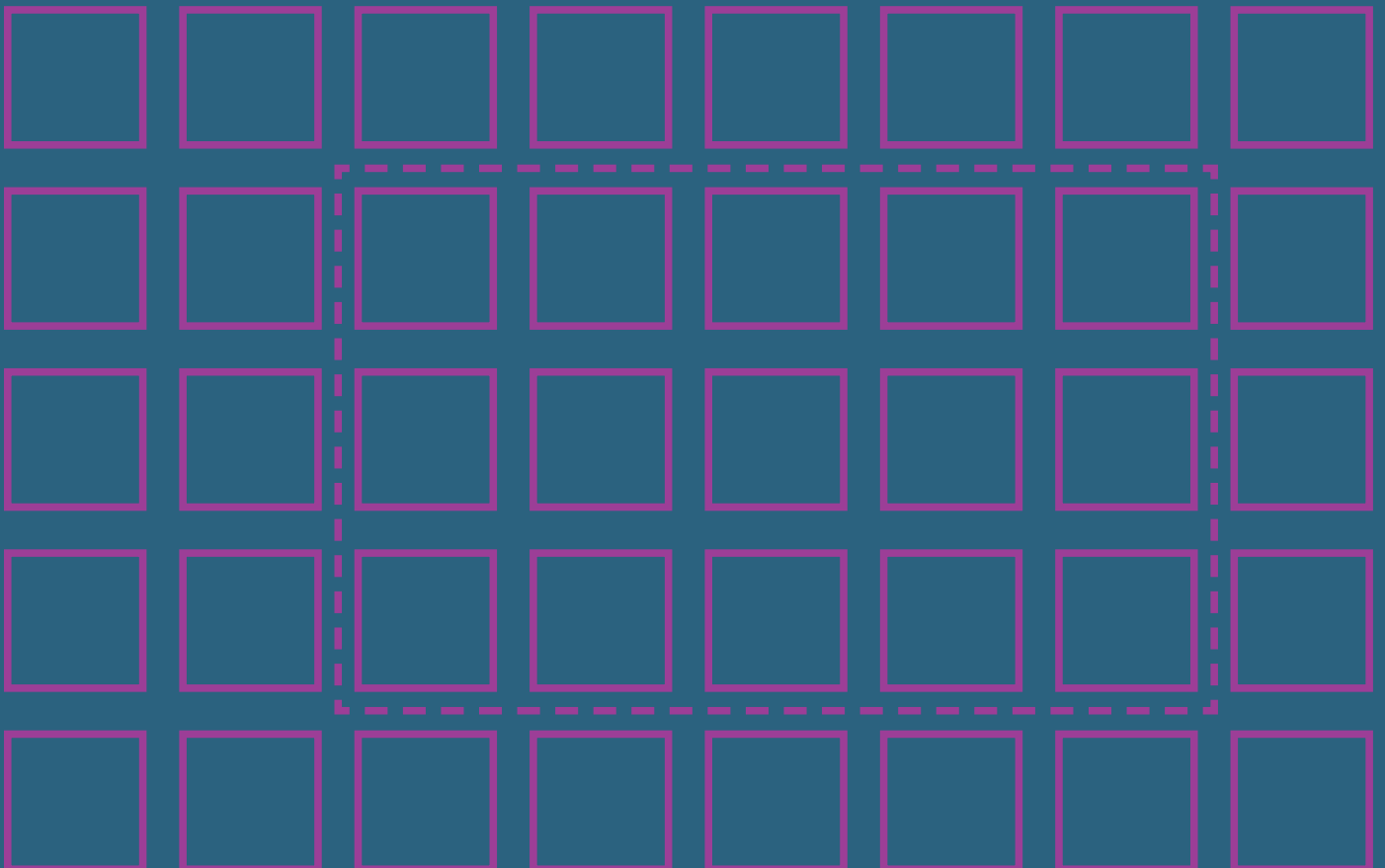


Vero Profin
Professional and financial risk solutions

Medical Malpractice Civil Liability Insurance

For Healthcare Establishments



**Medical Malpractice
Civil Liability Insurance Policy**



for healthcare establishments

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Notices

These notices do not form part of the policy.

Duty of Disclosure

Before you enter into a contract of general insurance with an insurer, you have a duty, under the Insurance Contracts Act 1984, to disclose to the insurer every matter that you know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of insurance, and if so, on what terms.

You have the same duty to disclose those matters to the insurer before you renew, extend, vary or reinstate a contract of general insurance.

Your duty, however, does not require disclosure of any matter:

- that diminishes the risk to be undertaken by the insurer;
- that is of common knowledge;
- that your insurer knows or, in the ordinary course of his business, ought to know;
- as to which compliance with your duty is waived by the insurer.

Non-disclosure

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce its liability under the contract in respect of a claim, refuse to pay the claim or may cancel the contract. If your non-disclosure is fraudulent, the insurer may also have the option of avoiding the contract from its beginning.

Claims Made and Notified Basis of Coverage

The Medical Malpractice Civil Liability Insurance Policy is issued on a 'Claims made and Notified' basis.

This means that the Insuring Clause responds to:

- a) claims first made against you during the policy period and notified to the insurer during the policy period, provided that you were not aware at any time prior to the policy inception of circumstances which would have put a reasonable person in your position on notice that a claim may be made against him/her; and
- b) written notification of facts pursuant to section 40(3) of the Insurance Contracts Act 1984. The facts that you may decide to notify, are those which might give rise to a claim against you. Such notification must be given as soon as reasonably practicable after you become aware of the facts and prior to the policy period expiring. If you give written notification of facts the policy will respond even though a claim arising from those facts is made against you after the policy has expired. For your information, s40(3) of the Insurance Contracts Act 1984 is set out below;

"S40(3) Where the insured gave notice in writing to the insurer of facts that might give rise to claim against the insured as soon as was reasonably practicable after the insured became aware of those facts but before the insurance cover provided by the contract expired, the insurer is not relieved of liability under the contract in respect of the claim when made by reason only that it was made after the expiration of the period of the insurance cover provided by the contract."

When the policy period expires, no new notification of facts can be made on the expired policy even though the event giving rise to the claim against you may have occurred during the policy period.

