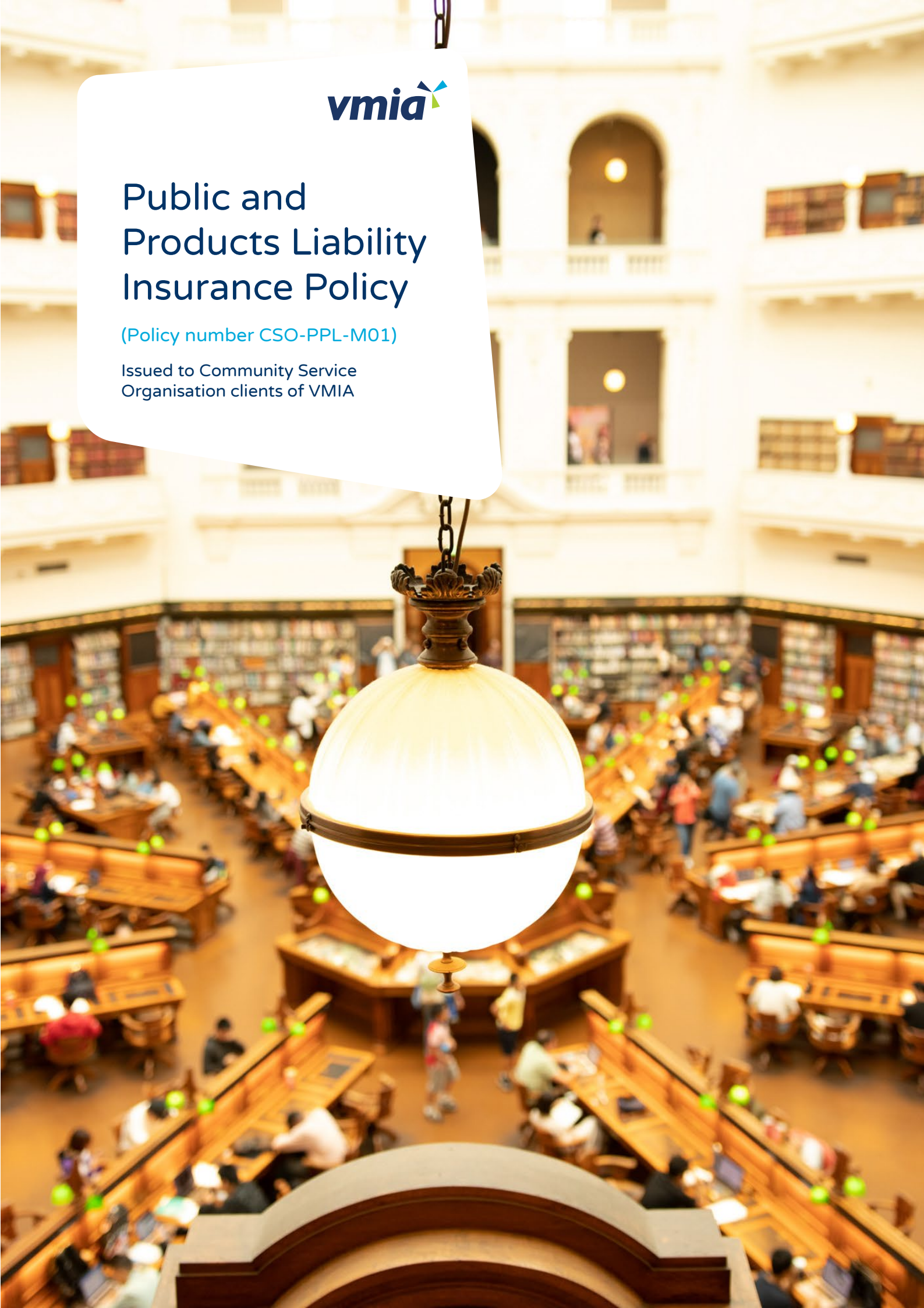




Public and Products Liability Insurance Policy

(Policy number CSO-PPL-M01)

Issued to Community Service
Organisation clients of VMIA



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About this Insurance Policy

This **Policy** incorporates the **Schedule**, Conditions, Exclusions, Definitions and Endorsements (if any) and any other terms herein (**Policy**) which are to be read together, and any word or expression to which a specific meaning has been given in any part of this **Policy** shall bear this meaning wherever it may appear unless such meaning is inapplicable to the context in which such word or expression appears.

