

# Policy Wording



## Umbrella Liability



Bring on tomorrow





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## Important Information

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Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "**You**," "**Your**," and "**Insured**" refer to the **Named Insured** shown in the **Schedule** and any other person or organisation qualifying as a **Named Insured** under this policy. The words "**We**," "**Us**," "**Our**" and "**Ourselves**" refer to AIG Australia Limited.

Other words and phrases that appear in bold print have special meaning. See Section 5. Definitions.

In consideration of the payment of the premium and in reliance upon the statements in the Application made a part hereof and subject to the limits of liability, exclusions, conditions and other terms of this policy, the AIG Australia Limited agrees with the **Named Insured** named in the **Schedule** as follows:

### Cooling-Off Information

If **You** want to return **Your** insurance after **Your** decision to buy it, **You** may cancel it and receive a full refund. To do this **You** may notify **Your** Steadfast representative electronically or in writing within twenty-one (21) days from the date this Policy commenced.

This cooling-off right does not apply if **You** have made or are entitled to make a claim. Even after the cooling-off period ends, **You** still have cancellation rights. However, **Your** Steadfast representative may deduct certain amounts from any refund for administration costs or any non-refundable taxes.

### Privacy

Privacy legislation regulates the way private sector organisations can collect, Use, keep secure and disclose personal information. **We** are bound by the Privacy Act 1988 (Cth) and its principles when collecting and handling personal information. **We** have developed a privacy policy which explains what sort of personal information **We** hold about **You** and what **We** do with it.

**We** will only collect personal information from or about **You** for the purpose of assessing **Your** application for insurance and administering **Your** insurance policy, including any claims **You** make.

**We** may need to disclose personal information to **Our** reinsurers (who may be located overseas), insurance intermediaries, insurance reference bureaus, credit reference agencies, **Our** advisers and those involved in the claims handling process (including assessors and investigators), for the purposes of assisting **Us** and them in providing relevant services and **Products**, or for the purpose of litigation.

By providing **Your** personal information to **Us**, **You** consent to **Us** making these disclosures. Without **Your** personal information **We** may not be able to issue insurance cover to **You** or process **Your** claim.

**You** may gain access to **Your** personal information by submitting a written request to **Us**.

In some circumstances, **We** may not permit access to **Your** personal information. Circumstances where access may be denied include where it would compromise the privacy of other individuals, or where it would be unlawful.

### The General Insurance Code Of Practice

**We** are a signatory to the General Insurance Code of Practice. The Code aims to raise standards of practice and service in the insurance industry.

It:

- (a) promotes better communication between insurers and customers which will lead to better public understanding of insurance to allow customers to make informed choices, and
- (b) outlines good standards of practice and service to be met by insurers to enhance their regulation for responding efficiently to their customers' needs



Dispute Resolution

**We** will do everything possible to provide a quality service to **You**. However, **We** recognise that occasionally there may be some aspect of **Our** service or a decision **We** have made that **You** wish to query or draw to **Our** attention.

**We** have a Complaints and Dispute Resolution Procedure which undertakes to provide an answer to **Your** complaint within fifteen (15) working days.

If **You** would like to make a complaint or access **Our** internal dispute resolution service please contact **Our** nearest office and ask to speak to a dispute resolution specialist or you may write to The Privacy Manager, AIG, Level 12, 717 Bourke St Docklands, VIC 3008 or email: [australia.privacy.manager@aig.com](mailto:australia.privacy.manager@aig.com)

Your Responsibilities

(a) **Your** Duty of Disclosure

Before **You** enter into a contract of general insurance with **Us**, (which includes this General and **Products Liability** Insurance Policy) **You** have a duty under the Insurance Contracts Act 1984 to tell **Us** everything that **You** know, or could reasonably be expected to know, is relevant to **Our** decision to insure **You** and the terms and conditions on which **We** insure **You**.

**You** have the same duty to tell **Us** those things before **We** issue cover, renew, extend, vary or reinstate a policy of insurance.

(b) Information **You** do not need to give. **You**

do not have to tell **Us** anything that:

- (i) reduces the risk;
- (ii) is common knowledge;
- (iii) **We** already know or should know in the ordinary course of **Your** business;
- (iv) has been indicated by **Us** as not necessary to know.

(c) Non-Disclosure

If **You** fail to comply with **Your** duty of disclosure, **We** may be entitled to reduce **Our** liability under the contract in respect of a claim or may cancel the contract.

If **Your** non-disclosure is fraudulent, **We** may also have the option of avoiding the contract from its beginning.

Duties of Insurer

**We** will act and conduct **Ourselves** with utmost good faith.

Claims

This Policy only provides cover in respect of **Personal Injury** and/or **Property Damage** and **Advertising Injury** that occurs during the **Period of Insurance**.

Liability Assumed By You Under An Agreement

It is not possible for **You** to transfer to **Us** the entire spectrum of legal liabilities which **You** may be compelled to bear under the terms of a wide variety of indemnity and/or hold harmless clauses frequently inserted into commercial business contracts by principals, lessors or other parties.

Liability assumed by **You** under an agreement is covered only to the extent described in this General and Products Liability Insurance Policy.

Prior to accepting legal liability for loss, destruction, damage or injury, which would not otherwise have attached to **You** at law, **You** should contact either **Your** Steadfast representative or **Us** to enquire whether this General and Products Liability Insurance Policy covers such liability or, if not, whether it may be so extended.

Contact For Assistance Or Confirmation Of Cover

If **You** need to confirm any Policy transaction or clarify any of the information contained in this Policy document or if **You** have any other queries, please contact either **Your** Steadfast representative or **Us**.



