

**Professional Indemnity Insurance**

**MEMBERS OF THE NEW SOUTH WALES NURSES AND  
MIDWIVES' ASSOCIATION and AUSTRALIAN NURSING  
AND MIDWIFERY FEDERATION NEW SOUTH WALES  
BRANCH**

# Professional Indemnity Insurance Policy Schedule



## PLEASE READ THE ENTIRE POLICY CAREFULLY

Policy Number:	LPP104060314		
Insured:	Members of the New South Wales Nurses and Midwives' Association Australian Nursing and Midwifery Federation New South Wales Branch		
Broker Name:	Scott & Broad Pty Ltd		
Broker Address:	Level 2, 924 Pacific Highway, Gordon, New South Wales 2072		
Healthcare Services:	the provision of nursing and midwifery services		
Period of Insurance:	30/11/2018 From 4 pm (Local Standard Time) 30/11/2019 To 4 pm (Local Standard Time)		
Limit of Indemnity:	\$5,000,000	any one Claim	
Maximum Aggregate Limit of Indemnity:	\$25,000,000	all Claims in the aggregate	
Excess:	\$1,000	each and every Claim	
Retroactive Date:	Unlimited, excluding known Claims and circumstances		
Policy Form:	Vero Professional Indemnity Insurance for Members of the New South Wales Nurses and Midwives' Association		
Reference:	New South Wales Nurses and Midwives' Association PI Master Policy 2012		
Incorporating	1. Libel and Slander		Yes
	2. Consumer Protection Legislation		Yes
	3. Intellectual Property		Yes
Extensions:	1. Lost Documents		
	2. Inquiry Costs		
	3. Dishonesty of Employees		
	4. Good Samaritan Acts		
	5. Employment Practices Liability		

# Professional Indemnity Insurance Policy Schedule



Address for Claim  
Notification:

Vero Insurance, Liability & Profin Notification Centre  
GPO Box 346  
Sydney New South Wales 2001  
Fax: 1300 066 150  
E-mail: lodgeclaim@vero.com.au

Per:

Signed for and on behalf of AAI Limited ABN 48 005 297 807, trading as Vero Insurance

Issued in Sydney on 07/12/2018

## **NOTICES**

These notices do not form part of the Policy.

### **Master Policy Notice**

#### **Shared limit amongst all Insureds**

The Limit of Indemnity and Maximum Limit of Indemnity is shared by all the Insured. This means that if the Limit of Indemnity and the Maximum Aggregate Limit of Indemnity are exhausted by Claims against some of the Insured then there will be no cover remaining.

At the request of the Named Union, the Company may amend the Policy to include additional Insureds during the Period of Insurance. The Limit of Indemnity and the Maximum Aggregate Limit of Indemnity is not increased to reflect the addition of new Insureds and therefore the cover of existing Insureds may be reduced. The Insureds acknowledge and agree that the Company does not need to obtain the consent of the Insured prior to agreeing to vary the Policy to include new Insureds during the Period of Insurance.

The Policy also provides sub limits in respect of certain aspects of cover which are shared by all the Insured. This means that if the relevant sub limit is exhausted by some of the Insured then there will be no cover remaining.

#### **Inclusion of new Insureds**

The inclusion of additional Insureds during the Period of Insurance does not increase the Limit of Indemnity or the Maximum Aggregate Limit of Indemnity. Therefore, the cover of the existing Insured may be reduced.

The Company does not need to obtain the Insured's consent prior to agreeing to extend the Policy to include new Insured during the Period of Insurance.

### **Duty of Disclosure**

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

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

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

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

#### **Non-disclosure**

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

## **Claims Made and Notified Basis of Coverage**

The Professional Indemnity Insurance Policy is issued on a 'Claims made and Notified' basis.

This means that the Insuring Clause responds to:

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

"s40(3) Where the insured gave notice in writing to the insurer of facts that might give rise to a claim against the insured as soon as was reasonably practicable after the insured became aware of those facts but before the insurance cover provided by the contract expired, the insurer is not relieved of liability under the contract in respect of the claim when made by reason only that it was made after the expiration of the period of the insurance cover provided by the contract."