The Victorian Managed Insurance Authority (**VMIA**) is a statutory authority established under section 5 of the Victorian Managed Insurance Authority Act 1996 (Vic) (**VMIA Act**). Its functions, as set out in section 6 of the **VMIA Act**, include acting as an insurer for, or providing insurance services to, Government departments and participating bodies.

The **Named Insured** are community based organisations receiving funding from Victorian Government, or who have been mutually agreed between **VMIA** and the participating State Departments to receive cover under this **Policy**.

In addition to providing funding to the **Named Insured**, the Victorian Government has undertaken to arrange Public and Products Liability insurance on behalf of the **Named Insured** via its insurer, **VMIA**.

This **Policy** sets out the insurance the Victorian Government has arranged for the **Named Insured** through **VMIA**.

1. Insuring Clause

1.1 Public and Products Liability Cover

VMIA will indemnify the **Insured** for all amounts which the **Insured** becomes legally liable to pay as **Compensation** and **Defence Costs** arising out of **Injury** and/or **Damage** occurring during the **Period of Insurance** and caused by an **Occurrence** in connection with the **Insured's Business**.

2. Limit of Indemnity

2.1. Limit of Indemnity

VMIA's liability in respect of all **Compensation** and **Defence Costs** for **Injury** and/or **Damage** under this policy arising out of any one **Occurrence** shall not exceed the amount specified in the **Schedule** as the **Limit of Indemnity**.

3. Exclusions

This **Policy** does not cover liability directly or indirectly caused by, arising out of or in any way connected with:

3.1 Aircraft

the ownership, maintenance, use or operation by the **Insured** of any aircraft, however this Exclusion 3.1 shall not apply with respect to;

- a. inflatable balloons used for advertising purposes, or to inflatable balloons designed for the purpose of carrying persons;
- b. Remotely Piloted Aircraft Systems (RPAS) or drone operations that are compliant with Civil Aviation Safety Authority regulations.

3.2 Asbestos

- a. mining, processing, transportation, distribution and/or storage of asbestos;
- b. manufacture of asbestos products or processing material containing asbestos;
- c. any process of removal, decontamination, treatment or control of asbestos provided that this Exclusion 3.2(c) shall only apply to liability arising in consequence of inhalation of asbestos fibre or damage to or loss of use of property due to the presence of asbestos.

3.3 Breach of any Local or Foreign Laws

Liability for which insurance is required to be affected with a local or domestic insurer in any country outside the Commonwealth of Australia due to the application of any laws of such country.

This exclusion 3.3 does not apply to the extent that **VMIA's** provision of indemnity under this policy does not breach any local or foreign laws.

3.4 Construction Activities

earthworks or construction activities of any kind (including the construction, erection, demolition whether partial or complete, alteration, addition or renovation of buildings, earthworks or structures) by or on behalf of the **Insured** where the total contract or estimated value of all earthworks and construction activities forming part of one project or a series of related projects exceeds \$500,000.

3.5 Contractual Liability

- a. Liability expressly assumed under any contract entered into by the **Insured**, except liability to indemnify a third party under the terms of a contract but only to the extent to which the **Insured** is required by the contract to grant such an indemnity.
- b. Liability for **Compensation** arising out of the deliberate or wilful breach of contract by the **Insured**.

