



# General Public and Product Liability Insurance

Your cover and our mutual responsibilities

**QBE Insurance (Australia) Limited**

ABN 78 003 191 035 AFSL 239545



**Need help with a question or claim?**

Contact your financial service provider.

# General Public and Product Liability Insurance

## People sue businesses for all kinds of reasons

A slip or trip that causes personal injury. A faulty product that harms someone or damages property. Even a simple advertisement that unintentionally offends.

No matter how prudently you run your business, the risk of legal action from these kinds of incidents can never be completely eliminated. Without adequate insurance, the financial consequences can be devastating.

## Why you should read this

If you buy this insurance, your contract with us is set out in this document and on your Certificate of Insurance. Together, they explain how far we will go to protect your business. They also describe your responsibilities. One day, if things go wrong, this Policy could save your business, so please make it your business to understand these documents.

## About QBE

QBE Insurance (Australia) Limited ABN 78 003 191 035 AFSL 239545 is a member of the QBE Insurance Group of companies. QBE Insurance Group Limited ABN 28 008 485 014 is the ultimate parent entity and is listed on the Australian Securities Exchange (ASX: QBE). We have been helping Australians protect the things that are important to them since 1886.

## How to read this document

### You and us, we and our

Throughout this document we'll refer to 'you', 'your' and 'yours'. You'll find the full definitions and scope of these terms on page 32, but generally we're talking to you as the primary policyholder, as well as other people and entities insured under this Policy.

The words 'we', 'our' or 'us' means QBE Insurance (Australia) Limited, ABN 78 003 191 035, AFS Licence No. 239545. We are the underwriter of this Policy.

### Definitions

Some words in this policy have special meanings and begin with a capital letter. We explain these words in the definitions section. When we use a definition in only one section, we explain it where it appears.

# Our agreement

Our agreement is a contract of insurance. You'll pay your premium and other amounts we charge by the due date. If for any reason we don't receive your payment on time, your Policy may not operate and you won't be covered.

We'll insure you under the terms of this Policy during the Policy Period shown on your Certificate of Insurance

You'll provide the information and assistance we ask for, so we can assess your claim.

You need to follow the general conditions and claims conditions set out in this document, particularly if something happens that could lead to a claim.

We'll handle your claims promptly and fairly. We'll assess your claim once we have all the information we need.



Your Policy is made up of this document and your Certificate of Insurance you'll receive when you buy, vary or renew this insurance.

Read your Policy carefully and if you have any questions contact your financial service provider.

# Finding your way around



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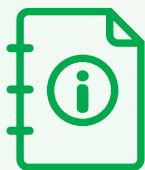
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# 1. What you're covered for

This section explains what this Policy covers.

## 1.1 Liability

We'll cover your legal liability to pay for Compensation and costs awarded against you for:

- (a) Personal Injury
- (b) Property Damage and/or
- (c) Advertising Liability

provided it:

- (d) first happens during your Policy Period and
- (e) is caused by an Occurrence in connection with your Business.

### 1.1.1 Personal Injury

means:

- (a) death
- (b) injury, illness or disability, either bodily or mental
- (c) shock, fright and mental anguish
- (d) the effects of:
  - (i) false arrest, false imprisonment or malicious prosecution
  - (ii) trespass onto land, or eviction from land
  - (iii) defamation or disparagement
  - (iv) assault and battery.

We consider latent Personal Injury first happens on the day it was first medically diagnosed provided that it is first diagnosed during your Policy Period.

### 1.1.2 Property Damage

means:

- (a) physical damage to tangible property, including any resulting loss of use of that property or
- (b) loss of use of tangible property caused by an Occurrence, which has not been physically damaged, lost or destroyed.

### 1.1.3 Advertising Liability

means liability arising out of one or more of the following:

- (a) defamation
- (b) infringement of copyright, title or slogan
- (c) unfair competition or misappropriation of advertising ideas or business practices
- (d) actual or alleged invasions of privacy:
  - (i) in any Advertisement and
  - (ii) arising out of your Business's advertising activities or
- (e) unintentional breach of the misleading or deceptive conduct provisions of consumer protection laws.

In this definition, Advertisement means any type of communication to the public. This includes print and electronic media, electronic communication, the world wide web or an exhibit.

### 1.2 Defence of claims

- (a) If we cover you, we will:
  - (i) defend, in your name and on your behalf, any claim against you seeking Compensation for liability even if the claim is groundless or fraudulent
  - (ii) investigate, negotiate and settle any claim or legal action as we see fit
  - (iii) pay all legal costs and expenses we incur and all interest accruing after judgment until we have paid out (to the claimant or to a court) our liability under the judgment up to the Limit of Liability
  - (iv) pay your reasonable expenses of defending the claim incurred with our consent
  - (v) pay the premium for appeal bonds, release attachment bonds and bonds for the security of costs in relation to a claim, but we won't apply for these bonds or pay the bonds themselves
  - (vi) pay up to \$250,000 for your reasonable costs for legal representation at a coronial inquest, royal commission or other government enquiry into an Occurrence or claim that would be covered under this Policy
  - (vii) pay up to:
    - > \$250 per day for Court Attendance Costs incurred by Your Employees or
    - > \$500 per day for Court Attendance Costs incurred by Your partners, principals or directorsif they are legally required to attend a civil proceeding as a witness in a Claim covered by this Policy.  
  
The most we will pay for all Court Attendance Costs during any one Policy Period is \$100,000.
  - (viii) pay your reasonable first aid expenses for personal Injury, unless the law prevents us.
- (b) We won't pay defence costs or continue to defend the claim after we have paid out the Limit of Liability.

