




DUAL EVOLUTION POLICY WORDING

A background photograph of a business meeting. A woman in a light blue blazer is smiling and looking at a man in a dark suit who is using a calculator. They are sitting at a table with coffee cups and papers. The background is a bright, modern office with large windows.

DUAL Evolution
Directors & Officers Liability
Policy Wording



DUAL Evolution Directors & Officers Liability Policy Wording

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DUAL Evolution Directors & Officers Liability Insurance

Policy Wording

Section 1: PREAMBLE

- 1.1 In consideration of the premium, **we** will provide the cover described in the **policy**, subject to the Insuring Clauses, the Extensions, Exclusions, Definitions and the General Conditions & Exclusions Section.

Section 2: INSURING CLAUSES

2.1 Insured Person Liability Cover

We agree to pay on behalf of each **insured person** their **loss** arising from a **claim** first made against an **insured person** during the **insurance period**, for which the **policyholder** has not indemnified the **insured person**.

2.2 Insured Person Investigation Cover

We agree to pay on behalf of each **insured person** their **loss** arising from an **investigation** commenced during the **insurance period**, for which the **policyholder** has not indemnified the **insured person**.

2.3 Company Reimbursement - Insured Person Liability

We agree to pay on behalf of the **policyholder** an **insured person's loss** arising from a **claim** first made against an **insured person** during the **insurance period**, for which the **policyholder** has indemnified the **insured person**.

2.4 Company Reimbursement - Investigations

We agree to pay on behalf of the **policyholder** an **insured person's loss** arising from an **investigation** commenced during the **insurance period**, for which the **policyholder** has indemnified the **insured person**.

2.5 Securities Entity Cover

We agree to pay on behalf of the **policyholder** its **loss** on account of a **securities claim** first made against the **policyholder** during the **insurance period**.

Section 3: EXTENSIONS

Each Extension is automatically included under the **policy** unless specifically stated otherwise in the **schedule**. Extensions are subject to the Insuring Clauses and all other **policy** terms, conditions and exclusions, definitions and the General Conditions & Exclusions Section. The sub-limits applicable to these Extensions form part of and are not in addition to the **indemnity limit**.

3.1 Advancement of Defence Costs or Investigation Costs

We agree to advance **defence costs** or **investigation costs** reasonably incurred with **our** prior written consent before final disposition of a **claim** or **investigation**.

If it is not possible for the **insured** to obtain **our** written consent prior to incurring **defence costs** or **investigation costs**, **we** agree to waive prior consent so long as **our** written consent is obtained within 30 days of the first of such **defence costs** or **investigation costs** being incurred. Such coverage is provided up to the sub-limit specified in the **schedule**.

If cover under the **policy** is subsequently determined not to exist, the **insured** must reimburse **us** for any **defence costs** or **investigation costs** that **we** have paid in advance, according to their respective rights and interests.

3.2 Automatic Run-off Cover for Retired Insured Persons

If an **insured person** retires from all employment or office with the **policyholder** prior to the expiry of the **insurance period** or any **discovery period** and the **policyholder** does not renew this **policy** and no **discovery period** is operable, then that **insured person** will be automatically entitled to an 84 month **discovery period** at no additional premium commencing at 4.00pm local time on the date which they retire from office with the **policyholder**. Such coverage is provided up to the sub-limit specified in the **schedule**.

3.3 Bail Bond Expenses

We will pay the **bail bond expenses** of an **insured person** up to the sub-limit specified in the **schedule**.

3.4 Continuous Cover

Notwithstanding Exclusion Clause 4.3 (a) and (b) (Prior Known Facts), **we** agree to provide cover in respect of any **claim** or **investigation** where the **insured**:

- a) first became aware, prior to the **insurance period** and after the **continuity date** that a **claim** or **investigation** might or could arise from facts or circumstances known to the **insured**; and
- b) through error or oversight failed to notify the previous insurer or insurers on risk of such facts or circumstances, under any like policy existing prior to the **insurance period**.

We have the absolute discretion to apply either the terms and conditions of the Policy in place when the **insured** first became aware of the facts and circumstances, including but not limited to the indemnity limit and deductible, or the terms and conditions of this **policy**.

3.5 Crisis Costs

We will pay the **crisis loss** of the **insured** following a **crisis event** up to the sub-limit specified in the **schedule**.