3.6 Dishonesty Exclusion

- a. dishonest, fraudulent, criminal act or any wilful violation or breach of law by an **Insured** or any person the **Insured** is legally responsible; or
- b. any **Insured** who has gained any personal profit, remuneration or advantage to which such **Insured** is not legally entitled.

3.7 Employment

- a. **Injury** to any person employed by the **Insured** or deemed to be employed by the **Insured** pursuant to any workers' compensation law. Provided that if the **Insured** is:
- required by law to insure or otherwise fund, whether through self-insurance, statutory fund or other statutory scheme, all or part of any common law liability (whether limited or not) for such **Injury**; or
 - not required to so insure or otherwise fund such liability by reason only that the **Injury** is to a person who is not a worker or employee for the purposes of the relevant workers' compensation law or the **Injury** is not an injury which is subject to such law;
- then this policy will respond to the extent that the **Insured's** liability would not be covered under any such fund, scheme, policy of insurance or self-insurance arrangement had the **Insured** complied with their obligations pursuant to such law.
- b. liability imposed by any workers' compensation law provided however that this Exclusion 3.7 (b) shall not apply with respect to liability of others assumed by the **Insured** under a written contract.
- c. liability imposed by the provision of any industrial award, agreement, or determination or any contract of employment or prospective employment of any person or persons by the **Insured**.

3.8 Geographic limitations

VMIA will not be liable to make any payment under this **Policy** whatsoever in respect of activities directly connected with the **Named Insured's** interstate operations, unless otherwise agreed and endorsed in the **Schedule**.

However, where a **Named Insured** maintains business operations within 50 km radius of or on a Victorian State border, the policy will extend cover for claims that may arise 50 km within another State or Territory.

3.9 Insured's Property

Damage to property owned, leased, or hired by the **Insured**.

This exclusion does not apply to damage to personal property owned, leased, or hired by an **Employee** for their own private use, provided that such property is damaged or destroyed during, and as a direct result of, the **Employee** carrying out their duties on behalf of the **Named Insured**.

3.10 Insured's Products

Damage to the **Insured's Products** if such damage is caused by any defect therein or the harmful nature or unsuitability thereof but this Exclusion 3.10 shall be restricted to the defective or harmful or unsuitable part of the **Insured's Products** and shall not apply to any resultant damage caused to the remainder of such product.

3.11 Performance

Loss of use of tangible property which has not been physically injured or destroyed caused by:

- a delay in or lack of performance by or on behalf of the **Insured** of any contract or agreement; or
- the failure of the **Insured's Products** to meet the level of performance, quality, fitness or durability warranted or represented by the **Insured**.

But this Exclusion 3.11 does not apply to loss of use of other tangible property arising out of the sudden and accidental physical injury to or destruction of the **Insured's Products** or work performed by or on behalf of the **Insured** after such products or work have been put to use by any person or organisation other than an **Insured**.

3.12 Pollution

- the discharge, dispersal, release or escape of **Pollutants** into or upon land, the atmosphere or any water course or body of water;
- Claims** in respect of the cost of removing, nullifying or cleaning up **Pollutants**.

Provided that this Exclusion 3.12 shall not apply if such discharge, dispersal, release or escape is caused by a sudden, identifiable, unintended and unexpected event which takes place in its entirety at a specific time and place.

Provided further, however, that in respect of any **Occurrences** in the United States of America or Canada or any other territory coming under the legal jurisdiction of the United States of America or Canada, this policy will not cover any liability:

- i. directly or indirectly caused by, arising out of or in connection with seepage, pollution or contamination;
- ii. for the cost of removing, nullifying or cleaning-up seeping, polluting or contaminating substances;
- iii. for fines, penalties, punitive or exemplary damages.

3.13 Provision of Healthcare

The rendering of or failure to render **Healthcare** by a **Health Practitioner**.

