



General & Products Liability

Policy Wording



ShieldCover is a division of East West Insurance Brokers Pty Ltd. ABN 83 010 630 092 AFSL No. 230041

shieldcover.com.au

Table of Contents

Important Information	3		
The Insurer	3	3.14 Loss of Use	13
ShieldCover	3	3.15 Pollution	13
Cooling-Off Period	3	3.16 Property in Your care, custody or control	13
How do We protect Your Privacy?	3	3.17 Property owned by You	14
Your Duty of Disclosure	4	3.18 Product Guarantee	14
General Insurance Code Of Practice	5	3.19 Product Recall	14
Complaints Handling	5	3.20 Radioactivity	14
In the Event of a Legal Dispute	5	3.21 Terrorism	14
		3.22 Vehicles	14
		3.23 War	15
1. Definitions– Words With Special Meaning	5		
		4. Claims Conditions	15
2. Insuring Clauses	9	4.1 Notification of Occurrence, Claim or Suit	15
2.1 What We Cover	9	4.2 Your Duties on the Event of an Occurrence, Claim or Suit	15
2.2 Defence Costs and Supplementary Payments	10	4.3 Our Rights Regarding Claims	15
2.3 Limits of Liability and Excess		4.4 Goods & Services Tax	15
2.4 Additional Benefit – Claims Preparation Costs	10		
2.5 Optional Additional Benefit – Products Exported to North America with Your Knowledge	10	5. General Conditions	16
		5.1 Adjustment of Premium	16
3. What We Exclude	11	5.2 Alteration of Risk	16
3.1 Advertising Injury	11	5.3 Bankruptcy or Insolvency	16
3.2 Aircraft, Hovercraft or Watercraft	11	5.4 Cancellation of this Policy	16
3.3 Aircraft Products	11	5.5 Cross Liabilities	16
3.4 Asbestos	11	5.6 Jurisdiction	17
3.5 Breach of Professional Duty	11	5.7 Reasonable Precautions	17
3.6 Contractual Liability	11	5.8 Release	17
3.7 Damage to Products	12	5.9 Non-Imputation	17
3.8 Defamation	12	5.10 Foreign Currency	17
3.9 Electronic Data	12	5.11 Subrogation and Allocation of the Proceeds of Recoveries	18
3.10 Employers Liability	12	5.12 Subrogation Waiver	18
3.11 Faulty Workmanship	12	5.13 Interpretation	18
3.12 Fines, Penalties, Punitive, Exemplary or Aggravated Damages	13	5.14 Sanction Limitation and Exclusion Clause	18
3.13 Liquidated Damages	13		

Important Information

This policy and Your current Schedule are important. Please ensure that You read them carefully and keep them in a safe place.

The policy, Your current Schedule and endorsements (if any), are Your contract with Us.

Where any word or -
- WORDS WITH SPECIAL MEANING”, such word or expression shall bear that meaning wherever it may appear in the policy.

Headings have been included for ease of reference. The terms and conditions of this policy are not to be construed or interpreted by reference to such headings. If You have any questions regarding this policy, please contact Your insurance broker.

The Insurer

The Insurer of this Policy and the issuer of this Policy Wording is certain underwriters at Lloyd’s.

Lloyd’s is the world’s specialist insurance and reinsurance market.

With expertise earned over centuries, Lloyd’s is the foundation of the insurance industry and the future of it. Led by expert underwriters and brokers who cover more than 200 territories, the Lloyd’s market develops the essential, complex and critical insurance needed to underwrite human progress.

Backed by diverse global capital and excellent financial ratings, Lloyd’s works with a global network to grow the insured world – building resilience for businesses and local communities and strengthening economic growth around the world.

You can contact Lloyd’s in Australia at:
Lloyds Australia Limited Level 9, 1 O’Connell Street Sydney, NSW, 2000

Phone: (02) 8298 0783

Fax: (02) 8298 0788

Email: ldraustralia@lloyds.com

ShieldCover

ShieldCover is a specialist division of East West Insurance Brokers Pty Ltd ABN 83 010 630 092, Australian Financial Services Licence No. 230041, established in 1984.

ShieldCover issues this policy under a binding authority given to it by the Insurer to administer and issue policies, alterations and renewals and manage claims. For all of the services that ShieldCover provides in relation to the policy, it acts on behalf of the Insurer and not You.

Cooling-Off Period

We will refund all premiums for cover under this policy if You request a cancellation of the policy within 21 days of its commencement. To do this You must advise Us in writing. You are not entitled to a refund if You have made or are entitled to make a claim under the policy during the cooling-off period.

How do We protect Your Privacy?

ShieldCover is committed to protecting the privacy of the personal information You provide to Us in accordance with the Privacy Act 1988 (Cth) and the Australian Privacy Principles.

We collect Your personal information to assess Your application for insurance, administer Your policy and pay Your claims.

If You do not provide the information that We request, Your insurance application may not be accepted, or We may not be able to administer Your policy or a claim. Also, You may breach Your duty of disclosure, the consequences of which are set out in the duty of disclosure section of this policy wording.