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

## **Retroactive Date**

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

## **Subrogation Waiver**

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

## **Privacy Statement**

Vero is a member of the Suncorp Group.

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

### **Purpose of collection**

Personal information is information about an identifiable individual and includes facts or an opinion about you which identifies you or by which your identity can be reasonably determined. The collection of your personal information is essential to enable us to conduct our business of offering and providing you with our range of financial products and services.

We collect personal information for the purposes of:

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

### **Consequences if personal information is not provided**

If we request personal information about you and you do not provide it, we may not be able to provide you with the insurance product you request, manage or pay any claim under an insurance policy or provide you with the full range of services we offer.

### **Disclosure**

We use and disclose your personal information for the purposes we collected it.

We may also use and disclose your personal information for a secondary purpose related to the purpose for which we collected it, where you would reasonably expect us to use or disclose your personal information for that secondary purpose. In the case of sensitive information, any secondary purpose, use or disclosure will be directly related to the purpose of collection.

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

- other companies within the Suncorp group;
- where required or authorised under our relationship with our joint venture companies;
- information technology providers, including hardware and software vendors and consultants such as programmers;
- customer research organisations;
- intermediaries including your agent, adviser, a broker, a representative acting on your behalf, other Australian Financial Services Licensee or our authorised representatives and our agents;
- accounting or finance specialists;
- government, law enforcement or statutory bodies;
- other insurers, reinsurers, financial institutions, insurance and claims reference agencies, credit agencies, loss assessors, financiers or investigative service providers;

# Professional Indemnity Insurance Policy



- hospitals, medical and health professionals;
- legal and other professional advisers;
- printers and mail service and delivery providers for the mailing of statements, insurance policy documents and marketing material;
- imaging and document management services.

## **Disclosure overseas**

There are also instances where we may have to send your personal information overseas or collect personal information from overseas. These instances include:

- sending your personal information to companies in the Suncorp group;
- when you have asked us to do so;
- when we are authorised or required by law to do so;
- when we have outsourced a business activity or function to an overseas service provider with whom we have a contractual arrangement;
- certain electronic transactions; or
- when it is necessary in order to facilitate a transaction on your behalf.

We will only send your personal information overseas or collect personal information about you from overseas for the purposes in this statement and in compliance with the privacy regime.

## **Access**

You can request access to the personal information we hold about you by contacting us.

In some circumstances, we are able to deny your request for access to personal information. If we deny your request for access, we will tell you why.

If accessing your personal information will take an extended period of time, we will inform you of the likely delay. For more detailed requests for access to personal information, for example, access to information held in archives, a fee may be charged to cover the associated cost of retrieval and supplying this information.

## **Marketing**

We would like to use and disclose your personal information to keep you up to date with the range of products and services available from Suncorp. Generally, our companies in the Suncorp group will use and disclose your personal information for Suncorp's marketing purposes.

If you do not want us to use and disclose your personal information for the purpose of marketing products and services to you, you should contact us and tell us.

## **Contact**

Please contact us to:

- change your mind at any time about receiving marketing material;
- request access to the personal information we hold about you; or
- obtain more information about our privacy practices by asking for a copy of our Privacy Policy;

Our Privacy Policy can also be found on our website at [www.vero.com.au](http://www.vero.com.au)

## **General Insurance Code of Practice**

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

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

## **Our Complaints Handling Procedures**

### **Resolving your complaints**

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

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

### **What we will do to resolve your complaint**

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

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

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

### **What if you are not satisfied with our final decision?**

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

## INTRODUCTION

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

This Policy, the Schedule and any Endorsements shall be considered as one document. Any word or expression to which a specific meaning has been attached in any of them shall bear that specific meaning wherever it may appear.

## 1. DEFINITIONS

For the purpose of this Policy:

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

**"Benefits"** means prerequisites, fringe benefits, payments in connection with an employee benefit or profit sharing plan and any other payment, other than salary or wages, to or for the benefit of an employee arising out of the employment relationship,

- (i) which consists of pay in advance, future damages or future economic relief.
- (ii) which consists of the cost of compliance with any order for, grant of or agreement to provide injunctive or non-pecuniary relief.