Retroactive Date

You will not be entitled to indemnity under your new policy in respect of any claim resulting from an act, error or omission occurring or committed by you prior to the retroactive date, where one is specified in the policy terms offered to you.

Subrogation Waiver

Our policy contains a provision that has the effect of excluding or limiting our liability in respect of a liability incurred solely by reason of the Insured entering into a deed or agreement excluding, limiting or delaying the legal rights or of recovery against another.

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Privacy Statement

The Privacy Act 1988 (Cth) (as amended) requires us to inform you that:

Purpose of collection

We collect personal information (this is information or an opinion about an individual whose identity is apparent or can reasonably be ascertained and which relates to a natural living person) from or about you, for the purposes of:

- identifying you when you do business with us;
- establishing your requirements and providing you with the appropriate product or service including evaluating your application for insurance and any request for amendment to any insurance provided;
- setting up, issuing, administering and managing the insurance provided following acceptance of an application;
- assessing and investigating and, if covered, managing claims made in relation to any insurance you have with us or other companies within the Suncorp group; and
- understanding your needs and improving our financial products and services, including training and developing our staff and representatives.

We may use and disclose your personal information for a secondary purpose related to those purposes listed above, where you would reasonably expect us to sue or disclose your personal information for that secondary purpose. In the case of sensitive information, any secondary purpose, use or disclosure will be directly related to the purposes listed above.

Disclosure

When necessary and in connection with the purposes listed above, we may disclose your personal information to, and/or receive some personal information from:

- other companies within the Suncorp group;
- intermediaries including your agent, adviser, a broker, a representative acting on your behalf, other Australian Financial Services Licensees or our authorised representatives and our agents;
- government bodies, law enforcement or statutory bodies, other insurance companies, reinsurers, financial institutions, insurance and claims reference providers, credit agencies, loss assessors, financiers or investigative service providers;
- mailing houses, , customer research organisations;
- legal and other professional advisers; and
- other service providers, hospitals, medical and health professionals.

Marketing purposes

We would like to use and disclose your personal information to keep you up to date with the range of products and services available from Suncorp. Generally, our companies in the Suncorp group will use and disclose your personal information for Suncorp's marketing purposes. We may also use your personal information for the purpose of marketing other products and services of third parties we think may be of interest to you. If you do not want us to use and disclose your personal information for the purpose of marketing products and services to you, you should contact us and tell us. Please contact us on the details provided on the last page of this Proposal Form.

Disclosure of personal information overseas

Our business is trans-Tasman and therefore we will have instances where for the purposes detailed above we may send your personal information to other companies in Suncorp who are in either in Australia or New Zealand. There are also other instances where we may have to send your personal information overseas or collect personal information from overseas. These instances include:

- when you have asked us to do so;
- when we are authorised or required by law to do so;
- when we have outsourced a business activity or function to an overseas service provider with whom we have a contractual arrangement;

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- certain electronic transactions; or
- it is necessary in order to facilitate a transaction on your behalf.

Consequences if information is not provided

If you do not provide us with the information we need we will be unable to administer your policy or manage any claim under your policy.

Access

You can request access to the personal information we hold about you by contacting a Vero office at one of the addresses shown on the last page of this Proposal Form. In some circumstances we are able to deny your request to your personal information, such as when it is unlawful to give it to you. If we deny your request for access, we will tell you why.

Privacy Statement Issued

Vero Insurance Limited – registered office Level 18, 36 Wickham Terrace, Brisbane, Queensland 4000.

General Insurance Code of Practice

Vero Insurance Limited (Vero) has adopted the General Insurance Code of Practice which has been developed by the Insurance Council of Australia. The Code is designed to promote good relations and good insurance practice between insurers, intermediaries and consumers.

The Code sets out what insurers must do when dealing with the insured. Please contact Vero for more information about the Code, if required.

Our Complaints Handling Procedures

Resolving your complaints

If you think we have let you down in any way, or our service is not what you expect (even if through one of our agents or representatives), please tell us so we can help. You can tell us by phone, in writing or in person.

Should you tell us in writing it will help to send us the full details of your complaint together with any supporting documents and an explanation of what you want us to do. If you would like to come in to talk to us face to face, please call and we will arrange an appointment for a meeting.

What we will do to resolve your complaint

When you first let us know about your complaint or concern the person trying to resolve your complaint will listen to you, consider the facts and contact you to resolve your complaint as soon as possible, usually within 24 hours.

If you are not satisfied with this person's decision on your complaint, then it will be referred to the relevant Operational Manager, who will contact you within 5 working days.

Should you not be satisfied with the Operational Manager's decision, then it will be referred to the General Manager (or their delegate). We will send you our final decision within 15 working days from the date you first made your complaint.

What if you are not satisfied with our final decision?

We expect our procedures will deal fairly and promptly with your complaint. However if you are not satisfied with our final decision there are external dispute remedies such as mediation, arbitration or legal action.

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Introduction

Please read this Policy carefully to ensure that it meets your requirements. It is written on a Claims made and notified basis, which means that, subject to the Continuous Cover clause, it will only respond to Claims first made against the Insured and notified to the Insurer during the Period of Insurance.

Any word or expression to which a specific meaning has been attached shall bear that specific meaning wherever it may appear.

Definitions

For the purpose of this Policy:

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

"Adverse Publicity Event" means an event which, in the reasonable opinion of a Principal of the Policyholder, might cause the reputation of the Insured to be seriously affected by adverse or negative publicity.

"Claim" means:

- (a) any demand made by a third party upon the Insured for compensation, however conveyed, including a writ, statement of claim, application or other legal or arbitral process; and
- (b) for the purpose of cover under the Molestation Defence Costs and Inquiry Costs Extension only, Claim also means a prosecution of the Insured; and
- (c) for the purpose of cover under the Statutory Liability Extension only, Claim also means a prosecution of the Insured brought under occupational health and safety or environmental law arising from an actual or alleged breach of such law.

"Committee Member" means a natural person who is a member of a committee of the Policyholder.

"Council Member" means a natural person who is member of a council or board of the Policyholder.

"Defence Costs" means all necessary and reasonable costs and expenses incurred by the Insurer, or by the Insured with the Insurer's prior written consent, in defending, investigating or settling any Claim or Claims (not being Inquiry Costs or claimant's costs and expenses).