We may need to share Your information with others to decide whether to accept Your policy, administer Your policy and manage and pay Your claims. To allow Us to do this and to otherwise operate Our business Your personal information may be given to and used by the following:

The Insurer of this policy is certain underwriters at Lloyd's and its own employees and agents. The Insurer is located in the United Kingdom. When Your information is disclosed to the Insurer it will be protected by the Data Protection Act 1998 (UK) which contains similar protection to the Australian Privacy Principles.

Claims adjusters, lawyers and other people appointed by Us or the Insurer, or on Our behalf or the Insurer's behalf for claims handling purposes.

By submitting Your personal information to Us, You agree to Us using and disclosing Your personal information this way. This consent to the use and disclosure of Your personal information remains valid unless You alter or revoke it by giving Us written notice.

We may also use Your information to notify You about other products or promotions from time to time. We always give You the option of electing not to receive these communications. Please let Us know if You do not wish to receive this information.

If Your details or personal information changes You should notify Us in writing, so We can ensure that information We hold about You is accurate, complete and up-to-date.

For details of Our policy on access to and collection of personal information We hold and how to make a complaint regarding privacy please download a copy of Our privacy policy from Our website.

Complaints regarding privacy can be made to the Privacy Officer at ShieldCover on (07) 3510 9535 or by email to privacy@shieldcover.com.au, or by letter addressed to the Privacy Officer, ShieldCover, PO Box 239, Coopers Plains, Qld 4108.

Your Duty of Disclosure

Before You enter into an insurance contract, You have a duty 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 something

If You do not tell Us anything You are required to, We may cancel Your contract 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.

Reminder – Your duty of disclosure

You have previously been given a notice informing You of Your duty of disclosure in relation to a general insurance contract.

This is a duty to tell Us about anything that You know, or could reasonably be expected to know, may affect Our decision to insure You and on what terms.

You have this duty until We agree to insure You.

General Insurance Code Of Practice

The Insurance Council of Australia has developed a General Insurance Code of Practice, to which Lloyd's Australia is a signatory. The General Insurance Code of Practice aims to raise the standards of practice and service in the insurance industry and includes many standards in relation to:

- Buying insurance;
- Insurance claims;
- Responding to catastrophes and disasters;
- Information and education;
- Complaints handling procedures; and
- Code monitoring and enforcement.

You can obtain a copy of the Code from Our branch or by going to the website at www.codeofpractice.com.au

Complaints Handling

If You are dissatisfied with a decision ShieldCover makes, Our service, the service of others We appoint to discuss insurance matters with You, or a claim settlement, We have an internal dispute resolution process to assist You. For further information, ask for a copy of Our Complaints policy or visit www.shieldcover.com.au

In the Event of a Legal Dispute

In the event of any dispute arising in relation to any aspect of Your policy covered by Lloyd's, the underwriters will, at Your request, submit to the jurisdiction of any competent court in the Commonwealth of Australia. Such dispute shall be determined in accordance with the law and practice applicable in such court.

Any summons notice or process served upon the underwriters at Lloyd's may be served on the Lloyd's Representative in Australia at the address referred to in the Policy Wording. The Lloyd's Representative has authority to accept service and to enter an appearance on the underwriter's behalf, and is directed, at the request of the policyholder, to give a written undertaking to the

policyholder that they will enter an appearance on the underwriter's behalf.

If a suit is instituted against any one of the underwriters at Lloyd's, all underwriters will abide by the final decision of any such Court or any competent Appellate Court.

1. Definitions– Words With Special Meaning

For the purpose of determining the cover provided by this policy, the following important definitions apply:

Act of Terrorism means:

an act, including but not limited to the use of force or violence or the threat of any person or group of persons, whether acting alone or on behalf of or in connection with any organisation or government which from its nature or context is done for, or in connection with political, religious, ideological, ethnic or similar purposes including the intention to influence any government or to put the public, or any section of the public in fear.

Advertising Injury means:

Injury arising out of:

1. defamation; or
 2. any breach of the misleading or deceptive conduct provisions of the Australian Consumer Law (Commonwealth) or any Fair Trading or similar legislation of any country, state or territory; or
 3. any infringement of copyright or passing off of title or slogan; or
 4. unfair competition, piracy, misappropriation of advertising ideas or style of doing business; or
 5. invasion of privacy;
- committed or alleged to have been committed during the Period of Insurance in any Advertisement, publicity article, broadcast or telecast.

For the purpose 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, social media platforms or exhibit.

Aircraft means:

any craft or object designed to travel through air or space, other than model aircraft or unmanned inflatable balloons used for advertising or promotional purposes.

Business means:

the Business as described in the Schedule and shall also include the following in connection with that Business:

1. any prior operations or activities which have ceased or have been disposed of but for which You may retain a legal liability.
2. the ownership of premises or the tenancy thereof by You.
3. participation in any exhibition by You or on Your behalf.
4. the hire or loan of plant or equipment to other parties.
5. conducted tours of Your premises.
6. the provision of any sponsorships, charities, galas, first aid, medical, ambulance or firefighting services by You or on Your behalf.
7. private work undertaken by Your employees for any of Your directors, partners, proprietors, officers or executives.
8. the provision or management of any canteen, social or sporting clubs or educational, welfare or child care facilities by You or on Your behalf, which are primarily for the benefit of Your employees.

Compensation means:

monies paid or agreed to be paid by judgment, award or settlement in respect of Personal Injury or Property Damage or Advertising Injury.

