

# Nice Work You're covered!



Dear Oluwatobi Olusanya

Good news. Subject to the payment of the premium your Professional Indemnity & Public Liability with Dual Australia is in place for the Insurance Period specified on the Policy Schedule.

|                         |                                                                                                           |
|-------------------------|-----------------------------------------------------------------------------------------------------------|
| <b>Policy Number</b>    | BMM/74678/000/24/P                                                                                        |
| <b>Policy</b>           | PI & PL - DUAL                                                                                            |
| <b>Cover</b>            | <b>Professional Indemnity</b> \$1,000,000<br><b>Public Liability</b> \$10,000,000                         |
| <b>Insurance Period</b> | For the period: 4.00pm Local Standard Time on 26 May 2024 to 4.00pm<br>Local Standard Time on 26 May 2025 |

Also attached are all the official documents:

- Your Declarations
- Your Policy Schedule
- The Policy Wording
- The Terms and Conditions

All your business details that you supplied to us are included in the "Your Declarations" section. We recommend that you carefully check these details, and if anything is wrong, incomplete or out-of-date please let us know soon and we will make any changes that are needed.

Like all other insurances, your cover is subject to the terms and conditions of the policy wording and whilst we have worked hard to assist you **it is very important that you read these Ts and Cs**, understand your cover and ensure that this cover suits the needs of you and your business.

If you need any changes or need a hand with something made please let us know as soon as possible. You can reach us on 1300 249 268 or drop us a line at [support@bizcover.com.au](mailto:support@bizcover.com.au) and we will be happy to help you.

Thanks for choosing BizCover, we appreciate your business.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Michael Gottlieb', written in a cursive style.

Michael Gottlieb

It is very important that you read these terms and conditions as they set out the arrangements between us.

### Duty of Disclosure Notice

Before you enter into an insurance contract you have a duty to tell the insurer anything that you know, or could reasonably be expected to know, may affect its decision to insure you and on what terms.

You have this duty until the insurer agrees to insure you.

You have the same duty before you renew, extend, vary or reinstate an insurance contract.

#### If you do not tell the insurer something

If you do not tell the insurer anything you are required to, it may cancel your insurance contract or reduce the amount it will pay you if you make a claim, or both.

If your failure to tell the insurer is fraudulent, it may refuse to pay a claim and treat the contract as if it never existed.

### Personal Accident & Illness Insurance – Duty of Disclosure (Not to Misrepresent)

Before entering into a consumer insurance contract, you have a duty to take reasonable care not to deliberately, recklessly or carelessly provide the insurer with incomplete or misleading information (misrepresentation). This enables the insurer to determine whether to insure you and, if so, on what terms. You have this duty until the insurer agrees to insure you. You have the same duty before you renew, extend, vary or reinstate an insurance contract. Personal Accident insurance and Personal Accident and Illness insurance are the only types of consumer insurance contracts available for purchase through BizCover.

#### If you make a misrepresentation to the Insurer

If you make a misrepresentation to the insurer and it is determined you failed to take reasonable care not to do so, the insurer may cancel your insurance contract or reduce the amount it will pay you if you make a claim, or both. If it is determined that your misrepresentation to the insurer was fraudulent, it may refuse to pay a claim and treat the contract as if it never existed.

### Claims Made & Notified Policy Notice –

*Relevant if you purchase a Professional indemnity, Cyber liability, IT liability or Management Liability Insurance policy or where otherwise noted in the policy wording.*

The proposed insurance is issued on a 'claims made and notified' basis as specified in the policy wording. This means that the policy responds to claims first made against the insured during the policy period and notified to the insurer during that policy period.

Refer to the policy wording for full details.

Under Section 40(3) of the Insurance Contracts Act 1984 (Cth) if the insured gives notice in writing to the insurer of facts that might give rise to a claim against the insured as soon as reasonably practicable after the insured became aware of those facts but before the insurance cover provided by the policy expires, the insurer is not relieved of liability under the policy 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 policy.

If during the policy period you become aware of circumstances which a reasonable person in your position would consider may give rise to a claim, and which you fail to notify to the insurer during the policy period, the insurer may not cover you under the policy or a subsequent policy for any claim which arises from these circumstances.

When completing the application, and at subsequent renewals, you are obliged to report and provide full details of all circumstances of which you are aware and which a reasonable person in your position would consider may give rise to a claim.

It is important that you make proper disclosure (see Duty of Disclosure Notice, above) so that your cover under any policy is not compromised.

### Retroactive Liability

The proposed insurance may be limited by a retroactive date either stated in the schedule or endorsed onto the policy. Where the cover provided by the proposed policy is subject to such a retroactive date, then the policy does not cover any claim arising from an actual or alleged act, error, omission or conduct occurring prior to such retroactive date.

### Agency Notice

In effecting this insurance BizCover Pty Ltd (ABN 68 127 707 975; AFSL 501769) will be acting under an authority given to it by the insurer and will be effecting the contract as agent of the insurer and not the insured.

### General Advice Warning

We do not recommend an insurance policy for you, we only offer the policies available to us from the insurers listed on our website. Any advice provided is General Advice only.

General Advice is advice that has been prepared without considering your current objectives, personal circumstances, financial situation or needs.

Therefore, before acting on this advice, you should consider the appropriateness of the advice having regard to your current objectives, personal circumstances, financial situation or needs. If the advice provided relates to the acquisition or possible acquisition of a new insurance policy you should read the Product Disclosure Statement and/ or Policy Wording (available on our website) before making any decision about whether to acquire such a financial product.

### Renewing the Policy (including Auto-Renewal)

We will send you notification of whether the insurer is prepared to negotiate to renew the policy and if so, on what terms, at least 14 days before the expiry date of your policy.

Unless we require a new proposal or declaration from you to determine your premium or decide to offer renewal (we will tell you by email if this is the case), the renewal notice will show the premium for the new period of insurance and may also include notice of any changes to the terms of your policy.

If you wish to take up such a renewal offer and you are happy the information is accurate and you have no further disclosure to make to insurers under your duty of disclosure (see Duty of Disclosure Notice, above), you will not have to do anything and if we do not hear from you 7 days before the expiry of your current period of insurance we will automatically deduct / charge the renewal premium from your account / credit or debit card and your policy will be subsequently renewed. If you do not wish to take up the renewal offer you must contact us within 7 days of the payment due date.

When you receive a renewal offer, you must tell us before expiry if the information contained in it is incorrect or incomplete and make such additional disclosure to us as is required pursuant to your duty of

disclosure. We will then consider the additional information and whether and on what terms we are able to arrange for policy renewal.

If we are not able to automatically renew your policy we will send you an email notification for you to either complete your renewal online or to contact us. Please ensure you keep us updated of any change to your email address.

## Commission and Fees

For each insurance product the insurer will charge you a premium. We receive from the insurer a commission that is a percentage of this premium, varying between 0% and 30%.

We also charge per policy a platform fee of \$20 to \$200 (ex. GST) for the policies we arrange. This fee relates to the delivery of the service from BizCover to you including but not limited to the provision and maintenance of the technology platform and the services provided by BizCover's consulting and administrative personnel.

If you elect to pay your premium by monthly instalments, we will also charge you an instalment administration charge of \$8 per month (ex. GST).

If you pay by credit or debit card we may charge you a card (including arrangement & handling) fee. This fee covers the cost of bank charges etc. associated with such facilities.

All fees payable for services will be advised to you separately from your premium on the invoices we provide.

## Policy Cancellation

You have the right to cancel your policy at any time by providing written notice to us. Upon receipt of your cancellation request, the policy cancellation will take effect on the day the request is made or on a future date. It is important to note that the cancellation date cannot be retrospective, except within the cooling-off period, if applicable.

The insurer may cancel your policy in accordance with the Insurance Contracts Act, 1984 (Cth).

## BizCover Remuneration Rights on Policy Cancellation

The premium you pay for your insurance policy includes a commission payable to BizCover for arranging your insurance policy (Commission). If you cancel any insurance policy arranged through BizCover, and the cancellation occurs outside of any cooling-off period (if applicable), you acknowledge that BizCover will retain its commission and fees from any refund owed to you upon cancellation.

The agreement under this clause is between you and BizCover and not between you and the insurer. BizCover acts on its own behalf when deducting the payment owed to it under this clause and not on behalf of any insurer.

## Privacy Collection Notice

We generally collect personal information from you or through service providers that act for us. However, there

may be occasions when we collect it from someone else where they hold relevant information.

We will use your personal information for the purposes for which it was collected (usually to arrange a quote for insurance or an insurance policy for you; assist you with any claims you may make; or to contact you), other related purposes and for the other purposes outlined in our Privacy Policy.

We may disclose your personal information to insurers, our service providers, our referral partners (if you purchased through us as a result of referral) and other parties, as detailed in our Privacy Policy.

For more details on what personal information we collect, how we collect it and from whom, and how we hold, use and disclose your personal information please refer to our Privacy Policy. The Privacy Policy also provides information about how you can access your personal information, seek correction of it and complain about a breach of privacy law and how we will deal with such a complaint.

You may choose not to give us your personal information, but this may affect our ability to provide you with a product or service, including arranging a quote for insurance or an insurance policy for you, communicate with you or respond to your enquiries.

You can access our Privacy Policy at [www.bizcover.com.au/privacy](http://www.bizcover.com.au/privacy) or you can contact us and request a copy be sent to you.

### By mail:

Privacy Officer  
BizCover Pty Ltd  
Level 2, 338 Pitt Street, Sydney NSW 2000

### By email:

[customerresolution@bizcover.com.au](mailto:customerresolution@bizcover.com.au)

## Dispute Resolution

We will confirm receipt of your complaint within 24 hours and endeavour to resolve it within 5 business days. If you are not satisfied with our response and request us to do so, we will treat your complaint as a dispute. The matter will then be referred to our internal dispute resolution team and they will endeavour to provide a final decision to you within thirty (30) calendar days from when you first raised your complaint. If you are still not happy with the outcome or with the way we are handling your complaint, you may be able to have your matter considered by the Australian Financial Complaints Authority (AFCA). AFCA provides a free and independent dispute resolution service for consumers who have general insurance disputes falling within its terms of reference.

For further information about our complaint process and the external dispute resolution options available to you, please see our Resolving Customer Complaint and Disputes Brochure.

## Disclosure relating to Hollard International BV

Hollard International BV is a shareholder in BizCover and via a related party, The Hollard Insurance Company Pty Limited, underwrite (non-retail) insurance policies through the brand RelyOn via the BizCover platform.