This Exclusion 3.13 shall not apply to;

- a. the rendering of or failure to render **Healthcare** by a **Health Practitioner** or first aid attendants, employed by the **Insured** to provide first aid on the **Insured's** premises, other than where the **Insured's Business** is a hospital, community health centre, nursing home, ambulance or other business where the **Insured's** primary occupation involves provision of **Healthcare**;
- b. the supply of **Insured Products** to entities or individuals outside the Victorian public health sector; or
- c. actual or alleged sexual harassment, sexual misconduct and/or unlawful discrimination from a breach of professional duty in provision of Healthcare by reason of any act, error or omission committed or allegedly committed by or on behalf of the Insured.

3.14 Punitive and other damages, Fines, Penalties

Fines, penalties, liquidated damages, punitive damages and/or exemplary damages.

3.15 Radioactivity

- a. atomic energy risks, being operations employing the process of nuclear fission or fusion or handling radioactive material which operations include but are not limited to:
 - i. the use of nuclear reactors such as atomic piles, particle accelerators or generators or similar devices; or
 - ii. the use, handling or transportation of radio-active materials; or
- b. the use, handling or transportation of any weapon of war or explosive device employing nuclear fission or fusion; or
- c. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.

These exclusions however shall not apply to insurance of occupational risks arising from radio-isotopes, radium or radium compounds when used away from the place where such are made or produced and when used exclusively or incidental to ordinary industrial, educational, medical or research pursuits.

3.16 Rail

The operation of, or any **Occurrence** involving, trains and trams.

3.17 Terrorism

Loss, injury or damage directly or indirectly arising from an **Act of Terrorism** in excess of the amount of cover stated in the Terrorism Extension as specified in the **Policy Schedule**.

3.18 Vehicles

- a. liability in respect of **Injury** arising out of the ownership, possession or use of any **Vehicle** where the **Insured** is indemnified as the owner or the driver of the **Vehicle** for liability for **Injury** under part 6 of the *Transport Accident Act 1986* or a law of the Commonwealth or of another State which corresponds with the *Transport Accident Act 1986*.

- b. liability in respect of **Damage** arising out of the ownership, possession or use by the **Insured** of any **Vehicle** which is registered or required to be registered by law.

This Exclusion 3.18 (b) shall not apply to **Damage**:

- i. caused by or arising from the delivery or collection of goods to or from any **Vehicle** where such **Damage** occurs beyond the limits of any carriageway or thoroughfare;
- ii. arising out of the loading or unloading of or the delivery or collection of goods from any **Vehicle** used in work undertaken by or on behalf of the **Insured** but not in the physical or legal control of the **Insured**;
- iii. arising while a **Vehicle** is not being driven on roads and not used for conveyance or travel and arising solely out of the use of any tool or item of plant attached to or forming part of the **Vehicle** as a tool of trade;
- iv. arising from the use of any **Vehicle** (other than registered **Vehicles** owned or used by or on behalf of the **Insured**) in the physical or legal control of the **Insured** where such occurs in a car park owned or operated by the **Insured**;
- v. arising from damage to any bridge, weighbridge, road or anything beneath caused by the weight of any **Vehicle** or trailer or of the load carried thereon;
- vi. arising from any unregistered **Vehicle**, owned, operated or for which the **Insured** is responsible, other than whilst being used on a public street or road (which is defined as, any land opened or dedicated as a public road under any Act or law, including any bridge, tunnel, culvert, causeway or ford).

3.19 War

Consequences of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.

4. Definitions

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

4.1 Act of Terrorism

Means an action where:

- a. the action is done with the intention of advancing a political, religious or ideological cause; and
- b. the action is done with the intention of:
 - i. coercing, or influencing by intimidation, the government of the Commonwealth, State, Territory or foreign country, or of part of a State, Territory or foreign country; or
 - ii. intimidating the public or a section of the public.

(a) and (b) above are subject to the declaration of an Act of Terrorism as defined in the Terrorism Insurance Act 2003 and as amended. The exception to this subjectivity is loss solely and directly caused by an occurrence of an act of terrorism by;

- i. use of Nuclear or Radiological weapons or materials or;
- ii. use or operation, as a means of inflicting harm, of any computer, computer system, or computer software program, malicious code, computer virus or process or any other electronic system.

