



Australian Association of Massage Therapists (AAMT)

**Massage Therapists Combined Malpractice
Public & Products Liability Insurance
Policy Wording 2011–2012**

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AON

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INTRODUCTION

Please read this Policy carefully to ensure that it meets your requirements.

It is written on a Claims made and notified basis, which means that, subject to the Continuous Cover clause, it will only respond to Claims first made against the Insured and notified to the Insurer during the Period of Insurance or arising from circumstances notified in terms of the Continuous Cover clause or of the Claims Notification General Condition.

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. Where headings are used in this Policy, they are purely descriptive in nature and are not intended to be used for interpretative purposes.

INSURANCE PREAMBLE

The Insured and the Insurer agree that the Insurer will provide insurance as set out in the Policy subject to the Policy's terms.

INSURING CLAUSE A: CIVIL LIABILITY PROFESSIONAL INDEMNITY INSURANCE

The Insurer will indemnify the Insured against liability at law for compensation and claimant's costs and expenses arising from any Claim or Claims first made against the Insured and notified to the Insurer during the Period of Insurance resulting from any civil liability incurred in connection with the Professional 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.

INSURING CLAUSE B: PUBLIC LIABILITY

The Insurer will indemnify the Insured against all sums which the Insured shall become legally liable to pay for compensation in respect of:

1. bodily injury (which expression includes death and illness);
2. damage to property (which expression includes loss of property) arising out of an accident and happening in connection with the Professional Services in or away from the Insured's business address.

Provided always that:

1. such bodily injury or damage to property occurs within the territorial limits of this Policy and results in a Claim being made against the Insured during the Period of Insurance and is reported to the Insurer during that period and of which immediate notice has been given in accordance with the Additional Conditions hereof except that any Claim subsequently arising out of the bodily injury or damage to property referred to in such notice shall for the purposes of this Clause be deemed to have been made during the currency of this insurance;
2. there shall be no liability under this Clause for any Claim made against the Insured for bodily injury or damage to property sustained or alleged to have been sustained prior to the Retroactive Date (if any) specified in the Schedule.

INSURING CLAUSE C: PRODUCTS LIABILITY

The Insurer will indemnify the Insured against all sums which the Insured shall become legally liable to pay for Compensation in respect of:

1. bodily injury (which expression includes death and illness);
2. damage to property (which expression includes loss of property), arising out of an accident and caused by goods sold or supplied by the Insured in connection with the Professional Services.

Provided always that:

1. such bodily injury or damage to property occurs within the territorial limits of this Policy and results in a Claim being made against the Insured during the Period of Insurance and is reported to the Insurer during that period and of which notice has been given in accordance with the conditions of this Policy except that any Claim subsequently arising out of the bodily injury or damage to property referred to in such notice shall for the purposes of this Clause be deemed to have been made during the currency of this insurance;

- there shall be no liability under this Clause for any Claim made against the Insured for bodily injury or damage to property sustained or alleged to have been sustained prior to the Retroactive Date (if any) specified in the Schedule.

Limit of Indemnity

The liability of the Insurer for compensation and claimant's costs and expenses arising from all Claims (including circumstances notified in terms of the Continuous Cover Clause or of the Claims Notification General Condition) first made against each Insured and notified to the Insurer during the Period of Insurance shall not exceed the Limit of Indemnity.

Insured Costs

The Insurer will, in addition to the Limit of Indemnity, pay Insured Costs arising from any Claim or Claims (not being Inquiry Costs or Insured and Inquiry Costs for Sexual Misconduct as set out in this Policy) incurred by the Insurer, or by the Insured with the Insurer's written consent, provided that if the amount of compensation and claimant's costs and expenses exceeds the Limit of Indemnity, the liability of the Insurer for such Insured Costs 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.

Aggregation of Claims

All Claims arising out of, based upon or attributable to a single act, error or omission or series of acts, errors or omissions consequent upon or attributable to one source or original cause shall be considered to be a single Claim and shall attract one Excess. The maximum aggregate liability of the Insurer for any single Claim that is made against more than one Insured shall not exceed the Limit of Indemnity that is applicable to each Insured.

INSURANCE CLARIFICATION

For the purposes of clarifying the scope of cover under Insuring Clause 1 of this Policy, Insuring Clause 1 includes civil liability for:

Libel or Slander

Libel or Slander, provided that:

- the libel or slander is committed by the Insured in the course of carrying on their Professional Services;
- the Insured did not intend to publish the libel and slander with express malice.