# Your Declarations

## What you told us on 26 May 2023

It is important that you check the information you have given us and notify us of any changes or corrections. This is an important part of your duty of disclosure.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                 |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------|
| What is your occupation?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Aged and/or Disability Care Worker              |
| Total Number of Staff (including Directors, Partners and Employees)?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | 2                                               |
| Business address:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | UNIT 4 259 CANTERBURY RD HEATHMONT,<br>3135 VIC |
| Estimated Annual Revenue                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | \$150,000                                       |
| As at today's date does the insured have Professional Indemnity Insurance currently in force that has been paid for?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Yes                                             |
| Please specify your revenue by business activity:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |                                                 |
| Aged and/or Disability Care Worker                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | 100%                                            |
| Do you hold the appropriate qualifications, industry experience and/or training for the activities you wish to insure?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Yes                                             |
| In the last 10 years, have any claims for a breach of professional duty been made against the Business, it's predecessors in business or it's current or former partners/principals/directors or employees?                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | No                                              |
| After enquiry, are you aware of any circumstances which may result in a claim against the business or any of its Partners, Principals, Directors or employees?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | No                                              |
| Do you perform any medical treatments or procedures that are required to be undertaken by a qualified medical practitioner?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | No                                              |
| Would you like to note your landlord on the Public Liability section of your Policy?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | No                                              |
| In the last 10 years, has your business or you or any partner or director:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                 |
| <ul style="list-style-type: none"><li>• Had any business insurance/liability claims?</li><li>• Suffered any loss or damage which would have been covered by the proposed insurance policy?</li><li>• Had any insurance declined or cancelled?</li><li>• Been convicted of any criminal offence?</li><li>• Been liable for any civil offence or pecuniary penalties?</li><li>• Been declared bankrupt or involved in business which became insolvent or subject to any form of insolvency administration (e.g. liquidation, receivership or voluntary administration)?</li></ul>                                                                                                     | No                                              |
| <b>Declaration</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                 |
| You agree that:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                 |
| A. You are authorised by all parties included in this insurance application (including any partners/principals/directors) to: <ul style="list-style-type: none"><li>a. make this application;</li><li>b. make these declarations; and</li><li>c. accept the terms and conditions for this insurance contract on their behalf.</li></ul>                                                                                                                                                                                                                                                                                                                                             |                                                 |
| B. You have made all necessary enquiries into the accuracy of the responses given in this insurance application and confirm that the statements and particulars given are true and complete and that no material facts have been omitted or misstated.                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                 |
| C. Before you enter into a contract of insurance, you have a duty of disclosure under the Insurance Contracts Act. We may ask you questions that are relevant to the insurer's decision to insure you and on what terms. If we do, you must tell us anything that you know and that a reasonable person in the circumstances would include in their answer. You have this duty until the insurer agrees to insure you. If you do not tell us anything that you are required to, the insurer may cancel your contract or reduce the amount they will pay you if you make a claim, or both. If your failure to tell us is fraudulent, the insurer may refuse to pay a claim and treat |                                                 |

the contract as if it never existed.

- D. This insurance is issued by BizCover Pty Ltd (ABN 68 127 707 975; AFSL 501769). Any advice we provide is general advice only and does not take into account your objectives, financial situation or needs. It is up to you to consider those matters in deciding to purchase.
- E. The insurance available through BizCover is limited to the policies and insurers listed on our website.
- F. BizCover acts under a binder agreement with the insurer unless we state otherwise. In any event, we act as agent of the insurer. This means that we represent and act for the insurer only.
- G. Upon a purchase, BizCover receives commission from the insurer, which is an agreed percentage or amount of the premium payable for the policy. We will also charge you a platform fee for each policy you purchase.
- H. A cooling-off period may apply to the policy you purchase. Your Policy Wording or PDS will confirm whether a cooling-off period applies and your entitlements as a result. If you cancel any insurance policy purchased through BizCover after any applicable cooling-off period, the commission and any fees paid to us are non-refundable.
- I. The Policy Wording or PDS will be sent to you soon. You must review all of the documents we send you to ensure suitability for your needs.
- J. After the policy is taken out we will email to you:
  - a. the Policy Wording or PDS and any applicable Supplements or Endorsements to them;
  - b. our Service Terms;
  - c. our Financial Services Guide (where applicable)

Oluwatobi Olusanya  
Director  
5/5/2024



# Professional Combined Liability Schedule

LLOYD'S

All words in bold within the policy or this schedule shall have the meaning given to them in the 'Definitions' section of the policy.

|         |                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|---------|------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ITEM 1  | Policy Number :        | BMM/74678/000/24/P                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| ITEM 2  | Policyholder :         | LIVING SPRING SUPPORT SERVICES PTY LTD<br>C/o: BizCover                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| ITEM 3  | Business Description : | Allied Health <ul style="list-style-type: none"><li>• Aged and/or Disability Care Worker</li></ul> as declared in Proposal dated 05 May 2024                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| ITEM 4  | Insurance Period :     | From 4:00pm on 26 May 2024 To 4:00pm on 26 May 2025<br>Australian local time in the State or Territory where this policy was purchased                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| ITEM 5  | Indemnity Limit :      | Section A: Professional Indemnity<br>\$1,000,000.00<br>Section B: Public and Products Liability<br>\$10,000,000                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| ITEM 6  | Deductible :           | Section A: Professional Indemnity<br>\$1,000<br>Section B: Public and Products Liability<br>\$500                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| ITEM 7  | Retroactive Date :     | Unlimited excluding any known Claims or circumstances                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| ITEM 8  | Extension :            | Fraud and Dishonesty<br>Former Principals<br>Loss of Documents<br>Run-off Cover Insured Entity or Subsidiary (Former Subsidiary)<br>Joint Venture Liability<br>Defamation<br>Fidelity<br>Intellectual Property<br>Reinstatement of INDEMNITY LIMIT<br>Attendance at Inquiries<br>Court Attendance Costs<br>Public Relations<br>Heirs, Estates and Legal Representatives<br>Continuous Cover<br>Defence Costs In Addition<br>Emergency Defence Costs<br>Advanced Defence Costs (Sexual Misconduct)<br>Previous Business<br>Good Samaritan Acts<br>Teachers Liability<br><br><b>Value Added Benefit:</b> CONTRACT REVIEW! Subject to the terms & conditions of this POLICY, WE agree to provide the DUAL Contract Review service which is to be performed by our legally qualified in house claims team. |
| ITEM 9  | Optional Extensions :  | Consultants, Subcontractors and Agents (Section B Only) - Not Included unless specified as an Endorsement on the Policy Schedule                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| ITEM 10 | Policy Wording :       | DUAL Australia and Bizcover Allied Health Professionals Wording 0317                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| ITEM 11 | Insurer :              | DUAL Australia Pty Ltd on behalf of certain underwriters at Lloyd's                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

**ITEM 12**

**Endorsements applying to this policy :**

**114 Wording Amendment Endorsement**

It is agreed that Clause 8.6 of the POLICY is deleted and replaced with the following.

**8.6 Liability As Occupier (Part A only)**

Any CLAIM or liability arising from or incurred or alleged to have been incurred in connection with the use, occupation, ownership or lease of any real estate or personal property, by or on behalf of the INSURED.

Except as otherwise provided in this endorsement, the Insuring Clause and all other POLICY terms and conditions shall have full force and effect.

**Code, Complaints and Service of Suit Endorsement**

It is agreed that any reference to the General Insurance Code of Practice, complaints and Service of Suit in this policy is amended as follows:

**About DUAL Australia Pty Ltd**

DUAL Australia Pty Limited ABN 16 107 553 257 AFSL 280193 (We/Us/Our) is a Coverholder for certain Underwriters at Lloyd's of London. DUAL has the authority to bind this policy on behalf of Underwriters.

**General Insurance Code of Practice**

The Insurance Council of Australia Limited has developed the General Insurance Code of Practice ("the Code"), which is a voluntary self-regulatory code. The Code aims to raise the standards of practice and service in the insurance industry.

Lloyd's has adopted the Code on terms agreed with the Insurance Council of Australia. For further information on the Code please visit [www.codeofpractice.com.au](http://www.codeofpractice.com.au).

The Code Governance Committee (CGC) is an independent body that monitors and enforces insurers' compliance with the Code. For more information on the Code Governance Committee (CGC) go to [www.insurancecode.org.au](http://www.insurancecode.org.au).

**Complaints and Disputes**

If you have any concerns or wish to make a complaint in relation to this policy, our services or your insurance claim, please let us know and we will attempt to resolve your concerns in accordance with our Internal Dispute Resolution procedure. Please contact us in the first instance:

General Counsel Team

DUAL Australia Pty Limited

Email: [complaints@dualaustralia.com.au](mailto:complaints@dualaustralia.com.au)

Telephone: 02 9248 6300

Level 6, 160 Sussex Street

Sydney NSW 2000

We will acknowledge receipt of your complaint and do our utmost to resolve the complaint to your satisfaction within 10 business days.

If we cannot resolve your complaint to your satisfaction, we will escalate your matter to Lloyd's Australia

who will determine whether it will be reviewed by their office or the Lloyd's UK Complaints team. Lloyd's contact details are:

Lloyd's Australia Limited

Email: [ldraustralia@lloyds.com](mailto:ldraustralia@lloyds.com)

Telephone: (02) 8298 0783

Suite 1603, Level 16,

1 Macquarie Place

Sydney NSW 2000

A final decision will be provided to you within 30 calendar days of the date on which you first made the complaint unless certain exceptions apply.

You may refer your complaint to the Australian Financial Complaints Authority (AFCA), if your complaint is not resolved to your satisfaction within 30 calendar days of the date on which you first made the complaint or at any time. AFCA can be contacted as follows:

Telephone: 1800 931 678

Email: [info@afca.org.au](mailto:info@afca.org.au)

Post: GPO Box 3, Melbourne VIC 3001

Website: [www.afca.org.au](http://www.afca.org.au)

Your complaint must be referred to AFCA within 2 years of the final decision, unless AFCA considers special circumstances apply. If your complaint is not eligible for consideration by AFCA, you may be referred to the Financial Ombudsman Service (UK) or you can seek independent legal advice. You can also access any other external dispute resolution or other options that may be available to you.