3.6 Deprivation of Assets Expenses

We will pay the **deprivation of asset expenses** of an **insured person** in the event that an interim or interlocutory court order is made against an **insured person** which seeks to confiscate, control, suspend or freeze rights of ownership of real property or personal assets of an **insured person** or creates a charge over real property or personal assets of an **insured person** up to the sub-limit specified in the **schedule**.

3.7 Discovery Period

In the event of non-renewal of this **policy**, for reasons other than for the non-payment of premium, the **insured** may give written notice to **us** during a **discovery period** of any **claim** or **investigation**, arising from or in consequence of any actual or alleged **wrongful act**, which occurred during the **insurance period**. Such **discovery period** will commence immediately after the **insurance period** for a period of:

- a) 60 days, granted automatically with no additional premium payable; or
- b) 12 months, if the **insured** requests such period in writing within 30 days after the end of the **insurance period** and tenders an additional premium of 75% of the expiring annual premium, commencing immediately after the end of the **insurance period**, with such premium payable within 30 days of the receipt by us of such written request; or
- c) 84 months, if a **transaction** takes place and the **insured** requests such period in writing within 30 days following the end of the **insurance period**, on such terms and conditions, if any, and for such additional premium as **we** may reasonably decide.

This Extension is not available if this **policy** is:

- (i) renewed or replaced with any other like directors and officers or management liability policy; or
- (ii) cancelled or avoided.

Any **discovery period** purchased under this Extension is non-cancellable, and the premium paid for the **discovery period** is fully earned by **us** and is non-refundable.

3.8 Estates, Heirs, Legal Representatives and Spousal Cover

We will pay the **loss** of:

- a) the estate, heirs, legal representatives or assigns of any deceased or mentally incompetent, bankrupt or insolvent **insured person**; or
- b) a legal or de facto spouse of an **insured person**;

but only in respect of a **wrongful act** committed or allegedly committed by an **insured person**. Such coverage is provided, up to the sub-limit specified in the **schedule**.

3.9 Extradition Costs

We will pay the **extradition costs** of an **insured person** up to the sub-limit specified in the **schedule**.

3.10 Insured Person Tax Liability

We will pay as **loss** an **insured person's** personal liability for the unpaid taxes of the **policyholder**. In the event that the **policyholder** becomes insolvent and an **insured person** is ordered to pay the unpaid taxes of the **policyholder**, except to the extent that such liability arises from the willful intent of the **insured person** to breach any duty governing the payment of taxes. Such coverage is provided up to the sub-limit specified in the **schedule**.

3.11 Outside Entity Executive Cover

We will pay the **loss** of an **outside entity executive** in the event that a **claim** is made against such **outside entity executive** or an **outside entity executive** is required to attend an **investigation** during the **insurance period** or any **discovery period**, in relation to the performance of their duties for an **outside entity**, in their capacity as an **outside entity executive**. Such coverage is provided up to the sub-limit specified in the **schedule**.

3.12 Pollution Defence Costs and Investigation Costs

We will pay the **defence costs** or **investigation costs** of an **insured person** in relation to the actual, alleged or threatened discharge of **pollution**, notwithstanding Exclusion Clause 5.1 (Bodily Injury and Property Damage) or Exclusion Clause 8.2c. (Pollution and Radioactive Contamination) in the General Conditions and Exclusions Section, provided always, that Exclusions 8.2a. and b. (Pollution and Radioactive Contamination) will always apply. Such coverage is provided up to the sub-limit specified in the **schedule**.

3.13 Prosecution Costs

We will pay the **prosecution costs** of an **insured person** up to the sub-limit specified in the **schedule**.

3.14 Public Relations Expenses

We will pay the **public relations expenses** of an **insured** up to the sub-limit specified in the **schedule**.

3.15 Reinstatement of the Indemnity Limit – Insured Persons

In the event of a reduction (in whole or in part) of the **indemnity limit** due to payment by **us** of **loss** under this **policy**, it is agreed that the **indemnity limit** shall be reinstated by the amount by which the **indemnity limit** is reduced, provided that:

- a) the total amount payable by **us** with respect to any one **claim** or **investigation** shall not exceed the **indemnity limit**; and
- b) the total amount payable by **us** under this **policy** shall not exceed twice the **indemnity limit**; and
- c) if the **policyholder** has in effect any policy or policies providing coverage in excess of this **policy**, then the reinstated amount of the **indemnity limit** as allowed for by this clause will take effect after the total exhaustion of any amounts payable under any such other policies but before any similar reinstatement provisions as may be contained in any such other policies; and
- d) this provision shall only be available to **insured persons** who are, or were, at the time of the **wrongful act**, a director of the **policyholder**.