Compensation is only payable in respect of an Occurrence to which this insurance applies.

Electronic Data means:

facts, concepts and information converted to a form useable for communications, display, distribution, interpretation or processing by electronic and electromechanical data processing or electronically controlled

equipment and includes programmes, software and other coded instruction for such equipment.

Employment Practices means:

any wrongful or unfair dismissal, denial of natural justice, defamation, misleading representation or advertising, harassment or discrimination in respect of Your employees.

Excess means:

the first amount of each claim or series of claims arising out of any one Occurrence for which You are responsible. The Excess applicable to this insurance appears in the Schedule.

The Excess applies to all amounts for which We will be liable, including the indemnity provided by Insuring Clause 2.2 (Defence Costs and Supplementary Payments).

General Liability means:

Your legal liability in respect of Personal Injury or Property Damage or Advertising Injury happening in connection with the Business and caused by or arising out of an Occurrence other than Products Liability.

Geographical Limits means:

1. anywhere in the World except North America.
2. North America, but only with respect to:
 - 2.1. overseas business visits by any of Your directors, partners, officers, executives or employees, who are non-resident in North America, but not where they perform manual work in North America.
 - 2.2. Products exported to North America without Your knowledge.

Hovercraft means:

any vessel, craft or thing made or intended to transport persons or property over land or water supported on a cushion of air.

Incidental Contracts means:

1. any written rental or lease or hiring agreement of real or personal property, other than with respect to any term or condition contained in such rental, lease or hiring agreement that requires You to insure such property.
2. any written contract with any authority

or entity responsible for the supply of electricity, fuel, gas, natural gas, air, steam, water, sewerage reticulation control systems, waste disposal facilities, telephone and communication services or other essential services, except those contracts in connection with work done for such authorities or entities.

3. any written contract with any railway authority for the loading, unloading or transport of Products, including contracts relating to the operation of railway sidings.
4. those contracts designated in the Schedule.

Insurer means: certain Underwriters at Lloyd's.

Medical Persons includes: but is not limited to: medical practitioners, medical nurses, dentists and first aid attendants.

North America means:

1. the United States of America and the Dominion of Canada,
2. any state, territory or protectorate incorporated in, or administered by, the United States of America or the Dominion of Canada; and
3. any country or territory subject to the laws of the United States of America or the Dominion of Canada.

Occurrence means:

an event, including continuous or repeated exposure to substantially the same general conditions, which results in Personal Injury or Property Damage or Advertising Injury that is neither expected nor intended (except for the matters set out in clause 6 of the definition of Personal Injury) from Your standpoint.

With respect to Personal Injury or Property Damage, all events of a series consequent upon or attributable to one source or original cause shall be deemed to be one Occurrence.

All Advertising Injury arising out of the same injurious material or act (regardless of the frequency or repetition thereof, the number and kind of media used, or the number of claimants) shall be deemed to be one Occurrence.

Period of Insurance means:

the Period of Insurance specified in the Schedule and any extension thereof which may be agreed in writing between You and Us.

Personal Injury means:

1. bodily injury, death, sickness, disease, illness, disability, shock, fright, mental anguish or mental injury, including loss of consortium or services resulting therefrom;
2. false arrest, false imprisonment, wrongful detention, malicious prosecution or humiliation;
3. wrongful entry or wrongful eviction;
4. defamation or invasion of privacy, unless arising out of Advertising Injury;
5. discrimination as a result of race, religion, sex, marital status, age, intellectual impairment, disability or otherwise (unless insurance thereof is prohibited by law) not committed by You or at Your direction, but only with respect to liability other than fines and penalties imposed by law;
6. assault and battery not committed by You or at Your direction, unless committed for the purpose of preventing or eliminating danger to persons or property.

In the event of Personal Injury claims arising from latent injury, latent sickness, latent disease, latent illness or latent disability, such injury, sickness, disease, illness or disability in respect of each claim shall be deemed to have occurred on the day such injury, sickness, disease, illness or disability was first medically diagnosed.

Pollutants means:

any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapours, soot, fumes, acids, alkalis, chemicals and waste material. 'Waste material' includes materials that are intended to be recycled, reconditioned or reclaimed.

Products means:

anything manufactured, constructed, erected, assembled, installed, grown, extracted, produced or processed, treated, altered, modified, repaired, serviced, bottled, labelled, handled, sold, supplied, re-supplied or

distributed, imported or exported, by You or on Your behalf (including Your predecessors in the Business), including any packaging or containers thereof, including the design, formula or specification, directions, markings, instructions, advice or warnings given or omitted to be given in connection with such Products and anything which, by law or otherwise, You are deemed to have manufactured in the course of the Business including discontinued Products.

Products Liability means:

Your legal liability in respect of Personal Injury or Property Damage caused by or arising out of any Products or the reliance upon a representation or warranty made at any time with respect to such Products; but only where such Personal Injury or Property Damage occurs away from premises owned or leased by or rented to You and after physical possession of such Products has been relinquished to others.

Property Damage means:

1. physical loss, destruction of or damage to tangible property, including the loss of use thereof at any time resulting therefrom; or
2. loss of use of tangible property which has not been physically lost, destroyed or damaged; provided that such loss of use is caused by or arises out of an Occurrence.