4.2 Claim

Means;

- a. a writ, statement of claim, summons, application or other originating legal or arbitral process, cross-claim, counter claim or third-party notice served on the **Insured**; or
- b. an oral or written demand for **Compensation** made by a third party against the **Insured**.

All **Claims** arising directly or indirectly out of or in connection with the same source or originating cause shall be considered to arise out of a single **Occurrence**, for the purposes of the **Limit of Liability** and **Deductible**.

4.3 Clinical trials and health and medical research

Participation in trials or research projects, that have been approved by a properly constituted Human Research Ethics Committee in accordance with National Health and Medical Research Council guidelines and where such trial and/or health and medical research has been conducted in accordance with any conditions or approvals made by such Human Research Ethics Committee.

4.4 Compensation

Monetary amount of judgment, award or settlement for **Injury** and/or **Damage**.

4.5 Damage

- a. physical damage to, physical loss or physical destruction of tangible property and any resultant loss of use; or
- b. loss of use of tangible property which has not been physically damaged, lost or destroyed as long as such loss of use is caused by physical damage to or physical loss or destruction of some other tangible property. Such loss of use shall be deemed to have occurred at the time of the physical damage to or physical loss or destruction of the other tangible property that caused the loss of use.

4.6 Deductible

Deductible means deductible or **Excess** amounts stated in the **Policy Schedule**.

4.7 Defence Costs

Reasonable and necessary fees, costs and expenses (other than regular wages, salaries, fees or commissions payable to any **Insured**, or any other internal expenses of the **Insured**) incurred with the prior written consent of **VMIA** (which will not be unreasonably withheld or delayed) by or on behalf of the **Insured** in the investigation, defence, settlement or appeal of any **Claim**.

For the sake of clarity, **Defence Costs** does not include fees, costs and expenses incurred by the **Insured** with respect to judicial reviews or administrative proceedings which form a part of and are an ordinary function of the **Insured's Business**.

4.8 Employee

Employee means any person who has or may hereafter be under a contract of service with the **Named Insured** who was or is or may hereafter be paid or unpaid volunteer helper and includes person whose positions terminate during the **Period of Insurance**.

4.9 Healthcare

Any care, treatment, service or goods provided in respect of the physical or mental health of a person, including the conduct of **Clinical trials and health and medical research** activities.

4.10 Health Practitioner

Means an individual who practises a **Healthcare** profession and is registered by a responsible Board pursuant to the Health Practitioner Regulation National Law Act 2009.

4.11 Injury

Means;

- a. Bodily injury, death, sickness, disease, disability, shock, fright, mental anguish or mental injury including loss of services resulting therefrom.
- b. the effects of false arrest, false imprisonment, wrongful entry, wrongful eviction, wrongful detention, invasion of privacy, malicious prosecution or humiliation;
- c. libel, slander or defamation;
- d. the effects of assault and battery not committed by or at the direction of the **Insured** unless committed for the purpose of preventing or eliminating danger to persons or property;
- e. the effects of racial, religious, sex or age discrimination or harassment (unless insurance in relation to this is prevented by law); or
- f. infringement of patent, copyright, trademark, service mark, trade name, title or slogan, piracy or unfair competition or idea misappropriation.

