

# Avant Practice Medical Indemnity Policy

Version 3.0



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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 ABN 82 003 707 471 AFSL 238 765.**

## Your duty of disclosure

Under the *Insurance Contracts Act 1984* (Cth), before you enter 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. Your duty of disclosure to us continues up to the time that the contract of insurance is entered into.

You have the 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 our 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 Request for Indemnity; or
- reduce our liability in respect of a Claim, Complaint or matter; or
- cancel the Policy.

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

## The Practice Medical Indemnity Policy is a 'Claims made and notified' contract

Clauses 1 to 5 of the Policy covers compensation Claims (including Defence Costs) made against you or an Insured Person and notified in the Period of Insurance where the Incident giving rise to the Claim occurred after the Retroactive Date.

### 'Occurrence based' cover: Clause 6 (Public Liability Claims)

Clause 6 of the Policy is an Occurrence based cover for Public Liability, and is optional cover that is only included if noted in the Policy Schedule. This means that the Insurer will cover you for Occurrences giving rise to the Public Liability Claims that occur during the Period of Insurance, whilst notification of the Claim can occur outside the Period of Insurance.

## The Practice Medical Indemnity Policy

The Policy covers Legal Fees incurred in representing you or an Insured Person.

This Policy does not provide cover in relation to:

- Medical Indemnity Claims made against you or an Insured Person arising from Incidents that occurred prior to the Retroactive Date; or
- Public Liability Claims made against you or an Insured Person arising from Occurrences that occur outside the Period of Insurance, unless section 6.7 applies; or
- Medical Indemnity Claims made against you or an Insured Person or Incidents notified to us after the expiry of the Period of Insurance; or
- Claims made, threatened or intimated against you or an Insured Person prior to the Period of Insurance; or
- Facts or circumstances of which you or an Insured Person first become aware prior to the Period of Insurance, and which you or an Insured Person knew or ought reasonably to have known had the potential to give rise to a Claim or Request for Indemnity under this Policy.

## Notification of facts which might give rise to a Claim

Pursuant to section 40(3) of the *Insurance Contracts Act 1984* (Cth), where you or an Insured Person give notice to us in writing 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 Period of Insurance has expired.

## Privacy statement

Please refer to our website at [avant.org.au](http://avant.org.au) to view our privacy statement. You may request a copy of our privacy statement free of charge by contacting us.

**IMPORTANT:** Professional indemnity insurance products available from Avant Mutual Group Limited ABN 58 123 154 898 are issued by Avant Insurance Limited, ABN 82 003 707 471, AFSL 238 765. The information provided here is general advice only. You should consider the appropriateness of the advice having regard to your own objectives, financial situation and needs before deciding to purchase or continuing to hold a policy with us. For full details including the terms conditions, and exclusions that apply, please read and consider the policy wording, and PDS, which is available at [avant.org.au](http://avant.org.au) or by contacting us on 1800 128 268.

# Policy wording

## Introduction

In consideration of payment of the premium, the Insurer will indemnify the Insured in accordance with the definitions, terms, conditions, Deductibles, exclusions and endorsements, if any, of this Policy.

Some of the words used in this Policy are specifically defined. These words begin with capital letters and their meanings are explained in the Definitions section. The headings used in the Policy are included solely for reference and do not in any way amend the terms and conditions of the Policy.

The Insurer has relied on information provided by the Insured in the application form and other forms of disclosure in determining whether to enter into this contract of insurance and on what terms. If this information is incorrect, the Insurer may be able to reject a Claim or Request for Indemnity, reduce its liability or void this Policy from inception.

## How much the Insurer will pay

- a) The most the Insurer will pay for any one Claim or Request for Indemnity under this Policy, and in the aggregate for all Claims and Requests for Indemnity in the Period of Insurance is the limit of indemnity that is specified in the Policy Schedule. In the event the Insured has cover under clause 6, the Public Liability Limit of Indemnity is the most the Insurer will pay for any one Claim or series of Claims arising out of any one Occurrence.
- b) Any sub-limit of indemnity that applies is the most the Insurer will pay against that cover in the aggregate in the Period of Insurance; and in such cases the sub-limit of indemnity applies in place of the limit of indemnity. Any sub-limit of indemnity will be specified in the Policy Schedule.
- c) The limit of indemnity, Public Liability Limit of Indemnity and sub-limit of indemnity are exclusive of the Deductible.
- d) The limit of indemnity and Public Liability Limit of Indemnity is inclusive of Defence Costs, unless the Insured has cover under clause 5.2.
- e) Nothing in this Policy operates to increase the limit of indemnity, Public Liability Limit of Indemnity or sub-limit of indemnity, unless the Insured has cover under clause 5.1 or clause 5.2.
- f) All Claims or Requests for Indemnity under this Policy, which arise from, or are attributable to, a single act, error, omission, or Occurrence or series of similar or related single acts, errors, omissions or Occurrences will be treated under this Policy as one Claim or Request for Indemnity.

## What the Insurer will cover

### 1. Civil liability cover

#### 1.1 Healthcare Services provided by the Insured

The Insurer will indemnify the Insured for amounts the Insured becomes legally liable to pay as compensation for civil liability in respect of Claims made against the Insured in the Period of Insurance, directly in connection with the provision of Healthcare Services.

#### 1.2 Defence Costs

The Insurer further agrees to indemnify the Insured for Defence Costs incurred by the Insurer in investigating, defending or settling a civil liability Claim. This is subject to the payment of the Deductible which is the first amount that is to be paid towards Defence Costs.

### 2. Automatic extensions

The cover under clause 1.1 and clause 1.2 is extended to cover the following automatic extensions. These automatic extensions are subject to all of the definitions, terms, conditions, limit of indemnity, any sub-limit of indemnity, Deductibles, exclusions and endorsements of this Policy, unless specifically expressed to the contrary.

#### 2.1 Good samaritan act

The Insurer will indemnify the Insured in respect of Claims made against the Insured in the Period of Insurance in relation to a good samaritan act, error or omission by the Insured, provided that the Insured was not acting in a professional capacity for another employer, entity or practice at the time of the act, error or omission. Cover under this clause applies even if the Claim is not directly in connection with Healthcare Services.

#### 2.2 Breaches of privacy

The Insurer will indemnify the Insured in respect of Claims made against the Insured in the Period of Insurance in relation to actual or alleged breaches of confidentiality or privacy legislation, provided the act, error or omission by the Insured is unintentional and occurred directly in connection with the provision of Healthcare Services.

### 2.3 Breaches of consumer protection legislation

The Insurer will indemnify the Insured in respect of Claims made against the Insured in the Period of Insurance in relation to actual or alleged breaches of Commonwealth consumer protection legislation provided the act, error or omission by the Insured is unintentional and occurred directly in connection with the provision of Healthcare Services.