Schedule means:

the most current Schedule issued by Us to You in connection with this policy.

Tool of Trade means:

a Vehicle that has tools, implements, machinery or plant attached to or towed by the Vehicle and is being used by You at Your premises or on any Worksite.

Tool of Trade does not include any Vehicle whilst travelling to or from a Worksite or Vehicles that are used to carry goods to or from any premises.

Vehicle means:

any type of machine on wheels or on self-laid tracks made or intended to be propelled by other than manual or animal power, and any trailer or other attachment to be utilised in

conjunction with or drawn by any such machine.

Watercraft means:

any vessel, craft or thing made or intended to float on or in or travel on or through water, other than model boats.

We, Us, Our, Ourselves means:

the Insurer named in the Schedule.

Worksite means:

any premises or site where any work is performed for or in connection with the Business together with all areas surrounding such premises or site or all areas in between such premises or site that You shall use in connection with such work.

You, Your, Insured

Each of the following to the extent specified below:-

1. the person(s), corporations or other organisations specified in the Schedule; (Named Insured)
2. all existing subsidiary or controlled corporations (including subsidiaries thereof) of any Named Insured incorporated in the Commonwealth of Australia or any other organisations under the control of the Named Insured;
3. all subsidiary or controlled corporations (including subsidiaries thereof) of the Named Insured or any other organisations under the control of the Named Insured incorporated in the Commonwealth of Australia and which are constituted or acquired by the Named Insured during the Period of Insurance.
4. Every subsidiary or controlled corporation or other organisation of the Named Insured which is divested during the Period of Insurance, but only in respect of claims made against such divested subsidiary or controlled corporation or organisation caused by or arising out of Occurrences insured against by this policy, which occurred prior to the date of divestment.
5. Every past, present or future director, stockholder or shareholder partner, proprietor, officer, executive, employee or volunteer of the Named Insured while such persons are

acting for or on behalf of the Named Insured or within the scope of their duties in such capacities.

2. Insuring Clauses

2.1. What We Cover

We agree (subject to the terms, Claims Conditions, General Conditions, Exclusions, Definitions and Limits of Liability in this policy) to pay to You or on Your behalf all amounts which You shall become legally liable to pay as Compensation in respect of:

1. Personal Injury; or
2. Property Damage; or
3. Advertising Injury;

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

2.2. Defence Costs and Supplementary Payments

With respect to the indemnity provided by this policy, We will:

1. defend, in Your name and on Your behalf, any claim or suit against You alleging Compensation for such Personal Injury or Property Damage or Advertising Injury.
2. pay all charges, expenses and legal costs incurred by Us or by You at Our written request or with Our written consent:
 - a. in the investigation, defence or settlement of such claim or suit, including loss of salaries or wages because of Your attendance at hearings or trials at Our request, or
 - b. in bringing or defending appeals in connection with such claim or suit.
3. pay:
 - a. all charges, expenses and legal costs recoverable from or awarded against You in any such claim or suit, and
 - b. pre-judgment interest awarded against You on that part of the judgment payable by Us;

and
c. all interest accruing on Our portion of any judgment until We have paid, tendered or deposited in court that part of such judgment which does not exceed the limit of Our liability.

4. pay expenses incurred by You for:
 - a. rendering first aid or surgical or medical or therapeutic relief to others at the time of any Personal Injury (other than any medical expenses, which We are prevented from paying by any law).
 - b. temporary protection of damaged or undamaged property of any person or party, including temporary repairs, shoring up or underpinning thereof.
 - c. purchasing or hiring or erection and dismantling of hoarding, barriers, fences and any other form of temporary protection, including such protection which You must provide in compliance with the requirements of any Government, Local Government or other Statutory Authority.
5. pay all legal costs incurred by You with Our consent for representation of You at:
 - a. any Coronial Inquest or Inquiry
 - b. any proceedings in any court or tribunal in connection with liability insured against by this policy.
 - c. any Royal Commission or Government Enquiry arising out of any alleged breach of statutory duty, or other similar judicial enquiry into circumstances relating to any Occurrence, claim or potential claim which would be the subject of indemnity under this insurance.
 - d. any enquiry, prosecution or hearing of a disciplinary nature held before a legally constituted enquiry board, committee, licensing authority or the like.

Our liability under clauses 5c) and 5d) will not exceed \$250,000 in respect of any one claim or series of claims arising out of any one Occurrence.

The amounts of such Defence Costs and Supplementary Payments incurred in accordance with clause 2.2 are payable by Us in addition to the applicable Limit of Liability of this policy.

However, in respect of any claims or suits originating in any court in North America, the applicable Limit of Liability shown in the Schedule shall be inclusive of all Defence Costs and Supplementary Payments.

Where We are prevented by law or otherwise from making payments on Your behalf, We will indemnify You for legal liability incurred to the extent that the law allows and such liability is covered by this policy.

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 to the extent that the law allows for the expense of such defence incurred with Our written consent.

2.3. Limits of Liability and Excess

Subject to clause 2.2 above and clauses 2.4 and 3.16.5 below:

1. The Limit of Liability specified in the Schedule represents the maximum amount which We shall be liable to pay in respect of any one claim or series of claims for General Liability arising out of any one Occurrence.
2. The Limit of Liability specified in the Schedule represents the maximum amount which We shall be liable to pay in respect of any one claim or series of claims, and in the aggregate during any one Period of Insurance, for Products Liability.