## 1. Definitions

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words with special meaning:

For the purpose of determining the cover provided by this Policy:

- “Advertising Injury” means:
- 1.1 Injury arising out of:
- (a) libel, slander or defamation, or
  - (b) any infringement of copyright or passing off of title or slogan; or
  - (c) unfair competition, piracy, idea misappropriation contrary to an implied contract; or
  - (d) invasion of privacy;
- committed or alleged to have been committed during the **Period of Insurance** in any advertisement, publicity article, broadcast or telecast and caused by or arising out of **Your** advertising activities.
- “Aircraft” means:
- 1.2 any craft or object designed to travel through air or space, other than model **Aircraft**.
- “Business” means:
- 1.3 the **Business** as described in the **Schedule** (and, where applicable, as further described in any more specific underwriting information provided to **Us** at the time when this insurance was negotiated) and shall include:
- (a) the ownership of premises and/or the tenancy thereof by **You**.
  - (b) the provision of any sponsorships, charities, galas, first aid, medical, ambulance or fire fighting services by **You** or on **Your** behalf.
  - (c) private work undertaken by **Your** employees for any of **Your** directors, partners, proprietors, officers or executives.
  - (d) the provision of any canteen, social and/or sporting clubs or Welfare and/or child care facilities by **You** or on **Your** behalf, which are primarily for the benefit of **Your** employees.
- “Compensation” means:
- 1.4 monies paid or agreed to be paid by judgment, award or settlement for **Personal Injury** and/or **Property Damage** and/or **Advertising Injury**.  
Provided that such monies paid or agreed to be paid by judgment, award or settlement is only payable in respect of an **Occurrence** to which this insurance applies.
- “Employment Practices” means:
- 1.5 any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination in respect of **Your** employees.
- “General Liability” means:
- 1.7 **Your** legal liability for **Personal Injury**, **Property Damage** or **Advertising Injury** caused by or arising out of an **Occurrence** happening in connection with the **Business** other than **Products Liability**.



- “Geographical Limits” means: 1.8 (a) anywhere in the Commonwealth of Australia and its external territories;  
(b) elsewhere in the World, but only with respect to:  
(i) overseas **Business** visits by any of **Your** directors, partners, officers, executives or employees but not where they perform manual work in **North America**.  
(ii) **Products** supplied from the Commonwealth of Australia, but the indemnity granted in relation to such **Products** shall not apply to claims in respect of **Personal Injury** and/or **Property Damage** happening in **North America** where such **Products** have been exported to **North America** with **Your** knowledge.
- “Hovercraft” means: 1.9 any vessel, craft or device made or intended to float on or in or travel on or through the atmosphere or water on a cushion of air provided by a downward blast.
- “Insured Contract” means: 1.10 that part of any contract or agreement pertaining to your business under which any **Insured** assumes the **Tort Liability** of another party to pay for **Personal Injury, Property Damage, or Advertising Injury** to a third person or organisation. However, the, **Personal Injury, Property Damage, or Advertising Injury** must arise out of an **Occurrence** that takes place subsequent to the execution of contract or agreement  
Solely for the purposes of liability assumed under such contract or agreement, reasonable solicitor's fees and necessary litigation expenses incurred by or for a party other than an **Insured** are deemed to be **Compensation** because of, **Personal Injury, Property Damage, or Advertising Injury**, provided:  
(a) liability to such party for that party's reasonable solicitors fees and necessary litigation expenses has also been assumed in the same **contract or agreement**; and  
(b) such reasonable solicitors fees and necessary litigation expenses are for defence of that party against a **Suit** seeking **Compensation** covered by this policy.
- “Medical Persons” 1.12 includes but is not limited to medical practitioners, medical nurses, dentists and first aid attendants.
- “Named Insured” means: 1.13 (a) the person(s), corporations and/or other organisations specified in the **Schedule**,  
(b) all existing subsidiary and/or controlled corporations (including subsidiaries thereof) of the **Named Insured** incorporated in the Commonwealth of Australia and/or any other organisations under the control of the **Named Insured**;  
(c) all subsidiary and/or controlled corporations (including subsidiaries thereof) of the **Named Insured** and/or any other organisations under the control of the **Named Insured** incorporated in the Commonwealth of Australia and which are constituted or acquired by the **Insured** after the commencement of the **Period of Insurance**.  
(d) every subsidiary and/or controlled corporation and/or other organisation of the **Named Insured** which is divested during the **Period of Insurance**, but only in respect of claims made against such divested subsidiary, related or controlled corporation or organisation caused by or arising out of **Occurrences Insured** against by this policy, which occurred prior to the divestment.



- “North America” means: 1.14 (a) the United States of America and the Dominion of Canada,  
(b) any state, territory or protectorate incorporated in, or administered by, the United States of America or the Dominion of Canada; and  
(c) any country or territory subject to the laws of the United States of America or the Dominion of Canada.
- “Occurrence” means: 1.15 an event, including continuous or repeated exposure to substantially the same general conditions, which results in **Personal Injury** and/or **Property Damage** and/or **Advertising Injury** that is neither expected nor intended (except for the matters set out in clause 1.17(e)) from **Your** standpoint.  
With respect to **Personal Injury** or **Property Damage**, all events of a series consequent upon or attributable to one source or original cause shall be deemed to be one **Occurrence**.  
All **Advertising Injury** arising out of the same injurious material or act (regardless of the frequency or repetition thereof, the number and kind of media used, or the number of claimants) shall be deemed to be one **Occurrence**.
- “Period of Insurance” means: 1.16 the **Period of Insurance** specified in the **Schedule** and any extension thereof which may be agreed in writing between **You** and **Us**.
- “Personal Injury” means: 1.17 (a) bodily injury, death, sickness, disease, illness, disability, shock, fright, mental anguish and/or mental injury, including loss of consortium or services resulting therefrom;  
(b) false arrest, false imprisonment, wrongful detention, malicious prosecution or humiliation;  
(c) wrongful entry or wrongful eviction or other invasion of privacy;  
(d) libel, slander or defamation of character, unless arising out of **Advertising Injury**;  
(e) assault and battery not committed by **You** or at **Your** direction, unless committed for the purpose of preventing or eliminating danger to persons or property.  
In the event of **Personal Injury** claims arising from latent injury, latent sickness, latent disease, latent illness or latent disability: such injury, sickness, disease, illness or disability in respect of each claim shall be deemed to have occurred on the day such injury, sickness, disease, illness or disability was first medically diagnosed.
- “Pollutants” means: 1.18 any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapours, soot, fumes, acids, alkalis, chemicals and waste material. ‘Waste material’ includes materials that are intended to be recycled, reconditioned or reclaimed.