"Documents" means deeds, wills, agreements, maps, plans, records, written or printed books, letters, certificates, written or printed documents or forms of any nature (excluding any bearer bonds, coupons, bank or currency notes or other negotiable instruments) which is the property of the Insured or for which the Insured is responsible.

"Excess" means the amount shown in the Schedule and represents the first amount which is payable by the Insured in respect of any compensation, claimant's costs and expenses or Defence Costs arising out of or in respect of any one Claim made against the Insured, except in respect of Inquiry Costs in which case it means the amount shown in the Schedule as the Inquiry Costs Excess and represents the first amount which is payable by the Insured in respect of any Inquiry Costs arising out of any one notice.

"Fidelity Claim" means loss of money or goods belonging to or held in trust by the Policyholder caused directly by any act, or series of related acts of fraud or dishonesty committed by any employee of the Insured in connection with the Healthcare Services and discovered and notified to the Insurer during the Period of Insurance.

"Fidelity Excess" means the amount specified as the Fidelity Excess in the Schedule and represents the first amount which is payable by the Insured in respect of loss of money or goods.

"Healthcare Services" means the healthcare services described in the Schedule, and no other, of the Policyholder.

"Inquiring Body" means a coroner's court, tribunal or legally constituted industry or professional board.

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"Inquiry Costs" means necessary and reasonable legal costs and expenses incurred by the Insured arising out of any notice from an Inquiring Body requiring a response from the Insured or requiring the Insured's attendance at an inquiry or hearing held before the Inquiring Body.

"Insured" means:

- i. the Policyholder; and/or
- ii. past and/or present employees of the Policyholder, but only in his or her capacity as such; and/or
- iii. any past and/or present Principal of the Policyholder, but only in his or her capacity as such; and/or
- iv. the estate, heirs, legal representatives or legal assigns of any natural person insured under this Policy in the event of the death or legal incapacity of such person.

"Insurer" means Vero Insurance Limited ABN 48 005 297 807

"Labour" refers to the act of giving birth and involves the following stages:

- a. The first stage lasts from the onset of labour until there is full dilation (10 cm.) of the cervical os (opening). The first stage of labour is also called the stage of dilatation;
- b. The stage commencing from the full dilatation of the cervix until the baby is completely out of the birth canal and has been born;
- c. The stage commencing from birth of the foetus through expulsion or extraction of the placenta and membranes (afterbirth); and
- d. The fourth stage is the period after delivery when the tone of the uterus is established and the uterus contracts down again.

"Limit of Indemnity" means the Limit of Indemnity as shown in the Schedule.

"Maximum Aggregate Limit of Indemnity" means the Maximum Aggregate Limit of Indemnity as shown in the Schedule.

"Medical Practitioner" means a medical practitioner or dentist.

"Medicare Benefits Fraud" means fraud against Medicare, the Pharmaceutical Benefits Scheme and other government programs administered by Medicare Australia by the payment of any benefit or funds to any person who had no legal entitlement to such benefit or funds.

"Period of Insurance" means the Period of Insurance as shown in the Schedule.

"Policy" means the Schedule, the terms of this policy and any endorsements.

"Policyholder" means the legal entity or entities shown in the Schedule.

"Practice of Midwifery" means the practice of midwifery during Labour and does not include childbirth training and education or the provision of care and advice prior to and after Labour.

"Principal" means a sole practitioner, a partner of a firm or a director of a company.

"Public Relations Expenses" means the reasonable costs, charges, fees and expenses of a public relations firm or consultant engaged to prevent or limit the adverse effects of or negative publicity from an Adverse Publicity Event, which the Insured may engage with the prior written consent of the Insurer, but only during the first thirty days immediately following the Adverse Publicity Event.

"Retroactive Date" means the Retroactive Date shown in the Schedule.

"Schedule" means the current Schedule issued by the Insurer to the Insured.

"Spouse" means a lawful spouse, domestic partner (including without limitation same sex partner) or any person deriving similar status by reason of the common law or statute.

"Student" means a natural person who is a student under the direction, control, or request of, or whilst undertaking any activity approved or recognised by the Policyholder.

"Subsidiary" means a subsidiary of the Insured as defined in the Corporations Act 2001.

"Volunteer" means a person providing the Healthcare Services on a voluntary, unpaid basis for or on behalf of the Policyholder.

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Insurance Preamble

The Insured and the Insurer agree that the Insurer will provide insurance on the terms of this Policy.

Insuring Clause

The Insurer will indemnify the Insured against civil liability for compensation and claimant's costs and expenses in respect of any Claim or Claims first made against the Insured and notified to the Insurer during the Period of Insurance resulting from the conduct of the Healthcare Services.

Limit of Indemnity and Maximum Aggregate Limit of Indemnity

The liability of the Insurer for compensation and claimant's costs and expenses in respect of any one Claim first made against the Insured and notified to the Insurer during the Period of Insurance shall not exceed the Limit of Indemnity.

The aggregate liability of the Insurer under this Policy will not exceed the Maximum Aggregate Limit of Indemnity for all Claims first made against the Insured and notified to the Insurer during the Period of Insurance, except that the Insurer will in addition pay Defence Costs on the basis set out in the Defence Costs clause in this Policy.

Defence Costs

The Insurer will, in addition to the Limit of Indemnity, pay Defence Costs for Claims covered under this Policy, provided that if the total amount of compensation and claimant's costs and expenses required to dispose of the Claim or Claims exceeds the Limit of Indemnity, the liability of the Insurer for such Defence Costs shall be only that proportion which the Limit of Indemnity bears to the total amount of compensation and claimant's costs and expenses required to dispose of the Claim or Claims.

Excess

The Insured is liable for the amount of any compensation, claimant's costs and expenses or Defence Costs that are collectively less than the Excess for each Claim. The Excess is deducted from compensation, claimant's costs and expenses payable before the application of the Limit of Indemnity.

The Insured is liable for the amount of any Inquiry Costs that is less than the Excess for each notice. The Excess is deducted from Inquiry Costs payable before the application of the aggregate limit stated in paragraph (e) of the Inquiry Costs Extension.

The Insurer has no liability for the amount of compensation, claimant's costs and expenses, Defence Costs or Inquiry Costs that is less than the Excess for each Claim or notice.