#### **Service of Suit and Legal Notices**

The Underwriters accepting this Insurance agree that:

(i) if a dispute arises under this Insurance, this Insurance will be subject to Australian law and practice and the Underwriters will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;

(ii) any summons notice or process to be served upon the Underwriters may be served upon:

Lloyd's Underwriters' General Representative in Australia

Suite 1603, Level 16

1 Macquarie Place

Sydney NSW 2000

who has authority to accept service on the Underwriters' behalf;

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

In all other respects, the policy remains unchanged.



#### **United States of America and Canada Endorsement**

It is agreed that this Policy is amended to include the following Condition:

The cover provided by this Policy does not extend to any Company, Insured or Insured Person where they have:

(a) headquarters in the United States of America (USA) or Canada;

(b) risks located in or domiciled in the USA or Canada; or

(c) according to their most recent reports and accounts have subsidiaries located in the USA or Canada, which accounts for more than 25% of their consolidated fee income or consolidated assets.

This Condition overrides all other terms of this Policy.

Except as otherwise provided in this endorsement, the Insuring Clause and all other Policy terms and conditions shall have full force and effect.

#### **Cyber Risks Clarification Endorsement No. 1 (Affirmative Cover) - Professional Indemnity**

This Policy does not contain an exclusion relating to any Cyber Act or Cyber Incident; therefore, any amounts otherwise payable under this policy due to a Cyber Act or a Cyber Incident will be payable, subject to the terms, conditions, warranties, exclusions, and endorsements of this Policy.

##### **Definitions**

Computer System means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, owned or operated by the Insured or any other party.

Cyber Act means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any Computer System

Cyber Incident means:

1.1 any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any Computer System; or

1.2 any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any Computer System.

#### **UE00573 DUAL Australia Contact Information Endorsement**

It is hereby agreed that the following endorsement has been applied:

Effective 10 January 2022, any reference to DUAL Australia's address is amended to the following:

DUAL Australia Pty Limited

Level 29, Angel Place, 123 Pitt Street,

Sydney NSW 2000

Australia

In all other respects, the **policy** remains unchanged.

#### **Cyber Risks Clarification Endorsement No. 2 (Affirmative Conditional) - Public Liability**

This Policy contains exclusions or limitations relating to certain Cyber Acts or Cyber Incidents; subject always to these exclusions or limitations, any amounts otherwise payable under this Policy due to a Cyber Act or a Cyber Incident will be payable, subject also to all other terms, conditions, warranties, exclusions, and endorsements of this Policy.

##### **Definitions**

Computer System means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, owned or operated by the Insured or any other party.

Cyber Act means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any Computer System.

Cyber Incident means:

1.1 any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any Computer System; or

1.2 any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any Computer System.

#### **PI00576 DUAL Australia BizCover Policy Cancellation Endorsement**

It is hereby agreed that the cancellation clause under the policy is deleted and replaced with the following:

##### **Cooling-off Period**

You have the right to return this policy to us within twenty-one (21) days from the date the insurance period commences ('the cooling-off period') unless there is a claim or notification made under the policy within this period.

If you return the policy during the cooling-off period, we will refund the full amount of the premium less any taxes or duties payable to you.

##### **Cancellation by the Insured**

After the cooling-off period, the Insured may cancel this policy at any time by notifying BizCover.

The date of cancellation cannot be earlier than the date we receive the request.

Provided that there have been no claims or notifications made on or under the policy, and where you have paid your premium in full and in advance, we agree to allow a refund of the proportion of the premium for the remaining period of insurance, less any commissions, taxes, duties and fees.

Where premium has been agreed to be paid in monthly instalments, the effective date of cancellation is the next monthly anniversary and any outstanding premium is payable until this date.

##### **Cancellation by the Insurer**

We may only cancel the policy for non-payment of premium and must do so in accordance with the provisions of the *Insurance Contracts Act 1984* (Cth).

##### **Where you have a broker appointed**

Where you have a broker acting on your behalf, please contact your broker directly. Your broker must then provide written notice to BizCover to cancel your policy.

Except as otherwise provided in this Endorsement, the Insuring Clause and all other policy terms and conditions shall have full force and effect.

#### **UE00583 DUAL Australia Crypto Exclusion Endorsement**

It is hereby agreed that the following Exclusion is added to the Policy:

Notwithstanding any provision to the contrary in this Policy or any endorsement thereto, excluded from cover under this Policy and all endorsements thereto are any and all loss, fees, costs, expenses, liabilities, fines, penalties, damages, compensation, judgment sums, settlement sums and any other amounts directly or indirectly connected to, involving or attributable to any **Cryptoasset** or allegation relating to any **Cryptoasset**.

In this Endorsement, the following expressions in bold type have the following meanings:

**Cryptoasset** means a **Digital Asset** and a public or private key or any component thereof solely when used for a **Digital Asset**.

**Digital Asset** means any actual, counterfeit or fictitious:

- a) digital coin;
- b) digital token;
- c) cryptocurrency;
- d) cryptosecurity; or
- e) any other digital representation of value or contractual rights that uses a type of distributed ledger of technology and that:
  - i. functions, or purports to function, as a medium of exchange, a unit of account or a store of value; or
  - ii. is or becomes regulated as a security.

Except as otherwise provided in this Endorsement, all Policy terms and conditions shall have full force and effect.

#### **UE00593 DUAL Australia Jurisdictional Exclusion Endorsement**

It is agreed that this policy is amended to include the following Exclusion:

The Insurer shall not indemnify any Insured, policyholder, Insured Person/s or any other party, for any claim, investigation, injury, property damage, loss, fees, costs, expenses, liability, fines, penalties, damages, compensation, judgment sums, settlement sums, legal obligation or any other amounts of any kind whatsoever:

(i) in respect of any court order, judgment, award, payment, costs and expenses or settlement delivered, made or incurred or arising from or in connection with:

- (a) a court of law (or equivalent) within any of the **Territories**; or
- (b) any Arbitration, Mediation or Adjudication (or any other dispute resolution process) within any of the **Territories**; or

(c) any court of law or dispute resolution process operating under the laws of any of the **Territories**; or

(ii) in respect of any order made anywhere in the world to enforce any court order, judgment, award, payment, costs and expenses or settlement either in whole or in part arising out of (i) above; or

(iii) incurred by or resulting from activities that involve or benefit either directly or indirectly the Government or State of any of the **Territories**, or where the payment of such indemnity by the Insurer will benefit either directly or indirectly the Government or State of any of the **Territories**; or

(iv) agreed or incurred, prior to, during or subsequent to any matters referred to in (i) and/or (ii) above being brought by, or to the benefit of persons and/or **Entities** that are resident in any of the **Territories**.

In this Endorsement only, the following expressions in bold type have the following meanings:

**Entities** means any company, direct or indirect holding company owned or controlled (either in whole or in part) either directly or indirectly by the Government or State of any of the **Territories**.

**Territories** means Belarus, Russia, any disputed Russian territories, including but not limited to, Donetsk Region, Luhansk Region, Crimea Region.

This Endorsement overrides all other policy terms and conditions, including any terms, conditions or endorsements included on the schedule.

Except as otherwise provided in this Endorsement, the Insuring Clause and all other policy terms and conditions shall have full force and effect.

## **UE00642 DUAL Australia Sanction Exclusion Endorsement**

It is hereby agreed that the following Exclusion is added to the Policy:

We will not cover the Insured for loss, defence costs or other amounts, in respect of:

any claim or liability arising from or in any way connected with matters where the provision of such benefit would expose us to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or United States of America. For the avoidance of doubt, we shall have no liability to the Insured to the extent that this exclusion applies.

Except as otherwise provided in this Endorsement, all Policy terms and conditions shall have full force and effect.

### **High Risk Activities Endorsement**

It is agreed that this POLICY is amended to include the following Exclusion.

WE will not cover the INSURED, including for DEFENCE COSTS or other loss, in respect of any CLAIM or liability arising from or directly or indirectly attributable to or in consequence of any of the INSURED's operations or any other activities organised by the INSURED that involve any of the following:

a) motor races, motor rallies, motor speed tests, canyoning, caving, rifle/firearms, shooting, abseiling, hang gliding, parachuting, para gliding, white water canoeing/kayaking/rafting, scuba diving, dune buggies, bungee jumping, hot air ballooning, gladiator games, rock climbing, go karts, motocross, martial arts or boxing activities; or

b) the use of mechanical amusement devices or rides involving animals or fireworks, except for model railways used for amusement rides or coin operated amusement rides.

Part (b) shall not apply to the INSURED's vicarious liability arising from the hire and use of such devices or animals from other parties or engagement of third party pyrotechnicians provided that they have obtained certificates of insurance confirming such parties hold valid liability insurance policies covering them for a minimum of \$20,000,000 any one occurrence.

Except as otherwise provided in this endorsement, the Insuring Clause and all other POLICY terms and conditions shall have full force and effect.

### **345 Molestation Exclusion Amendment (Bizcover)**

It is hereby noted and agreed that Exclusion 8.29 of the POLICY is deleted in its entirety and replaced with the following;

#### **8.29 Molestation**

Any CLAIM or liability directly or indirectly arising from or attributable to any actual or alleged sexual molestation or any kind of abuse of people under the care of the INSURED.

However, WE agree to pay DEFENCE COSTS up to \$100,000 for any such allegation, until such time as it is established through a judgement or any other final adjudication, adverse to the INSURED, or any admission by the INSURED against whom such conduct is alleged, that the relevant conduct did in fact occur.

Except as otherwise provided in this Endorsement, the Insuring Clause and all other POLICY terms and

conditions shall have full force and effect.

**UE01045 BizCover Service of Suit Endorsement 2024**

It is hereby noted and agreed that any reference to any 'Service of Suit' or 'Service of Legal Notices' clause within the **policy** is hereby deleted and replaced with the following:

The Lloyd's Underwriters accepting this Insurance agree that:

i. if a dispute arises under this Insurance, this Insurance will be subject to Australian law and practice and the Lloyd's Underwriters will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;

ii. any Summons, Writ or other like Legal Notice or Process is to be served upon the Lloyd's Underwriters as follows:

Lloyd's Underwriters' General Representative in Australia

Suite 1603

Level 16

1 Macquarie Place

Sydney NSW 2000

who has authority to accept service on the Lloyd's Underwriters' behalf; and

iii. if a suit is instituted against any of the Lloyd's Underwriters, all Lloyd's Underwriters participating in this Insurance will abide by the final decision of such Court or any competent Appellate Court.

