

BROADFORM LIABILITY

STATE

Welcome TO STATE

Thank you for choosing State. You've made a great choice – we've been helping New Zealanders with their insurance needs for more than 100 years and are proud to be doing the same for you. If you have any questions about your policy or think it doesn't provide the cover you need, please call us straight away – we'll be happy to help.

IMPORTANT

This document is your Broadform Liability policy wording.

Please make sure you read it carefully as it contains important information you should know, including what your insurance covers – and what it doesn't.

Contact us

If you have a question, need help or want to make an insurance claim, just call us on **0800 80 24 24** or visit **state.co.nz**.

| | |
|---------------------------------------|-----------|
| Introduction | 1 |
| 1. Insurance agreement | 1 |
| 2. What you are insured for | 1 |
| 3. Automatic policy extensions | 2 |
| 4. Optional extension | 5 |
| 5. Exclusions | 6 |
| 6. Basis of settlement | 8 |
| 7. General conditions | 9 |
| 8. Managing your claim | 11 |
| 9. Definitions | 13 |

Introduction

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| Welcome | Welcome to State. Thank you for selecting us as your insurer. |
| About this policy | Your Broadform Liability Policy consists of: <ul style="list-style-type: none">(a) this policy document, and(b) the schedule, and(c) any endorsements or warranties that we apply, and(d) the information you have provided in the application. |
| Duty of disclosure | You have a legal duty of disclosure when you apply for insurance. This means you or anyone acting on your behalf must tell us everything you know (or could be reasonably expected to know) that a prudent insurer would want to take into account in deciding: <ul style="list-style-type: none">(a) to accept or decline the insurance, and/or(b) the cost or terms of the insurance, including the excess. You also have this duty every time your insurance renews and when you make any changes to it. If you or anyone acting on your behalf breaches this duty, we may treat this policy as being of no effect and to have never existed. Please ask us if you are not sure whether you need to tell us about something. |
| Defined words | If a word is shown in bold , it has a specific meaning. There is a list of these words and what they mean in Section 9 – ‘Definitions’. |
| Examples | We have used examples and comments to make parts of this policy document easier to understand. These examples and comments, which appear in <i>italics</i> , do not affect or limit the meaning of the section they refer to. |
| Headings | The headings in this policy document are for reference only and do not form part of it. They must not be used when interpreting the policy document. |

1. Insurance agreement

| | |
|--------------------------|--|
| 1.1 Our agreement | You agree to pay us the premium described in the schedule and comply with this policy. In exchange, we agree to insure you as set out in this policy. |
|--------------------------|--|

2. What you are insured for

| | |
|---|---|
| 2.1 Public and product liability | You are insured for all sums that you become legally liable to pay arising from injury and/or damage caused by an event that happens in connection with the business , during the period of insurance . |
| 2.2 Defence costs | You are insured for all defence costs necessarily and reasonably incurred by you to defend any civil legal action that if proven, would be covered by this policy. <i>We will meet these costs even if the legal action seems groundless.</i> |

3. Automatic policy extensions

The following automatic policy extensions are included automatically and are subject to the policy terms, unless otherwise stated. Some clauses have specified sub-limits and excesses and these will apply unless specifically stated otherwise in the **schedule**. All sub-limits are included in and are not in addition to the **sum insured**.

3.1 Advertising liability

You are insured for all sums that **you** become legally liable to pay for **advertising liability** arising from an **event** that happens during the **period of insurance** in connection with the **business**.

No cover is provided for **advertising liability** arising from:

- (a) an **event** that arose with **your** knowledge of the illegality or falsity thereof,
- (b) a breach of contract, other than misappropriation of advertising ideas under an implied contract,
- (c) the incorrect description of the price of the **products**, goods or services,
- (d) infringement of a trade mark, service mark or passing off by use thereof as the trade mark, but this exception does not apply to titles or slogans,
- (e) an alleged failure of the **products**, goods or services to conform with advertised performance, quality, fitness or durability.

No cover is provided for any **advertising liability** where **your business** is that of advertising, broadcasting, publishing or telecasting.

Exclusion 5.6 – ‘Defamation’ does not apply to this extension.

The most **we** will pay under this extension for all **events** that happen during the **annual period** is \$500,000.

An excess of \$1,000 applies for each **event** under this extension.

3.2 Business advice or service

You are insured for all sums that **you** become legally liable to pay arising from **injury** and/or **damage** that happens during the **period of insurance** in connection with:

- (a) advice, service, errors or omissions by **you** in connection with **your business**, provided that the advice or service is not charged for,
- (b) the rendering of, or failure to render, medical assistance by a person engaged or employed by **you** to provide first aid or other medical services at **your** premises.

Exclusion 5.4 – ‘Business advice/error or omission’ does not apply to this extension.

3.3 Business travel to a non-territorial country

You are insured for all sums that **you** become legally liable to pay arising from **injury** and/or **damage** that happens during the **period of insurance** in a **non-territorial country**, provided that **you** are temporarily visiting and not normally resident in the **non-territorial country** and that **your** legal liability arises in connection with travel related to or in the **non-territorial country** for the purposes of **your business**.

No cover is provided under this extension:

- (a) if **you** have a place of business in that **non-territorial country**, or if **you** are represented by any parent or subsidiary company or joint venture in that **non-territorial country**.
- (b) for liability in connection with any work performed in connection with the manufacture, assembly, **repair**, servicing, maintenance, amendment, alteration or enhancement of any product or property, and
- (c) for liability in connection with the ownership, possession, control, maintenance or use of any **vehicle** or **watercraft**.