The Insured agrees that the Excess must be retained by the Insured and is to remain uninsured.

Aggregation of Claims and Fidelity Claims

All Claims arising out of, based upon, attributable to or in respect of a single act, error or omission or series of acts, errors or omissions consequent upon or attributable to one source or original cause shall be considered to be a single Claim and shall attract one Excess.

For the purposes of the Inquiry Costs Extension, all notices arising out of, based upon, attributable to or in respect of any one inquiry or hearing shall be considered to be a single notice and shall attract one Excess.

For the purposes of the Fidelity Extension all Fidelity Claims sustained as a result of the same or causally related acts, causes or events will be deemed to be one Fidelity Claim regardless of when during the Period of Insurance or prior thereto such acts causes or events occurred.

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Insurance Clarification

For the purposes of clarifying the scope of cover under the Insuring Clause of this Policy, the Insuring Clause includes civil liability for:

Contractual Liability

Contractual liability, provided that:

1. the Insurer will not be liable for any liability assumed by the Insured under any express warranty, guarantee, hold harmless agreement, indemnity clause or the like unless such liability would have attached to the Insured in the absence of such agreement; and
2. where a Claim is an alleged breach of contract the Insurer will not reduce their liability by the mere fact that contributory negligence is not available as a defence.

Intellectual Property

Infringement of rights of intellectual property, provided that the act, error or omission by the Insured is unintentional and is committed in the course of carrying on the Healthcare Services.

Libel or Slander

Libel or Slander, provided that:

1. the libel or slander is committed by the Insured in the course of carrying on their Healthcare Services; and
2. the Insured did not intend to commit the libel or slander with express malice.

Privacy Complaints

unintentional breach of any duty of confidentiality owed to a patient arising at law or any unintentional breach of the Privacy Act 1988 (Cth), Health Records and Information Privacy Act 2002 (NSW), Health Records Act 2001 (Vic) or Health Records (Privacy and Access) Act 1997 or similar privacy legislation in Australia or New Zealand.

Trade Practices Act

Claims made under the Trade Practices Act, provided that the Insurer will not indemnify the Insured for Claims made where such Claim arises:

1. under the penal or criminal provisions of any of the Trade Practices Act 1974 (Cwth), the Fair Trading Act 1987 (NSW), or similar legislation in other States; or
2. from conduct of the Insured which is fraudulent or intended to mislead or deceive.

However the Insurer will only exclude such Claims where it is established by admission or final adjudication that the Insured breached the penal or criminal provisions of the Acts, or where the conduct was established by admission or final adjudication to be fraudulent or intended to mislead or deceive.

Sub-contractors and Consultants

Acts, errors or omissions of sub-contractors and consultants, provided that the Insurer will only indemnify the Insured for its civil liability in connection with the Healthcare Services provided by the sub-contractor and/or consultant. Indemnity will not extend to the sub-contractor and/or consultant who committed the act, error or omission.

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Extensions

The following Extensions apply if noted as "Included" in the Schedule. These Extensions are subject to all the provisions of the Policy, unless otherwise stated. The total of all payments made under the Extensions will be part of and not in addition to the Limit of Indemnity and the Maximum Aggregate Limit of Indemnity, unless otherwise stated.

Compensation for Court Attendance

The Insurer will pay the Policyholder compensation in the event that legal advisers, acting on behalf of the Insured with the consent of the Insurer, require any Insured to attend court as a witness in connection with a Claim covered under this Policy first made and notified to the Insurer during the Period of Insurance, but only in circumstances where the Policyholder actually pays the Insured(s) for his/her (their) time. Such compensation by the Insurer will be at the rate of \$250 per person for each day on which attendance is required subject to a maximum of \$10,000 for all persons per Claim.

Continuous Cover

Where the Insured:

1. first became aware of facts or circumstances that might give rise to a Claim, prior to the Period of Insurance; and
2. had not notified the Insurer of such facts or circumstances prior to the Period of Insurance,

then the Prior Claims or Known Circumstances exception will not apply to any notification during the Period of Insurance of any Claim resulting from such facts or circumstances, provided that:

- (a) there is an absence of fraudulent non-compliance with the Insured's duty of disclosure and an absence of fraudulent misrepresentation by the Insured in respect of such facts or circumstances; and
- (b) the Insured has been continuously insured, without interruption at the time of the notification of the Claim to the Insurer, under a professional indemnity or medical malpractice policy issued by the Insurer and was insured by the Insurer at the time when the Insured first became aware of such facts or circumstances; and
- (c) the Insurer may reduce its liability under the Policy to the extent of any prejudice the Insurer may suffer in connection with the Insured's failure to notify the facts or circumstances giving rise to a Claim prior to the Period of Insurance.

Dishonesty of Employees/Medicare Benefits Fraud

The Insurer will, notwithstanding the Dishonest, Fraudulent or Criminal Acts Exception, indemnify the Insured against civil liability for compensation and claimant's costs and expenses in respect of any Claim or Claims first made against the Insured and notified to the Insurer during the Period of Insurance resulting from any dishonest, fraudulent, criminal or malicious act or omission, including but not limited to Medicare Benefits Fraud, by any employee occurring or committed in connection with the Healthcare Services.

The Insurer will in addition pay Defence Costs on the basis already set out in this Policy.

Provided that nothing in this Extension shall require the Insurer to indemnify any employee who has perpetrated any such dishonest, fraudulent, criminal or malicious act or omission or who by act or omission has condoned any such act or omission.

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Extended Reporting Period

In the event that this Policy is neither renewed nor replaced at the end of the Period of Insurance with insurance that covers substantially the same risk exposure as this Policy, the Policyholder will be entitled to purchase an Extended Reporting Period of 365 days.

The Extended Reporting Period begins immediately following the expiry of the Period of Insurance and ends on the earlier of 4.p.m. L.S.T. on the three hundred and sixty fifth day thereafter, or at the time on the effective date on which the Policyholder obtains insurance that covers substantially the same risk exposure as this Policy.

The additional premium for the Extended Reporting Period will be 100% of the full annual Premium. If the Extended Reporting Period ends because the Policyholder obtains insurance that covers substantially the same risk exposure as this Policy then the Insurer will retain a short term premium calculated at a pro rata of the additional premium plus ten percent and the Policyholder will receive a refund of any balance of the premium.