For the avoidance of any doubt, this Endorsement supersedes any Service of Suit and Legal Notice clause in the **policy**. Except as otherwise provided in this Endorsement, the Insuring Clause and all other **policy** terms and conditions shall have full force and effect.

Signed:



---

Signed by DUAL Australia Pty Ltd on behalf of certain underwriters at Lloyd's in accordance with the authorisation granted under Unique Market Reference Number: B1969DS2400031



## **DUAL Australia**

### **Allied Health Professionals Combined Policy Wording**

#### **TABLE OF CONTENTS**

|             |                                                        |    |
|-------------|--------------------------------------------------------|----|
| Section 1:  | PREAMBLE .....                                         | 2  |
| Section 2:  | INSURING CLAUSE.....                                   | 2  |
| Section 3:  | AUTOMATIC EXTENSIONS (Applicable to Part A only) ..... | 2  |
| Section 4:  | INSURING CLAUSES .....                                 | 7  |
| Section 5:  | OPTIONAL EXTENSIONS:.....                              | 8  |
| Section 6:  | INTERPRETATION .....                                   | 9  |
| Section 7:  | DEFINITIONS .....                                      | 9  |
| Section 8:  | EXCLUSIONS .....                                       | 11 |
| Section 9:  | CLAIM CONDITIONS .....                                 | 17 |
| Section 10: | GENERAL CONDITIONS .....                               | 19 |
| Section 11: | LIMIT OF LIABILITY .....                               | 21 |
| Section 12: | AUTHORITY .....                                        | 22 |

# DUAL Australia Allied Health Professionals

## Combined Liability Policy Wording

### Section 1: PREAMBLE

- 1.1** WE shall provide the cover described in the POLICY, subject to its terms and conditions, for the INSURANCE PERIOD.
- 1.2** The cover under the POLICY commences upon the payment of the Premium unless otherwise agreed in writing.

### Part A: PROFESSIONAL INDEMNITY

### Section 2: INSURING CLAUSE

- 2.1** WE agree to indemnify the INSURED for any CLAIM for compensation first made against the INSURED and reported to US during the INSURANCE PERIOD in respect of any civil liability resulting from any breach of professional duty by the INSURED in its conduct of its PROFESSIONAL BUSINESS.
- 2.2** WE also agree to pay DEFENCE COSTS either incurred by US or incurred by the INSURED with OUR prior written consent.
- 2.3** The POLICY shall only provide cover for breaches of professional duty committed after the RETROACTIVE DATE.

### Section 3: AUTOMATIC EXTENSIONS (Applicable to Part A only)

The automatic extensions are subject to the Insuring Clauses in Section 2 above and all other applicable POLICY terms and conditions, including but not limited to the INDEMNITY LIMIT for this Part A.

#### 3.1 Fraud and Dishonesty

WE agree to provide cover in respect of any CLAIM which would otherwise be excluded because of fraud and dishonesty in Exclusion 8.15 of the POLICY provided that WE will not provide cover in respect of any:

- a) Person committing or condoning any act, omission or breach excluded by Exclusion 8.15 of the POLICY.
- b) CLAIM arising from or directly or indirectly attributable to or in consequence of:
  - i) Any loss of money, negotiable instruments, bonds, coupons, currency, bank notes, stamps, cheques, bills of exchange, letters of credit or other instruments whether negotiable or not or whether matured or not or securities or documents evidencing title to or ownership of land or any other property; or

- ii) Any actual or alleged fraudulent or dishonest instruction or direction; or use of electronic equipment, including but not limited to, telephony or the internet; resulting in:
  - (a) Any unauthorised transfer, delivery or payment of, or dealing with, any money, land or other property; or
  - (b) Any unauthorised reduction in the amount of any funds or other assets held by any person with any bank, building society or other institution or person having a responsibility for the maintenance or care of such funds or assets; or
  - (c) Any adverse effect upon any right of any person to the payment of money.

### **3.2 Former Principals**

WE agree to provide cover in respect of any CLAIM against any former principal, partner, director, or EMPLOYEE of the INSURED in respect of the conduct of the INSURED's PROFESSIONAL BUSINESS.

### **3.3 Loss of Documents**

WE agree to provide cover in respect of any costs and expenses incurred by the INSURED in replacing or restoring LOST DOCUMENTS for which the INSURED is legally responsible if:

- a) The loss of the DOCUMENTS is first discovered during the INSURANCE PERIOD;
- b) The INSURED notifies US within 30 days of discovery of the loss of the DOCUMENTS;
- c) The INSURED provides US with bills and accounts substantiating the costs and expenses incurred by the INSURED in replacing or restoring the LOST DOCUMENTS; and
- d) WE approve or a competent person nominated by US approves the bills and accounts.

OUR total liability under this extension for any one claim and in the aggregate from all claims during the INSURANCE PERIOD shall not exceed \$500,000. This sub-limit is part of and not in addition to the INDEMNITY LIMIT. A separate DEDUCTIBLE of \$2,000 or amount shown in Item 6 headed DEDUCTIBLE (whichever is the lesser) will apply to each loss under this extension.

### **3.4 Run-off Cover Insured Entity or Subsidiary (Former Subsidiary)**

WE agree to provide cover in respect of any CLAIM against the INSURED resulting from the conduct of the PROFESSIONAL BUSINESS by a SUBSIDIARY that ceased or ceases to be a SUBSIDIARY either before or during the INSURANCE PERIOD.

### **3.5 Joint Venture Liability**

WE agree to provide cover in respect of any CLAIM against the INSURED resulting from its conduct of the PROFESSIONAL BUSINESS as a joint venturer.

WE will not cover any liability of the joint venture partner.

### **3.6 Defamation**

WE agree to provide cover in respect of any CLAIM against the INSURED which results from the INSURED making a defamatory statement in the conduct of the PROFESSIONAL BUSINESS.



### 3.7

#### Fidelity

WE agree to provide cover in respect of any CLAIM against, or loss discovered by, the INSURED resulting from:

- a) Any loss of money, negotiable instruments, bonds, coupons, currency, bank notes, stamps, cheques, bills of exchange, letters of credit and other instruments whether negotiable or not or whether matured or not or securities or documents evidencing title to or ownership of land or any other property belonging to the INSURED or for which the INSURED is legally liable; and/or
- b) Any actual or alleged fraudulent or dishonest instruction, direction or use of electronic equipment, including but not limited to telephony and the internet, resulting in the unauthorised transfer, delivery or payment of, or dealing with, money, land or any other property belonging to the INSURED or for which the INSURED is legally liable ("fraudulent transaction")

Where such loss is sustained or fraudulent transaction occurs in consequence of any dishonest, fraudulent, malicious or reckless act or omission of any INSURED, provided always that:

- a) Such CLAIM is first made against the INSURED or loss or fraudulent transaction is first discovered by the INSURED during the INSURANCE PERIOD and is notified in writing to US within 28 days after such discovery and where the INSURED must bear any costs or expenses to substantiate the loss or fraudulent transaction;
- b) We shall not be liable for any CLAIM based on or loss sustained in respect of any fraudulent transaction which occurs in consequence of any act or omission occurring after the date of the discovery of, or of reasonable cause for suspicion of, dishonest or fraudulent conduct on the part of the INSURED concerned; nor will we be liable to indemnify any INSURED committing or condoning any dishonest or fraudulent conduct.

The cover provided under this extension is sub-limited to \$50,000 any one CLAIM or loss and in the aggregate all CLAIMS and losses. This sub-limit is part of and not in addition to the INDEMNITY LIMIT. A separate DEDUCTIBLE of \$5,000 will apply to each loss under this extension.

### 3.8

#### Intellectual Property

WE agree to provide cover in respect of any CLAIM which would otherwise be excluded by Exclusion 8.10 of the POLICY (Intellectual Property), provided that the liability incurred from the breach of intellectual property rights results from the provision of advice by the INSURED in the conduct of the PROFESSIONAL BUSINESS.

### 3.9

#### Reinstatement of INDEMNITY LIMIT

WE agree to provide cover in respect of any CLAIM(S) which require(s) reinstatement of the INDEMNITY LIMIT during the INSURANCE PERIOD because the INDEMNITY LIMIT is eroded (partially or totally) as a result of the payment of an earlier and separate CLAIM, CLAIMS or DEFENCE COSTS. However the aggregate of all such reinstatements in connection with all CLAIMS will not exceed a total amount equal to the INDEMNITY LIMIT, inclusive of DEFENCE COSTS, and such reinstatements are only available where the subsequent CLAIM(S) is/are based on facts and matters totally different from and unrelated to those which gave rise to the erosion or exhaustion of the INDEMNITY LIMIT. Further, this Extension does not apply until the INSURED has exhausted the limits of any policy which is in excess of the original INDEMNITY LIMIT under this POLICY, other than any similar reinstatement provisions under such excess policies.

### 3.10

#### Attendance at Inquiries

WE agree to provide cover in respect of any legal representation costs resulting directly from the attendance by the INSURED at any INQUIRY. WE will only do this if:

- a) The INQUIRY is ordered or commissioned during the INSURANCE PERIOD, and
- b) OUR consent is obtained before such costs are incurred, and

- c) The INSURED notifies US during the INSURANCE PERIOD that the INSURED is legally compelled to attend the INQUIRY, and
- d) The INQUIRY is not being held in USA or Canada, and
- e) The INSURED's attendance is required because of the INSURED's conduct of its PROFESSIONAL BUSINESS, and
- f) The notice requiring the INSURED to attend does not relate to any allegations of sexual misconduct
- g) At OUR option, WE can nominate legal advisers to be used.

The cover provided under this extension is sub-limited to \$100,000 any one INQUIRY and in the aggregate for all INQUIRIES and a separate DEDUCTIBLE will apply to each INQUIRY under this extension. This sub-limit is part of and not in addition to the INDEMNITY LIMIT. For the application of the terms and conditions of this POLICY to this Extension, INQUIRY is deemed to be a CLAIM.

### 3.11 Court Attendance Costs

WE agree to provide cover in respect of any Court attendance costs of any partner, principal, director or EMPLOYEE of the INSURED who is legally required to attend Court as a witness in a CLAIM covered by the POLICY, to an amount not exceeding \$250 per day for EMPLOYEES and \$500 per day for those other persons. No DEDUCTIBLE applies.

### 3.12 Public Relations

WE agree to provide cover in respect of any PUBLIC RELATIONS EXPENSES incurred by the INSURED in connection with an INCIDENT in order to prevent or minimise the risk of a CLAIM which would be covered under the POLICY, or in connection with an INCIDENT that results in a CLAIM covered under the POLICY.