Consumer Protection Legislation

Claims for civil liability for 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.

Contractual Liability

Contractual liability, provided that:

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

Intellectual Property

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

Sub-Contractors and Consultants

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

AUTOMATIC EXTENSIONS

These Automatic Extensions form part of the Policy and are subject otherwise to its terms, Conditions and Exclusions.

Principals' Previous Business

The Professional Services shall include any Professional Services in the same profession that were previously provided by any Principal.

Continuous Cover

Where the Insured:

1. first became aware of facts or circumstances as described in Claims Notification General Condition, prior to the Period of Insurance; and
2. had not notified the Insurer or any insurer of such facts or circumstances prior to the Period of Insurance, then, the Insurer will treat notification of such facts or circumstances, or any Claim arising from such facts or circumstances, as having been given during the Period of Insurance, and the Prior Claims or Circumstances Exclusion will not apply.

This Automatic Extension will apply provided always that:

1. 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;
2. the Insured has been continuously insured, without interruption, under a professional indemnity policy issued by the Insurer and was insured by the Insurer at the time when the Insured first became aware of such facts or circumstances; and
3. the Insurer may reduce its liability under the Policy in proportion to any prejudice the Insurer may suffer in connection with the Insured's failure to notify the facts or circumstances giving rise to a Claim prior to the Period of Insurance.

Lost Documents

The Insurer will, in the event of loss of or damage to Documents occurring in connection with the Professional Services, indemnify the Insured in respect of:

1. all sums which the Insured shall become legally liable to pay as a direct consequence of such loss or damage and Insured Costs on the basis already set out in this Policy; and
2. all costs and expenses reasonably incurred by the Insured in replacing or restoring such Documents.

Provided that:

1. such loss or damage is sustained during the Period of Insurance while the Documents are either in transit or in the custody of the Insured or of any person to whom the Insured has entrusted them in the course of the normal conduct of the Professional Services; and
2. the amount of any Claim for such costs and expenses shall be supported by bills and accounts, which shall be subject to approval by a solicitor to be nominated by the Insurer with the consent of the Insured or if such consent is withheld, by the President of the relevant state Law Society; and
3. the Insurer shall not be liable in respect of loss or damage caused by riot or civil commotion.

Inquiry Costs

The Insurer will indemnify the Insured for Inquiry Costs, provided that:

1. the notice requiring the Insured's response or attendance is first received by the Insured and notified to the Insurer during the Period of Insurance; and
2. the notice arises directly from the conduct of the Insured in the provision of the Professional Services; and
3. such indemnity is subject to the written consent of the Insurer prior to the incurring of the legal Inquiry Costs; and
4. regular or overtime wages, salaries or fees of the Insured are excluded from this indemnity; and
5. the total liability of the Insurer under this clause shall not exceed \$500,000 in the aggregate during the Period of Insurance.

If there is an entitlement to indemnity for any Inquiry Costs under the Insured and Inquiry Costs for Sexual Misconduct Extension then there is no entitlement to indemnity for Inquiry Costs in respect of that inquiry or hearing under this extension.

Insured and Inquiry Costs for Sexual Misconduct

Notwithstanding the Dishonest, Fraudulent or Criminal Acts Exclusions, the Insurer agrees to advance:

- a. Insured Costs in respect of Claims arising from; and
- b. Inquiry Costs in respect of:
 - any alleged act of sexual misconduct by the Insured, provided that in respect of Inquiry Costs:
 - i. the notice requiring the Insured's attendance at the inquiry or hearing is first received by the Insured and notified to the Insurer during the Period of Insurance; and
 - ii. such attendance arises directly from conduct allegedly committed by the Insured in carrying on the Professional Services; and
 - iii. such indemnity is subject to the written consent of the Insurer prior to the incurring of the Inquiry Costs; and
 - iv. regular or overtime wages, salaries or fees of the Insured are excluded from this indemnity.

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

The total liability of the Insurer for all Insured Costs and Inquiry Costs under this extension shall not exceed \$150,000 in the aggregate during the Period of Insurance.

Dishonesty of Employees and/or Principals

The Insurer will, notwithstanding the Dishonest, Fraudulent or Criminal Acts Exclusion, indemnify the Insured against liability at law up to the Limit of Indemnity and Insured Costs on the basis already set out in this Policy in respect of Claims made against the Insured and notified to the Insurer during the Period of Insurance resulting from any dishonest, fraudulent, criminal or malicious act or omission by any Insured occurring or committed in connection with the Professional Services.

