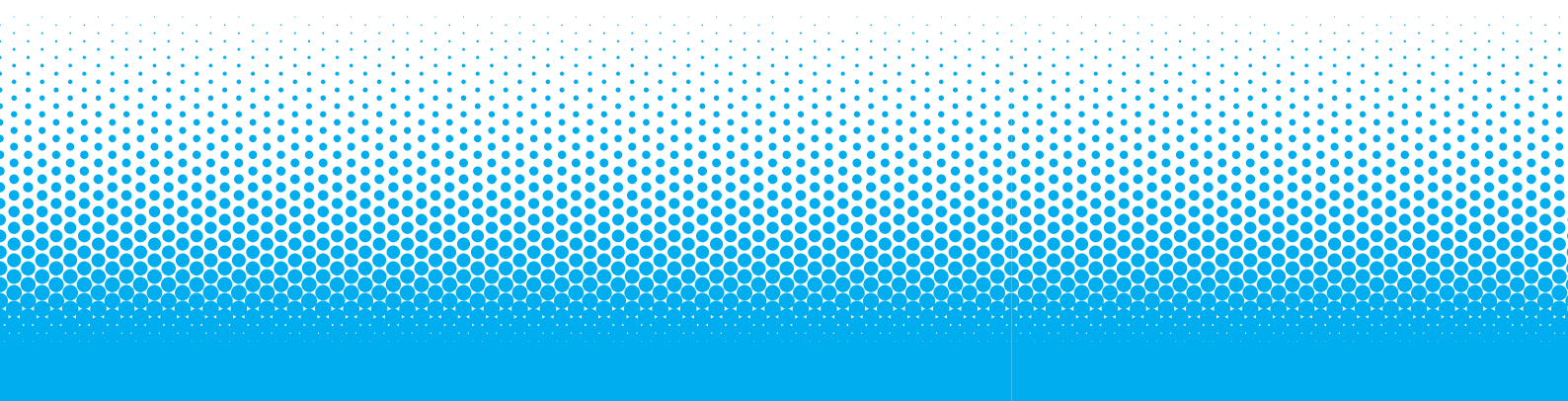




Excess Liability
Wording 2023 07



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WELCOME TO HALO

ABOUT HALO

Halo Underwriting Agency Pty Ltd (ABN 48 008 497 318, AFSL 237267) ('Halo') acts under a binding authority given to it by Us, to administer and issue policies, alterations and renewals.

In all aspects of arranging the Policy, Halo acts as an agent for the Insurer(s) and not for You. If You have any queries in relation to this Policy, contact Halo in any of the following ways:

Street Address: The Commons, Level 4, 32 York Street, Sydney, NSW 2000

Postal Address: The Commons, Level 4, 32 York Street, Sydney, NSW 2000

ABOUT THIS POLICY

Throughout this document certain words are italicised to show that they have a particular defined meaning. You should refer to the Definitions section of this document on page 7, and the relevant cover sections to obtain the full meaning of these terms.

You', 'Your' or 'Yours' means the person(s) or parties shown as the Insured in the Schedule, including all subsidiary companies, organisations and entities incorporated in Australia in which You have a controlling interest (exceeding 50%) and are engaged in the business described in the schedule and not for any other purpose or activity.

The Insurer of this insurance are Certain Underwriters at Lloyd's (also referred to as "We", "Our" or "Us").

References to the masculine include the feminine, the singular also includes the plural and vice versa.

A reference to any statute, regulation or subordinate legislation includes any amendment, replacement, successor or equivalent to or of that statute, regulation or subordinate legislation.

ABOUT LLOYD'S

Certain underwriters at Lloyd's are authorised by the Australian Prudential Regulation Authority ('APRA') under the provisions of the Insurance Act 1973 (Cth) to conduct insurance business in Australia.

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 should contact Halo in the first instance in relation to this insurance.