The INSURED's entitlement to this cover is conditional upon the INSURED providing US with full written details of the INCIDENT no later than 30 days after the INSURED first becomes aware of the INCIDENT. The INCIDENT must occur and be reported during the INSURANCE PERIOD. The INCIDENT must occur outside of the USA/Canada.

The cover provided under this extension is sub-limited to \$50,000 any one INCIDENT and in the aggregate for all INCIDENTS. A separate DEDUCTIBLE of \$1,000 will apply to each INCIDENT under this extension. This sub-limit is part of and not in addition to the INDEMNITY LIMIT.

### 3.13 Heirs, Estates and Legal Representatives

WE agree to provide cover in respect of any Estate, heirs, legal representatives or assigns of any deceased or mentally incompetent INSURED in respect of CLAIMS resulting from the conduct of the PROFESSIONAL BUSINESS by such INSURED.

### 3.14 Continuous Cover

Notwithstanding the Prior Knowledge Clause 8.1 a) and b), WE agree to provide cover in respect of any CLAIM made in the INSURANCE PERIOD where the INSURED:

- a) First became aware, prior to the INSURANCE PERIOD, that a CLAIM might or could arise from facts or circumstances known to it; and
- b) Had not notified US of such facts or circumstances prior to the INSURANCE PERIOD.

Provided that:

- i) WE were the professional indemnity liability insurer of the INSURED when the INSURED first became aware of such facts and circumstances; and

- ii) WE have continued, without interruption, to be the INSURED's professional indemnity insurer up until this POLICY came into effect; and
- iii) There has not been any fraudulent non-disclosure or fraudulent misrepresentation by the INSURED in respect of such facts or circumstances; and
- iv) WE have the discretion to apply either the terms and conditions of the Policy on foot when the INSURED first became aware of the facts and circumstances, including but not limited to the INDEMNITY LIMIT and DEDUCTIBLE, or the terms and conditions of this POLICY; and
- v) The INSURED agrees to only make a claim under one professional indemnity POLICY issued by US.

For the purpose of this Extension only, the definition of WE/US/OUR in clause 7.28 of this POLICY also includes the Underwriter(s) for which WE were the agent on any previous policy issued by US as such Underwriter's agent to the INSURED. Subject to the terms of this extension and the terms of the POLICY, the intention of this extension is to provide continuous cover to the INSURED notwithstanding any change in the identity of the Underwriters for which we presently act, or have previously acted, as agent.

### 3.15 Defence Costs In Addition

WE agree to provide cover for any DEFENCE COSTS in addition to the INDEMNITY LIMIT, in an amount not exceeding the INDEMNITY LIMIT. We will only pay these, however, if:

- a) WE incur them; or
- b) The INSURED incurs them after first obtaining OUR agreement in writing and the DEFENCE COSTS are in OUR view reasonable and necessary.

We will not be obliged to defend, or to continue to defend, any CLAIMS or pay, or continue to pay, any DEFENCE COSTS associated with such defence, once the INDEMNITY LIMIT has been exhausted.

DEFENCE COSTS does not include any internal or overhead expenses of the INSURED or the cost of the INSURED'S time.

### 3.16 Emergency Defence Costs

WE agree to provide cover for any DEFENCE COSTS incurred by the INSURED prior to obtaining our consent, provided OUR consent is obtained within 30 days of the first of such DEFENCE COSTS being incurred, and provided that for the purposes of this Extension only:

- a) WE are only liable to indemnify the INSURED for that part of the INSURED's liability in respect of each CLAIM and DEFENCE COSTS in excess of the DEDUCTIBLE, and
- b) If WE subsequently refuse to pay under the POLICY, the INSURED must reimburse US for any DEFENCE COSTS that WE have paid in advance, according to their respective rights and interests.

The sub limit of liability for all such payments under this Extension is \$100,000. This sub limit forms part of, and is not payable in addition to, the INDEMNITY LIMIT.

### 3.17 Advanced Defence Costs (Sexual Misconduct)

WE agree to advance DEFENCE COSTS incurred by the INSURED before final disposition of a CLAIM against the INSURED alleging sexual misconduct of the INSURED in the course of is PROFESSIONAL BUSINESS;

- a) Where WE give the INSURED written confirmation that WE will pay the INSURED's LOSS arising from the CLAIM; or
- b) Where WE take over and conduct proceedings in respect of the CLAIM under Clause 9.4.

If WE subsequently refuse to pay LOSS under the POLICY, the INSURED must reimburse US for any DEFENCE COSTS that WE have paid in advance, according to their respective rights and interests.

The sub limit of liability for all such payments under this Extension is \$100,000. This sub limit forms part of, and is not payable in addition to, the INDEMNITY LIMIT.

### **3.18 Previous Business**

WE agree to provide cover in respect of any principal, partner or director of the INSURED for CLAIMS resulting from professional services they performed prior to joining the INSURED.

This extension will only apply if:

- a) The professional services were performed in the same profession as the PROFESSIONAL ACTIVITY of the INSURED; and
- b) There were no more than 10 partners or directors in the past business in which the principal, partner or director practiced; and
- c) The principal, partner or director of the INSURED does not have the benefit of cover under any other insurance or indemnity.

The retroactive date for this Extension is limited to the commencement date of the past business in which the principal, partner or director practiced.

### **3.19 Good Samaritan Acts**

WE agree to indemnify the INSURED for any CLAIM for compensation first made against the INSURED and reported to US during the INSURANCE PERIOD in respect of any civil liability resulting from the rendering of emergency first aid and assistance to persons by the INSURED in a capacity the same as that of the INSURED's PROFESSIONAL BUSINESS

### **3.20 Teachers Liability**

WE agree to indemnify the INSURED for any CLAIM for compensation in respect of any civil liability resulting from the provision of teaching and training services provided by the INSURED in the conduct of its PROFESSIONAL BUSINESS.

## **Part B Public and Products Liability**

## **Section 4 INSURING CLAUSES**

### **4.1** WE agree to indemnify the INSURED for any amount the INSURED becomes legally liable to pay in respect of CLAIMS for compensation for:

- (a) PERSONAL INJURY or
- (b) PROPERTY DAMAGE

first made against the INSURED and reported to US during the INSURANCE PERIOD in connection with the INSURED's BUSINESS.

## 4.2 Defence Costs and Expenses

In addition to the INDEMNITY LIMIT WE will pay in respect of a CLAIM covered under this Section of the POLICY, all:

- a) DEFENCE COSTS incurred by US;
- b) Costs awarded against the INSURED and all interest accruing after judgement until WE have paid, tendered or deposited in court that part of any judgement which does not exceed the INDEMNITY LIMIT;
- c) Reasonable costs and expenses, other than loss of earnings, incurred by the INSURED with OUR prior written consent; and
- d) Costs and expenses incurred by the INSURED for rendering first aid to others at the time of any PERSONAL INJURY;

Provided that:

- i) If to dispose of or settle a CLAIM covered under this section of the POLICY, compensation is payable in excess of the INDEMNITY LIMIT, OUR liability in respect of DEFENCE COSTS and costs and expenses under this clause will be limited to that proportion of such DEFENCE COSTS and costs and expenses as the INDEMNITY LIMIT bears to the total compensation payable to dispose of or settle the CLAIM;
- ii) WE will not pay for any DEFENCE COSTS or costs or expenses that are incurred after WE have paid or agreed to pay an amount equal to the INDEMNITY LIMIT; and
- iii) In relation to any CLAIM made or actions instituted within the United States of America or the Dominion of Canada or their territories or protectorates, OUR liability to pay any DEFENCE COSTS or costs or expenses detailed above shall be included in the INDEMNITY LIMIT, and not in addition to the INDEMNITY LIMIT.

4.3 The POLICY shall only provide cover for an event or occurrence committed or alleged to have been committed after the RETROACTIVE DATE.

## 4.4 Tenants Liability

WE agree to indemnify any lessor with whom the INSURED has entered into an agreement for the rental or lease of premises (not belonging to the INSURED) from which the INSURED conducts its BUSINESS, provided always that no wider cover shall be afforded to the lessor than would have been provided hereunder to the INSURED if the INSURED had been held legally liable for the same PERSONAL INJURY or PROPERTY DAMAGE and only where that liability arises out of the INSURED's use of such premises in the carrying on of its BUSINESS. Exclusion 8.3 b) shall not apply to any cover provided under this Extension.

## Section 5: OPTIONAL EXTENSIONS:

The optional extensions are subject to Insuring Clause 4.1 (as applicable) and all other applicable POLICY terms and conditions, including but not limited to the INDEMNITY LIMIT for Part B.

### 5.1 Consultants, Subcontractors and Agents (Part B only)

WE agree to provide cover in accordance with Insuring clause 4.1 for any CLAIM against any consultant, sub contractor or agent named in the Schedule whilst acting for and on behalf of the INSURED in the course of the INSURED's BUSINESS.

For the purpose of this Optional Extension only all terms, conditions and exclusions of the POLICY apply under this Extension as if the consultant, subcontractor or agent were an INSURED. The cover provided under this Extension is part of and not in addition to the INDEMNITY LIMIT.

## Section 6: INTERPRETATION

In the POLICY:

- 6.1**
- a) Person includes individuals, partnerships, bodies corporate and associations.
  - b) The singular includes the plural and the masculine includes the feminine.
  - c) The headings are for descriptive purposes only.
- 6.2** The construction and interpretation of the POLICY shall be determined in accordance with the law of the jurisdiction in which it is issued.
- 6.3** In the event that any portion of the POLICY is found to be invalid or unenforceable, the remainder shall remain in full force and effect.
- 6.4** All POLICY documents shall be read together as one contract and any word or expression to which a specific meaning has been attached shall bear the same meaning wherever it may appear.