- “Products” means:
- 1.19 anything manufactured, constructed, erected, assembled, installed, grown, extracted, produced or processed, treated, altered, modified, repaired, serviced, bottled, labelled, handled, sold, supplied, re-supplied or distributed, imported or exported, by **You** or on **Your** behalf (including **Your** predecessors in the **Business**), including any packaging or containers thereof, including the design, formula or specification, directions, markings, instructions, advice or warnings given or omitted to be given in connection with such **Products** and anything which, by law or otherwise, **You** are deemed to have manufactured in the course of the **Business** including discontinued **Products**.
- Provided always that for the purpose of this insurance the term “**Products**” shall not be deemed to include:
- (a) food and beverages supplied by **You** or on **Your** behalf primarily to **Your** employees as a staff benefit ,
  - (b) any vending machine or any other property rented to or located for use of others but not sold by **You**;
- and any claims made against **You** in respect of **Personal Injury** and/or **Property Damage** arising out of any **Occurrence** in connection with 1.19 (a) and/or 1.19(b) shall be regarded as **General Liability** claims hereunder.
- “Products Liability” means:
- 1.20 **Your** legal liability for **Personal Injury** and/or **Property Damage** caused by or arising out of any **Products** or the reliance upon a representation or warranty made at any time with respect to such **Products**; but only where such **Personal Injury** and/or **Property Damage** occurs away from premises owned or leased by or rented to **You** and after physical possession of such **Products** has been relinquished to others.
- “Property Damage” means:
- 1.21 (a) physical loss, destruction of or damage to tangible property, including the loss of use thereof at any time resulting therefrom; and/or
- (b) loss of use of tangible property which has not been physically lost, destroyed or damaged; provided that such loss of use is caused by or arises out of an **Occurrence**.
- “Schedule” means:
- 1.22 the most current **Schedule** issued by **Us** in connection with this policy.
- “Scheduled Underlying Insurance” means:
- 1.23 (a) the policy or policies of insurance listed in the **Schedule of Underlying Insurance** forming a part of this policy; and
- (b) automatically any renewal or replacement of any policy in Paragraph (a) above, provided that such renewal or replacement provides equivalent coverage to and affords limits of insurance equal to or greater than the policy being renewed or replaced.
- Scheduled Underlying Insurance** does not include a policy of insurance specifically purchased to be excess of this policy affording coverage that this policy also affords.
- “Self-insured Retention” means:
- 1.24 the amount applicable to each **Occurrence** for which the **Insured** is responsible that is shown in Item 5 of the **Schedule**.
- “Suit” means:
- 1.25 a civil proceeding seeking **Compensation** covered by this policy and includes:
- (a) an arbitration proceeding in which such **Compensation** is claimed and to which the **Insured** must submit or does submit with **Our** consent; or
  - (b) any other alternative dispute resolution proceeding in which such **Compensation** is claimed and to which the **Insured** submits with our consent.





- “Tool of Trade” means: 1.23 a **Vehicle** that has tools, implements, machinery or plant attached to or towed by the **Vehicle** and is being used by **You** at **Your** premises or on any **Worksite**. **Tool of Trade** does not include any **Vehicle** whilst travelling to or from a **Worksite** or **Vehicles** that are used to carry goods to or from any premises.
- “Tort Liability” means: 1.24 a liability that would be imposed by law in the absence of any contract or agreement.
- “Ultimate Net Loss” means 1.25 the total sum which **You**, or any company as **Your** insurer, or both, become obliged to pay by reason of **Personal Injury**, **Property Damage**, or **Advertising Injury** claims, either through adjudication or compromise and shall include hospital, medical, and funeral charges and all sums paid as salaries, wages, compensation, fees, charges, interest, expenses for doctors, nurses and investigators and other persons and for settlement, adjustment, investigation and defence of claims and excluding only the salaries of the **Insured** or any of the underlying insurer’s permanent employees.
- We** shall not be liable for expenses as aforesaid when such are covered by underlying policies of insurance listed in the **Schedule of Underlying Insurance**.
- “Vehicle” means: 1.26 any type of machine on wheels or on self-laid tracks made or intended to be propelled by other than manual or animal power, and any trailer or other attachment to be utilised in conjunction with or drawn by any such machine.
- “Watercraft” means: 1.27 any vessel, craft or thing made or intended to float on or in or travel on or through water, other than model boats.
- “We, Us, Our, Ourselves” means: 1.28 the Insurer named in the **Schedule**.
- “Worksite” means: 1.29 any premises or site where any work is performed for and/or in connection with the **Business** together with all areas surrounding such premises or site and/or all areas in between such premises or site that **You** shall use in connection with such work.
- “You, Your, Insured” 1.30 Each of the following is an **Insured** to the extent specified below:-
- (a) the **Named Insured**,
  - (b) every past, present or future director, stockholder or shareholder, partner, proprietor, officer, executive, employee of the **Named Insured** (including the spouse of any such person while accompanying such person on any commercial trip or function in connection with the **Business**) or volunteer while such persons are acting for or on behalf of the **Named Insured** and/or within the scope of their duties in such capacities.
  - (c) any employee superannuation fund or pension scheme managed by or on behalf of the **Named Insured**, and the trustees and the directors of the trustee of any such employee superannuation fund or pension scheme which is not administered by corporate fund managers.
  - (d) every principal in respect of the principal’s liability arising out of:
    - (i) the performance by or on behalf of the **Named Insured** of any contract or agreement for the performance of work for such principal, but only to the extent required by such contract or agreement and in any event only for such coverage and Limits of Liability as are provided by this policy
    - (ii) any **Products** sold or supplied by the **Named Insured**, but only in respect of the **Named Insured’s** own acts or omissions in connection with such **Products** and in any event only for such coverage and Limits of Liability as are provided by this policy.