**"Breach of Duty"** means a breach of a duty owed in a professional capacity under any form of civil law, which breach arises out of any act error or omission occurring or committed in such professional capacity.

**"Claim"** means any demand made by a third party upon the Insured for compensation, however conveyed, including a writ, Statement of Claim, application or other legal or arbitral purposes.

**"Company"** means Vero Insurance Limited ABN 48 005 297 807.

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

**"Employment Practice Breach"** means any act, error or omission constituting actual, constructive or alleged wrongful dismissal, discharge or termination of employment, wrongful failure to employ or promote, wrongful deprivation of career opportunity, misleading representation or advertising in relation to employment, wrongful disciplinary action, negligent employee evaluation, wrongful demotion, breach of any employment contract, sexual or workplace harassment (including the actual, constructive or alleged creation of a workplace environment conducive to such harassment), wrongful discrimination, failure to grant tenure, invasion of privacy, employment-related defamation or employment-related wrongful infliction of emotional distress.

**"Employment Practice Claim"** means:

- (i) a civil proceeding commenced by the service of a complaint, summons, statement of claim, writ or similar pleading or an arbitral process, cross-claim, or counter claim against the Insured alleging facts or circumstances that constitute an Employment Practice Breach; or
- (ii) a written or verbal demand alleging facts or circumstances that constitute an Employment Practice Breach communicated to an Insured Person or an Insured Entity by whatever means, and which may lead to i) above.

**“Excess”** means the amount shown in the Schedule and represents the first amount which is payable by the New South Wales Nurses and Midwives’ Association in respect of compensation and claimants costs and expenses arising out of any one Claim or Employment Practices Claim made against an Insured or in respect of any Inquiry Costs arising out of any one notice. For the purposes of assessing the Excess, all Claims attributable to the same Breach of Duty or series of Breaches of Duty consequent upon or attributable to one source or original cause shall be regarded as one Claim for each Insured.

**“Healthcare Services”** means the “Healthcare Services” described in the Schedule, and no other, of the Insured.

**“Insolvent”** means that an Insured Person’s employer:

- (i) is an insolvent under administration or insolvent (each as defined in the Corporations Act 2001 (Cth));
- (ii) has had a controller appointed or is in liquidation, in provisional liquidation, under administration, has been wound up or has had a receiver appointed to any part of its property; or
- (iii) is subject to any arrangement, assignment, moratorium, compromise or composition, it is protected from creditors under any statute or it is dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent).

**“Insured”** means:

- (i) an Insured Person, and/or
- (ii) an Insured Employee, and/or
- (iii) an Insured Entity, and/or
- (iv) an Insured Sole Practitioner.

**“Insured Person”** means any natural person who at the time of any actual or alleged Breach of Duty giving rise to a Claim under Insuring Clause 2.1 was:

- (i) directly employed under a contract of employment by a Medical Establishment or undertaking supervised practice; and
- (ii) a member of the Named Union but excludes those members who hold “Professional” or “Associate” classifications.

Insured Person does not include a natural person who is a contractor of a Medical Establishment under a contract for services.

**“Insured Employee”** means:

- (i) a natural person who is employed by an Insured Entity; or
- (ii) an Insured Person who is a principal of an Insured Entity.

**"Insured Entity"** means a legal entity:

- (i) whose principal was an Insured Person at the time of any actual or alleged Breach of Duty giving rise to a Claim under Insuring Clause 2.2; and
- (ii) whose principal's total earnings as a principal of the Insured Entity do not exceed their earnings as an employee of the Medical Establishment in a financial year.

**"Insured Sole Practitioner"** means a natural person who is a sole practitioner, and

- (i) who at the time of any actual or alleged Breach of Duty giving rise to a Claim under Insuring Clause 2.2 was an Insured Person; and
- (ii) whose total earnings as a sole practitioner do not exceed their earnings as an employee of the Medical Establishment in a financial year.

