

# Practitioner Indemnity Run-Off Insurance Policy

Combined Financial Services Guide  
and Product Disclosure Statement



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## Special Notices

This is important and must be read by all persons applying for, renewing or varying an Avant Insurance Limited insurance policy. In these notices, a reference to 'we', 'us' or 'our' means Avant Insurance Limited.

### 1. Your duty of disclosure

Under the *Insurance Contracts Act 1984* (Cth), before you enter into a contract of insurance with us you have a duty to disclose every matter that you know – or could reasonably be expected to know – that is relevant to our decision to accept the risk of the insurance and, if so, on what terms.

You have the same duty to disclose those matters to us before you renew, extend or vary your insurance policy with us and a continuing obligation throughout the policy period.

Your duty of disclosure does not extend to:

- a matter that diminishes the risk undertaken by us; or
- a matter that is considered to be common knowledge or that we know or should know in the ordinary course of business; or
- matters that we tell you we do not need to know or matters for which we waive disclosure.

If you fail to comply with your duty of disclosure, depending on the prejudice caused by your failure to comply, we may reject your claim or request for legal fees and expenses, reduce our liability in respect of a claim or request for legal fees and expenses or cancel the policy. If your non-disclosure is fraudulent, we may avoid the policy entirely (that is, we may treat the policy as never being of any force or effect).

### 2. The Practitioner Indemnity Run-Off Insurance Policy is a 'claims made' policy

This means that (subject to the terms and conditions of the policy) you are covered for:

- (a) compensation claims (including legal defence costs) notified to us and made against you during the policy period; and
- (b) legal fees and expenses incurred in representing you at any inquiry, inquest, disciplinary proceeding notified to us and made against you in the policy period.

### 3. This policy does not provide cover in relation to:

- acts, errors or omissions that occurred outside of the run-off period; or
- claims or incidents notified to us after the expiry of the policy period; or
- claims made, threatened or intimated against you prior to the commencement of the policy period ; or
- facts or circumstances of which you first became aware prior to the policy period, and which you knew or ought reasonably to have known had the potential to give rise to a claim or request for legal fees and expenses under this policy.

### 4. Notification of facts, which might give rise to a claim

Pursuant to section 40(3) of the *Insurance Contracts Act 1984* (Cth) where you give notice to us of facts that might give rise to a claim as soon as was reasonably practicable after you become aware of those facts but before the policy expires, you are covered for any claim made against you arising from those facts even if it is not made against you until after the policy period has expired (subject to the terms and conditions of the policy).

## 5. Privacy Statement

The *Privacy Act 1988* (Cth) requires us to inform you of the following:

### *Purpose of collection*

We collect personal information for the primary purpose of providing insurance and membership services to you, including underwriting, the management of claims, risk management, medico-legal and ethical advice, education and products and services. This personal information can be used or disclosed for a secondary purpose related to the primary purposes above, to the extent, you would reasonably expect us to use or disclose this information for that secondary purpose.

### *Access to information*

We will allow you access to the personal information we collect from you and correct that information if it is wrong. Please contact our Member Services team on 1800 128 268 for details.

### *Disclosure*

We may share this information with other Avant Group companies. We may disclose personal information to our reinsurers, solicitors, accountants, actuaries, government regulatory bodies, for the provision of statistical data for research, to those involved in corporate risk management and to organisations who manage business and corporate strategies. We may be authorised or required to disclose your personal information by law, or permitted to do so in an emergency.

# Combined Financial Services Guide and Product Disclosure Statement

## Section 1

### Financial Services Guide

#### Introduction

This financial services guide (FSG) is intended to assist you in deciding whether to obtain any of the financial services that Avant Insurance Limited ABN 82 003 707 471 and AFS Licence 238765 is authorised to provide or arrange under its AFS Licence.

When reading this FSG and the Practitioner Indemnity Run-Off Insurance Policy, 'the insurer', 'we', 'our' and 'us' will mean Avant Insurance Limited.

The FSG is designed to:

- assist you in understanding what you can expect when you contact us regarding one of its financial services;
- advise you about the remuneration we, our staff and any other related persons receive in connection with the financial services we provide;
- describe how Avant Insurance deal with any complaints; and
- provide you with key contact details and information about how to lodge a complaint.

A copy of this FSG will generally be provided to you when we provide personal financial services to you or you obtain a financial product from us.

### **What financial services do we offer?**

We provide general insurance products.

We are an Australian Prudential Regulatory Authority (APRA) regulated insurer and holding Australian Financial Services Licence authorising us to provide financial product advice in relation to, and deal in, general insurance products. These products are underwritten by us.

We provide these products and related services through our trained employees and authorised representatives.

### **How are we and our staff remunerated?**

We are paid a fee by Medicare Australia to reimburse the ongoing costs associated with administering medical indemnity support schemes on behalf of Medicare Australia and the Commonwealth Government (the government).

We may pay a member access fee to Avant Mutual Group Limited ABN 58 123 154 898 (Avant). The payment of this fee does not affect the amount of any benefit under our policies.

We receive a monthly management fee from other companies within the Avant group of companies.

Further details of fees or costs associated with the issue of our products, if any, are contained in our product disclosure statement in Section 2 or the tax invoice.

All staff employed by us receive salaries. Our staff do not receive commissions. Some of our staff may receive an incentive or bonus payment based on meeting business targets.

Medicare Australia is a government statutory authority. We administer a number of medical indemnity support schemes on behalf of this authority and receive administration fees for doing so.

We may pay referral fees or commissions to licensed brokers or other intermediaries with whom we may enter into an agreement to distribute our products.

We may receive referral fees or commissions from licensed brokers or other service providers with whom we may enter into an agreement to offer members other financial services.

### **Related documents you may receive**

You may also receive other documents when we provide you with financial services in relation to one or more of our financial products.

In the ordinary course of our business, we will only provide general financial product advice. Our staff do not take personal circumstances into consideration when providing general financial product advice.

### **Product disclosure statement (PDS)**

A PDS will be provided to you when we provide, arrange or issue a financial product other than for wholesale product and there has been a change in the PDS since it was last issued to you.

The PDS will contain information about the financial product, including its features, benefits, risks, exclusions and any fees or costs associated with the product to enable you to make an informed decision about it. The PDS also contains information about the Premium Support Scheme; the government scheme that helps eligible doctors with the costs of their medical indemnity insurance.

### **How is my personal information dealt with?**

We collect personal information from you in order to ensure the financial products provided to you are tailored to suit your needs and may share this information with other companies within the Avant group of companies. In addition we may be required to provide information to federal or state governments. We will maintain records of your personal information.

The privacy of your personal information is important to us. We will ensure that all your personal information collected by us is treated in accordance with the *Privacy Act 1988* (Cth).

Our privacy policy is posted on our website at [www.avant.org.au](http://www.avant.org.au). If you wish, you can request a printed copy of the policy by contacting our Member Services team on 1800 128 268.

### **What if I have a complaint?**

If you have any complaints about the product or service provided to you, then you should inform us immediately. Our service staff should be able to resolve the issues you raise satisfactorily. However, if the matter has not been resolved to your satisfaction you may, under our internal dispute resolution (IDR) process, forward a complaint to us.

A copy of our dispute resolution procedure can be obtained either from our website or by contacting our Member Services team on 1800 128 268.

If your complaint is not satisfactorily resolved or answered by our IDR process you may refer the matter to the Financial Ombudsman Service (FOS). We are a member of the independent dispute resolution service the FOS provides.

If you wish to make a complaint to the FOS please contact our Member Services team on 1800 128 268.

