

# Aviation

## Hangarkeeper's Liability Insurance Policy



# HANGARKEEPER'S LIABILITY INSURANCE POLICY

## About this booklet

This booklet contains 2 separate parts:

### General Information and the Policy Terms and Conditions.

#### General Information

This part of the booklet contains information needed before taking out a Policy. Please read it carefully before taking out this insurance.

#### Policy Terms and Conditions

The Policy part of this booklet contains the Policy Terms and Conditions, which detail all the terms, conditions and exclusions relating to the Policy. It forms part of the legal contract with QBE.

If an insurance policy is issued, a Schedule will be provided which sets out the specific terms applicable to the cover and should be read together with the Policy Terms and Conditions.

The Policy Terms and Conditions and the Schedule form the legal contract with QBE so please keep them in a safe place for future reference.

If further information about this product is required, please contact QBE or your Financial Services Provider.

#### About QBE Australia

QBE Insurance (Australia) Limited is a member of the QBE Insurance Group (ASX: QBE). QBE Insurance Group is Australia's largest international general insurance and reinsurance group, and one of the top 25 insurers and reinsurers worldwide. The company has been operating in Australia since 1886 and continues to provide industry-leading insurance solutions that are focused on the needs of intermediaries and their clients.

QBE is a household name in Australian insurance, backed by sizeable assets, and well known as a strong and financially secure organisation.

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## GENERAL INFORMATION FOR HANGARKEEPER'S LIABILITY INSURANCE POLICY

The information contained in this part is general information only and does not form part of the contract with QBE. The Policy Terms and Conditions in the rest of this booklet contain details of the contract.

### Duty of Disclosure – What you must tell us

Under the Insurance Contracts Act 1984 (the Act), you have a Duty of Disclosure. You are required before you enter into, renew, vary, extend or reinstate your Policy, to tell us everything you know and that a reasonable person in the circumstances could be expected to know, is a matter that is relevant to our decision whether to insure you, and anyone else to be insured under the Policy, and if so, on what terms.

- **You do not have to tell us about any matter**
  - that diminishes the risk
  - that is of common knowledge
  - that we know or should know in the ordinary course of our business as an insurer, or
  - which we indicate we do not want to know.
- **If you do not tell us**

If you do not comply with your Duty of Disclosure we may reduce or refuse to pay a claim or cancel your Policy. If your non-disclosure is fraudulent we may also have the option of avoiding the contract from its beginning.

### Privacy

Privacy legislation regulates the way private sector organisations can collect, use, keep secure and disclose personal information. We are bound by the Privacy Act 1988 (Cth.), when collecting and handling your personal information. QBE has developed a privacy policy which explains what sort of personal information we hold about you and what we do with it.

We will only collect personal information from or about you for the purpose of assessing your application for insurance and administering your insurance policy, including any claims you make or claims made against you. We will only use and disclose your personal information for a purpose you would reasonably expect.

We may need to disclose personal information to our reinsurers (who may be located overseas), insurance intermediaries, insurance reference bureaux, credit reference agencies, our advisers and those involved in the claims handling process (including assessors, investigators and other insurers), for the purposes of assisting us and them in providing relevant services and products, or for the purposes of recovery or litigation. We may disclose personal information to people listed as co-insured on your policy and to family members or agents authorised by you. We may also disclose information to organisations which conduct customer service surveys on our behalf. We will request your consent to any other purpose.

By providing your personal information to us, you consent to us making these disclosures. Without your personal information we may not be able to issue insurance cover to you or process your claim.

You also have the opportunity to find out what personal information we hold about you and, when necessary, correct any errors in this information. Generally we will do this without restriction or charge. For further information about our Privacy Policy or to access or correct your personal information, please contact The Compliance Manager, QBE Insurance (Australia) Limited, GPO Box 82 Sydney NSW 2001. Telephone: (02) 9375-4656, Fax: (02) 8275-9022 or Email: [compliance.manager@qbe.com](mailto:compliance.manager@qbe.com)

### The General Insurance Code of Practice

QBE Insurance (Australia) Limited is a signatory to the General Insurance Code of Practice. The Code aims to:

- promote more informed relations between insurers and their customers;
- improve consumer confidence in the general insurance industry;
- provide better mechanisms for the resolution of complaints and disputes between insurers and their customers; and
- commit insurers and the professionals they rely upon to higher standards of customer service.

### Dispute resolution

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

We have a Complaints and Dispute Resolution Procedure which undertakes to provide an answer to your complaint within 15 working days.