## Section 7: DEFINITIONS

In the POLICY:

- 7.1** AIRCRAFT means any object that is intended to fly or move in or through the air, atmosphere or space.
- 7.2** CLAIM means:
- a) Any civil proceeding brought by a third party against the INSURED for compensation; or
  - b) A written demand by a third party for monetary damages.
- 7.3** DEDUCTIBLE means, for Part A, the amount specified in Item 6 a) of the Schedule and, for Part B, the amount specified in Item 6 b) of the Schedule.
- 7.4** DEFENCE COSTS means any necessary and reasonable fees, expenses, costs and disbursements incurred in investigating or defending a CLAIM covered by the POLICY.
- 7.5** DOCUMENTS means deeds, wills, agreements, maps, plans, books, letters, policies, certificates, forms and documents of any nature, whether printed, written or reproduced by any method including computer records and electronically stored data but does not mean bearer bonds or coupons, stamps, bank or currency notes, money or any negotiable instrument.
- 7.6** EMPLOYEE means any person employed by the INSURED under a contract of service or apprenticeship during or prior to the commencement of the INSURED PERIOD and includes volunteers, locums and student(s) whilst directly supervised by the INSURED or by a qualified allied health practitioner of the INSURED specified in the Schedule.
- 7.7** FAMILY MEMBER means the INSURED's
- a) Legal or defacto spouse, domestic partner or companion;
  - b) Parent, or the parent of the INSURED's legal or defacto spouse, domestic partner or companion;
  - c) Children and children of a) and b) above

d) Siblings.

**7.8** INCIDENT means a matter in which the INSURED's reputation and skill in the conduct of the PROFESSIONAL BUSINESS is brought into question.

**7.9** INDEMNITY LIMIT means, for Part A, the amount specified in Item 5 a) of the Schedule and, for Part B, the amount specified in Item 5 b) of the Schedule.

**7.10** INQUIRY means any official investigation, examination, inquiry, prosecution or hearing of a professional nature held before an industry or professional disciplinary board or coronial inquiry or other proceedings ordered or commissioned by any official body or institution empowered by law to investigate the conduct of the PROFESSIONAL BUSINESS of the INSURED.

**7.11** INSURANCE PERIOD means the period specified in Item 4 of the Schedule.

**7.12** INSURED means

- a) The person, partnership, company, SUBSIDIARY or other entity, specified as the INSURED in the Schedule; and
- b) Any person who is during the INSURANCE PERIOD a principal, partner, director or employee of the person, partnership, company, SUBSIDIARY or other entity specified as the INSURED in the Schedule, but only while acting in the course of the PROFESSIONAL BUSINESS; and
- c) For the purpose of Part A only any consultant, subcontractor or agent in the course of the PROFESSIONAL BUSINESS for or on behalf of the INSURED in the course of the INSURED's BUSINESS and for whose acts, errors or omissions the INSURED is liable.

**7.13** LOST DOCUMENTS means DOCUMENTS that cannot be located following a diligent search, and documents that have been destroyed or damaged.

**7.14** PERSONAL INJURY means:

- a) Bodily injury, death, sickness, disease, disability, shock, fright, mental anguish and mental injury;
- b) False arrest, false imprisonment, wrongful detention, malicious prosecution and humiliation;
- d) Wrongful entry, wrongful eviction or other invasion of right of privacy; and/or
- e) Assault and battery committed by the INSURED for the purpose of preventing or eliminating danger to persons or property.

In the event of PERSONAL INJURY arising from latent injury, latent sickness, latent disease or latent disability, that PERSONAL INJURY shall be deemed to have occurred on the day the injury, sickness, disease or disability was first medically diagnosed.

**7.15** POLICY means this POLICY wording, the Schedule, the PROPOSAL and any endorsement attaching to and forming part of the POLICY either at commencement or during the INSURANCE PERIOD.

**7.16** POLLUTANTS means any contaminant whether solid, liquid or gas including but not limited to chemicals, smoke, vapours and fumes.

**7.17** PRODUCT means anything (after it has ceased to be in the INSURED's possession or in the INSURED's legal control) which has been manufactured, grown, extracted, produced, processed, constructed, erected, installed, assembled, altered, repaired, serviced, treated, sold, supplied or distributed by the INSURED in the course of the INSURED'S BUSINESS, including any packaging or containers (other than a VEHICLE) used to package or contain the INSURED'S PRODUCT(S).

**7.18** PRODUCT LIABILITY means any liability that is caused by or arises out of any PRODUCT.

- 7.19** PROPERTY DAMAGE means physical loss, damage or destruction of tangible property including the resultant loss of use, or loss of use of tangible property which has not been physically damaged or destroyed. In the event of a CLAIM arising from latent damage or from the exposure of tangible property to gradual deterioration and eventual damage, such PROPERTY DAMAGE shall be deemed to have occurred on the day such deterioration or damage was first discovered.
- 7.20** PROFESSIONAL BUSINESS means the PROFESSIONAL ACTIVITY set out in the Schedule.
- 7.21** PROPOSAL means the written proposal made by the INSURED to US together with any attachments.
- 7.22** PUBLIC RELATIONS EXPENSES means any reasonable fees, costs and expenses of a public relations consultant retained with OUR prior written consent (which shall not be unreasonably delayed or withheld).
- 7.23** RETROACTIVE DATE means the date specified in Item 7 of the Schedule but no earlier than the commencement of the INSURED's business specified in the Schedule **7.24**  
SUBSIDIARY means any entity which by virtue of any applicable legislation or law is deemed to be a SUBSIDIARY of the INSURED or in which the INSURED owns or controls, directly or indirectly 50% of the issued voting shares of such entity.
- 7.25** WE/US/OUR means DUAL Australia Pty Limited, ACN 107 553 257 as agent of the Underwriters named in the Schedule under the heading "Underwriters".

## **Section 8: EXCLUSIONS**

WE will not cover the INSURED, including for DEFENCE COSTS or other loss, in respect of:

### **8.1 Prior knowledge**

- a) Any CLAIM arising from or in connection with a fact or circumstance that the INSURED knew or ought reasonably to have known prior to the INSURANCE PERIOD might or could give rise to a CLAIM;
- b) Any CLAIM arising from or in connection with a fact or circumstance of which notice has been or reasonably should have been given under any previous insurance.
- c) Any CLAIM that was first made, threatened or intimated against the INSURED prior to the INSURANCE PERIOD.

### **8.2 Fines and Penalties and Non-Compensatory**

- a) Taxes, fines or penalties;
- b) Punitive, aggravated, multiple, exemplary, liquidated or other non-compensatory damages or the consequences of non-payment;
- c) Any demand for the repayment or refund by the INSURED to a third party of professional fees paid to the INSURED for the provision of professional or other services.

### **8.3 Assumed Liability**

Any obligation assumed by the INSURED under any agreement, except that this Exclusion does not apply to:

- a) Any liability which is, or would have been, implied by law in such agreement or would have arisen separately from it; or
- b) Section B (PERSONAL INJURY and PROPERTY DAMAGE), where the liability arises from a provision in a contract for lease of real or personal property, other than a provision which



obliges the INSURED to effect insurance or provide indemnity in respect of the subject matter of that contract; or

- c) Any liability which is in respect of the treatment or use of confidential information.

#### **8.4 Liability to EMPLOYEES**

Any CLAIM arising from or directly or indirectly attributable to or in consequence of:

- a) Any PERSONAL INJURY to any EMPLOYEE in the course of employment in the INSURED'S BUSINESS. (In respect of a claim in Queensland or subject to the law in Queensland, this exclusion does not apply in respect of the INSURED'S liability for injuries which are not compensated under the workers' compensation legislation in respect of CLAIMS where employment is not the major factor causing the injury); or
- b) Any PROPERTY DAMAGE to the property of any EMPLOYEE; or
- c) Based on, any provision of any workers' compensation legislation or any industrial award or agreement or determination; or
- d) Any liability for which the INSURED is or would have been entitled to seek indemnity under any policy of insurance required to be taken out pursuant to any legislation relating to workers' or workmens' compensation including any legislation of any State or Territory (whether insurance is effected or not).

#### **8.5 Prescription Drug**

Any CLAIM arising from or directly or indirectly attributable to or in consequence of the death of, or personal injury or illness to, any person as a result of prescription drugs, unless it results directly from the actual provision by the INSURED of a prescription in accordance with the standards of the relevant professional body in the conduct of the PROFESSIONAL BUSINESS on the matter or thing which gives rise to the personal injury.

#### **8.6 Liability as Occupier (Part A only)**

Any CLAIM or liability arising from or incurred or alleged to have been incurred in connection with the use, occupation, ownership or lease of any real estate or personal property, by or on behalf of the INSURED.

#### **8.7 Termination of Pregnancy**

Any CLAIM or liability arising from or incurred or alleged to have been incurred in connection with the performance of any operation to terminate pregnancy.

#### **8.8 Intoxicants and Drugs**

Any CLAIM or liability arising from or incurred or alleged to have been incurred in connection with 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.

#### **8.9 Product Liability (Part A only)**

Any CLAIM or liability arising from or in connection with the sale, storage, supply or distribution of any goods or products other than a CLAIM which arises directly from a breach of professional duty arising from the conduct of the PROFESSIONAL BUSINESS.

#### **8.10 Intellectual Property**

Any CLAIM arising from infringement or alleged infringement of any intellectual property right including but not limited to copyright, patent, trademark, privacy, plagiarism, design or confidentiality.

#### **8.11 Pollution**

Any CLAIM arising from or directly or indirectly attributable to or in consequence of the actual or alleged release or discharge of POLLUTANTS.

#### **8.12 War/Terrorism**

Any CLAIM or liability of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following, regardless of any cause or event contributing concurrently or in any other sequence:

- a) War, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power; or
- b) Any act of terrorism; or
- c) Any action taken in controlling, preventing, suppressing or in any way relating to a) and/or b) above.

For the purposes of this exclusion, an 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), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

#### **8.13 Nuclear**

Any CLAIM or liability arising from or directly or indirectly attributable to or in connection with:

- a) Loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting from or arising therefrom or any consequential loss; or
- b) Any legal liability of whatsoever nature

Directly or indirectly caused by or contributed to by or arising from:

- i) Ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- ii) The radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

#### **8.14 Trading Debts**

Any CLAIM arising from or directly or indirectly attributable to any trading debt or business liability of the INSURED or any guarantee given by the INSURED for a debt.

#### **8.15 Fraud and Dishonesty**

- a) Any CLAIM arising from or directly or indirectly attributable to or in consequence of any actual or alleged act or omission by the INSURED, its consultants, sub-contractors or agents which was reckless, fraudulent, dishonest, malicious or criminal.
- b) Any CLAIM arising from or directly or indirectly attributable to or in consequence of any wilful breach of any statute, regulation, contract or duty by the INSURED, its consultants, sub-contractors or agents.

#### **8.16 Associates**

- a) Any CLAIM by, on behalf of or for the benefit of any INSURED;
- b) Any CLAIM by, on behalf of or for the benefit of any SUBSIDIARY; or
- c) Any CLAIM by, on behalf of or for the benefit of any FAMILY MEMBER of the INSURED, unless the FAMILY MEMBER is acting without any prior direct or indirect solicitation or co-operation from the INSURED.

irrespective of the capacity in which the CLAIM is brought.

