



Public & Products Liability

Policy Document.

Insurance solutions from A – Z



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About IAA

IAA is a registered General Insurance Broker (Financial Services Licence No.240549) and a principal member of the National Insurance Brokers Association.

IAA was formed in January 1996 to allow insurance advisers the benefits of maintaining their local presence whilst being able to tap into a national buying group for products and services needed by their customers in today's complex business world.

Today we have over 200 Advisers across Australia comprising 90 offices managing over \$160.0m of insurance premiums. We are a member of the Austbrokers insurance network with a total turnover of over \$1.6 billion in general insurance premiums. The Austbrokers network ranks within the top general insurance broking groups in Australia.*

Our knowledge of the insurance industry and experience in designing and handling insurance programs for many thousands of customers, enables us to provide objective advice on selecting the right insurance program to adequately cover our customers' assets and liabilities.

IAA's vision is to be a market leader in Australia, distributing quality insurance products and services that offer value to the customer. Through this vision, IAA's Advisers will be able to offer their customers:

- competitively priced products;
- peace of mind of the adequacy and content of their insurance covers;
- a sincere and personalised relationship; and
- a more profitable, productive and safer workplace for their staff.

IAA's Advisers operate to a strict code of ethics to ensure that the relationship with their customers is a trusting and lasting one. In addition, we are committed to ongoing education. Regular training seminars ensure that IAA advisers are able to provide sound professional advice.

More information regarding IAA can be sourced from our web-site – www.insuranceadviser.net.†

Important information about IAA's advice

Any advice IAA gives about this policy does not take into account any of your particular objectives, financial situation or needs. For this reason, before you act on IAA advice, you should consider the appropriateness of the advice taking into account your own objectives, financial situation and needs. Before you make any decisions about whether to acquire this policy we recommend you should read this insurance policy.

* Current as at May 2009.

† References to third party websites in this document are provided solely as a convenience to you. Allianz has not reviewed all of these third party sites and does not control and is not responsible for any of these sites, their content or their privacy statement. Thus, Allianz does not endorse or make any representations about them, or any information, software or other products or materials found there, or any results that may be obtained from using them. If you decide to access any of the third party sites referred to in this document, you do so at your own risk.

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Introduction

Welcome and thank You for choosing Allianz Broadform Liability insurance

About Allianz

The insurer of this product is Allianz Australia Insurance Limited (Allianz) AFS Licence No. 234708, ABN 15 000 122 850.

Allianz is one of Australia's largest general insurers. We utilise years of local expertise, combined with global experience to offer a wide range of products and services to Our customers. As a member of the worldwide Allianz Group, We are committed to continuous improvement of Our products and services and strive to achieve this through knowledge transfer within the Group, dedicated technical research units, sharing globally new product developments and a wide range of risk management services.

About this insurance

This is an important document. You should read it carefully before making a decision to purchase this insurance.

It will help You to:

- decide whether this insurance will meet Your needs; and
- compare it with other products You may be considering.

Please note that any recommendation or opinion in this document is of a general nature only and does not take into account Your objectives, financial situation or needs.

You need to decide if this insurance is right for You and You should read all of the documents that make up the Policy to ensure You have the cover You need.

Understanding the Policy and its important terms and conditions

To properly understand the significant features, benefits and risks of this insurance You need to carefully read:

- the rest of this "Introduction" section – this sets out how You apply for cover, the basis on which We insure You, the duty of disclosure You need to meet before We insure You, Our privacy information, Our dispute resolution procedures and other important information;
- the "what You are covered for" section – this sets out what liability We cover You for, the limits of what We pay and details of the Deductible You must bear;

- the "Definitions" section – this sets out what We mean by certain words used in the Policy. Those words begin with a capital letter throughout this document;
- the "when You are not covered" section – this sets out the exclusions which apply to the Policy;
- the "general terms and conditions" section, which sets out general rights and obligations that You and We have;
- the "claims" section, which sets out, in respect of claims, what You must and must not do, what we may do and what can affect a claim; and
- all of the documents that make up the Policy, including the Policy Schedule and any Endorsements or other written changes to the cover We issue You with – these contain specific details relevant to You and can affect the cover.

Headings are provided for reference only and do not form part of the Policy for interpretation purposes. Words importing persons shall include corporations and other legal entities. The singular includes references to the plural and vice versa.

Applying for cover

When You apply by completing Our application process You need to provide the information We require to determine whether to issue a Policy and if so, on what terms, including (to the extent they are optional):

- the limits You want;
- the period of cover You want;
- whether You want any third parties to be noted as having an interest;
- the Deductibles that You want to contribute for certain claims;
- whether any standard terms need to be varied (this may be by way of an endorsement).

Where We agree to issue a Policy, cover is provided on the basis:

- that You have paid or agreed to pay Us the premium for the cover provided;
- of the verbal and/or written information provided by You which must have given in accordance with Your Duty of Disclosure either verbally or in writing.

If You fail to comply with Your Duty of Disclosure or have made a misrepresentation to Us, We may be entitled to reduce Our liability under the Policy in respect of a claim and/or We may cancel the Policy. If You have told Us something which is fraudulent, We also have the option of avoiding the Policy (ie treating it as if it never existed).

Your Duty of Disclosure and the consequences of nondisclosure, are provided under the heading 'Your Duty of Disclosure'

Our contract with You

Where We agree to enter into a Policy with You it is a contract of insurance between Us and You (see the definition of "You" for details of who is covered by this term).

The Policy consists of:

- this document which sets out the standard terms of Your cover and its limitations,
- Your current Policy Schedule issued by Us. The Policy Schedule is a separate document, which shows the insurance details relevant to You. It may include additional terms, conditions and exclusions relevant to You that amend the standard terms of this document. Only those sections shown as covered in Your Policy Schedule are insured; and
- any other change to the terms of the Policy otherwise advised by Us in writing (such as an endorsement). These written changes may vary or modify the above documents.

