facts or circumstances which may lead to a *claim*;
2. *you* were not aware at any time prior to the commencement of the *period of insurance* of the *claim*, or of the facts or circumstances which could lead to a *claim* being made against *you*;
3. the *wrongful act*, omission, breach of duty or circumstances giving rise to the *claim* occurred after the *retroactive date* shown in the *certificate of insurance*; and
4. where several *claims* arise from the same related set of facts or circumstances, the date the first *claim* is made is the date applicable to the entire *claim*, or series of *claims*, for the purpose of this *policy* regardless of the date of each subsequent notification.

We only cover *you* for those policy sections and optional benefits that are shown as operative in the *certificate of insurance*. Your insurance commences and concludes at 4.00pm local time on the dates shown in the *certificate of insurance*.

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

### Additional insured parties

Where this *policy* covers more than one separate 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 in respect of any one *occurrence* or *claim* and any aggregate limit of liability for the period of cover, shall not be increased beyond the amounts shown in the *certificate of insurance*.

Any failure by any party to:

1. comply with the duty of disclosure in terms of the Insurance Contracts Act 1984; or
2. comply with any obligation in terms of this *policy*, or
3. refrain from conduct which is dishonest, fraudulent, criminal or malicious,

shall not prejudice the right of the remaining party or parties to indemnity in terms of this *policy*;

Provided always that such remaining party or parties shall not have had prior knowledge of any such failure and/or non-compliance or, as soon as practicable after becoming aware of any such failure, shall have advised *us* in writing of all the relevant circumstances.

We agree to waive all rights of subrogation or action which we may be entitled to against any insured party under this *policy*. The insolvency or bankruptcy of any party insured shall not release *us* from any of *our* obligations to the other insured parties.

## Adjustment of premium

Where this *policy* or any section is arranged on an adjustable premium 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.

## Advancement of defence costs

We agree that in relation to any *claim* for which indemnity may be available under sections B and C of this *policy*,

1. where indemnity has been confirmed in writing by *us*, we will meet the *defence costs* as they are incurred;
2. where we have not confirmed indemnity and we elect not to take over and conduct the defence or settlement of any claim, we may at *our* discretion pay *defence costs* to which we have consented as they are incurred;

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

1. 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
2. we reserve the right to recover from the *office-bearers* and/or the *organisation*, severally according to their respective interests, any *defence costs* advanced by *us* to the extent that it is established by judgement or other final adjudication that the insured parties were not entitled to the *defence costs* so advanced.

## Allocation of costs

In the event of a claim which is made against the *organisation* or an *office-bearer* and 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.

## Arbitration clause

Neither *we* nor the *organisation* or any *office-bearer* will be required to contest any legal proceedings unless a *senior counsel* (mutually agreed upon by *us* and the *organisation* or the *office-bearer* or, in default of such agreement, selected by the chairman or president of the local Bar Council) shall advise that such proceedings should be contested. In formulating his or her advice, 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 the *organisation* or the *office-bearer* successfully defending the action.

The costs of such counsels opinion shall, for the purpose of this *policy*, 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 counsels opinion, are reasonable, then the *organisation* or the *office-bearers* shall not object to any such settlement and shall co-operate with *us* to effect such settlement in accordance with this *policy*.

## Authorisation clause

By acceptance of this *policy*, the *organisation* agrees to act on behalf of its *office-bearers* 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 under the *policy* and the acceptance of *endorsements* or other notices provided for in this *policy*; and warrants that the *office-bearers* have authorised the *organisation* to act on their behalf.

## Cancellation

You may cancel this insurance policy at any time by notifying *us* in writing. We may retain from *your* premium an amount which covers the period for which *you* have been insured with *us*.

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

## Changes

You must advise *us* in writing immediately *your* registration or business certification is qualified, cancelled, suspended or terminated and *you* must tell *us* as soon as possible if any significant change occurs to *your* operations which materially increases the risk.

No change in, or modification of, or assignment of interest under this *policy* shall be effective except when made by written endorsement to this *policy* or as agreed with *us*.

## Confidentiality

Neither the *organisation* nor any *office-bearer* shall disclose in any annual report the nature of the liabilities covered by this *policy* or the premium shown in the *policy*, unless required by law.

## Continuous cover

In the absence of fraudulent non-disclosure or misrepresentation, we will cover *you* under sections B, C and D of this *policy* for any claim not otherwise excluded by this *policy* arising from a *known circumstance* where:

1. we were *your* professional indemnity or office-bearers liability or employment practices liability insurer (as the case may be) when *you* first knew of such *known circumstance*; and
2. we continued without interruption to be *your* professional indemnity or office-bearers liability or employment practices liability insurer (as the case may be) since *you* first knew of such *known circumstance* up until this *policy* came into effect; and
3.
  - a. had we been notified of the *known circumstance* when *you* first knew or ought to have known of it, *you* would have been covered under the policy in force at that time, but are not now covered by the *policy*; and
  - b. *you* would have been covered by this *policy* but for the *known circumstance* exclusion; and
  - c. the *claim* or *known circumstance* had not previously been notified to *us* or to any other insurer.

The amount of cover we provide under this benefit is the applicable limit of liability existing under the relevant policy at the time of the *known circumstance*.

However, we may reduce *our* liability under this *policy* to the extent of any prejudice we may suffer in connection with *your* failure to notify *us* at an earlier date of the circumstances which have led or may lead to the *claim*.

## Estates and legal representatives

This *policy* will provide cover for the estate, heirs, legal representatives or legal assigns 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, provided always that such successors, representatives or assignees shall observe and be subject to all the terms of this *policy* so far as they can apply.

## Excess

The amount of the *excess* shown in the *certificate of insurance*, or in the section of the *policy* under which a claim is being made, represents *your* financial contribution in respect of any damages and supplementary payments *we* are called to make arising out of any one claim made against *you*;

Provided that:

1. all claims attributable to the same breach of duty or series of breaches of duty consequent upon or attributable to one source or original or causally connected cause shall be regarded as one claim and result in the payment of only one *excess*; and
2. if a claim against *you* leads *you* to claim under more than one section of this *policy*, the highest applicable *excess* is payable; and
3. *our* liability shall apply only to that part of any loss in respect of each claim which exceeds any applicable *excess* amount shown in the *certificate of insurance* or *policy* section.

## Extended reporting period

If *we* do not offer renewal at the expiry date of this *policy*, the *organisation* and the *office-bearers* of the *organisation* shall jointly (but not separately) have the right, upon payment of an amount equal to 25% of the total premium stated in the *certificate of insurance* in respect of sections B, C and D, to extend the claims notification period applicable to claims made under these sections by 90 days beyond the expiry of the *period of insurance*;

Provided that:

1. the election is made in writing and is received by *us* within 30 days of the expiry date of the *policy*;
2. the offer of renewal terms different from those in effect prior to renewal shall not constitute refusal to renew;
3. the indemnity provided under this extension applies only in respect of *wrongful acts* committed or alleged to have been committed prior to the last day of the *period of insurance* and does not apply to any *wrongful act* committed or alleged to have been committed during the extended reporting period;
4. if *you* decline to accept the renewal terms *we* offered at the expiry date, *we* may, if requested by *you* but only at *our* sole option, grant in writing an extended reporting period.

## 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.

*We* will pay any GST liability on a claim paid under this *policy* in addition to the limit of liability shown in the *certificate of insurance*.

## Interpretation

The *policy* consists of this policy wording, the *certificate of insurance* and any *endorsements* issued which extend or amend the cover provided.

Headings and sub-headings appearing in the *policy* are for ease of reference only and shall not be deemed to form any part of the context, or to affect the interpretation of the *policy*. Words importing the singular number shall include the plural and vice-versa.

Certain words and phrases that appear in the *policy* have special meanings and are listed in the 'Definitions' section of this *policy*. Each time any of the defined words or phrases appear in this *policy* in italics, they will take the specific meaning shown in these definitions. Where the words and phrases are not highlighted, the normal everyday meaning of the word or phrase will apply.