## Section 2

### **Product Disclosure Statement**

#### **What is a product disclosure statement (PDS)?**

This PDS will assist you in making an informed choice about your insurance requirements. This document must be read in conjunction with the Practitioner Indemnity Run-Off Insurance Policy. The insurance policy forms part of this PDS.

Please keep this PDS and policy in a safe place.

#### **Who is the insurer?**

Avant Insurance Limited ABN 82 003 707 471 AFS Licence 238765 is the insurer and the issuer of this PDS and policy.

When reading this PDS and the Practitioner Indemnity Run-Off Insurance Policy, 'the insurer', 'we', 'our' and 'us' will mean Avant Insurance Limited.

Our contact details are as follows:

Avant Insurance Limited  
Level 28 HSBC Centre, 580 George Street Sydney NSW 2000  
PO Box 746, Queen Victoria Building NSW 1230  
DX 11583 Sydney Downtown

Phone: Freecall 1800 128 268  
Fax: Freefax 1800 228 268  
Email: [memberservices@avant.org.au](mailto:memberservices@avant.org.au)  
Website: [www.avant.org.au](http://www.avant.org.au)

## Who is the insurer's representative?

The Medical Defence Association of Victoria Limited ABN 59 004 046 379 AFS Licence No 253047 (MDAV) is our authorised representative. MDAV's authorised representative number is: 253047.

## What does this Practitioner Indemnity Run-Off Insurance Policy cover?

Subject to the policy wording, the Practitioner Indemnity Run-Off Insurance Policy indemnifies a healthcare professional for:

- Part A – Professional indemnity insurance, including legal defence costs for claims first made against you during the policy period, which relate to healthcare provided by you during the run-off period specified on your policy schedule.
- Part B – Legal fees and expenses cover, for proceedings, disciplinary, coronial and criminal matters, where you notify us of these matters in the policy period and which relate to healthcare provided by you during the run-off period specified on your policy schedule.

The policy does not cover you for any healthcare you provide after the run-off period specified on your policy schedule. If you are still providing healthcare, you should purchase a Practitioner Indemnity Insurance Policy.

The terms and conditions of the policy are set out in Section 5, 6, 7 & 8 of this booklet.

The policy is renewable annually. Under the *Medical Indemnity (Prudential Supervision and Product Standards) Act 2003* (Cth) we are required to offer run-off insurance cover annually to medical practitioners for a minimum of three years in certain circumstances. We presently offer annual renewal of this policy for as long as you wish to continue cover.

## Exclusions

There are a number of situations in which we do not cover you. They are contained in section 5 under the headings 'Exclusions - Part A (clauses 12 & 13) and 'Exclusions - Part B (clause 19) of the policy. You should ensure that you fully understand these exclusions and if you do not please contact our Member Services team on 1800 128 268.

Of particular note, the policy excludes:

- (a) any civil liability in respect of claim(s) against you where the healthcare was provided by you outside of the run-off period specified in the policy schedule;
- (b) any civil liability in respect of claim(s) against you for the provision of healthcare treatment, advice and services to public patients, except where this cover has been previously agreed by us and this agreement has been reflected in a special endorsement to your policy. If you believe you require such an endorsement please contact our Member Services team on 1800 128 268;
- (c) legal fees and expenses covered under Part B of the policy, where the healthcare was provided by you outside of the run-off period specified in the policy schedule.

## Sum insured

The sum insured under this policy is limited to a maximum amount and stated sub-limits for the aggregate amount of all claims in the period of policy cover, as set out on your policy schedule for each part of the policy. This is the maximum amount payable by us under this policy. Where the same healthcare incident gives rise to more than one claim under the policy, all such claims will be considered a single claim under the policy.



## Claims made policy

Your policy covers you for claims first made against you and notified to us within the policy period where the healthcare incident giving rise to the claim occurred during the run-off period specified in the policy schedule.

Part B requires that the notification giving rise to the claim for legal fees and expenses cover is received by you and notified to us during the policy period, but it is not a requirement that the proceedings commence or are completed during the policy period.

You must notify us as soon as practicable of any claim.

We will cover you if you failed to tell us about a claim or circumstance that you knew of, or a reasonable person in your position would have thought might result in a claim or allegation against you. To qualify for this cover you must have been continuously insured by us from the date that the claim or circumstance arose to the date on which the claim is made. The claim must be covered by the policy and you must not have given notice under any other policy.

## Applying for, or renewing your Practitioner Indemnity Run-Off Insurance Policy

The policy is available to healthcare professionals who have been members of UNITED (means United Medical Protection Limited ABN 72 077 283 884 now called Avant Group Holdings Limited), MDAV or Avant who previously had professional indemnity, or medical indemnity insurance with us and:

- permanently retire from practice; or
- cease private practice; or
- cancel their professional indemnity insurance policy for any other reason; or

- do not meet the eligibility criteria for the government Run-Off Cover Scheme (ROCS).

To apply for the Practitioner Indemnity Run-Off Insurance Policy, please forward your written request to us detailing the date you propose to retire or cease medical services.

Approval is subject to review by our Underwriting Department. We will advise you of the outcome of your application.

We will send to you a renewal notice prior to the expiry of the policy period, including details of the payment options available for you to effect the renewal of your Practitioner Indemnity Run-Off Insurance Policy.

## Making changes to your policy

You must notify us if:

- your personal details change; or
- you return to practice and require cover; or
- you require change to your cover; or
- you do not receive a renewal notice.

In most cases, you can notify us by contacting our Member Services team on 1800 128 268. If we require you to give us notification in writing we will inform you once you contact us. You must notify us as soon as practicable as failure to do so may result in you not being covered by this policy.

## Your guide to your category of practice

Please refer to the category of practice guide for detailed information on the categories available and a brief explanation of each. It is important that you select the appropriate category in order to be indemnified for all aspects of your past practice. Please contact our Member Services team on 1800 128 268 if you need assistance in understanding the categories of practice or if you practised across more than one category.

## How much will the policy cost?

A medical practitioner who intends to retire from private practice who has been a continuous member of Avant and MDAV or UNITED for 10 years or more, but has not reached the age of 65 years, will be offered this policy on an annual basis renewable for at least three (3) years at a cost of \$50.00 (plus charges) per annum.

Otherwise the premium is calculated based on the information provided by you in your previous application(s), renewal documentation and any written requests for changes in your insurance.

The major rating factors are:

- your category or categories of practice;
- the state or territory where you practised;
- the gross billings you generated from your practice;
- your claims experience;
- the length of run-off insurance cover to be provided; and
- the length of your membership with Avant and MDAV or UNITED.

It is vital that the information provided by you accurately describes all of the above. Your entitlements to indemnity are dependent on this information.

## Paying your premium

Your payment has five components:

- base premium;
- Run-Off Cover Scheme (ROCS) support payment;
- instalment fee (if applicable);
- any other Commonwealth, state or territory levy;
- GST; and
- stamp duty.

You will not be covered for any period for which you do not pay your premium.

Payment options are made clear when we provide you with an offer of insurance.

If we advise that you can pay your premium by instalments you will be charged an instalment fee.

If your premium changes due to changes made to your policy we will provide a tax invoice adjustment note. Should you have an automatic arrangement we will change the amount of your deductions in accordance with your new premium. You will be notified of any such changes.

For further information regarding payment options, contact our Member Services team on 1800 128 268.

## **Your policy**

When we accept your application and you pay your premium, we enter into a contract of insurance with you. Your contract of insurance comprises:

- this PDS and policy, and any supplementary PDS and policy, which may be issued to you;
- the category of practice guide;
- the renewal notice;
- the tax invoice;
- your policy schedule;
- our letters of offer made to you; and
- your application.

You must read each of these important documents carefully and keep them together in a safe place.