These are all important documents and should be carefully read together and kept in a safe place for future reference.

We reserve the right to change the terms of this insurance where permitted to do so by law.

Any new or replacement schedule We may send You, detailing changes to Your insurance or the period of insurance, will become the current Policy Schedule, which You should carefully read and retain.

Premium

Your premium – the base premium We charge is calculated based on a number of factors such as

- Your risk profile and the ratings We apply to Your profile (e.g. the cover and limits required, other persons being insured and Your insurance history etc).
- certain costs incurred by Us in relation to the *Terrorism Insurance Act 2003 (Cth)*; and
- Our obligation to pay relevant government taxes and charges. For example, We include an amount that covers stamp duty and GST payable in relation to the Policy. In cases where We are required to pay an estimated amount (e.g. for Fire Services Levies) based on criteria set by the Government, We allocate to the Policy Our estimate of the amount We will be required to pay. We may over or under

recover in any particular year but We will not adjust Your premium because of this. You can ask Us for more details if You wish.

Minimum premiums may apply. In some cases, discounts may apply if You meet certain criteria We set. Any discounts/entitlements only apply to the extent any minimum premium is not reached. If You are eligible for more than one, We also apply each of them in a predetermined order to the premium (excluding taxes and government charges) as reduced by any prior applied discounts/entitlements. Any discounts will be applied to the base premium calculated prior to any taxes being added.

When You apply for this insurance, You will be advised of the total premium amount payable, when it needs to be paid and how it can be paid. This amount will be set out in the Policy Schedule, which will be sent to You after the entry into the Policy. If You fail to pay We may reduce any claim payment by the amount of premium owing and/or cancel the Policy. Special rights and obligations apply to instalment premium payments as set out below.

Instalment premiums

If You pay Your premium by instalments refer to the section for important details on Your and Our rights and obligations. Note that an instalment premium outstanding for 14 days allows Us to refuse to pay a claim.

In some cases a service fee will apply where You select to pay Your premium by instalments. We tell You the total amount payable when You apply and when and how it can be paid. This is confirmed in the Policy Schedule We issue to You.

Your obligation to comply with the terms and conditions of the Policy

You are required to comply with the terms and conditions of the Policy. Please remember that if You do not comply with any term or condition, We may (to the extent permitted by law) decline or reduce any claim payment and/or cancel the Policy.

If more than one person is insured under the Policy, a failure or wrongful action by one of those persons may adversely affect the rights of any other person insured under the Policy.

How to make a claim

If You need to make a claim under the Policy, please refer to Clause 7 Claims on page 15 of this Policy.

Preventing Our Right of Recovery

If You have agreed not to seek compensation from another person who is liable to compensate You for any loss, damage or liability which is covered by the Policy, We will not cover You under the Policy for that loss, damage or liability except where We agree otherwise under the Contractual Liability Exclusion (clause 5.4), including Incidental Contracts (clause 4.11), or under the Subrogation Waiver (clause 6.9) or in writing.

Cancellation rights under the Policy

How You may cancel the Policy

- You may cancel the Policy at any time by telling Us in writing that You want to cancel it. You can do this by giving the notice to Your broker (if any) or Us.
- Where there is more than one contracting insured 'We will only cancel the Policy when a written agreement to cancel the Policy is received from all contracting insured named as the insured or from a person authorised to act as agent of all such persons.

Contact for assistance or confirmation of cover

If You need to confirm any Policy transaction or clarify any of the information contained in this Document or if You have any other queries, please contact Your Broker or Us via the details on the back cover.

Renewal procedure

Before the Policy expires, We will advise You whether We intend to offer renewal and if so on what terms.

This document also applies for any other renewal We make, unless We tell You otherwise.

It is important that You check the terms of any renewal before renewing to satisfy Yourself that the details are correct.

Please note that You need to comply with Your Duty of Disclosure before each renewal (see below).

Your Duty of Disclosure

Before You enter into the Policy with Us, the *Insurance Contracts Act 1984 (Cth)* requires You to provide Us with the information We need to enable Us to decide whether and on what terms Your application for insurance is acceptable and to calculate how much premium is required for Your insurance.

The Act imposes a different duty the first time You enter into the Policy with Us to that which applies when You renew, vary, extend, reinstate or replace the Policy. We set these two duties out below.

Your Duty of Disclosure when You enter into the Policy with Us for the first time

You will be asked various questions when You first apply for the Policy. When You answer these questions, You must:

- give Us honest and complete answers;
- tell Us everything that You know; and
- tell Us everything that a reasonable person in the circumstances could be expected to tell Us.

Your Duty of Disclosure when You renew, vary, extend, reinstate or replace the Policy

When You renew, vary, extend, reinstate or replace the Policy, Your duty is to tell Us before the renewal, variation, extension, reinstatement or replacement is made, every matter which:

- You know, or
- a reasonable person in the circumstances could be expected to know,

is relevant to Our decision whether to insure You and whether any special conditions need to apply to the Policy.

What You do not need to tell Us for either duty

You do not need to tell Us about any matter:

- that diminishes Our risk;
- that is of common knowledge;
- that We know or should know as an insurer; or
- that We tell You We do not need to know.

Who does the duty apply to?

The duty of disclosure applies to You and everyone that is an insured under the Policy. If You provide information for another insured, it is as if they provided it to Us.

What happens if the duty of disclosure is not complied with?

If the duty of disclosure is not complied with We may cancel the Policy and/or reduce the amount We pay if You make a claim. If fraud is involved, We may treat the Policy as if it never existed, and pay nothing.

Privacy

We collect Your personal information directly from You where reasonably practicable or if not, from other sources. We collect it to provide Our various services and products (e.g. to market, arrange and administer insurance and to handle and settle claims) and to conduct market or customer research. We also use it to

develop and identify services of Our related companies and alliance partners that may interest You (but You can opt out of this by calling the Allianz Privacy Service Line on 13 2664 8am to 6pm EST, Monday to Friday or by indicating Your decision in the appropriate area of the Privacy section of Our website at www.allianz.com.au). If You do not provide the information We require We may not be able to provide You with this service.