### 2.4 Defamation

The Insurer will indemnify the Insured in respect of Claims made against the Insured in the Period of Insurance in relation to actual or alleged defamation provided the act, error or omission by the Insured giving rise to the Claim is unintentional and occurred directly in connection with the provision of Healthcare Services.

### 2.5 Telehealth activities

The Insurer will indemnify the Insured in respect of Claims made against the Insured in the Period of Insurance in relation to providing Telehealth, provided the act, error or omission by the Insured occurred directly in connection with the provision of Healthcare Services.

### 2.6 Intellectual property

The Insurer will indemnify the Insured in respect of Claims made against the Insured in the Period of Insurance in relation to actual or alleged infringement of intellectual property rights, provided the act, error or omission by the Insured is unintentional and occurred directly in connection with the provision of Healthcare Services.

### 2.7 Continuous cover

Notwithstanding clause 8.12, the Insurer will indemnify the Insured where:

- a) the Insured failed to tell the Insurer about an Incident which the Insured knew about, or a person in the Insured's position should reasonably have known, might result in a Claim or Request for Indemnity; and
- b) the Insurer was the professional indemnity insurer of the Insured at the time the Insured first knew or ought to have known of the Incident; and
- c) the Insurer continued without interruption to be the professional indemnity insurer of the Insured from the time the Insured knew or ought to have known of the Incident to the date of actual notification to the Insurer; and
- d) the Incident is notified to the Insurer by the Insured under this Policy and the Incident is covered under this Policy; and
- e) had the Insurer been notified by the Insured of the Incident when the Insured first knew of it, the Insured would have been covered under the policy in force at that time; and
- f) the Incident has not been previously notified to the Insurer.

The Insurer's liability under this automatic extension for any one Occurrence and in the aggregate for all Claims under this extension shall not exceed the lesser of the limit of indemnity under this Policy, or the limit of indemnity under the previous Policy under which the Incident should have been notified.

The Insurer may reduce its liability to the extent of any prejudice the Insurer may suffer in connection with the Insured's failure to notify the Insurer as soon as practicable after the Insured first knew of the Claim or circumstance.

### 2.8 Actions of others

The Insurer will indemnify the Insured in respect of Claims made against the Insured in the Period of Insurance in relation to any liability incurred by the Insured to the extent of the Insured's liability, arising from Healthcare Services provided by a consultant, contractor, Medical Practitioner or any other person or entity that is not an Insured under this Policy. This clause is subject to the Insured complying with clause 10.4. This clause does not operate to indemnify any such consultant, contractor, Medical Practitioner or any other person or entity that is not the Insured.

### 2.9 Vicarious liability of the Insured

The Insurer will indemnify the Insured in respect of Claims made against the Insured in the Period of Insurance in relation to any vicarious liability incurred by the Insured, arising from the provision of Healthcare Services by an Employee.

### 2.10 Cover for 'innocent' Insureds

Notwithstanding clause 8.4, clause 8.8 and clause 8.14, the Insurer will indemnify all innocent Insureds who did not commit, contribute to, or condone the act, error or omission or had no prior knowledge of the act, error or omission. This clause does not operate to indemnify any Insured who allegedly committed or condoned the act, error or omission.

### 2.11 My Health Record

The Insurer will indemnify the Insured in respect of Claims made against the Insured in the Period of Insurance in relation to actual or alleged infringement of a third party's intellectual property rights arising out of the use of the My Health Record system, provided the act, error or omission by the Insured is unintentional and occurred directly in connection with the provision of Healthcare Services.

### 2.12 Contractual liability

The Insurer will indemnify the Insured in respect of Claims made against the Insured in the Period of Insurance in relation to contractual liability directly in connection with the provision of Healthcare Services. This clause does not operate to indemnify any liability assumed by contract, waiver, guarantee or warranty, unless liability would have attached in the absence of such contract, waiver, guarantee or warranty.

### 2.13 Advice on goods sold

The Insurer will indemnify the Insured in respect of Claims made against the Insured in the Period of Insurance in relation to negligent advice provided by the Insured during the sale of any goods or products provided the act, error or omission by the Insured occurred directly in connection with the provision of Healthcare Services.

### 2.14 Statutory liability

The Insurer will pay Defence Costs for proceedings made against the Insured in the Period of Insurance in relation to workplace health and safety law or environmental law breaches which occurred directly in connection with the provision of Healthcare Services. This clause does not operate to indemnify the Insured for the payment of any fine or civil penalty.

The Insurer's liability under this clause in the Period of Insurance is limited to the sub-limit of indemnity specified in the Policy Schedule.

### 2.15 Loss of Documents

The Insurer will indemnify the Insured for costs incurred by the Insured to replace or restore Documents which have been destroyed or damaged, where such loss or damage is sustained in the Period of Insurance whilst the Documents are either in transit or in the Insured's custody or the custody of any person to whom the Insured has entrusted them in the course of the normal conduct of the Insured's business, but only when:

- a) such loss or damage is not a result of normal wear and tear, lack of access to electronic data or where the Insured deliberately or wilfully caused the destruction or damage; and
- b) the cost to replace or restore the Documents must be supported by bills and accounts which shall be subject to approval by the Lawyer or, if there is a dispute, the president of the law society of the state in which the Policy was issued.

### 2.16 Extended reporting period

The Insured may continue to notify the Insurer of Claims up to 60 days after the expiry of the Period of Insurance where the Claim was first made against the Insured in the Period of Insurance, provided always that the Claim is a result of an act, error or omission or alleged act, error or omission that occurred prior to the expiry of the Period of Insurance.

If this notification occurs in the 60-day period, the Insurer will treat the Claim as if it were notified in the Period of Insurance.

### 2.17 Run-off cover

If in the Period of Insurance the Insured entity ceases to exist, operate or is merged or acquired by another entity, this Policy shall continue to exist until the end of the Period of Insurance. This clause does not operate to indemnify any act, error or omission which occurred after the date that the entity ceased to exist or operate, or the date the entity was merged or acquired.

### 2.18 Joint venture liability

The Insurer will indemnify the Insured in respect of Claims made against the Insured in the Period of Insurance in relation to the Insured's participation in a joint venture where the joint venture forms part of the Insured's Healthcare Services, provided that:

- a) the Insurer will only be liable for the Insured's portion of liability of the joint venture; and
- b) the joint venture was disclosed in writing to the Insurer and the Insured has agreed in writing to cover the joint venture.

### 2.19 Public relations expenses

In the event of a Public Relations Event, the Insurer will indemnify the Insured in respect of fees and costs the Insurer incurs engaging a public relations consultant to create a response to the Public Relations Event. The Insurer has absolute discretion on whether to indemnify the Insured under this clause and has absolute discretion to engage a public relations consultant on behalf of the Insured if there is a disagreement between the Insurer and Insured about whether a public relations consultant should be engaged.