## **Your policy schedule**

Your policy schedule is our confirmation to you that we have accepted your insurance application. It details any special conditions which may apply to you and specifies your personal details, your professional practice details, sums insured, sub-limits, deductibles and any insurance options chosen by you as well as the policy period. It will detail the run-off period. If you require special modifications to your policy we may issue an endorsement.

Please check your policy schedule to ensure that all the details are correct and that you have the insurance cover you require. It is especially important that you check that the run-off period is sufficient to cover all your past practice.

Your policy begins on the date specified in your policy schedule. Your policy ends on the date specified in your policy schedule, or on the date your policy is cancelled.

## **Deductibles**

Your deductible, if any, is the amount that you must contribute to any claim you make on your policy which we accept as a valid claim. You may have a deductible specified in your policy schedule or applicable under a condition of your policy. The deductible is payable by you before we have any liability to meet a claim.

## **Cancellation**

You may cancel this policy at any time by notice in writing. We will then refund the premium on a pro rata basis, less two (2) months' base premium (base premium does not include government charges or levies). If you have notified an incident or a claim during the policy period there will be no pro rata refund.

We may cancel this policy at any time by giving you seven (7) business days' notice in writing if you are in breach of any of the conditions of this policy, including non-payment of premium, or for any other reason available to us under the *Insurance Contracts Act 1984* (Cth).

## **Special conditions**

Special conditions may be applied to your policy. These conditions may relate to, but are not limited to, healthcare or healthcare incidents that we may not cover, premium loadings or deductibles which may apply to your cover.

## Cooling off period

Please read the documents that make up your contract of insurance carefully. If you decide that your policy does not meet your requirements, you can cancel it by notifying us by post or electronically within 14 days, starting at the end of the fifth day after the day on which the policy was issued or sold to you.

When we receive your notification in writing to cancel your policy within the cooling off period, we will refund to you any premium paid (less any tax or duty paid on your behalf which is non-refundable).

However, your cancellation rights do not apply if, during the cooling off period under your policy, you:

- have made a claim; or
- notified us of an incident, complaint or matter.

## Your duty of disclosure

Under the *Insurance Contracts Act 1984* (Cth), before you enter into a contract of insurance with us you have a duty to disclose every matter that you know – or could reasonably be expected to know – which is relevant to our decision to accept the risk of the insurance and, if so, on what terms.

You have this same duty to disclose those matters to us before you renew, extend, or vary your insurance policy with us.

Disclosure is not limited to matters applying to you under your insurance contract with us, but includes other past businesses or private insurances. However, you do not have to tell us about:

- a matter that diminishes the risk undertaken by us; or
- a matter that is considered to be common knowledge; or

- facts that we know or should know in the ordinary course of business; or
- matters that we tell you we do not need to know.

If in doubt you should disclose a matter to us.

## Non-disclosure

If you fail to comply with your duty of disclosure, depending on the prejudice caused by your failure to comply, we may:

- reject your claim or request for legal fees and expenses; or
- reduce our liability in respect of a claim, complaint or matter; or
- cancel the policy.

If your non-disclosure is fraudulent, we may avoid the policy entirely (that is, we may treat the policy as never being of any force or effect).

## Personal information and your privacy

We may require you to provide certain personal information to determine your eligibility for membership of Avant, for insurance and for the provision of ongoing services. We may provide your personal information to other entities in the Avant group of companies. This information may be used to offer, provide, develop and improve our products. We may use this information to satisfy membership and insurance queries at the time of initiation of a claim, complaint or action against you.

If you choose to take advantage of any government support scheme, some of the information provided to us will need to be passed on to the relevant government department for the request to be processed.

We are committed to supporting our legal obligations regarding your privacy. A copy of our Privacy Policy can be viewed on our website at [www.avant.org.au](http://www.avant.org.au), or obtained by contacting our Member Services team on 1800 128 268.

## Our dispute resolution process

If you have any complaints about the product or service provided to you, then you should contact our Member Services team on 1800 128 268. Our staff should be able to resolve the issues you raise to your satisfaction. If the matter has not been resolved to your satisfaction you may, under our internal dispute resolution (IDR) process, forward a complaint to us. A copy of our dispute resolution procedure can be obtained either from our website at [www.avant.org.au](http://www.avant.org.au) or by contacting our Member Services team on 1800 128 268.

If your complaint is not satisfactorily resolved or answered under our IDR process you may refer the matter to the Financial Ombudsman Service (FOS), which independently operates the external dispute resolution procedure of which we are a member. If you wish to make a complaint to the FOS you can contact our Member Services team on 1800 128 268.

## The Run-Off Cover Scheme (ROCS)

The ROCS was introduced by the Commonwealth with effect from 1 July 2004. It is designed to provide run-off cover (also known as tail cover) free of charge to eligible medical practitioners.

Medical practitioners become eligible for the ROCS when they:

- are 65 years of age or over and have retired permanently from private medical practice; or
- are permanently disabled; or
- have not engaged in private medical practice for the preceding three (3) years (this group includes those who are no longer in paid employment, those practising medicine solely in the public sector and those no longer practising medicine); or
- are on maternity leave; or

- are deceased (their estate is eligible for ROCS); or
- leave Australia after working as a medical practitioner under a visa sub-class 422 or 457.

Medical practitioners who cease to be eligible (such as those resuming private medical practice after maternity leave or retirement) may choose to purchase retroactive medical indemnity cover to cover prior practice. Claims notified or made against you after you return to private medical practice will not be covered by the ROCS.

When you become eligible, ROCS cover will be issued by your last indemnity provider. The contract provided under ROCS will cover incidents that occurred while you held medical indemnity cover with us, another medical indemnity insurer or any other medical defence organisation and were registered as a medical practitioner under any state or territory law providing for registration or licensing of medical practitioners. The nature and range of incidents covered will be at least the same as the nature and range of incidents covered by the last indemnity contract held by you prior to becoming eligible for ROCS.

We are required to pay the government a ROCS support payment. We are obliged to disclose the percentage and the corresponding amount of ROCS support payments in our tax invoices. This is to ensure that you are informed about how the premiums you pay contribute to the ROCS support payment made by us. If you require further information about this scheme, please contact our Member Services team on 1800 128 268 or Medicare Australia on 1800 813 167.

# Section 3

## Definitions

<b>Avant Law</b>	Avant Law Pty Limited (ACN 136429153), an incorporated legal firm which is part of the Avant Group of companies.
<b>base premium</b>	The amount payable for your insurance excluding instalment fees and government taxes and levies. The base premium is specified on your invoice.
<b>category of practice</b>	The category which is specified in your policy schedule.
<b>claim</b>	A demand for, or an assertion of a right to compensation or damages or an intimation of an intention to seek compensation or damages in relation to a healthcare incident which: (a) is first made against you during the policy period specified in your policy schedule; and (b) you tell us about in writing during the policy period specified in your policy schedule.
<b>clinical trial</b>	A clinical trial or research project approved by a properly constituted ethics committee in accordance with National Health and Medical Research Guidelines and conducted in accordance with any conditions and approvals made by that ethics committee.
<b>complaint</b>	An allegation of unlawful or actionable conduct or an allegation of misconduct or unsatisfactory conduct.
<b>cosmetic procedures</b>	Operations, procedures and treatments that revise or change the appearance, colour, texture, structure or position of normal bodily features with the sole intention of improving the patient's appearance or self-esteem. It includes non-surgical cosmetic medical procedures and cosmetic surgical procedures.
<b>extreme activities</b>	Sports or activities of an extreme or risky nature, including but not limited to any form of: high risk sport, boxing, martial arts, motor racing, motor cycle racing, demolition derbies, karting, horse riding or racing, parachuting, base jumping, bungee jumping, hang-gliding, glider flying, microlight aircraft flying, para-sailing, mountaineering, abseiling, potholing, diving, downhill skiing, water skiing, white water rafting, archery, any activity involving the use of firearms, firework demonstrations and any recreational activity held in a geographically remote location.