3.16 Shareholder Costs

We will pay as **loss** any adverse costs orders awarded against the **insured** in favour of a shareholder or group of shareholders of the **policyholder** up to the sub-limit specified in the **schedule**.

3.17 Unincorporated Joint Venture Cover

We will pay the **loss** of an **insured person**, where the **insured person** was performing duties for or on behalf of an unincorporated joint venture of the **policyholder** and at the direction of the **policyholder** up to the sub-limit specified in the **schedule**.

3.18 Work Health & Safety Costs

We will pay the **loss** of an **insured person** in relation to any occupational health and safety or work health and safety issues, notwithstanding Exclusion 4.1, Bodily Injury / Property Damage, up to the sub-limit specified in the **schedule**.

Section 4: EXCLUSIONS

We will not cover the **insured** for any form of **loss**, including for **defence costs**, in respect of:

4.1 Bodily Injury / Property Damage

any **claim** or **investigation** for bodily injury or property damage to or destruction of any tangible property, including loss of use thereof.

However, this Exclusion shall not apply to:

- a) a **claim** or **investigation** regarding an emotional hurt or mental anguish or distress occasioned by an **employment practice breach**;
- b) a **claim** or **investigation** covered under Extension 3.18 (Work Health & Safety Costs).

4.2 Fraudulent, Dishonest and Wilful Conduct

any **claim** or **investigation** arising out of or in any way connected with an **insured**:

- a) gaining any personal profit or advantage to which the **insured** was not legally entitled;
- b) having improperly benefited from any **securities** transaction as a result of information that is/was not available to other sellers or purchasers of such **securities**;
- c) committing any dishonest, fraudulent, criminal or malicious act;
- d) committing any wilful violation or wilful breach of any statute or regulation; or
- e) committing any breach of either Section 182 or Section 183 of the Corporations Act 2001(Cth).

This Exclusion shall only apply if it is established through a judgment or any other final adjudication adverse to the **insured**, or any admission by an **insured**, that the relevant conduct did in fact occur.

4.3 Prior Known Facts

a **claim** or **investigation** arising out of or in any way connected with any:

- a) actual or alleged facts which were known to the **insured** prior to the commencement of the **insurance period** and which the **insured** knew or ought reasonably to have known might give rise to a **claim** or **investigation**;
- b) actual or alleged facts which could have been, or which can be notified under any previous like policy existing prior to the commencement of the **insurance period**;
- c) pending or prior **litigation**, or **litigation** derived from the same or essentially the same facts as are or might be alleged in such pending or prior **litigation**, as at the commencement of the **insurance period**;

- d) any fact or matter referred to in the **proposal**, or notified under any previous like policy existing prior to the commencement of the **insurance period**; or

4.4 ADDITIONAL EXCLUSIONS APPLYING TO INSURING CLAUSE 2.5 ONLY

Securities Claim Specific

We will not cover the **policyholder** for **loss** in connection with a **securities claim** directly or indirectly based upon or attributable to any:

- a) express representations, contracts, agreements, warranties or guarantees made by the **policyholder**, provided, however, that this Exclusion shall not apply if the **policyholder** would have had such liability in the absence of such representations, contracts, agreements, warranties or guarantees; or
- b) allegation that the consideration for the acquisition or completion of the acquisition of all or substantially all the ownership, interest or assets of a **subsidiary**, business or other enterprise is inadequate. **Loss** does not include any amount of any judgement or settlement representing the amount by which such price or consideration is effectively increased nor any amount for the claimant's costs and expenses, which relate to such allegations.

Section 5: CONDITIONS APPLYING TO THIS POLICY ONLY

5.1 Legal Representation and Settlement

For the purposes of this **policy** only, it will be the duty of the **insured** and not **our** duty to defend **claims** and arrange for legal representation at **investigations**.