The Insurer's liability under this clause in the Period of Insurance is limited to the sub-limit of indemnity specified in the Policy Schedule.

### 2.20 Newly created or acquired subsidiary

If the Insured creates or acquires a subsidiary in the Period of Insurance, this Policy will extend to cover any act, error or omission of the new subsidiary which occurred after the date of creation or acquisition. This clause does not operate if the Healthcare Services of the subsidiary are different to those listed in the Policy Schedule and if the subsidiary has had any paid claims in the last five years. This clause is also subject to the Insured complying with clause 10.5.

### 2.21 Former subsidiary

If the Insured has disclosed to the Insurer and the Insurer has agreed in writing, this Policy will extend to cover any act, error or omission of a former subsidiary of the Insured provided the acts, errors or omissions occurred prior to the date that the subsidiary ceased to be a subsidiary of the Insured. This clause does not operate if the Healthcare Services of the subsidiary are different to those listed in the Policy Schedule.

## 2.22 Sexual misconduct defence

The Insurer will indemnify Defence Costs for proceedings made against the Insured in the Period of Insurance in relation to actual or alleged molestation of, or physical abuse of a person by an Employee of the Insured. This clause does not operate to indemnify any Insured who allegedly committed or condoned the act, error or omission.

## 2.23 Employee dishonesty

Notwithstanding clause 8.4, the Insurer will indemnify all innocent Insureds who did not commit or condone the act, error or omission or had no prior knowledge of the act, error or omission. This clause does not operate to indemnify any Insured who allegedly committed or condoned the act, error or omission or had prior knowledge of the act, error or omission.

## 2.24 Court attendance costs

The Insurer will indemnify the Insured for reasonable travel and accommodation costs that are incurred by the Insured attending a court at the Lawyer's request in connection with a Claim which is covered by this Policy. The Insurer will only reimburse the Insured for travel and accommodation costs upon production of evidence of payment satisfactory to the Insurer, unless the Insurer has agreed in writing to make a repayment.

The Insurer's liability under this clause in the Period of Insurance is limited to the sub-limit of indemnity specified in the Policy Schedule.

# 3. Legal Fees cover

The Insurer will indemnify the Insured for Legal Fees incurred by the Insurer in relation to the following matters. This clause does not operate to indemnify the Insured for civil liability, fines, penalties or costs awarded against the Insured.

## 3.1 Medicare benefits scheme

The Insurer will indemnify the Insured for Legal Fees incurred by the Insurer as a result of a Complaint which is commenced, commissioned or ordered and notified to the Insurer in the Period of Insurance in relation to the Medicare benefits scheme including any alleged dishonest, fraudulent or criminal act, error or omission, but only where the alleged act, error or omission occurred directly in connection with the provision of Healthcare Services.

The Insurer's liability under this clause in the Period of Insurance is limited to the sub-limit of indemnity specified in the Policy Schedule.

## 3.2 Legal Fees for inquiries

The Insurer will indemnify the Insured for Legal Fees incurred by the Insurer as a result of a Complaint which is commenced, commissioned or ordered and notified to the Insurer in the Period of Insurance in relation to:

- a) responding to an inquiry, inquest, investigation or Complaint brought by or before a registration board, tribunal or complaints unit; or
- b) defending or responding to a criminal inquiry, investigation or proceeding; or
- c) a coronial inquiry or inquest,

but only where the alleged act, error or omission occurred directly in connection with the provision of Healthcare Services.

The Insurer's liability under this clause during the Period of Insurance is limited to the sub-limit of indemnity specified in the Policy Schedule.

## 3.3 Reporting a Healthcare professional or incident

The Insurer will indemnify the Insured for Legal Fees incurred by the Insurer as a result of a Complaint which is commenced, commissioned or ordered and notified to the Insurer in the Period of Insurance that arises from the Insured reporting an incident, Healthcare professional, person or entity to a professional or statutory body or area health authority where the Insured was required to do so as result of an obligation imposed by law or in the public interest.

The Insurer's liability under this clause in the Period of Insurance is limited to the sub-limit of indemnity specified in the Policy Schedule.

## 3.4 Employee disputes

The Insurer will indemnify the Insured for Legal Fees incurred by the Insurer as a result of defending a Complaint which is commenced and notified to the Insurer in the Period of Insurance that arises from a dispute with an Employee that relates to the contract or proposed contract for services under which the Employee is or will be engaged, including a Complaint under anti-discrimination or equal opportunity legislation.

The Insurer's liability under this clause in the Period of Insurance is limited to the sub-limit of indemnity specified in the Policy Schedule.

## 3.5 Tax audits

The Insurer will indemnify the Insured for accounting fees and Legal Fees incurred by the Insurer responding to an audit of the Insured entity commenced, commissioned or ordered by the Australian Taxation Office and notified to the Insurer in the Period of Insurance.

The Insurer's liability under this clause in the Period of Insurance is limited to the sub-limit of indemnity specified in the Policy Schedule.



### 3.6 Legal Fees for commissions

The Insurer will indemnify the Insured for Legal Fees incurred by the Insurer at a commission of inquiry or royal commission where an Insured has been asked to attend and receives notice of required attendance and notifies the Insurer in the Period of Insurance.

The Insurer's liability under this clause in the Period of Insurance is limited to the sub-limit of indemnity specified in the Policy Schedule.

## 4. Who is covered under this Policy

The cover under the Policy is extended to cover the following, subject to all of the definitions, terms, conditions, limit of indemnity, any sub-limit of indemnity, Deductibles, exclusions and endorsements of this Policy, unless specifically expressed to the contrary.

### 4.1 Volunteers, students and committee members

Past, present or future volunteer, student or member of the Insured's ethics or advisory committee. However, this does not extend to cover any act, error or omission whilst they are acting as a Medical Practitioner providing Healthcare.

### 4.2 Principal, partner, director or officer

Past, present or future principal, partner, director or officer. However, this does not extend to cover any act, error or omission whilst they are acting as a Medical Practitioner providing Healthcare.

### 4.3 Employee of the Insured

Past, present or future Employee of the Insured. However, this does not extend to cover any act, error or omission whilst they are acting as a Medical Practitioner providing Healthcare.

### 4.4 Estates, heirs and legal representatives

If any individual entitled to cover under this Policy dies or becomes incompetent, the Insurer will indemnify the estate, heir or legal representatives of that Insured to the same extent that the Insured would have been covered by this Policy.

### 4.5 Spousal liability

If the Spouse of any individual entitled to cover under this Policy is brought into a Claim due to their legal status as Spouse of the Insured, then the Spouse's liability will be deemed to be the Insured's liability.

## 5. Optional cover

The following optional covers are only included if noted in the Policy Schedule.