#### **8.17 Directors & Officers**

Any CLAIM alleging a breach by an INSURED of a duty owed or any alleged wrongful conduct in the capacity of a director, secretary or officer of a corporate body.

#### **8.18 Asbestos and Toxic Mould**

Any CLAIM or liability arising from or directly or indirectly attributable to or in consequence of:

- a) Asbestos or other things that contain it; or
- b) The actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, moulds, or mycotoxins relating to Stachy Botrys, such action to including investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, moulds, mycotoxins relating to Stachy Botrys.

#### **8.19 AIDS**

Any CLAIM arising from or directly or indirectly attributable to or in consequence of any disease disorder breakdown condition syndrome malfunction or dysfunction of the blood hepatic or lymphatic systems of the human body caused directly or indirectly by or associated with Lymphadenopathy Associated Virus (LAV), Human Immunodeficiency Virus (HIV), or in any way related or connected to Acquired Immune Deficiency Syndrome (AIDS), or any syndrome or condition of a similar kind howsoever named.

#### **8.20 Property In Your Physical or Legal Control (Part B only)**

Any CLAIM or liability arising from or directly or indirectly attributable to or in consequence of PROPERTY DAMAGE to property owned by the INSURED or in the INSURED's physical or legal control, other than:

- a) Premises which are leased or rented to the INSURED;
- b) Premises which the INSURED temporarily occupies in order for the INSURED to carry out work;
- c) VEHICLES (not belonging to the INSURED or used by the INSURED or on the INSURED'S behalf) in the INSURED's physical or legal control whilst within a car park owned or operated by the INSURED unless part of the INSURED's BUSINESS is the operation of a car park for reward;
- d) The INSURED's EMPLOYEES' property; or
- e) Other property in the INSURED's physical or legal control, provided that OUR total liability payable from all CLAIMS during the INSURANCE PERIOD shall not exceed \$250,000 in the aggregate for all CLAIMS.

#### **8.21 Product Recall**

Any CLAIM or liability arising from or directly or indirectly attributable to or in consequence of the recall, withdrawal, inspection, repair, replacement or loss of use of the INSURED's PRODUCTS or of any property of which the INSURED's PRODUCTS form a part, if these PRODUCTS are recalled by the INSURED or another, or withdrawn from the market or from use, because of any known or suspected defect or deficiency therein.

#### **8.22 General Anaesthesia**

Any CLAIM or liability arising from or directly or indirectly attributable to or in consequence of the performance of any operation or procedure carried out under general anaesthesia.

#### **8.23 Faulty Workmanship (In relation to Section B only)**

Any CLAIM or liability arising from or directly or indirectly attributable to or in consequence of the cost of performing, correcting or improving any work undertaken by the INSURED.

#### **8.24 Genetically Modified or Engineered Organisms (GMO)**

Any CLAIM or liability arising from or directly or indirectly attributable to or in consequence of the manufacture, importing, growing, blending, mixing or distributing of Genetically Modified or Engineered Organisms (GMO).

For the purpose of this Exclusion, a Genetically Modified or Engineered Organism is defined to be a living plant, animal or microbe that has been altered by the addition or modification of a gene through the process of genetic engineering and contains genes or portions of genes from unrelated organisms.

#### **8.25 TSE**

Any CLAIM or liability arising from or directly or indirectly attributable to or in consequence of Transmissible Spongiform Encephalopathy (TSE) including but not limited to Bovine Spongiform Encephalopathy (BSE) or new Variant Creutzfeldt-Jakob Disease (VCJD).

This exclusion applies regardless of any other contributing or aggravating cause or event.

#### **8.26 Loss of Use and Fit for Purpose**

Any CLAIM or liability arising from or directly or indirectly attributable to or in consequence of use of tangible property which has not been physically damaged or destroyed resulting from:

- a) A delay in, or lack of performance by the INSURED or on the behalf of the INSURED of any contract or agreement or service; or
- b) The failure of the INSURED's PRODUCTS to meet the level of performance, quality, fitness or durability expressly warranted or represented by the INSURED. This Exclusion shall not apply to loss of use of other tangible property resulting from sudden and accidental physical damage to or destruction of the INSURED's PRODUCTS after the INSURED's PRODUCTS have been put to use by any person or organisation other than the INSURED.

#### **8.27 Product Defect**

Any CLAIM or liability arising from or directly or indirectly attributable to or in consequence of PROPERTY DAMAGE to the INSURED's PRODUCTS if the damage results from any defect contained within the PRODUCT or to their harmful nature or unsuitability

## 8.28

### Beauty Therapy

Any CLAIM or liability directly or indirectly arising from or attributable to any:

- a) Contravention of the Public Health (Skin Penetration) Regulation 2000 (NSW), the Health (Skin Penetration Procedure) Regulations 1998 (WA), the Public Health (Infection Control for Personal Appearance services) Act 2003 (QLD), the Health (Infectious Diseases) Regulations 2001 (VIC) or the provision of any other State, Territory or Commonwealth statute, statutory instrument or regulation which relates in any way to skin penetration; or
- b) The incidence of Carcinomas, Melanoma or Sarcoma arising from the use of solarium, tanning machines or sunbeds; or
- c) Tattooing; or
- d) Botox injections; or
- e) Genital piercing

## 8.29

### Molestation

Any CLAIM or liability directly or indirectly arising from or attributable to any actual or alleged sexual molestation or any kind of abuse of people under the care of the INSURED.

## 8.30

### Aircraft and Watercraft

Any CLAIM or liability arising from or directly or indirectly attributable to or in consequence of:

- a) The ownership, maintenance, servicing, operation or use by the INSURED of:
  - i) Any AIRCRAFT; or
  - ii) Any WATERCRAFT exceeding 8 metres in length, except where such WATERCRAFT is not owned by the INSURED but used by the INSURED for business entertainment; or
- b) PRODUCTS that the INSURED could reasonably be expected to know are installed in or on any AIRCRAFT; or
- c) The use by the INSURED as a landing area for AIRCRAFT of any PROPERTY or structure owned, occupied or controlled by the INSURED. The term "landing area" includes any area on which AIRCRAFT taxi, land, take-off, are housed, maintained or operated.

## 8.31

### Vehicles

Any CLAIM or liability arising from or directly or indirectly attributable to or in consequence of the use of or ownership or operation by the INSURED of any VEHICLE which is legally required to be registered or legally required to be insured.

This exclusion shall not apply to:

- a) CLAIMS or liability caused by or arising from the delivery or collection of goods to or from any VEHICLE where such PERSONAL INJURY or PROPERTY DAMAGE occurs beyond the limits of any carriage-way or thoroughfare;
- b) CLAIMS or liability arising during the trade use of any VEHICLE at any site where the INSURED are working or at the INSURED's premises, provided that the INSURED is not indemnified under this POLICY where the VEHICLE is used only for the transportation or haulage of goods; or

- c) CLAIMS or liability caused by or arising out of the use of an unregistered VEHICLE whilst being driven under its own power between its point of unloading and a worksite and whilst returning from a worksite to the point of reloading for its conveyance from the area.

### 8.32 Retroactive Date

Any CLAIM or liability arising from or directly or indirectly attributable to or in consequence of any:

- (a) event or occurrence or
- (b) breaches of professional duty

committed or alleged to have been committed prior to the RETROACTIVE DATE.

## Section 9: CLAIM CONDITIONS

**9.1** The cover provided by the POLICY shall extend to the conduct of the PROFESSIONAL BUSINESS by the INSURED anywhere in the world, except within the territorial limits of the United States of America or the dominion of Canada or their respective territories or protectorates.

### 9.2 Notification

- a) The INSURED shall notify US:

- i) **Applying to Part A only:**

In writing of any CLAIM or INQUIRY as soon as practicable after it is made against, or is commenced involving, any INSURED (this does not alter the requirement to notify during the INSURANCE PERIOD).

- ii) **Applying to Part B only :**

In writing of any CLAIM, proceeding, impending prosecution and inquest together with all relevant information as soon as practicable after it is made against, or is commenced involving any INSURED (this does not alter the requirement to notify during the INSURANCE PERIOD).

- b) Any Notice given to US shall be in writing, and delivered to:

The National Claims Manager  
DUAL Australia Pty Ltd  
Level 6, 160 Sussex Street, Sydney,  
NSW, 2000 Australia

### 9.3 Co-operation

- a) The INSURED shall, at the INSURED's own cost, frankly and honestly provide US with all information and assistance required by US and/or the lawyers and investigators and others appointed by US in relation to any CLAIM or loss. Any unreasonable failure to comply with this obligation may entitle US to deny cover for the CLAIM or loss, in whole or part.
- b) The INSURED shall, at its own cost, do all things reasonably practicable to minimise the INSURED's liability in respect of any CLAIM or loss.

#### 9.4 Legal Defence and Settlement

Unless otherwise agreed, WE shall have the right to assume, in the name of the INSURED, the legal defence of any CLAIM covered under this POLICY. WE shall have the right to appoint the lawyers that will defend and represent the INSURED in respect of any CLAIM.

- a) WE shall have full discretion in managing any negotiation or proceeding as to the resolution of such CLAIM. WE shall be entitled to settle a CLAIM if WE so choose.
- b) The INSURED agrees not to admit liability for or settle any CLAIM or loss, make any admission, offer any payment or assume any obligation in connection with any CLAIM or loss, or incur any DEFENCE COSTS in connection with any CLAIM, without OUR written consent.
- c) WE shall not be liable for any settlement, DEFENCE COSTS, admission, offer, payment or assumed obligation made, incurred or entered into without OUR written consent.
- d) If WE are of the opinion that a CLAIM will not exceed the DEDUCTIBLE, WE may require the INSURED to conduct the defence of the CLAIM. If the DEFENCE COSTS and/or any other payment exceed the DEDUCTIBLE then WE will pay the amount in excess of the DEDUCTIBLE.

#### 9.5 INSURED's right to contest

In the event that WE recommend settlement of a CLAIM and the INSURED does not agree to the settlement of the CLAIM, and the INSURED decides to contest the CLAIM, OUR liability shall not exceed the amount for which the CLAIM could have been settled, and DEFENCE COSTS incurred up to the date upon which the CLAIM could have been settled.