## What you're covered for

- (c) If the claim resolves for more than the Limit of Liability, we will only pay that proportion of defence costs that the Limit of Liability bears to the amount for which the claim resolves.

Where this occurs, the amount of defence costs that we will pay may be lower than if the claim was resolved for less than the Limit of Liability.

- (d) In respect of any claims or suits originating in any court in United States of America or Canada, the Limit of Liability shown in the Certificate of Insurance is inclusive of all defence costs and supplementary payments.
- (e) Where we are prevented by law or otherwise from making payments on your behalf, we will indemnify you for any legal liability incurred to the extent that such liability is covered by this Policy.
- (f) In jurisdictions where we may not legally be permitted to, or cannot for any other reason, defend any claim or suit against you, we will reimburse you for the expense of such defence incurred.

### **1.3 Limit of liability**

- (a) The Limit of Liability (on the Certificate of Insurance) is the most we will pay for:
- (i) any one claim or series of claims against you caused by one Occurrence or
  - (ii) the total aggregate liability of all claims against you caused by your Products during one Policy Period
- (b) Only amounts paid to settle claims and to pay costs awarded against you count towards your Limit of Liability. Amounts we pay for defence costs don't count towards the Limit of Liability.

### **Optional extensions**

Your business may involve risks that this Policy does not cover. For some of these, we offer optional extensions to extend your cover to meet these liabilities.

For any of these extensions to apply:

- you have to ask us to include them in your Policy
- your business must meet our underwriting criteria for each of the extensions you select and
- you may need to pay us extra premium.

Your Certificate of Insurance will note if any of these optional extensions apply. Unless stated otherwise, they will only apply from the time they are included in your Policy.

The optional extensions that may be available to you include:

- Products exported to United States of America or Canada with your knowledge
- Product recall expenses
- Errors and omissions



## 2. What you're not covered for

This section explains what this Policy doesn't cover. These are known as exclusions.

### 2.1 Advertising Liability

We don't cover liability in respect of Advertising Liability arising from:

- (a) statements made before the start of the Policy Period
- (b) statements made at your direction with knowledge that the statements are false
- (c) failure to perform a contract, but this does not apply to claims for unauthorised use of advertising ideas contrary to an implied contract
- (d) any incorrect description of your Products or services
- (e) a mistake in the advertised price of your Products or services
- (f) failure of your Products or services to meet advertised standards
- (g) your Business, if your Business is advertising, broadcasting, publishing or telecasting.

### 2.2 Aircraft, Aircraft Products, Watercraft and Hovercraft

We don't cover liability in respect of claims arising out of:

- (a) the ownership, maintenance, operation, or use by you or on your behalf of any Aircraft, unless it is a Remotely Piloted Aircraft System used incidentally in your business and:
  - (i) it is not used:
    - to provide services for remuneration, financial benefit, hire or reward
    - for military or law enforcement purposes
  - (ii) the operator (if required):
    - holds a valid Remotely Piloted Aircraft Operators Certificate (ReOC) issued by Civil Aviation Safety Authority (CASA) and
    - complies with its terms and conditions
  - (iii) the remote pilot or controller (if required):
    - holds a valid Remote Pilot Licence issued by CASA and
    - complies with its terms and conditions
  - (iv) its operation doesn't result in the breach of any privacy, surveillance or aviation law and
  - (v) you and any operator, remote pilot or controller fully comply with the relevant Civil Aviation Safety Regulations.

## What you're not covered for

- (b) the ownership, operation or use by you or on your behalf of any Watercraft longer than 15 metres, unless it is:
  - (i) owned and operated by someone else and used by you for business entertainment or
  - (ii) used by an independent contractor for whom you are vicariously liable but not if you have entered into a charter party contract or agreement with the independent contractor or
  - (iii) powered by human or wind power and used in Australian waters
- (c) the ownership, operation or use by you or on your behalf of Hovercraft
- (d) your Products that are Aircraft or Aircraft parts used for maintaining an Aircraft in flight or moving on the ground or used in the construction of an Aircraft hull or machinery which you know are incorporated in an Aircraft or aerial device.

In this exclusion:

- (a) Aircraft means any machine intended to travel in the atmosphere or space.
- (b) Hovercraft means any vessel that transports people or items using a cushion of air.
- (c) Remotely Piloted Aircraft Systems (RPASs) means unmanned aircraft systems used in connection with the business stated in the Certificate of Insurance
  - (i) includes:
    - the aircraft
    - remote pilots (also known as controllers) and other personnel associated with the operation of the RPAS
    - pilot stations, command and control links, components specified in the design type and ground support equipment, other than fireworks, rockets, balloons or kites.
  - (ii) does not include RPASs:
    - with a maximum take-off weight greater than two kilograms
    - that are jet propelled
    - with a payload other than fixed photographic, video, surveillance, measuring or monitoring equipment
    - operated or used Beyond Visual Line of Sight (BVLOS) or with an Extended Visual Line of Sight (ELOS) or
    - that are your Products.
- (d) Watercraft means any vessel that floats, travels on water or travels underwater.

### **2.3 Asbestos**

We don't cover liability in respect of claims arising directly or indirectly from asbestos in any form or quantity.

## 2.4 Assault and battery

We don't cover liability in respect of Personal Injury or Property Damage arising from assault or battery committed by you or at your direction.

This exclusion does not apply when the assault and battery is:

- (a) reasonably necessary for the protection of persons or property and
- (b) done at the direction of the named Insured or its Australian subsidiaries by:
  - (i) a director, officer, employee, voluntary worker, work experience person, partner or shareholder of the named Insured or its Australian subsidiaries, but only while acting within the scope of their duties in such capacity;
  - (ii) an office bearer or members of social and sporting clubs, canteen and welfare organisations, first aid, fire and ambulance services formed with the consent of the named Insured or its Australian subsidiaries.