The entitlement to purchase the Extended Reporting Period lapses upon expiry of the Period of Insurance.

The application to purchase the Extended Reporting Period must be received by the Insurer prior to the expiry of the Period of Insurance, and payment of the additional premium must be made to the Insurer within thirty days of the same date.

During the Extended Reporting Period the Insured may continue to notify the Insurer of Claims, but only Claims based on any act, error or omission committed or alleged to have been committed prior to expiry of the Period of Insurance.

Any notification to the Insurer during this Extended Reporting Period will be deemed to have been first notified to the Insurer during the Period of Insurance.

Fidelity

The Insurer will indemnify the Insured for Fidelity Claims provided that:

- (a) no person committing or condoning such fraud or dishonesty shall be entitled to indemnity;
- (b) the Insured must immediately take all reasonable steps to prevent further loss;
- (c) if the Insurer so requests the Insured shall take all reasonable steps to effect recovery from the person committing or condoning such fraud or dishonesty;
- (d) the following will be deducted from any amount payable under this Policy:
 - (i) any monies which but for such fraud or dishonesty would be due from the Insured to the person committing or condoning such act;
 - (ii) any monies held by the Insured and belonging to such person; and
 - (iii) any monies recovered following action as described in (c) above;
- (e) the Insured is liable for the amount of any loss of money or goods that is less than the Fidelity Excess for each Fidelity Claim. The Fidelity Excess is deducted from loss of money or goods before the application of the aggregate limit stated in paragraph g) of this Extension. The Insurer has no liability for the amount of loss of money or goods that is less than the Fidelity Excess for each Fidelity Claim. The Insured agrees that the Fidelity Excess must be retained by the Insured and is to remain uninsured;
- (f) the Insurer shall not be liable in respect of any Fidelity Claim for loss of money or goods arising from any fraud or dishonesty committed by any person after the discovery in relation to that person of reasonable cause for suspicion of fraud or dishonesty; and
- (g) the total liability of the Insurer for all Fidelity Claims under this Extension will not exceed in the aggregate, during the Period of Insurance, the Fidelity Limit specified in the Schedule.

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Good Samaritan Acts

The Insurer will indemnify the Insured against civil liability for compensation and claimant's costs and expenses in respect of Claims first made against the Insured and notified to the Insurer during the Period of Insurance resulting from the rendering of or failure to render first aid and assistance in an emergency situation or accident, except when such Insured is engaged in a professional capacity by another person or entity. In the event of a conflict between this Extension and the Midwifery Exception, this Extension shall apply.

Inquiry Costs

The Insurer will indemnify the Insured for Inquiry Costs.

Provided that:

- (a) the notice requiring the Insured's response or attendance is first received by the Insured and notified to the Insurer during the Period of Insurance; and
- (b) such response or attendance arises directly from conduct allegedly committed by the Insured in carrying on their Healthcare Services; and
- (c) such indemnity is subject to the written consent of the Insurer prior to the incurring of the Inquiry Costs; and
- (d) regular or overtime wages, salaries or fees of the Insured are excluded from this indemnity; and
- (e) the total liability of the Insurer for all Inquiry Costs under this Extension will not exceed in the aggregate, during the Period of Insurance, the Inquiry Costs Limit specified in the Schedule.

If there is an entitlement to indemnity for Inquiry Costs for an inquiry or hearing under the Molestation Defence Costs and Inquiry Costs Extension then there is no entitlement to indemnity for Inquiry Costs in respect of that inquiry or hearing under this Extension.

Joint Venture Liability

The Insurer will indemnify the Insured against civil liability for compensation and claimant's costs and expenses in respect of any Claim or Claims first made against the Insured and notified to the Insurer during the Period of Insurance resulting from the Insured's participation in any joint venture in connection with the Healthcare Services.

Provided that:

- (a) the indemnity given shall only relate to the Insured's proportion of any liability incurred by such joint venture; and
- (b) the Insured's income derived from participation in such joint venture shall have been included in the calculation of income furnished by the Insured for the purposes of calculating the premium for this Policy.

The Insurer will in addition pay Defence Costs on the basis already set out in this Policy.

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Lost Documents

The Insurer will, in the event of loss of or damage to Documents occurring in connection with the Healthcare Services, indemnify the Insured against all costs and expenses reasonably incurred by the Insured in replacing or restoring such Documents.

Provided that:

- (a) such loss or damage is sustained during the Period of Insurance while the Documents are either in transit or in the custody of the Insured or of any person to whom the Insured has entrusted them in the course of the normal conduct of the Healthcare Services; and
- (b) the amount of any claim for such costs and expenses shall be supported by bills and accounts which shall be subject to approval by a solicitor to be nominated by the Insurer with the consent of the Insured or if such consent is withheld, by the President of the Law Society of whatever State where the Policy was issued; and
- (c) the Insurer shall not be liable in respect of loss or damage caused by riot or civil commotion.

Molestation Defence Costs and Inquiry Costs

Notwithstanding the Dishonest, Fraudulent or Criminal Acts Exception, the Insurer will indemnify the Insured for:

- (a) Defence Costs for Claims arising from; and
- (b) Inquiry Costs in respect of:

any actual or alleged molestation of, interference with, mental abuse of or physical abuse of persons by an employee of the Insured, but not by any person performing any volunteer service for or on behalf of the Insured.

Provided that, in respect of Inquiry Costs:

- (i) the notice requiring the Insured's response or attendance is first received by the Insured and notified to the Insurer during the Period of Insurance; and
- (ii) such response or attendance arises directly from conduct allegedly committed by the Insured in carrying on the Healthcare Services; and
- (iii) such indemnity is subject to the written consent of the Insurer prior to the incurring of the Inquiry Costs; and
- (iv) regular or overtime wages, salaries or fees of the Insured are excluded from this indemnity.

Provided that nothing in this Extension shall require the Insurer to indemnify any Insured who has perpetrated any such act of molestation, interference, mental abuse or physical abuse or who by act or omission has condoned any such act. If it is found by way of an admission by the Insured, judgment or adjudication that such Insured did in fact commit or condone such molestation, interference, mental or physical abuse then any Defence Costs or Inquiry Costs indemnified under this Extension must be repaid by such Insured within thirty days following a request by the Insurer for such repayment.