#### 9.6 Senior Counsel

- a) WE shall not require the INSURED to contest a CLAIM unless a Senior Counsel (agreed upon by the INSURED and US) advises that the CLAIM should be contested, taking into account all likely DEFENCE COSTS, prospects of successfully defending the CLAIM and the damages and costs likely to be recovered by the third party claimant.
- b) The costs of Senior Counsel's advice shall be regarded as part of the DEFENCE COSTS.

#### 9.7 Other Insurance

To the extent permitted by the *Insurance Contracts Act 1984*, this POLICY will only cover loss to the extent that the amount of such loss is in excess of any indemnity or cover available to the INSURED in respect of that loss under any other policy entered into by the INSURED.

To the extent permitted by the *Insurance Contracts Act 1984*, this POLICY will only cover loss to the extent that the amount of such loss is in excess of any indemnity or cover available to the INSURED in respect of that loss under any other policy effected on behalf of the INSURED or under which the INSURED is a beneficiary (but not a policy to which the preceding paragraph applies).

Neither of the two paragraphs immediately above applies to such other insurance that is written only as specific excess insurance over the INDEMNITY LIMIT provided in this POLICY.

If such other insurance is provided by US, or any other member company, associate or affiliate, and it covers a loss covered by this POLICY in respect of a CLAIM or INQUIRY, the INDEMNITY LIMIT under this POLICY in respect of that CLAIM or inquiry shall be reduced by any amount paid by US (or member company, associate or affiliate) under such other insurance.

## **Section 10: GENERAL CONDITIONS**

### **10.1 Subrogation**

- a) Where WE have paid an amount under the POLICY WE become entitled to any rights of the INSURED against any party in relation to the CLAIM or loss, to the extent of OUR payment.
- b) The INSURED, at its own cost, must assist US and provide information as WE may reasonably require to exercise OUR rights of subrogation. This may include providing and signing statements and other documents and the giving of evidence, among other things.

### **10.2 Alteration to Risk**

The INSURED must notify US in writing as soon as practicable of any material alteration to the risk during the INSURANCE PERIOD including:

- a) The INSURED going into voluntary bankruptcy, receivership or liquidation; or
- b) The INSURED failing to pay debts as and when those debts become due; or
- c) The INSURED breaching any other obligation giving rise to the appointment of a receiver or the commencement of bankruptcy or winding up proceedings; or
- d) Any material change in the nature of the PROFESSIONAL ACTIVITY.

WE may not cover the INSURED for any CLAIM if the INSURED does not notify US in writing as soon as practicable of any material alteration to risk.

### **10.3 Assignment**

The INSURED must not assign the POLICY or any rights under the POLICY without OUR prior written consent by way of endorsement to the POLICY.

### **10.4 Cancellation**

- a) The INSURED may cancel the POLICY at any time by notifying US in writing.
- b) WE may cancel the POLICY in accordance with the provisions of the *Insurance Contracts Act 1984* (Commonwealth).
- c) On cancellation of this POLICY, we will retain the proportion of the premium calculated pro rata as at the date of the cancellation plus fifteen percent (15%) of that amount.

### **10.5 Jurisdictional Limitation**

The cover provided by the POLICY shall extend to a CLAIM brought anywhere in the world except:

- a) Any CLAIM brought within the territorial limits of the United States of America or the dominion of Canada or their territories or protectorates;
- b) To enforce any judgement, order or award obtained in or determined under the laws of the United States of America or the dominion of Canada or their territories or protectorates.

### **10.6 Governing Law and Jurisdiction**

This POLICY is governed by the laws of the Commonwealth of Australia and the State or Territory where the POLICY was issued. Any disputes relating to interpretation shall be submitted to the exclusive jurisdiction of the Courts of Australia.



#### 10.7 Insuring Clause Clarification

For the avoidance of doubt, the cover provided by the Insuring Clause of this POLICY, includes but is not restricted to civil liability under the Trade Practices Act (1974), the Fair Trading Act 1987 (NSW), the Fair Trading Act 1985 (Victoria), Australian Securities and Investment Commission Act or similar legislation enacted by the other States or Territories of the Commonwealth of Australia or the Dominion of New Zealand.

#### 10.8 Severability and Non-Imputation (Part A only)

Where more than one party comprises the INSURED, any conduct on the part of any party or parties whereby such party or parties:

- a) Failed to comply with the duty of disclosure in terms of the Insurance Contracts Act 1984; or
- b) Made a misrepresentation to US before this POLICY was entered into; or
- c) Failed to comply with any terms or conditions of this POLICY;

The right of the remaining parties to indemnity will not be prejudiced provided always that such remaining parties:

- i) Be entirely innocent of and have had no prior knowledge of any such conduct; and
- ii) Notify US in writing of all known facts in relation to such conduct as soon as is reasonably practicable upon becoming aware of any such conduct.

#### 10.9 Joint Insured (Part B only)

Where more than one party comprises the INSURED, each of the parties will be considered as a separate and distinct unit and the word INSURED will be considered as applying to each party in the same manner as if a separate POLICY had been issued to each of them provided always that nothing in this Condition will result in an increase of the INDEMNITY LIMIT or DEFENCE COSTS.

#### 10.10 Complaints Procedures

Any enquiry or complaint relating to this Insurance should be referred to US in the first instance. If this does not resolve the matter or you are not satisfied with the way a complaint has been dealt with, you should write to:

Lloyd's Underwriters' General Representative in Australia  
Suite 2, Level 21, Angel Place  
123 Pitt Street, Sydney,  
NSW, 2000 Australia

Telephone Number: (02) 9223 1433  
Facsimile Number: (02) 9223 1466

Who will refer your dispute to Policyholder & Market Assistance at Lloyd's.

Complaints that cannot be resolved by Policyholder & Market Assistance may be referred to the Financial Ombudsman Service (UK). Further details will be provided at the appropriate stage of the complaints process.

For the purpose of this Clause only, "this Insurance" means the POLICY, "you/your" means the INSURED.

#### 10.11 Service of Suit (Australia)

The Underwriters hereon agree that:-

- a) In the event of a dispute arising under this POLICY, Underwriters at the request of the INSURED (or reinsured) will submit to the jurisdiction of any competent Court in the Commonwealth of Australia. Such dispute shall be determined in accordance with the law and practice applicable in such Court.
- b) Any summons notice or process to be served upon the Underwriters may be served upon:

Lloyd's General Representative at Lloyd's Australia  
Suite 2, Level 21, Angel Place  
123 Pitt Street, Sydney,  
NSW 2000 Australia

Who has authority to accept service and to enter an appearance on Underwriters' behalf, and who is directed at the request of the INSURED (or reinsured) to give a written undertaking to the INSURED (or reinsured) that he will enter an appearance on Underwriters' behalf.

- c) If a suit is instituted against any one of the Underwriters all Underwriters hereon will abide by the final decision of such Court or any competent Appellate Court.

#### 10.12 General Insurance Code of Practice

This POLICY is Insurance Council of Australia's General Insurance Code of Practice compliant, apart from any claims adjusted outside Australia. Underwriters at Lloyd's and DUAL Australia proudly support the General Insurance Code of Practice. The purpose of the Code is to raise standards of practice and service in the general insurance industry.

A copy of this Code is available by contacting DUAL Australia or from the Insurance Council of Australia's website at [www.ica.com.au](http://www.ica.com.au) or from the Code's dedicated website at [www.codeofpractice.com.au](http://www.codeofpractice.com.au)

### Section 11: LIMIT OF LIABILITY

#### 11.1 Indemnity Limit (Part A)

Subject to Clause 3.10 Reinstatement of INDEMNITY LIMIT, OUR total liability under the POLICY for any one CLAIM and in the aggregate for all CLAIMS shall not exceed the INDEMNITY LIMIT. For the purposes of determining the INDEMNITY LIMIT available for each CLAIM covered by the POLICY, all CLAIMS arising from the same act, error or omission, or related acts, errors or omissions, shall be regarded as one CLAIM.

The INDEMNITY LIMIT is inclusive of amounts payable under Clauses 3.8 Fidelity, 3.11 Attendance at Inquiries, 3.13 Public Relations, and 3.17 Emergency Defence Costs.

#### 11.2 Indemnity Limit (Part B)

- a) OUR liability for all compensation payable in respect of any CLAIM or a series of CLAIMS caused by or result from one original source, or one original cause shall not exceed the INDEMNITY LIMIT;
- b) All CLAIMS for compensation that result from one original source, or one original cause, shall be considered to have been caused by or arise out of a single CLAIM; and
- c) OUR total aggregate liability in any one INSURANCE PERIOD for PRODUCT LIABILITY CLAIMS shall not exceed the INDEMNITY LIMIT inclusive of DEFENCE COSTS.
- d) OUR total aggregate liability under clause 4.2 c) for all CLAIMS and other costs and expenses, is the INDEMNITY LIMIT.

The INSURED agrees that in no circumstances shall the INDEMNITY LIMIT for Section A and the INDEMNITY LIMIT for Section B both apply to a CLAIM covered by this POLICY.

### 11.3

#### Deductible

- a) The INSURED is responsible for the DEDUCTIBLE in respect of each and every CLAIM or claim under the POLICY. Subject to clause b) below, WE are only liable to indemnify the INSURED for that part of the INSURED's liability in respect of each CLAIM, DEFENCE COSTS and other costs and expenses in excess of the DEDUCTIBLE.
- b) Where WE have paid on the INSURED's behalf part or all of the DEDUCTIBLE, the INSURED shall reimburse US.
- c) Costs and expenses incurred by US in determining whether WE are liable to indemnify the INSURED under the POLICY shall not be subject to the DEDUCTIBLE and will be met by US.
- d) For the purposes of determining the DEDUCTIBLE(S) applicable to any CLAIM(S) covered by Section A of the POLICY, all CLAIMS arising from the same act, error or omission, or related acts, errors or omissions, shall be regarded as one CLAIM.
- e) For the purpose of CLAIMS covered by Section B of the POLICY, only one DEDUCTIBLE shall apply where the CLAIM(S) or a series of CLAIMS is/are caused by or arise(s) out of one original source, or one original cause, or related original sources or causes.

## Section 12

### AUTHORITY

#### 12.1

This is to certify that in accordance with the authorisation granted under Contract to the undersigned by the Underwriters as named in the Schedule.

#### 12.2

In consideration of the premium paid the Underwriters are hereby bound, severally and not jointly, to insure in accordance with the terms and conditions contained herein or endorsed hereon.