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

Automatic Reinstatement

In respect of Insuring Clauses A, B and C. the Insurer agrees, in the event of exhaustion (or partial exhaustion) of the Limit of Indemnity solely by reason of indemnity for compensation and claimant's costs and expenses in respect of any Claim or Claims first made against the Insured and notified to the Insurer during the Period of Insurance, to reinstate (or partially reinstate in the case of partial exhaustion) the Limit of Indemnity in respect of compensation and claimant's costs and expenses.

Provided that:

1. the Insurer's liability for any single Claim will not exceed the Limit of Indemnity; and
2. the aggregate liability of the Insurer under this Policy will not exceed the sum of the Limit of Indemnity and, in the event of exhaustion or partial exhaustion of the Limit of Indemnity, two reinstatements of the Limit of Indemnity, save that the Insurer will in addition pay Insured Costs on the basis already set out in this Policy.

Good Samaritan Acts

The Insurer will indemnify the Insured against liability at law for compensation and claimant's costs and expenses and Insured Costs on the basis already set out in this Policy in respect of Claims made against the Insured and notified to the Insurer during the Period of Insurance resulting from the rendering of emergency first aid and assistance to persons during travel from an Insured's normal place of residence to anywhere in the course of the Professional Services.

Training Services

The Insurer will indemnify the Insured against liability at law for compensation and claimant's costs and expenses and Insured Costs on the basis already set out in this Policy in respect of Claims made against the Insured and notified to the Insurer during the Period of Insurance resulting from the provision of any training or teaching services in the modalities listed on the Schedule provided that such training or teaching services are incidental to the Professional Services and do not form a substantial service provided by the Insured.

Joint Venture Liability

The Insurer will indemnify the Insured up to the Limit of Indemnity in respect of Claims made against the Insured and notified to the Insurer during the Period of Insurance resulting from the Insured's participation in any joint venture in connection with the Professional Services.

Provided that:

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

Run-Off Cover

In the event that during the Period of Insurance a natural person or legal entity specified in the Schedule ceases to conduct the Professional Services ("the Run-Off Event") and does not renew this Policy under the Group Facility, then:

1. the expiry date of the Period of Insurance is amended to the date upon which the Group Facility is cancelled or not renewed; and
2. the Insurer will not be liable to indemnify that Insured:
 - a. in respect of:
 - i. any Claim, inquiry or hearing resulting from any act, error or omission; or
 - ii. loss of or damage to Documents; or
 - iii. loss of money or goods belonging to or held in trust by the Insured, occurring or committed after the Run-Off Event, or
 - b. under the Public Liability and Products Liability Extensions in respect of any Claim arising from, relating to or in respect of bodily injury or damage to property, occurring after the Run-Off Event.

In the event that the Insured seeks to be indemnified by the Insurer under any policy issued pursuant to the Group Facility bearing policy numbers LPS013239631, LPS011923021, LPS011134469, LPS010564751, LPS010283939, LPS010011999, FI049457TM4, FI049437TM6 or FI049399TM8, FI049322TM0, FI049348TM5, FI049402TM0, FI049429TM3, FI049454TM1, LPS009890389, LPS010227894, LPS010485108, LPS010919470 or LPS011671946 or LPS012904956, in respect of a Claim, inquiry or hearing, or loss of or damage to Documents, or loss of money or goods belonging to or held in trust by the Insured, the Insured will not be entitled to indemnity for the same matters under this Automatic Extension.

The Insured agrees that to the extent that this Extension applies, this Policy is not of a kind that is usual to renew or for the renewal of which it is usual to negotiate.

ADDITIONAL EXTENSIONS APPLYING TO INSURING CLAUSE B

Tenants Liability

The Insurer will indemnify the Insured against all sums which the Insured shall become legally liable to pay for Compensation in respect of the Insured's obligations as a tenant under any lease agreement to a lessor for actions, suits and demands in respect of:

- a. bodily injury; or
- b. damage to property;

provided that such injury or damage results from an accident arising from the use by the Insured, the Insured's invitees, sub tenants or licensees of a building at the Insured's business address/es or of passenger or goods elevators or escalators installed there.