## 2.5 Contractual liability

We don't cover liability in respect of any contractual obligation or agreement that requires you to:

- (a) obtain insurance for property or
- (b) assume liability for Personal Injury, Property Damage or Advertising Liability regardless of fault.

This exclusion does not apply to:

- (c) liabilities the law implies in the absence of a contract or agreement
- (d) liabilities assumed under Incidental Contracts
- (e) liability for implied terms regarding the merchantability, quality, fitness or care of your Products or
- (f) a contractual obligation under an agreement specified in the Certificate of Insurance.

In this exclusion, Incidental Contract means any written contract:

- (a) to rent or lease any real or personal property, but not if the contract:
  - (i) requires you to insure property or
  - (ii) makes you strictly liable for damage regardless of fault
- (b) with any supplier of utilities, except for work done for that supplier or
- (c) with any railway authority for the handling of products, including contracts for the operation of railway sidings.

## 2.6 Defamation

We don't cover liability in respect of claims for defamation:

- (a) made before the start of the Policy Period
- (b) made by you or at your direction with knowledge that the statements were false or
- (c) if your Business is advertising, broadcasting, publishing or telecasting.

## 2.7 Electronic data and cyber

We don't cover liability in respect of any:

- (a) Cyber Act or Cyber Incident
- (b) action taken in controlling, preventing, suppressing or remediating any Cyber Act or Cyber Incident
- (c) communication, display, distribution, or publication of Data, unless these things cause Personal Injury or Advertising Liability
- (d) loss of use, reduction in functionality, destruction, distortion, erasure, corruption, alteration, misinterpretation, misappropriation or theft of Data
- (e) repair, replacement, restoration, reproduction of any Data
- (f) error in creating, amending, entering, deleting, or using Data or
- (g) inability or failure to receive, send, access, or use Data for any length of time

regardless of any other cause or event contributing concurrently or in any other sequence thereto.

## 2.8 Employment liability

We don't cover liability in respect of:

- (a) Personal Injury to any of your Employees caused during or by their employment in your Business
- (b) Personal Injury to anyone that workers' compensation legislation deems to be your Employee
- (c) liability that could be covered by a workers' compensation insurance policy, fund, scheme, or self-insurance arrangement that you are entitled to seek cover under (or would have been entitled if you had complied with your obligations under that policy, fund, scheme or arrangement), whether or not you are a party to that policy, fund, scheme, or arrangement
- (d) liability under workers' compensation legislation or any industrial award or agreement or determination or
- (e) Employment Practices or
- (f) any dispute in connection with employment.

In this exclusion, Employment Practices means:

- (a) failure to employ or promote
- (b) failure to provide career opportunities, tenure, training, or any other employment-related benefit
- (c) appraisal, investigation, counselling, or discipline
- (d) employment-related:
  - (i) misrepresentation, discrimination, or harassment (sexual or otherwise)
  - (ii) invasion of privacy
  - (iii) defamation or
  - (iv) infliction of emotional distress or retaliation

## What you're not covered for

- (e) creation or tolerance of a harassing workplace environment
- (f) breach of:
  - (i) a statutory, common law or other legal duty in connection with the employment or
  - (ii) contract of employment (oral, written, or implied)
- (g) demotion, redeployment, transfer, retrenchment, or dismissal, or
- (h) failure to provide accurate references directly or indirectly related to you employing or prospectively employing anyone.

### **2.9 Faulty workmanship**

We don't cover liability in respect of the cost of performing, correcting, improving or replacing any work done by you or on your behalf.

### **2.10 Fines, penalties, liquidated damages**

We don't cover liability in respect of fines, penalties and/or liquidated damages.

### **2.11 Loss of use**

We don't cover liability in respect of loss of use of tangible property which hasn't been physically damaged, lost or destroyed resulting from:

- (a) a delay in or lack of performance by or on your behalf of any contract or
- (b) your Products' failure to meet express or implied representations about their performance or quality. This exclusion 2.11(b) doesn't apply to loss of use of tangible property caused by the sudden unintended and unexpected physical loss of or damage to your Products after someone other than the named Insured or its Australian subsidiaries has put them to use.

### **2.12 Participation**

We don't cover liability in respect of Personal Injury or Property Damage of any person caused by or arising out of the participation of such person or their property in any exercise, sport, game, match, race, practice or trial, training, competition, warmups, warm downs and other preliminary activities, or bodily contact with any persons, machines or devices.

## 2.13 Pollution

We don't cover liability in respect of:

- (a) Personal Injury or Property Damage directly or indirectly arising out of Pollution, unless the Pollution:
  - (i) is sudden, identifiable, unexpected and unintended
  - (ii) takes place in its entirety at a specific time and place and
  - (iii) occurs outside of the United States of America or Canada
- (b) any costs and expenses incurred in the prevention, removing, nullifying or clean-up of Pollution unless it:
  - (i) is consequent upon a sudden, identifiable, unexpected, unintended incident
  - (ii) takes place in its entirety at a specific time and place
  - (iii) results in Personal Injury and/or Property Damage and
  - (iv) occurs outside of the United States of America or Canada
- (c) the actual, alleged or threatened Pollution caused by your Product that you or someone on your behalf has discarded.

The most we will pay under Exclusion 2.13(a) and 2.13(b) in respect of any one Pollution incident and for all Pollution incidents during any one Policy Period is the Limit of Liability.