The applicable Limit of Liability will not be reduced by the amount of any Excess payable by You.

2.4. Additional Benefit – Claims Preparation Costs

In addition to the amount of cover provided by this policy, We will pay up to \$25,000 in respect of each claim or series of claims arising out of any one Occurrence for reasonable professional fees and such other expenses incurred by You for the preparation of a claim under this policy.

The cover provided under this Additional Benefit

operates in addition to and shall not in any way affect the cover provided under clause 2.2 of this policy.

2.5. Optional Additional Benefit – Products Exported to North America with Your Knowledge

(Applicable only where this Additional Benefit is confirmed in the Schedule)

The cover provided by this policy is extended to include any judgment, award or settlement made within North America or any order made anywhere in the World to enforce such judgment, award or settlement either in whole or in part, subject to the following additional terms and exclusions in respect of any such judgment, award or settlement:

1. cover only applies to Your legal liability in respect of Personal Injury or Property Damage that arises out of any Products exported to North America with Your knowledge.
2. cover is not provided for:
 - a. Personal Injury or Property Damage directly or indirectly caused by or arising out of the discharge, dispersal, emission, release or escape of Pollutants.
 - b. the cost of removing, nullifying or clean up of Pollutants.
 - c. the cost of preventing the escape of Pollutants.
 - d. any claim for Compensation if in North America

You have:

1. any assets other than Products,
2. a related or subsidiary company;
3. any person or entity with power of attorney; or
4. any franchisor or franchisee.

3. What We Exclude

We do not cover any liability:

3.1. Advertising Injury

for Advertising Injury:

1. resulting from statements made at Your direction with knowledge that such statements are false.
2. resulting from failure of performance of contract but this exclusion shall not apply to claims for unauthorised appropriation of advertising ideas contrary to an implied contract.
3. resulting from any incorrect description of Products or services.
4. resulting from any mistake in advertised price of Products or services.
5. failure of Your Products or services to conform with advertised performance, quality, fitness or durability.
6. incurred by any Insured whose principal occupation or business is advertising, broadcasting, publishing or telecasting.

3.2. Aircraft, Hovercraft or Watercraft

for Personal Injury or Property Damage arising from:

1. the ownership, maintenance, operation or use by You of any Hovercraft or Aircraft.
2. the ownership, operation or use by You of any Watercraft exceeding ten (10) metres in length, except Watercraft owned by others and used by You for business entertainment.

3.3. Aircraft Products

arising out of Your Products that are Aircraft or 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.

3.4. Asbestos

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

3.5. Breach of Professional Duty

arising out of any breach of duty owed in a professional capacity by You or any person(s) for whose breaches You may be held legally liable, but this exclusion shall not apply to claims:

1. in respect of Personal Injury or Property Damage arising from such breach of duty.
2. arising out of the rendering of or failure to render professional medical advice by Medical Persons employed by You to provide first aid and other medical services on Your premises.
3. arising out of advice or service which is not given for a fee.
4. arising out of advice given in respect of the use or storage of Your Products.

3.6. Contractual Liability

which has been assumed by You under any contract or agreement to:

1. effect insurance over property, either real or personal.
2. assume liability for, Personal Injury or Property Damage regardless of fault,

This exclusion shall not apply with regard to:

- a. liabilities which would have been implied by law in the absence of such contract or agreement;
- b. liabilities assumed under Incidental Contracts;
- c. terms regarding merchantability, quality, fitness or care of Your Products which are implied by law or statute; or
- d. liabilities assumed under the contracts specifically designated in the Schedule or in any endorsement(s) to this policy.

3.7. Damage to Products

for Property Damage to any Products where such damage is directly caused by a fault or defect in such Products. This exclusion shall be interpreted to apply with respect to damage to that part and only that part of such product to which the damage is directly attributable.

3.8. Defamation

for defamation:

1. resulting from statements made prior to the commencement of the Period of Insurance.
2. resulting from statements made at Your direction with knowledge that such statements are false.
3. incurred by any Insured whose principal occupation or business is advertising, broadcasting, publishing or telecasting.

3.9. Electronic Data

arising out of:

1. the communication, display, distribution or publication of Electronic Data but not for Personal Injury or Advertising Injury arising from that communication, display, distribution or publication;
2. the total or partial destruction, distortion, erasure, corruption, alteration, misrepresentation or misappropriation of Electronic Data;
3. error in creating, amending, entering, deleting or using Electronic Data;
4. the total or partial inability or failure to receive, send, access or use Electronic Data for any time or at all;

from any cause whatsoever, regardless of any other contributing cause or event whenever it may occur.

3.10. Employers Liability

1. for Bodily Injury to any Worker in respect of which You are or would be entitled to indemnity under any policy of insurance, fund, scheme or self-insurance pursuant to or

required by any legislation relating to Workers' Compensation or Accident Compensation whether or not such policy, fund, scheme or self-insurance has been affected.

However, this exclusion does not apply to the extent that Your liability would not be covered under any such policy, fund, scheme or self-insurance arrangement had You complied with Your obligations pursuant to such law.