In respect of all **events** and claims for **injury** and/or **damage** to property occurring in the United States of America or Canada, (including those territories to which the legal jurisdiction of the United States of America or Canada applies), the **sum insured** specified in the **schedule** shall apply in the aggregate during the **annual period**. Notwithstanding Section 6.1 B – ‘Defence costs’, cover for **defence costs** is included within the **sum insured** and not in addition to it.

Exclusions 5.13 – ‘Legal jurisdiction’ and 5.22 – ‘Territorial limits’ do not apply to this extension.

3.4 Care, custody or control

You are insured for all sums that **you** become legally liable to pay for **damage** that happens during the **period of insurance** and in connection with **your business**, to property that is in **your** control or possession (and not owned by any person or entity defined under **you**, other than **employees**).

Exclusion 5.19 (b) – ‘Property in your care, custody or control’ does not apply to this extension.

The most **we** will pay under this extension for all **events** that happen during the **annual period** is \$250,000.

An excess of \$1,000 applies for each **event** under this extension.

3.5 Goods lifted or carried by crane

You are insured for all sums that **you** become legally liable to pay for **damage** to property being lifted, lowered or conveyed by any crane operated by **you**, which happens during the **period of insurance** in connection with **your business**, provided that **you** are not otherwise insured for **your** liability under any other policy.

No cover is provided for liability for:

- (a) **damage** in connection with dual or multi-lifts. For the purpose of this extension a 'dual lift' is where two cranes are used for any one lift, 'multi-lifts' are where more than two cranes are used for any one lift,
- (b) **damage** to property being carried under a contract of carriage.

Exclusions 5.8 – 'Faulty workmanship', 5.19 (b) – 'Property in your care, custody or control' and 5.25 (a) – 'Vehicles' do not apply to this extension.

The most **we** will pay under this extension for all **events** that happen during the **annual period** is \$100,000.

An excess of \$2,500 applies to each **event** under this extension.

3.6 Hot works away from your premises

You are insured for all sums **you** become legally liable to pay for **injury** and/or **damage** that happens during the **period of insurance**, in connection with **your business**, where the **injury** and/or **damage** arises from **your** undertaking of **hot work** away from **your** premises.

Provided that:

- (a) the area of the **hot work** shall be cleared of combustible material for a safe distance from or beneath the area of **hot work**. A safe distance shall be no less than 10 (ten) metres from where the **hot work** is being carried out. Where such a distance cannot practically be cleared, combustible material will be covered with fireproof blankets or similar protective equipment. Any combustible parts of the premises will be similarly protected, and
- (b) hose reels or fire extinguishers of a type and capacity suitable for the combustible material and the premises shall be kept adjacent to the area of **hot work** and be available for immediate use, and
- (c) **hot work** equipment will be lit, ignited or switched on for as short a time as possible before use and extinguished immediately after use and never left unattended whilst lit or ignited, and
- (d) a thorough examination of the area will be made for any signs of combustion immediately after completing the **hot work** and again an hour after ceasing the **hot work**, and
- (e) before applying any heat to metal built into or projecting through walls, floors or ceilings, an examination will be made to ensure that the other end of the metal is cleared of combustible material or such material is covered, and
- (f) any site specific **hot work** permit is complied with.

Exclusion 5.11 – 'Hot work away from your premises' does not apply to this extension.

3.7 Innkeeper's liability

You are insured for all sums that **you** become legally liable to pay under the Innkeepers Act 1962 for **damage** that happens during the **period of insurance** in connection with **your business**.

Exclusion 5.19 (b) – 'Property In your care, custody or control' does not apply to this extension.

3.8 Landlord's liability

You are insured for all sums that **you** become legally liable to pay arising from **injury** and/or **damage** that happens during the **period of insurance**, in connection with **your** legal ownership, but not physical occupation, of any premises.

3.9 Lost or stolen keys

You are insured for the costs reasonably and necessarily incurred in altering or replacing locks, and their keys or combinations, if the keys or combinations are lost, stolen or believed on reasonable grounds to have been duplicated without proper authority, during the **period of insurance**, where the keys or combinations are in **your** possession in connection with **your business**. Provided that **you** do not own, hire, lease or rent the property to which the keys or locks relate.

Exclusion 5.19 (b) – 'Property in your care, custody or control' does not apply to this extension.

The most **we** will pay under this extension for all **events** that happen during the **annual period** is \$100,000.

3.10 Product withdrawal costs

You are insured for reasonable costs incurred, where it is necessary for **you** to withdraw or recall **your products**, provided that:

- (a) the defect(s) in the **product** which cause the withdrawal or recall, have already given rise to a claim covered by this policy, and
- (b) the cover is for the withdrawal or recall of **products** within New Zealand only.

We will pay 80% of the costs incurred for any **event**.

Exclusion 5.18 – 'Product recall' does not apply to this extension.

The most **we** will pay under this extension for all **events** that happen during the **annual period** is \$100,000. Notwithstanding Section 6.1B – ‘Defence costs’, cover for **defence costs** is included within the **sum insured** and not in addition to it.

An excess of \$2,500 applies for each **event** under this extension.