The total liability of the Insurer for Defence Costs and Inquiry Costs under this Extension shall not exceed in the aggregate during the Period of Insurance the Molestation Defence Costs and Inquiry Costs Limit shown in the Schedule.

The Molestation Defence Costs and Inquiry Costs Limit is part of and not in addition to the Limit of Indemnity and Maximum Aggregate Limit of Indemnity.

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Newly Created or Acquired Subsidiary

If during the Period of Insurance the Policyholder acquires or creates a new Subsidiary, the Policyholder will also include such new Subsidiary in respect of Claim or Claims first made against the Insured and notified to the Insurer during the period beginning on the date of acquisition or creation and ending:

- (a) thirty days thereafter; or
- (b) at expiry of the Period of Insurance

resulting from the conduct of the Healthcare Services by such new Subsidiary, but not in respect of any such Claim or Claims resulting from any act, error or omission occurring or committed prior to the date the Subsidiary was created or acquired.

The Insurer may, at its discretion, offer to extend cover for such new Subsidiary beyond the thirty day period. In order for cover for such new Subsidiary to be extended beyond the thirty day period, the Insured must, prior to the end of the thirty day period:

- (a) give the Insurer written notice of any such acquisition or creation together with such additional information as the Insurer may require so that the Insurer can exercise its discretion whether or not to extend the cover; and
- (b) accept any notified alteration in the terms of this Policy; and
- (c) pay any additional premium required by the Insurer.

Provided that:

This Extension does not apply to:

- (i) any new Subsidiary acquired or created by the Insured that is domiciled or incorporated in North America; and
- (ii) the provision of Healthcare Services that are not the same as those provided by the Policyholder and covered under this Policy prior to the acquisition or creation of such Subsidiary.

Public Relations Expenses

The Insurer will indemnify the Insured for Public Relations Expenses incurred by the Insured in respect of an Adverse Publicity Event that first occurs and is notified to the Insurer during the Period of Insurance.

The total liability of the Insurer under this Extension will not exceed \$100,000 in the aggregate during the Period of Insurance.

The Insured is liable for an excess of the first \$1,000 of Public Relation Expenses, for each Adverse Publicity Event. The excess is deducted from Public Relation Expenses before the application of the aggregate limit stated in this Extension. The Insurer has no liability for the amount of Public Relation Expenses that is less than the excess for each Adverse Publicity Event. The Insured agrees that the excess must be retained by the Insured and is to remain uninsured;

Spousal Liability

If a Claim against an Insured includes a claim against such Insured's Spouse solely by reason of (i) such Spouse's legal status as a Spouse of such Insured, or (ii) such Spouse's ownership interest in property which the claimant seeks as recovery for Claims made against such Insured, then Spouse's legal liability for compensation resulting from such Claim will be treated for the purposes of this Policy as the liability of the Insured.

This Extension does not apply to the extent the Claim alleges any act, error or omission by such Insured's Spouse.

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Statutory Liability

Notwithstanding the Employer's Liability Exception and the Fines, Penalties, Punitive or Aggravated Damages Exception, the Insurer will indemnify the Insured:

- (a) for Defence Costs for proceedings under occupational health and safety law or environmental law first brought against the Insured and notified to the Insurer during the Period of Insurance resulting from the conduct of the Healthcare Services; and
- (b) to the extent permitted by law, for any pecuniary penalties imposed upon the Insured based on any breach of occupational health and safety law or environmental law as a result of proceedings under occupational health and safety law or environmental law first brought against the Insured and notified to the Insurer during the Period of Insurance resulting from the conduct of the Healthcare Services, except for any pecuniary penalties:
 - (i) resulting from any act, error or omission occurring or committed prior to the Retroactive Date; or
 - (ii) imposed where the Insured knew, or where a reasonable person in the circumstances ought reasonably to have known, prior to the Period of Insurance that the Insured had contravened such law and committed an offence pursuant to that law; or
 - (iii) imposed as a result of further breaches committed after the Insured first knew, or where a reasonable person in the circumstances ought reasonably to have known, that the Insured had contravened such law and committed an offence pursuant to that law, and which led to the imposition of increased or additional pecuniary penalties.

The cover provided under this Extension will only apply to such pecuniary penalties imposed in the jurisdiction of Australia and pursuant to the laws of Australia.

The total liability of the Insurer under this Extension will not exceed in the aggregate, the Statutory Liability Limit specified in the Schedule, and all payments will be part of and not in addition to the Limit of Liability.

Students, Volunteers, Committee Members and Council Members

Part ii) of the definition of Insured is extended to include any natural person who is a past and / or present Student, Volunteer, Committee Member or Council Member, but only in their capacity as such and only to the extent the civil liability results from the conduct of the Healthcare Services.

Thirty Day Reporting Period

The Insured may continue to notify the Insurer of Claims up to thirty days after the expiry of the Period of Insurance, but only Claims first made against the Insured during the Period of Insurance and based on any act, error or omission committed or alleged to have been committed prior to expiry of the Period of Insurance.

Any notification to the Insurer during this thirty day reporting period will be deemed to have been first notified to the Insurer during the Period of Insurance.

Vicarious Liability for Medical Practitioners

Notwithstanding the Medical Practitioners Exception, the Insurer will indemnify the Policyholder against civil liability for compensation and claimant's costs and expenses in respect of any Claim or Claims first made against the Policyholder and notified to the Insurer during the Period of Insurance based on vicarious liability of:

- (a) the Policyholder; or

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(b) any Principal of the Policyholder whilst acting in a capacity other than as a Medical Practitioner, for any act, error or omission of a Medical Practitioner in the conduct of the Healthcare Services.

Optional Extension

Principal's Previous Business

If the Principal's Previous Business is noted as 'Included' in the Schedule then the Policy is extended to cover Claims made against any past and / or present Principal of the Policyholder and notified to the Insurer during the Period of Insurance resulting from the conduct of the Healthcare Services whilst such Principal was a sole practitioner, a partner of a firm or a director of a company other than the Policyholder prior to becoming a Principal of the Policyholder.