If you would like to make a complaint or access our internal dispute resolution service please contact your nearest QBE office and ask to speak to a dispute resolution specialist.

# POLICY TERMS AND CONDITIONS FOR HANGARKEEPER'S LIABILITY INSURANCE POLICY

## Insurer

The Policy is underwritten by QBE Insurance (Australia) Limited, ABN 78 003 191 035 and AFS Licence No. 239545, of 82 Pitt Street, Sydney.

## Preamble

Headings are inserted for the purpose of convenient reference only and are not to be deemed part of this Policy.

Certain words and phrases used in this Policy have special meanings which can be found later in this section under "Definitions – Words with special meanings".

## Agreement to Insure

QBE Insurance (Australia) Ltd ABN 78 003 191 035 ("the Company"), in consideration of the payment of the premium and in reliance upon the information provided by the Insured including any proposal which is agreed to be the basis of and incorporated into this Policy, agrees to the extent and in the manner provided in this Policy, to pay on behalf of the Insured all sums which the Insured shall become legally liable to pay or by final judgment be adjudged to pay, up to but not exceeding the amounts specified in the Schedule, to any person or persons as compensatory damages:

- (a) for bodily injury including death at any time resulting therefrom; or
- (b) for loss of or damage to property of others;

arising out of an accident occurring during the period of insurance specified in the Schedule and in the circumstances described in Sections 1, 2 and 3 below provided that cover for any Section is only available if an amount is shown against that Section in the Schedule.

## Proportions

In the case of co-insurance, the additional insurer/s will be shown on the Schedule to the Policy along with the proportions underwritten by each of the insurers and the expression "Company" shall refer to the insurers collectively. Should any amount become payable under this Policy, the insurers shall not be jointly liable but shall pay to or on behalf of the Insured their respective proportions of the amount payable and no more.

## The Policy

The Hangarkeeper's Liability Insurance Policy consists of the Policy Terms and Conditions in this booklet and the Schedule.

Please read the Policy carefully to be satisfied that it provides the cover required.

If more information is required about any part of the Policy, please ask QBE or your Financial Services Provider.

The address and telephone number of the relevant QBE branch are on the Schedule.

Please keep the Policy Booklet and Schedule together in a safe and convenient place for future reference.

## Section 1: Liability for airfield premises

### Coverage

1. This section covers liability arising from bodily injury or property damage:
  - (a) in or about the premises specified in the Schedule, as a direct result of the services granted by the insured;
  - (b) elsewhere in the course of any work or in the performance of any duties carried out by the Insured or his employees in connection with the business or operations specified in the Schedule;

caused by the fault or negligence of the Insured or any of his employees engaged in the Insured's business or by any defect in the Insured's premises, ways, works, machinery or plant used in the Insured's business.

### Exclusions applicable to this section only

2. This Section does not cover:
  - (a) Loss of or damage to property owned, rented, leased or occupied by; whilst in the care, custody or control of; whilst being handled, serviced or maintained by, the Insured or any servant of the Insured, but this exclusion shall be deemed not to apply to vehicles that are not the property of the Insured whilst on the premises specified in the Schedule;
  - (b) Bodily injury or property damage caused by:
    - (i) any mechanically propelled vehicle which the Insured may cause or permit any other person to use on the road in such a manner as to render them responsible for insurance under any domestic or international law appertaining to road traffic, or where no such law exists, whilst such vehicle is on any public highway;
    - (ii) any Ships, Vessels, Craft or Aircraft owned, chartered, used or operated by or on account of the Insured, but this exclusion shall be deemed not to apply to aircraft owned by others which are on the ground and for which indemnity is otherwise granted under Section 2 of this Policy, whether such Section is insured hereunder or not;
  - (c) Bodily injury or property damage arising out of any Air meet, Air Race or Air Show, nor any stand used for the accommodation of spectators in connection therewith, unless previously agreed by the Company;
  - (d) Bodily injury or property damage arising out of construction of, demolition of or alterations to Buildings, Runways or Installations by the Insured or his contractors or sub-contractors (other than normal maintenance operations) unless previously agreed by the Company;

- (e) Bodily injury or property damage arising out of any goods or products manufactured, constructed, altered, repaired, serviced, treated, sold, supplied or distributed by the Insured or his employees after such goods or products have ceased to be in the possession or under the control of the Insured, but this exclusion shall be deemed not to apply to the supply, by the Insured, of food or drink at the premises specified in the Schedule;
- (f) Loss of or damage to stock and/or merchandise of any description;
- (g) Liability for bodily injury or damage to property imposed by Part VA of the Trade Practices Act, 1974.