3.11 Punitive or exemplary damages

You are insured for punitive or exemplary damages **you** are ordered to pay by a New Zealand Court for an **event** that happens during the **period of insurance** in connection with **your business**.

No cover is provided for:

- (a) punitive or exemplary damages connected with a dishonest or fraudulent act or omission by **you**, or
- (b) any liability arising from trespass to a person, assault, battery, false imprisonment, malicious prosecution, sexual harassment or sexual abuse.

Exclusion 5.9 (b) – ‘Fines and exemplary damages’ and General Condition 7.3 D – ‘Reasonable care’ do not apply to this extension.

The most **we** will pay under this extension for all **events** that happen during the **annual period** is \$1,000,000.

3.12 Service/repair – Machinery

You are insured for all sums that **you** become legally liable to pay for **damage** to machinery where the **damage** happens in New Zealand during the **period of insurance** in connection with **your business** and arising out of **your repair** of the machinery.

Provided that the machinery is not, and has not been owned, hired, leased, or rented by **you**.

Exclusions 5.8 – ‘Faulty workmanship’, 5.19 (b) – ‘Property in your care, custody or control’, and 5.20 – ‘Reinstatement, repair or replacement of your products’ do not apply to this extension.

The most that **we** will pay under this extension for all **events** that happen during the **annual period** is \$100,000.

An excess of \$2,500 applies for each **event** under this extension.

3.13 Service/repair – Vehicle and watercraft

You are insured for all sums that **you** become legally liable to pay for **injury** and/or **damage**, occurring in New Zealand during the **period of insurance** in connection with **your business** where the **injury** and/or **damage** is:

- (a) in connection with **your repair** of a:
 - (i) **vehicle**,
 - (ii) **watercraft** not exceeding ten metres in length,
 - (iii) an internal combustion engine, accessories or fittings for either (i) or (ii) above,
- (b) to a **vehicle** or **watercraft** not exceeding ten metres in length, that is in **your** care, custody or control for the purposes of **repair**, including while it is being driven or operated by **you**.

Provided that the **vehicle** or **watercraft** is not, and has not been owned, hired, leased, or rented by **you**.

Exclusions 5.8 – ‘Faulty workmanship’, 5.19 (b) – ‘Property in your care, custody or control’, 5.20 – ‘Reinstatement, repair or replacement of your products’ and 5.25 (a) – ‘Vehicles’ do not apply to this extension.

The most that **we** will pay for all **events** under this extension for **damage** to the **vehicle** or **watercraft** being **repaired** is \$250,000. This sub-limit does not apply to any resultant damage to other property including other **vehicles** and **watercraft**.

An excess of \$1,000 applies for each **event** under this extension.

3.14 Tenant’s liability

You are insured for all sums that **you** become legally liable to pay for **damage** that happens during the **period of insurance** to any premises (including landlord’s fixtures and fittings) occupied, but not owned, by **you**.

Exclusion 5.19 (b) – ‘Property in your care, custody or control’ does not apply to this extension.

3.15 Underground services

You are insured for all sums that **you** become legally liable to pay arising from **damage** that happens in New Zealand during the **period of insurance** in connection with **your business** to any existing:

- (a) underground cables,
- (b) underground pipes,
- (c) other underground facilities.

Provided that prior to commencement of the work that caused the **damage**, **you** have:

- (i) inquired with the appropriate authorities or owners to verify the existence of the cables, pipes or other underground facilities, and
- (ii) **you** have sighted a plan of their location, and
- (iii) taken all reasonable precautions to prevent **damage**.

Exclusion 5.24 – ‘Underground services’ does not apply to this extension.

An excess of \$2,500 applies to each **event** under this extension.

3.16 Vehicles / mobile mechanical plant liability

You are insured for all sums that **you** become legally liable to pay arising from **injury** and/or **damage** that happens during the **period of insurance** in New Zealand in connection with **your business** arising from:

- (a) loading or unloading or bringing to or removal of a load from a **vehicle**,
- (b) the use of any **vehicle** while it is being operated or used as mobile mechanical plant or machinery, and not while it is being driven as a **vehicle**,
- (c) **damage** to a **vehicle** (not belonging to **you** or used by or on **your** behalf) in **your** physical or legal control where such **damage** occurs while the **vehicle** is in a car park owned or operated by **you**,
- (d) damage to a bridge, viaduct, culvert, weigh bridge or road beneath the **vehicle**, where the **damage** is caused by vibration or by the weight of the **vehicle** and/or its load, provided that any designated weight restrictions were not exceeded.

Exclusion 5.25 (a) – ‘Vehicles’ does not apply to this extension. Exclusion 5.19 (b) – ‘Property in your care, custody or control’ does not apply to claims under part (c) of this extension.

3.17 Vibration and removal of support

You are insured for all sums that **you** become legally liable to pay arising from **injury** and/or **damage** that happens during the **period of insurance** in New Zealand in connection with the:

- (a) vibration, or
- (b) removal of the support, or
- (c) weakening of the support, or
- (d) interference with the support, of land or buildings.

Provided that the land or buildings are not owned or occupied by **you** and the **injury** and/or **damage** arises from **your** acts or omissions in connection with **your business**.

Exclusion 5.26 – ‘Vibration and removal of support’ does not apply to this extension.

The most **we** will pay under this extension for all **events** that happen during the **annual period** is \$250,000.

An excess of \$5,000 applies for each **event** under this extension.