**"Inquiring Body"** means a legally constituted industry or professional board or committee.

**"Inquiry Costs"** means reasonable legal costs and expenses of the Insured, and the costs of the Inquiring Body as and if they are awarded against the Insured, arising out of any notice requiring the Insured's attendance at an inquiry, prosecution or hearing of a disciplinary nature held before an Inquiring Body.

**"Limit of Indemnity"** means the Limit of Indemnity for any one Claim as shown in the Schedule.

**"Loss"** means:

- (i) the amount (whether determined by judgment or settlement) which the Insured is legally liable to pay in respect of a Claim and includes compensation and claimant's costs and expenses; and
- (ii) Other Costs;

but **Loss** does not mean:

- (a) fines and penalties imposed by law; or
- (b) punitive, aggravated, multiple or exemplary damages; or
- (c) income tax, customs duties, excise duty, stamp duty, sales duty or any other State or Federal tax or duty.

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

**"Medical Establishment"** means an establishment providing Healthcare Services including but not limited to private and public hospitals, medical centres, day surgeries, radiology clinics, medical clinics, health clinics and rehabilitation clinics.

**"Named Union"** means the New South Wales Nurses and Midwives' Association.

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

**"Pollutants"** means any solid, liquid, gaseous or thermal irritant or contaminant including but not limited to smoke, vapour, soot, fumes, acid, alkalis, chemicals and waste. 'Waste' includes material to be recycled or reconditioned or reclaimed.

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

**"Schedule"** means the current Schedule issued by the Company to the Insured.

## **2. INSURANCE**

The Named Union and the Company agree that the Company will provide Insurance as set out in the Policy subject to the terms of the Policy and payment of the premium.

### **2.1 Professional Indemnity for Insured Persons**

The Company will indemnify the Insured Person against liability at law for compensation and claimant's costs and expenses, arising from any Claim or Claims first made against the Insured Person and notified to the Company during the Period of Insurance, resulting from any actual or alleged Breach of Duty by the Insured Person in connection with the Healthcare Services, where the Insured Person's employer:

- (i) is not lawfully required or not lawfully permitted to indemnify the Insured Person, and nor does the employer or its insurer indemnify the Insured Person; or
- (ii) is lawfully required or permitted to indemnify the Insured Person but is unable to because it is Insolvent and does not have any valid insurance policy in place that indemnifies the Insured Person,

but not in respect of any such Claim or Claims resulting from any act, error or omission occurring or committed prior to the Retroactive Date.

### **2.2 Professional Indemnity for the Insured Entity, Insured Employee or Insured Sole Practitioner**

The Company will indemnify the Insured Entity, the Insured Employee or the Insured Sole Practitioner against liability at law for compensation and claimant's costs and expenses arising from any Claim or Claims first made against the Insured Entity, the Insured Employee or the Insured Sole Practitioner and notified to the Company during the Period of Insurance resulting from any actual or alleged Breach of Duty in connection with the Healthcare Services, but not in respect of any such Claim or Claims resulting from any act error or omission occurring or committed prior to the Retroactive Date.

### **2.3 Estate, heirs, legal representatives or legal assigns**

In addition, the Company will indemnify the estate, heirs, legal representatives or legal assigns of any natural person insured under this Policy in the event of the death or legal incapacity of such person, but only to the extent to which such person would have been entitled to indemnity under this Policy had such death or legal incapacity not occurred, and provided the indemnity given shall be subject to the terms of this Policy so far as they can apply.

### **2.4 Limit of Indemnity**

The total liability of the Company for:

- (i) compensation and claimant's costs and expenses in respect of any one Claim first made against the Insured; and
- (ii) Inquiry Costs arising out of any one notice first received by the Insured

and notified to the Company during the Period of Insurance shall not exceed the Limit of Indemnity .