2. imposed by:

- a. the provisions of any industrial award or agreement or determination or any contract of employment or workplace agreement where such liability would not have been imposed in the absence of such industrial award or agreement or determination or contract of employment or workplace agreement.
- b. any law relating to Employment Practices.

Notwithstanding Exclusion clause 3.6 - Contractual Liability, Exclusions 3.10.1 and 3.10.2 shall not apply with respect to liability of others assumed by You under a written contract or agreement. For the purpose of Exclusions 3.10.1 and 3.10.2:

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

3.11. Faulty Workmanship

for the cost of performing, completing, correcting or improving any work undertaken by You.

3.12. Fines, Penalties, Punitive, Exemplary or Aggravated Damages

for any fines, penalties, punitive, exemplary or aggravated damages.

3.13. Liquidated Damages

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

3.14. Loss of Use

for loss of use of tangible property, which has not been physically lost, destroyed or damaged, directly arising out of:

1. a delay in or lack of performance by You or on Your behalf of any contract or agreement; or
2. failure of any Products or work performed by You or on Your behalf to meet the level of performance, quality, fitness or durability expressly or impliedly warranted or represented by You; but this Exclusion 3.14.2 shall not apply to Your liability for loss of use of other tangible property resulting from sudden and accidental physical loss, destruction of or damage to any 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.

3.15. Pollution

1. for Personal Injury or Property Damage directly or indirectly 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.
2. for any costs and expenses incurred in preventing the discharge, dispersal, release, seepage, migration or escape of, or, testing and monitoring for, containing, removing, nullifying, or cleaning up of, Pollutants.

However, with respect to any such liability which may be incurred anywhere other than North

America, Exclusions 3.15.1 and 3.15.2 shall not apply where such discharge, dispersal, release, seepage, migration or escape is caused by a sudden, identifiable, unintended and unexpected event from Your standpoint which takes place in its entirety at a specific time and place.

3.16. Property in Your care, custody or control

for Property Damage to property in Your physical or legal care, custody or control.

This exclusion does not apply with regard to:

1. the personal property, tools and effects of any of Your directors, partners, proprietors, officers, executives or employees, or the clothing and personal effects of any of Your visitors.
2. premises or part(s) of premises (including their contents) leased or rented to, or temporarily occupied by, You for the purpose of the Business, but no cover is provided by this policy if You have assumed the responsibility to insure such premises.
3.
 - a. premises (or their contents) temporarily occupied by You for the purpose of carrying out work in connection with the Business, or
 - b. any other property temporarily in Your possession for the purpose of being worked upon but no indemnity is granted for damage to that part of any property upon which You are or have been working if the damage arises solely out of such work.
4. any Vehicle (including its contents, spare parts and accessories while they are in or on such Vehicle) not belonging to or used by You, whilst any such Vehicle is in a car park owned or operated by You as long as You do not operate the car park for reward, as a principal part of Your Business.
5. notwithstanding Exclusion clause 3.6 "Contractual Liability", any property (except property that You own) not mentioned in clauses 3.16.1 to 3.16.4 above whilst in Your physical or legal care, custody or control whether or not You have accepted or assumed

legal liability for such property. Our liability for such claims shall not exceed \$250,000 in respect of any one claim or series of claims arising out of any one Occurrence.

3.17. Property owned by You

for Property Damage to property owned by You.

3.18. Product Guarantee

for any Products warranty or guarantee given by You or on Your behalf, but this exclusion shall not apply to the requirements of any Federal or State legislation as to product safety and information.

3.19. Product Recall

for damages, costs or expenses arising out of the withdrawal, recall, inspection, repair, reconditioning, modification, reinstallation, replacement or loss of use of any Products where such Products are withdrawn or recalled from the market or from use by the Named Insured because of any known, alleged or suspected defect or deficiency in such Products.

3.20. Radioactivity

directly or indirectly caused by, contributed to by or arising from radioactivity or the use, existence or escape of any nuclear fuel, nuclear material, or nuclear waste or action of nuclear fission or fusion.

This Exclusion 3.20 does 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.

3.21. Terrorism

for 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.

Exclusion 3.21 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.

3.22. Vehicles

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

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

but Exclusions 3.22.1 and 3.22.2 shall not apply to:

3. Personal Injury where:
 - a. that compulsory liability insurance or statutory indemnity does not provide indemnity, and
 - b. the reason or reasons why that compulsory liability or statutory indemnity does not provide indemnity do not involve a breach by You of legislation relating to Vehicles.
4. any Vehicle (including any tool, implement, machinery or plant forming part of or attached to or used in connection with such Vehicle) whilst being operated or used by You or on Your behalf as a Tool of Trade at Your premises or on any Worksite.
5. the delivery or collection of goods to or from any Vehicle.
6. the loading or unloading of any Vehicle.
7. any Vehicle temporarily in Your custody or control for the purpose of parking.
8. Property Damage caused by or arising out of the movement of any Vehicle (which is required to be Conditionally Registered in accordance with the law of any State or Territory in Australia) in the event of Your inadvertent and unintentional failure to effect Conditional Registration.

3.23. War

in respect of 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, or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

4. Claims Conditions

4.1. Notification of Occurrence, Claim or Suit

You must give:

1. written notice to Us, as soon as reasonably practicable, of any claim made against You or any Occurrence that may give rise to a claim being made against You and which is covered by this policy.
2. all such additional information that We may reasonably require and every demand, writ, summons, proceedings, impending prosecution or inquest and all documents relating to the claim or Occurrence shall be forwarded to Us as soon as practicable after they are received by You.