## Section 2: Liability for aircraft in care, custody or control

### Coverage

1. This section covers liability arising from loss of or damage to Aircraft or Aircraft equipment, not owned, rented or leased by the Insured, whilst on the ground or during a test flight and whilst in the care, custody or control of or whilst being serviced, handled or maintained by the insured or and servant of the insured.

### Exclusions applicable to this section only

2. This Section does not cover:
  - (a) Loss of or damage to wearing apparel, personal effects or merchandise of any description;
  - (b) Loss of or damage to Aircraft or Aircraft equipment, hired or leased by or loaned to the Insured;
  - (c) Liability for bodily injury or damage to property imposed by Part VA of the Trade Practices Act, 1974;
  - (d) The cost of repairing or replacing any Unit of the aircraft, due to any wear and tear, deterioration, breakdown, defect or failure in such Unit, whether or not a result of any act or omission of the insured or his employees;
  - (e) Loss of or damage to any Unit or component of an Aircraft caused by or during the actual process of maintenance, repair or testing of that Unit or component.

## Section 3: Liability for aircraft maintenance, sales or repairs

### Coverage

1. This section covers liability arising from bodily injury or property damage:
  - (a) arising out of the possession, use, consumption or handling of any goods or products manufactured, constructed, altered, repaired, serviced, treated, sold, supplied or distributed by the Insured or his employees, but only in respect of such goods or products which form part of or are used in conjunction with aircraft, and then only after such goods or products have ceased to be in the possession or under the control of the Insured;
  - (b) for which the Insured is liable under Part VA of the Trade Practices Act, 1974, except as a deemed manufacturer pursuant to the provisions of that Act.

### Exclusions applicable to this section only

2. This Section does not cover:
  - (a) Damage to the property of the Insured or to property within his care, custody or control;
  - (b) The cost of repairing or replacing any defective goods or products manufactured, constructed, altered, repaired, serviced, treated, sold, supplied or distributed by the Insured or any defective part or parts thereof;
  - (c) Loss arising out of improper or inadequate performance, design, construction or specification but this exclusion shall be deemed not to apply to bodily injury or property damage as insured hereby resulting therefrom;
  - (d) The cost of repairing or replacing any Unit of the aircraft, due to any wear and tear, deterioration, breakdown, defect or failure in such Unit, whether or not a result of any act or omission of the insured or his employees;
  - (e) Loss of use of any Aircraft not actually lost or damaged in an accident giving rise to a claim hereunder;
  - (f) Loss or damage arising from the withdrawal of Flight operations of any Aircraft due to a mandatory order of an authority responsible for Civil Aviation because of an existing, alleged or suspected defect, fault or condition.

## Section 4: (A) Exclusions applicable to all sections of this Policy

### Workers' Compensation

1. THIS POLICY DOES NOT COVER liability for bodily injury to any person, who at the time of sustaining such injury is engaged in the service of the Insured or acting on his behalf or liability for which the Insured or his insurer may be held liable under any workers' compensation, employees' compensation, accident compensation or any similar law other than a subrogation claim brought by an insurer to recover sums paid pursuant to such legislation.

### Faulty workmanship

2. THIS POLICY DOES NOT COVER the cost of making good any faulty workmanship or replacing defective materials for which the Insured, his employees, contractors or subcontractors may be liable (but this limitation shall not exclude resulting damage arising out of such faulty workmanship).

### Contract

3. THIS POLICY DOES NOT COVER liability assumed by the Insured by agreement under any contract unless such liability would have attached to the Insured even in the absence of such agreement.

### War, hijacking and other perils

4. THIS POLICY DOES NOT COVER claims caused by:
  - (a) war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, martial law, military, or usurped power or attempts at usurpation of power;
  - (b) any hostile detonation of any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
  - (c) strikes, riots, civil commotions or labour disturbances;
  - (d) any act of one or more persons, whether or not agents of a sovereign power, for political or terrorist purposes and whether the loss or damage resulting therefrom is accidental or intentional;
  - (e) any malicious act or act of sabotage;
  - (f) confiscation, nationalisation, seizure, restraint, detention, appropriation, requisition for title or use by or under the order of any government (whether civil, military or de facto) or public or local authority; or (g) hijacking or any unlawful seizure or wrongful exercise of control of an aircraft or crew in Flight (including any attempt at such seizure or control) made by any person or persons on board an aircraft acting without the consent of the Insured.