<b>final policy</b>	Your last medical indemnity cover issued to you and underwritten by the Professional Indemnity Insurance Company Australia Pty Limited or Avant Insurance Limited.
<b>Good Samaritan act</b>	A healthcare act that is performed by you in coming to the aid of a person in an emergency or accident that is necessary to stabilise that person's medical conditions or to prepare that person for transfer, without expectation of payment or other consideration.
<b>healthcare</b>	<p>Any care, treatment, advice, service or goods provided by you as a healthcare professional in respect of the physical or mental health of a patient, and includes:</p> <ul style="list-style-type: none"> <li>• a medical examination, medical report or medical opinion prepared by you at the request of a third party, such as a lawyer, insurer or statutory body;</li> <li>• giving a paid presentation or address or the publication of an article written by you in a newspaper, newsletter or journal to the extent that it provides medical information or healthcare advice;</li> <li>• any care, treatment, advice, service or goods provided to a patient under your supervision by another person who you are observing, supervising, mentoring or teaching but if the other person is a healthcare professional they must hold their own professional indemnity insurance at that time;</li> <li>• any care, treatment, advice, service or goods provided by you to a person in an emergency that is necessary to stabilise that person or to prepare that person for transfer notwithstanding that it is not normally associated with your category of practice; or</li> <li>• any care, treatment, advice, service or goods provided by a locum covering your patients to those patients while you are absent from your practice if he or she holds his or her own professional indemnity insurance at that time.</li> </ul>
<b>healthcare incident</b>	Any act, error or omission by you or by others you are supervising for which you are legally liable and which adversely affects a patient; or an unexpected complication or injury occurring to a patient under your care as a result of or during the provision of healthcare.

<b>healthcare professional</b>	An individual who: (a) provides (i) healthcare; or (ii) expert reports or advice on matters relating to healthcare or medico-legal matters; or (iii) acts in an administrative capacity in relation to healthcare services; and (b) is (i) a legally qualified medical, dental, or healthcare practitioner registered in accordance with the laws of the Commonwealth, a state or a territory of Australia; or (ii) any healthcare professional who is practising in a recognised vocation in Australia.
<b>healthcare training program</b>	A training program where you are being supervised or trained as a healthcare professional for the purpose of registration, specialist recognition or ongoing education.
<b>incident</b>	Any circumstances that may give rise to a claim or complaint which is covered by this policy.
<b>legal defence costs</b>	The necessary and reasonable costs of investigating, defending or settling a claim made against you and covered by this policy.
<b>legal fees and expenses</b>	The necessary and reasonable fees and expenses incurred in the defence, pursuit, conduct of or response to matters covered by Part B of this policy.
<b>locum</b>	A healthcare professional engaged by you as an employee or independent contractor to temporarily cover your practice during your absence from it.
<b>medical indemnity cover</b>	Means insurance which meets the requirements of section 4 of the <i>Medical Indemnity Act 2002</i> (Cth).
<b>other person</b>	A person including but not limited to: an accountant, an actuary, an expert witness, a witness as to fact or any other person required to assist us in any matter covered under this policy.
<b>policy schedule</b>	The current schedule to this policy.
<b>policy period</b>	The period of cover specified in your current policy schedule.
<b>practice entity</b>	Any corporate entity that is in the business of providing healthcare and which is wholly controlled or wholly owned by you.



<b>practice staff</b>	A person working in your practice, other than a medical practitioner, who is supervised or instructed in their activities by you (but there is no cover for such a person in relation to cosmetic procedures); or a locum or covering practitioner who is in the same category of practice as you acting on your behalf in your absence, subject to that locum or covering practitioner holding their own professional indemnity insurance at the time of the incident.
<b>premium</b>	The amount you are required to pay for insurance cover under this policy for the full policy period specified in your policy schedule. This includes the base premium, instalment fees, government taxes and levies. Your premium is specified on your tax invoice.
<b>public patient</b>	A person to whom a hospital or area health service has agreed to provide medical care free of charge, including all necessary medical, nursing and diagnostic services.
<b>relevant legislation</b>	Means the <i>Medical Indemnity Act 2002</i> (Cth) (see particularly Division 2B of Part 2), <i>Medical Indemnity Regulations 2003</i> (Cth), <i>Medical Indemnity (Prudential Supervision &amp; Product Standards) Act 2003</i> (Cth), (see Division 2A of Part 3), <i>Medical Indemnity (Terms and Conditions) Determination 2004</i> , <i>Medical Indemnity (Run-Off Claims and Administration) Protocol 206 (No.2)</i> and relevant Ministerial Determinations.
<b>run-off period</b>	The date specified in your policy schedule as the run-off period. There may be more than one run-off period.
<b>sole healthcare professional</b>	A healthcare professional who is the sole proprietor of the business and there is no other medical practitioner practising in the business or employed by the business (except for a locum covering your patients while you are absent from your practice).
<b>special deductible</b>	A deductible that is imposed by an endorsement to the policy.
<b>the lawyer</b>	The legal practitioner or other person contracted by Avant Insurance to provide legal services to it.

<b>unpaid healthcare</b>	<p>Any care, treatment, advice, service or goods provided by you as a healthcare professional in respect of the physical or mental health of a patient and which is restricted to:</p> <ul style="list-style-type: none"> <li>• a Good Samaritan act;</li> <li>• unpaid healthcare limited to the writing of a prescription or a referral;</li> <li>• giving an unpaid presentation or address or the publication of an article written by you in a newspaper, newsletter or journal to the extent that it provides medical information or healthcare advice;</li> <li>• any care, treatment, advice, service or goods provided by you as an unpaid volunteer, but excluding any care, treatment, advice, service or goods provided in relation to an extreme activity.</li> </ul>
<b>unpaid volunteer</b>	A person who provides healthcare without expectation or entitlement to payment or other consideration, apart from reimbursement or receipt of reasonable expenses such as airfares, accommodation or meal allowances.
<b>us, we and our</b>	Avant Insurance Limited ABN 82 003 707 471 and AFS Licence 238765.
<b>you, your</b>	The healthcare professional named as the insured on the policy schedule or the insured's practice entity.

## Section 4

### Sum insured

The maximum sum insured under this policy for any one claim and for all claims in the aggregate in any policy period is \$20 million. This includes legal defence costs. This sum insured is subject to sub-limits as set out below:

<b>Part A – Professional Indemnity Insurance Cover</b>	<b>Amount in the aggregate all claims in any one year</b>
Maximum sum insured for claims including legal defence costs incurred with our consent and any claimant's legal costs that you have been ordered to pay	\$20 million for medical practitioners \$10 million for all other healthcare professionals

  

<b>Part B – Legal Fees and Expenses Cover</b>	<b>Amount in the aggregate all claims in any one year</b>
<b>Sub-limits</b>	
Division 1 – Cover for disciplinary, coronial and criminal proceedings and investigations	\$500,000
Division 2 – Cover for other actions, complaints, proceedings and inquiries	\$150,000

# Section 5

## Policy Wording

### Introduction

1. Some of the words used in this policy are specially defined. These words appear in **bold** type and their meanings are explained in the Definitions (Section 3).