## 2.5 **Maximum Aggregate Limit of Liability**

The total aggregate liability of the Company under this Policy:

- (i) in respect of all Claims first made against the Insured; and
- (ii) Inquiry Costs arising out of all notices first received by the Insured

and notified to the Company during the Period of Insurance shall not exceed the Maximum Aggregate Limit of Indemnity, irrespective of the number of Insureds. The Maximum Aggregate Limit of Indemnity is shared between all the Insureds.

## 2.6 **Other Costs**

The Company will, in addition, pay all other costs and expenses (not being Inquiry Costs as set out in this Policy) incurred by the Company, or by the Insured with the Company's written consent, for Claims covered under this Policy provided that if the amount of compensation and claimant's costs and expenses exceeds the Limit of Indemnity set out in the Schedule, the liability of the Company for such other costs and expenses shall be only that proportion which the Limit of Indemnity bears to the total amount of damages and claimant's costs and expenses payable to dispose of the Claim.

## 3 **INSURANCE CLARIFICATIONS**

For the purposes of clarifying the scope of the Insurance clauses in this Policy, the following clauses shall be deemed to be incorporated into the Policy and shall be subject otherwise to its terms, Conditions and Exceptions. The Insurance clauses include civil liability for:

### 3.1 **Libel and Slander**

Libel and Slander, provided that:

- (i) the libel or slander is committed by the Insured in the course of carrying on the Healthcare Services; and
- (ii) the Insured did not intend to publish the libel or slander with express malice.

### 3.2 **Consumer Protection Legislation**

Compensation resulting from breach of a statutory duty under the Competition and Consumer Act 2010 (Cth), Corporations Act 2001 (Cth), National Consumer Credit Protection Act 2009 (Cth) or similar legislation enacted for the protection of consumers, within any Australian jurisdiction including any amendment, consolidation or re-enactment of such legislation, to the extent that such Claims are not otherwise excluded under this Policy.

### 3.3 **Intellectual Property**

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

## **4 CONTINUOUS COVER**

Where the Insured:

- 4.1 first became aware of facts or circumstances that might give rise to a Claim, prior to the Period of Insurance; and
- 4.2 had not notified the Company of such facts or circumstances prior to the Period of Insurance, then the Prior Claims Or Known Circumstances exception will not apply to any notification during the Period of Insurance of any Claim arising from such facts or circumstances, provided that:
  - (i) there is an absence of fraudulent non-compliance with the Insured's duty of disclosure and an absence of fraudulent misrepresentation by the Insured in respect of such facts or circumstances; and
  - (ii) the Insured has been continuously insured, without interruption at the time of the notification of the Claim to the Company, under a professional indemnity policy issued by the Company and was insured by the Company at the time when the Insured first became aware of such facts or circumstances; and
  - (iii) the Company may reduce its liability under the Policy to the extent of any prejudice the Company may suffer in connection with the Insured's failure to notify the facts or circumstances giving rise to a Claim prior to the Period of Insurance.

## **5 AUTOMATIC EXTENSIONS**

These extensions form part of the Policy and are subject otherwise to the terms, Conditions and Exceptions of the Policy. The total of all payments made under the extensions will be part of and not in addition to the Limit of Indemnity unless otherwise stated.

### **5.1 Lost Documents**

The Company will in the event of loss of or damage to Documents occurring in connection with the Healthcare Services indemnify the Insured in respect of:

- (i) all sums which the Insured shall become legally liable to pay as a direct consequence of such loss or damage, and Other Costs on the basis already set out in this policy; and
- (ii) all costs and expenses reasonably incurred by the Insured in replacing or restoring such Documents.

Provided that:

- (a) such loss or damage is sustained during the Period of Insurance while the Documents are either in transit anywhere in the world (except the United States of America or its territories and protectorates) or in the custody of the Insured or of any person to whom the Insured has entrusted them in the course of the normal conduct of the Healthcare Services; and
- (b) the amount of any Claim for such costs and expenses shall be supported by bills and accounts which shall be subject to approval by a competent person to be nominated by the Company with the consent of the Insured; and
- (c) the Company shall not be liable in respect of loss or damage caused by riot or civil commotion.