Furthermore this Policy does not cover claims arising whilst the Aircraft is outside the control of the Insured by reason of any of the above perils.

The Aircraft shall be deemed to have been restored to the control of the Insured on the safe return of the Aircraft to the Insured at an airfield not excluded by the geographical limits of this Policy, and entirely suitable for the operation of the Aircraft (such safe return shall require that the Aircraft be parked with engines shut down and under no duress).

### Control tower

5. THIS POLICY DOES NOT COVER liability arising out of the operation of an airfield control tower unless previously agreed by the Company.

### Other sections

6. Each Section of this Policy excludes liability which is or would be covered under any other Section of the Policy, whether such other section is insured hereunder or not.

### Nuclear risks

7. THIS POLICY DOES NOT COVER claims directly or indirectly occasioned by, happening through or in consequence of:
  - (a) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof; or
  - (b) ionising radiations or contamination by radioactivity from, or the toxic, explosive or other hazardous properties of, any other radioactive source whatsoever.

### Punitive damages

8. THIS POLICY DOES NOT COVER liability to pay punitive, exemplary or aggravated damages.

### Environmental risks

9. (a) THIS POLICY DOES NOT COVER claims directly or indirectly occasioned by, happening through or in consequence of:
  - (i) noise (whether audible to the human ear or not), vibration, sonic boom and any phenomena associated therewith;
  - (ii) pollution and contamination of any kind whatsoever;
  - (iii) electrical and electromagnetic interference;
  - (iv) interference with the use of property;

unless caused by or resulting in a crash, fire, explosion or collision or a recorded in-flight emergency causing abnormal aircraft operation not otherwise excluded under this Policy.

- (b) With respect to any provision in the Policy concerning any duty of the Company to investigate or defend claims, such provision shall not apply and the Company shall not be required to defend:
- (i) claims excluded by this exclusion; or
  - (ii) a claim or claims covered by the Policy when combined with any claims excluded by this exclusion (referred to below as “Combined Claims”).
- (c) In respect of any Combined Claims, the Company shall (subject to proof of loss and the limits of the Policy) reimburse the Insured for that portion of the following items which may be allocated to the claims covered by the Policy:
- (i) damages awarded against the Insured; and
  - (ii) defence fees and expenses incurred by the Insured.

### **Agricultural chemicals**

10. THIS POLICY DOES NOT COVER liability arising out of the possession, handling, storage, sale, dealing in or distribution (by aircraft or otherwise) of agricultural fertilizers, chemicals, herbicides and/or insecticides.

### **Professional indemnity**

11. THIS POLICY DOES NOT COVER liability arising out of the provision of advice, the failure to advise or any breach of any professional duty owed by the Insured or by the Insured’s employees, agents or contractors.

### **US risks**

12. THIS POLICY DOES NOT COVER liability arising out of, created or determined by the laws, statutes or tribunals of the United States of America.

### **Other insurance**

13. THIS POLICY DOES NOT COVER any claim under this Policy which is also covered in whole or in part by another policy or would but for the existence of this Policy be covered by another policy, except to the extent that the amount of any liability exceeds the amount payable under such other policy or policies; provided always that the Company shall not be liable to pay any amount in excess of any relevant amount specified in the Schedule.

## **Section 4: (B) Conditions applicable to all sections of this Policy**

### **Limit and legal costs**

1. The liability of the Company under any Section shall not exceed the amount of indemnity stated in the Schedule, less any amount specified in the Schedule as a deductible. In addition, the Company will defray any legal costs and expenses incurred with its written consent in defending any action which may be brought against the Insured in respect of any claim for compensatory damages covered by this Policy, but should the liability of the Insured or the amount paid or awarded in settlement of such claim exceed the limit of indemnity then the liability of the Company in respect of such legal costs and expenses shall be limited to such proportion of the legal costs and expenses as the limit of indemnity bears to the amount paid to dispose of the claim.

### **Claims procedure**

2. Immediate notice of any event likely to give rise to a claim under this Policy shall be given as stated in the Schedule. In all cases the Insured shall:
- (a) furnish full particulars in writing of such event and forward immediately notice of any claim with any letters or documents relating thereto;
  - (b) give notice of any impending prosecution;
  - (c) give all information, do all things, provide signed statements, provide all documents, records and things, and assist the insurers and their agents in any other way in the investigation and in connection with any proceeding or inquiry as the Company or its agents or representatives may require;
  - (d) be available and attend conferences and give evidence and/or instructions when required by the Company or its agents, ensure that any employees required by the Company are available to do likewise and take all reasonable steps to ensure that any other person connected with the Insured is available and will assist and give evidence if so required;
  - (e) not act in any way to the detriment or prejudice of the interest of the Company.

