



# Professional Indemnity Insurance Policy

Issued to Eligible Emergency Resource  
Providers by VMIA

For the period 1 July 2021  
to 30 June 2022



# Contents

Insuring Clauses.....3

Definitions .....4

Extensions .....5

Exclusions .....6

Conditions.....8

Privacy Statement.....9

© State of Victoria 2021



You are free to re-use this work under a Creative Commons Attribution 4.0 licence, provided you credit the State of Victoria (Victorian Managed Insurance Authority) as the author, indicate if changes were made and comply with the other licence terms. The licence does not apply to any branding, including Government logos.

**VMIA is the Victorian  
Government's insurer  
and risk adviser**

Level 10 South,  
161 Collins Street  
Melbourne VIC 3000

P (03) 9270 6900  
F (03) 9270 6949  
contact@vmia.vic.gov.au

[vmia.vic.gov.au](http://vmia.vic.gov.au)

© Victorian Managed  
Insurance Authority



Victorian Managed Insurance Authority (VMIA) acknowledges the Traditional Custodians of the land on which we do business and we pay our respects to Elders past, present and emerging. We acknowledge the important contribution that Aboriginal and Torres Strait Islander peoples make in creating a thriving Victoria.

## Insuring Clauses

VMIA hereby agrees subject to the limitations, terms, conditions and exclusions hereinafter mentioned or endorsed hereon:

1. To indemnify the **Insured** against any claim or claims which may be made against the **Insured** and which are notified to VMIA during the Period of Insurance specified in the Schedule
  - a. for breach of professional duty by reason of any act, error or omission committed or alleged to have been committed after the **Retroactive Date** and during a **Supply Period** in the performance by the **Insured** of services requested by or on behalf of a **Control Agency** for the purpose of responding to an **Eligible Emergency**; and
  - b. for financial loss caused directly by conduct of the **Insured** (being conduct which is neither deliberate nor fraudulent) happening after the **Retroactive Date** and during a **Supply Period** in the performance by the **Insured** of services requested by or on behalf of a **Control Agency** for the purpose of responding to an **Eligible Emergency** which conduct is misleading or deceptive, contrary to Sections 52 and/or 53 of the Trade Practices Act of the Commonwealth of Australia or the equivalent Sections of the Fair Trading Act enacted by the States and Territories of Australia, except in respect of any part of any such claim or claims made pursuant to the penal or criminal provisions of those Acts.
2. To pay the costs and expenses incurred with the written consent of VMIA in the defence or settlement of any such claim.

## Definitions

Wherever used in this Policy, the following terms shall be deemed to have the meanings ascribed to them below:

### **Control Agency:**

means an organisation which:

- a. is listed in Table 9 "Response control agencies" of the State Emergency Management Plan, and
- b. pays a premium to VMIA for the EmRePSS.

**Eligible Emergency** means an emergency of a kind referred to in Table 9 "Response control agencies" of the State Emergency Management Plan, the response to which is handled by a **Control Agency**, and which emergency is due to the actual or imminent happening of an **Occurrence** or the manifestation of circumstances which harms or endangers, or threatens to harm or endanger, the safety or health of persons in Victoria or which destroys or damages, or threatens to destroy or damage, property in Victoria or an element of the Victorian environment. For the purpose of this insurance **Eligible Emergency** includes subsequent urgent post event activities where insurance cover is not otherwise available.

**Eligible Emergency Resource Provider** means:

- a. the Commonwealth of Australia and any State of the Commonwealth of Australia other than the State of Victoria, including any agency or instrumentality thereof having an emergency response function; or
- b. a company or person who supplies, for the purposes of responding to an **Eligible Emergency**, professional services but does not include:
  - I. a company which or person who, prior to the happening of an **Eligible Emergency**, is under an obligation (whether contractual or statutory) to supply or make available for reward labour, professional services, or **Equipment** for use in connection with or the purposes of, inter alia, an **Eligible Emergency**; or
  - II. a volunteer emergency worker as defined in s.4 of the Emergency Management Act 1986.

**Equipment** means plant, (including scaffolding, temporary structures and portable buildings), machinery and **Equipment**.

**Insured** means an **Eligible Emergency Resource Provider** and its directors, officers and employees.

**Personal Injury** means

- a. bodily injury, death, sickness, disease, disability, shock, fright, mental anguish and/or mental injury including loss of services resulting therefrom and
- b. false arrest, false imprisonment, wrongful detention, malicious prosecution or humiliation.