## Jurisdiction

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

## Limits of liability

Except where we agree otherwise in writing, the cover we provide under this *policy* shall not exceed the sum insured or applicable limit of liability shown in the *certificate of insurance*.

Further, our total liability during any one *period of insurance* for all claims arising during the *period of insurance* shall not exceed, where applicable, any aggregate limit of liability shown in the *certificate of insurance*.

## Merger or consolidation

Where *your organisation* merges with or is consolidated with or becomes the subsidiary of another entity during the *period of insurance*, we will continue to provide indemnity in respect of *your organisation* and *your office-bearers*, but only in respect of claims for *wrongful acts*, preceding the time of such merger, consolidation or acquisition.

## Monthly instalments

You may pay *your* premium by monthly instalments direct from a financial institution or from *your* credit card. 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 such 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 under any section of this *policy*, you will be required to pay us immediately all outstanding instalments of premium for that section.

Should the financial institution holding *your* account return or dishonour a direct debit payment due to lack of funds in *your* account, we may 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 any one of the policies.

## Other insurance

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.

## Precautions to be observed by you

You are required to:

1. take reasonable precautions to prevent loss, damage or injury to third parties;
2. maintain the premises from which *you* operate in a reasonable condition of upkeep;
3. comply with all statutory obligations, regulations and safety requirements imposed by any authority; and
4. 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 *products* subject to government or statutory ban.

## Privacy

Personal information supplied by *you* is for the primary purpose of evaluating and administering this *policy*. *You* are entitled to access this personal information. It may be necessary for *us* to disclose personal information to other parties including reinsurers and claims consultants. Any such disclosure will be in accordance with the Privacy Amendment (Private Sector) Act 2000.

## Service of legal process

*You* may effect service on *us* of any legal process 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*.

All other notices to *us* under any provisions of this *policy* shall be validly and lawfully given if they are given in writing and delivered, given by courier, certified mail or facsimile properly addressed to *us* any of *our* offices in Australia – see last page of this *policy* document for details.

## Settlement of claims

Claims under this *policy* will be settled in accordance with the section titled 'Claims Procedures'. Unless these procedures are complied with, *our* liability in respect of any claim shall be reduced by the amount that fairly represents the extent to which *our* interests have been prejudiced by the non-compliance. If *your* failure to comply caused the loss for which *you* claim, *we* may be entitled to refuse the claim.

## Spousal liability

The indemnity provided under this *policy* extends to the lawful spouse of any natural person insured under this *policy* for all claims arising from a *wrongful act* committed by the *insured person*;

Provided always that *we* shall only indemnify the spouse for claims which:

1. are made against the spouse only because he or she is the lawful spouse of the *insured person*;
2. may relate to property, either jointly held by the *insured person* and his or her lawful spouse or transferred by that *insured person* to his or her lawful spouse for legitimate purposes only, and
3. are not excluded elsewhere in this *policy*.

## Subrogation

If any payment is made under this policy in respect of a claim, *we* will be subrogated to *your* rights against others in respect of that payment, and shall be entitled to pursue and enforce such rights in *your* name. *You* will be required to provide *us* with all reasonable assistance and co-operation.

## Third party interests

*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 in writing to insure. *You* must not 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*.

## Waiver of any rights

If *you* agree or have agreed not to seek compensation from any other party who would otherwise be liable to compensate *you* for any liability insured by this *policy*, *we* will not be liable to compensate *you* with respect to that liability.

## Definitions

Certain words and phrases that appear in this *policy* have special meanings. Where used in this policy:

<i>advertising injury</i>	means unintentional: <ol style="list-style-type: none"><li>1. libel, slander or defamation; or</li><li>2. infringement of any patent, copyright, title, logo, design or trademark, plagiarism; or</li><li>3. invasion of privacy; or</li><li>4. breach of part V of the Trade Practices Act 1974 or corresponding Fair Trading legislation enacted throughout Australia (but not for criminal liability);</li></ol> committed or alleged to have been committed during the <i>period of insurance</i> in any advertisement, publicity article, broadcast or telecast and arising out of <i>your</i> advertising or promotional activities or any activities conducted on <i>your</i> behalf in the course of advertising or promoting <i>your products</i> , goods or services.
<i>aircraft</i>	means any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space.
<i>back-pay</i>	means, arising from an order of reinstatement or re-employment, the amount <i>you</i> are legally obliged to pay an <i>employee</i> for the period between the time of termination of the <i>employee's</i> employment, and the time the <i>employee</i> is reinstated or re-employed.
<i>basis of settlement</i>	means the method of determining the loss to the <i>insured</i> and settling the claim in each section of this <i>policy</i> .
<i>breach of professional duty</i>	means a breach of a duty owed in a professional capacity under any form of civil law by <i>you</i> .

<i>business</i>	<p>means <i>your</i> business as described in the <i>certificate of insurance</i> carried out at and from any situation in Australia, and from any other country we specify in the certificate of insurance, and includes:</p> <ol style="list-style-type: none"> <li>1. ownership or occupation of premises and the repair or maintenance of property owned by <i>you</i> or for which <i>you</i> are responsible and which are utilised by the <i>business</i>;</li> <li>2. participation by <i>you</i> in exhibitions within the <i>geographical limits</i>;</li> <li>3. first-aid, fire, security or other safety activities undertaken by <i>you</i> incidental to <i>your business</i>;</li> <li>4. provision of canteen, social, sporting or welfare facilities primarily for <i>you</i>, <i>your</i> members, <i>volunteers</i>, visitors, or <i>employees</i>;</li> <li>5. activities carried out by <i>you</i> with any party in a <i>not-for-profit</i> organisation for your benefit; and</li> <li>6. any work incidental to the business undertaken on <i>your</i> behalf or for <i>your</i> benefit.</li> </ol>
<i>certificate of insurance</i>	<p>means the latest <i>certificate of insurance</i> issued by <i>us</i> in confirmation of the currency of this <i>policy</i> at inception, upon renewal or during the <i>period of insurance</i>.</p>
<i>claim</i>	<p>means a demand or assertion of a right to compensation by reason of:</p> <ol style="list-style-type: none"> <li>1. an actual or alleged <i>breach of professional duty</i> in relation to section B of this policy; or</li> <li>2. an actual or alleged <i>wrongful act</i> in relation to sections C and D of this policy;</li> </ol> <p>and which is defined in the originating process in any legal proceeding claiming compensation against and served on <i>you</i>; or any formal administrative or regulatory investigation into an alleged <i>wrongful act</i>.</p>
<i>committee</i>	<p>means any committee established by <i>you</i>, 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.</p>
<i>computer</i>	<p>means any equipment or system for processing, storing or retrieving data and includes but is not limited to, any computer hardware, firmware or software, media microchip, integrated circuit or similar device.</p>
<i>contract worker</i>	<p>means a person engaged by <i>you</i> through a labour hire firm, under an agreement between <i>you</i> and the labour hire firm, to perform duties related to the conduct of the <i>business</i>.</p>
<i>deemed employee</i>	<p>means any person deemed to be <i>your</i> employee under any workers compensation or similar legislation who would not, but for such law, be recognised as <i>your</i> employee.</p>