4. Optional extension

This Optional extension only applies if it is shown in the **schedule** and is subject to the policy terms. Cover under the Optional extension is included within the **sum insured** and not additional to it.

4.1 Property being worked on

You are insured for all sums that **you** become legally liable to pay for **damage** that happens during the **period of insurance** to property **you** are working on in the course of **your business**, provided that the property is not owned, hired, leased or rented by **you**.

There is no cover under this Optional extension for **damage** to machinery, **vehicles** or **watercraft**. Cover for these types of property is available under Automatic policy extensions 3.12 – ‘Service/repair – Machinery’ and 3.13 – ‘Service/repair – Vehicle & watercraft’.

Exclusions 5.8 – ‘Faulty workmanship’ and 5.19 (b) – ‘Property in your care, custody or control’ do not apply to this extension.

The most **we** will pay under this extension for all **events** that happen during the **annual period** is \$100,000.

An excess of \$1,000 applies for each **event** under this extension.

5. Exclusions

- 5.1 Aircraft** **You** are not insured for liability in connection with:
- (a) any ownership, possession, control, service, **repair**, maintenance, operation, loading, unloading or use of an **aircraft**,
 - (b) **products** that are knowingly incorporated in any **aircraft** or aerial device.
- 5.2 Asbestos** **You** are not insured for any liability arising out of, relating to or in any way connected with asbestos.
- 5.3 Building defects** **You** are not insured for liability in connection with a building or structure being affected by:
- (a) moisture or water build-up or the penetration of external moisture or water,
 - (b) the action or effects of mould, fungi, mildew, rot, decay, gradual deterioration, microorganisms, bacteria, protozoa, or any similar or like forms,
 - (c) the failure of any building or structure:
 - (i) to comply with, or perform to, the requirements of any building code or standard,
 - (ii) to meet any standard of performance, quality, fitness or durability,
 - (iii) to be fit for its intended purpose.
- This exclusion does not apply to any claim that is caused by the leakage of internal pipes, internal water systems or internal cisterns.
- 5.4 Business advice/error or omission** **You** are not insured for liability in connection with any error or omission in:
- (a) service or advice given by **you**,
 - (b) medical advice or medical treatment provided by **you**.
- 5.5 Contractual liability** **You** are not insured for liability that **you** have agreed to assume under a contract, unless:
- (a) **you** would otherwise have been legally liable in the absence of that contract,
 - (b) **you** have advised **us** of the contract and it is shown in the **schedule** as being accepted,
 - (c) it is liability assumed by **you** under a warranty of fitness or quality in respect of **your products**, but subject always to exclusions 5.8 – ‘Faulty workmanship’ and 5.14 – ‘Loss of use’,
 - (d) it is liability assumed by **you** under any lease or hire of real or personal property.
- 5.6 Defamation** **You** are not insured for liability in connection with libel or slander, being the publication or utterance of any defamatory or disparaging material.
- 5.7 Employer’s liability** **You** are not insured for liability in connection with:
- (a) **your** capacity or obligations as an employer,
 - (b) **injury** to an **employee** that arises out of, and in the course of, **your** employment of any person.
- 5.8 Faulty workmanship** **You** are not insured for the cost of performing, completing, **repairing**, rectifying, correcting or improving any work undertaken by **you** or on **your** behalf.
- This exclusion does not apply to liability for resultant damage to other property.
- 5.9 Fines and exemplary damages** **You** are not insured for:
- (a) any fine or penalty imposed, whether under contract or statute,
 - (b) punitive, aggravated, liquidated, or exemplary damages.
- 5.10 Genetically modified organisms** **You** are not insured for liability in connection with genetically modified engineered organisms or material, transgenic seeds or any other products of a similar nature.
- 5.11 Hot work away from your premises** **You** are not insured for liability in connection with **hot work** carried out away from **your** own premises.
- 5.12 Information technology hazards** **You** are not insured for liability in connection with any of the following:
- (a) use of electronic mail systems by **you** (including by **your employees**), including part-time and temporary staff, and others within **your** organisation,
 - (b) access through **your** network to the world wide web or a public internet site by **you** (including by **your employees**), including part-time and temporary staff, and others within **your** organisation,
 - (c) access to **your** intranet (meaning internal company information and computer resources) which is made available through the world wide web for **your** customers or others outside **your** organisation,
 - (d) the operation and maintenance of **your** web site.

For the avoidance of doubt nothing in this exclusion shall be construed to extend coverage to any liability which would not have been covered in the absence of this exclusion.

5.13 Legal jurisdiction

You are not insured for liability in connection with:

- (a) any legal action brought in a court or tribunal in a **non-territorial country**,
- (b) any legal action brought in a court or tribunal within New Zealand to enforce a judgement handed down in a court or tribunal in a **non-territorial country** whether by way of a reciprocal agreement or otherwise,
- (c) any legal action to which the proper law to be applied is that of a **non-territorial country**,
- (d) liability under the law of any country, state or territory (outside of New Zealand) that requires such liability to be insured or secured with an insurer or organisation in that country, state or territory.

5.14 Loss of use

You are not insured for liability in connection with the loss of use of tangible property that has not suffered physical loss or physical damage, where that loss of use is caused by:

- (a) **your** delay in performing a contract,
- (b) the failure of **your products** to meet a level of performance, quality, fitness or durability expressly represented by **you**.