The **insured** will not admit liability, settle any **claim**, make any admission, offer any payment or assume any obligation in connection with any **claim** or investigation, incur any **defence costs**, **investigation costs** or other **loss** covered by this **policy**, without **our** prior written consent, which will not be unreasonably withheld or delayed.

We will not be liable for any settlement, **defence costs** or other form of **loss**, admission, offer, payment or assumed obligation to which **we** have not given **our** prior written consent.

We will have the right and will be given the opportunity to associate with each **insured** and participate in the defence of any **claim** or **investigation** including the negotiation and settlement of a covered **claim**.

With respect to any **claim** or **investigation** involving both an **insured** person and the **company**, the **insured** agree that **we** have the right to require the **insureds** to retain separate legal representation.

Section 6: DEFINITIONS

In this **policy**:

- 6.1 **Accountant** means a person or entity that is not an **insured** and is recognised by the Institute of Chartered Accountants or the Australian Society of Accountants, or any other person registered by the Australian Taxation Office as a tax agent.
- 6.2 **Bail bond expenses** means the reasonable premium (but not collateral) for a bond or other financial instrument to guarantee an **insured person's** contingent obligation for bail required by a court hearing a **claim** in relation to a **wrongful act** committed or allegedly committed by such **insured person**.
- 6.3 **Benefits** means any amount payable to a beneficiary of a **fund** by the **trustee** under the rules governing the **fund**.
- 6.4 **Business description** means the description of the **policyholder's** business activities outlined at Item 3 of the **schedule**.
- 6.5 **Claim** means:
 - a) a written demand for monetary damages or non-pecuniary relief;

- b) a civil proceeding or counter-claim commenced by the service of a writ, complaint, summons, statement of claim, or similar originating process;
- c) an alternative dispute resolution proceeding, a formal administrative or regulatory proceeding including any arbitration, mediation, conciliation or other alternative dispute resolution proceeding commenced in writing; or
- d) a criminal proceeding;

alleging a **wrongful act**.

6.6 **Continuity date** means the date specified at item 7 of the **schedule**.

6.7 **Crisis event** means any of the following unforeseen events where, in the reasonable opinion of the chief executive officer (or equivalent) of the **policyholder**, the event has the potential to cause an imminent decrease of greater than 25% of the total consolidated annual revenues of the **policyholder** if left unmanaged:

- a) the sudden, unexpected death or disability of any Executive;
- b) the loss of a major customer or contract;
- c) workplace violence concerning an **employee**;
- d) the first apparent unauthorised intrusion into any **policyholder's** computer facilities;
- e) a recall or boycott of any product;
- f) a man-made disaster;
- g) any criminal investigation in respect of an **insured person**.

Crisis event does not include an event that affects the **policyholder's** industry in general rather than the **policyholder** specifically.

6.8 **Crisis loss** means the reasonable and necessary fees, costs and expenses for external crisis management services provided in response to a **crisis event** within the first thirty (30) days after the event.

6.9 **Deductible** means the amount or amounts specified in Item 6 of the **schedule** in respect of each Insuring Clause.

6.10 **Defence costs** means that part of **loss** consisting of the reasonable costs, charges, fees (including but not limited to legal fees) and expenses reasonably incurred by an **insured**, with **our** prior written consent in investigating or defending a **claim** but does not include regular or overtime wages, salaries or fees of the directors, **officers** or **employees** of the **policyholder** incurred in attending, defending, investigating or monitoring **claims**.

6.11 **Deprivation of assets expenses** means the payment of the following services directly to the provider of such services:

- a) Schooling;
- b) Housing;
- c) Utilities;
- d) Personal Insurance.

Such expenses will only be payable after the exhaustion of any personal allowance which has been directed by a Court to meet such payments. Expenses will be payable 30 days after the triggering of Extension 3.6 (Deprivation of Assets Expenses) and for a period of up to 12 months.

6.12 **Discovery period** means the period of time specified in Extension 3.7 (Discovery Period) during which time written notice may be given to **us** of a **claim** which is first made against the **insured** for a **wrongful act** committed or allegedly committed prior to the end of the **insurance period** or **transaction**, or an **investigation** into conduct which occurred prior to the end of the **insurance period** or **transaction**.

