




## 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  
Statutory Liability &  
Supplementary Legal Costs  
Policy Wording



## **DUAL Evolution Statutory Liability & Supplementary Legal Costs**

### **Policy Wording**

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## DUAL Evolution

### Statutory Liability & Supplementary Legal Costs

#### 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 Cover for Claims

**We** will pay on behalf of the **insured** their **loss** on account of any **claim** for a **wrongful act** made against the **insured** during the **insurance period**.

###### 2.2 Cover for Investigations

**We** agree to pay on behalf of the **insured** their **loss** arising from an **investigation** commenced 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. If prior consent is waived under this clause, 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 4.5 (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 statutory liability, supplementary legal expenses 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** any penalty imposed on an **insured person** in respect of the unpaid taxes of the **policyholder** in the event that the **policyholder** becomes insolvent, except to the extent that such liability arises from the wilful 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** in relation to the actual, alleged or threatened discharge of **pollution**, notwithstanding Exclusion Clause 4.1 (Bodily Injury / Property Damage) or Exclusion Clause 8.2c. in the General Conditions and Exclusions Section, provided always, that Exclusions 8.2a. and b. 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** 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 Transport to and From Work Costs

We will pay the reasonable transport costs up to a maximum of \$25 (twenty-five dollars) per day for a maximum of twelve (12) weeks for an **insured person** who requires transportation assistance in order to get to and from his or her usual place of employment due to his or her disablement as a result of a work place accident which is also the subject of a covered **claim** under this **policy**.

### 3.16 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**.



### 3.17 Work Health & Safety Costs

We will pay the **loss** of an **insured** in relation to any **claim** or **investigation** in relation to an occupational health and safety or work health and safety allegation, 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 will not apply to:

- a) a **claim** or **investigation** regarding an **employment practices breach**;
- b) a **claim** or **investigation** covered under Extension 3.12 (Pollution Defence Costs and Investigation Costs) and 3.17 (Work Health & Safety Costs).

### 4.2 Certain Acts

any **claim** or **investigation** arising from arising out of or in any way connected with any actual or alleged breach or contravention of the responsibilities, obligations or duties imposed by:

- a) Sections 182, 183, 588G, 601FD, 601FE, 601JD of the Corporations Act 2001 (Cth) or any similar law, and any amendments, consolidations or enactments thereto; or
- b) the Fair Trading Acts of the States and Territories, Part V of the Trade Practices Act, the Competition and Consumer Act and any similar law of any state or territory and any amendment, consolidation or re-enactment of any of those Acts.

### 4.3 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 wilfully dishonest, fraudulent, criminal or malicious act;
- d) committing any wilful violation or wilful breach of any statute or regulation; or

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.

### 4.4 Insured Conduct

any **claim** or **investigation** arising out of or in any way connected with any actual or alleged activities outside the **policyholder's business description**.

### 4.5 Prior Known Facts

any **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**.

#### 4.6 Territorial Limits

any **claim** or **investigation** brought and maintained outside of the **territorial limits**.

### Section 5: CONDITIONS APPLYING TO THIS POLICY ONLY

#### 5.1 Insured's Right to Contest

In the event that **we** recommend settlement of a **claim** and the **insured**:

- a) does not agree to the settlement of the **claim**; and
- b) decides to contest the **claim**;

**our** liability shall not exceed the amount for which the **claim** could have been settled at our recommendation.

The **insured** agrees to comply with any lawful notice or direction received from, or any enforcement action taken by, any appropriate **official body** under any **Act** within the time specified or if no time is specified, within a reasonable time.

### 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 Act** means any Act of any parliament or legislative assembly of the Commonwealth of Australia, and/or of any State or Territory of Australia, including any:

- a) subordinate or delegated legislation or code, rules, regulations, or bylaws made under those Acts, and
- b) any amendment, enactments, or consolidation of any of the above Acts or legislation;

other than those excluded under Exclusion 4.2 (Certain Acts) and subject to the definition of **loss**.

**6.3 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**.

**6.4 Benefits** means any amount payable to a beneficiary of a **fund** by the **trustee** under the rules governing the **fund**.

**6.5 Business description** means the description of the **policyholder's** business activities outlined at Item 3 of the **schedule**.

**6.6****Claim** means:

- a) a court attendance notice;
- 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** brought and maintained by an **official body**.

**6.7****Continuity date** means the date specified at item 7 of the **schedule**.**6.8**

**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) workplace violence concerning an **employee**;
- c) the first apparent unauthorised intrusion into any **policyholder's** computer facilities;
- d) a recall or boycott of any product;
- e) 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.

**6.9**

**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.

**6.10**

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

**6.11**

**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**.

**6.12**

**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 shall 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 the Deprivation of Assets Extension and for a period of up to 12 months.

**6.13**

**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 an **investigation** commenced or 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**.

**6.14** **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.

**6.15** **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**.

**6.16** **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).

**6.17** **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.

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

**6.19** **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.

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

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

**6.22** **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**, **trustee**, or **employee** acting in a managerial capacity in an **outside entity**.
- e) an **employee** of the **policyholder** whilst acting in their capacity as such.

**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.

## 6.23

**Investigation** means either:

- a) a formal criminal, administrative or regulatory investigation, examination, hearing or inquiry, a Royal Commission, a coronial inquest, or other proceedings commissioned by an **official body** 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; or
- b) the notification to us by the **insured** of a workplace fatality or serious injury of an employee that has taken place in the course of the business description and any site inspection by an **official body** that may occur immediately following such fatality or injury. For the avoidance of doubt, there is no requirement that such an **investigation** be commenced in writing.

## 6.24

**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**.

## 6.25

**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.

## 6.26

**Loss** means the total amount which an **insured** becomes legally obliged to pay on account of a **claim** or **investigation**. **Loss** includes:

- a) adverse costs orders;
- b) **bail bond expenses**;
- c) 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;
- d) **crisis loss**;
- e) **defence costs**;
- f) **deprivation of assets expenses**;

- g) **extradition costs;**
- h) **investigation costs;**
- i) Pecuniary penalties under the laws of the jurisdictions of Australia, provided that **we** are not legally prohibited from paying such pecuniary penalties;
- j) **public relations expenses;**
- k) **prosecution costs;**

However, **loss** does not include:

- (i) fines or penalties (whether civil or criminal) which are uninsurable at law;
- (ii) taxes;
- (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**;
- (vii) The cost of compliance with any enforcement order.

- 6.27** **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.
- 6.28** **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.
- 6.29** **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.
- 6.30** **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.
- 6.31** **Other insurance** means the other insurance policy or policies specified in item 12 of the **schedule**.
- 6.32** **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.
- 6.33** **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**.
- 6.34** **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**.
- 6.35** **Policyholder** means the entity or entities specified in Item 2 of the **schedule** and any **subsidiaries**.
- 6.36** **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.
- 6.37** **Principal Organisation** means the entity or entities specified in item 2 of the **schedule**. **Principal organisation** does not include any **subsidiaries** or **outside entities**.

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

**6.39** **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) 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) 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**.

**6.40** **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**.

**6.41** **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**.

**6.42** **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**.

**6.43** **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** **Territorial limits** means anywhere in Australia unless otherwise agreed by **us**.

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

**6.46** **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**.

**6.47** **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**.

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

**6.49** **Wrongful act** shall mean any actual or alleged breach of an **Act** by an **insured**, committed or allegedly committed in the course of their insured capacity.