### 5.1 Reinstatement

In the event of exhaustion of the limit of indemnity specified in the Policy Schedule, the Insurer will reinstate the limit of indemnity once during the Period of Insurance, to the amount specified in the Policy Schedule, for all sums which the Insured becomes legally liable to pay for subsequent Claims and for subsequent Defence Costs that are notified to the Insurer during the Period of Insurance and that are unrelated to any prior Claim notified to the Insurer during the Period of Insurance.

### 5.2 Defence Costs in addition to limit of indemnity

Cover under clause 1.2 is extended to cover Defence Costs in addition to the limit of indemnity in the event of the exhaustion of the limit of indemnity specified in the Policy Schedule by the total amount of compensation and/or claimants' costs required to dispose of the Claim. The Insurer's liability for Defence Costs under this clause shall only be that proportion that the limit of indemnity bears to the Claim and claimants' costs required to dispose of the Claim.

## 6. Public Liability optional cover

Public liability optional cover is only included if noted in the Policy Schedule.

This part of the Policy is Occurrence-based, which means that the Insurer will only cover an Occurrence giving rise to a Public Liability Claim that occurs during the Period of Insurance, whilst notification of the Claim can occur outside the Period of Insurance.

### 6.1 Public Liability

The Insurer will indemnify the Insured for amounts which the Insured becomes legally liable to pay by way of compensation for a Claim made against the Insured in respect of Personal Injury or Property Damage as a result of an Occurrence in the Period of Insurance which is directly in connection with Healthcare Services.

### 6.2 Defence Costs

The Insurer further agrees to indemnify the Insured for Defence Costs incurred by the Insurer in investigating, defending or settling a Public Liability Claim. This is subject to the payment of the deductible which is the first amount that is to be paid towards Defence Costs.

### 6.3 Advertising liability

The Insurer will indemnify the Insured in respect of an Occurrence that occurs during the Period of Insurance and gives rise to a Claim made against the Insured in respect of any Advertising, by or on behalf of the Insured, resulting in:

- a) a breach of the misleading or deceptive conduct provisions of the *Competition and Consumer Act 2010* (Cth) or Schedule 2 to the *Competition and Consumer Act 2010* (the Australian Consumer Law) or any Fair Trading or similar legislations;
- b) the passing off of a title or slogan that results in an infringement of copyright or trade mark; or
- c) unfair competition, piracy or idea misappropriation contrary to an implied contract; and
- d) breaches of privacy legislation or regulations.

The Insurer's liability under this clause for any one Occurrence, or series of related Occurrences shall not be cumulative with any other Claim or Request for Indemnity under this Policy for that Occurrence.

### 6.4 Property in care, custody and control

The Insurer will indemnify the Insured in respect of an Occurrence that occurs during the Period of Insurance and gives rise to a Claim against the Insured as a result of physical loss or damage to:

- a) premises (including the landlord's fixtures and fittings) which are tenanted by the Insured;
- b) premises (including the contents thereof) not owned, leased or rented to the Insured, but temporarily occupied by the Insured;
- c) vehicles not owned or belonging to the Insured whilst in the Insured's car park, unless the car park is operated for reward;
- d) director's, Employees', patients' and visitors' personal effects; and
- e) other property that is not owned by the Insured and that is in the Insured's temporary care, custody and legal control. The Insurer's liability under this clause in the Period of Insurance is limited to the sub-limit of indemnity specified in the Policy Schedule.

**Clause 6.4** is subject to the following:

- a) there is no indemnity granted for liability in respect of damage to any property the Insured has been or is working on; and
- b) there is no indemnity granted for any liability arising from the Insured's failure to effect material damage insurance to the premises, property, contents or goods.

### 6.5 Food, Drink and Advertising supplied in connection with Healthcare Services

The Insurer will indemnify the Insured in respect of an Occurrence that occurs during the Period of Insurance and gives rise to a Claim against the Insured as a result of Personal Injury in relation to the supply of food, drink or Advertising, which are supplied free-of-charge and are directly related to Healthcare Services, provided that the Insured was not aware of the defect in the food, drink or Advertising.

### 6.6 Cross liability

For the purposes of Public Liability cover under this clause 6 only and subject at all times to the terms and conditions of this Policy, where the Insured is comprised of more than one person or entity, each of the parties will be considered as a separate and distinct unit and the cover afforded under clause 6 of this Policy will be considered as applying to each party in the same manner as if a separate Policy had been issued to each. The Insurer's total liability shall not exceed the Public Liability Limit of Indemnity.

### 6.7 Prior Public Liability Occurrences and Claims

Notwithstanding that cover under clause 6 is occurrence based, the Insurer will extend cover under clause 6 to Claims made against the Insured in the Period of Insurance in respect of a Occurrence that occurred outside the Period of Insurance if:

- a) the Insured held Public Liability cover on a claims-made basis with the Insurer at the time of the Occurrence, and
- b) has continuously held Public Liability cover with the Insurer up until notification of the Claim or Request for Indemnity.

## 7. What the Insurer will not cover – Public Liability optional cover

The Insurer is not liable under Public Liability optional cover to indemnify the Insured for any Claim or Request for Indemnity which arises out of, or is in connection with:

### 7.1 Aircraft, hovercraft and watercraft

the loss, destruction or damage to aircraft, hovercraft or watercraft.

### 7.2 Product liability

- a) the manufacture, distribution or sale of goods or products (except as provided by clause 6.5); or
- b) services or advice provided in relation to the research, design, development, manufacture or distribution of such goods or products, or potential goods or products.

### 7.3 Advertising liability

liability under clause 6.3 resulting from:

- a) the failure of performance of any contract, however this exclusion shall not apply to claims for unauthorised appropriation based upon breach of an implied contract; or
- b) infringement of copy mark or trade mark, however this shall not apply to unintentional use of titles or slogans; or
- c) incorrect description of any good or product; or
- d) mistake in advertised price; or
- e) any publication, utterance or testimonial used or made in accordance with the Insured's direction and with the Insured's knowledge of the inaccuracy or falsity of the publication; or
- f) the failure of the Insured's products or services to conform with the performance, quality, fitness or durability advertised.

### 7.4 Faulty workmanship

damage to property as result of improper work performed by the Insured or on the Insured's behalf, or by reason of materials or equipment that are defective or inadequate for such work, and require the property to be repaired, reconditioned or replaced. However, this exclusion does not apply to Property Damage resulting from such work.

### 7.5 Loss of use

the loss of use of tangible property which has not been physically damaged or destroyed, provided such loss of use is caused by a delay in or lack of performance by the Insured.

### 7.6 Professional services

the rendering of professional services or failure to render professional services by the Insured, a Medical Practitioner or any contractor of the Insured.