We disclose information to third parties who assist Us in the above (e.g. insurers, insurance intermediaries, insurance reference bureaus, related companies, Our advisers, persons involved in claims, external claims data collectors and verifiers, Your agents and other persons where required by law). We also provide this information to financiers and motor vehicle manufacturers if We have a relationship or insurance scheme in place with them under which You purchased the Policy. We prohibit them from using it for purposes other than those We supplied it for.

Where You provide Us with information about another person for the above purposes, You must tell Us if You haven't got their consent to this. If You wish to gain access to Your personal information (including to correct or update it), have a complaint about a breach of Your privacy or You have any query on how Your personal information is collected or used, or any other query relating to Privacy, call the Allianz Privacy Service Line on 13 2664 8am to 6pm EST, Monday to Friday.

General Insurance Code of Practice

The General Insurance Code of Practice was developed by the Insurance Council of Australia to further raise standards of practice and service across the insurance industry. We are a signatory to the Code. You can view or download a copy of the Code at www.odeofpractice.com.au or obtain more information on the Code and how it assists You by contacting Us. Contact details are provided on the back cover of this document.

Dispute resolution process – helping You solve any problems

Complaints or disputes are not an everyday occurrence at Allianz. We strive to do things the right way and keep Our customers happy.

Sometimes, complaints or disputes do occur and when this happens, Our objective is to resolve any disagreement as amicably and as quickly as possible. We believe the best way to achieve this is to provide You with an opportunity for an unbiased review of the issue.

Here is what to do if a complaint or dispute arises

Regardless of whether the complaint or dispute involves Our staff, an agent, loss adjuster, assessor, investigator or the service We provide, simply contact Us on 13 2664 8am to 6pm EST, Monday to Friday, speak to one of Our call centre operators and provide them with the details of the issue concerning You. They will attempt to resolve the complaint or dispute; if they are unable to do so they will log it and refer it to the appropriate business unit for resolution.

Within Our organisation We have established a complaints and disputes resolution process. This is a free service. It is a system designed to log, track, escalate and monitor complaints received from clients and customers about Our services and products. A staff member involved in the complaints and disputes resolution process will write to You within 15 working days advising the outcome of the review and reasons for their decision. We do not consider a complaint or dispute to be resolved until a proposed resolution or solution has been communicated to You and You have accepted the resolution or solution.

If You are not satisfied with the outcome of this process

If We are unable to resolve the complaint or dispute, We will offer You the option of referring the matter to the insurance industry's external independent complaints scheme (subject to eligibility).

Terrorism Insurance Act

We have determined that the Policy (or part of it) is a policy to which the Terrorism Insurance Act 2003 applies. We may elect to reinsure part or all of Our liability under the Act with the Commonwealth Government reinsurer, the Australian Reinsurance Pool Corporation (ARPC).

As a consequence, We may be required to pay a premium to ARPC and that amount (together with the cost of that part of the cover provided by Us and administrative costs associated with the legislation) is reflected in the premium charged to You. As with any other part of Our premium, it is subject to government taxes and charges such as GST, Stamp Duty and where applicable, Fire Service Levy.

For further information contact Allianz or the intermediary.

Goods and Services Tax:

The sum insured that you choose should exclude Goods and Services Tax (GST). In the event of a claim, if you are not registered for GST, we will reimburse you the GST component in addition to the amount we pay you.

If you are registered for GST, you will need to claim the GST component from the Australian Taxation Office.

You must advise us of your correct input tax credit percentage where you are registered as a business and have an Australian Business Number. You are liable to us for any GST liability we incur arising from your incorrect advice.

1. What You are insured against

1.1 Liability

We will cover You for Your legal liability to pay all sums by way of compensation, and all costs awarded against You in respect of:

- Personal Injury
- Property Damage
- Advertising Liability

happening during the Period of Insurance and caused by an Occurrence within the Territorial Limits in connection with Your Business or Products.

1.2 Defence of Claims

If We agree to cover You We will:

- a. defend in Your name and on Your behalf any claim or legal action against You seeking damages for Personal Injury, Property Damage or Advertising Liability even if the action is groundless, false or fraudulent, and We will investigate, negotiate and settle any claim or legal action as We see fit;
- b. pay all legal costs and expenses incurred by Us and all interest accruing after entry of judgement until We have paid, tendered or deposited in court such part of the judgement as does not exceed the Limit of Liability;
- c. reimburse You for all reasonable expenses, other than loss of earnings, incurred by You with Our consent which shall not be unreasonably withheld in connection with the defence of a claim or legal action;
- d. pay reasonable expenses incurred by You for first aid to others at the time of Personal Injury caused by an Occurrence (other than medical expenses prohibited by Section 126 of the Health Insurance Act 1973);
- e. pay all legal costs incurred by you with our consent for: Your representation:
 - (i) at any coroner's inquest or other fatal accident inquiry; or
 - (ii) in a court of summary jurisdiction or an indictment in a higher court, arising out of any alleged breach of a statutory duty

resulting in Personal Injury or Property Damage which may be the subject of indemnity under this Policy;

- f. all costs incurred by You for temporary repairs, shoring up or protection of property of others that has been damaged as a result of an Occurrence which may be the subject of indemnity under this Policy.

We will do this, provided that:

- g. We will not be obliged to pay any claim or judgment or to defend any claim or legal action after the Limit of Liability has been exhausted by payment of judgments or settlements;
- h. If a payment exceeding the Limit of Liability has to be made to dispose of a claim, Our liability to pay any costs, expenses and interest under a. to f. in 'Defence of Claims' above will be limited to that proportion of those costs, expenses and interest as the Limit of Liability bears to the amount paid to dispose of the claim.