## 5.2 **Inquiry Costs**

The Company may, if it considers it reasonable to do so, indemnify the Insured for Inquiry Costs, provided that the notice requiring the Insured's response or attendance is first received by the Insured during the Period of Insurance and notified to the Company during the same Period of Insurance.

Provided further that:

- (i) regular or overtime wages, salaries or fees of the Insured are excluded from this indemnity; and
- (ii) the total liability of the Company under this clause shall not exceed \$100,000 per Insured during the Period of Insurance, and \$2,000,000 in the aggregate for all Insureds during the Period of Insurance. The indemnity provided under this extension will be paid as part of the Limit of Indemnity set out in the Schedule and not in addition to the Limit of Indemnity; and
- (iii) the Company has no liability for the amount of Inquiry Costs that is less than \$20,000 for each notice and this amount is payable by the New South Wales Nurses and Midwives' Association; and
- (iv) any notice which requires the attendance or response of more than one Insured shall be considered one notice.

## 5.3 **Dishonesty of Employees**

The Company will, notwithstanding exception 6.4, indemnify the Insured Entity against liability at law for compensation and claimant's costs and expenses and Other Costs on the basis already set out in this Policy in respect of Claims made against the Insured Entity and notified to the Company during the Period of Insurance resulting from any dishonest, fraudulent, criminal or malicious Breach of Duty by any Insured Employee occurring or committed in connection with the Healthcare Services.

Provided that nothing in this Automatic Extension shall require the Company to indemnify any Insured Employee who has perpetrated any such dishonest, fraudulent, criminal or malicious Breach of Duty, or who by act or omission has condoned any such Breach of Duty.

## 5.4 **Good Samaritan Acts**

The Company will indemnify the Insured against liability at law for compensation and claimant's costs and expenses and Other Costs on the basis already set out in this Policy in respect of Claims first made against the Insured and notified to the Company during the Period of Insurance resulting from emergency medical assistance voluntarily administered at the scene of any emergency or accident provided that the assistance is given at a time when the Insured is not engaged in a professional capacity by any other person or entity.

## 5.5 **Employment Practice Breaches**

The Company will pay on behalf of the Insured, any Loss arising out of any Employment Practice Claim:

- (i) first made against the Insured during the Period of Insurance; and
- (ii) notified to the Company during the Period of Insurance

arising from any actual or alleged Employment Practice Breach.

provided that this extension will not attach to an Insured Person whose employer is lawfully required or permitted to indemnify the Insured Person, and has the financial capacity to do so.

### **5.5.1 Limit of Liability**

The total amount payable in any one Period of Insurance by the Company under this extension on behalf of the Insured in respect of all Loss arising out of all Employment Practice Claims under this extension will not exceed \$1,000,000.

The indemnity provided under this extension will be paid as part of the Limit of Indemnity set out in the Schedule and not in addition to the Limit of Indemnity.

### **5.5.2 Excess**

The Company will not be liable for the amount of the Excess specified in the Schedule in respect of Loss arising from each and every Employment Practice Claim.

For the purpose of the application of the Excess all Employment Practices Claims which arise from the same Employment Practice Breach or interrelated Employment Practice Breaches will be regarded as one Employment Practice Claim.

### **5.5.3 Exceptions**

In addition to the exceptions in section 6, the Company will not be liable for any Loss:

- (i) arising out of any obligation of any of the Insureds under any legislation in respect of workers compensation, unemployment payments or benefits, redundancy payments or benefits, retirement payments or benefits, social security payments or benefits or disability payments or Benefits.
- (ii) which consists of Benefits due or to become due to the claimant as an employee. However, this exclusion shall not apply where such Loss is based upon a Employment Practice Claim for actual or alleged wrongful dismissal, discharge or termination of employment.

## **6. EXCEPTIONS**

The Company shall not be liable in respect of:

### **6.1 Asbestos**

any Claim or Inquiry Costs directly or indirectly arising out of, resulting from, in consequence of, or contributed to by asbestos, asbestos fibres or derivatives of asbestos provided that this exclusion shall not apply to the provision of the Healthcare Services for any asbestos related disease

### **6.2 Directors & Officers Liability**

any Claim resulting from any Breach of Duty by the Insured where the act, error or omission out of which such Breach of Duty arose occurred or was committed in the Insured's capacity as a director of any corporation or other incorporated body.