GENERAL INSURANCE CODE OF PRACTICE

The Insurance Council of Australia Limited has developed the General Insurance Code of Practice ('the Code'), which is a voluntary self-regulatory code. The Code aims to raise the standards of practice and service in the insurance industry.

Lloyd's has adopted the Code on terms agreed with the Insurance Council of Australia. For further information on the Code please visit www.codeofpractice.com.au.

The Code Governance Committee ('CGC') is an independent body that monitors and enforces insurers' compliance with the Code. For more information on the CGC go to www.insurancecode.org.au

HOW TO APPLY FOR THIS INSURANCE

Throughout this document when referring to Your insurance broker or adviser, We may simply refer to them as Your intermediary.

If You are interested in buying this product or have any enquiries about it, You should contact Your intermediary who should be able to provide You with all the information and assistance You require.

If You are not satisfied with the information provided by Your intermediary, You can contact Us at the address or telephone number shown on the back cover of this document. However, We are only able to provide factual information or general advice about the product. We do not give advice on whether the product is appropriate for Your personal objectives, needs or financial situation.

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, 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.

OUR CONTRACT WITH YOU

Your Policy is a contract of insurance between You and Us and contains all the details of the cover that We provide.

Your Policy is made up of:

1. the policy wording. It tells You what is covered, sets out the claims procedure, exclusions and other terms and conditions of cover;
2. the proposal, which is the information You provide to Us when applying for insurance cover;
3. Your most current Schedule issued by Us. The Schedule is a separate document unique to You, which shows the insurance details relevant to You. ; and
4. any other written change otherwise advised by Us in writing (such as an endorsement). These written changes vary or modify the above documents.

Please note, only those covers shown in Your Schedule are insured.

This document is used for any offer of renewal We may make, unless We tell You otherwise. Please keep Your Policy in a safe place.

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

COOLING-OFF PERIOD

After You apply for cover and You have received the policy document, You have 21 days to check that the Policy meets Your needs. Within this time You may cancel the Policy and receive a full refund of any premiums paid, less any tax or duty paid or owing for which We are unable to obtain a refund, unless:

1. You have made a claim or become entitled to make a claim under Your policy; or
2. You have exercised any right or power You have in respect of Your Policy or the Policy has ended.

Your request will need to be forwarded to Us via Your intermediary or to the address shown on the back cover of this document.

You can cancel Your Policy at any time after the cooling-off period.

HOW TO MAKE A CLAIM

Upon the discovery of any personal injury, or property damage loss or circumstance giving rise or which may give rise to a claim (whether or not the Insured believes the claim amount might fall below the applicable deductible) under this Policy, the Insured shall:

1. give notice in writing to Us as soon as practicable after the Insured becomes aware of such loss or circumstance and within 30 days thereafter provide, at the Insured's own expense, a written statement detailing all relevant information;
2. advise of the cause and the amount of loss and any other proof or information with respect to the claim that may be reasonably required;
3. furnish to Us details of any other insurance covering or which may cover the same loss;
4. take reasonable steps to prevent further loss; and
5. at all reasonable times permit Us or Our agents to inquire into, investigate and examine the circumstances of any loss.

PRIVACY

Halo value the privacy of Your personal information and We will ensure the handling of Your personal information is dealt with in accordance with the Privacy Act 1988 (Cth) and the relevant Australian Privacy Principles. Our full privacy policy can be accessed from Our website www.halounderwriting.com.au

When We provide insurance products and/or services, We ask You for the personal information We need to assess applications for insurance policies, to administer and manage insurance policies and to investigate and handle claims. This can include a broad range of information ranging from Your name, date of birth, address and contact details to other information about Your personal affairs including Your profession, financial affairs including financial statements, any criminal convictions or claims.

We may need to disclose personal information that You provide Us to contractors, coinsureds, insurers and underwriters (who may be located overseas), lawyers, claims adjusters and others engaged by Halo to enable them to administer policies or handle claims. Regardless of the information shared, We will take all reasonable steps to ensure that the above parties protect Your information in the same way that We do.