### Part A – Professional indemnity insurance cover

2. Part A of the policy provides professional indemnity insurance cover. **You** are automatically covered for Part A Division 1 and **you** can extend **your** cover to include the covers in Part A Division 2 where **you** have declared to **us** the gross billings **you** generated in the **run-off period** from private practice. **You** are only covered where the **healthcare incident** giving rise to the **claim** occurred during the **run-off period**.

### Division 1 – Cover for all healthcare professionals

3. **We** cover **you** for amounts which **you** become legally liable to pay as compensation for civil liability including **legal defence costs** in respect of **claims** against **you** in relation to **unpaid healthcare** where the **incident** giving rise to the **claim** occurred during the **run-off period**.

### Division 2 – Cover for healthcare professionals working in private practice

4. In addition to the cover provided in Part A Division 1 **we** cover **you** for amounts which **you** become legally liable to pay as compensation for civil liability including **legal defence costs** in respect of **claims** against **you** in relation to **healthcare** in private practice where **you** have declared to **us** the gross billings **you** generated in the **run-off period** and where the **healthcare** provided was of a type normally associated with **your category of practice** and where the **healthcare incident** giving rise to the **claim** occurred during the **run-off period**.

### Automatic extensions

#### *Cover for practice staff of sole healthcare professionals*

5. If **you** were a **sole healthcare professional** **we** will cover **your practice staff** for **claims** and **legal defence costs** made against them for **healthcare** provided by them under **your** supervision or instruction, other than in respect of **cosmetic procedures** performed by them, where the **healthcare incident** giving rise to the **claim** occurred during the **run-off period**. There will be no such cover if **you** have more than:
  - (a) one full-time equivalent staff member who provides **healthcare** to **your** patients (such as a nurse); and/or
  - (b) two full-time equivalent administration staff (such as a receptionist or practice manager whose duties are solely administrative).

#### *Cover outside of Australia*

6. **We** cover **you** for amounts that **you** become legally liable to pay as compensation for civil liability including **legal defence costs** in respect of **claims** made against **you** in relation to **healthcare** or **unpaid healthcare** provided by **you** outside of Australia, or in relation to court or other proceedings that are made or held outside of Australia, where:
- (a) the period **you** were practising outside of Australia, whether or not **you** were practising, was less than one hundred and twenty (120) days in any **policy period** whether continuously or in aggregate; or
  - (b) **you** were participating as a trainee in a **healthcare training program** that was for a period of less than two (2) years; or
  - (c) the act was a **Good Samaritan act**, for which **you** are covered worldwide.

Cover extended under subsections (a) and (b) of this clause excludes **claims**: that arise as a result of **healthcare** or **unpaid healthcare** provided by **you** in the United States of America ('the USA'); or involving proceedings brought in a court tribunal of the USA, or any court or tribunal which is applying the law of the USA.

#### *Clinical trial Cover*

7. **We** cover **you** for amounts **you** become legally liable to pay as compensation for civil liability including **legal defence costs** in respect of **claims** made against **you** in relation to **healthcare** provided by **you** as a result of **your** participation in a **clinical trial** where the **healthcare incident** giving rise to the **claim** occurred during the **run-off period** and where:

- (a) the **clinical trial** had been approved by a properly constituted ethics committee registered with the National Health and Medical Research Council; and
- (b) the **clinical trial** was conducted in compliance with the guidelines, conditions and approvals set by the ethics committee; and
- (c) the **clinical trial** is one that did not involve pregnant women, gene therapy, use of stem cells or children under the age of sixteen (16) years unless **you** advised **us** and **we** agreed to provide cover, for an additional **premium** (if applicable).

#### *Continuous cover*

8. **We** automatically cover **you** for amounts that **you** become legally liable to pay as compensation for civil liability including **legal defence costs** where:
- (a) **you** failed to tell **us** about a **claim** or circumstance which **you** knew about or a reasonable person in **your** position would have thought might result in a **claim** or allegation being made against **you**; and
  - (b) **we** were the professional indemnity insurer of **you** at the time **you** knew or ought to have known of the **claim** or circumstance; and
  - (c) **we** continued without interruption to be the professional indemnity insurer of **you** from the time **you** knew or ought to have known of the **claim** or circumstance to the date of actual notification to **us**; and
  - (d) the **claim** or circumstance is notified to **us** by **you** under this policy; and

- (e) the **claim** or circumstance is covered under this policy; and
- (f) neither the **claim** nor the circumstance giving rise to a **claim** were previously notified to **us**; and
- (g) **you** have not given notice under any other policy of insurance which entitles **you** to cover for the **claim** or circumstance in whole or part.

**Our** liability under this automatic extension for any one occurrence and in the aggregate for all occurrences shall not exceed the sum insured under this policy.

### Division 3 – Optional covers

#### Public patient optional cover

9. Under this option, for an additional **premium** (if any is specified in the tax invoice that **we** send to **you**) cover is extended in respect of **claims** against **you** for **healthcare incidents** in relation to **healthcare** provided to a **public patient** where **you** have no right to indemnity from a hospital, area health service, or a government scheme for **public patient** care. This option does not cover **you** if, at the time, **you** were indemnified or entitled to indemnity other than by this policy for **healthcare** provided to a **public patient**.

This cover is subject to:

- (a) **you** having had **public patient** cover under **your final policy**; and
  - (b) the **healthcare incident** giving rise to the **claim** having occurred during the **run-off period**.
10. Cover under this Part A shall be subject to and in accordance with the amounts, terms, conditions and exclusions set out in **your final policy** and subject to the **relevant legislation**.

#### How much we insure you for under Part A

11. **Your policy schedule** sets out the maximum aggregate amount of **our** indemnity for **claims** under Part A in the **policy period**. The maximum amount includes **legal defence costs** specified in **your policy schedule**.

For the purposes of this clause, a single **claim** means:

- (a) all **claims** by one or more claimants that arise from the same act or omission; and
- (b) all **claims** by one or more claimants that arise from one or more related acts or omissions.

#### Exclusions – Part A

12. These exclusions apply to all cover under Part A of this policy.
13. **We** do not cover **you**, unless otherwise specified in **your policy schedule**, for any **claims** against **you** or **legal defence costs** in connection with any **claims** where the **claims** or **legal defence costs** arise out of or in connection with:
- (a) any **healthcare** or **unpaid healthcare** for which **you** were entitled to be indemnified by **your** employer, a hospital, area health service or government scheme or where **you** were entitled to indemnity under another policy of professional indemnity insurance;
  - (b) any **healthcare** or **unpaid healthcare** involving **public patients**;

- (c) any **healthcare** or **unpaid healthcare you** provided which was:
  - (i) in breach of terms or conditions on **your** registration as a **healthcare professional**; or
  - (ii) in breach of any undertaking or limitation on **your** registration as a **healthcare professional**;
- (d) **you** being a **healthcare professional** practising in a recognised vocation in Australia, where **you** fail to comply with the professional guidelines for **your** recognised vocation;
- (e) any **legal defence costs** or payments that **you** incur subject to clauses 40 and 45;
- (f) **healthcare** or **unpaid healthcare** provided outside the **run-off period** specified in **your policy schedule**;
- (g) any corporate practice, collective practice including a partnership or association, unless it is a **practice entity**;
- (h) sexual harassment, sexual misconduct or any form of discriminatory conduct;
- (i) the ownership, use or occupation or state of premises, or the contents of such premises or anything done or omitted to be done in respect of the state of any premises owned, leased or occupied by **you** or the contents of such premises;
- (j) any physical loss of, or damage to property;
- (k) personal injury or property damage suffered or allegedly suffered by any of **your** employees in the course of their employment;
- (l) any punitive, aggravated or exemplary damages, fines or civil penalties;
- (m) any **claim** under a contract other than a contract to provide **healthcare**, unless liability would have attached in the absence of such a contract;
- (n) any **healthcare** or **unpaid healthcare** provided when **you** were not registered as a **healthcare professional** and **you** were required to be so registered;
- (o) any **healthcare** or **unpaid healthcare** provided in a state or territory of Australia in which **you** were not registered to practise; or where **you** were not registered to practise under a Commonwealth law; and where **you** were required to be so registered;
- (p) any **healthcare** or **unpaid healthcare** where **you** had not completed the recognised training for or lacked the qualifications to provide such **healthcare**;
- (q) **healthcare** or **unpaid healthcare** (except for **Good Samaritan acts** and acts in emergency situations) that is not normally associated with **your category of practice**;
- (r) any **healthcare** or **unpaid healthcare** provided by **you** outside Australia, or court or other proceeding brought or held outside Australia except as provided by clause 6;
- (s) any **healthcare** provided by another **healthcare professional**, or any **claims** made against **you** as a result of any association or arrangement **you** had or have with another **healthcare professional**;