Car Parking

The Insurer will indemnify the Insured against all sums which the Insured shall become legally liable to pay for Compensation in respect of the Insured's obligations as a tenant under any lease agreement to a lessor for actions, suits and demands in respect of:

- a. bodily injury; or
- b. damage to property;

provided that the injury or damage arises directly or indirectly out of or is caused by or in connection with the use of any Vehicle in the Insured's physical or legal control and the injury or damage occurs while that Vehicle is in a car park owned by or operated by the Insured.

This Additional Extension does not cover any liability:

- a. arising out of or connected with the use of any Vehicle belonging to the Insured;
- b. arising out of or connected with the use of any Vehicle used by the Insured or on the Insured's behalf independently of the Insured's operations as a car park owner or operator; or
- c. arising directly or indirectly out of or caused by or in connection with the servicing, repairing or maintenance of any Vehicle.

Indemnity under this Additional Extension will only apply in respect of any amount in excess of that provided by any other policy of insurance held by a person other than the Insured for the benefit of the Insured.

For the purpose of this Additional Extension, the words "in the physical or legal control" in exclusion (b) in this Extension shall be omitted.

GENERAL EXCLUSIONS

The Insurer shall not be liable in respect of any Claim, Insured Costs, claimant's costs and expenses or Inquiry Costs arising from or in respect of:

Named Activities Exclusion

any colonic irrigation, tarot reading and other predictive activity and/or any activity which requires registration as a medical practitioner, nurse, midwife, psychiatrist, chiropractor, physiotherapist or psychologist pursuant to any relevant Commonwealth, State or Territory legislation unless listed under Endorsed Modality or Occupation.

Prescribing Medication Exclusion

the prescribing of any medicine by an Insured unless the Insured is registered under the Health Professions Registration Act to prescribe medicines.

Directors' and Officers' Liability

any act, error or omission by the Insured not having occurred in the performance of the Insured's professional duties whilst providing the Professional Services and where such Claims arise in connection with in the Insured's functions and duties as a director and/or officer of the legal entity or any corporation or other incorporated body.

Trading Debt

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

Dishonest, Wilful, Fraudulent or Criminal Acts

any dishonest, wilful, fraudulent, criminal or malicious act or omission.

Employers' Liability

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

Radioactivity

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

However this exclusion shall not apply to insurance of occupational risks arising from radio-isotopes, radium or radium compounds when used away from the place where they were made or produced and when used exclusively incidental to ordinary industrial, educational, medical or research pursuits.

Prior Claims or Known Circumstances

1. any Claim first made against the Insured prior to the inception of the Period of Insurance; or
2. any Claim, liability, compensation, Inquiry Costs, claimant's costs and expenses or Insured 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 Insured 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 Insured Costs which might be covered under the Policy; or
 - c. were or could be notified under any insurance that was in force prior to the inception of the Period of Insurance.

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.

Subrogation Waiver

any costs and expenses representing the prejudice suffered by the Insurer by reason of the Insured at any time entering into a deed or agreement excluding, limiting or delaying the Insured's legal rights of recovery against another.

Assumption of Liability

any loss or damage in respect of or arising out of any civil liability which is assumed by the Insured outside the normal course of the Professional Services.

Fines, Penalties, Punitive or Exemplary Damages

any fines or penalties including civil penalties, punitive or exemplary damages.

Intoxicants and Drugs

any services rendered by any person while that person is under the influence of intoxicants or drugs or from any failure to render services competently or at all because of such influence, if such services were performed with the knowledge or connivance of a principal, director, non executive director, partner, or non executive partner.

General Anaesthesia

any operation or procedure carried out under general anaesthesia unless performed in a hospital.

Medical Practitioners' Activities

any liability at law of a medical practitioner to a patient, where such liability arises directly from the medical practitioner's activities as a medical practitioner including, but not limited to diagnosis, treatment, medical advice, prescribing or supplying medication or a breach of any State or Federal health or medical laws or regulations in force in Australia and its external territories, however this Exclusion will not exclude the vicarious liability which may attach to:

1. the legal entity or entities specified in the Schedule; or
2. any Principal of the legal entity or entities specified in the Schedule whilst acting in a capacity other than as a medical practitioner.

Terrorism

any Act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence.

This exclusion also excludes any Claim directly or indirectly 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.