Our Privacy Policy shown in the above link contains information about how You can access the information We hold about You, ask Us to correct it, or make a privacy related complaint.

COMPLAINTS AND DISPUTE RESOLUTION PROCESS

If You have any concerns or wish to make a complaint in relation to this Policy, Our services or Your claim, please let Us know and We will attempt to resolve Your concerns in accordance with Our Internal Dispute Resolution procedure.

Please contact Halo in the first instance:

Halo Underwriting

Postal Address: The Commons, Level 4, 32 York St, Sydney, NSW 2000

Phone: 1800 161 165

Email: support@halounderwriting.com.au

We will acknowledge receipt of Your complaint and do Our utmost to resolve the complaint to Your satisfaction within ten (10) business days.

If We cannot resolve Your complaint to Your satisfaction, We will escalate Your matter to Lloyd's Australia who will determine whether it will be reviewed by their office or the Lloyd's UK Complaints team.

Lloyd's contact details are:

Lloyd's Australia Limited

Postal address: Suite 1603 Level 16, 1 Macquarie Place, Sydney, NSW 2000

Phone: +61 2 8298 0783

Email: ldraustralia@lloyds.com

A final decision will be provided to You within thirty (30) calendar days of the date on which You first made the complaint unless certain exceptions apply.

You may refer Your complaint to the Australian Financial Complaints Authority ('AFCA'), if Your complaint is not resolved to Your satisfaction within thirty (30) calendar days of the date on which You first made the complaint or at any time.

AFCA can be contacted as follows:

Phone: 1800 931 678

Email: info@afca.org.au

Postal Address: GPO Box 3, Melbourne, VIC 3001

Website: www.afca.org.au

Your complaint must be referred to AFCA within two (2) years of the final decision, unless AFCA considers special circumstances apply. If Your complaint is not eligible for consideration by AFCA, You may be referred to the Financial Ombudsman Service (UK) or You can seek independent legal advice. You can also access any other external dispute resolution or other options that may be available to You.

The Insurers accepting this Insurance agree that:

- (i) if a dispute arises under this Insurance, this Insurance will be subject to Australian law and practice and the Insurers will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;
- (ii) any summons notice or process to be served upon the Insurers may be served upon: Lloyd's Insurers' General Representative in Australia, Suite 1603, Level 16, 1 Macquarie Place, Sydney, NSW 2000 who has authority to accept service on the Insurers' behalf;
- (iii) if a suit is instituted against any of the Insurers, all Insurers participating in this Insurance will abide by the final decision of such Court or any competent Appellate Court. In the event of a claim arising under this Insurance immediate notice should be given as soon as reasonably practicable to Halo.

SEVERAL LIABILITY NOTICE

The subscribing Insurers obligations under the contracts of insurance to which they subscribe are several and not joint and are limited solely to their individual subscriptions. The subscribing Insurers are not responsible for the subscription of any co-subscribing Insurer who for any reason does not satisfy all or part of its obligations.

EXCESS LIABILITY INSURANCE

1. Indemnity Clause

The Insurers will indemnify the Insured against their legal liability to pay compensation including claimants' costs and expenses occurring during the Period of Insurance within the Territorial Limits in connection with the Business.