Exceptions

Section 1

Prior Claims or Known Circumstances

The Insurer shall not be liable in respect of:

- (a) any Claim first made against the Insured prior to the inception of the Period of Insurance; or
- (b) any Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses or Defence Costs directly or indirectly arising from or in respect of any facts or circumstances which:
 - (i) the Insured knew, prior to the inception of the Period of Insurance, might give rise to a Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses or Defence Costs which might be covered under this Policy; or
 - (ii) a reasonable person in the Insured's position would have thought, prior to the inception of the Period of Insurance, might give rise to a Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses or Defence Costs which might be covered under this Policy; or
 - (iii) were or could be notified under any insurance that was in force prior to the inception of the Period of Insurance.

Section 2

Retroactive Date

The Insurer shall not be liable in respect of any Claim resulting from any act, error or omission occurring or committed prior to the Retroactive Date.

Section 3

The Insurer shall not be liable in respect of any Healthcare Services, Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses or Defence Costs:

Asbestos

arising directly or indirectly from or in respect of asbestos, asbestos fibres or derivatives of asbestos.

Provided that this Exception shall not apply to the provision of the Healthcare Services for any asbestos related disease.

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Assumption of Liability

arising directly or indirectly from or in respect of any liability which is assumed by the Insured outside the normal course of the Healthcare Services.

Controlling or Financial Interests

arising directly or indirectly from or in respect of any Claim brought by:

- (a) any Insured; or
- (b) any Subsidiary; or
- (c) any company or trust which is operated or controlled by the Insured or its nominees or trustees and in which an Insured has a direct or indirect financial interest; or
- (d) any company in which an Insured has or has held at least a 20% financial interest and has had or has board representation on that company,

Provided that this Exception shall not apply to any Claim brought by an Insured who is a natural person as a patient of the Insured.

Directors and Officers Liability

arising directly or indirectly from or in respect of the Insured's functions and duties as a director and/or officer of the Insured or any legal entity, corporation or other incorporated body.

Dishonest, Fraudulent, or Criminal Acts

arising directly or indirectly from or in respect of any:

- (a) dishonest, fraudulent, or malicious act or omission by the Insured; or
- (b) criminal act or omission or breach of any statute committed by the Insured with reckless or wilful intent.

Employer's Liability

arising directly or indirectly from or in respect of:

- (a) the death, bodily injury, disease or illness of any Insured arising out of or in the course of or in respect of his/her employment; or
- (b) a breach of any obligation owed by an Insured to an Insured.

Fines, Penalties, Punitive or Aggravated Damages

arising directly or indirectly from or in respect of fines or penalties including civil penalties, punitive or aggravated damages, except as provided for in the Statutory Liability Extension.

Goods Sold, Stored, Supplied or Distributed

arising directly or indirectly from or in respect of the sale, storage, supply or distribution of any good or product other than any Claim which arises directly from a breach of professional duty during the actual provision of the Healthcare Services.

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Intoxicants & Drugs

directly or indirectly arising from or in respect of any services rendered by any person while that person is under the influence of intoxicants or drugs or from any failure to render services competently or at all because of such influence, if such services were performed with the knowledge or connivance of a Principal.

Liquidated Damages

arising directly or indirectly from or in respect of liquidated damages imposed upon the Insured by contract or agreement, except to the extent that the Insured would have been liable for that damage in the absence of any such contract or agreement.

Medical Practitioners

arising directly or indirectly from or in respect of the liability at law of a Medical Practitioner to a patient, where such liability arises directly from the medical practitioner's activities as a medical practitioner including, but not limited to diagnosis, treatment, medical advice, prescribing or supplying medication or a breach of any State or Federal health or medical laws or regulations in force in Australia and its external territories, except as provided for in the Vicarious Liability for Medical Practitioners Extension.

Midwifery

arising directly or indirectly from or in respect of the Practice of Midwifery by any Insured or a person acting on behalf of the Insured.

Radioactivity

arising directly or indirectly from or in respect of ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or from the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear device or assembly, or a nuclear component thereof.

Provided that this Exception shall not apply to ionising radiation sourced from radioisotopes or x-rays when used by qualified medical staff in any medical procedure or diagnosis.

Subrogation Waiver

arising directly or indirectly from or in respect of any liability which is incurred or affected by reason of the Insured at any time entering into a deed or agreement excluding, limiting or delaying the Insured's legal rights of recovery against another.

Terrorism

arising directly or indirectly from or in respect of:

- (a) any Act of Terrorism; or
- (b) any action taken in controlling, preventing, suppressing or in any way relating to any Act of Terrorism.

Provided that this Exception shall not apply to the provision of the Healthcare Services for any bodily injury, illness or disease caused by an Act of Terrorism.

Trading Debts and Professional Fees

arising directly or indirectly from or in respect of any trading debt incurred, or any guarantee in respect of such debt given, by the Insured or any claim for the refund of professional fees or charges (by way of damages or otherwise).

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War

arising directly or indirectly from or in respect of any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.

Claims Conditions

Claims Notifications

Every Claim made against the Insured shall be notified to the Insurer as soon as practicable and in any event prior to expiry of the Period of Insurance, and every letter, demand writ summons and legal process pertaining to such Claim shall be forwarded to the Insurer as soon as practicable after receipt.

All Claim notifications to the Insurer must be sent to:

Vero Insurance Limited

Liability & Profin Notification Centre

Locked Bag 25, Australia Square Post Office, NSW, 1215

Phone: 02 9295 4345

Fax: 02 9295 4445

Email: liabilityprofin@vero.com.au

It is the Insured's responsibility to ensure that such notification has been forwarded to and has been received by the Liability & Profin Notification Centre.

Claims Conduct

The Insurer shall be entitled to take over and conduct in the name of the Insured the defence or settlement of any Claim and shall have full discretion in the conduct of any proceedings and in the settlement of any Claim.

The Insurer reserves entirely its rights under this Policy, including its right to agree or deny cover while it assesses a Claim or conducts the defence. The Insurer's rights under this Policy are not affected if it does not conduct the defence.

Neither the Insured nor the Insurer will be required to contest or litigate any Claim if, in the opinion of Senior Counsel, reasonable attempts should be made to settle the Claim. The Senior Counsel shall be mutually agreed upon, or in the absence of such agreement, as nominated by the President of the NSW Bar Association (or the equivalent State or Territory association). The cost to obtain the opinion will be advanced by the Insurer and treated as Defence Costs.