Any amount We pay, other than payments in settlement of claims, suits and all costs awarded against You, are payable by Us over and above the Limit of Liability set out in the Policy Schedule.

2. What we will pay

2.1 Limit of Liability

- a. Our maximum liability in respect of any claim or any series of claims for Personal Injury, Property Damage or Advertising Liability caused by or arising out of one event will not exceed the Limit of Liability shown on Your Policy Schedule.
- b. Our total aggregate liability during any one Period of Insurance for all claims arising out of Your Products will not exceed the Limit of Liability shown on Your Policy Schedule.

The applicable Limit of Liability will not be reduced by the amount of any Deductible paid by You.

3. What you must pay if you make a claim

3.1 Deductible

For claims You make on this Policy, You will have to pay the Deductible which is shown on Your Policy Schedule. If more than one Deductible is payable under this Policy for any claim or series of claims arising from the one Occurrence You must pay the highest Deductible, but You pay only one Deductible.

4. Definitions

Some key words and terms used in this Policy have a special meaning. Wherever the following words or terms are used in the Policy, they mean what is set out below:

4.1 Act of Terrorism

An act of terrorism includes any act, or preparation in respect of action, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and which:

- a. involves violence against one or more persons; or
- b. involves damage to property; or
- c. endangers life other than that of the person committing the action; or
- d. creates a risk to health or safety of the public or a section of the public; or
- e. is designed to interfere with or to disrupt an electronic system.

4.2 Advertising Liability or Advertisement

Liability arising out of one or more of the following in advertising Your Products or services:

- a. defamation;
- b. infringement of copyright, title or slogan;
- c. unfair competition, misappropriation of advertising ideas or style of doing Business;
- d. invasion of privacy;

committed or alleged to have been committed in any Advertisement and arising out of any advertising activities conducted by You or on Your behalf, in the course of carrying out Your Business. For the purposes of this Definition, Advertisement means any manner of communication given to the public including by way of any form of print media, publication, telecommunication, radio or television broadcast, electronic mail, internet, world wide web or exhibit.

4.3 Aircraft

Any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space other than model aircraft.

4.4 Business

The business described in the Policy Schedule including:

- a. ownership or occupation of premises and the repair or maintenance of property owned or for which such responsibilities exist, the installation and maintenance of plant and equipment and all other activities incidental to the conduct of Your occupation or trade;
- b. participation in exhibitions;
- c. construction, erection, demolition, alteration or addition, not exceeding in cost the sum of \$500,000, of or to buildings owned by You;
- d. the provision and management of canteens, social, sports and welfare organisations primarily for the benefit of Your Employees, first aid, fire and ambulance services;
- e. private work undertaken by any Employee of Your directors or senior executives;
- f. hire or loan of plant, equipment or goods to other parties;
- g. conducted tours of Your Premises; and
- h. the erection, use and/or maintenance by You or on Your behalf of advertising and directional signs, their frames, supports and appurtenances.

4.5 Deductible

The amount You first bear in relation to each Occurrence. The Deductible applies to all amounts payable under this Policy including the indemnity provided under 'Defence of Claims'.

4.6 Employee

Any person engaged under a contract of service or apprenticeship with You, but does not include any person employed under such contract who is excluded from the definition of 'worker' under any workers' compensation legislation while working for You in connection with the Business.

4.7 Employment Practices

Any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination directly or indirectly related to or in respect of employment or prospective employment of any person or persons by You.

4.8 Endorsement

Any document so designated and issued to You, that amends the Policy wording or any details specified in the Policy Schedule.

4.9 Hovercraft

Any vessel, craft or thing made or intended to float on water and travel over water or land supported on a cushion of air.

4.10 Internet operations

- a. transfer of computer data or programs by use of electronic mail systems by You or Your Employees, including part-time and temporary staff, contractors and others within Your organisation whether or not such data or programs contain any malicious or damaging code, including but not limited to computer virus, worm, logic bomb, or trojan horse;
- a. access through Your network to the world wide web or a public internet site by Your Employees, including part-time and temporary staff, contractors and others within Your organisation;
- b. access to Your intranet (meaning internal company information and computing resources) which is made available through the world wide web for Your customers or others outside Your organisation; and
- c. the operation and maintenance of Your website.

4.11 Incidental Contracts

- a. any written agreement for the lease of real property which does not impose upon You as lessee:
 - (i) an obligation to insure such property; or
 - (ii) any liability regardless of fault;
- b. any written contract with any public supplier for the supply of water, gas or electricity, sewerage or waste removal services, telephone, telex or other communications services, except contracts with such suppliers for the performance of work by You; and
- c. any written contract with any railway authority, railway company or other independent carrier for the loading, unloading and/or transport of Your Products, including any such contracts relating to the operation of railway sidings.

4.12 Limit of Liability -

The applicable limit of liability specified in the Policy Schedule.

4.13 Medical Persons

Qualified medical practitioners, nurses, dentists and first aid attendants.

4.14 Occurrence

An event which results in Personal Injury, Property Damage or Advertising Liability, neither expected nor intended from Your standpoint. All Personal Injury or Property Damage arising out of continuous or repeated exposure to substantially the same general conditions will be construed as arising out of one Occurrence.

All Advertising Liability 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".

4.15 Period of Insurance

The period shown in the Policy Schedule or any renewal period, during which the insurance by this Policy is in force.

4.16 Personal Injury

- a. bodily injury (and this expression includes death, disease and illness), disability, shock, fright, mental anguish or mental injury;
- b. the effects of false arrest, wrongful detention, false imprisonment, malicious prosecution or humiliation;
- c. the effects of wrongful entry upon, wrongful eviction from or other invasion of right to private occupancy of property;
- d. the effects of a publication or utterance of defamatory or disparaging material; and
- e. the effects of assault and battery not committed by You or at Your direction unless reasonably committed for the purpose of preventing or eliminating danger to persons or property.