Health Care/Skin Penetration

the Insured's failure to comply with the following health care conditions:

1. hypodermic needles are used only once and thereafter disposed of;
2. all instruments used to penetrate the skin or used in oral examination must be sterile in accordance with accepted Commonwealth and/or State Health Department procedures;
3. any surface which has received spillage of human or animal body fluid shall be thoroughly cleansed by a process as laid down from time to time by respective State Health Regulations and/or Commonwealth Health Regulations.

Controlling or Financial Interests

any work undertaken for or on behalf of any company related to the Insured which for the purposes of this Policy are:

1. the Insured,
2. any subsidiary of the Insured,
3. any company in which the Insured has or has held at least a 20% financial interest and has had or has board representation on that company.

Asbestos

any consequence of, or contributed to by asbestos, asbestos fibres or derivatives of asbestos.

ADDITIONAL EXCLUSIONS APPLYING TO INSURING CLAUSE B

Insuring Clause B does not cover any liability arising directly or indirectly from:

Goods Sold and Supplied

Claims arising out of any defect or deficiency in goods sold or supplied (which expression includes containers) after such goods have passed from the control and actual physical custody of the Insured other than goods sold or supplied at or from a canteen provided by the Insured primarily for the use of employees of the Insured.

Lifts, Elevators, etc, Vehicles, Aircraft and Watercraft

Any Claims in respect of bodily injury or damage to property arising out of or caused by or in connection with:

- a. the use of any lift, elevator, escalator, hoist or crane in the physical or legal control of the Insured or used in work undertaken by or on behalf of the Insured; but this clause (a) shall not apply in respect of the use of a hoist or crane where required to perform the Professional Services.
- b. the use of any Vehicle in the physical or legal control of the Insured or used in work undertaken by or on behalf of the Insured but this clause (b) shall not apply to bodily injury or damage to property:
 - i. arising out of the use of caretaking and/ or cleaning tools of trade or electrically powered wheel chairs;
 - ii. caused by or arising from the delivery or collection of goods to or from any Vehicle where such bodily injury or damage to property occurs beyond the limits of any carriageway or thoroughfare;
 - iii. arising out of the loading or unloading of or the delivery or collection of goods to or from any Vehicle used in work undertaken by or on behalf of the Insured but not in the physical or legal control of the Insured;
- c. the ownership, possession or use by or on behalf of the Insured of any aircraft or aerial device, hovercraft or Watercraft.

Earthquake, Riots, Wars, etc

Claims in respect of bodily injury or damage to property arising during (unless it be proved by the Insured that such bodily injury or damage to property was not occasioned thereby) or in consequence of:

- a. earthquake, subterranean fire;
- b. riot, civil commotion.

Boilers

Claims from explosion of boilers or other vessels under pressure in respect of which a certificate is required to be issued under the terms of any Statute or Regulation thereunder.

Erection or Demolition

Claims in respect of bodily injury or damage to property caused by or in connection with the erection, demolition, alteration and/or addition to buildings by or on behalf of the Insured except an alteration or addition not exceeding in cost the sum of \$20,000.

Family and Employees

- a. Claims in respect of bodily injury
 - i. to any member of the family of the Insured ordinarily residing with the Insured or with whom the Insured ordinarily resides;
 - ii. to any person arising out of or in the course of the employment of such person in the service of the Insured;
 - iii. for payment under the Workers' or Workmens' Compensation legislation by any person in the service of any contractor or sub contractor to the Insured or by any dependant of such person.
- b. Claims in respect of damage to property:
 - i. of the Insured or of any member of the family of the Insured ordinarily residing with the Insured or with whom the Insured ordinarily resides;
 - ii. of any person in the service of the Insured arising out of the employment of such person;
 - iii. in the physical or legal control of any member of the Insured's family ordinarily residing with the Insured or with whom the Insured ordinarily resides.

Faulty Workmanship

Claims in respect of the cost of rectifying faulty workmanship of any kind.

Vibration

Claims in respect of damage to any land or fixed property from vibration or from the removal or weakening of or interference with the support to land buildings or any other property.

Aircraft Landing Area

Claims in respect of a liability imposed upon the Insured by reason of the Insured's ownership occupation or control of any property or structure used as a landing area for aircraft provided such Claims arise out of such use as aforesaid. The term "landing area" shall include any area on which aircraft land, take off, are housed, maintained or operated.

Pollution

Claims in respect of liability out of the discharge, dispersal, release or escape of pollutants, including the cost of removing, nullifying or cleaning up pollutants, and any fines, penalties, punitive or exemplary damage arising directly or indirectly out of the discharge, dispersal, release or escape of pollutants. For the purpose of this Exclusion, "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, reconditioned or reclaimed.