<i>defence costs</i>	means all reasonable costs and expenses (other than regular or overtime wages, salaries or fees of any <i>insured person</i> ) incurred by you with our prior written consent (such consent not to be unreasonably withheld), including costs incurred by you for legal representation in defending, investigating, attending or monitoring any claim or proceedings, official investigations, examinations, inquiries and the like, or from any subsequent appeals, together with all reasonable costs of bringing such appeals.
<i>discrimination</i>	means, in respect of section D of this policy, any actual, alleged or attempted sexual discrimination, racial discrimination or vilification, disability discrimination, intimidation, workplace bullying or harassment.
<i>documents</i>	means deeds, wills, agreements, maps, plans, records, written or printed books, letters, certificates, written or printed documents or forms of any nature, but excluding any bearer bonds, coupons, bank or currency notes or other negotiable instruments.
<i>electronic data</i>	means facts, concepts and information converted to a form useable for communications, display, distribution, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for such equipment.
<i>employee</i>	means: <ol style="list-style-type: none"> <li>1. any person employed by the <i>organisation</i> for remuneration; or</li> <li>2. a minister, lay minister or other clergy receiving an allowance or stipend for services rendered to <i>you</i> ; or</li> <li>3. a <i>contract worker</i> ; or</li> <li>4. any person <i>you</i> employ to substitute for a permanent <i>employee</i> on leave or to meet seasonal or short-term workload conditions; or</li> <li>5. any person who is under an apprenticeship or working with <i>you</i> under a work experience scheme; or</li> <li>6. a <i>deemed employee</i> ; or</li> <li>7. a current or former member of the board of management or committee of management or other governing body of the <i>organisation</i> for the purposes of section D only.</li> </ol> <p><i>Employee</i> does not include any <i>independent contractor</i> or sub-contractor or any employees of any <i>independent contractor</i> or sub-contractor.</p>
<i>endorsement</i>	means any document so designated and issued by <i>us</i> , that amends the policy wording or any details specified in the <i>certificate of insurance</i> .
<i>excess</i>	means <i>your</i> financial contribution in respect of each and every claim lodged under this <i>policy</i> as specified in the <i>certificate of insurance</i> or the appropriate section of the <i>policy</i> .
<i>geographical limits</i>	means: <ol style="list-style-type: none"> <li>1. under sections A to C of the <i>policy</i>, anywhere in the world but excluding <ol style="list-style-type: none"> <li>i. the United States of America and/or Canada and/or their territories or</li> </ol> </li> </ol>

- ii. any country, state or territory where the law of that country, state or territory requires that such liability shall only be insured or secured with an insurer or organisation licensed or authorised in that country, state or territory; and
2. also under sections A to C of the *policy*, the USA and/or Canada and/or their territories or protectorates, provided that *you* have no legal presence whether by attorney or registered company, parent company or subsidiary in these countries, and only in respect of:
    - i. *products* exported to these countries without *your* knowledge or the knowledge of *your* agents or *employees*;
    - ii. visits to these countries for the benefit of *your business* by *office-bearers* and *employees* who are normally residents of Australia and who are not involved in manual labour during such visits; and
  3. under section D of the *policy*, only Australia including its territories.

*health professional* means an individual who:

1. practises a health care related vocation; and
2. is required to have professional indemnity insurance under the Medical Indemnity (Prudential Supervision and Products Standards) Act 2003, or regulations made under the Act for the purposes of any provision in Part 3 of that Act; and
3. is registered under the laws of Australia to practise that vocation.

*incidental contracts* means:

1. any written rental agreement for lease of premises not requiring *you* to insure such property or be liable regardless of fault; and
2. any written contract with any authority or entity responsible for the supply of electricity, fuel, gas, water, sewerage, telephone or other essential services to *your* premises, but not contracts with such authorities or entities for periodical maintenance work on *your* equipment; and
3. contracts of employment;

in connection with *your* business.

*independent contractor* means any person (including a sub-contractor) who is engaged by *you* to perform a contract for services and has control and discretion in the manner in which the services are supplied.

*insolvent administration* means where a receiver, administrator, liquidator, manager, trustee or similar official is appointed to manage the business affairs of the *insured* because of insolvency.

*insured person* means any natural person listed in the definition of *you*, *your*, *insured*.

*internet/intranet operations* means all or any of the following:

1. use of electronic mail systems by *you* and other persons working on *your* behalf;

2. access through *your* network to the world wide web or a public internet site by *you* and other persons working on *your* behalf;
3. access to *your* intranet (internal company information and computing resources) which is made available through the world wide web for customers or others outside *your organisation* whom *you* authorise;
4. the operation and maintenance of *your* web site.

*interrelated wrongful acts*

means *wrongful acts* which have as a common nexus any fact, circumstance, situation, event, transaction or series of facts, circumstances, situations, events or transactions.

*known circumstance*

means any fact, situation or circumstance which *you* knew about prior to the commencement of the *period of insurance* and which a reasonable person in the circumstances would have considered might result in a claim covered under this *policy*.

*medical practitioner*

means an individual who:

1. is defined and required to have professional indemnity insurance under the Medical Indemnity (Prudential Supervision and Products Standards) Act 2003, or regulations made under the Act for the purposes of any provision in Part 3 of that Act; and
2. is registered under the laws of Australia to practise that profession.

*not-for-profit organisation*

means any company, entity, body, committee, council, club, association, trust, joint venture or other enterprise whether incorporated or unincorporated that is exempt from the payment of income tax under State or Federal law.

*occurrence*

means an event, including continuous or repeated exposure to substantially the same general conditions, which results in *personal injury*, *property damage* or *advertising injury* where such injury or damage is neither expected nor intended by *you*. The time and date of the first adverse condition resulting in injury or damage shall be the time and date of the *occurrence*.

*office-bearer*

means any past, present, or future director, public officer, secretary, officer, trustee, committee member, or any other natural person acting at the direction of the board of directors or committee of management or other governing body of the *organisation* in a managerial or supervisory capacity and deemed by virtue of any applicable legislation to be an office-bearer of the organisation.

*Office-bearer* does not mean a liquidator, external auditor, receiver, receiver and manager, official manager, administrator, registrar, trustee or person administering a compromise or scheme of arrangement of the *organisation* or any employee of such person.

*organisation*

means the company, entity, body, committee, council, club, association, trust or other enterprise whether incorporated or unincorporated named in the *certificate of insurance* as the insured entity.

*outside office-bearership*

means the position of director, public officer, office-bearer, officer, trustee, governor, councillor, secretary or equivalent directorial or executive position held with *your* knowledge and consent, by a representative of the *organisation* in an *outside entity*.

*outside entity*

means a *not-for-profit organisation* other than the *insured* in which an *outside*

*office-bearership* is held.

*period of insurance* means the *period of insurance* shown in the *certificate of insurance*, during which cover is in force.

*personal injury* means all or any of the following:

1. bodily injury including illness, disease, disability, shock, fright, mental illness, psychological injury and death;
2. assault or battery, except where committed by or at *your* direction for any purpose other than the reasonable prevention or reasonable elimination of danger to persons or property;
3. libel, slander or defamation, except where:
  - a. the first publication or utterance happened prior to the commencement of this *policy*; or
  - b. the injury arises out of *advertising injury*;
4. wrongful entry upon, wrongful eviction from or other invasion of right to private occupancy of property, or invasion of privacy;
5. wrongful arrest, detention, apprehension, imprisonment or malicious prosecution or humiliation.

*policy* means:

1. all the terms, conditions, definitions, exclusions, limitations and provisions contained in the section of this document titled 'Your contract with Ansvar Insurance'; and
2. the *certificate of insurance*; and
3. any *endorsements* attaching to and forming part of this *policy*, issued by *us* either at inception or during the *period of insurance*.

*pollutants* means:

1. any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acids, alkalis, chemicals; or
2. any waste materials, including material to be recycled, reconditioned or reclaimed; or
3. any other air-emission, odour, waste-water, oil, oil products, infectious or medical waste, asbestos, asbestos products or any noise emission.

*products* means any thing after it ceases to be in *your* possession or under *your* control, which was or is deemed by law to have been manufactured, grown, extracted, treated, produced, processed, sold, supplied, distributed, imported, exported, repaired, serviced, renovated, installed, assembled, erected or constructed in the course of the *business* on *your* behalf, and including:

1. labels, containers (other than a vehicle), or packing materials;
2. the design, formula or specification of the product; and
3. the directions, instructions, or advice given in connection with such

products.