Personal Injury, if relating to a latent injury, a latent illness, a latent disease or a latent disability, shall be deemed to have happened at the time when such injury, illness, disease or disability was first medically diagnosed.

4.17 Policy

This Policy wording, Your Proposal, the Policy Schedule and any Endorsements We issue to You which amend this Policy wording or the Policy Schedule.

4.18 Policy Schedule

The document so designated that We issue to You, whether for the first Period of Insurance or on any renewal of the contract or variation by way of Endorsement, that specifies the Policy number and other details of the cover provided by this Policy.

4.19 Pollutants

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

4.20 Property Damage

- a. physical damage to or loss or destruction of tangible property including any resulting loss of use at any time of that property; or
- b. loss of use of tangible property which has not been physically damaged, lost or destroyed provided such loss of use is caused by an Occurrence.

4.21 Proposal

The signed proposal form and other information supplied by You or on Your behalf when applying for this insurance upon which We relied when agreeing to grant this insurance cover.

4.22 Subsidiary

- a. any entity which by virtue of any applicable legislation or law is deemed to be Your Subsidiary (where You are a company);
- b. any entity over which You (where You are a company) are in a position to exercise effective direction or control.

4.23 Territorial Limits

Anywhere in the world subject to Exclusion 5.18 (Territorial Limits).

4.24 Vehicle

Any type of machine on wheels or self laid tracks or on skis, made or intended to be propelled by other than manual or animal power and any trailers or other attachment made or intended to be drawn by any such machine.

4.25 Watercraft

Any vessel, craft or thing made or intended to float on or in, or travel on or through, or under water.

4.26 We, Our, Us

Allianz Australia Insurance Limited ABN 15 000 122 850 of 2 Market Street, Sydney, NSW, 2000.

4.27 Worksite

any premises or site where work is performed by You in connection with the Business and includes any surrounding area or premises used by you to undertake such work.

4.28 You, Your, Yours, Insured

- a. the person(s), companies or firms named on the current Policy Schedule as the Insured
- b. all the Subsidiary companies (including subsidiaries thereof), now or subsequently constituted, of the named Insured specified in the Policy Schedule provided their places of incorporation are within Australia or any Territory of Australia;
- c. every director, executive officer, Employee, partner, shareholder or voluntary worker of parties shown in paragraph 4.28a. and 4.28b. above, but only while acting within the scope of their duties in such capacity;
- d. every principal, in respect of that principal's vicarious liability for the acts or omissions of the parties shown in paragraph 4.28a. and 4.28b. in the performance by them of work for that principal, but subject always to the extent of coverage and the Limit of Liability provided by this Policy;
- e. each partner, joint venturer, co-venturer or joint lessee of the Insured named in the Policy Schedule but only if We agree to insure them and the Insured named in the Policy Schedule agrees to pay the premium We require;
- f. every office bearer or member of social and sporting clubs, canteen and welfare organisations and first aid, fire and ambulance services formed with Your consent (other than one of the parties shown in paragraphs 4.28c or 4.28d. above) in respect of claims arising from their duties connected with the activities of any such club, organisation or service;
- g. any director or senior executive or partner of the parties shown in paragraph 4.28a. and 4.28b. above in respect of private work undertaken by an Employee of those parties for such director or senior executive;
- h. if a party named in the Policy Schedule as an insured party is an individual, the personal representative of that individual in the event of the death of that individual, but only in respect of liability incurred by that individual;
- i. any person whilst working for a party any organisation or entity designated in paragraph 4.28a. and 4.28b. of this definition, for the purpose of gaining work experience.

4.29 Your Product

anything (after it has ceased to be in Your possession or under Your control), which is or is deemed to have been manufactured, grown, extracted, produced, processed, imported, exported, constructed, assembled, erected, installed, repaired, serviced, renovated, treated, sold, supplied or distributed by You or on Your behalf including labels, packaging or any container thereof the design, specification or formula of the products and directions, instructions or advice given or omitted to be given in connection with such products.

5. When you are not covered

The following Exclusions will apply to this policy.

This policy does not cover liability in respect of:

5.1 Advertising Liability or Advertisement

Claims for Advertising Liability caused by or resulting from

- a. circumstances where the acts committed or alleged to have been committed prior to the inception date of this Policy;
- b. statements made at Your direction with knowledge that such statements are false;
- c. failure of performance of contract. However this Exclusion 5.1c. shall not apply to claims for unauthorised appropriation of advertising ideas contrary to an implied contract;
- d. any incorrect description of Products or services;
- e. any mistake in advertised price of Products or services;
- f. the failure of Your Products or services to conform with advertised performance, quality, fitness or durability;

This Policy does not cover liability incurred by You if Your Business is Advertising, broadcasting, publishing or telecasting.

5.2 Aircraft, Aircraft products, Watercraft and Hovercraft

Claims arising out of:

- a. the ownership, maintenance, operation, possession or use by You or on Your behalf of any Aircraft;
- b. the ownership, operation or use by You of:
 - (i) any Watercraft, exceeding 10 metres in length, while afloat except where such Watercraft are owned or operated by others and used by You for Business entertainment; or

(ii) Hovercraft.

- c. Your Products that are Aircraft component parts used for maintaining an Aircraft in flight or moving upon the ground or used in the construction of an Aircraft hull or machinery, which to Your knowledge are incorporated in an Aircraft.

5.3 Asbestos

Claims directly or indirectly arising out of, resulting from, in consequence of, contributed to or aggravated by asbestos in whatever form or quantity.

5.4 Contractual liability

Any liability expressly assumed by You under a contract, warranty or unless such liability would have attached to You notwithstanding such contract, warranty or agreement.

This exclusion does not apply to:

- a. liability under any warranty of goods implied by law, liability assumed by You under a warranty of fitness or quality as regards Your Products;
- b. liabilities assumed by You under Incidental Contracts;
- c. liabilities assumed by You under those written contracts specified in the Policy Schedule.