In this exclusion Pollution means:

- (a) the discharge, dispersal, release, seepage, migration or escape
- (b) of any solid, liquid, vapour, fumes, gas or thermal irritant, contaminant or waste
- (c) into or upon land, the atmosphere, or any water course or body of water.

## 2.14 Product defect

We don't cover liability in respect of Property Damage to your Products directly attributable to a defect or their harmful nature or unsuitability.

## 2.15 Product recall

We don't cover liability in respect of claims arising out of any loss, cost or expense you incur for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of your Products or anything they are a part of, if they are withdrawn from the market or from use because of any known or suspected defect, deficiency, inadequacy or dangerous condition in them.

## 2.16 Professional liability

We don't cover liability in respect of your provision, or failure to provide, professional advice or services, or any related error or omission.

This exclusion will not apply to:

- (a) Personal Injury or Property Damage if you provide or fail to provide professional advice so long as your professional advice or service is given without a fee
- (b) advice you give about the use or storage of your Products or
- (c) medical advice by medical persons who are employed to provide medical services including first aid as long as you are not in the business of providing medical services.

## 2.17 Property in custody or control

We don't cover liability in respect of damage to property you own or lease or which is in your physical or legal control.

This exclusion does not apply to liability for Property Damage to:

- (a) premises (including landlord's fixtures and fittings) which are leased or rented to you
- (b) premises (including their contents) that you temporarily occupy for work
- (c) vehicles you don't own or use, but which are damaged in a car park you own or operate, unless you own or operate the car park for reward
- (d) car spare parts and accessories
- (e) the property of your Employees
- (f) other property temporarily in your physical or legal control but we won't cover physical damage or destruction of any property you have been working on and our total liability in respect of all claims made under this exclusion shall not exceed \$500,000 for any one Occurrence and in the aggregate during any one Policy Period.

These exceptions do not provide any cover for any liability you assume under any agreement that:

- (i) requires you to take out material damage insurance on premises, property or goods you do not own or
- (ii) makes you strictly liable for damage regardless of fault.

## 2.18 Punitive damages

We don't cover liability in respect of punitive, exemplary, aggravated, or any additional damages resulting from the multiplication of compensatory damages.

## 2.19 Radioactivity and nuclear

We don't cover liability in respect of:

- (a) ionising radiation, unless it is from radioisotopes or radium used:
  - (i) away from where they are manufactured and
  - (ii) only incidentally to ordinary industrial, educational, medical or research activities
- (b) contamination by radioactivity from:
  - (i) any nuclear fuel or
  - (ii) any nuclear waste from the combustion of nuclear fuel, including any self-sustaining process of nuclear fission
- (c) the radioactive, toxic, explosive or other hazardous properties of any nuclear assembly or component of it.

## 2.20 Sanctions

We will not be liable to provide any cover, pay any claim or provide any benefit under this Policy, to the extent that to do so may expose us to any sanction, prohibition, or restriction under United Nations resolutions or any applicable trade or economic sanctions, laws or regulations of any country.

## 2.21 Sexual abuse

- (a) We don't cover liability in respect of Claims for Personal Injury arising out of or as a result of the actual or alleged Sexual Abuse of any person in any circumstances.
- (b) In this exclusion, Sexual Abuse means all acts of a sexual nature whether or not involving physical contact, including but not limited to molestation, indecent exposure, assault, harassment, abuse, and impropriety of any kind.
- (c) For the avoidance of doubt, the definition of Sexual Abuse in paragraph (b) above applies whether the acts were by consent or not, and irrespective of the age of the persons involved in those acts.

## 2.22 Territorial limits

- (a) We don't cover liability in respect of claims made or actions started outside of Australia where the local laws require you to have insurance with an insurer or insurance provider licenced in that place.
- (b) We don't cover liability in respect of:
  - (i) claims made and actions started within the United States of America or Canada or any other territory coming within the jurisdiction of their courts or
  - (ii) claims and actions to which the laws of the United States of America or Canada apply.
- (c) We shall not be liable under this Policy to provide indemnity in respect of any Claim made against you which we are prohibited from paying by law in the jurisdiction concerned.



- (d) Exclusion (b) does not apply to:
- (i) claims and actions caused by the presence of your Employees, directors or partners normally resident in Australia while they are outside of Australia unless they are doing any kind of manual or supervisory work in the United States of America or Canada or
  - (ii) claims for liability caused by your Products exported to the United States of America or Canada without your knowledge.

The Limit of Liability for claims under this exception (d) includes all costs, expenses and interest as set out in 'Defence of claims'.

## **2.23 Terrorism**

We don't cover liability in respect of loss, damage, liability, cost or expense of any nature in connection with:

- (a) any Act of Terrorism, regardless of any other cause or event
- (b) any action taken to control, prevent, suppress or in any way relating to any Act of Terrorism.

In this exclusion, an Act of Terrorism means the use or threat of force by any person or group, motivated by a political, religious, ethnic or similar Ideology, intended to:

- (i) influence a government or
- (ii) intimidate the public or any section of the public.

## **2.24 Vehicles**

- (a) We don't cover liability in respect of claims directly or indirectly arising out of the ownership, possession, operation, or use by you or on your behalf of any vehicle:
  - (i) registered or required to be registered by any legislation
  - (ii) for which any legislation requires compulsory insurance or statutory indemnity insurance, whether or not that insurance is in effect.
- (b) This exclusion doesn't apply to:
  - (i) Personal Injury claims where compulsory third party insurance or statutory indemnity doesn't cover you for reasons that don't involve you breaching legislation relating to vehicles
  - (ii) Property Damage claims caused:
    - by and during the loading or unloading of goods to or from any vehicle
    - by the operation of any vehicle designed primarily for lifting, lowering, loading, unloading, while being operated by you or on your behalf within your premises
    - by any vehicle being used as a Tool of Trade
    - by equipment that's part of your vehicle being used as a tool at any worksite.