6.13 **Employee** means any natural person who is a past, present or future employee of the **policyholder**, regardless of whether they are employed on a full-time, part-time or casual basis. **Employee** does not include independent contractors.

6.14 **Employment practices breach** means any of the following employment-related matters:

- a) actual or alleged unfair or wrongful dismissal;
- b) termination or discharge of employment (either actual or constructive, including breach of an implied contract);
- c) wrongful failure to employ or promote;
- d) wrongful deprivation of career opportunity or demotion;
- e) negligent employee evaluation (including the provision of negative or defamatory statements in connection with an employee reference);
- f) failure to grant tenure;
- g) misrepresentation, discrimination, harassment, retaliation (including lockouts), humiliation, defamation or invasion of privacy;

which relate solely to the **policyholder** and its past, present or prospective **employees**.

6.15 **Extradition costs** means:

- a) the reasonable fees, costs and expenses (except remuneration of any **insured**, costs of their time or overheads of the **policyholder**) incurred by or on behalf of an **insured person** in challenging, resisting and/or defending a **claim** seeking the extradition of such **insured person**, including any appeal from such **claim**; and
- b) the reasonable fees, costs and expenses of any accredited:
 - (i) counsellor; or
 - (ii) **accountant**;

retained by an **insured person** in connection with an extradition proceeding, during the **insured person**, with **our** prior written consent (which will not be unreasonably withheld or delayed).

6.16 **Fund** means any single employer superannuation fund established for the benefit of **employees**. **Fund** does not include any self-managed, industry or master superannuation funds.

6.17 **Indemnity limit** means the amounts specified in Item 5 of the **schedule**.

6.18 **Industrial Instrument** means an award, collective or individual agreement, minimum wage order or any other instrument entered into by agreement or authorised under statute, which regulates the terms and conditions of an **employee's** employment.

6.19 **Insurance period** means the period of insurance specified in Item 4 of the **schedule**.

6.20 **Insured** means an **insured person**, the **policyholder**, or both.

6.21 **Insured person** means:

- a) any past, present or future director, shadow director, secretary, **officer**, **employee** whilst acting in a managerial function, of the **policyholder**, **trustee**, or a natural person whom, by virtue of any applicable law is deemed to be a director or **officer** of the **policyholder**;
- b) the estate, heirs, legal representatives or assigns of any deceased or mentally incompetent, bankrupt or insolvent **insured person** in (a) above, but only in respect of a **wrongful act** committed by an **insured person**;
- c) a legal or de facto spouse, domestic partner of an **insured person** in (a) above, but only in respect of a **wrongful act** committed by an **insured person**;

- d) any natural person who was, is or may become, at the request of the **policyholder**, a director, officer or employee acting in a managerial capacity in an **outside entity**.
- e) an **employee** of the **policyholder** but only whilst acting in the capacity as a member of a committee convened by the **policyholder** and at the **policyholder's** specific request, but only in relation to **wrongful acts** committed in the course of the **employee's** performance of their duties on behalf of the committee, where the Committee has the specific purpose of advising the board of directors of the **policyholder**.

Insured person does not include:

- (i) a receiver, receiver and manager, official manager, liquidator, administrator, trustee or other person administering a compromise or scheme of arrangement made for **policyholder**;
- (ii) a company or other body corporate.

6.22 Investigation means a formal criminal, administrative or regulatory investigation, examination, hearing or inquiry, into the **policyholder**, **outside entity**, or an **insured person** in their capacity as such, commenced in writing by an **official body** during the **insurance period** or any **discovery period** which may be operable.

6.23 Investigation costs means the reasonable fees, costs and expenses incurred with **our** prior written consent, which will not be unreasonably withheld or delayed, by or on behalf of an **insured person** in:

- a) preparing for, attending or producing documents to an **investigation**; or
- b) responding to a raid on, or on-site visit to, any **policyholder** by an **official body** that involves the actual or possible production, review copying or confiscation of files or interviews of any **insured**.

Investigation costs do not include the remuneration of any **insured**, the cost of their time or costs or overheads of any **policyholder**.

6.24 Litigation includes, but is not limited to, any civil, criminal, administrative or regulatory proceeding as well as any official investigation, examination, enquiry, arbitration or adjudication.