<i>property damage</i>	means the physical loss, destruction or damage of tangible property, and includes loss of use of the property whether or not that property has been destroyed or damaged.
<i>retroactive date</i>	means the date shown in the <i>certificate of insurance</i> prior to the <i>period of insurance</i> beyond which the <i>policy</i> does not provide coverage in respect of claims-made liability insurance.
<i>rewriting of records</i>	means the cost of recreating the information contained in or on the original medium in respect of computer records, documents, manuscripts, securities, deeds, specifications, plans, drawings, designs, books and other records of every description, but not the value of the information to <i>you</i> or to the owner of those records.
<i>senior counsel</i>	means a barrister in active practice who is entitled to use the post-nominals Q.C. or S.C. in any one or more superior courts in Australia or New Zealand.
<i>sexual abuse</i>	includes any assault or abuse of a sexual nature, any type of molestation, indecent exposure, sexual harassment or intimidation, whether such act is the subject of criminal investigation or not.
<i>temporary worker</i>	means a person whom <i>you</i> employ to substitute for a permanent <i>employee</i> on leave or to meet seasonal or short-term workload conditions.
<i>terrorism act</i>	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: a. involves force or violence against one or more persons, or threat thereof; or b. involves damage to property; or c. endangers life other than that of the person committing the action; or d. creates a risk to health or safety of the public or a section of the public; or e. is designed to interfere with or disrupt an electronic system.
<i>tool of trade</i>	means, in the case of a <i>vehicle</i> 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 use of the <i>vehicle</i> as a mode of conveyance or for any other purpose.
<i>vehicle</i>	means any type of machine on wheels, on caterpillar tracks or on skis, made or intended to be propelled other than by manual or animal power and any trailer made or intended to be drawn by any such machine, but not mowers, garden implements, motorized wheelchairs and golf buggies.
<i>volunteer</i>	means any person who is engaged by <i>you</i> to work or to provide services to <i>you</i> or on <i>your</i> behalf for <i>your</i> benefit and who receives no remuneration or compensation in money or other consideration.
<i>watercraft</i>	means any vessel, craft or thing in excess of 8 metres in length made or intended to float on or in or travel on or through water, other than by means of human propulsion.

*we, us, our or insurer*

means Ansvar Insurance Limited, ABN 21 007 216 506, AFS Licence No 237826

*wrongful act*

means in respect of the following sections of the *policy*:

1. in section B, any act, error, misstatement, misleading statement or omission by *your organisation* or *office-bearers* in the course of rendering (or failure to render) services and/or advice; and
2. in section C, 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 any *office-bearer* in the discharge of their duties as *office-bearer* of the *organisation*, or any liability asserted against them while acting in the course of their duties in their individual or collective capacities as *office-bearers* of the *organisation*; and
3. in section D, as defined in the section.

*you, your, or insured*

mean, either in the singular or plural, the following:

1. the organisation named in the certificate of insurance, including any duly constituted committee established by the organisation for the purpose of conducting the activities or business of the organisation;
2. any subsidiary organisation or entity under the control and active management of the organisation, existing at the commencement of or acquired by the organisation during the period of insurance, through purchase of its assets or assumption of effective control;
3. the *office-bearers* and *employees* (including work experience, social workers and *volunteers*) of the *organisation* or a subsidiary organisation or entity, but only whilst acting within the scope of their duties in such capacity;
4. any office-bearer, member or volunteer of:
  - a. social and amateur sporting clubs;
  - b. canteen and welfare organisations;
  - c. first aid, fire, security or other safety services;incidental to the *business* and formed with *your* consent, but only in respect of claims arising from their duties in connection with these activities;
5. any principal arising out of the performance by the *organisation* under a contract or agreement of any work for such principal, but only:
  - a. to the extent required by such contract or agreement;
  - b. to the extent of the coverage and limits of liability provided by this *policy*;
6. in respect of section B, any current or former *office-bearer* and/or professionally qualified *employee*, member or *volunteer* while carrying out their professional duty for and on behalf of the *organisation*;
7. in respect of section C, any current or former *office-bearer* in his/her own right and their spouse or estate following the death of or the incompetence or insolvency of the *office-bearer* in respect of liability as an *office-bearer* of the *organisation*.

## Section A – Public & Products Liability

### Cover

We will cover *you* under this section of the policy for *your* legal liability to pay damages or compensation to a third party in respect of an *occurrence*, which happens during the *period of insurance*, within the *geographical limits*, in connection with the *business* and which results in:

1. *personal injury*;
2. *property damage*;
3. *advertising injury*.

### Basis of settlement

We will pay no more than the applicable limit of indemnity after deduction of the *excess* stated in the *certificate of insurance*, in respect of any damages which *you* are legally liable for, and in addition make the following supplementary payments:

1. all charges, expenses and legal costs recoverable from *you* by claimants;
2. all *defence costs* including those associated with any inquiry incurred with *our* prior written consent;
3. all expenses incurred by *you* for first aid rendered to third parties at the time of an *occurrence* covered by this *policy*.

Where the amount required settling a claim exceeds the applicable limit of liability, we will only pay part of the supplementary payments. The amount payable by us will be the proportion that the limit of liability bears to the total amount of damages and claimants costs and expenses payable to dispose of the claim.

All payments made in connection with claims and/or actions instituted against *you* in the USA or Canada or claims or actions to which the laws of the USA or Canada apply will form part of the limits of indemnity and not be additional to it.

### Automatic extensions

This *policy* automatically covers *you* up to the limit shown in the applicable extension, or alternatively shown in the *certificate of insurance*, in respect of the following:

#### Attendance at official investigations or inquiries

*Defence costs* incurred by *you* with *our* prior consent in attending any official investigation, examination, inquiry or other proceedings ordered or commissioned by a governmental, regulatory, professional body empowered by statute to investigate an *occurrence*, which may result in a claim covered under this *policy*. These costs are payable in addition to the limit of liability.

#### Business communications, internet & extranet

Legal liability for *personal injury* and *advertising injury* arising out of any communication in connection with *your business*, including liability arising out of everyday use of the internet for email, intranet and associated activity, or arising out of any material on *your website* in support of *your products* or services, up to the limit of liability for this section.

#### Liability assumed under incidental contracts

Liability assumed under the provisions of *incidental contracts*, up to the limit of liability for this section.

## Property in care custody & control

Legal liability for damage to:

1. leased or rented premises (including fixtures and fittings) not owned by *you*;
2. premises at which *you* are undertaking work in connection with *your business* and the contents of such premises which are in *your* care or control;
3. *vehicles* (including spare parts and accessories thereon) not belonging to or used by *you* in connection with *your business* whilst within a car park belonging to *you* or under *your* control where the car park is not used for any motor trade purposes;
4. visitors, guests, *office-bearers* and *employees* property;
5. any other property not mentioned above and which is in *your* care custody & control up to \$100,000 per *occurrence* and in the aggregate during any one *period of insurance*, or for such higher amount as may be shown in the *certificate of insurance*.

## Optional extensions

If *you* have paid the appropriate premium and the relevant extension is shown in *your certificate of insurance* as having been allowed, we will also cover *you* up to the limit shown in the *certificate of insurance* as follows:

### Contractual liability (other than incidental contracts)

We will cover liability assumed by *you* under any contract or agreement (other than under *incidental contracts*) which has been agreed by us in writing.

### Malpractice

We will indemnify *you* for all sums *you* become legally liable to pay for bodily or mental injury to or death of any person in *your* care caused by any negligent act, error or omission by any nurse, technician or *volunteer* (other than a *medical practitioner* or midwife) *you* engage to provide professional services on your behalf.