## What you're not covered for

- (c) However, there is no cover for Property Damage:
  - (i) caused by a vehicle while it is transporting or carting goods or
  - (ii) to property you own or lease or which is in your legal control, unless also covered by an exception to exclusion 2.17 ('Property in custody or control').

In this exclusion:

- (i) Vehicle means any machine propelled mechanically including a trailer that can be attached to it.
- (ii) Tool of Trade means a Vehicle which has a tool attached to it or used in conjunction with it which is used on worksite. Tool of Trade does not include Vehicles used for travelling to and from worksites or to carry goods to any premises.

### **2.25 War**

We don't cover liability in respect of:

- (a) war - including invasion, acts of foreign enemies, hostilities or war-like operations (whether war is declared or not).
- (b) civil upheaval - including civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power.
- (c) government taking property - including confiscation or nationalisation or requisition or destruction or damage to property by or under the order of any government or public or local authority.

## 3. Claims

### 3.1 What to do if a claim is made against you

In running your Business, you must take all reasonable precautions to prevent incidents that could result in claims against you. But if something does go wrong, we ask that you do the following:

#### You must

**Contact your financial service provider as soon as practicable** about any Occurrence, claim, writ, summons, proceeding, impending prosecution or inquest that could result in a claim on this Policy, even if you think the claim amount will be lower than the Deductible.

**Give us any relevant information we reasonably ask for** to assess and investigate the claim.

**Take all reasonable precautions** to prevent further loss or damage.

**Preserve all property, Products, appliances, plant, equipment** or anything else that might help in the investigation or defence of a claim or help us recover money from others that contributed to or caused the claim to be made.

**Co-operate with us** to investigate the claim, to defend it in court and in any action we take to recover money payable under this Policy from any other person.

**Pay the Deductible for each claim within 14 days** of us asking you to pay it.

**Contact your financial service provider** if you need advice on what to do.

#### You must not

**Admit liability, negotiate or make any promise or payment** unless we first agree in writing. This applies to you and anyone else making a claim under this Policy. Failure to comply with this clause could jeopardise your claim.

### 3.2 Things that can affect your claim

If:

- you breached your duty of disclosure when you took out or renewed your Policy
- you haven't followed any of the terms and conditions detailed in this Policy or on the Certificate of Insurance, including payment of premiums
- your claim is in any way fraudulent, including you or anyone acting on your behalf acting fraudulently

we may be entitled to avoid paying the claim or reduce the amount of the claim settlement. In some circumstances we may also be able to cancel your Policy.

We will pay only once for loss or damage from the same Occurrence covered by this Policy.

### 3.3 Deductible

- You must pay the Deductible shown on the Certificate of Insurance for claims made on this Policy.
- If more than one Deductible applies for any claim, or series of claims caused by one Occurrence, you need only pay one Deductible but the highest Deductible will apply.
- If you have not paid your Deductible and the Compensation and costs to be paid to a claimant are greater than your Limit of Liability, we will only pay the Limit of Liability less your Deductible.

### 3.4 Goods and Services Tax

Amounts in your Policy do not include GST. There may be other taxation implications for you, depending upon your circumstances. We recommend you seek professional tax advice.

Your GST status affects the amount we pay for claims. We will reduce your claim settlement to allow for any input tax credit (ITC) entitlement for replacement goods or services. This is regardless of whether you replace those goods or services.

If you're a business you must tell us if you're registered, or need to register, for GST. If you do, you need to tell us:

- your ABN if you have one
- the percentage of any input tax credit (ITC) you were entitled to claim on your premium (ITCE)
- any entitlement you may have to claim a GST credit on any goods or services you may buy to satisfy your claim (ITC or ITCE).

### GST on payments we make

The amount we pay you or a third party is as below:

If the payment is to:	then:
<b>the supplier of goods or services</b>	we'll pay the GST inclusive amount
<b>you, and:</b> <ul style="list-style-type: none"> <li>• you aren't registered for GST</li> <li>• you are registered for GST and you have a 100% ITC</li> <li>• you are registered for GST and you have a partial Input tax credit entitlement</li> </ul>	we'll pay the GST inclusive amount we'll pay the GST exclusive amount we'll reduce the amount of the payment by amount of ITC you would have been entitled to had you acquired the goods or services
<b>your finance company</b>	we'll treat the payment in the same way as we would treat a payment to you
<b>to a third party (other than a supplier of goods and services) who:</b> <ul style="list-style-type: none"> <li>• isn't registered (and is not required to be registered) for GST</li> <li>• is registered for GST and have a 100% ITC</li> <li>• is registered for GST and has a partial ITC</li> </ul>	we'll pay the GST inclusive amount we'll pay the GST exclusive amount we'll reduce the amount of the payment by amount of ITC the third party would have been entitled to had they acquired the replacement goods or services

### 3.5 Discharge of liabilities

For all claims made against you for any one Occurrence, we can pay to you or on your behalf either:

- the Limit of Liability, less any amounts already paid or
- any lower sum for which the claim may be settled.

If we do so:

- the conduct of any outstanding claim or claims will become your responsibility and
- we won't be liable for further amounts in relation to that Occurrence other than costs, charges, or expenses that we agreed to pay before or when we made the payment referred to in this general condition.

The sum for which the claim or claims can be settled is either:

- the amount for which the claimants offer to settle all claim or claims or
- the amount assessed by a Senior Counsel, taking into account:
  - > the economics of the matter

## Claims

- > the damages and costs which the claimants are likely to recover
- > the likely defence costs and
- > your prospects of successfully defending the claim
- If you and we cannot agree on the Senior Counsel, we will ask the President of the Bar Association in the relevant State or Territory to nominate one.