6.25 Loss means the total amount which an **insured** becomes legally obliged to pay on account of a **claim** or **investigation**. **Loss** includes, but is not limited to:

- a) damages, judgments, settlements and adverse costs orders;
- b) **defence costs**;
- c) **extradition costs**;
- d) **public relations expenses**;
- e) **bail bond expenses**;
- f) **deprivation of assets expenses**;
- g) **prosecution costs**;
- h) **investigation costs**;
- i) Court attendance costs of any **insured person** who is legally required to attend Court as a witness in a **claim** covered by the **policy**, to an amount not exceeding \$500 per day for all **insured persons**. No **deductible** applies;
- j) Pecuniary penalties awarded against an **insured person** in and under the laws of the jurisdictions of Australia and New Zealand, provided that **we** are not legally prohibited from paying such pecuniary penalties;

However, **loss** does not include:

- (i) fines or penalties (whether civil or criminal) which are uninsurable at law in the jurisdiction in which the **claim** was brought or the laws which govern this **policy**;
- (ii) taxes, except those payable under Extension 3.10 (Insured Person Tax Liability);

- (iii) the past and future economic loss of an **employee**;
- (iv) any costs of reinstating an **employee**;
- (v) any employee benefits, which the **policyholder** is legally obligated pay under an **industrial instrument**; or
- (vi) the remuneration of any **insured**, the cost of their time or costs or overheads of any **policyholder**.

6.26 **Not-for-profit entity** means any entity with a written constitution which prohibits the distribution of profits or assets amongst its members during the lifetime of the entity or upon its winding up.

6.27 **Officer** means any company secretary, general counsel or an **employee** who is concerned in, or takes part in, the management of the **policyholder** regardless of the name that is given to their position.

6.28 **Official body** means any regulator, government or administrative body or agency, official trade body or self regulatory body legally empowered to investigate the affairs of the **policyholder** or **outside entity** or the conduct of an **insured person** in their insured capacity.

6.29 **Official detention** means the confinement of an **insured person** in secure custodial premises, operated by or on behalf of a government or judicial agency in connection with a **claim** against such **insured person** where final adjudication of the **claim** has not yet been determined.

6.30 **Other insurance** means the other insurance policy or policies specified in item 12 of the **schedule**.

6.31 **Outside entity** means a **not-for-profit entity**, which is not a **subsidiary** of the **policyholder**, which has been listed in the schedule in question 2.3 of the **proposal**.

6.32 **Outside entity executive** means a natural person who is an **employee**, director or **officer** of the **policyholder**, who serves at the specific request of the **policyholder** as a director, officer, trustee, governor or equivalent of an **outside entity**.

6.33 **Policy** means this policy wording, the **schedule**, the General Conditions & Exclusions Section and any Endorsements attaching to and forming part of the **policy** either at commencement of or during the **insurance period**.

6.34 **Policyholder** means the entity or entities specified in Item 2 of the **schedule** and any **subsidiaries**.

6.35 **Pollution** means any substance, solid, liquid, particulate, noise, gaseous or thermal irritant or contaminant including but not limited to smoke vapours, soot, fumes, acids, alkalis, chemicals or waste materials.

6.36 **Principal Organisation** means the entity or entities specified in item 2 of the **schedule**. **Principal organisation** does not include any **subsidiaries** or **outside entities**.

6.37 **Proposal** means the proposal form, submission and all other supporting documentation and attachments provided to us in the application for this **policy**.

6.38 **Prosecution costs** means any reasonable fees, costs and expenses incurred by an **insured person** with our prior written consent (which will not be unreasonably withheld or delayed), to bring legal proceedings:

- a) in respect of a **claim**, to obtain the discharge or revocation of:
 - (i) a temporary or permanent disqualification of such **insured person** from managing a corporation (including as a senior manager or responsible officer) during the **insurance period**; or
 - (ii) a judicial order entered during the **insurance period** imposing:
 - 1. confiscation, assumption of ownership and control, suspension or freezing of rights of ownership of real property or personal assets of such **insured person**;
 - 2. a charge over real property or personal assets of such **insured person**;
 - 3. restriction of such **insured person's** liberty to a specified domestic residence or **official detention**; or

4. deportation of an **insured person** following revocation of otherwise current and valid immigration status for any reason other than such **insured person's** conviction of a crime.
- b) in respect of an **investigation**, to obtain injunctive relief where an **insured person** alleges an **official body** is acting or proposes to act beyond power or in breach of the rules of natural justice during the course of an **investigation**.