### 7.7 Property in care, custody or control

any premises, property, contents or goods owned, hired, leased or rented to the Insured or otherwise in the Insured's physical or legal control, except as provided by clause 6.4.

### 7.8 Sexual molestation

any actual or alleged sexual assault, attempted sexual assault, abuse, molestation or attempted molestation, or sexual discrimination, or sexual harassment or inappropriate behaviour of a sexual nature.

### 7.9 Tobacco

the inhalation or ingestion of tobacco or tobacco smoke or products.

### 7.10 Vehicles

the ownership, possession, operation or use by the Insured of vehicles where the vehicle is required by law to be registered or required by law to have compulsory liability insurance in force. However, this exclusion does not apply to:

- a) Personal Injury for which no indemnity is available to the Insured, provided that the Insured complied with all obligations relating to vehicle legislation and obligations to insure; or
- b) Property Damage relating to the loading and unloading of goods from vehicles; or
- c) Property Damage caused by any vehicle which is designed primarily for lowering, lifting, loading or unloading within the confines of the Insured's premises.

### 7.11 Workers' compensation and employment liability

any Personal Injury to any person:

- a) incurred, contracted or occurring whilst under a contract of service or apprenticeship with the Insured; or
- b) for any breach of any obligation owed by the Insured as an employer to any Employee or to any persons deemed to be an employee under any workers' compensation law or scheme and/or similar legislation or arrangement; or
- c) for any claim in respect of which compensation is available under any workers' compensation law or scheme and/or similar legislation or arrangement or would have been available had the Insured complied with the law, scheme and/or similar legislation or arrangement.

This exclusion shall not apply to any Claim arising out of any Personal Injury of an Employee whilst a patient of the Insured, which is caused by any negligent act, error or omission of the Insured, not involving the provision of medical treatment by a Healthcare professional.

## 8. What the Insurer will not cover – entire Policy

The Insurer is not liable under this entire Policy to indemnify the Insured for any Claim or Request for Indemnity which arises out of, or is in connection with:

### 8.1 Asbestos

any actual or alleged liability whatsoever for any Claim or Claims in respect of loss or losses directly or indirectly arising out of, resulting from, or in consequence of, or in any way involving asbestos, or any materials containing asbestos in whatever form or quantity. However this exclusion shall not apply to a Claim arising from the treatment of a person or persons as a result of an illness or condition in any way involving asbestos.

### 8.2 Contractual liability

any liability that the Insured assumed by contract, waiver, guarantee or warranty, except as provided by clause 2.12.

### 8.3 Defamation

defamation, libel or slander, except as provided by clause 2.4.

### 8.4 Dishonest, criminal or fraudulent act

any criminal, dishonest act or omission, or deliberate or wilful breach of any statute, regulation, contract or duty of care of the Insured.

### 8.5 Director and officer liability

the Insured's actions in their capacity or in respect of their functions or duties as a director, officer, principal, trustee, associate or shareholder.

### 8.6 Fines, penalties or punitive damages

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

### 8.7 Healthcare Services not listed in Policy Schedule

any act, error, or omission or Occurrence not directly in connection with the provision of Healthcare Services.

### 8.8 Intoxication or under the influence

any breach of duty or obligation that is attributable to, or may be attributable to an Insured Person being under the influence of any drug, alcohol, intoxicant, narcotic or illegal substance.

### 8.9 Insured vs Insured

a Claim, proceeding or matter initiated by a contractor, Insured or any entity that is operated or controlled by an Insured, except:

- a) as provided by clause 3.4 or clause 6.6; or
- b) for a cross claim or a third party claim otherwise insured under this Policy; or
- c) for a Claim by a contractor or Insured Person in their capacity as a patient.

### 8.10 Outside Commonwealth of Australia

any act, error or omission committed or allegedly committed outside the Commonwealth of Australia; or any court or tribunal proceedings outside the Commonwealth of Australia, or any court or tribunal in Australia which is applying the law of a country other than the law of the Commonwealth of Australia.

### 8.11 Pollution

pollution, however this exclusion does not apply to an identifiable unintended or unexpected pollution Occurrence which takes place in its entirety at a specific time and place.

### 8.12 Prior, pending or outside Period of Insurance

any:

- a) act, error or omission that occurred, or Healthcare Services provided prior to the Retroactive Date which resulted in a Medical Indemnity Claim; or
- b) Occurrence which happened prior to the Retroactive Date, except as provided by clause 6; or
- c) act, error, omission or Occurrence which should have been notified to the Insurer in the application form or otherwise in accordance with the duty of disclosure; or
- d) Claim, Complaint or Request for Indemnity notified to the Insurer outside the Period of Insurance, except as provided by clause 2.16 and clause 6; or
- e) known Circumstance except as provided by clause 2.7.

### 8.13 Product and public liability and Property Damage

- a) the design, manufacture, distribution or sale of any goods or products (except as provided by clause 2.13); or
- b) any physical loss of, or damage to property, or any loss or damage which results from that loss or damage (except as provided by clause 6); or
- c) 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 the Insured or the contents of such premises (except as provided by clause 6)

### 8.14 Sexual misconduct, sexual harassment or discriminatory conduct

sexual harassment, sexual misconduct or any form of discriminatory conduct.

### 8.15 Radioactive materials

the:

- a) use of nuclear reactors such as atomic piles, particle accelerators or generators, or similar devices; or
- b) use, handling or transportation of radioactive materials; or
- c) use, handling or transportation of any weapon of war or explosive device employing nuclear fission or fusion.

However this exclusion shall not apply to a Claim arising from the treatment of a person or persons in the ordinary course of radiotherapy, radiology or nuclear medicine.

### 8.16 Recovery of money or refund patient fees

any action in relation to the recovery of money (except as provided by clause 3.4) or a request by a patient to refund fees they have paid to the Insured or to waive fees due to the Insured.

### 8.17 Terrorism

any act of terrorism, regardless of any other cause contributing concurrently or in any other sequence to the loss, damage or expense. For the purpose of this exclusion, an act of terrorism includes any act, or preparation in respect of action, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons, whether acting alone or on behalf of, or in connection with any organisation(s) or government(s) de jure or de facto.

The Policy also excludes death, injury, illness, loss, damage, cost or expense directly or indirectly caused by, contributed to by, resulting from, or arising out of, or in connection with any action in controlling, preventing, suppressing, retaliating against, or responding to any act of terrorism.

However this exclusion shall not apply to a Claim arising from the treatment of a person or persons as a result of any act of terrorism as defined above.

### 8.18 War

any of the following:

- a) war, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not), civil war; or
- b) mutiny, civil commotion assuming the proportions of, or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power.

However this exclusion shall not apply to a Claim arising from the treatment of a person or persons as a result of any act of war as defined above.