5.5 Defamation

The publication or utterance of defamatory or disparaging material:

- a. made prior to the effective date of this Policy; or
- b. made by You or at Your direction with knowledge of its falsity; or
- c. related to advertising, broadcasting or telecasting activities conducted by You or on Your behalf.

5.6 Employment liability

- a. Personal Injury to any of Your Employees arising out of, or in the course of their employment in Your Business;
- b. Personal Injury to any person who is deemed to be Your Employee pursuant to any legislation relating to workers' compensation;
- c. claims which You are entitled to seek indemnity under any Policy of insurance required to be taken out pursuant to any legislation relating to workers' compensation, whether or not You are a party to such Policy of insurance;
- d. liability imposed by the provisions of any workers' compensation legislation or any industrial award or agreement or determination;

- e. any liability howsoever or whatsoever for claims related to or arising from Employment Practices.

5.7 Faulty workmanship

The cost of re-performing, correcting or improving any work undertaken by You.

5.8 Fines and penalties

Fines, penalties or liquidated damages.

5.9 Information Technology

- a. Personal Injury or Property Damage arising, directly or indirectly, out of, or in any way involving Your Internet Operations; or
- b. Property Damage to computer data or programs and their storage media arising directly or indirectly out of or caused by, through or in connection with:
 - (i) the use of any computer hardware or software;
 - (ii) the provision of computer or telecommunication services by You or on Your behalf; or
 - (iii) the use of computer hardware or software belonging to any third party, whether authorised or unauthorized including damage caused by any computer virus.

Provided that Exclusion 5.9 does not apply to:

- c. Personal Injury or Property Damage arising out of any material which is already in print by the manufacturer in support of its product, including but not limited to product use and safety instructions or warnings, and which is also reproduced on its site; or
- d. liability which arises irrespective of the involvement of Your Internet Operations.

5.10 Loss of use

Loss of use of tangible property which has not been physically injured or lost or destroyed, resulting from:

- a. a delay in or lack of performance by You or on Your behalf of any contract or agreement;
- b. the failure of Your Products to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by You, but this Exclusion 5.10b. does not apply to the loss of use of other tangible property resulting from the sudden, unexpected and unintended physical damage to or loss or destruction of Your Products or work performed by You or on Your behalf after such Products or work have been put to use by any person or organisation other than You as defined under the definition of 'You', 'Your' or 'Insured'.

5.11 Pollution

- a. Personal Injury or Property Damage caused by or arising out of the discharge, dispersal, release, seepage, migration or escape of Pollutants into or upon land, the atmosphere, or any water course or body of water, but this exclusion does not apply if the discharge, dispersal, release or escape is sudden, identifiable, unexpected and unintended and takes place in its entirety at a specific time and place.
- b. Any costs and expenses incurred in the prevention, removing, nullifying or clean-up of such contamination or pollution but this exclusion does not apply to clean-up, removal or nullifying expenses only, which are consequent upon a sudden, identifiable, unexpected, unintended happening taking place in its entirety at a specific time and place which results in Personal Injury and/or Property Damage.
- c. The actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants caused by any Product that has been discarded, dumped, abandoned or thrown away by others.
- d. The actual, alleged or threatened discharge, dispersal, release, seepage, migration or escape of Pollutants in the United States of America or Canada or in any country to which the laws of the United States of America or Canada apply.

5.12 Product defect

Property Damage to Your Products if the damage is attributed to any defect in them or to their harmful nature or unsuitability.

This exclusion 5.12 is restricted to the defective or harmful or unsuitable part of a damaged Product and does not apply to any resultant damage caused to the remainder of the Product.

5.13 Product recall

Claims arising out of or resulting from any loss, cost or expense incurred by You for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of Your Products or of any property of which they form a part, if such Products or property are withdrawn from the market or from use because of any known or suspected defect, deficiency, inadequacy or dangerous condition in them.

5.14 Professional liability

The rendering of or failure to render professional advice or service by You, but this exclusion does not apply to:

- a. the rendering of or the failure to render professional medical advice by Medical Persons employed by You to provide first aid and other medical services on Your premises;
- b. Personal Injury or Property Damage arising from the rendering of or failure to render professional advice or service;
- c. free advice provided by You in the course of the Business; or
- d. advice given in respect of the use or storage of Your Products.

5.15 Property in custody or control

Property Damage to property owned by or leased or rented to You, or property in Your physical or legal control but this exclusion 5.15 does not apply to liability for Property Damage to:

- a. premises or part of premises (including landlord's fixtures and fittings) which are leased, rented or loaned to You for the purposes of the Business;
- b. premises (or their contents) not owned or leased by or rented to You but temporarily occupied by You for the purpose of carrying out work, and other property temporarily in Your possession for work thereon;
- c. Vehicles (not belonging to or used by You) in Your physical or legal control where the Property Damage occurs while the Vehicles are in a car park owned or operated by You, unless You own or operate the car park for reward;
- d. the property of an Employee of the parties shown in paragraph 4.28a. and 4.28b. of Definitions of 'You', 'Your' or 'Insured';
- e. other property temporarily in Your physical or legal control provided no indemnity is granted for liability in respect of physical damage to or destruction of that part of any property upon which You are or have been working and Our limit under this clause 5.15 e. does not exceed \$100,000 (unless a different amount is stated in the Policy Schedule) for any one Occurrence and in the aggregate for any one Period of Insurance.

5.16 Punitive damages

Punitive damages, exemplary damages, aggravated damages and any additional damages resulting from the multiplication of compensatory damages.

5.17 Radioactivity

Claims arising directly or indirectly caused by, contributing to 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. For the purpose of this Exclusion 5.18 only, "Combustion" shall include any self-sustaining process of nuclear fission;

- b. the radioactive, toxic, explosive or other hazardous properties of any nuclear assembly or nuclear component thereof;
- c. nuclear weapons material.