## Exclusions

We will not cover *you* under section A for *your* legal liability:

- A1. for *advertising injury* arising out of or in connection with:
  - i. offences committed prior to the inception date of this *policy*;
  - ii. oral communication or publication of written material by or at *your* direction with knowledge of the illegality or falsity thereof;
  - iii. breach of contract, other than misappropriation of advertising ideas under an implied contract;
  - iv. incorrect description of the price of *your products*, goods or services;
  - v. failure of *your products*, goods or services to conform with advertised performance, quality, fitness or durability;
  - vi. any conduct, activity or omission by *you*, if *your* principal business is advertising, broadcasting, publishing or telecasting.
- A2. arising from *your* ownership, possession or use of any railways, *aircraft*, or *watercraft*.
- A3. arising from *you* or any person with *your* consent using *your vehicle*, where *you* or that person is entitled to indemnity in respect of the liability under any compulsory statutory insurance or accident compensation scheme, or would have been so entitled but for failure to insure or register *your vehicle* or to renew insurance or registration or lodge a claim or comply with a term or condition of such insurance or a requirement of any such scheme.

- A4. arising from the organisation of and/or participation in bungee jumping, parascending, hang-gliding, parachuting, base jumping, white water rafting, motor races, rallies and like events, except where agreed in writing by *us*.
- A5. for damage to property owned by or held in trust by *you*, or undergoing any process or being worked on by *you*, or in *your* custody or control, except as provided in this *policy*.
- A6. arising from asbestos or asbestos products in any form or quantity or for defending any claim for such actual or alleged liability. However, this exclusion shall not apply if any injury sustained is totally unrelated to the inherently hazardous nature of asbestos.
- A7. arising from the manufacture, storage, filling, breaking down or transport of gases and/or air under pressure in containers, other than butane and other cooking gases when contained in low pressure containers.
- A8. arising from
- i. demolition or construction work (including additions or alterations to or erection of buildings), except demolition, construction, alteration or addition not exceeding 12 metres in height or not exceeding \$500,000 (five hundred thousand dollars) in cost for the total job or project;
  - ii. completed projects after the maintenance/defects period has expired.
- A9. arising from a contractual agreement which *we* have not agreed to, unless liability would have attached to *you* in the absence of this agreement or commitment. This exclusion will not apply to any claim made under the provisions of a lease or agreement for tenancy of *your* premises, other than a provision which obliges *you* to effect insurance on the premises *you* occupy.
- A10. arising out of the rendering of or failure to render professional advice or treatment or service by *you* or any error or omission connected therewith, except to the extent the malpractice extension applies.
- A11. for *personal injury* where:
- a. that injury arises either directly or indirectly from *sexual abuse*; and
  - b. the perpetrator of the *sexual abuse* was a representative, member, *office-bearer*, *employee* or service provider of *yours*; and
  - c. *you* knew or ought reasonably to have known that the perpetrator of the *sexual abuse* had previously:
    - i. committed *sexual abuse*; or
    - ii. been convicted of *sexual abuse*; or
    - iii. whilst being a representative, member, *office-bearer*, *employee*, or service provider of *yours*, been the subject of a prior complaint in respect of a *sexual abuse*, which had not been appropriately investigated by *you*.
- A12. arising from defective design or error in the specification or formula of *your products*, or the harmful nature or unsuitability of *your products*, or the failure of *your products* to meet the standard of quality or performance warranted or represented by *you*.
- A13. arising out of:
- a. a delay in or lack of performance of any contract or agreement; or
  - b. fines, penalties or liquidated damages imposed under the contract or agreement.
- A14. for costs and expenses incurred:
- a. in performing, completing, correcting, repairing, re-doing, replacing or improving any work or service undertaken by *you* or on *your* behalf. This does not apply to damage to other property resulting from the deficient work or service;
  - b. in the repair, reconditioning or replacement of *products* or in making any refund on the price paid for any *products*;
  - c. by *you* in relation to the withdrawal, recall, inspection, repair, replacement or loss of use of

the *products* or any property of which such *products* form a part, if such *products* or property are withdrawn from the market or from use because of any known or suspected defect or deficiency therein.

- A15. arising from *products* manufactured, assembled, repaired, serviced, maintained, amended, enhanced, altered or otherwise processed by *you* in the United States of America or Canada.

There are also general exclusions applying to all sections of this policy – Refer to exclusions G1 to G17 on pages 39 to 41.

## Section B – Professional Indemnity

### Cover

We will indemnify *you* under this section of the *policy* against *your* legal liability to pay damages or compensation and claimants costs and all *defence costs* as a result of any *claim* for actual or alleged *breach of professional duty* in connection with *your business*, provided that:

1. the *claim* did not arise from any act error or omission occurring or committed prior to the *retroactive date* shown in the *certificate of insurance*;
2. we will not indemnify any *office-bearers* or *employees* or *volunteer* in respect of liability for dishonest, fraudulent, criminal or malicious breach of duty;
3. the *claim* is first made against *you* during the *period of insurance*, and notified to *us* in writing during that *period of insurance*, or during any extended notification period allowed by this *policy*; and
4. *our* total liability for compensation, claimants costs and expenses and all *defence costs* arising from all *claims*, first made against *your organisation* or *office-bearer* or any *employee* and notified to *us* during the *period of insurance*, after deduction of the *excess* does not exceed the aggregate limit of liability stated in the *certificate of insurance*.

### Automatic extensions

This *policy* automatically covers *you* up to the limit shown in the applicable extension, or alternatively shown in the *certificate of insurance*, in respect of the following:

#### Attendance at official investigations or inquiries

We will pay *defence costs* incurred by *you* with *our* prior consent in attending any official investigation, examination, inquiry or other proceedings ordered or commissioned by any official body or institution, where *you* are legally compelled by such body or institution to attend such investigation, examination, inquiry or proceeding involving an allegation of a *wrongful act* committed after the *retroactive date* and which may lead to a *claim* under this *policy*.

#### Breach of confidentiality

We will indemnify *you* against any *claim* first made against *you* during the *period of insurance* for unintentional breach of confidentiality, provided *you* did not permit or condone the alleged act, error or omission giving rise to the *claim*.

#### Disciplinary inquiry costs

We will indemnify *you* for reasonable legal costs and expenses incurred as a result of any notice requiring an *office-bearers'* attendance at an inquiry or prosecution or hearing of a disciplinary nature held before a legally constituted industry or professional board committee received by the *office-bearer* during the *period of insurance*;

Provided that:

1. we are immediately advised of the notice of attendance; and the legal costs and expenses are incurred with *our* prior written consent; and
2. regular or overtime wages, salaries or fees of *your* office-bearers are excluded from this indemnity; and
3. *our* total liability under this clause shall not exceed \$100,000 during the *period of insurance*.

### Dishonesty of office-bearers & employees

Notwithstanding exclusion G4, we will indemnify the *organisation* against any *claim* brought about or contributed to by any dishonest, fraudulent, malicious or illegal act or omission of any *office-bearer* and/or *employee* and/or *volunteer* first made against the *organisation* during the *period of insurance*, including the loss of money, bearer bonds, coupons, stamps, bank notes, currency notes or negotiable instruments of any kind, not belonging to but entrusted to the care of the *organisation*;

Provided always that:

1. *you* did not permit or condone such act or omission; and
2. the indemnity does not extend to loss of money, bearer bonds, coupons, stamps, bank notes, currency notes or negotiable instruments of any kind belonging to *you*; and
3. where the loss involves theft or misappropriation of funds, *you* maintained a separate trust account for the funds entrusted to *you*, which account necessitated the signature of two authorised persons on every cheque drawn on it, and was independently audited by a duly qualified accountant at least once annually; and
4. such loss is first discovered by *you* during the *period of insurance* and is notified in writing to us within twenty-eight (28) days after the date of such discovery; and
5. we will not be liable for any loss sustained in consequence of any act or omission occurring after the date of the discovery of, or of reasonable cause for suspicion of dishonest, fraudulent, malicious or illegal conduct on the part of the *office-bearer* or *employee* concerned; and
6. indemnity is not provided to the *office-bearer* or *employee* or *volunteer* guilty of the fraud or dishonesty concerned; and
7. the deductible shown in the *certificate of insurance* applies to each and every individual dishonest, fraudulent, malicious or illegal act or omission.