We will include the cost of the Senior Counsel's opinion in your defence costs.

### **3.6 We may act in your name**

We may take over the defence or settlement of a claim or sue for damages in your name. This is known as subrogation. You must co-operate by giving us any relevant statements, documents or reasonable assistance we need. We may require you to give evidence in court. You can seek an update on the status of proceedings and we will consult you where appropriate.

### **3.7 Recovery from third parties**

- We may exercise your rights, in your name, to recover a loss from a third party. This is also known as subrogation. If we do, you must:
  - > provide us with the assistance and information we need to do this, and
  - > co-operate with our reasonable requests.
- You must not prevent our right of recovery. That is, if someone is liable to compensate you for a loss, damage or liability you can't agree not to seek compensation from them.
- If you've agreed with or told someone who caused you loss, damage or liability covered by your policy that you won't hold them responsible then, to the extent we've been prejudiced by this act, we won't cover you for that loss, damage or liability.
- We won't seek recovery from anyone insured by this policy. Additionally, we won't seek recovery from any parent company or majority shareholder of any corporation insured by this policy, except to the extent another policy of insurance covers them for the liability this Policy covers.

### **3.8 Contribution**

- When making a claim, you must notify us of any other insurance which will or may, whether in whole or in part, cover any loss insured under your Policy.

If at the time of any loss, damage or liability there's any other insurance (whether effected by you or by any other person) which covers the same loss, damage or liability you must provide us with any reasonable assistance we require to make a claim for contribution from any other insurer(s).

## 4. Things you need to know

### General conditions

#### 4.1 Acquisition of properties or companies

We will cover properties, assets, companies, firms, entities or other bodies:

- formed, purchased or managed by you while you are insured by this Policy and
- that undertake activities consistent with the description of the Business in the Certificate of Insurance.

If a new acquisition represents more than 15% of your current turnover, we may revise the terms of the Policy, which could change your premium. If you don't accept the revised terms then the new acquisition will not be covered by the Policy.

We won't cover any claims of Personal Injury, Property Damage or Advertising Liability that happened before the acquisition, formation or assumption of management responsibility.

#### 4.2 Cancelling your Policy

You can cancel your Policy by telling your financial service provider.

We may cancel this Policy in any of the circumstances permitted by law. If we do, we'll tell you in writing.

We will refund you any premium for the remaining Policy Period above any agreed minimum premium. If your premium is being or has been adjusted, you still need to provide all the required information to enable the adjustment and to pay the amount of adjustment up to the date of cancellation.

#### 4.3 Changes in circumstances

You need to tell your financial service provider in writing as soon as possible if anything has changed since your Policy started that could increase the risk of Personal Injury, Property Damage or Advertising Liability.

Based on this information we may:

- charge additional premium
- amend or impose additional terms or conditions or
- cancel the Policy.

Any changes to your Policy will take effect when we issue a new Certificate of Insurance and/or an endorsement schedule, stating the change.

#### **4.4 Adjustment of premium**

Where the Certificate of Insurance shows your premium was wholly or partially calculated on estimates, you must within 30 days of the expiry of the Policy Period provide us or your financial service provider information required to calculate your adjusted premium. The change to your premium could result in you paying additional premium or us refunding you a portion of the premium. In all recalculations any minimum premium specified in the Certificate of Insurance will always be applicable.

You must keep a record of the information you provide and allow us to inspect or make copies of this at a reasonable notice.

#### **4.5 Cross liability**

Where this Policy insures more than one party, we will consider each of the parties separate and distinct units and the words 'you', 'your' or 'yours' will apply to each party in the same way as if they'd each been issued a separate Policy.

Nothing in this general condition will increase our Limit of Liability for any Occurrence or Policy Period.

#### **4.6 Inspection of property**

We may inspect your property and operations at any time, with reasonable notice. You may not use our failure to inspect, or any inspection report made by us or others on our behalf, in any action or proceeding involving us.

We may examine and audit your books and records at any time (with reasonable notice) while you're insured and for three years after, but we will only examine and audit matters that are relevant to the Policy.

#### **4.7 Jurisdiction**

The laws of Australia govern this Policy. All disputes relating to this Policy will be subject to determination by any court of competent jurisdiction within Australia.

#### **4.8 Notices**

We may send letters, policy and other related documents to you. If we email them to you, we'll consider the email to be received by you 24 hours after we send it.

Please make sure we have your current email and mailing address on record, and let us know as soon as these change.



#### 4.9 Other insurance

- If a policy of insurance or policies of insurance are listed in your Certificate of Insurance, those policies will act as primary insurance and this Policy will only apply in excess of such policies of insurance.
- You shall notify us as soon as practicable upon entering into any other policies of insurance that provides insurance cover in respect of the risks insured by this Policy.
- You shall maintain the policies noted in your Certificate of Insurance in full effect during the currency of this Policy.

#### 4.10 Other interests

Any person who has an interest in the Policy is noted on the Certificate of Insurance. Transfers of interest in the Policy can only be made with our written consent.

#### 4.11 Reasonable care

You must:

- take all reasonable precautions to prevent Personal Injury, Property Damage, Advertising Liability, the manufacture, sale or supply of defective Products
- 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
- ensure only competent employees are employed and take reasonable measures to maintain all premises, fittings and plant in sound condition
- ensure that your employees, contractors, or anyone else who completes work for you complies with all statutory obligations, by-laws or regulations imposed by all relevant public authorities for the:
  - > safety of persons or property
  - > disposal of waste products and
  - > handling, storage or use of flammable liquids, substances, gases or toxic chemicals.