## 9. Conduct of Claims and Requests for Indemnity

### 9.1 No admission

The Insured must not make, and ensure that any Insured Person does not make, any admission, offer or compromise in relation to any Claim or Request for Indemnity covered by this Policy without the Insurer's prior written consent.

### 9.2 The Insured must notify the Insurer

The Insured must notify the Insurer in writing as soon as practicable of any Claim or Incident including but not limited to, an Incident in respect of which:

- a) a patient suffers a major complication; or
- b) there is an error made in providing Healthcare Services causing harm; or
- c) an adverse outcome results in significant anger from a patient or their family; or
- d) the Insured receives a letter from a solicitor indicating dissatisfaction or requesting a patient record; or
- e) the Insured is concerned that an Incident has occurred which the Insured thinks may lead to a Claim or Request for Indemnity.

If the Insured does not notify the Insurer of a Claim or Incident as soon as practicable, the Insured may not be covered under this Policy and the Insured's right to indemnity may be prejudiced.

To report a Claim or Incident, the Insured must notify the Insurer in writing to:

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

The notification must include the Insured's details, the details of the Claim or Incident, including the date of the Incident, the patient's name and the details of any Claim or Incident.

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

The Insured must notify the Insurer in writing as soon as practicable of any civil or criminal action, prosecution, inquiry, inquest, investigation or Complaint, judgement, appeal or tax audit brought or made by a registration board, tribunal, complaints unit, criminal court, civil court, coronial court, Medicare Australia or the Australian Taxation Office, directly relating to an Insured Person's practice as a Healthcare professional.

If the Insured does not notify the Insurer of the matters set out in clause 9.3 above as soon as practicable, the Insured may not be covered under the Policy and Insured's right to indemnity may be prejudiced.

### 9.4 Conduct of Claims and Requests for Indemnity

- 9.4.1 The Insured agrees that the Insurer has conduct of a Claim or Request for Indemnity covered under this Policy including its investigation, pursuit, defence, avoidance, reduction or settlement and the Insurer may do so in the Insured's name.
- 9.4.2 The Insurer may defend or settle a Claim Complaint or matter as the Insurer deems fit.
- 9.4.3 The Insured may defend any Claim or Request for Indemnity which the Insurer believes should be settled, but the Insurer will not pay any more in relation to that Claim or Request for Indemnity than the Insurer would have been required to pay if it had been settled or resolved as the Insurer believed it could or should have been.

### 9.5 The Insurer will appoint the Lawyer or Other Person

- 9.5.1 The Insurer will appoint the Lawyer or Other Person to provide services to the Insurer for the benefit of the Insured. When the Insurer appoints the Lawyer or Other Person, the Insurer does so in the Insurer's own capacity and not as an agent for the Insured.
- 9.5.2 The Lawyer or Other Person appointed by the Insurer supplies services to the Insurer and not to the Insured for the purposes of the Goods and Services Tax (GST). The Insurer is entitled to claim a GST input tax credit on services supplied by the Lawyer or the Other Person.

### 9.6 The Insured must cooperate

- 9.6.1 The Insured must cooperate with the Insurer and the Lawyer in resolving the Claim or Request for Indemnity in a satisfactory, timely and cost-effective way. In particular, the Insured must:
  - a) give the Insurer and the Lawyer a full and truthful account of the relevant facts;
  - b) give the Insurer and the Lawyer any relevant information or documents in the Insured's possession that are requested;
  - c) execute any documents the Insurer or the Lawyer reasonably asks the Insured to execute; and
  - d) attend any meetings the Insurer or the Lawyer reasonably asks the Insured to attend.

- 9.6.2 The Insured agrees at the Insured's expense to give the Insurer and the Lawyer all information, documents and assistance reasonably required and cooperate fully with the Insurer and the Lawyer.

- 9.6.3 The Insured agrees 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 the Insurer. The Lawyer will keep the Insurer properly informed on all relevant matters.

### 9.7 The Insured must be reasonable in relation to settlement

Notwithstanding clause 9.4.2 the Insured must not act unreasonably in rejecting a settlement, compromise or an offer of settlement, which the Insurer or the Lawyer recommend to the Insured.

### 9.8 Appeals

- 9.8.1 If the Insured is dissatisfied with any decision by a court or other decision-making body and the Insured seeks to appeal against that decision, then the Insured must request the Insurer's consent prior to the appeal within 14 days after the date of the decision, or such earlier period having regard to the time for any appeal.
- 9.8.2 The application must be in writing and must fully set out the reasons for bringing an appeal. The Insurer will inform the Insured in writing if the Insurer consents to the appeal.
- 9.8.3 If the Insurer does not consent to the bringing of an appeal, the Insured may conduct the appeal at the Insured's own expense.
- 9.8.4 If the Insurer decides to appeal against any decision made in respect of a Claim or Request for Indemnity, then the Insured must reasonably cooperate with the Insurer in bringing such an appeal.

### 9.9 Claims acceptance

The acceptance of a Claim or Request for Indemnity by the Insurer under this Policy can be subsequently withdrawn if facts come to the Insurer's attention that trigger or satisfy Policy exclusion, or the Policy does not cover the Claim or Request for Indemnity.

## 10. Conditions

These conditions apply to the Policy, unless otherwise stated in these conditions.

### 10.1 Loss prevention

The Insured must not do, and ensure that any Insured Person does not do anything recklessly or wilfully that might give rise to a Claim or Request for Indemnity. The Insured must take all reasonable care to avoid or reduce the chance of any Claim or Request for Indemnity. The Insured must not do, or fail to do anything which the Insured knows or should reasonably be expected to know will result in any Claim or Request for Indemnity.

### 10.2 Subrogation and other insurance

10.2.1 If the Insurer makes a payment or incurs legal costs and expenses under this Policy, the Insurer will be subrogated to all the Insured's rights of contribution, indemnity or recovery without the need for consent of the Insured. The Insured agrees not to surrender any right to, or settle any claim for, contribution, indemnity or recovery without the Insurer's prior written consent.

10.2.2 The Insured must notify the Insurer in writing when making a Claim or a Request for Indemnity if the Insured has any other insurance policies or entitlement to indemnity which may also cover the Insured in respect of anything covered by this Policy.

10.2.3 To the extent allowed by law, the Insurer will not pay under this Policy any part of a liability to which the Insured is entitled to be indemnified under another policy of insurance.

### 10.3 Fraud

The Insurer may reject any fraudulent Claim or Request for Indemnity, or any part of a Claim or Request for Indemnity that is fraudulent or is supported by fraudulent, untrue or exaggerated evidence. The Insurer may also recover from the Insured any payments that have been made by the Insurer to a third party based on the Insured's fraudulent, untrue or exaggerated Claim or Request for Indemnity.