Senior Counsel shall provide the opinion in writing. In formulating the opinion Senior Counsel shall consider commercial matters including the amount of the Claim, the actual and potential loss (including Defence Costs) that may reasonably be incurred in contesting the Claim, the liability prospects and the prospect of recovering costs against the claimant in the event that the defence is successful. Senior Counsel shall also provide a settlement range within which reasonable attempts should be made to settle the Claim.

If it is the opinion of Senior Counsel that reasonable attempts should be made to settle the Claim, the Insured shall not object to the Insurer's attempt to do so.

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Claims Settlement

The Insured must not settle or offer to settle any Claim, incur any Defence Costs or otherwise assume any contractual obligation or admit any liability in respect of any Claim without the Insurer's prior written consent.

If the Insured objects to a proposal by the Insurer to settle or compromise any Claim payable under this Policy and wishes to contest or litigate the matter, then the Insured may so elect, but the Insurer's liability in respect of any such Claim so contested or litigated will not exceed the amount for which, but for such election, it could have been settled or compromised by the Insurer, together with Defence Costs payable in accordance with the terms of this Policy and incurred up to the time of such election, subject always to the Excess and to the Limit of Indemnity.

Fidelity Recoveries

In the event of any payment in respect of a Fidelity Claim:

- (a) the Policyholder must, if requested by the Insurer, take all reasonable steps to make recovery from any person committing or condoning the dishonest or fraudulent act or from the legal representatives of such person; and
- (b) to the extent allowed by law, the Insurer will deduct the following from any amount payable in respect of loss of money or goods caused by or resulting from a dishonest or fraudulent act:
 - (i) any monies which but for such dishonest or fraudulent act would be due from the Policyholder to the person committing or condoning such act; and
 - (ii) any monies held by the Policyholder and belonging to such person; and
 - (iii) any monies recovered under (a) above; and

all such monies will be applied towards reducing the amount of the loss of money or goods.

General Conditions

Assignment

This Policy cannot be assigned by the Policyholder.

Authorisation

The Policyholder is the agent for each Insured and each Insured is bound by any statement, act or omission of the Policyholder for all purposes under this Policy, subject to the Claims Conduct Claims Condition and the Severability and Imputation General Terms.

If the Policyholder is more than one entity, then the first entity listed in the Schedule will be deemed to be the Policyholder.

Cancellation

The Insured may cancel this Policy at any time in writing to the Insurer. Upon receipt of such request, the Insurer will retain a short period premium calculated on its short term rates for the time it has been on risk and the Insured will receive a refund of any balance of the premium actually paid.

The Insurer may cancel this Policy in accordance with the Insurance Contracts Act 1984 by giving notice in writing to the Insured of the date from which such cancellation is to take effect.

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Goods and Services Tax

As part of the premium, the Insurer will charge the Insured an amount on account of GST.

The Insured must inform the Insurer of the extent to which it is entitled to an input tax credit for that GST amount each time that it notifies a Claim under this Policy. No payment will be made to the Insured for any GST liability that it may incur on the settlement of a Claim if it does not inform the Insurer of its entitlement or correct entitlement to an input tax credit.

Despite the other terms of this Policy, the Insurer's liability to the Insured will be calculated taking into account any input tax credit to which the Insured is entitled for any acquisition which is relevant to the Claim, or to which it would have been entitled had it made a relevant acquisition.

'GST', 'input tax credit', 'acquisition' and 'supply' have the meaning given in A New Tax System (Goods and Services Tax) Act 1999.

Governing Law

The Policy will be governed in accordance with law of the State or Territory of Australia in which the Policy was issued. Any disputes relating to interpretation will be submitted to the exclusive jurisdiction of the courts of Australia.

Interpretation

In this Policy the singular includes the plural and vice versa. The male gender includes the female and neutral genders.

A reference in this Policy to any legislation or legislative provision includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision (whether of the Commonwealth of Australia or elsewhere).

The titles and headings to the various sections of the Policy are included solely for ease of reference and do not in any way limit or expand or otherwise affect the terms of such sections.

Material Change

The Insured must notify the Insurer as soon as reasonably practicable of any material change in the risk insured by this Policy. The Insurer is entitled to amend the terms of this Policy and/or charge an additional premium based on the Insurer's assessment of any change in the risk insured by this Policy.

Other Insurance

If at the time any Claim arises under this Policy there is any other insurance in force covering the same liability the Insured shall promptly notify to the Insurer full details of such other insurance, including the identity of the insurer and the policy number, and such further information as the Insurer may reasonably require.

Payment of Premium

The Insured must pay the premium specified in the Schedule for the Period of Insurance to the Insurer by the Due Date. The Due Date is on or before ninety days after the inception date of the Period of Insurance specified in the Schedule or such other time that the Insurer agrees in writing. If the Insured fails to pay the premium by the Due Date, the Insurer is entitled to cancel this Policy in accordance with the Insurance Contracts Act 1984.

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Severability and Non Imputation

Where this Policy insures more than one party, any failure on the part of any of the parties to:

- (a) comply with the Duty of Disclosure in terms of the Insurance Contracts Act 1984; or
- (b) comply with any obligation in terms of this Policy; or
- (c) 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 that such remaining party or parties shall:

- (i) be entirely innocent of and have had no prior knowledge of any such failure; and
- (ii) as soon as practicable after becoming aware of any such failure, advise the Insurer in writing of all its relevant circumstances.

Territorial and Jurisdictional Limits of Cover

This Policy provides cover for:

- (a) any civil liability resulting from the conduct of the Healthcare Services anywhere in the world, except for any civil liability resulting from:
 - (i) the conduct of the Healthcare Services within North America; or
 - (ii) the provision of professional services to persons in North America as part of the conduct of the Healthcare Services; or
 - (iii) any act, error or omission occurring within North America.

and

- (b) Claims made anywhere in the world, except for those Claims;
 - (i) brought in a court of law, arbitration, tribunal, forum or other body entitled to impose enforceable orders against the Insured in North America; or
 - (ii) arising from the enforcement of any judgment, order or award in respect of any action brought in any court of law, arbitration, tribunal or other judicial body in North America.

End of wording