- (e) every person, corporation, organisation, trustee or estate to whom or to which the **Named Insured** is obligated by reason of law (whether written or implied) to provide insurance such as is afforded by this policy, but only to the extent required by such law and in any event only for such coverage and Limits of Liability as are provided by this policy.
- (f) every officer, member, employee or voluntary helper of the **Named Insured's** canteen, social and/or sporting clubs, first aid, medical, ambulance or fire fighting services, charities, welfare and/or child care facilities, while acting in their respective capacities as such.
- (g) any director, partner, proprietor, officer or executive of the **Named Insured** in respect of private work undertaken by the **Named Insured's** employees for such person and any employee whilst actually undertaking such work.
- (h) the estates, legal representatives, heirs or assigns of:
  - (i) any deceased or insolvent persons, or
  - (ii) persons who are unable to manage their own affairs by reason of mental disorder or incapacity,  
who would otherwise be indemnified by this Policy, but only in respect of liability incurred by such persons as described in clauses 1.30(h)(i) and 1.30(h)(ii) above.
- (i) every party including joint venture companies and partnerships to whom the **Named Insured** is obligated by virtue of any contract or agreement to provide insurance such as is afforded by this Policy; but only to the extent required by such contract or agreement and in any event only for such coverage and Limits of Liability as are provided by this policy.

## 2. Insuring Agreements

Coverage	2.1	<p><b>We</b> will pay on <b>Your</b> behalf the <b>Ultimate Net Loss</b> in excess of the <b>Scheduled Underlying Insurance</b> or the <b>Self Insured Retention</b> which <b>You</b> shall become legally liable to pay as <b>Compensation</b> by reason of liability imposed upon <b>You</b> by law, or assumed by <b>You</b> under an <b>Insured Contract</b> because of:</p> <ul style="list-style-type: none"> <li>(a) <b>Personal Injury</b>, and/or</li> <li>(b) <b>Property Damage</b>; and/or</li> <li>(c) <b>Advertising Injury</b>;</li> </ul> <p>happening during the <b>Period of Insurance</b> within the <b>Geographical Limits</b> provided that the <b>Personal Injury, Property Damage</b> or <b>Advertising Injury</b> is caused by or arises out of an <b>Occurrence</b> happening in connection with the <b>Business</b>.</p>
Defence, Settlement, Supplementary Payments	2.2	<p>We shall have the right to defend any <b>Suit</b> against <b>You</b> that seeks <b>Compensation</b> covered by this policy when:</p> <ul style="list-style-type: none"> <li>(a) the total applicable limits of <b>Scheduled Underlying Insurance</b> have been exhausted by payment of <b>Compensation</b> and/or</li> <li>(b) the <b>Compensation</b> sought because of <b>Personal Injury, Property Damage</b>, or <b>Advertising Injury</b> would not be covered by <b>Scheduled Underlying Insurance</b>.</li> </ul> <p><b>We</b> shall have the right to defend any <b>Suit</b> against <b>You</b> that seeks <b>Compensation</b> covered by this policy, even if the <b>Suit</b> is groundless, false or fraudulent. If <b>We</b> are prevented by law or statute from assuming the obligations specified under this provision, or <b>We</b> elect not to take over conduct under clauses (a) or (b) above, <b>We</b> will pay any expenses incurred with <b>Our</b> consent in writing.</p>
	2.3	<p>When <b>We</b> assume the defence of any <b>Suit</b> against <b>You</b> that seeks <b>Compensation</b> covered by this policy, We will:</p> <ul style="list-style-type: none"> <li>(c) investigate, negotiate and settle the <b>Suit</b> as <b>We</b> deem expedient; and</li> <li>(d) pay the following supplementary payments to the extent that such payments are not covered by <b>Scheduled Underlying Insurance</b>:           <ul style="list-style-type: none"> <li>(i) premiums on bonds to release attachments for amounts not exceeding the applicable Limits of Liability of this policy, but <b>We</b> are not obligated to apply for or furnish any such bond;</li> <li>(ii) premiums on appeal bonds required by law to appeal the <b>Suit</b>, but <b>We</b> are not obligated to apply for or furnish any such bond;</li> <li>(iii) all costs taxed against <b>You</b> in the <b>Suit</b>;</li> <li>(iv) pre-judgment interest awarded against <b>You</b> on that part of the judgment <b>We</b> pay;</li> <li>(v) post-judgment interest that accrues after entry of judgment and before <b>We</b> have paid, offered to pay or deposited in court that part of the judgment that is within the applicable Limits of Liability of this policy; and</li> </ul> </li> <li>(vi) <b>Your</b> expenses incurred at <b>Our</b> request or with <b>Our</b> consent (including actual loss of wages or salary, but not loss of other income).</li> </ul>
	2.4	<p>Where <b>We</b> are not entitled to or do not elect to defend any <b>Suit</b>, <b>We</b> will, however, have the right, but not the duty, to participate in the defence of any <b>Suit</b> and the investigation of any claim to which this policy may apply. If <b>We</b> exercise this right, <b>We</b> will do so at <b>Our</b> own expense.</p> <p><b>We</b> will not defend any <b>Suit</b> or investigate any claim after the exhaustion of the applicable Limits of Liability of this policy by the payment of <b>Compensation</b>.</p>