Notwithstanding the extent of this Exclusion the Insurer will, however, pay a Claim for bodily injury or damage to property which is caused directly by a sudden, identifiable, unintended and (to the Insured) unexpected happening which takes place in its entirety at the Insured's business address..

Property Ownership

Claims out of the ownership by the Insured of properties other than the Insured's practice address.

ADDITIONAL EXCLUSION APPLYING TO INSURING CLAUSE C

Defective Design

The Insurer shall not be liable for Claims in respect of bodily injury or damage to property caused by or arising out of any defective design or error in formula or in specification of any of the goods processed or manufactured by the Insured of any defect or deficiency in any of the goods if the Insured or agents had knowledge of or had reason to suspect at the time when the goods passed from the control and actual physical custody of the Insured, the existence of that defect or deficiency.

GENERAL CONDITIONS

Claims Notification

Where during the Period of Insurance the Insured becomes aware of facts or circumstances which might give rise to a Claim under the Policy (whether or not the amount of such Claim is likely to be greater than the Excess), and elects to give written notice of such facts or circumstances to the Insurer during the Period of Insurance, any Claim arising from such facts or circumstances shall be deemed to have been made at the date on which such notice is given.

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

Where the Insured wishes to notify the Insurer of a Claim or a circumstance the notification must be sent to:

Vero Insurance Limited
Liability and Profin Notification Centre
GPO Box 346 Sydney NSW 2001

Fax: 1300 066 150

Email: lodgeclaim@vero.com.au

It is the Insured's responsibility to ensure that such notification has been forwarded to and has been received by the Professional Liability Claims Manager.

No Admission of Liability

No admission, offer, promise or indemnity shall be made or given by or on behalf of the Insured without the written consent of the Insurer.

Claims Conduct

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

Claims Settlement

Should the Insured object to a proposal by the Insurer 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 Insurer'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 Insurer, 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.

Assisting with Claims

The Insured shall give all such assistance as the Insurer 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 Insurer and paid for by the Insurer) shall advise such proceedings could be contested with the reasonable probability of success.

Other Insurance

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

Material Change

The Insured must notify the Insurer as soon as reasonably practicable (including but not limited to during the Period of Insurance) of any material change in the risks covered by this Policy including, but not limited to:

1. any material alteration to the nature of the Professional Services provided by the Insured;
2. any acquisition by the Insured of, or merger of the Insured with, any other business or entity, whether or not such other business or entity provides the same or similar Professional Services as the Insured;
3. (where the Insured is a natural person) the Insured becoming a bankrupt or entering into a debt agreement under Part IX of the Bankruptcy Act 1966 (Cth) or entering into an arrangement with creditors under Part X of the Bankruptcy Act;
4. (where the Insured is a company or body corporate) the appointment of an administrator, receiver, provisional liquidator or liquidator to the Insured; or
5. an Insured's statutory registration or registration with their professional association is cancelled, suspended or has conditions imposed.

Cancellation

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

The Insurer may cancel this Policy in accordance with the Insurance Contracts Act 1984 by giving thirty (30) days notice in writing to each of the Insured(s) specified in the schedule of the date from which such cancellation is to take effect.

Governing Law

This Policy will be governed in accordance with the laws of Australia. Any disputes relating to interpretation will be submitted to the exclusive jurisdiction of the courts of Australia.

Severability and Non Imputation

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

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

shall not prejudice the right of the remaining party or parties to indemnity in terms of this Policy, provided that such remaining party or parties shall:

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

Territorial and Jurisdictional Limits of Cover

This Policy provides cover for any civil liability incurred by the Insured in connection with the provision of their Professional Services anywhere in the world, and to Claims made and actions brought anywhere in the world, except for Claims:

1. arising from or attributable to any civil liability incurred by the Insured in the conduct of their Professional Services, where such services were provided to another within, and or the acts errors or omissions occurred within the territorial limits of the United States of America or the Dominion of Canada and their territories or protectorates; brought in a court of law in the United States of America or the Dominion of Canada or their territories or protectorates; or
2. arising from or attributable to the enforcement of any judgement, order or award in respect of any action brought in any court of law in the United States of America or the Dominion of Canada or their territories or protectorates.