4.2. Your Duties on the Event of an Occurrence, Claim or Suit

1. You must not, without Our written consent (which consent shall not be unreasonably withheld), make any admission, offer, promise or payment in connection with any Occurrence or claim.
2. You must use the best endeavours to preserve all property, Products, appliances, plant, and all other things which may assist in the investigation or defence of a claim or suit or in the exercise of rights of subrogation and, so far as may be reasonably practicable, no alteration or repair shall be effected without Our consent until We have had an opportunity of inspection.
3. You must, when so requested, provide Us with

details of any other insurances current at the time of any Occurrence, or Personal Injury or Property Damage or Advertising Injury and covering any of the liability insured by this policy.

4.3. Our Rights Regarding Claims

1. Following the happening of any Occurrence in respect of which a claim is, or may be, made under this policy, We shall have full discretion in the conduct of any proceedings in connection with any claim. You must give such information and assistance that We may reasonably require in the prosecution, defence or settlement of any claim.
2. We may at any time pay to You, in respect of all claims against You arising directly or indirectly from one source or original cause:
 - a. the amount of the Limit of Liability or such other amount specified in respect thereof (after deduction of any sum(s) already paid by Us, which sum(s) would reduce the amount of Our unfulfilled liability in respect thereof); or
 - b. any lesser sum for which the claim(s) can be settled.
3. Upon making such payment, We must relinquish conduct and control of, and be under no further liability under this policy in connection with, such claim(s) except for Defence Costs and Supplementary Payments:
 - a. recoverable from You in respect of the period prior to the date of such payment (whether or not pursuant to an order made subsequently); or
 - b. incurred by Us, or by You with Our written consent, prior to the date of such payment.

4.4. Goods & Services Tax

You must inform Us of the extent to which You are entitled to an input tax credit for the premium each time that You make a claim under this policy. No payment will be made to You for any GST liability that arises on the settlement of a claim under this policy when You have not informed Us of Your entitlement or correct entitlement to an input tax credit.

Notwithstanding anything contained in this policy (including the Schedule and any endorsements attached hereto) to the contrary, Our liability will be calculated after taking into account:

1. any input tax credit to which You, or any claimant against You, is entitled for any acquisition relevant to a claim paid under this policy; and
2. any input tax credit to which You, or any claimant against You, would have been entitled were You or the claimant to have made a relevant acquisition; and
3. the GST exclusive amount of any supply made by You which is relevant to Your claim.

If the applicable Limit of Liability is not sufficient to cover Your claim, We will only pay GST (less any relevant input tax credit) that relates to Our proportion of Your claim.

The terms 'GST', 'input tax credit', 'acquisition' and 'supply' have the meanings ascribed to them in the A New Tax System (Goods and Services Tax) Act 1999.

This clause is not intended to vary, alter, waive or extend any of the terms, Claims Conditions, General Conditions, Exclusions or Definitions of this policy other than as stated in this clause.

5. General Conditions

5.1. Adjustment of Premium

If the first premium or any renewal premium for this Policy or any part thereof shall have been calculated on estimates provided by You, You must keep an accurate record containing all relevant particulars and must at all reasonable times allow Us to inspect such record.

You must, where requested by Us after the expiry of each Period of Insurance, provide to Us such particulars and information as We may require as soon as reasonably practicable. The premium for such period shall be adjusted and any difference paid by or allowed to You, as the case may be, subject to retention by Us of any minimum premium that may have been agreed

upon between Us and You at inception or the last renewal date of this Policy.

5.2. Alteration of Risk

Every change which substantially varies any of the material facts or circumstances existing at the commencement of each Period of Insurance, that comes to Your knowledge, must be notified to Us as soon as reasonably practicable after You becoming aware of that matter.

5.3. Bankruptcy or Insolvency

In the event that You should become bankrupt or insolvent, We will not be relieved of the payment of any claims under this policy because of such bankruptcy or insolvency.

5.4. Cancellation of this Policy

By You

1. You may cancel this policy at any time by tendering notice in writing to Us to that effect.

By Us

2. Subject to General Conditions 5.9, We may cancel this policy for any reason permitted under the Insurance Contracts Act 1984 (as amended).

In the event of cancellation of this policy by either party, You shall be entitled to a pro rata refund of premium subject to any minimum and deposit premium that may apply.

If the premium is subject to adjustment, cancellation will not affect Your obligation to supply Us with such information as is necessary to permit the premium adjustment to be calculated.

5.5. Cross Liabilities

This insurance extends to indemnify:

1. each of the parties comprising the Named Insured; and
2. each Insured, separately in the same manner and to a like

extent as though policies had been issued in their separate names.

In particular, but without limiting the foregoing, this insurance shall indemnify each of the parties described in clauses 5.5.1 and 5.5.2 in respect of claims made by any other of such parties.

The following conditions apply:

1. each of such parties are separately subject to the terms, Claims Conditions, General Conditions, Exclusions and Definitions of this policy in the same manner and to a like extent as though separate policies had been issued; and
2. in no case shall the amount payable by Us in respect of any one claim or series of claims arising out of any one Occurrence or in the aggregate, as the case may be, exceed the applicable Limit of Liability as specified in the Schedule.