- (t) any **healthcare** or **unpaid healthcare** provided over the internet or online, or by video conference, or telephone, or from the playing of a recording device (such as a DVD or CD player) unless it was preceded by a physical medical examination of the patient by **you**, or was in accordance with any relevant Australian Medical Association or medical college guidelines;
- (u) **healthcare** or **unpaid healthcare** that **you** agreed to provide at an **extreme activities** event;
- (v) the design, manufacture, distribution or sale of any goods or products;
- (w) any **claim** or circumstances, unless covered by clause 8, which **you**:
  - (i) knew about or a reasonable person in **your** position would have thought might result in a **claim** or allegation being made against **you**; and
  - (ii) failed to notify **us** of prior to the commencement of this policy;
- (x) any circumstances to which Part A would otherwise respond which **you** notified to **us** or to another insurer before the **policy period** commenced;
- (y) the provision of any **healthcare** or **unpaid healthcare** while **you** were under the influence of an intoxicant, narcotic or other drugs affecting or which may affect neuro-cognitive competence;
- (z) the consequences outside of **your** control of a terrorist act or threat of a terrorist act (as defined in section 100(1) of the *Criminal Code 1995* (Cth)) other than a **claim** in respect of **healthcare** or **unpaid healthcare** provided by **you** as a result of a terrorist act or threat of a terrorist act;

- (aa) the transmission of a contagious disease or virus by **you** if **you** knew or should have reasonably known or suspected that **you** were carrying the disease or virus;
- (bb) any criminal or dishonest act or omission by **you**;
- (cc) a breach of duty by any of **your** employees or **practice staff** except as provided by clause 5;
- (dd) radioactive materials of any type except when used in the ordinary course of radiotherapy, radiology or nuclear medicine;
- (ee) engaging in inappropriate practices within the meaning of the *Health Insurance Act 1973* (Cth);
- (ff) any disciplinary action taken against **you** by **your** employer;
- (gg) **your** current or former employer or any person to whom **you** had applied for employment;
- (hh) any procedure(s) or area(s) of practice specifically excluded in the **policy schedule**;
- (ii) **you** in **your** capacity as a past or current director, secretary, officer, principal, committee member, manager, trustee, auditor, receiver, treasurer, liquidator, or employee of a body corporate or association;
- (jj) asbestos, pollution or the infringement of any type of intellectual property;
- (kk) defamation;
- (ll) **healthcare you** provided within a **clinical trial**, where that trial is not specified on **your policy schedule** except as provided by clause 7; or
- (mm) a request by a patient to refund fees they had paid to **you**, or to waive fees due to **you**.



## Part B – Legal fees and expenses

14. Part B of **your policy** provides **legal fees and expenses** cover. **You** are automatically covered under Part B for **legal fees and expenses** cover up to the sub-limits specified in **your policy schedule** for the defence of matters set out in Part B when the notification giving rise to the need for **you** to claim the **legal fees and expenses** is received by **you** and **you** tell **us** about it in writing during the **policy period** specified in **your policy schedule** for the defence of matters arising from **healthcare** or **unpaid healthcare** or **your practice** as a **healthcare professional** during the **run-off period** specified in **your policy schedule**. It is not a requirement that the proceedings commence or conclude during the **policy period**.

### How much we insure you for under Part B

15. **Your policy schedule** sets out the maximum aggregated amount of **our** indemnity for **legal fees and expenses** under Part B in the **policy period**.

For the purposes of this clause, a single **complaint**, inquiry or matter means:

- (a) all **complaints**, inquiries or matters by one or more claimants that arise from the same act or omission; and
- (b) all **complaints**, inquiries or matters by one or more claimants that arise from one or more related acts or omissions.

### Legal fees and expenses cover outside of Australia

16. **We** cover **legal fees and expenses** that **we** incur for **you** in relation to defending matters covered by clauses 17, 18(a) or 18(b) that are made or held outside of Australia where:
- (a) the period **you** were outside of Australia, whether or not **you** were practising was less than one hundred and twenty (120) days in any **policy period** whether continuously or in aggregate; or
  - (b) **you** were participating as a trainee in a **healthcare training program** that was for a period of less than two (2) years; or
  - (c) the act was a **Good Samaritan act**, for which **you** are covered worldwide.

Cover extended under subsections (a) and (b) of this clause excludes matters: that arise as a result of **healthcare** or **unpaid healthcare** provided by **you** or **your** practise as a **healthcare professional** in the USA; or involving proceedings brought in a court or tribunal of the USA, or any court or tribunal which is applying the law of the USA.

### Division 1 – Cover for disciplinary, coronial and criminal proceedings and investigations

17. **We** cover **legal fees and expenses** that **we** incur with **the lawyer** or **other person** in relation to defending a prosecution, responding to a commission, inquiry, inquest, investigation or **complaint** brought by a registration board, tribunal, complaints unit, criminal court or coronial court directly relating to **your practice** as a **healthcare professional**, or research connected with **your practice** as a **healthcare professional** during the **run-off period** specified on **your policy schedule** and including any legal costs **you** may be ordered to pay by a court or tribunal.

## Division 2 – Cover for other actions, complaints, proceedings and inquiries

18. We cover **legal fees and expenses** that we incur with **the lawyer** or **other person** in relation to any of the following:
- (a) defending a civil or criminal action or responding to an investigation or **complaint** or appearing at an inquiry or interview related to an allegation of inappropriate practices within the meaning of the *Health Insurance Act 1973* (Cth) and brought or made under that Act (which includes a Medicare audit or inquiry);
  - (b) defending a prosecution or responding to an inquiry brought by a health or medical benefit fund; or
  - (c) defending or pursuing an appeal from a judgement in proceedings where cover is provided in Divisions 1 and 2 of Part B and we consider that the appeal has merit and reasonable prospect of success.