4.12 Insured

- a. the **Named Insured**;
 - i. any corporation, company, organisation or entity including **Subsidiary Association** thereof (now or hereafter constituted) controlled by the **Named Insured**; and
 - ii. any other company or entity coming under the **Named Insured's** control or in which it assumes participative management except as specifically excluded by this **Policy**, whose place of incorporation is the State of Victoria, unless otherwise agreed by **VMIA**;
- b. director, executive officer, committee member, **Employee**, partner or shareholders of the **Insured** or of a company designated in paragraph (a) above only while acting within the scope of their duties in such capacity;
- c. any organisation, person, principal or lessor in respect of the liability of such organisation or person arising out of an obligation or the performance by the **Insured** or by a corporation designated in paragraph (a) above under any contract or agreement whether expressed or implied to the extent required by such contract or agreement;

- d. any officer, member, **Employee** or voluntary helper of the **Insured's** canteen, social, sports or welfare organisations, or first aid, fire or ambulance service in respect of claims arising from duties connected thereto;
- e. the Department, defined in the **Named Insured** in the **Schedule**, in respect of liabilities arising out of actions of the **Named Insured** and arising in connection with the **Business**. Notwithstanding the above and other references to the **Insured** in this **Policy** it is agreed that it is not the intention of the parties that the Department, defined in the **Named Insured** in the **Schedule**, be covered or entitled to seek indemnity under this **Policy** for anything other than its contingent liability arising out of the actions of the **Named Insured** in connection with the activities of their business;
- f. contracted persons receiving payment for providing educational, informational or training services or activities that are approved by the committee of management of the **Named Insured** but only when providing these services or training on behalf of the **Named Insured**;
- g. families and volunteers whilst involved with the Making a Difference Program;
- h. voluntary care-givers and assistants in home-based and residential care schemes of the Department, defined in the **Named Insured** in the **Schedule**, their immediate families and other residents permanently living with the voluntary care-givers and assistants;
- i. persons cared for under the Department, defined in the **Named Insured** in the **Schedule**, home-based and residential care schemes;
- j. any work experience participants;
- k. any **Patron** of the **Named Insured**, but only whilst that **Patron** is engaging in voluntary activities on behalf of the **Named Insured**

4.13 Insured's Business

The activities described as **Business** in the **Schedule**.

4.14 Insured's Products

Anything (after it has ceased to be in the **Insured's** possession or control) which has been designed, specified, formulated, manufactured, grown, extracted, altered, produced, processed, assembled, constructed, erected, installed, treated, serviced, altered, repaired, sold, supplied, resupplied, imported, exported, parcelled, packaged, bottled, labelled or distributed by or on behalf of the **Insured** including any packaging or container of the thing including:

- a. directions, markings, labels, instructions, warnings or advice given or omitted to be given in connection with the thing; and
- b. anything in respect of which the **Insured** is taken or deemed to be the manufacturer by operation of a law of Australia or New Zealand.

4.15 Limit of Indemnity

The amount specified in the **Schedule** as the **Limit of Indemnity**.

4.16 Named Insured

Named Insured means the community service organisation specified in the schedule as the Organisation and includes any **Subsidiary Associations** of the **Named Insured** existing prior to or at the inception of this **Policy**.

4.17 Occurrence

An event resulting in **Injury** and/or **Damage**; which is neither expected nor intended from the standpoint of the **Insured** other than 4.12(e).

All **Injury** and/or **Damage** arising out of continuous or repeated exposure to substantially the same general condition and/or consequent upon or attributable to one source or same originating cause will be considered to arise out of one **Occurrence**.

4.18 Patron

Patron means a person that acts as an ambassador for the organisation supporting and championing the **Named Insured Business** or a person who is indemnified for voluntary activities on behalf of the **Named Insured**.

4.19 Period of Insurance

The period specified in the **Schedule** as **Period of Insurance**.

4.20 Policy

The means this policy wording.

4.21 Pollutants

Any solid, liquid, gaseous or thermal irritant or contaminant including (but not limited to) smoke, vapours, soot, fumes, acids, alkalis, chemicals and waste (including material to be recycled, reconditioned or reclaimed).

4.22 Schedule

The means the schedule issued with this **Policy** wording.

4.23 Subsidiary Association

Subsidiary Association means associations or other organisations in respect of which the **Named Insured**:

- a. controls the composition of the Board; or
- b. controls more than half of the voting power.