**Property Damage** means:

- a. physical loss or destruction of or damage to tangible property including the loss of use thereof at any time resulting therefrom; and
- b. loss of use of tangible property which has not been physically lost, destroyed or damaged.

**Retroactive Date** means the retroactive date stated in the Schedule

**Supply Period** means in relation to each **Insured** the period during which that **Insured** supplies or makes available, pursuant to a request by or on behalf of a **Control Agency**, labour, professional services or **Equipment** which is or are under the control and direction of a **Control Agency** for the purposes of responding to an **Eligible Emergency**. The **Supply Period** begins when the **Insured** supplies or makes available the labour, professional services or **Equipment** and ends when the personnel providing the labour, services and/or the **Equipment** return to the **Insured**'s usual place of business or cease to be under the control and direction of a **Control Agency**, whichever is the earlier.

## Extensions

### 1. Automatic Reinstatement

If the word **Granted** appears adjacent to the phrase **Automatic Reinstatement** in the Schedule:

Upon notification to VMIA during the Period of Insurance of any claim made against the **Insured** or of circumstances which are likely to give rise to a claim, this Policy shall be deemed to be reinstated for such amount, if any, as may be ultimately paid by VMIA in respect of such claim, so as to remain in force during the Period of Insurance for the Limit of Indemnity stated in the Schedule; provided always that the aggregate of the amounts so reinstated shall not exceed an amount equal to such original Limit of Indemnity.

### 2. Property Damage

If a Limit of Indemnity is specified in the Schedule for this Extension, then, notwithstanding Exclusion 1(a), the Policy applies and provides indemnity in respect of any claim for **Property Damage** caused by breach of professional duty in the Profession(s) stated in the Schedule. The terms, conditions and exclusions of the Policy otherwise apply.

### 3. Personal Injury

If a Limit of Indemnity is specified in the Schedule for this Extension, then, notwithstanding Exclusion 1(a), but subject always to the limitations of Exclusion 7, the Policy applies and provides indemnity in respect of any claim for **Personal Injury** caused by breach of professional duty in the Profession(s) stated in the Schedule. The terms, conditions and exclusions of the Policy otherwise apply.

## Exclusions

1. This policy does not apply to and does not provide indemnity in respect of:
  - a. any claim for **Personal Injury** or **Property Damage**, save to the extent that indemnity may be provided by Extension 1 or 2;
  - b. any claim brought about or contributed to by loss or damage to documents, save to the extent that indemnity may be provided by Extension 1;
  - c. subject to the insuring clause 1(b) of the Policy, any liability which the **Insured** may incur pursuant to any provision of the Commonwealth Trade Practices Act 1974 (Commonwealth) or any Fair Trading Act enacted by a State or Territory of the Commonwealth of Australia.

This exclusion does not apply to a liability which would have attached to the **Insured** pursuant to the Law of Tort in the absence of such statutory liability;
  - d. any legal liability of whatsoever nature imposed upon the **Insured** pursuant to the Law of Contract unless legal liability would also have been imposed upon the **Insured** pursuant to the Law of Tort;
  - e. any legal liability of whatsoever nature directly or indirectly arising:
    - I. out of any act, error or omission committed or alleged to have been committed within the territorial limits of the United States of America, its Territories or Protectorates, or Canada, or
    - II. in accordance with and pursuant to the laws of the United States of America, or Canada;
  - f. any claim brought against the **Insured** in a court of law outside the Commonwealth of Australia, Papua New Guinea or New Zealand; nor in respect of any action brought in a court of law within the Commonwealth of Australia, Papua New Guinea or New Zealand to enforce a judgement obtained in a court other than a court of the Commonwealth of Australia, Papua New Guinea or New Zealand;
  - g. any claim for which the **Insured** is or would be entitled to any indemnity under any other Insurance required by law to be in effect or any other Insurance, Statutory Fund or Fidelity Fund of any description;
  - h. fines, penalties, punitive damages or exemplary damages.
  - i. any claim arising out of conduct of the **Insured** which is dishonest or fraudulent.
2. This Policy shall not indemnify the **Insured** in respect of:
  - a. any claim made against the **Insured** prior to the commencement of the Period of Insurance stated in the Schedule, or
  - b. in respect of any claim or circumstances notified under any previous policy, or
  - c. any claim or circumstances which may give rise to a claim which was known to the **Insured** at the inception date of this Policy.
3. If any claim under this Policy shall be in any respect fraudulent or if any fraudulent means or devices are used by the **Insured** or anyone acting on the **Insureds** behalf to obtain any benefit under this Policy, all benefit hereunder shall be forfeited.
4. This Policy does not cover loss, damage or liability directly or indirectly occasioned by, or
  - a. happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power to confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.
  - b.
    - I. caused by or arising from or in consequence of or contributed to by nuclear weapons materials, or