## Other important information

### 4.12 Duty of Disclosure

Before you enter into an insurance contract, you have a duty under the *Insurance Contracts Act 1984* (Cth) to tell us anything that you know, or could reasonably be expected to know, that may affect our decision to insure you and on what terms.

You have this duty until we agree to insure you.

You have the same duty before you renew, extend, vary or reinstate an insurance contract.

You do not need to tell us anything that:

- reduces the risk we insure you for or
- is common knowledge or
- we know or should know as an insurer or
- we waive your duty to tell us about.

If you do not tell us anything you are required to, we may cancel your Policy or reduce the amount we will pay you if you make a claim, or both.

If your failure to tell us is fraudulent, we may refuse to pay a claim and treat the contract as if it never existed.

### 4.13 Payment of premium

- You must pay your premium on time otherwise your Policy may not operate.
- You may choose to pay your premium by instalments. If you do so, you must ensure you pay the instalments on time as we may cancel the Policy if any instalment of premium has remained unpaid for one month from the date on which payment was due.
- You may have a credit arrangement with your financial services provider. You must comply with the terms of your agreement with your financial services provider.
- We will send you a notice giving you details of the action we intend to take and when any cancellation will become effective.
- If you are paying your premium in instalments by direct debit from your credit card or financial institution account you must tell us if those details change. You must do this no later than seven days before your next instalment is due.
- We are entitled to deduct from any amount we pay you under a claim any unpaid premium or instalment of premium.

#### 4.14 The General Insurance Code of Practice

QBE is a signatory to the General Insurance Code of Practice (Code) and is committed to providing high standards of service. The Code covers topics like buying insurance, how claims are handled, what happens if financial hardship occurs, and complaint handling. You can read the Code at [codeofpractice.com.au](http://codeofpractice.com.au)

The Code Governance Committee is an independent body that monitors and enforces insurers' compliance with the Code. For more information about the Code Governance Committee please visit [insurancecode.org.au](http://insurancecode.org.au)

We recognise that family and domestic violence is a complex issue and we take it seriously. For more information about support, our Family and Domestic Violence Customer Support Policy is available at [qbe.com/au](http://qbe.com/au)

#### 4.15 Your privacy

We take the security of your personal information seriously.

We'll collect personal information when you deal with us, our agents, other companies in the QBE group or suppliers acting on our behalf. We use your personal information so we can do business with you, which includes issuing and administering our products and services and processing claims. Sometimes we might send your personal information overseas. The locations we send it to can vary but include the Philippines, India, Ireland, the UK, the US, China and countries within the European Union.

Our Privacy Policy describes in detail where and from whom we collect personal information, as well as where we store it and the ways we could use it. To get a copy at no charge by us, please visit [qbe.com/au/privacy](http://qbe.com/au/privacy) or contact QBE Customer Care.

It's up to you to decide whether to give us your personal information, but without it we might not be able to do business with you, including not paying your claim.

#### 4.16 Complaints

We're here to help. If you're unhappy with any of our products or services, or the service or conduct of any of our suppliers, please let us know and we'll do our best to put things right.

##### Step 1 - Talk to us

Your first step is to get in touch with the team looking after your Policy, direct debit, or claim. You'll find their contact details on your policy documents, letters, or emails from us. Please provide our team with as much information as possible so they can try to fix the problem quickly and fairly.

For additional assistance in lodging a complaint, please refer to [qbe.com/au](http://qbe.com/au)

## **Step 2 - Customer Relations**

If your complaint isn't resolved by the team looking after your Policy, direct debit, or Claim, you can ask them to refer your complaint on to our Customer Relations team. A Dispute Resolution Specialist will review your complaint independently and provide you with our final decision.

You can also contact the Customer Relations team directly:

<b>Phone:</b>	1300 650 503
<b>Fax:</b>	(02) 8227 8594
<b>Email:</b>	complaints@qbe.com
<b>Post:</b>	GPO Box 219, Parramatta NSW 2124

## **Step 3 - Still not resolved?**

If we're unable to resolve your complaint to your satisfaction within a reasonable time, or you're not happy with our final decision, you can refer your complaint for external dispute resolution by contacting the Australian Financial Complaints Authority (AFCA). We are a member of AFCA and their decisions are binding on us.

<b>Phone:</b>	1800 931 678
<b>Email:</b>	info@afca.org.au
<b>Post:</b>	GPO Box 3, Melbourne VIC 3001

AFCA will inform you if your complaint falls within its jurisdiction. Time limits apply to most complaints to AFCA. For more information, visit [afca.org.au](http://afca.org.au)

## **More information**

You can find more information about how we deal with complaints on our website at [qbe.com/au](http://qbe.com/au) or you can call us on 133 723 to speak with us or request a copy of our complaints brochure at no cost.

## **Complaints just about privacy**

If you're not happy with how we've handled your personal information, call us on 1300 650 503 or email us at [customercare@qbe.com](mailto:customercare@qbe.com). If you're not satisfied with our response, you can contact the Office of the Australian Information Commissioner (OAIC):

<b>Phone:</b>	1300 363 992
<b>Email:</b>	enquiries@oaic.gov.au
<b>Post:</b>	GPO Box 5218, Sydney NSW 2001

## 5. Definitions

Some of the words and terms used throughout this Policy have specific meanings, which are explained below. Some defined terms only apply to particular sections of this Policy and will be defined in those sections.