4.24 Vehicle

Any type of machine on wheels or on self-laid or caterpillar tracks made or intended to be propelled by other than manual or animal power and any trailer or other attachment, but only whilst attached to such machine, made or intended to be drawn by any such machine.

4.25 Watercraft

Any vessel or craft or thing designed to float on or travel on or through water for the purpose of carrying persons or property.

4.26 VMIA

The Victorian Managed Insurance Authority ABN 39 682 497 841.

5. Conditions

5.1 Application of Insured's Deductible

- a. The **Insured** shall be liable to pay the amount of the **Deductible** in respect of each **Occurrence**. If a series of **Claims** are made arising out of the one **Occurrence** then only one **Deductible** shall apply.
- b. Should more than one **Deductible** apply under this Policy for any **Claim** (or series of **Claims** arising out of continuous or repeated exposure to substantially the same general conditions) such **Deductibles** shall not be aggregated and only the highest single level of **Deductible** shall apply.
- c. The **Deductible** is inclusive of **Defence Costs**.

5.2 Applicable Law

Any dispute concerning this **Policy** shall be determined in accordance with the law of Australia and its States and Territories. The parties to this **Policy** agree to submit to the competent jurisdiction of Victoria.

5.3 Cancellation

VMIA may cancel this **Policy** at any time if directed to do so by the Victorian Government.

If a **Named Insured** afforded coverage under the **Policy** ceases to maintain eligibility for such coverage through the State Government of Victoria, then coverage will automatically cease at 4pm thirty (30) days from the date of such ineligibility as advised by the relevant State Government of Victoria Department.

If the **Named Insured** is a premium paying community based organisation, **VMIA** will refund the **Named Insured** for pro rata premium for the remaining time left until the date of cancellation of this insurance.

5.4 Cross Liability

If there is more than one **Insured**, each **Insured** will be considered as a separate and distinct entity and this policy will apply to each **Insured** as if a separate policy had been issued to each **Insured**. However, nothing in this clause will result in an increase in the **Limit of Indemnity** or the **Deductible** in respect of any one **Occurrence** or in the aggregate for the **Period of Insurance**.

5.5 Defence and settlement

- a. in respect of any **Claim** for **Compensation** under this **Policy**, **VMIA** has the duty to defend, or take over the conduct in the name of the **Insured**, any legal proceedings against the **Insured** seeking **Compensation** and to bring any cross claim in the name of the **Insured**.
- b. **VMIA** will not be responsible to pay any claim or judgment or defend any suit after the **Limits of Indemnity** under this **Policy** has been exhausted;
- c. with respect to any claims for **Compensation** being made against the **Insured** in any court or legally constituted body in the United States of America or Canada or their respective protectorates and territories (or any order made anywhere to enforce such judgment, award or settlement either whole or in part), the **Limit of Indemnity**;
- d. if the costs of the claim for **Compensation** are not likely to exceed the **Deductible** **VMIA** may elect not to defend the legal proceedings; and

the **Insured** must at all times co-operate with **VMIA** and comply with the terms and conditions of this **Policy** and assist where necessary in enforcing any right of contribution or indemnity from any third party, corporation or organisation.

5.6 Fraudulent Claim

If any **Claim** is in any respect fraudulent or if any fraudulent means or devices are used by the **Insured** or anyone acting on behalf of the **Insured** to obtain any benefit under this policy, **VMIA** may deny liability in respect of such **Claim**.