## 6.3 **Dishonest Fraudulent or Criminal Acts**

any Claim resulting from any dishonest, fraudulent, criminal or malicious act or omission by the Insured.

## 6.4 **Employer's Liability**

any Claim in respect of or arising out of the death, bodily injury, disease or illness of any Insured Employee arising out of or in the course of his/her employment.

## 6.5 **Fines, Penalties or Liquidated Damages**

finer or penalties or liquidated damages, incurred by or imposed upon the Insured solely by reason of a contract or agreement, or in respect of punitive, exemplary or aggravated damages.

## 6.6 **Homebirths**

any homebirth activities or services.

## 6.7 **Medical Practitioners**

any Claim arising directly or indirectly from or in respect of any activities of a medical practitioner, whether or not they are properly licensed to carry out such activities as a medical practitioner under a State or Territory law that provides for the registration of medical practitioners, including but not limited to medical consultation, diagnosis, treatment, diagnostic testing, medical advice, prescribing or supplying medication or a breach of any State or Federal health or medical laws or regulations in force in Australia or its external territories.

For the purposes of this exception, "medical practitioner" includes but is not limited to anaesthesia registrars, dental officers, dental specialists, medics, medical officers, senior dental officers and visiting medical officers.

## 6.8 **Midwifery**

Midwifery activities and services provided by an Insured Entity, an Insured Employee or an Insured Sole Practitioner.

## 6.9 **Molestation**

any Claim or costs and expenses arising out of or as a result of molestation of, interference with, mental abuse of or physical abuse of persons by:

- (i) the Insured; or
- (ii) any agent of the Insured; or
- (iii) any person performing any volunteer service for or on behalf of the Insured.

The Company shall have no duty to defend any action, suit or proceedings against the Insured either directly or indirectly seeking damages on account of such molestation, interference, mental abuse or physical abuse.

## 6.10 **United States of America**

any action for compensation brought against the Insured in the United States of America or its territories and protectorates.

## 6.11 **Pollution**

- (i) any Claim or costs and expenses caused by or arising directly or indirectly out of the actual, alleged or threatened discharge, dispersal, release or escape of Pollutants;
- (ii) any costs or expenses incurred in preventing removing nullifying or cleaning up any discharge, dispersal, release or escape as described in (i) above.

## 6.12 **Prior Claims or Known Circumstances**

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

## 6.13 **Radioactivity**

any Claim for compensation directly or indirectly caused by or contributed to or arising from:

- (i) ionising radiation 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 device or assembly, or a nuclear component thereof.

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

## 6.14 **Real Property**

any Claim arising out of the ownership or occupation of any real property by the Insured.

## 6.15 **Subrogation Waiver**

any Claim:

- (i) for loss or damage in respect of which the Insured has at any time by deed or agreement foregone excluded or limited a right of recovery; or

- (ii) in respect of or arising out of any civil liability which is assumed by the Insured outside the normal course of the Healthcare Services.

## 6.16 **Terrorism**

any Claim or costs and expenses arising directly or indirectly:

- (i) from or in connection with any Act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence; or
- (ii) caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any Act of Terrorism

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

## 6.17 **Trading Debts**

any Claim in respect of or arising out of any trading debt incurred, or any guarantee in respect of such debt given, by the Insured.

## 6.18 **War**

any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power provided that this exception shall not apply to the provision of the Healthcare Services for any bodily injury, illness or disease caused by any event described above.

## **7. CONDITIONS**

- 7.1 Every Claim made against the Insured shall be notified to the Company as soon as practicable, and every letter, demand writ summons and legal process pertaining to such Claim shall be forwarded to the Company as soon as practicable after receipt.

The New South Wales Nurses and Midwives' Association will inform the Company, as soon as practicable, when Inquiry Costs for any one inquiry exceed, or become likely to exceed, \$20,000. The Company shall be entitled to take over conduct in the name of the Insured.