## Exclusions – Part B

19. We do not cover **you** under Part B of this policy for any of the following:
- (a) any **legal fees and expenses** and related expenses we do not incur on **your** behalf;
  - (b) any **legal fees and expenses** and related expenses of any person or entity not insured under this policy;
  - (c) any personal expenses **you** incur, including travel and out-of-pocket expenses to attend court hearings, meetings and conferences;

- (d) **legal fees and expenses** that are incurred responding to **claims** covered by Part A of this policy;
- (e) any action in relation to the recovery of money;
- (f) any dispute arising in connection with the sale of **your** practice or business;
- (g) any **complaint**, hearing or matter in relation to a dispute between **you**; and **your** existing or former partners, associates or **your** fellow shareholders, members or directors;
- (h) once **you** have been found guilty or admitted guilt to a court in a criminal prosecution, but this exclusion does not apply to:
  - (i) sentencing; or
  - (ii) any other claim under Part B Division 1;
- (i) **legal fees and expenses** incurred in relation to any **complaint** by or against **you** that is not directly related to the provision of **healthcare** or **your** practice as a **healthcare professional**;
- (j) any **complaint**, hearing, matter, court or disciplinary proceedings, inquiry or inquest that is made or held outside of Australia, except as provided by clause 16;
- (k) any **complaint**, hearing or matter where **you** were:
  - (i) in breach of terms or conditions on **your** registration as a **healthcare professional**; or
  - (ii) in breach of any undertaking or limitation on **your** registration as a **healthcare professional**;
- (l) any **complaint**, hearing or matter that is first notified to **us** outside of the **policy period**, save where **you** are entitled to continuous cover under clause 8;

- (m) any circumstances which might give rise to a **complaint**, hearing or matter that **you** knew about or a reasonable person in **your** position would have thought might result in a **complaint** or allegation being made against **you** and **you** failed to tell **us** about prior to the commencement of the **policy period**;
  - (n) any compensation, damages (including punitive, aggravated or exemplary), fines or civil penalties;
  - (o) a **complaint**, hearing or matter that is based on an allegation of loss or damage arising from any of the following:
    - (i) asbestos;
    - (ii) pollution; or
    - (iii) infringement of any type of intellectual property;
  - (p) a **complaint**, hearing or matter that **you** solicit or that results from **your** collusion with someone else;
  - (q) a **complaint**, hearing or matter relating to **you** in **your** capacity as a past or current director, secretary, officer, principal, committee member, manager, trustee, auditor, receiver, treasurer, liquidator, or employee of a body corporate or association;
  - (r) **your** liability as a partner, or former partner, of a partnership;
  - (s) a **complaint**, hearing or matter in respect of any type of personal injury (including assault, detention, eviction, prosecution and humiliation) or property damage (including any consequential loss of any kind);
  - (t) the ownership, use or state of premises or the contents of such premises, or anything done or omitted to be done in respect of the state of any premises or their contents owned, leased or occupied by **you**;
- (u) a **complaint**, hearing or matter between **you** and **your** former, current or proposed employee or contracted staff member or employer;
  - (v) driving offences;
  - (w) a breach of the Commonwealth consumer protection legislation;
  - (x) a **complaint**, hearing or matter between **you** and a hospital relating to a contract or proposed contract for **your** engagement as a visiting medical practitioner;
  - (y) a **complaint**, hearing or matter in relation to a patient or former patient that relates to **your** practice as a **healthcare professional** and relates to or affects the personal safety of **you** or **your** family;
  - (z) a **complaint**, hearing or matter that arises from **your** involvement in a training program;
  - (aa) a **complaint**, hearing or matter in relation to a dispute with a government department, statutory authority or private authority which relates to **your** practice as a **healthcare professional**;
  - (bb) defamation; or
  - (cc) a **complaint**, hearing or matter in respect of any **healthcare** or **unpaid healthcare** provided by **you** in a state or territory of Australia in which **you** were not registered to practice and where **you** were required to be so registered to provide **healthcare**; or if **you** were not registered to practice under a law of the Commonwealth and where **you** were required to be so registered to practice under such a law.

# Section 6

## Conditions

20. These conditions apply to Parts A and B of this policy except where otherwise stated in these conditions.

### You must not act recklessly

21. **You** must not do anything recklessly or wilfully that might give rise to a **claim, complaint** or matter under this policy.

### No admission

22. **You** must not make any admission, offer or compromise in relation to any **claim, complaint** or matter covered by this policy without **our** prior written consent.

### Subrogation and other insurance

23. If **we** make a payment under this policy **we** are subrogated to all **your** rights of contribution, indemnity or recovery without the need for **your** consent. **You** agree not to surrender any right to, or settle any claim for, contribution, indemnity or recovery without **our** prior written consent.

24. To the extent allowed by law, **we** will not pay under this policy any part of a liability in relation to which **you** are entitled to be indemnified under another policy of insurance.

25. **You** must tell **us** in writing when making a claim if **you** have any other insurance policies or entitlement to indemnity which may also cover **you** in respect of anything covered by this policy.

## Conduct of claims, complaints or matters

26. **You** agree that **we** have the conduct of a **claim, complaint** or matter against **you** including:

- (a) its investigation, defence, avoidance, reduction or settlement; and
- (b) **we** may do so in **your** name.

27. **We** may defend or settle a **claim, complaint** or matter as **we** think fit.

28. **You** may defend any **claim, complaint** or matter which **we** believe should be settled but **we** will not pay any more in relation to that **claim, complaint** or matter than **we** would have been required to pay if it had been settled or resolved as **we** believed it could or should have been.

## Your duty to cooperate

29. **You** agree at **your** expense to:

- (a) give **us, our** investigators and **the lawyer** all information, documents and assistance **we** reasonably require; and
- (b) cooperate fully with **us, our** investigators and **the lawyer**.

30. **You** further agree to waive any claim for legal professional privilege or confidentiality to the extent only that the privilege or confidentiality would otherwise prevent **the lawyer** from disclosing information to **us**. **The lawyer** will keep **us** properly informed on all relevant matters.

### Loss prevention

31. **You** must take all reasonable care to avoid or reduce the chance of any **claim, complaint** or matter being made against **you**.
32. **You** must not do, or fail to do, anything which **you** know or should reasonably know will result in any **claim, complaint** or matter being made against **you**.

### We will appoint the lawyer or other person

33. **We** will appoint **the lawyer** or **other person** to provide services to **us** for the benefit of **you** and **the lawyer** or **other person** will either be:
  - (a) a lawyer from **Avant Law**; or
  - (b) a lawyer from **our** external panel;
  - (c) an **other person** that **we** have appointed;in each case as **we** determine, having regard to the nature and circumstances of the **claim, complaint**, matter or prosecution. When **we** appoint **the lawyer** or **other person**, **we** do so in **our** own capacity and not as agent for **you**.
34. **The lawyer** or **other person** appointed by **us** supplies services to **us** and not to **you** for the purposes of the Goods and Services Tax (GST). **We** are entitled to claim a GST input tax credit on services supplied by **the lawyer** or the **other person**.

### You must cooperate with the lawyer

35. **You** must cooperate with **the lawyer** in resolving the matter in a satisfactory, timely and cost-effective way. In particular, **you** must:
  - (a) give **the lawyer** a full and truthful account of the relevant facts;
  - (b) give **the lawyer** any relevant information or documents in **your** possession that he or she asks for;
  - (c) obtain any other relevant information or documents that **you** can;
  - (d) execute any documents **the lawyer** reasonably asks **you** to; and
  - (e) attend any meetings **the lawyer** reasonably asks **you** to.

### The lawyer's or other person's account

36. **The lawyer** or **other person** will provide **us** with an account for fees, charges, expenses and disbursements reasonably incurred. **We** will pay the account subject to the limit of **our** liability set out in the **policy schedule** and subject to payment by **you** of any **special deductible** imposed by special condition.

### We are not liable if you do not cooperate with us and the lawyer

37. **We** will not be liable for **legal fees and expenses** if:
  - (a) **you** do not give **us** or **the lawyer** adequate instructions; or
  - (b) **you** do not follow the advice of **the lawyer**; or
  - (c) **you** cause a delay which, in **the lawyer's** reasonable opinion, prejudices the outcome of the case.

### **We do not accept responsibility for the lawyer or other person**

38. Except where a lawyer from **Avant Law** is appointed, **we** do not accept any responsibility for anything done or not done by **the lawyer** or **other person**. He or she is not **our** agent or employee. **We** make no representation of any kind about **the lawyer's** or **other person's** ability.