6.39

Public relations expenses means the reasonable fees, costs and expenses of a public relations firm or consultant, or crisis management firm, or law firm retained by an **insured** with our prior written consent (which shall not be unreasonably withheld or delayed) to prevent or limit adverse effects or negative publicity in respect of:

- a) a **claim**; or
- b) an **investigation**; or
- c) a **crisis event**.

6.40

Schedule means the schedule attached to this **policy** or any **schedule** subsequently substituted for it during the **insurance period** and duly signed, stamped and dated by an authorised representative of **us**.

6.41

Securities means a bond, debenture, note, share, preference share, warrant, option, promissory note or other equity, debt or hybrid security which is issued or given by the **policyholder**.

6.42

Securities claim means a:

- a) a written demand for monetary damages or non-pecuniary relief;
- b) a civil proceeding or counter-claim commenced by the service of a writ, complaint, summons, statement of claim, or similar originating process;
- c) an alternative dispute resolution proceeding, a formal administrative or regulatory proceeding including any arbitration, mediation, conciliation or other alternative dispute resolution proceeding commenced in writing; or
- d) a criminal proceeding.

alleging a **wrongful act** in connection with the purchase or sale of, or offer to purchase or sell, **securities**.

6.43

Subsidiary means:

- a) any legal entity in which the **principal organisation** owns or controls, directly or indirectly, more than 50% of the outstanding securities or voting rights representing the present right to vote for election of directors; or any entity which is deemed to be the **principal organisation's** subsidiary under any applicable legislation, law or International Accounting Standard.
- b) any legal entity that ceases to be a **subsidiary** of the **principal organisation** during the **insurance period** or prior to commencement of the **insurance period**, provided that the cover provided will only apply in respect of a **wrongful act** that occurred whilst the entity was a **subsidiary** of the **principal organisation**.
- c) any legal entity which is created or acquired by the **policyholder** during the **insurance period**, provided that the legal entity :
 - (i) has total gross assets which are less than 25% of the total gross assets of the **policyholder**; or
 - (ii) has gross annual turnover of less than 25% of the total gross annual turnover of the **policyholder**; or
 - (iii) has total gross assets which are less than 25% of the total gross assets of the **policyholder** in the United States of America or Canada.

The cover provided in this **policy** will only apply in respect of a **wrongful act** occurring after the date of creation or acquisition.

6.44

Trustee means an **insured** if validly appointed to act, and while acting in the capacity, as a trustee of a **fund**.

6.45

Trustee breach means a **wrongful act** committed or allegedly committed:

- a) by an **insured person** in their capacity as a **trustee**, or as a director or **officer** of the **policyholder** acting as corporate **trustee**;
- b) by any other person for which an **insured person** referred to in (a) above is legally liable;

but only in respect of the administration of a **fund**.

6.46

Transaction means any one of the following events:

- a) the **principal organisation** consolidates with or merges into or sells all or a controlling interest in its assets to any other person or entity or group of persons and/or entities acting in concert; or
- b) any person or entity, whether individually or together with any other person or persons, entity or entities becomes entitled to exercise more than 50% of the rights to vote at general meetings of the **principal organisation** or control the appointment of directors who are able to exercise a majority of votes at Board meetings of the **principal organisation**; or
- c) the insolvency of the **principal organisation**;
- d) the appointment of an administrator, liquidator, receiver, receiver and manager or court appointed manager to the **principal organisation**.

6.47

We/Us/Our means DUAL Australia Pty Limited, ACN 107 553 257 as agent of the Underwriters specified in Item 11 of the **schedule**.

6.48

Wrongful act means any actual or alleged breach of duty, breach of trust, breach of fiduciary duty, neglect, error, omission, misstatement, misleading statement, or other act, error or omission, committed or attempted by:

- a) for the purposes of Insuring Clauses 2.1 to 2.4, an **insured person**, individually or otherwise, in their insured capacity as an **insured person** of the **policyholder** and includes an **employment practices breach** or a **trustee breach**; or
- b) for the purposes of Insuring Clause 2.5 only, a **policyholder**, in connection with the purchase or sale of, or offer to purchase or sell, **securities**.