### Loss of documents

In the event of loss of or damage to *documents* not belonging to *you* and in *your* care, custody and control, we will indemnify *you* in respect of all expenses reasonably incurred by *you* in replacing or restoring such *documents*, including the *rewriting of records*; provided that:

1. such loss or damage is sustained during the *period of insurance* while the *documents* are on *your* premises, or in transit anywhere in the world, or in the custody of any person to whom *you* have entrusted, lodged or deposited such *documents* in the ordinary course of *business*;
2. we are notified in writing within twenty-eight (28) days of the loss or damage being brought to *your* attention;
3. prior to such notification, *you* have made diligent search of any lost or mislaid *documents*;
4. the amount of any claim for such expenses are supported by invoices and accounts approved by a competent person appointed by *you* with *our* consent; and

5. *our* total liability under this clause does not exceed \$25,000 during the *period of insurance*.

### Trade Practices Acts

We will indemnify *you* for *your* legal liability in respect of *claims* made against *you* and notified to *us* during the *period of insurance* arising from the provisions of the Trade Practices Act 1974 (Commonwealth), the Fair Trading Act of a State or Territory or similar consumer protection legislation, but not being claims arising:

1. under the penal or criminal provisions of any of those statutes; or
2. from conduct of *you* or any of *your* office-bearers which is fraudulent or intended to mislead or deceive.

### Optional extensions

If *you* have paid the appropriate premium and the relevant extension is shown in *your certificate of insurance* as having been allowed, we will also cover *you* up to the limit shown in the *certificate of insurance* as follows:

### Contractual liability

We will cover liability assumed by *you* under any contract or agreement which has been agreed by us in writing.

### Exclusions

We will not pay under section B any *claim* for or arising out of:

- B1. any business not conducted for the benefit of or on behalf of the *organisation* named in the *certificate of insurance*.
- B2. any breach of duty by *you*, an *office-bearer* or *employee* where the act error or omission out of which such breach of duty arose occurred or was committed as an office-bearer or employee of any other corporation or incorporated body.
- B3.
  - a. any oral communication or publication of written material by *you* or at *your* direction with knowledge of the illegality or falsity thereof;
  - b. any conduct, activity or omission by any person or entity insured under this policy whose principal business is advertising, broadcasting, publishing or telecasting;
  - c. libel and slander.
- B4. legal, financial and/or investment services or advice provided by *you* or any *office-bearer* or any *employee*.
- B5. the refund of fees paid to *you*, or any trading debt incurred, or any guarantee in respect of such debt given by *you*.
- B6. any action for compensation brought or first brought against *you* in the USA or Canada.
- B7. liability to any *office-bearer* or *employee* or to any person deemed to be employed by *you* under any relevant workers compensation or similar legislation.
- B8. liability arising under or imposed by any industrial award, agreement or determination.
- B9. work undertaken for or on behalf of:
  - a. any company or firm in which *you*, an *office-bearer* or *employee* exercise or have exercised a controlling interest or
  - b. *your* parent company (if any), any subsidiary company, or any other company in which

*you* or *your* parent company has or has held at least a 20% financial interest unless such *claim* emanates from an independent third party.

- B10. a. total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of *electronic data*,  
b. errors 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 whenever it may occur.
- B11. actual or alleged unlawful discrimination (or other unlawful act, error or omission ) by *you* against any *office-bearer* or *employee* or employment applicant.
- B12. any actual or alleged molestation or *sexual abuse*.
- B13. liability in respect of:  
a. the performance or recommendation of any operation to produce sterility, unless pathologically indicated; or  
b. the use of drugs for weight reduction; or  
c. the performance by dentists and dental surgeons of:  
i. general anaesthesia; or  
ii. any procedure carried out under general anaesthetic.
- B14. the liability of any person who is a *medical practitioner* or a self-employed registered *health professional* where the *claim* is in connection with such person acting in their capacity as *medical practitioner* or prescribed registered *health professional*.

There are also general exclusions applying to all sections of this policy – Refer to exclusions G1 to G17 on pages 39 to 41.

## Section C – Directors & Office-bearers Liability & Entity Cover

### Cover

We will indemnify under this section of the *policy*:

1. *office-bearers* against their legal liability to pay damages or compensation and all claimants costs and *defence costs* as a result of any actual or alleged *wrongful act* committed by them in their capacity as *office-bearers* of the *organisation*;
2. the *organisation* for any payment which it is legally permitted to make to or on behalf of the *office-bearers* in respect of any *wrongful act* committed by them in their capacity as *office-bearers* of the *organisation*;
3. the *organisation* against its legal liability to pay damages or compensation and all claimants costs and *defence costs* as a result of any *claim*.

Provided that:

1. the *wrongful act* did not arise from any act error or omission occurring or committed prior to the *retroactive date* shown in the *certificate of insurance*;
2. the *claim* is first made whether jointly or severally against the *office-bearers* or the *organisation* during the *period of insurance*, and notified to *us* in writing during the *period of insurance*, or during any extended notification period allowed by this *policy*;

3. *our* total liability arising from all *claims* first made against the *office-bearers* and/or the *organisation* and notified to *us* during the *period of insurance*, after deduction of any excess, does not exceed the aggregate limit of liability stated in the *certificate of insurance*.

For the purposes of this *policy*, all *claims* arising out of one *wrongful act* and/or *interrelated wrongful acts* of any *office-bearer* shall be deemed to be one *claim* made in the *period of insurance* in which the *claim* is first made or deemed to be made against the *office-bearer*.

### Automatic extensions

This *policy* automatically covers *you* up to the limit shown in the extension, or alternatively shown in the *certificate of insurance*, in respect of the following:

#### Attendance at official investigations or inquiries

We will pay *defence costs* incurred with *our* prior consent by an *office-bearer* in attending any official investigation, examination, inquiry or other proceedings ordered or commissioned by any official body or institution, where the *office-bearer* is legally compelled by such body or institution to attend such investigation, examination, inquiry or proceeding and which involves an allegation of a *wrongful act* committed after the *retroactive date* and which may lead to a *claim* under this *policy*.

#### Insured vs Insured cover

We will cover any *office-bearer* in respect of the following:

1. a *claim* for contribution or indemnity by another *office-bearer* for which a *claim* has been admitted under this section of the *policy*;
2. any shareholder derivative action brought or maintained in his/her/its own right or on behalf of the *organisation*, provided the shareholder was not an *office bearer* at the time of the *wrongful act*;
3. any derivative action brought or maintained by a court-appointed liquidator, receiver or administrative receiver on behalf of the *organisation*;
4. any *claim* brought against the *office-bearer* by any regulatory authority of competent jurisdiction on behalf of the *organisation*;
5. a *claim* brought or maintained against the *office-bearer* by any person including another *office-bearer* alleging discrimination, harassment, defamation, breach of contract, unfairness in employment, denial of natural justice in the performance of their office on behalf of the *organisation*;

Provided always that:

1. the person in whose name the *claim* is made, acts without any prior direct or indirect solicitation or enticement of or with any other *insured* under this *policy* (other than co-operation legally required by any statutory or regulatory authority);
2. the *claim* is not brought about by or contributed to by and does not involve industrial disputes (whether between the *organisation* and *employees* or their union or otherwise), strike, picket, lock out, go slow or work to rule;
3. the *claim* does not arise from any act or omission for which indemnity is provided by another section of this *policy*;
4. the *claim* does not arise as a result of any act or omission committed by an *office-bearer* with a reckless disregard for its consequences.

### Occupational health & safety

We will pay *defence costs* in respect of any *claim* made against an *office-bearer* for a breach or alleged breach of any Commonwealth, State or Territory Occupational Health & Safety legislation.