5.15 Nuclear

You are not insured for liability in connection with:

- (a) the use of nuclear reactors such as atomic piles, particle accelerators or generators or similar devices,
- (b) the use, handling or transportation of radioactive materials,
- (c) the use, handling or transportation of any weapon of war, explosive device employing nuclear fission or fusion.

5.16 Offshore oil or gas platforms

You are not insured for liability in connection with any offshore gas or oil platforms.

5.17 Pollution

You are not insured for liability in connection with pollution.

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

However, this exclusion shall not apply if the discharge, dispersal, release or escape of pollutants is caused by a sudden, identifiable and **accidental** occurrence that takes place in its entirety at a specific time and place.

Provided that, the exclusion stands and there is no cover under this policy for liability in connection with pollution that occurs in the United States of America or Canada, including those territories to which the legal jurisdiction of the United States of America or Canada extends or applies.

5.18 Product recall

You are not insured for liability in connection with the recall, withdrawal, **repair**, inspection, replacement, modification or loss of use of **your products**, or any property that **your products** form a part of.

5.19 Property in your care, custody or control

You are not insured for liability for **damage** to:

- (a) property owned by **you**,
- (b) property in **your** control or possession.

5.20 Reinstatement, repair or replacement of your products

You are not insured for liability for **damage** to **your product** arising out of such **product** or any part of such **product**.

5.21 Sanctions

You are not insured for liability to the extent it would expose **us** to any sanction, prohibition or restriction under any United Nations resolution, or any trade or economic sanctions, laws or regulations of the European Union, United Kingdom, United States of America, Australia or New Zealand.

5.22 Territorial limits

You are not insured for liability in connection with:

- (a) an **event** that occurs outside the **territorial limits**,
- (b) claims made upon **you** outside the **territorial limits**,
- (c) claims that arise out of any contract entered into by **you** under the terms of which the work is to be performed outside the **territorial limits**.

However, this exclusion does not apply to liability in connection with **your products** that have been exported to a **non-territorial country** without **your** knowledge.

- 5.23 Terrorism** **You** are not insured for liability in connection with **act of terrorism**, including in connection with controlling, preventing, suppressing, retaliating against, or responding to an **act of terrorism**.
- 5.24 Underground services** **You** are not insured for liability in connection with any:
- (a) underground cables,
 - (b) underground pipes,
 - (c) other underground facilities.
- 5.25 Vehicles** **You** are not insured for liability in connection with:
- (a) **your** ownership, possession, **repair** or use of any **vehicle**,
 - (b) the use or driving of any **vehicle** when **you**:
 - (i) do not hold an appropriate driver's licence or do not comply with the conditions of **your** driver's licence,
 - (ii) have a proportion of alcohol in **your** breath or blood that exceeds the legal limit,
 - (iii) are under the influence of any other intoxicating substance or drug,
 - (iv) fail or refuse to supply a breath or blood sample as required by law,
 - (v) fail or refuse to stop, or remain at the scene, following an accident (as required by law),
 - (vi) are using the **vehicle** outside the manufacturer's recommended specifications,
 - (c) the use or driving of any **vehicle** that is in an unsafe condition if:
 - (i) the condition of the **vehicle** causes or contributes to, the **injury** and/or **damage**, and
 - (ii) **you** were, or ought to have been aware of the unsafe condition of the **vehicle**.
- 5.26 Vibration and removal of support** **You** are not insured for liability in connection with:
- (a) vibration,
 - (b) removal of the support,
 - (c) weakening of the support,
 - (d) interference with the support, of land or buildings.
- 5.27 War** **You** are not insured for liability in connection with any of the following, including controlling, preventing or suppressing any of the following: war, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) civil war, mutiny, rebellion, revolution, civil commotion assuming proportions of or amounting to an uprising, insurrection, military or usurped power.
- 5.28 Watercraft** **You** are not insured for liability in connection with:
- (a) **your** ownership, possession, **repair** or use of any **watercraft** that exceeds ten metres in length,
 - (b) the operation of any **watercraft**:
 - (i) while **you** are under the influence of alcohol or any other intoxicating substance or drug,
 - (ii) outside the manufacturer's recommended specifications.

6. Basis of settlement

6.1 Maximum amount payable

A. Legal liability

The most **we** will pay for **your** legal liability for each **event** is:

- (a) the **sum insured** shown in the **schedule**, or
- (b) where one or more extensions apply, the limit for the extension/s, whichever is lesser.

However, whenever **your** legal liability arises in connection with **your products**, the most **we** will pay for all **events**, in the aggregate, during the **annual period**, is the **sum insured** shown in the **schedule**.

B. Defence costs

We will pay all **defence costs** covered under Section 2.2 – 'Defence costs' in addition to Section 2.1 – 'Public and product liability'.

6.2 Excess

An excess of \$500 applies for each **event**, unless a different amount is shown in an extension or in the **schedule**.

For avoidance of any doubt, if **you** are entitled to cover under more than one extension, then **we** will only deduct one excess. That excess will be the highest excess.

7. General conditions

7.1 How we administer this policy

A. Assignment

You may not assign this policy or any interest under this policy without **our** prior written consent.

B. Cancellation

By you

You may cancel this policy at any time by notifying **us**. If **you** do, **we** will refund any premium that is due to **you** based on the unused portion of the **period of insurance**.

You must pay any outstanding premium due for the expired portion of the **period of insurance**.