### **You must be reasonable in relation to settlement**

39. **You** must not act unreasonably in rejecting a settlement or an offer of settlement, which **we** or **the lawyer** recommend to **you**.

### **We may decide not to continue**

40. **We** may decide not to incur any further **legal fees and expenses** for defending or responding to a **complaint**, matter or prosecution under Part B if **we** believe that there are no reasonable grounds for defending or responding to the **complaint**, matter or prosecution. **We** will take account of **the lawyer's** advice in making that decision. If **we** do that, **we** will tell **you** in writing. **We** will pay **your legal fees and expenses** incurred prior to the date on which **we** write to **you** telling **you** of **our** decision.

**You** may continue defending or responding to the **complaint**, matter, or prosecution. If **we** subsequently decide to assist **you**, **we** will appoint **the lawyer** to act on **our** behalf. After **we** have ceased paying the **legal fees and expenses**, **we** will only pay **you** thereafter for **legal fees and expenses** (not including the GST component if **you** are registered for GST) that **you** have incurred if **you** are successful in pursuing, defending or responding to a **complaint**, matter or prosecution.

### **Appeals**

41. If **you** are dissatisfied with any decision made in a **claim, complaint** or matter against **you** by a court or other decision-making body and wish to appeal against that decision, **you** must seek **our** consent to the appeal within seven (7) business days' after the date of the decision, or such shorter period as may be reasonable having regard to the time limit for an appeal.
42. The application must be in writing and must fully set out the reasons for bringing an appeal. **We** will inform **you** in writing if **we** consent to the appeal.
43. If **we** wish to appeal against any decision made in a **claim, complaint** or matter against **you** by a court or other decision-making body, **you** must reasonably cooperate with **us** in the bringing of such an appeal.
44. If **we** do not consent to the bringing of an appeal, **you** may conduct the appeal at **your** own expense.
45. If **you** appeal from a decision in a **claim, complaint** or matter against **you** without **our** consent:
- after **we** cease paying the **legal fees and expenses**, **we** will only pay **you** thereafter for **legal fees and expenses** (not including the GST component if **you** are registered for GST) that **you** have incurred if **you** are successful in the appeal; and
  - If **we** subsequently decide to assist **you**, **we** will appoint **the lawyer** to act on **our** behalf
  - if the appeal is successful and **you** are entitled to a refund of any money that **we** paid to the claimant, then **we** are entitled to recover that amount after deduction of the costs **you** have incurred.

### **Our right to recover payment from you**

46. If **we** have made any payment under this policy and the **claim, complaint** or matter is later found to involve a fraudulent, criminal or dishonest act or omission by **you, we** are entitled to recover this payment from **you**.

### **Fraud**

47. **We** may reject **your** fraudulent request for indemnity or any part of **your** request for indemnity that is fraudulent or is supported by fraudulent or exaggerated evidence.

### **Disputes**

48. Any dispute which arises under this policy may be addressed, at **your** request, by reference to **our** internal dispute resolution procedure and failing resolution by that means, by reference to an approved external dispute resolution scheme.

### **Payment of premium**

49. **You** will not be covered for any period for which **you** do not pay **your premium**.
50. It is a condition of this policy that **you** pay **your premium** that remains outstanding from any prior year.

### **Payment of deductible**

51. When **your policy schedule** states that a **special deductible** is payable the following conditions apply to that deductible:

- (a) indemnity under this policy will not apply until the **special deductible** is paid in full to **us**. For clarification **we** will not cover **you** for any **claim, legal defence costs** or **legal fees and expenses** under the policy until **you** have paid the **special deductible** to **us**;
- (b) the monies received by **us** from **you** for the deductible shall be applied to discharge the **claim, legal defence costs** or **legal fees and expenses** before any sum will be paid by **us**;
- (c) if the sum paid by **you** to **us** in respect of the **special deductible** is not exhausted by the **claim, legal defence costs** or **legal fees and expenses** incurred in connection with the matter, then **we** will return the unexpended balance of the **special deductible** monies to **you** within fourteen days of the **claim** or matter being (in **our** opinion) concluded; and
- (d) interest will not be payable by **us** to **you** (or another person) on the **special deductible** monies held by **us**.

### **Clinical records**

52. **You** must maintain clinical records for **healthcare** provided to **your** patients that:
- (a) are of a standard expected of a competent **healthcare professional**;
  - (b) were prepared and updated on or reasonably proximate to each occasion of the provision of **healthcare**; and
  - (c) if computerised, the integrity of the records can be verified by reference to the security features of the software.

## Section 7

### Claims and notifications

#### You must notify us of a claim or incident

53. **You** must notify **us** in writing as soon as practicable of any **healthcare incident** or **claim** made against **you**. This includes, but is not limited to:
- (a) **your** receiving a letter from a solicitor or a patient or former patient indicating dissatisfaction or requesting a patient's records;
  - (b) **you** receive a request from a patient, a patient's relative or solicitor for an explanation of a **healthcare incident** or the outcome of a **healthcare incident**;
  - (c) **you** are advised by another person that a patient may bring a **claim** against **you**;
  - (d) **you** are contacted by an insurer other than **us** requesting information about a **healthcare incident** or the outcome of a **healthcare incident**; or
  - (e) **you** are contacted by a hospital, a government body, a medical practitioner or a **healthcare professional** requesting information about a **healthcare incident** or the outcome of a **healthcare incident**.
54. If **you** do not notify **us** of a **healthcare incident** or **claim** as soon as practicable, **you** may not be covered under this policy and **your** right to indemnity may be significantly reduced by **us**.

55. To report a **healthcare incident** or **claim you** must notify **us** in writing to:

Avant Insurance Limited  
PO Box 746  
Queen Victoria Building NSW 1230.

56. **Your** notification must include **your** details, the details of the **healthcare incident** or **claim** including the date of the **healthcare incident**, the patient's name and the details of any **claim**.

#### Other things of which you must notify us

57. **You** must notify **us** in writing as soon as practicable of any civil or criminal action, prosecution, inquiry, inquest, investigation or **complaint**, judgment, or appeal brought or made by a registration board, tribunal, complaints unit, criminal court, civil court or coronial court directly relating to **your** practice as a **healthcare professional**.
58. If **you** do not notify **us** of the matters set out in clause 57 above as soon as practicable, **you** may not be covered under the policy and **your** right to indemnity may be significantly reduced by **us**.

#### Claims acceptance

59. The acceptance of a **claim** or indemnity by **us** under Part A or B of this policy can be subsequently withdrawn if facts come to **our** attention that trigger or satisfy a policy exclusion, or the policy does not cover the **claim** or there is no policy in force.



# Section 8

## Cancellation

60. **You** may cancel this policy at any time by notice in writing in which case **we** will refund the **premium** on a pro rata basis, less two (2) months **base premium** (**base premium** does not include government charges or levies). If **you** have notified an **incident** or a **claim, complaint** or matter during the **policy period** there will be no pro rata refund.
61. **We** may cancel this policy by giving **you** seven (7) business days' notice in writing:
- (a) if **you** have not paid **your premium** within thirty (30) days of the **policy period** commencing; or
  - (b) in the event that **you** are paying via instalments and an instalment remains unpaid for over one (1) month; or
  - (c) if **you** are in breach of any of the conditions of this policy or for any other reason available to **us** under the *Insurance Contracts Act 1984* (Cth).

If **we** give notice to cancel the policy then **we** must give that notice to **you** personally, or send it to **you** by certified mail at the last address of which **you** notified **us**. Unless **you** prove otherwise, **you** will be deemed to have received the notice when it would have arrived in the ordinary course of the post.

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