This Exclusion 5.17 shall not apply to liability arising from radio-isotopes, radium or radium compounds when used away from the place where such are made or produced and when used exclusively incidental to ordinary industrial, educational, medical or research pursuits.

5.18 Territorial Limits

- a. Claims made or actions instituted within any country, state or territory (outside Australia) that require insurance to be arranged or secured with an insurer or organisation licensed in that country, state or territory to grant such insurance.
- b. Claims made and actions instituted within the United States of America or Canada or any other territory coming within the jurisdiction of the courts of the United States of America or Canada.
- c. Claims and actions to which the laws of the United States of America or Canada apply.

Provided that:

- d. exclusions 5.18b. and 5.18c. above do not apply to claims and actions arising from:
 - (i) the presence outside Australia of any of Your Employees and/or directors, partners or proprietors who are normally resident in Australia and who are not undertaking manual work or supervision of work of any kind while in the United States of America or Canada.
 - (ii) Products exported to the United States of America or Canada without Your knowledge.

The Limit of Liability in respect of coverage provided under paragraph 5.18d. is inclusive of all costs, expenses and interest as set out in 'Defence of claims' of this Policy.

5.19 Terrorism

Loss, damage, liability, cost or expense of any nature directly or indirectly caused by, resulting from or in connection with any Act of Terrorism, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

This Exclusion 5.19 also excludes loss, damage, liability, cost or expense of any nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any Act of Terrorism

5.20 Vehicle

Personal Injury or Property Damage arising out of the ownership, possession, or use by You of any vehicle:

- a. which is registered or which is required under any legislation to be registered, or
- b. in respect of which compulsory liability insurance or statutory indemnity is required by virtue of any legislation (whether or not that insurance is effected).

Exclusions 5.20a. and 5.20b. above do not apply to claims:

- c. for Personal Injury where:
 - (i) that compulsory liability insurance or statutory indemnity does not provide indemnity; and
 - (ii) the reason or reasons why that compulsory liability insurance or statutory indemnity does not provide indemnity do not involve a breach by You of legislation relating to Vehicles;
- d. arising out of and during the loading or unloading of goods to or from any Vehicle;
- e. caused by or arising from the operation or use of any Vehicle which is designed primarily for lifting, lowering, loading, unloading, while being operated or used by You or on Your behalf within the confines of Your premises;
- f. caused by or arising out of the use of:
 - (i) any Vehicle whilst being used as a tool; or
 - (ii) plant forming part of any Vehicle being used as a tool within the confines of Your premises or at any Worksite; or
- g. for Property Damage arising out of the movement by You or by any Employee(s) of Yours of any Vehicle or trailer not belonging to You which is interfering with access to or from Your premises or any site where You are carrying out work.

5.21 War

Invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power, confiscation or nationalisation or requisition or destruction or damage to property by or under the order of any government or public or local authority.

6. General Conditions

6.1 Observance of Terms and Conditions

Any failure by any of You to observe obligations of disclosure, good faith and/or compliance with the terms and conditions of the Policy shall not prejudice the rights of any other of You under the Policy.

6.2 Changing Your Policy

If You want to make a change to this Policy, the change becomes effective when We agree to it in writing.

6.3 Other Interests

You cannot transfer any interests in this Policy without Our written consent.

Any person whose interests You have told Us about and whom We have noted on Your Policy Schedule is bound by the terms of this Policy.

6.4 Cancelling Your Policy

How You may cancel this Policy:

- You may cancel this Policy at any time by telling Us in writing that You want to cancel it.
- Where 'You' involves more than one person, We will only cancel the Policy when a written agreement to cancel the Policy is received from all persons named as the Insured.

How We may cancel this Policy:

- We may cancel this Policy in any of the circumstances permitted by law by informing You in writing.
- We will give You this notice in person or send it to Your address last known to Us.

The premium

We will refund to You the proportion of the premium for the remaining Period of Insurance, provided We shall be entitled to retain the agreed minimum premium. When the premium is subject to adjustment, cancellation will not affect Your obligation to supply to Us such information as is necessary to permit the premium adjustment to be calculated and to pay the amount of the adjustment applicable up to the date of cancellation.

Premium Funders

If the premium has been funded by a premium funding company which holds a legal right over the Policy by virtue of a notice of assignment and irrevocable power of attorney, a refund of any return premium due on cancellation of this Policy, will be made to the premium funding company but only to the extent of any remaining financial interest in the Policy held by that party.

6.5 Notices

Any notice We give You will be in writing, and it will be effective:

- a. if it is delivered to You personally; or
- b. if it is delivered or posted to Your address last known to Us.

It is important for You to tell Us of any change of address as soon as possible.

6.6 Changes to Information Previously Advised

- a. You must tell Us as soon as possible if circumstances occur, or if changes or alterations are intended or made which increase the risk of loss, damage or injury.
- b. You must tell Us immediately in writing of:
 - (i) every Occurrence, claim, writ, summons, proceeding, impending prosecution, and inquest together with all relevant information which may result in a claim under this Policy, whether or not You believe any claim amount might fall below the Deductible; and
 - (ii) every change that comes to Your knowledge which materially varies any of the facts or circumstances existing at the commencement of this Policy.

6.7 Jurisdiction

All disputes arising out of or under this Policy will be subject to determination by any Court of competent jurisdiction within Australia.

6.8 Joint Insureds/Cross Liability

Where more than one party comprises the Insured each of the parties will be considered as a separate and distinct unit and the words 'You', 'Your', 'Yours' or 'Insured' will be considered as applying to each party in the same manner as if a separate Policy had been issued to each of them, provided that nothing in this clause will result in an increase of Our Limit of Liability in respect of any Occurrence or Period of Insurance.

6.9 Subrogation Waiver

We hereby agree to waive all Our rights of subrogation under this Policy against:

- a. each of the parties described under the Definition of You, Your, Yours, Insured; and
- b. any corporation, organisation or person which or who owns or controls the majority of the capital stock of any corporation or organisation to which or to whom protection is afforded under this Policy.