### **Fraud**

3. If the Insured shall make any claim knowing the same to be false or fraudulent as regards amount or otherwise, the Company shall be entitled to refuse the claim.

### **Cancellation**

4. (a) The Insured may cancel this Policy by giving ten days notice in writing to the Company of such cancellation in which event the premium shall be adjusted on the basis that the Company retains the customary short-term premium, details of which are available on request. There will be no return of premium in the event that a claim is paid or is payable under this Policy.

- (b) The Company may cancel this Policy in the circumstances or upon the grounds permitted by the proper law of the Policy by giving notice in writing to the Insured, either personally or by post, at the last address known to the Company. Such notice shall have effect to cancel the Policy at 4:00pm on the third business day after the day on which the notice was given or at any later time specified in the notice.

### Conditions precedent

5. It is a condition precedent to the right of the Insured to be indemnified under this Insurance that:

### Change in risk

- (a) If after this Insurance has been effected, the risk is materially altered; such alterations must be notified in writing to the Company immediately and no claim arising subsequent to such change shall be recoverable hereunder unless such change has been accepted by the Company;

### Conduct of proceedings

- (b) No liability shall be admitted and no admission, arrangement, offer, promise or payment shall be made by the Insured without the written consent of the Company, which shall be entitled if it so desires, to take over and conduct in the name of the Insured the defence of any claim or to prosecute in the name of the Insured for its own benefit any claim for indemnity or damages or otherwise against any third party, and shall have full discretion in the conduct of any negotiations or proceedings or the settlement of any claim, and the Insured shall give all such information and assistance as the Company may require;
- (c) The Company may at any time upon giving written notice to the Insured abandon the pursuit or the defence of any claim but shall (except where the Insured or its servants or agents have been dishonest or withheld relevant information) pay its share of any costs incurred in connection with the pursuit or defence up to the date of giving notice.

### Due diligence

- (d) The Insured shall and will at all times:
- (i) exercise reasonable care in seeing that the ways, implements, plant, machinery and appliances used in the Insured's business are substantial and sound and in proper order, and fit for the purpose for which they are used, and that all reasonable safeguards and precautions against accidents are provided and used; and
- (ii) employ only personnel who are properly qualified and licensed for the duties they perform or, where permitted, are supervised by a properly qualified and licensed person and shall take reasonable steps to ensure only competent personnel are employed in the Insured's business;

### Compliance with statutory requirements

- (e) The Insured shall comply with all Statutory Requirements which affect the maintenance, repair, inspection and safe operation of aircraft, the operation and conditions of places of work and the qualifications and supervision of engineers.

### Cross liability

6. The inclusion of more than one person as insured under this Policy shall not affect the rights under this Policy in respect of any claim brought by another insured or by an employee of another insured. Notwithstanding the inclusion herein of more than one Insured, whether by endorsement or otherwise, the total liability of the Company in respect of any or all Insureds shall not exceed the Limit(s) of Indemnity stated in this Policy.

### Governing law

7. This Policy shall be construed in accordance with Australian Law.

## Section 4: (C) Definitions

In this Policy and, unless expressly stated to the contrary, in the Schedule and any endorsements:

- 1 **"Accident"** means an accident or series of accidents arising out of one event or occurrence;
- 2 **"Bodily Injury"** includes death but excludes nervous shock or psychological injury unaccompanied by, or not caused by, physical injury;
- 3 **"Flight"** The term "in flight" means the time commencing with the actual take off run of the aircraft and continuing thereafter until it has completed its landing run;
- 4 **"Ground"** means whilst the Aircraft is not in Flight but includes whilst Taxiing as defined.
- 5 **"Property Damage"** means loss of or damage to the property of others;
- 6 **"Statutory Requirements"** includes legislation and delegated legislation (including applicable legislation and delegated legislation of another country) and orders, rules, directions, notices, approvals, certificates and licenses issued by a competent authority.
- 7 **"Taxiing"** means movement of the Aircraft under its own power, other than in Flight as defined. Taxiing shall not be deemed to cease merely by reason of a temporary halting of the Aircraft.
- 8 **"Unit"** means a part or assembly of parts (including any sub-assemblies) of or fitted to an Aircraft and an engine for propulsion or auxiliary power, complete with all items from the Aircraft necessary for test cell running, shall constitute a single unit.