Limits of Liability

- 2.5 With respect to the Coverage afforded by this policy the Limits of Liability shown in Item 4 of the **Schedule** and the rules below state the most **We** will pay regardless of the number of:
- (a) **Insureds**;
  - (b) claims made or **Suits** brought against any or all **Insureds**;
  - (c) persons or organisations making claims or bringing **Suits**; or
  - (d) coverages provided under this policy
- 2.6 **We** shall be liable only for the **Ultimate Net Loss** in excess of the greater of the:
- (a) **Underlying Insurance** - being an amount equal to the specified limits of the applicable underlying policy or policies listed in the **Schedule of Underlying Insurance**, plus the applicable limits of any other underlying insurance collectible by the **Insured**, or the
  - (b) **Self Insured Retention** - being the amount stated in Item 5 of the **Schedule** in respect of all **Occurrences** during any one **Policy Period** not covered by the **Scheduled Underlying Insurance** or other collectible insurance. The **Self Insured Retention** shall apply separately in respect of each **Period of Insurance** and when the specified **Self Insured Retention** has been exhausted during any one **Period of Insurance**, this Policy shall apply without application of the **Self Insured Retention** for the remainder of that **Period of Insurance**, and then up to the Limit of Liability stated in Item 4 of the **Schedule** as the result of any one **Occurrence**. The **Insured** shall promptly reimburse **Us** for any amount (excepting Defence Costs) paid on behalf of the **Insured** within the **Self Insured Retention** specified in Item 5 of the **Schedule**.
- 2.7 if the total applicable limits of **Scheduled Underlying Insurance** are reduced or exhausted by the payment of **Compensation**, **We** will:
- (a) in the event of reduction, pay excess of the remaining total applicable limits of **Scheduled Underlying Insurance**; and
  - (b) in the event of exhaustion, continue in force as Underlying Insurance.
- 2.8 If a policy shown in the **Schedule of Underlying Insurance** forming a part of this policy has a Limit of Liability:
- (a) greater than the amount shown in such **Schedule**, this policy will apply in excess of the greater amount; or
  - (b) less than the amount shown in such **Schedule**, this policy will apply in excess of the amount shown in the **Schedule of Underlying Insurance** forming a part of this policy.
- 2.9 There is no limit to the number of **Occurrences** during the **Policy Period** for which claims may be made except that **Our** total Limit of Liability arising out of the **Products Liability** shall not exceed the amount stated in Item 4 of the **Schedule** as respects all **Occurrences** during each annual period commencing with the effective or anniversary date of this policy.



- 2.11 Expenses incurred to defend any **Suit** or to investigate any claim will be in addition to the applicable Limits of Liability of this policy, unless otherwise provided by **Scheduled Underlying Insurance**. Provided however that, in the event of any claim being made against the **Insured** in any court or before any other legally constituted body in the United States of America and/or Canada, or any other territory coming within the jurisdiction of courts of the United States of America and/or Canada, the Limits of Liability shall apply to such claim inclusive of all expenses.
- 2.12 The Limits of Liability of this policy apply separately to each consecutive annual period and to any remaining period of less than twelve (12) months, beginning with the inception date of the **Period of Insurance** shown in the **Schedule**, unless the **Period of Insurance** is extended after issuance for an additional period of less than twelve (12) months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance of this policy.

### 3. Exclusions

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We do not cover any liability:

- |   |     |  |
|---|-----|--|
| Property owned by You                     | 3.1 | for <b>Property Damage</b> to property owned by <b>You</b> .   |
| Property in Your care, custody or control | 3.2 | <p>for <b>Property Damage</b> to property in <b>Your</b> physical or legal care, custody or control; but this exclusion shall not apply with regard to:</p> <ul style="list-style-type: none"> <li>(a) the personal property, tools and effects of any of <b>Your</b> directors, partners, proprietors, officers, executives or employees, or the clothing and personal effects of any of <b>Your</b> visitors.</li> <li>(b) premises or part(s) of premises (including their contents) leased or rented to, or temporarily occupied by, <b>You</b> for the purpose of the <b>Business</b>, but no cover is provided by this policy if <b>You</b> have assumed the responsibility to insure such premises.</li> <li>(c) premises (and/or their contents) temporarily occupied by <b>You</b> for the purpose of carrying out work in connection with the <b>Business</b>, or any other property temporarily in <b>Your</b> possession for the purpose of being worked upon but no indemnity is granted for damage to that part of any property upon which <b>You</b> are or have been working if the damage arises solely out of such work.</li> <li>(d) any <b>Vehicle</b> (including its contents, spare parts and accessories while they are in or on such <b>Vehicle</b>) not belonging to or Used by <b>You</b>, whilst any such <b>Vehicle</b> is in a car park owned or operated by <b>You</b>; provided that <b>You</b> do not operate the car park for reward, as a principal part of <b>Your Business</b>.</li> </ul>   |
| Vehicles                                  | 3.3 | <p>for <b>Personal Injury</b> or <b>Property Damage</b> arising out of the ownership, possession or use by <b>You</b> of any <b>Vehicle</b>:</p> <ul style="list-style-type: none"> <li>(a) which is registered or which is required under any legislation to be registered, or</li> <li>(b) in respect of which compulsory liability insurance or statutory indemnity is required by virtue of legislation (whether or not that insurance is effected);</li> </ul> <p>but Exclusions 3.3(a) and 3.3(b) shall not apply:</p> <ul style="list-style-type: none"> <li>(c) where coverage is collectible by the <b>Insured</b> under any <b>Scheduled Underlying Insurance</b> relating to the use of <b>Vehicles</b></li> <li>(d) to <b>Personal Injury</b> where: <ul style="list-style-type: none"> <li>(i) that compulsory liability insurance or statutory indemnity does not provide indemnity, and</li> <li>(ii) the reason or reasons why that compulsory liability or statutory indemnity does not provide indemnity do not involve a breach by <b>You</b> of legislation relating to <b>Vehicles</b>.</li> </ul> </li> <li>(e) to any <b>Vehicle</b> temporarily in <b>Your</b> custody or control for the purpose of parking.</li> <li>(f) to any <b>Vehicle</b> (including any tool or plant forming part of or attached to or used in connection with such <b>Vehicle</b>) whilst being operated or used by <b>You</b> or on <b>Your</b> behalf as a <b>Tool of Trade</b> at <b>Your</b> premises or on any <b>Worksite</b>.</li> <li>(g) to the delivery or collection of goods to or from any <b>Vehicle</b>.</li> <li>(h) to the loading or unloading of any <b>Vehicle</b>.</li> </ul> |