- 7.2 All notices and communications from the Insured to the Company, or its representatives, shall be deemed duly given if sent to Vero Insurance Limited, Liability & Profin Notification Centre at the address specified in the Schedule.

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

All notices and communications from the Company, or its representatives, shall be deemed to have been duly sent if sent by the Company to the Broker Address specified in the Schedule.

- 7.3 No admission, offer, promise or indemnity shall be made or given by or on behalf of the Insured without the written consent of the Company.
- 7.4 The Company shall be entitled to take over and conduct in the name of the Insured the defence or settlement of any Claim or to prosecute in the name of the Insured for its own benefit any Claim and shall have full discretion in the conduct of any proceedings and in the settlement of any Claim.
- 7.5 Should the Insured object to a proposal by the Company to settle or compromise any Claim indemnifiable under this Policy and wish to contest or litigate the matter, then the Insured

may so elect, provided that the Company's liability in respect of any such Claim so contested or litigated shall not exceed the amount for which, but for such election, it could have been settled or compromised by the Company, together with costs and expenses payable in accordance with the terms of this Policy and incurred up to the time of such election, but subject always to the Excess and to the Limit of Indemnity.

- 7.6 The Insured shall give all such assistance as the Company may reasonably require but none of them shall be required to contest any legal proceedings if it objects to doing so unless a Queen's Counsel or a person of similar authority (appointed by mutual agreement between the Insured and the Company and paid for by the Company) shall advise such proceedings could be contested with the reasonable probability of success or partial success.
- 7.7 If at the time any Claim arises under this Policy there is any other insurance in force covering the same liability the Insured shall promptly notify to the Company full details of such other insurance, including the identity of the insurer and the policy number, and such further information as the Company may reasonably require.
- 7.8 The Insured agrees that the Named Union acts as the agent of each Insured for all matters relating to this Policy, and that only the Named Union may bind, request amendments or cancel this Policy at any time, by providing notice in writing to the Company. Upon receipt of a request for cancellation, the Company will retain a short period premium calculated on its short term rates for the time it has been on risk and the Named Union will receive a refund of any balance of the premium actually paid.
- 7.9 The Company may cancel this Policy in accordance with the Insurance Contracts Act 1984 (Cth) by giving notice in writing to the Named Union of the date from which such cancellation is to take effect.
- 7.10 Where this Policy insures more than one party, any failure on the part of any of the parties to:
- (i) comply with the Duty of Disclosure in terms of the Insurance Contracts Act 1984 (Cth); or
  - (ii) comply with any obligation in terms of this Policy; or
  - (iii) refrain from conduct which is dishonest, fraudulent, criminal or malicious
- shall not prejudice the right of the remaining party or parties to indemnity in terms of this Policy, provided that such remaining party or parties shall:
- (a) be entirely innocent of and have had no prior knowledge of any such failure and
  - (b) as soon as practicable after becoming aware of any such failure advise the Company in writing of all its relevant circumstances.
- 7.11 The Named Union must pay the premium specified in the Schedule for the Period of Insurance to the Company by the Due Date. The Due Date is on or before ninety days after the inception date of the Period of Insurance specified in the Schedule or such other time that the Company agrees in writing. If Named Union fails to pay the premium by the Due Date, the Company is entitled to cancel this Policy in accordance with the Insurance Contracts Act 1984.

If the Company agrees, the Named Union can pay the premium specified in the Schedule for the Period of Insurance to the Company in equal quarterly instalments. Each instalment must be paid by the Instalment Due Date. The first Instalment Due Date is on or before the inception date of the Period of Insurance, and each subsequent Instalment Due Date is 90 days after the previous Instalment Due Date, or at such other time as the Company agrees in

writing. If instalments are not paid by the Instalment Due Date, the full amount of outstanding premium becomes due and payable immediately.

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

### 7.13 **Goods and Services Tax**

As part of the premium, the Company will charge the Named Union an amount on account of GST.

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

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

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

**End of wording.**