Goods and Services Tax

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

Despite the other provisions of this Policy (including provisions in the Schedule and any endorsements), the Insurer's liability will be calculated taking into account:

1. any input tax credit to which the Insured is entitled for any acquisition relevant to a Claim, or to which the Insured would have been entitled were the Insured to have made a relevant acquisition; and
2. (also for Claims for business interruption only) the GST exclusive amount of any supply made by the Insured's business which is relevant to the Insured's Claim.

If the Limit of Indemnity is not sufficient to cover the Insured's loss, the Insurer will only pay GST (less any relevant input tax credit) that relates to the Insurer's proportion of the Insured's loss.

The Insurer will pay that GST amount in addition to the Limit of Indemnity.

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

ADDITIONAL CONDITIONS APPLYING TO INSURING CLAUSE B

Preserve Evidence

The Insured shall use the best endeavours to preserve any damaged or defective appliances, plant or things which might prove necessary or useful by way of evidence in connection with any Claim and so far as may be reasonably practicable, no alteration or repair shall be made to any premises, fencing, machinery, furnishings, fittings, appliances, or plant without the consent of the Insurer until the Insurer shall have had an opportunity of inspection.

Reasonable Care

The Insured shall exercise reasonable care that only competent employees are employed and shall take all reasonable precautions to prevent bodily injury or damage to property and shall take reasonable measure to maintain all premises, furnishings, fittings, appliances and plant in sound condition and to comply with all statutory obligations and by laws or regulations imposed by any public authority for the safety of persons or property.

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 section of the public, in fear.

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 process.

Documents

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

Excess

means the amount shown in the Schedule and represents the first amount which is payable by the Insured in respect of damages and claimant's costs and expenses arising out of any one Claim made against the Insured.

Group Facility

means the Binder Agreement for the Massage Therapists Scheme underwritten by the Insurer under which this Combined Malpractice, Public and Products Liability Insurance Policy is issued.

Inquiry Costs

means all necessary and reasonable legal costs and expenses incurred by the Insured, with the Insurer's prior written consent, arising out of any notice requiring the Insured's attendance at or in response to, an inquiry, prosecution, investigation, examination, hearing, inquest or other disciplinary proceedings commissioned by an industry or professional board or statutory body, in connection with the Insured's Professional Services.

Insured

means:

1. the natural person or persons specified in the Schedule; and/or
2. the legal entity or entities specified in the Schedule and their predecessors in business; and/or
3. past and/or present employees and locums of the legal entity or entities specified in the Schedule and their predecessors in business; and/or
4. a student whilst being supervised by a person specified in the Schedule or by a registered massage therapist of the legal entity or entities specified in the Schedule and their predecessors in business; and/or
5. any past and/or present Principal of the legal entity or entities specified in the Schedule and their predecessors in business; and/or
6. 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.

Insured Costs

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

Insurer

means Vero Insurance Limited, ABN 48 005 297 807, ACN 005 297 807.

Limit of Indemnity

means the Limit of Indemnity applicable to each Insured as shown in the Schedule.

Period of Insurance

means the Period of Insurance as shown in the Schedule.

Principal

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

Professional Services

means

- a. massage therapy, aromatherapy, myotherapy and other accepted modalities recognised within the guidelines of the Australian Association of Massage Therapists;
- b. and any other modality or services specified as 'Endorsed Modality or Occupation' in the Schedule;

provided that the Insured holds the required registration, accreditation or licence where required with the appropriate registration board or authority at the time the services were provided

Policy

means the Schedule, the terms of this document and any endorsements.

Retroactive Date

means the Retroactive Date shown in the Schedule.

Schedule

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

Vehicle

means any type of machine on wheels or on caterpillar tracks made or intended to be propelled other than by manual or animal power, and any trailer made or intended to be drawn by such machine, and any hovercraft.

Watercraft

means any vessel, craft or thing made or intended to float on or in or travel on or through water.

End of wording

NOTICES

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;
- 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 allow 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

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 policyholders/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, it will then 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.

Vero's contact details can be found at www.vero.com.au

Aon Risk Services Australia Limited
GPO Box 1230
Melbourne VIC 3001
phone 1800 805 191
fax 03 9211 3510
aon.com.au

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Aon is a leading provider of risk management services, insurance and reinsurance broking, financial planning and employee benefit and risk solutions. Aon professionals meet the diverse and varied needs of our clients through our industry knowledge, technical expertise and global resources.

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