5.7 Insured's Duty in the Event of an Occurrence

- 5.7.1 in the event of an **Occurrence** (or if an **Occurrence** appears reasonably likely to take place) the **Insured** will immediately, at its own expense, take all reasonable and responsible steps to prevent or minimise **Personal Injury** and/or **Damage**;
- 5.7.2 the **Insured** must give notice to **VMIA** as soon as practicable of an **Occurrence** involving **Personal Injury** and/or **Damage** which is likely to involve this **Policy** or to exceed an amount equal to or greater than 50% of the applicable **Deductible**, and must as soon as practicable forward to **VMIA** all information relevant to the **Occurrence** held by the **Insured**;
- 5.7.3 the **Insured** shall use its best endeavours to keep **VMIA** informed of all material developments likely to affect the costs of any claim or undertakes, insofar as is reasonably possible, to co-operate with **VMIA** and its representatives in the conduct and settlement of such claim and in the estimating of claim reserves;
- 5.7.4 the **Insured** must not, without **VMIA's** prior written consent, make any admission, offer, promise or payment in connection with any **Occurrence**; and
- 5.7.5 the **Insured** shall use its best endeavours to preserve all property, appliance and plant and all other things which may assist in the investigation or defence of a claim or in the exercise of rights of subrogation and so far as may be reasonably practicable no alteration or repair is to be effected without the consent of **VMIA** until **VMIA** has had an opportunity of inspection.

Failure to give notice of any **Occurrence** which at the time of its happening did not appear to involve this **Policy**, but which at a later date would appear to give rise to any claim or liability hereunder, shall not prejudice the **Insured's** right to indemnity under this **Policy**.

Nothing contained in this Condition shall operate to increase the **Limit of Indemnity**.

5.8 Other Insurance

If at the time of any **Occurrence** there is, or but for the existence of this policy would be, any other policy of indemnity or insurance in favour of or effected by or on behalf of the **Insured** applicable to such **Occurrence**, the insurance under this policy shall be excess insurance over and above the amount of liability covered under such other policy of indemnity or insurance.

5.9 Subrogation

In the event of payment of a claim for **Compensation** under this **Policy**, **VMIA** will be subrogated to all of the **Insured's** rights of recovery against any person or organisation. The **Insured** agrees to execute and deliver all appropriate papers and instruments and allow **VMIA** to undertake necessary steps or what is reasonably required to:

- a. enforce any rights and remedies;
- b. obtain relief or indemnity from other parties; and
- c. recover against any amount paid by **VMIA** to the **Insured** in settlement of the **Insured's** claim.

If **VMIA** makes a successful recovery against a third party, **VMIA** is entitled to the following monies:

- d. amount paid by **VMIA** to the **Insured** in respect of a claim for **Compensation** under this **Policy**; and
- e. amount paid by **VMIA** for administrative and legal costs incurred in connection with the recovery.

If there is an amount in excess of clause (d) and (e), the **Insured** is entitled to that recovered excess amount.

5.10 Takeovers

In the event of the takeover or merger of the **Named Insured** by or with any other organisation, or if the **Named Insured** stops receiving funding from the Victorian Government, the indemnity provided hereunder is amended to apply only to claims arising out of any indemnifiable events under this **Policy** taking place prior to the date of such takeover, merger or cessation of funding unless **VMIA** agrees otherwise in writing.

5.11 Waiver of Subrogation Rights

VMIA waives all rights of subrogation against all parties comprising the **Insured** and others who have contractually bound the **Insured** to waive rights of recovery, except that if the **Insured** is protected from such loss by any other policy of insurance, the right of subrogation is not waived to the extent and up to the amount of such other policy.

VMIA also waives all rights of subrogation against any employee or member of the **Insured's** family unless the conduct of such persons which gave rise to an **Occurrence** was serious or wilful misconduct.

Privacy Statement

We are committed to protecting any information and data, including personal information and health information we collect, handle, store or disclose about you through our services. We manage all information and data, including personal and health information in accordance with the *Victorian Managed Insurance Authority Act 1996 (Act)*, the *Privacy and Data Protection Act 2014*, the *Health Records Act 2001*, the *Freedom of Information Act 1982*, and our [Privacy Policy](#).

From time to time, in accordance with our legislative and regulatory frameworks and applicable laws, we may be required to disclose information concerning policies or claims to government bodies authorised by Victorian or Commonwealth legislation.

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 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.