### 5.1 Advertising Liability

liability arising out of one or more of the following:

- (a) defamation
- (b) infringement of copyright, title or slogan
- (c) unfair competition or misappropriation of advertising ideas or business practices
- (d) actual or alleged invasions of privacy:
  - (i) in any Advertisement and
  - (ii) arising out of your Business's advertising activities or
- (e) unintentional breach of the misleading or deceptive conduct provisions of consumer protection laws.

In this definition, Advertisement means any type of communication to the public. This includes print and electronic media, electronic communication, the world wide web or an exhibit.

### 5.2 Business

the Business described in the Certificate of Insurance, including:

- (a) promotional events and sponsorship arrangements in connection with your Business
- (b) the provision and management of canteens, social, sports and welfare organisations for your Employees
- (c) childcare, first aid, fire and ambulance services (formed with your consent) and
- (d) maintenance of your premises.

### 5.3 Certificate of Insurance

a separate document detailing the individual aspects of your Policy, such as your chosen Deductible amount, your premium and the Policy Period, that you'll receive when you buy, vary or renew this insurance.

Your Certificate of Insurance might be called a Policy Schedule or a Schedule of Insurance.

### 5.4 Compensation

money you must pay, or which has been agreed to be paid, for Personal Injury, Property Damage or Advertising Liability.

### **5.5 Court Attendance Costs**

the costs incurred by an Employee, partner, principals or director of Yours where they are legally required to attend a civil proceeding as a witness in a matter arising under the Policy.

Court Attendance Costs do not include regular or overtime wages, salaries or fees of the Employee, partner, principals or director of Yours.

### **5.6 Cyber Act**

an unauthorised, malicious, or criminal act or series of related unauthorised, malicious, or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any Computer System.

### **5.7 Cyber Incident**

- (a) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any Computer System or
- (b) any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any Computer System.

### **5.8 Data**

information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a Computer System.

### **5.9 Deductible**

the agreed contribution you are required to pay for each Occurrence claimed for under this Policy, as shown on your Certificate of Insurance.

### **5.10 Employee**

anyone you engage under a contract of service or apprenticeship, unless they are not defined as a worker under applicable workers' compensation legislation.

### **5.11 Limit of Liability**

the applicable Limit of Liability specified on your Certificate of Insurance

### 5.12 Occurrence

an event resulting in Personal Injury or Property Damage or Advertising Liability, which you neither expected nor intended.

The following count as one Occurrence only:

- (a) any Personal Injury or Property Damage or Advertising Liability caused by continuous or repeated exposure to substantially the same general conditions
- (b) Advertising Liability caused by the same injurious material or act, no matter the number or kind of media involved, frequency or repetition of publication or the number of claimants.

### 5.13 Personal Injury

- (a) death
- (b) injury, illness or disability, either bodily or mental
- (c) shock, fright and mental anguish
- (d) the effects of:
  - (i) false arrest, false imprisonment or malicious prosecution
  - (ii) trespass onto land, or eviction from land
  - (iii) defamation or disparagement
  - (iv) assault and battery.

We consider latent Personal Injury first happens on the day it was first medically diagnosed provided that it is first diagnosed during your Policy Period.

### 5.14 Policy

this document, your Certificate of Insurance and any endorsement attached or intended to be attached to it.

### 5.15 Policy Period

the period of time, shown on your Certificate of Insurance, during which your insurance is in place. This might be called the Period of Insurance.

### 5.16 Products

any goods that have left your possession and control which you or the previous owners of your business have (or are deemed to have):

- (a) manufactured, grown, extracted, produced, processed, constructed or installed
- (b) packaged, bottled or labelled
- (c) repaired, serviced or treated or
- (d) sold or distributed

including any container other than a vehicle.

### 5.17 Property Damage

- (a) physical damage to tangible property, including any resulting loss of use of that property or
- (b) loss of use of tangible property caused by an Occurrence, which has not been physically damaged, lost or destroyed.

### 5.18 Subsidiary

If you are a company:

- (a) any entity legally recognised as your subsidiary
- (b) any entity over which you can exercise effective direction or control.

### 5.19 Territorial Limits

anywhere in the world subject to the territorial limits exclusion.

### 5.20 You, Your, Insured

the person or entity who buys this Policy. This is the only party to which we have contractual obligations.

*Third party beneficiaries*

We cover your Australian Subsidiaries, including those you divest during the Policy Period for liability arising out of an Occurrence before the divestment

We also cover your and your Australian Subsidiaries':

- (a) directors, executive officers, Employees, volunteers, work experience students, partners and shareholders acting within the scope of their duties
- (b) principals for liability for the acts or omissions of the named Insured and its Australian Subsidiaries in their performance of work for those principals, subject to this Policy's extent of cover and Limit of Liability and only to the extent of the named Insured's direct liability



## Definitions

- (c) partners, joint venture partners, co-venturers or joint lessees for liability incurred as the partnership, joint venture, co-venture or joint lease, but only where you assume active control of, or are required to arrange insurance for, the partnership, joint venture, co-venture or joint lease
- (d) office bearers and members of social and sporting clubs, canteen and welfare organisations, first aid, fire and ambulance services formed with your consent for liability arising from their duties as office bearers and members
- (e) directors and senior executives for private work undertaken by your Employees for such directors or senior executives
- (f) directors, executive officers and Employees and their accompanying family members on any commercial trip or function in connection with your Business
- (g) Employee superannuation funds or pension schemes the named Insured manages (or is managed on its behalf), including the trustees and directors of the corporate trustee of any these funds or schemes unless it has a corporate fund manager.

'You, Your, Insured' does not include the interest of any other person other than as described in this Definition.

**Need help with a question or claim?**

Contact your financial service provider.

**QBE Insurance (Australia) Limited**

For enquiries, claims and customer service call your financial service provider.

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