Aircraft, Hovercraft or Watercraft	3.4	for <b>Personal Injury</b> and/or <b>Property Damage</b> arising from:  (a) the ownership, maintenance, operation or use by <b>You</b> of any <b>Hovercraft</b> . (b) the ownership, maintenance, operation or use by <b>You</b> of any <b>Aircraft</b> owned by or rented to <b>You</b> without a crew (c) the ownership, maintenance, operation or use by <b>You</b> of any <b>Watercraft</b> exceeding eight (8) metres in length, whilst such <b>Watercraft</b> is afloat. Provided that Exclusion 3.4.(c) shall not apply with regard to claims arising out of: (i) the ownership, maintenance, operation or use by <b>You</b> of any <b>Watercraft</b> owned by or rented to <b>You</b> with crew (ii) <b>Watercraft</b> used in operations carried out by any independent contractors for whose conduct <b>You</b> may be held liable. (iii) <b>Watercraft</b> owned by others and used by <b>You</b> for <b>Business</b> entertainment. (iv) hand propelled or sailing craft not exceeding eight (8) metres in length, whilst such craft is in Australian territorial waters.
Aircraft Products	3.5	arising out of any <b>Products</b> which, with <b>Your</b> knowledge, is intended for incorporation into the structure, machinery or controls of any <b>Aircraft</b> .
Damage to Products	3.6	for <b>Property Damage</b> to any <b>Products</b> where such damage is directly caused by a fault or defect in such <b>Products</b> ; but this exclusion shall be interpreted to apply with respect to damage to that part and only that part of such product to which the damage is directly attributable.
Faulty Workmanship	3.7	for the cost of performing, completing, correcting or improving any work undertaken by <b>You</b> .
Loss of Use	3.8	for loss of use of tangible property, which has not been physically lost, destroyed or damaged, directly arising out of: (a) a delay in or lack of performance by <b>You</b> or on <b>Your</b> behalf of any contract or agreement; or (b) failure of any <b>Products</b> or work performed by <b>You</b> or on <b>Your</b> behalf to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by <b>You</b> ; but this Exclusion 5.8.(b) shall not apply to <b>Your</b> liability for loss of use of other tangible property resulting from sudden and accidental physical loss, destruction of or damage to any <b>Products</b> or work performed by <b>You</b> or on <b>Your</b> behalf after such <b>Products</b> or work have been put to use by any person or organisation other than <b>You</b>
Product Guarantee	3.9	for any <b>Products</b> warranty or guarantee given by <b>You</b> or on <b>Your</b> behalf, but this exclusion shall not apply to the requirements of any Federal or State legislation as to product safety and information.
Product Recall	3.10	for damages, costs or expenses arising out of the withdrawal, recall, inspection, repair, reconditioning, modification, reinstallation, replacement or loss of use of any <b>Products</b> where such <b>Products</b> are withdrawn or recalled from the market or from use by the <b>Named Insured</b> because of any known, alleged or suspected defect or deficiency in such <b>Products</b> .



Advertising Injury	3.11	<p>for <b>Advertising Injury</b>:</p> <ul style="list-style-type: none"><li>(a) resulting from statements made at <b>Your</b> direction with knowledge that such statements are false.</li><li>(b) resulting from failure of performance of contract but this exclusion shall not apply to claims for unauthorised appropriation of advertising ideas contrary to an implied contract.</li><li>(c) resulting from any incorrect description of <b>Products</b> or services.</li><li>(d) resulting from any mistake in advertised price of <b>Products</b> or services.</li><li>(e) failure of the <b>Insured's Products</b> or services to conform with advertised performance, quality, fitness or durability.</li><li>(f) incurred by any <b>Insured</b> whose principal occupation or <b>Business</b> is advertising, broadcasting, publishing or telecasting.</li></ul>
Asbestos	3.12	<p>for <b>Personal Injury, Property Damage</b> (including loss of Use of property) or <b>Advertising Injury</b> directly or indirectly caused by or arising from exposure to asbestos or materials containing asbestos</p>
Breach of Professional Duty	3.13	<p>arising out of any breach of duty owed in a professional capacity by <b>You</b> and/or any person(s) for whose breaches <b>You</b> may be held legally liable, but this exclusion shall not apply to claims:</p> <ul style="list-style-type: none"><li>(a) for <b>Personal Injury</b> and/or <b>Property Damage</b> arising from such breach of duty.</li><li>(b) arising out of the rendering of or failure to render professional medical advice by <b>Medical Persons</b> employed by <b>You</b> to provide first aid and other medical services on <b>Your</b> premises.</li><li>(c) arising out of advice which is not given by <b>You</b> for a fee.</li><li>(d) arising out of advice given in respect of the use or storage of <b>Your Products</b>.</li></ul>
Employers Liability	3.14	<ul style="list-style-type: none"><li>(a) for Bodily Injury to any Worker in respect of which <b>You</b> are or would be entitled to indemnity under any policy of insurance, fund, scheme or self insurance pursuant to or required by any legislation relating to Workers' Compensation of Accident Compensation whether or not such policy, fund, scheme or self insurance has been effected. Provided that Exclusion 3.15(a) shall not apply:<ul style="list-style-type: none"><li>(i) to the extent that <b>Your</b> liability would not be covered under any such policy, fund, scheme or self insurance arrangement had <b>You</b> complied with its obligations pursuant to such law; or</li><li>(ii) with respect to liability of others assumed by <b>You</b> under written contract; or</li><li>(iii) where coverage is collectable by <b>You</b> under any <b>Scheduled Underlying Insurance</b> relating to Employers Liability</li></ul></li></ul>



- (b) imposed by:
  - (i) the provisions of any industrial award or agreement or determination or any contract of employment or workplace agreement where such liability would not have been imposed in the absence of such industrial award or agreement or determination or contract of employment or workplace agreement.
  - (ii) any law relating to **Employment Practices**.

For the purpose of Exclusions 3.14(a) and 3.14(b):

- (c) the term 'Worker' means any person deemed to be employed by **You** pursuant to any Workers' Compensation Law. Voluntary workers, secondees and work experience students (if any) shall not be deemed to be **Your** Workers.
- (d) the term 'Bodily Injury' means bodily injury, death, sickness, disease, illness, disability, shock, fright, mental anguish and/or mental injury, including loss of consortium or services resulting therefrom.

Fines, Penalties, Punitive, Exemplary or Aggravated Damages

3.15 for any fines, penalties, punitive, exemplary or aggravated damages and any additional damages resulting from the multiplication of compensatory damages.