5.6. Jurisdiction

This contract of insurance shall be governed by and construed in accordance with the laws of Australia and the States and Territories of Australia. Each party agrees to submit to the jurisdiction of any Court of competent jurisdiction in a State or Territory of Australia and to comply with all requirements necessary to give such Court jurisdiction. All disputes arising under this policy shall be determined in accordance with the law and practice of such Court.

5.7. Reasonable Precautions

You must:

1. exercise reasonable care that only competent employees are employed and take reasonable measures to maintain all premises, fittings and plant in sound condition.
2. take reasonable precautions:
 - a. to prevent Personal Injury or Property Damage or Advertising Injury.
 - b. to prevent the manufacture, sale or supply of defective Products.
 - c. to comply with all statutory obligations,

by-laws or regulations imposed by any public authority for the safety of persons or property.

3. at Your own expense take reasonable action to trace, recall or modify any Products containing any defect or deficiency which defect or deficiency You have knowledge of or have reason to suspect.

5.8. Release

Where You are required by contractual agreement to release any Government or Public or Local Authority or other Statutory Authority or any landlord from liability in respect of loss, destruction or damage or legal liability insured against under this policy, such a release is allowed without prejudice to this insurance.

Notwithstanding General Condition 5.12 of this policy, We agree to waive all Our rights of subrogation against any such Authority or landlord in the event of any Occurrence for which a claim for indemnity may be made under this policy.

5.9. Non-Imputation

Where this insurance is arranged in the joint names of more than one Insured, as described under You, Your, Insured, We agree that:

1. each Insured shall be covered as if it made its own proposal for this insurance.
2. any declaration, statement or representation made in any proposal shall be construed as a separate declaration, statement or representation by each Insured.
3. any knowledge possessed by any Insured shall not be imputed to the other Insured(s).

5.10. Foreign Currency

All amounts referred to in this policy are in Australian Dollars. If You incur liability to settle any claim for an amount stated in the local currency of any country or territory outside the Commonwealth of Australia, where an award is made or a settlement is agreed upon, then, the amount payable by Us shall be the value of such award or settlement together with costs

awarded or payable to any claimant converted to Australian Dollars at the free rate of exchange published in the Australian Financial Review on the date on which We pay to You (or some other person or party as directed by You) the indemnity in respect of such award or settlement, subject always to the applicable Limit of Liability.

5.11. Subrogation and Allocation of the Proceeds of Recoveries

Subject to General Condition 5.12 'Subrogation Waiver', any corporation, organisation or person claiming under this insurance shall, at Our request and at Our expense, do and concur in doing and permit to be done all such acts and things that may be necessary or may reasonably be required by Us for the purpose of enforcing any rights and remedies, or for obtaining relief or indemnity from any other organisation(s) or person(s), to which We shall be or would become entitled upon Us paying for or indemnifying You in respect of legal liability under this policy.

Should You incur any legal liability which is not covered by this insurance:

1. due to the application of an Excess; or
2. where the amounts of any judgments or settlements exceed the applicable Limit of Liability;

You will be entitled to the first call on the proceeds of all recoveries made, by either You or Us, on account of such legal liability until fully reimbursed for such uninsured amount or amounts (less the actual costs of making such recoveries where those costs are incurred by Us) and any remaining amount(s) will be applied to reimburse Us.

5.12. Subrogation Waiver

Notwithstanding General Condition 5.11, We hereby agree to waive all Our rights of subrogation under this policy against:

1. each of the parties described under You, Your, Insured.

5.13. Interpretation

This policy incorporates the Schedule, Insuring Clauses, Claims Conditions, General Conditions, Exclusions, Definitions and any other terms contained or endorsed in or to this policy, which are to be read together. Where any word or expression has been given specific meaning in any part of this policy, such word or expression shall bear this meaning wherever it may appear unless such meaning is inapplicable to the context in which such word or expression appears.

Words importing the singular gender shall include the plural and vice versa, and words importing the masculine gender shall include the feminine gender.

Headings have been included for ease of reference and it is understood and agreed that the terms and Conditions of this policy are not to be construed or interpreted by reference to such headings.

5.14. Sanction Limitation and Exclusion Clause

No Insurer shall be deemed to provide cover and no Insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that Insurer, or any of its affiliates, or any of its or its affiliates' employees, to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, United States of America, Australia, Bermuda, Singapore, Brazil or any other applicable jurisdiction.

This page has been left intentionally blank

ShieldCover

19 Rosedale Street | PO Box 239 Coopers Plains QLD 4108
(07) 3510 9535 | hello@shieldcover.com.au

ShieldCover, a division of East West Insurance Brokers Pty Ltd.
ABN 83 010 630 092, Australian Financial Services License No. 230041, acts
under a binding authority granted to it by the Insurer of ShieldCover Product,
certain Underwriters at Lloyd's.

Refer to the Policy Wording or call us on (07) 3510 9535.

Ref: SC.GPL.LLO.V011020. This Policy Wording was prepared on 01.10.2020



ShieldCover is a division of East West Insurance Brokers Pty Ltd. ABN 83 010 630 092 AFSL No. 230041

shieldcover.com.au