### 10.4 Requirements for Insured Persons and contractors

10.4.1 The Insured must ensure in the Period of Insurance, that each Insured Person:

- a) holds the requisite qualifications, registration, authorisations and licences; and
- b) in the event they are a Medical Practitioner, holds current professional indemnity insurance covering the types of Healthcare they provide.

10.4.2 The Insured must ensure at all times during the Period of Insurance that any person contracted or engaged by the Insured who is a Medical Practitioner or a Healthcare professional:

- a) holds the requisite qualifications, registration, authorisations and licences; and
- b) holds current professional indemnity insurance covering the types of Healthcare they provide.

10.4.3 The Insured must maintain accurate records and obtain copies of such qualifications, registrations, authorisations, licences and insurances mentioned in clause 10.4.1 and clause 10.4.2 above in the Period of Insurance, and retain these records and copies for at least seven years from the expiry date of this Policy.

### 10.5 Material change in risk

10.5.1 The Insured must notify the Insurer in writing within 30 days after the Insured becomes aware of any change that materially varies a matter relevant to the risk or alters the risk covered by this Policy.

10.5.2 Failure to notify the Insurer of any material change in risk within 30 days may mean that the Insurer is not liable under this Policy to indemnify the Insured for a Claim. This notification includes, but is not limited to, the following matters:

- a) any merger between the Insured and another company or business, any acquisition by the Insured of another company or business, or if the Insured is acquired by another company or business;
- b) the establishment by the Insured of a subsidiary company (notwithstanding clause 2.20) or another branch office;
- c) addition of a new premises, or the extension or expansion of the business premises;
- d) the bankruptcy, administration, receivership, liquidation, appointment of a receiver or bankruptcy or winding-up proceedings that relate to the Insured;
- e) any material change in the nature of the business or of the Healthcare Services provided by the Insured;
- f) an increase by more than 10% of those declared in the proposal in relation to the number of:
  - i) beds operated by the Insured;
  - ii) Insured Persons;
  - iii) contractors engaged by the Insured; or
  - iv) Medical Practitioners engaged by the Insured
- g) the cancellation or modification of, or failure to maintain, accreditation or a licence of any hospital, clinic or other establishment forming part of, or operated by the Insured.



10.5.3 Failure to notify the Insurer of the matters in clause 10.5.2 may mean that the Insurer is not liable under this Policy to indemnify the Insured for a Claim or Request for Indemnity.

10.5.4 The Insurer is entitled to amend the terms of this Policy and/or charge an additional premium, if a material change in risk occurs.

## 10.6 Severability and non-imputation

Where this Policy insures more than one party:

- a) any non-disclosure or misrepresentation (whether fraudulent or otherwise) by one party (collectively a 'failure') will not affect any other party insured under this Policy provided that:
  - i) the failure was not made with any involvement or knowledge of the second mentioned party; and
  - ii) as soon as practicable after the second mentioned party becomes aware of any such failure, the second mentioned party advises the Insurer in writing in the Period of Insurance of all the relevant circumstances of the failure; and
- b) this Policy operates, except in relation to limits, in the same manner as if there were a separate Policy of insurance covering each party.

## 10.7 Payment of Deductible

The following conditions apply to the payment of the Deductible set out in the Policy Schedule or in a clause in this Policy:

- a) The Insured shall bear the amount of the Deductible at the Insured's own risk;
- b) Where the Insurer has paid all or part of any Deductible on the Insured's behalf, the Insured must reimburse the Insurer all or any part of the Deductible the Insured owes the Insurer within 14 days from the date the Insurer requested payment from the Insured;
- c) In the event that the Insured fails to reimburse the Insurer in response to a request under clause 10.7(b) the sum requested shall, at the expiration of 14 days after the request, become a debt due and payable to the Insurer; and
- d) In the event that the Insured fails to reimburse the Insurer in response to a request under clause 10.7(b), and if such failure leads to an increase in costs or liability, the Insurer's liability under the Policy shall not exceed the amount for which the Claim or matter could have been settled up to the date of the Insured's failure or refusal to reimburse all or part of the Deductible.

## 10.8 Payment of premium

The Insured will not be covered by this Policy if the Insured does not pay the premium for this Policy or for any earlier policy in full. It is a condition of this Policy that the Insured pay the current premium and any premium that remains outstanding from any prior policy.

## 10.9 Cancellation

10.9.1 The Insured may cancel this Policy at any time by notice in writing in which case the Insurer will refund the premium on a pro rata basis, less an administration charge of \$250. If the Insured has notified a Claim or Incident in the Period of Insurance there will be no pro rata refund.

10.9.2 The Insurer may cancel this Policy by giving the Insured 14 days' notice in writing:

- a) if the Insured has not paid the premium within 30 business days of the Period of Insurance commencing in full; or
- b) if the Insured is in breach of any of the conditions of this Policy; or
- c) for any other reason available to the Insurer under the *Insurance Contracts Act 1984* (Cth).

10.9.3 If the Insurer gives notice to cancel the Policy then the Insurer must give that notice to the Insured personally, or send it to the Insured by certified mail at the last address of which the Insured notified the Insurer. Unless the Insured proves otherwise, the Insured will be deemed to have received the notice when it would have arrived in the ordinary course of the post.

## 10.10 Medical records

The Insured must ensure that adequate standards of medical record keeping take place and that such records are kept safe and retained for the statutory periods required for such records.

## 10.11 Governing law

10.11.1 Any interpretation of this Policy relating to its construction, validity or operation shall be made in accordance with the laws of the Australian state or territory in which it is issued. The parties to this Policy will submit to the exclusive jurisdiction of the courts of that state or territory in which the Policy is issued.

10.11.2 A reference to a statute, regulation, code or other law, or a provision of any of them, or a professional body or organisation includes any amendment or replacement of it and/or another regulation or other statutory instrument made under it, or made under it as amended or replaced.

## 10.12 Currency

All premiums, limits, Deductibles and other amounts under this Policy are expressed and payable in Australian currency.

## 10.13 GST

The premium is exclusive of GST. The GST component will be reflected in the Policy Schedule. The limit of indemnity, Public Liability Limit of Indemnity and sub-limit of indemnity are GST exclusive.



## 11. Definitions

### 11.1 Advertising

Advertising includes advertisements, publicity articles, promotional material, broadcasts or telecasts relating to advertising activities, which are directly related to Healthcare Services.

### 11.2 Claim

A demand for, or an assertion of a right to compensation or damages, or an intimation of an intention to seek compensation or damages which:

- a) is first made against the Insured in the Period of Insurance; and
- b) notified to the Insurer in writing in the Period of Insurance.

### 11.3 Complaint

An allegation of unlawful or actionable conduct, misconduct, unsatisfactory conduct or inappropriate practice.