Where such corporation, organisation or person is protected from liability insured against hereunder by any other Policy of indemnity or insurance, Our right of subrogation is not waived to the extent and up to the amount of such other policy.

6.10 Discharge of Liabilities

At any time We can pay to You or on Your behalf, for all claims made against You for any one Occurrence:

- a. the Limit of Liability, after deducting any amounts already paid; or
 - b. any lower sum for which the claim can be settled.
- If We do so:
- c. the conduct of any outstanding claim(s) will become Your responsibility; and
 - d. We will not be liable to pay any further amounts other than costs, charges, or expenses that We agreed to pay before We made the payment referred to above.

6.11 Reasonable Care

You must:

- a. exercise reasonable care that only competent Employees are employed and take reasonable measures to maintain all premises, fittings and plant in sound condition;
- b. take all reasonable precautions to prevent Personal Injury and Property Damage, to prevent the manufacture, sale or supply of defective Products, and to comply with and to ensure that Your Employees, servants and agents comply with all statutory obligations, by-laws or regulations imposed by all relevant public authorities for the:
 - (i) safety of persons or property;
 - (ii) disposal of waste products; and
 - (iii) handling, storage or use of flammable liquids or substances, gases or toxic chemicals; and
- c. at Your own expense take reasonable action to trace, recall or modify any of Your Products containing any defect or deficiency of which You have knowledge or have reason to suspect, including (but not limited to) any of Your Products subject to governmental or statutory ban.

6.12 Inspection of Property

- a. We will be permitted but not obligated to inspect Your property and operations at any reasonable time.
- b. Neither Our right to inspect nor Our failure to inspect nor the making of any inspection nor any report of an inspection may be used by You or others in any action or proceeding involving Us.

- c. We may examine and audit Your books and records at any time during the Period of Insurance and within one year thereafter but that examination and audit will be restricted to matters which in Our opinion are relevant to the Policy.

6.13 Adjustment of Premium

Where the Policy Schedule shows premium for the Policy has wholly or partly been calculated on estimates You must, within sixty (60) days after the expiry of each Period of Insurance, provide to Us such matters, particulars and information relevant to the Policy as We may reasonably require. The premium for the Period of Insurance will then be adjusted and any difference paid by or allowed to You, as the case may be, provided that the adjusted premium will not be less than any minimum premium specified in the Policy Schedule.

You must keep a record of all matters, particulars and information requested by Us and must on reasonable notice allow Us or Our nominee to inspect and make copies of those records.

6.14 Additions and/or Alterations to Buildings and Plant

Where additions and/or alterations to buildings or plant are being performed at the location by any contractor employed by You, notwithstanding the definition of Business (clause 4.4), this Policy extends to indemnify You against any claim for Your legal liability to pay compensation for Personal Injury or Property Damage arising from an Occurrence happening in connection with the conduct of the Business during the period of the contract works, that is independent of the contractor's performance

Provided also that nothing in this clause will result in an increase in Our Limit of Liability in respect of any Occurrence or Period of Insurance.

7. Claims

7.1 What you must do

If an event happens which may give rise to a claim under this Policy You must:

- a. tell Us or Your Financial Services Provider as soon as possible. You will be provided with advice on the procedure to follow;
- b. supply Us with all information We require to settle the claim;
- c. send us the details of any verbal or written claims made upon You without delay for Our attention;
- d. take all reasonable precautions to prevent further loss or damage;

- e. not negotiate, admit, repudiate or pay any claim by any person;
- f. co-operate with Us fully in any action We take if We have a right to recover any money payable under this Policy from any other person.

If in doubt at any time, contact Us or Your Financial Services Provider for advice Your failure to notify Us promptly of personal injuries or damage to the property of others could affect the amount of Your Claim.

7.2 What You must NOT do

You must not:

- a. admit liability if an incident occurs which is likely to result in someone claiming against You; or
- b. make any admission of guilt or promise or offer of payment in connection with any such claim, unless We first agree in writing. This applies to You or any other person making a claim under this Policy.

7.3 What We do

We may take over and conduct the defence or settlement of any claim or issue legal proceedings for damages. If We do this We will do it in Your name. We have full discretion in the conduct of any legal proceedings and in the settlement of any claim. You must co-operate by giving Us any statements, documents or assistance We require. This may include giving evidence in any legal proceedings.

Any amount recovered by Us from a third party shall be applied in the following order of priority:

- a. first to the uninsured proportion of the loss;
- b. second to reimburse Us to the extent of Our actual payment in respect of the claim, and
- c. third, to reimburse You for any Deductible borne by You.

The expenses of such recovery proceedings shall be apportioned between You and Us proportionately in accordance with the apportionment formula set out above. If there is no such recovery by Us, the expenses shall be borne by Us.

7.4 What can affect a claim

We will reduce the amount of a claim by the Deductible shown in the Policy Terms and Conditions or on the Policy Schedule. We may refuse to pay a claim if You are in breach of Your duty of disclosure or any of the conditions of this Policy, including any Endorsements noted on or attached to the Policy Schedule. We pay only once for loss or damage from the same event covered by this Policy even if it is covered under more than one section of the Policy.

We may be entitled to refuse to pay or to reduce the amount of a claim if:

- a. it is in any way fraudulent; or
- b. any fraudulent means or devices are used by You or anyone acting on Your behalf to obtain any benefits under this Policy.

If any liability insured under this Policy arises from a contract or agreement between You and a third party and if the contract or agreement provides for the appointment of an arbitrator, We will be entitled to exercise all of Your rights in the choice of arbitrator and in the conduct of any arbitration proceedings.

An Insured's insolvency or bankruptcy or the insolvency or bankruptcy of an Insured's estate will not relieve Us of any of Our obligations under this Policy.

For all enquiries please call your insurance intermediary

[allianz.com.au](https://www.allianz.com.au)

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