By us

We may cancel this policy by giving **you** notice in writing or by electronic means at **your** last known address. **Your** policy will be cancelled from 4pm on the 30th day after the date of the notice. **We** will refund **you** any premium that is due to **you** based on the unused portion of the **period of insurance**.

C. Change of terms

We may change the terms of this policy (including the excess) by giving **you** notice in writing or by electronic means, at **your** last known address. Unless otherwise specified in the notice the change in terms will take effect from 4pm on the 30th day after the date of the notice.

D. Currency

Any amounts shown in this policy or in the **schedule** are in New Zealand dollars, unless otherwise specified in the **schedule**.

E. GST

Where GST is recoverable by **us** under the Goods and Services Tax Act 1985:

- (a) all sums insured exclude GST, and
- (b) all sub limits exclude GST, and
- (c) all excesses include GST, and
- (d) GST will be added, where applicable, to claim payments.

F. Other insurance

You must notify **us** as soon as **you** know of any other insurance policy that covers **you** for any of the risks covered under this policy.

This policy does not cover **your** liability or loss at all if it is insured to any extent under any other insurance policy. **We** will not contribute towards any claim under any other insurance policy.

G. Premium payment options

You may choose either an annual or a monthly renewable contract.

If **you** have elected a monthly renewable contract, then:

- (a) **you** must pay by direct debit using the Direct Debit Authority **we** require, and
- (b) the policy is for the initial **period of insurance** stated in the **schedule**, and
- (c) the policy will be renewed for further monthly periods of insurance upon receipt of the renewal premium due under the Deduction Authority, and
- (d) the policy terms, including the premium, will be reviewed on the anniversary date stated in the **schedule**.

H. Premium adjustments

If the premium for this policy has been calculated based on estimated figures, then the premium is only a provisional premium for the **annual period**.

Within three months of the expiry of an **annual period**, **you** must tell **us** what the actual figures are. **We** will re-calculate **your** actual premium based on the actual figures.

The difference between the actual and the provisional premiums will either be payable to **us** or refunded to **you** depending on the outcome of the adjustment, but any refund will be limited to a maximum of 50% of the provisional premium.

7.2 Laws and Acts that govern this policy

I. Separate insurance (cross liability)

Where the 'Insured' consists of more than one legal entity then all the parties are insured separately (as though a separate policy had been issued to each person/entity). However, this does not increase the amount of cover available under this policy.

A. Disputes about this policy

The law of New Zealand applies to this policy and the New Zealand Courts have exclusive jurisdiction.

B. Legislation changes

Any reference to any Act of Parliament or subordinate regulations or rules referred to in this policy includes any amendments made or substitutions to that law.

C. Insurance Law Reform Acts

The exclusions and conditions in this policy are subject to **your** rights under the Insurance Law Reform Act 1977 and Insurance Law Reform Act 1985.

7.3 Your obligations

A. Comply with the policy

You (and any other person or entity **we** cover) must comply with the conditions of this policy at all times.

B. Breach of any condition

If:

- (a) **you**,
- (b) any other person or entity **we** cover under this policy,
- (c) anyone acting on **your** behalf,

breaches any of the terms and/or conditions of this policy, **we** may:

- (i) decline **your** claim either in whole or in part, and/or
- (ii) declare either this policy or all insurance **you** have with **us** to be of no effect and to no longer exist.

C. True statements and answers

True statements and answers must be given, whether by **you** or any other person, when **you**:

- (a) apply for this insurance, and/or
- (b) notify **us** regarding any change in circumstances, and/or
- (c) make any claim under this policy, and communicate with **us** or provide any further information regarding the claim.

D. Reasonable care

You must take reasonable care at all times to avoid circumstances that could result in a claim.

Your claim will not be covered if **you** are reckless or grossly irresponsible.

E. Change in circumstances

You must tell **us** immediately if there is a material:

- (a) increase in the risk insured,
- (b) alteration of the risk insured.

Once **you** have told **us** of the change, **we** may then cancel or alter the premium and/or the terms of this policy.

If **you** fail to notify **us** about a change in the risk insured, **we** may:

- (a) declare this policy unenforceable, and/or
- (b) decline any subsequent claim either in whole or in part.

These actions will be taken from the date **you** knew, or ought to have known, of the increase or alteration in the risk insured.

For avoidance of any doubt, information is 'material' where we would have made different decisions about either:

- (i) *accepting your insurance, or*
- (ii) *setting the terms of your insurance,*

if we had known that information. If in any doubt, notify us anyway.

8. Managing your claim

8.1 Your obligations

A. Do not admit liability

You must not:

- (a) admit **you** are liable,
- (b) do or say anything that may prejudice our ability to defend the claim against **you** or take recovery action in **your** name.

B. Advise us

If **you** become aware of any **event** that is likely to give rise to a claim under this policy regardless of the anticipated quantum, **you** must contact **us** immediately.

C. Minimise the loss

You must take all reasonable steps to minimise the claim and avoid any further loss or liability arising.

D. Notify the Police

You must immediately notify the Police if **you** suspect criminal activity has occurred.

E. Provide full information

When **you** make a claim **you** consent to **your** personal information in connection with the claim being:

- (a) disclosed to **us**, and
- (b) transferred to the Insurance Claims Register Limited.