### Outside office-bearership cover

We will provide indemnity for any *outside office-bearership* which is held by an *office-bearer* at the commencement of the period of cover or which is assumed by the *office-bearer* during the period of cover;

Provided always that:

1. no indemnity whatsoever is available under this extension to the *outside entity* in which such *outside office-bearership* is held;
2. the indemnity will not extend to any other officer or employee of such *outside entity* who is not also an *office-bearer* of the *organisation*;
3. the *wrongful act* giving rise to the *claim* occurred during the period for which such *outside office-bearership* is held or before the *office-bearer* ceased holding the position;
4. the indemnity applies in excess of any other indemnity available to such *office-bearer* by reason of serving in such *outside office-bearership*; and
5. cover under this extension is non-cumulative with any other insurance issued by *us* to the said *outside entity*.

### Preservation of indemnity

If an *office-bearer* is not able to obtain indemnity from the *organisation* for a *claim* made against him or her by reason only of the *organisation* being placed in liquidation (other than voluntary liquidation), then *we* will indemnify the *office-bearer* under this policy, provided the burden of adducing satisfactory proof to obtain the benefit of this extension shall rest entirely with the *office-bearer*.

### Run-off cover for subsidiaries

Where an entity ceases to be a subsidiary during the *period of insurance*, *we* will provide indemnity in respect of such subsidiary and its *office-bearers* but only in respect of *claims* for *wrongful acts* preceding the time when such entity ceased to be a subsidiary.

### Optional extensions

If *you* have paid the appropriate premium and the relevant extension is shown in *your certificate of insurance* as having been allowed, *we* will also cover *you* up to the limit shown in the applicable extension below or alternatively in the *certificate of insurance* as follows:

### Indemnifiable fines & penalties

Notwithstanding exclusion G7, *we* will indemnify an *office-bearer* against any penalty (defined below) insurable at law and payable by the *office-bearer* upon conviction for an offence under an Act specified below arising from criminal proceedings:-

1. first brought against an *office-bearer* during the *period of insurance*; and
2. notified to *us* during the *period of insurance*, and
3. which arises from a *wrongful act* committed or alleged to have been committed by such *office-bearer*.

Provided that:

1. the indemnity does not extend to any penalty arising out of the failure of the *office-bearer* to comply with any lawful consent, demand, determination, notice, order, or the like issued under the Act; and
2. the total amount payable by *us* in any *period of insurance* shall be a maximum of \$100,000 or such other aggregate limit of liability as may be shown in the *certificate of insurance* against this extension.

For the purpose of this extension 'Act' means, as the context requires:

1. The Trade Practices Act 1974;
2. The Privacy Act 1988;
3. The Corporations Act 2001;
4. The Associations Incorporation legislation of any State or Territory of Australia;
5. The Occupational Health & Safety legislation of any State or Territory of Australia;

including any amendment to, or replacement or re-enactment of any such legislation, any regulation or other subordinate legislation made under these statutes, and any equivalent legislation of a State or Territory of Australia.

'Penalty' under this extension shall mean a fine or other cash penalty imposed by law.

## Exclusions

We will not cover under section C any liability arising from:

- C1.
  - a. *personal injury* or death of any person; or
  - b. destruction of or damage to or loss of use of tangible property.
- C2.
  - a. any *office-bearer* 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
  - b. any *office-bearer* having gained any personal advantage to which he/she was not legally entitled;

provided this exclusion shall only apply to the extent that the *office-bearers* relevant conduct has been established by a judgement or other final adjudication.
- C3. legal action brought by or on behalf of the *organisation* or any *office-bearer* or their estates heirs representatives successors or assigns against any other *office-bearer*, other than as provided in this section of the policy.
- C4. the issue of any prospectus type document and/or initial public offering of securities in connection with any debt raising or incorporation or change in the incorporation of the *organisation*.
- C5. any action brought by or on behalf of any member or *office-bearer* of the *organisation*.
- C6. any *sexual abuse*.
- C7. any discrimination of any kind.
- C8.
  - a. a breach or alleged breach of professional duty; or
  - b. a breach or alleged breach of any contract for the provision of professional services and/or professional advice.

- C9. a. total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of *electronic data*,  
b. errors 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 whenever it may occur.

There are also general exclusions applying to all sections of this policy – Refer to exclusions G1 to G17 on pages 39 to 41.

## Section D – Employment Practices Liability

### Cover

We will indemnify *you* under this section of the *policy* for all sums including *back-pay* and all *defence costs* the *organisation* is legally liable to pay as a result of any *claim* by a current or former *office-bearer* or *employee* (or *deemed employee*), *contract worker*, *temporary worker*, or applicant for employment alleging:

1. wrongful refusal to employ an applicant for employment;
2. wrongful failure to promote, wrongful demotion, negligent evaluation of an *office-bearer* or *employee*, negligent reassignment or wrongful disciplinary action against such *office-bearer* or *employee*;
3. wrongful termination of employment, including constructive dismissal;
4. retaliatory treatment against an *office-bearer* or *employee* on account of the *office-bearer* or *employees* exercise of his or her legal rights;
5. unlawful workplace harassment or *discrimination*;
6. oral or written publication of material that slanders, defames or libels an *office-bearer* or *employee* or violates or invades an *office-bearer* or *employees* right of privacy.

Provided that:

1. a *wrongful act* shall include an unfair or unlawful omission to act;
2. the alleged act or omission arises from *your business* carried out within the *geographical limits*;
3. all *interrelated wrongful acts* alleged by any claimant against *you* shall be regarded as a single *wrongful act* when the first of those acts occurred;
4. the *claim* is first made against *you* during the *period of insurance* and notified to *us* in writing during that period or during any extended reporting period allowed by this *policy*; and
5. *our* total liability arising from all *claims*, first made against *you* and notified to *us* during the *period of insurance*, after deduction of any *excess* does not exceed the aggregate limit of liability stated in the *certificate of insurance*.

### Automatic extensions

This *policy* automatically covers *you* up to the limit shown in the extension, or alternatively shown in the *certificate of insurance*, in respect of the following:

## New subsidiaries

Where *you* create or acquire a new subsidiary organisation or entity during the *period of insurance*, through consolidation, merger, purchase of its assets or assumption of effective control, *we* will provide indemnity in respect of such subsidiary but only in respect of *wrongful acts* actually or allegedly committed or attempted after the time when such entity becomes such a subsidiary;

Provided that:

1. such organisation or entity is carrying on substantially the same *business* as the named *insured*, and
2. such acquisition or assumption of control is reported to *us* within 60 days after such acquisition or creation is effected;
3. if such notification is not given to *us* within 60 days after the acquisition or creation, cover under this extension will cease at midnight on the sixtieth day after the acquisition or creation;
4. after receipt of notification under 2 above, *we* confirm continuation of cover for such subsidiary organisation or entity, and at *our* discretion with such additional terms and/or premium as may be endorsed on this *policy*.

## Run-off cover for subsidiaries

Where an entity ceases to be a subsidiary during the *period of insurance* *we* will provide indemnity in respect of such subsidiary only in respect of *claims* for *wrongful acts* preceding the time when such entity ceased to be a subsidiary.

## Exclusions

*We* will not cover under section D *claims* for or in respect of or arising from:

- D1. any act, error or omission which occurs after:
  - a. *you* are placed in any bankruptcy or insolvent administration; or
  - b. any other entity acquires a majority or controlling interest in *your organisation*.
- D2. oral or written publication of material, if such material was published by or at *your* direction with knowledge of the materials falsity.
- D3. payments *you* are already obliged to make pursuant to an express obligation, whether under a statute, award, contract of employment or otherwise (except *back-pay*), or arising from the breach of the obligation to make such payment.
- D4. a. *personal injury* to any person unrelated to employment by or an application for employment with *your organisation*; or
  - b. destruction of or damage to or loss of use of tangible property.
- D5. any requirement for physical modifications to *your* premises, fixtures, fittings, plant or equipment or changes to *your* usual business operations.
- D6. lockouts, strikes, picket lines, stand downs, related worker replacement or other similar actions resulting from industrial disputes or negotiations.
- D7. organisation-wide or subsidiary-wide industrial disputes.
- D8. any of the following laws:
  - a. laws relating to workers compensation;
  - b. laws relating to occupational health and safety;
  - c. laws concerning procedural and notification requirements in the case of termination of employment due to redundancy;

- d. laws relating to contracts alleged to be harsh, unfair, unconscionable or contrary to public interest.