Libel and Slander

3.16 for libel and slander:

- (a) resulting from statements made prior to the commencement of the **Period of Insurance**.
- (b) resulting from statements made at **Your** direction with knowledge that such statements are false.
- (c) related to advertising, broadcasting, publishing or telecasting activities conducted by **You** or on **Your** behalf.

Liquidated Damages

3.17 arising out of liquidated damages clauses, penalty clauses or performance warranties except to the extent that such liability would have attached in the absence of such clauses or warranties.

Pollutants

- 3.18 (a) for **Personal Injury** and/or **Property Damage** directly or indirectly arising out of the discharge, dispersal, release or escape of **Pollutants** into or upon land, the atmosphere or any water course or body of water.
- (b) for the cost of testing and monitoring for, removing, nullifying, or cleaning up of **Pollutants**.

Provided that with respect to any such liability which may be incurred anywhere other than **North America**, Exclusions 3.18(a) and 3.18(b) shall not apply where such discharge, dispersal, release or escape is caused by a sudden, identifiable, unintended and unexpected event from **Your** standpoint which takes place in its entirety at a specific time and place.

Terrorism

3.19 **Personal Injury** or **Property Damage** arising directly or indirectly as a result of or in connection with **Terrorism** including, but not limited to, any contemporaneous or ensuing **Personal Injury** or **Property Damage** caused by fire, looting or theft.

War

3.20 **Personal Injury** or **Property Damage** directly or indirectly caused by or in consequence of war, invasion, act of foreign enemy, hostilities (with or without the declaration of war), civil war, civil commotion, factional civil commotion, rebellion, revolution, insurrection, military or usurped power



Nuclear

3.21 **Compensation** of whatsoever nature, directly or indirectly, caused by or contributed by or arising from:

- (a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
- (b) the radioactive, toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component thereof.



#### 4. Conditions

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- |   |     |  |
|---|-----|--|
| Appeals   | 4.1 | If the <b>Insured</b> or the <b>Insured's</b> underlying insurers do not appeal a judgment in excess of the total applicable limits of <b>Scheduled Underlying Insurance</b> , <b>We</b> may elect to do so. If <b>We</b> appeal, <b>We</b> shall be liable for, in addition to the applicable Limits of Insurance of this policy, all costs, taxes, expenses incurred and interest on judgments incidental to such an appeal.   |
| Audit   | 4.2 | <b>We</b> may audit and examine <b>Your</b> books and records as they relate to this policy at any time during the <b>Period of Insurance</b> of this policy or anytime after the expiration or termination of this policy.  |
| Bankruptcy or Insolvency                            | 4.3 | <b>Your</b> bankruptcy, insolvency or inability to pay or the bankruptcy, insolvency or inability to pay of any of <b>Your</b> underlying insurers will not relieve <b>Us</b> from the payment of <b>Compensation</b> covered by this policy. But under no circumstances will such bankruptcy, insolvency or inability to pay require <b>Us</b> to drop down, replace or assume any obligation under <b>Scheduled Underlying Insurance</b> .   |
| Cancellation  | 4.4 | The policy may be cancelled at any time at the request of the <b>Insured</b> in which case <b>We</b> will retain premium calculated at the Company's short period rate for the time the Policy has been in force. <b>We</b> may cancel the Policy in accordance with Sections 59 and 60 of the Insurance Contracts Act 1984.   |
| Changes   | 4.5 | Notice to any agent or knowledge possessed by any agent or any other person will not effect a waiver or change in any part of this policy. This policy can be changed only by a written endorsement that <b>We</b> make to this policy.  |
| Duties in the Event of an Occurrence, Claim or Suit | 4.6 | <p>(a) <b>You</b> must see to it that <b>We</b> are notified as soon as practicable of an <b>Occurrence</b> that may result in a claim or <b>Suit</b> under this policy. To the extent possible, notice should include:</p> <ul style="list-style-type: none"><li>(i) how, when and where the <b>Occurrence</b> took place</li><li>(ii) the names and addresses of any injured persons and any witnesses; and</li><li>(iii) the nature and location of any <b>Personal Injury, Advertising Injury or Property Damage</b> arising out of the <b>Occurrence</b>.</li></ul> <p>(b) If a claim is made or <b>Suit</b> is brought against any <b>Insured</b> which is reasonably likely to involve this policy, <b>You</b> must notify <b>Us</b> in writing as soon as practicable and in accordance with the reporting provisions of <b>Scheduled Underlying Insurance</b>.</p> <p>Written notice should be mailed to: Casualty Claims Department GPO Box 9933 Melbourne, VIC 3001</p> <p>(c) <b>You</b> and any other involved <b>Insured</b> must:</p> <ul style="list-style-type: none"><li>(i) immediately send <b>Us</b> copies of any demands, notices, summonses or legal papers received in connection with the claim or <b>Suit</b>;</li><li>(ii) authorise <b>Us</b> to obtain records and other information;</li><li>(iii) co-operate with <b>Us</b> in the investigation, settlement or defence of the claim or <b>Suit</b>; and</li><li>(iv) assist <b>Us</b>, upon <b>Our</b> request, in the enforcement of any right against any person or organisation that may be liable to the <b>Insured</b> because of injury or damage to which this insurance may also apply.</li></ul> |



- (d) No **Insureds** will, except at their own cost, voluntarily make a payment, assume any obligation or incur any expense, other than for first aid, without **Our** consent