### 11.4 Deductible

The Deductible is the amount set out in the Policy Schedule, which is the amount the Insured must bear at their own risk in respect of any relevant Claim or Request for Indemnity under the Policy.

### 11.5 Defence Costs

Legal costs and disbursements that the Insurer incurs or the Insured incurs with the Insurer's prior written consent in defending a Claim that is covered by this Policy.

Legal costs and disbursements that the Insurer incurs or the Insured incurs with the Insurer's prior written consent in defending a proceeding under clause 2.14 and clause 2.22.

### 11.6 Documents

A document of any nature whether written, printed or reproduced by any method including computer records or electronic data in the possession of, or control of the Insured, but does not include money or negotiable instruments.

### 11.7 Employee

A person who is employed under a contract of service by the entity named in the Policy Schedule.

### 11.8 Healthcare

Any treatment, advice, service or goods provided by, or on behalf of the Insured, in connection with Healthcare Services in respect of the physical or mental health of a patient under the Insured's care.

### 11.9 Healthcare Services

The provision of Healthcare Services by, or on behalf of the Insured as described in the Policy Schedule. For clarification, it does not include any other Healthcare Services that are not listed in the Policy Schedule.

### 11.10 Incident

Any act, error or omission, or circumstance in relation to the provision of Healthcare Services that may give rise to a Claim or Request for Indemnity under this Policy.

### 11.11 Insured

means:

- a) the legal entity named in the Policy Schedule; and
- b) any subsidiary of the legal entity including as provided by clause 2.20; and
- c) any Insured Person.

### 11.12 Insured Person

The individuals in clause 4.1, clause 4.2, clause 4.3, clause 4.4 and clause 4.5 to the extent that they are not engaged in the provision of services relating to Healthcare in their capacity as a Medical Practitioner.

### 11.13 Insurer

Avant Insurance Limited ABN 82 003 707 471 and AFS Licence 238 765.

### 11.14 Known Circumstance

Any fact, situation or circumstance which might result in someone making a Claim or allegation against the Insured in respect of a liability, which might be covered by this Policy and either:

- a) the Insured knew of such a fact, situation or circumstance before this Policy commenced; or
- b) a reasonable person in the Insured's position before this Policy commenced would have considered that such a fact, situation or circumstance might result in such a Claim or allegation.

### 11.15 Lawyer

The legal practitioner or Other Person engaged by the Insurer to provide services to the Insurer.

### 11.16 Legal Fees

The necessary and reasonable legal costs that the Insurer incurs investigating, defending or resolving any legal proceedings or Complaint made against the Insured and covered by this Policy.

### 11.17 Medical Indemnity Claim

Means a Claim under clauses 1 to 5 of this Policy, excluding a Public Liability Claim.

### 11.18 Medical Practitioner

An individual registered or licensed as a Medical Practitioner in accordance with the laws of the Commonwealth; or state or territory laws of Australia that provide for the registration or licensing of Medical Practitioners.

### 11.19 Occurrence

An event, or series of events, which results in Personal Injury or Property Damage which was unexpected and unintended by the Insured. Events which arise from, or are attributable to, a single event, including continuous or repeated exposure, or related single events will be treated under this Policy as one Occurrence.

### 11.20 Other Person

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 the Insurer in any matter covered by this Policy.

### 11.21 Period of Insurance

Means the Period of Insurance specified in the Policy Schedule.

### 11.22 Personal Injury

Bodily injury, death, illness, disability, shock, fright, mental anguish or mental injury of any person; also includes:

- a) false arrest, wrongful detention, false imprisonment, wrongful eviction or malicious prosecution; and
- b) assault and battery not committed by, or at the Insured's direction unless reasonably committed for the purpose of preventing or eliminating danger to persons or property.

### 11.23 Policy

This Practice Medical Indemnity Policy and any documents that form part of it.

### 11.24 Policy Schedule

The current Policy Schedule to the Policy.

### 11.25 Property Damage

Physical damage, loss, use or destruction to tangible property, including any resulting loss from that property, provided it resulted from an Occurrence.

### 11.26 Public Liability Claim

Means a Claim under clause 6 of this Policy.

### 11.27 Public Liability Limit of Indemnity

Means the amount specified in the Policy Schedule for Public Liability optional cover.

### 11.28 Public Relations Event

An event which in the Insurer's opinion has the potential to seriously damage the reputation of the Insured, which occurs in connection with the provision of Healthcare Services.

### 11.29 Request for Indemnity

Any request by the Insured for indemnity under this Policy, in relation to a matter or Claim that is covered under this Policy, including a request for Legal Fees cover or cover under the optional covers.

### 11.30 Retroactive Date

The Retroactive Date specified in the Policy Schedule. The Retroactive Date is the date on, or after which an Incident must have occurred to constitute a valid Claim under clauses 1 to 5 of this Policy.

### 11.31 Spouse

Lawful spouse, any person deriving status of spouse (under common law or statute law) or domestic partner (including same sex partner).

### 11.32 Telehealth

Healthcare Services to, or in respect of a patient who is not in the same place, that use any form of technology, to enable them to be provided, including video-conferencing, internet and telephone.



# Contact us

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## Australian Capital Territory office

Suite 418, Level 4, 15 Moore Street  
Canberra ACT 2601  
**Telephone** 02 6169 4106  
**Fax** 03 8673 5015

## New South Wales office

Level 6, Darling Park 3, 201 Sussex Street  
Sydney NSW 2000  
PO Box 746, Queen Victoria Building NSW 1230  
**Telephone** 02 9260 9000 **Fax** 02 9261 2921

## Queensland office

Level 18, 345 Queen Street  
Brisbane QLD 4000  
GPO Box 5252, Brisbane QLD 4001  
**Telephone** 07 3309 6800 **Fax** 07 3309 6850

## South Australia office

Level 1, 195 Melbourne Street  
North Adelaide SA 5006  
PO Box 1263, Adelaide SA 5001  
**Telephone** 08 7071 9800 **Fax** 08 7071 5250

## Tasmania office

Suite 4, 147 Davey Street  
Hobart TAS 7000  
PO Box 895, Hobart TAS 7001  
**Telephone** 03 6223 5400 **Fax** 1800 228 268

## Victoria office

Level 36, Melbourne Central Tower, 360 Elizabeth Street  
Melbourne VIC 3000  
GPO Box 1606, Melbourne VIC 3001  
**Telephone** 03 9026 5900 **Fax** 03 8673 5015

## Western Australia office

Level 1, 91 Havelock Street  
West Perth WA 6005  
PO Box 950, West Perth WA 6872  
**Telephone** 08 6189 5700 **Fax** 08 6189 5713



**1800 128 268**



**avant.org.au**

**Avant Insurance Limited** ABN 82 003 707 471 AFSL 238 765  
A subsidiary of Avant Mutual Group Limited ABN 58 123 154 898

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