You must:

- (i) give **us** free access to examine and assess the claim, and
- (ii) send any relevant correspondence or documents to **us**, and
- (iii) complete a claim form and/or statutory declaration to confirm the claim if **we** request it, and
- (iv) provide any other information, proof of ownership or assistance that **we** may require at any time.

F. Dishonesty

If **your** claim is dishonest or fraudulent in any way, **we** may:

- (a) decline **your** claim either in whole or in part, and/or
- (b) declare either this policy or all insurance **you** have with **us** to be of no effect and to no longer exist from the date of the dishonest or fraudulent act.

This is at **our** sole discretion.

G. Do not dispose of property

You must not destroy or dispose of anything that is or could be part of a claim until **we** have given **you** permission to do this.

H. What you must obtain our agreement to do

You must obtain **our** agreement before **you**:

- (a) incur any expenses in connection with any claim under this policy,
- (b) negotiate, pay, settle, admit or deny any claim against **you**,
- (c) do anything that may prejudice **our** rights of recovery.

8.2 Managing your claim

A. Allocation of defence costs

If a claim is covered only partly by this policy, then **we** will attempt to ensure fair and proper allocation of the **defence costs** for insured and uninsured portions.

If all parties are unable to agree upon the allocation of the **defence costs** then that allocation shall be decided by a lawyer that **we** and **you** agree to instruct, whose determination shall be binding upon all parties. The cost of the lawyer's determination is to be taken as part of the **defence costs** covered under this policy.

If the parties cannot agree on a lawyer, then a lawyer will be appointed by the President of the New Zealand Law Society.

B. Apportionment

If **we** pay costs and/or expenses in excess of the maximum amount payable, then:

- (a) **you** must refund to **us** all amounts in excess of the maximum amount payable,
- (b) **we** can offset that payment against what **we** must pay to **you** under this policy.

C. Your defence

If the lawyer appointed to defend **you** advises that the claim should not be defended, then **we** are not required to defend a claim against **you** unless a second lawyer that **we** and **you** agree to instruct, advises that the claim should be defended.

If the parties cannot agree on a lawyer, then a lawyer will be appointed by the President of the New Zealand Law Society. In formulating his or her advice, the lawyer must be instructed to consider the:

- (a) economics of the matter, and
- (b) damages and costs likely to be recovered, and
- (c) likely costs of defence, and
- (d) prospects of successfully defending the claim.

The cost of the second lawyer's opinion is to be taken as part of the **defence costs** covered under this policy.

If the second lawyer advises that the claim should be settled and if the terms of settlement that **we** recommend are within limits that are reasonable (in the second lawyer's opinion, and in the light of the matters they are required to consider), then:

- (i) **you** cannot object to the settlement, and
- (ii) **you** must immediately pay the excess shown in the **schedule**.

D. Subrogation

Once **we** have accepted any part of **your** claim under this policy, **we** may assume **your** legal right of recovery. If **we** initiate a recovery **we** will include **your** excess, and any other uninsured losses suffered by **you**. Where **we** do this, **you** agree to pay **your** proportional share of the recovery costs, and subsequently the proceeds of the recovery will be shared on the same proportional basis, except that **we** will reimburse **your** excess first.

You must fully co-operate with any recovery process. If **you** do not, **we** may recover from **you** the amount paid in relation to the claim.

E. Defence of liability claims

After **you** have made a claim under this policy, subject to Section 8.2 C – 'Your defence', **we** have the sole right (which shall be a precedent to **your** right to be covered) to:

- (a) act in **your** name and on **your** behalf to defend, negotiate or settle the claim as **we** see fit (this will be done at **our** expense), and
- (b) defend or legally represent **you**, and
- (c) publish a retraction or apology (in the case of defamation proceedings).

We may appoint **our** own lawyers to represent **you**. They will report directly to **us**.

F. Discharge of liability claims

We may elect at any time to pay **you**:

- (a) the maximum amount payable under the policy,
- (b) any lesser sum that the claim against **you** can be settled for.

Once **we** have paid this (including any **defence costs** already incurred up to **our** date of election), **our** responsibility to **you** under the policy is met in full.

G. Waiver of professional privilege

The lawyers **we** instruct to act on behalf of **you** are at liberty to disclose to **us** any information they receive in that capacity, including information they receive from **you**. **You** authorise the lawyers to disclose this information to **us**.

9. Definitions

The definitions apply to the plural and any derivatives of the bolded words. For example, the definition of 'accidental' also applies to the words 'accidentally', 'accident' and 'accidents'.