Headings	4.7	The descriptions in the headings of this policy are solely for convenience and form no part of the terms and conditions of coverage.
Inspection	4.8	<b>We</b> have the right, but are not obligated, to inspect <b>Your</b> premises and operations at any time. <b>Our</b> inspections are not safety inspections. They relate only to the insurability of <b>Your</b> premises and operations and the premiums to be charged. <b>We</b> may give <b>You</b> reports on the conditions that <b>We</b> find. <b>We</b> may also recommend changes. <b>We</b> do not, however, undertake to perform the duty of any person or organisation to provide for the health or safety of <b>Your</b> employees or the public. <b>We</b> do not warrant the health and safety conditions of <b>Your</b> premises or operations or represent that <b>Your</b> premises or operations comply with laws, regulations, codes or standards.
Knowledge of Occurrence or Claim	4.9	Knowledge of an <b>Occurrence</b> , claim or <b>Suit</b> by <b>Your</b> agent, servant or employee shall not in itself constitute knowledge by <b>You</b> , unless a principal of yours shall have received notice of such <b>Occurrence</b> , claim or <b>Suit</b> from said agent, servant or employee.
Legal Actions Against Us	4.10	There will be no right of action against <b>Us</b> under this insurance unless:  (a) <b>You</b> have complied with all the terms of this policy; and  (b) the amount <b>You</b> owe has been determined with <b>Our</b> consent or by actual trial and final judgment.
Maintenance of Scheduled Underlying Insurance	4.11	During the <b>Period of Insurance</b> , <b>You</b> agree:  (a) to keep <b>Scheduled Underlying Insurance</b> in full force and effect;  (b) that the terms, definitions, conditions and exclusions of <b>Scheduled Underlying Insurance</b> will not materially change;  (c) that the total applicable limits of <b>Scheduled Underlying Insurance</b> shall not decrease, except for any reduction or exhaustion of aggregate limits by payment of <b>Compensation</b> ; and  (d) that any renewals or replacements of <b>Scheduled Underlying Insurance</b> will provide equivalent coverage to and afford limits of insurance equal to or greater than the policy being renewed or replaced.  If <b>You</b> fail to comply with these requirements, <b>We</b> will be liable only to the same extent that <b>We</b> would have, had <b>You</b> fully complied with these requirements.



Premium	4.12	Unless otherwise provided the premium for this policy is a flat premium and is not subject to adjustment except as provided in Condition 4.4 herein. If this policy is subject to audit adjustment, the premium may be based upon the rating basis as agreed prior to the <b>Period of Insurance</b> . Upon expiration of this policy or its termination during the <b>Period of Insurance</b> , or at the end of each policy year, the earned premium shall be computed as defined herein. If the earned premium is more than the advance premium paid, the <b>Named Insured</b> shall pay the excess to the Company. If less, <b>We</b> shall return to the <b>Named Insured</b> the unearned portion, subject to the annual minimum premium stated in the <b>Schedule</b> for each twelve months of the <b>Period of Insurance</b> .
Separation of Insureds	4.13	Except with respect to the Limits of Insurance of this policy and rights or duties specifically assigned to the first <b>Named Insured</b> designated in Item 1 of the <b>Schedule</b> , this insurance applies:  (a) as if each <b>Named Insured</b> were the only <b>Named Insured</b> ; and  (b) separately to each <b>Insured</b> against whom claim is made or <b>Suit</b> is brought.
Subrogation	4.14	All right of subrogation is waived under this policy against any organisation or organisations, the majority of whose capital stock is owned or controlled by the <b>Insured</b> , or against any organisation, company or individual who owns or controls the majority of the capital stock of this <b>Insured</b> , or any organisation, company or individual, to which or to whom protection is afforded under this policy except if such organisation, company or individual is protected from such loss by any other policy of indemnity or insurance, the right of subrogation is not waived to the extent and up to the amount of such other policy.
Transfer of Your Rights and Duties	4.15	<b>Your</b> rights and duties under this policy may not be transferred without <b>Our</b> written consent.  If <b>You</b> die or are legally declared bankrupt, <b>Your</b> rights and duties will be transferred to <b>Your</b> legal representative, but only while acting within the scope of duties as <b>Your</b> legal representative. However, notice of cancellation sent to the first <b>Named Insured</b> designated in Item 1 of the <b>Schedule</b> and mailed to the address shown in this policy will be sufficient notice to effect cancellation of this policy.
When Compensation is Payable	4.16	<b>We</b> will not make any payment under this policy unless and until:  (a) the total applicable limits of <b>Scheduled Underlying Insurance</b> have been exhausted by the payment of <b>Compensation</b> , and/or  (b) the <b>Self-Insured Retention</b> has been exhausted by the payment of <b>Compensation</b> .  When the amount of <b>Compensation</b> has finally been determined, <b>We</b> will promptly pay on behalf of the <b>Insured</b> the amount of such <b>Compensation</b> within the applicable <b>Limits of Liability</b> of this policy.  <b>You</b> shall promptly reimburse <b>Us</b> for any amount within the <b>Self-Insured Retention</b> paid by <b>Us</b> on behalf of <b>You</b> .



How The Insurance  
Contracts Act may effect  
this Policy

4.17 Any terms and conditions of this policy which are invalid, illegal or unenforceable as a result of the operation of the Insurance Contracts Act 1984 (as amended or modified from time to time or any other legislation enacted in substitution or replacement thereof) shall be ineffective only to the extent of the invalidity, illegality or unenforceability without invalidating the remainder of such term or condition or the remaining terms and conditions of this policy.

Choice of Law and Forum

4.18 This policy shall be governed by and construed in accordance with the laws of the Commonwealth of Australia and the Courts of the said Commonwealth shall have exclusive jurisdiction in any dispute arising hereunder.

Any disputes or differences, which **We** and the **Insured** agree to resolve through arbitration, shall be resolved in accordance with and subject to the Institute of Arbitrators Australian Rules of the Conduct for Commercial Arbitration subject to the following:

- (a) The arbitration proceedings shall take place in Melbourne, Victoria unless otherwise agreed;
- (b) The written decision of any arbitrator(s) shall be provided to and binding upon **Us** and the **Insured**;
- (c) **We** and the **Insured** shall each bear our own costs of the arbitration and shall jointly and equally share the expenses of the arbitrator(s) and of the arbitration;
- (d) Two arbitrators shall be appointed and one each shall be chosen by **Us** and the **Insured**;
- (e) The arbitrators and umpire are relieved from all judicial formality and may abstain from following the strict rules of law. They shall settle any dispute under the policy according to an equitable rather than a strictly legal interpretation of its terms; and

This condition shall survive the termination of the policy.

Head Office

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