II. arising from or in consequence of or contributed to by ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. Combustion shall include any self-sustaining process of nuclear fission.

5. This policy does not apply to, and does not provide indemnity, in respect of legal liability of the **Insured** or of any Professional Person for **Personal Injury**, loss or damage caused by error, omission or breach of professional duty in the provision of Health Care Services, to a patient or client of a Professional Person.

**Professional Person** means any person appointed, engaged or employed by the **Insured** to provide Health Care Services and for whose conduct the **Insured** is liable at law.

**Health Care Services** means the provision of surgical, medical, radiological, anaesthetic, paramedical or nursing services rendered to patients, including the provision of diagnostic and therapeutic procedures.

## Conditions

1. The liability of VMIA hereunder shall not exceed in the aggregate for all claims under this Policy (including any Extension hereto) the Limit of Indemnity stated in the Schedule. The **Insured** shall be liable for the Deductible stated in the Schedule in respect of each Claim.
2. The **Insured** shall not admit liability for or settle any claim or incur any costs or expenses in connection therewith without the written consent of VMIA which shall be entitled to take over conduct, in the name of the **Insured**, of the defence or settlement of any claim.  
  
VMIA may, if it believes that a claim will not exceed the Deductible stated in the Schedule, instruct the **Insured** to conduct the defence of such claim. In such circumstances VMIA will, subject to the terms of this Policy, reimburse the **Insured** for all reasonable defence costs in the event that any payment properly made by way of damages to dispose of the claim exceeds such Deductible.
3. The **Insured** shall as a condition precedent to their right to be indemnified under this Policy give to VMIA immediate notice in writing of any claim made against the **Insured** whether such claim be oral or in writing and shall, upon request, give to VMIA such information as VMIA shall be entitled to claim indemnity or contribution at any time in the name of the **Insured** from any party against whom the **Insured** may have.
4. If during the currency of this Policy the **Insured** shall become aware of any circumstances which may subsequently give rise to a claim against them for breach of professional duty as specified in the Schedule by reason of any act, error or omission and shall during the subsistence hereof give written notice to VMIA of such occurrence, then any such claim which may subsequently be made against the **Insured** arising out of the act, error or omission shall for the purposes of this Policy be deemed to have been made during the subsistence hereof.
5. In the event that this Policy is terminated or not renewed, the coverage granted by this Policy shall be extended for 6 years from the date of its termination or expiration but only in respect of claims arising from circumstances occurring subsequent to the **Retroactive Date**, during a **Supply Period** and prior to the said date of termination or expiration.
6. All notifications to VMIA including notification of claims or circumstances, shall be given to VMIA at the address of VMIA shown in the Schedule.

# Privacy Statement

We are committed to protecting any personal information we collect, handle, store or disclose about you through our services. We will manage all personal information in accordance with the *Victorian Managed Insurance Authority Act 1996 (Act)*, the *Privacy and Data Protection Act 2014* and the *Health Records Act 2001*.

## Collection and use of Personal Information

Personal information means information or an opinion that is recorded in any form, and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

We collect and record personal information through our client data collection processes which include our website, online forms and surveys. Some examples of when we may collect your personal information are when you:

- send us an email;
- use our online services, such as completing a form or survey electronically;
- register to attend training and events; and
- access our secure client portal on our website.

Personal information we collect can only be used for the purpose of performing functions under our Act and in accordance with all applicable laws and regulations.

## Access and Correction

Please contact our Information Privacy Officer at [privacy@vmia.vic.gov.au](mailto:privacy@vmia.vic.gov.au) if you:

- want to access personal information (if any) that we hold about you;
- want to know more about what sort of information we hold, for what purposes and how we deal with that information;
- believe that personal information that we hold about you is not accurate, complete and up to date; or
- have concerns about your privacy rights.