| | |
|------------------------------|--|
| accidental | Unexpected and unintended by you . |
| act of terrorism | <p>Any act, or preparation in respect of action, or threat of action designed to influence or coerce the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological, or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and that:</p> <ul style="list-style-type: none">(a) involves violence against one or more persons,(b) involves damage to property,(c) endangers life other than that of the person committing the action,(d) creates a risk to health or safety of the public or a section of the public,(e) is designed to interfere with or disrupt an electronic system. |
| advertising liability | <p>Means legal liability arising from any advertisement, article, broadcast, telecast or communication to the public made in connection with advertising the products, goods or services, including liability for:</p> <ul style="list-style-type: none">(a) libel or slander,(b) infringement of copyright,(c) unfair competition or idea misappropriation under an implied contract,(d) invasion of privacy. <p>'Infringement of copyright' means the accidental unauthorised copying, distribution or exposition of any document or work.</p> |
| aircraft | Any vessel, craft or thing made or intended to fly or move in or through the atmosphere or space. |
| annual period | <p>The period of insurance. However, if:</p> <ul style="list-style-type: none">(a) you pay the premium monthly, or(b) the period of insurance is for more than 12 months, <p>the annual period is the current 12 month period calculated consecutively from the date this policy first started.</p> |
| application | The information provided by you or on your behalf to us when you purchased this insurance or requested a quotation for this insurance from us . It also includes any subsequent information you provide us with. |
| business | The business described in the schedule including any change in the activities undertaken by you provided that you have given us prior written notice of such activities and you have received confirmation of coverage of those activities from us . |
| damage | <p>Any of the following:</p> <ul style="list-style-type: none">(a) accidental physical loss or accidental physical damage to any tangible property, including its subsequent loss of use,(b) accidental loss of use of any tangible property that has not suffered physical loss or physical damage provided such loss of use arises out of physical damage to, or destruction or loss of other tangible property. |
| defence costs | Legal costs and expenses including disbursements, witnesses' costs, assessors' or adjusters' costs or experts' costs that relate directly to the investigation, defence, compromise or handling of any claim, incurred by us , or by you with our prior written consent. For the avoidance of doubt, defence costs do not include any costs of your time including any time spent in assisting us or our appointed solicitors with the conduct of any claim. |
| employee | Any person who is employed by you in connection with your business and in respect of whose remuneration you deduct PAYE tax at source. |
| event | Any one event (including continuous or repeated exposure to conditions or liability) or series of events arising from one source or original cause. |

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|--------------------------------|--|
| hot work | Any work involving: <ul style="list-style-type: none"> (a) the application of heat, a naked flame or an open heat source, or work that produces sparks, (b) the use of gas, welding, arc welding, oxyacetylene welding equipment including cutting with such equipment, (c) cutting involving the use of rotary disc or grinding equipment, soldering, brazing or use of heat guns. |
| injury | Any of the following: <ul style="list-style-type: none"> (a) the accidental death of, or the accidental bodily injury to any person, including sickness, disease, disability, shock, fright, mental anguish or mental injury, (b) false arrest, false imprisonment, malicious prosecution or malicious humiliation, (c) wrongful entry or eviction, or any other invasion of the right of private occupancy, (d) battery or assault, provided that: <ul style="list-style-type: none"> (i) it is not committed by you, or (ii) it is not committed under your direction, unless it is committed to prevent or eliminate danger to persons or property. |
| non-territorial country | Any country that is outside the territorial limits . |
| period of insurance | The period shown in the schedule , that specifies the start and end dates of this insurance contract. |
| products | Anything (after it has ceased to be in your possession or under your control) manufactured, constructed, erected, assembled, installed, applied, repaired , serviced, grown, treated, sold, supplied or distributed by you , including any packaging or container (other than a vehicle). |
| repair | Repair, alter, renovate, service or install. |
| schedule | The latest version of the schedule we issue to you for this policy. |
| sum insured | The amount shown in the schedule . |
| territorial limits | New Zealand and any additional countries or territories that are specified in the schedule . |
| vehicle | Any: <ul style="list-style-type: none"> (a) motor vehicle, (b) machine on wheels, tracks or rollers (but not rails) that is propelled by its own power, (c) anything, other than a watercraft, designed to be towed by either (a) or (b) above and includes its accessories, tools, specialised equipment and spare parts. |
| watercraft | Any vessel, hovercraft, craft or thing made or intended to float on or in or travel on or through the water. |
| we | State, a business division of IAG New Zealand Limited. We may also use the words 'us', 'our' or 'company' to describe State. |
| you | Any person or entity named in the schedule as 'Insured'. This includes any of the following: <ul style="list-style-type: none"> (a) any existing subsidiary company of that entity provided they are incorporated in New Zealand, (b) any other organisation: <ul style="list-style-type: none"> (i) where the named Insured exercises more than 50% management control, and (ii) over which the named Insured is exercising active management, and (iii) that is incorporated or based in New Zealand, (c) any director, executive officer, employee or partner of: <ul style="list-style-type: none"> (i) that person or entity, or (ii) any entity referred to in (a) and (b) above, but only while acting in that capacity, (d) any office bearer or member of a social or sporting club, welfare organisation or an employee superannuation fund formed with the consent of an entity referred to in (a), (b) or (c), but only in respect of claims arising from duties connected with activities of such club or organisation, |

- (e) any new organisation that the person or entity acquires through consolidation, merger, purchase of the assets, or assumption of control and active management, provided that:
 - (i) the new organisation is acquired during the **period of insurance**, and
 - (ii) the acquisition is notified to **us** within 90 days after it takes effect, and
 - (iii) they are incorporated or based in New Zealand.
- (f) any principal who is party to a contract with:
 - (i) the person or entity named in the **schedule**, or
 - (ii) any entity referred to in (a) and (b) above,but only for the principal's vicarious liability that arises out of that persons or entity's actions under that contract,
- (g) any contractor or sub-contractor but only while they are engaged and working in New Zealand for and on behalf of the person or entity named in the **schedule** or any entity referred to in (a) and (b) above, provided that they are not otherwise insured. General Condition 7.1 I – 'Separate insurance (cross liability)' does not apply in respect of such contractors or sub-contractors.

We may also use the word 'Insured' to describe you.

Broadform Liability Insurance

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