Refer also to general exclusions applying to all sections of this policy G1 to G17 which follow.

## Exclusions to all sections

We will not cover under any section of this *policy* any liability arising directly or indirectly from or based upon or attributable to or in consequence of:

- G1. war, invasion, act of foreign enemy, hostilities or warlike activities (whether war is formally declared or not), civil war, insurrection, rebellion, civil commotion assuming the proportions of or amounting to a popular rising, mutiny, military rising, military or usurped power, revolution, confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority, except to the extent that such an order arises as a result of any *wrongful act* committed by any *office-bearer*.
- G2. any *terrorism act*, regardless of any other cause or event contributing concurrently or in any other sequence to the loss, or any action taken in controlling, preventing, suppressing, retaliating against, responding to or in any way relating to a *terrorism act* ("terrorism exclusion").
- G3.
  - a. ionising radiations or contamination by radioactivity from any nuclear waste or the combustion or self-sustaining process of nuclear fission of nuclear fuel; or
  - b. the hazardous properties of any nuclear explosive assembly or component; or
  - c. the use handling or transportation of radioactive materials or any weapon of war or explosive device employing nuclear fission or fusion; or
  - d. work upon or services supplied to any site using nuclear reactors such as atomic piles, particular accelerators or generators or similar devices or any site using atomic energy.
- G4.
  - a. any dishonest, fraudulent, criminal or malicious act or omission, or
  - b. any act or omission committed with a reckless disregard for the consequences of such act or omission, or
  - c. the condoning of acts or omissions of the type referred to in a and b above, or
  - d. any deliberate breach of any statute or regulation, by any person or entity seeking the benefit of this *policy*.
- G5. any claim on *you* by or on behalf of an organisation or entity which is a subsidiary of the *organisation* or in which *you* have a controlling interest.
- G6. any investment advice or information or opinion or failure to provide advice or information regarding investments.
- G7. fines or penalties or liquidated, punitive, exemplary or aggravated damages or multiplication of compensatory damages or taxes, levies, imposts or duties imposed by a court of law or under any statute or subordinate legislation or under any government or local government regulation or proclamation.

However this exclusion shall not apply to:

- a. any parts of a claim which are not made up of fines or penalties or liquidated, punitive, exemplary or aggravated damages or multiplication of compensatory damages or taxes, levies, imposts or duties; or
  - b. compensatory damages arising from libel, slander or defamation.
- G8. asbestos or asbestos products in any form or quantity or for defending any claim for such actual or alleged liability. However, this exclusion shall not apply if any injury sustained is

unrelated to the inherently hazardous nature of asbestos

- G9. a. the actual, alleged or threatened discharge, dispersal, release, escape or disposal of *pollutants* into or upon land, the atmosphere, or any watercourse or body of water; or  
b. the cost of removing, nullifying or cleaning up *pollutants*.  
This exclusion will not apply to liability which arises from a sudden, identifiable, unintended and unexpected happening which takes place in its entirety at a specific time and place within one *period of insurance* outside the United States of America or Canada.
- G10. the performance or functionality of any *computer* equipment that does not meet year 2000 conformity based on the definition contained in the document published by Standards Australia and Standards New Zealand under reference no. SAA/SNZMP77:1998.
- G11. in respect of *claims* made under sections B, C and D only,  
a. any act, error or omission occurring or committed prior to the *retroactive date*;  
b. any *known circumstance*;  
c. facts or circumstances which were notified to *your* insurer under the provisions of any insurance policy in force prior to the commencement of this *policy*.
- G12. arising from *personal injury* to any *office-bearers*, *employees*, or to any person deemed to be employed by *you* under any relevant workers compensation or similar legislation.
- G13. liability arising under or imposed by any industrial award, agreement or determination.
- G14. a. loss or damage in respect of which *you* have at any time by deed or agreement foregone excluded or limited a right of recovery; or  
b. any civil liability assumed by *you* outside the normal course of the *business*.
- G15. a. *your internet/intranet operations*, other than liability arising out of normal everyday use of the internet for email, intranet and associated activity, or arising out of any material on *your website* in support of *your products* or services;  
b. *property damage* to computer data or programs and storage media involving:  
i. the use of any *computer* hardware or software;  
ii. the provision of *computer* or telecommunications services by or on *your* behalf;  
iii. the use of *computer* hardware or software of any third party, whether authorised or unauthorised, including any damage caused by any *computer virus*.
- G16. *your products* or work performed by *you* in any country, state or territory where the law applicable requires that such liability shall only be insured or secured with an insurer or organisation licensed or authorised in that country, state or territory.
- G17. any action for compensation brought or first brought against *you*, *your office-bearers* or *employees*:  
a. in the USA or Canada, other than in respect of liability incurred by travelling executives or *employees* in the course of *your business*; or  
b. in any court of law or tribunal whose judgment is unenforceable in the courts of law in Australia or New Zealand.

## Claims procedures

### Your responsibility when making a claim

*You* must forward to *us* every originating process, whether by way of writ, summons, third party notice or cross-claim, and every notice of any prosecution, inquest or fatal accident inquiry, immediately upon receipt or service thereof. This must be notified to *us* during the *period of*

*insurance* or no later than 30 days after expiry of the *policy*. If this is not done, *we* may reduce or revoke *your* right to cover under this *policy*.

*You* are required, at *your* expense, to take all reasonable steps to minimise any claim and to prevent further claims arising out of the same or similar conditions.

### **Defence and settlement of claims**

*You* must not make any admission of liability, offer or promise of payment or take any action that may be considered to be an admission of liability, or settle or repudiate a claim without *our* prior written consent.

*We* shall have full discretion in the conduct and defence, in *your* name and on *your* behalf, of any proceedings in connection with, and in the settlement of any claim, and *you* shall give *us* all such information and assistance as *we* may require. *We* shall be entitled to attend any inquest or fatal accident inquiry in respect of which there may arise any liability 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 so settled, less the applicable excess, plus costs and expenses incurred up to the date of such refusal.

Unless these terms are complied with, *our* liability in respect of any claim shall be reduced by the amount that fairly represents the extent to which *our* interests have been prejudiced thereby. If *your* failure to comply caused the loss for which *you* claim, *we* may be entitled to refuse the claim.

### **Claims cooperation**

*You* are required to promptly do and concur in doing all things reasonably practicable to avoid or diminish any loss, and shall immediately give all such information and assistance to *us* as *we* may reasonably require to enable *us* to investigate and to defend a claim and/or to enable *us* to determine *our* liability under this *policy*.

*We* may take whatever action that *we* consider appropriate in respect of the claim against *you* and such action by *us* will not be regarded in any way prejudicing *our* position under this *policy* and no admission of entitlement to indemnity under this *policy* shall thereby be implied or arise.

*You* will not be required to contest any claim unless a *senior counsel* (to be mutually agreed upon by *you* and *us*) shall advise that such claim should be contested. In formulating such advice, *senior counsel* shall take into consideration the economics of the matter, the damages and costs which are likely to be recovered by the plaintiff, the likely *defence costs* and *your* prospects of successfully defending the claim. The cost of such *senior counsels* opinion shall be regarded as part of the *defence costs*.

In the event of any payment under this *policy*, *we* will be subrogated to the extent of such payment to all *your* rights of recovery, and *you* shall execute all papers required and shall do everything necessary to secure and preserve such rights, including the execution of documents necessary to enable *us* effectively to bring suit in *your* name.

### **Fraudulent claims**

If a fraudulent claim is made *we* will not pay it and *we* will take action to recover any moneys already disbursed in respect of the claim. *We* will also cancel the insurance *policy*.

## Ansvar Insurance

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