2. Definitions

For the purpose of this Policy the following words in bold have the meaning set out below:

- 2.1 Business** means the business stated in the Schedule conducted from the premises of the Insured and shall include:
- a) the ownership, repair and maintenance of the Insured's own property.
 - b) provision and management of canteen, social, sports and welfare organisations for the benefit of any Person Employed and medical, firefighting and security services.
 - c) private work undertaken by any Person Employed for any director or partner of the Insured with the prior consent of the Insured.
- 2.2 Damage** means physical loss, destruction or damage to tangible property.
- 2.3 Endorsement** means a written attachment forming part of this Policy noting any changes to this Policy.
- 2.4 Injury** means bodily injury, death, illness or disease to any person.
- 2.5 Insured You or Your** means:
- a) the person, persons or corporate body named in the Schedule.
 - b) subsidiary companies of the Insured notified to and accepted in writing by the Insurers.
- 2.6 Period of Insurance** means the period of insurance stated in the Schedule.
- 2.7 Person Employed** means any:
- a) employee being a person under a contract or service or apprenticeship with the Insured.
 - b) labour master and persons supplied by them.
 - c) person employed by labour only sub-contractors.
 - d) self employed person under the control of the Insured.
 - e) person hired to or borrowed by the Insured.
 - f) person undertaking study or work experience or youth training scheme with the Insured working for the Insured in connection with the Business.
- 2.8 Policy** means the contract comprising of the Schedule, terms, conditions, exclusions together with any additional Endorsement.
- 2.9 Pollution** means Pollution or contamination of the atmosphere or of any water, land, buildings or other tangible property.
- 2.10 Product** means any tangible property after it has left the custody or control of the Insured which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by or on behalf of the Insured.
- 2.11 Schedule** means the Schedule attaching to and forming part of this Policy, including any Schedule substituted for the original Schedule.
- 2.12 Territorial Limits** means the Territorial Limits stated in the Schedule.
- 2.13 Terrorism** means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

- 2.14 Underlying Insurers** means the Primary Policy Insurer and all Underlying Excess Policy Insurers providing indemnity in excess of the Primary Policy Insurer up to the Underlying Limit of Indemnity specified in the Schedule.
- 2.15 Underlying Policies** means the Primary Policy and all Underlying Excess Policies providing indemnity in excess of the Primary Policy up to the Underlying Limit of indemnity specified in the Schedule.
- 2.16 Insurers, We, Us or Our** means Certain Insurers at Lloyd's.

3. Cross Liabilities

- 3.1** Each person or party specified as the Insured in the Schedule is separately indemnified in respect of claims made against any of them by any other such person or party subject to the Insurers total liability not exceeding the stated Limits of Indemnity.

4. Limits of Indemnity

The Insurers will indemnify the Insured either:

- 4.1** Up to the Limit of Indemnity for all compensation (including claimants' costs and expenses) where the Underlying Policies provide for such claimants' costs and expenses to be included within the Underlying Limit of Indemnity, or
- 4.2** Up to the Limit of Indemnity for all compensation with claimants' costs and expenses payable in addition where the Underlying Policies provide for such claimants' costs and expenses to be payable in addition to the Underlying Limit of Indemnity. The liability of the Insurers for claimants' costs and expenses shall be limited to that proportion which the amount payable under this Policy (excluding such claimants' costs and expenses) bears to the total sum payable under all contributing policies excluding the said claimants' costs and expenses.

Provided always that

- a) Liability under this Policy shall not attach unless and until the Underlying Insurers have paid or have been held liable to pay a sum which exceeds the Underlying Limit of Indemnity.
- b) No claimants' costs and expenses shall be incurred on the Insurers' behalf without their written consent being first obtained.
- c) If the Underlying Insurers exercise a right under their policies to pay the Underlying Limit of Indemnity and are liable only for claimants' costs and expenses up to the time of such payment then the Insurers will only pay that proportion of the claimants' costs and expenses for which they would have been liable had the Underlying Insurers not exercised that right.
- 4.3** In the event of exhaustion of any aggregate Limit of Indemnity of the Underlying Policies (whether partial or total) by reason of claims paid (of which they have been liable to pay) the Insurers' shall
- a) in the event of partial exhaustion provide indemnity in excess of the reduced Underlying Limit of Indemnity.
- b) in the event of total exhaustion continue this Policy in force as the Underlying Policy subject to the terms and conditions of this Policy.
- 4.4** Any decision of the Underlying Insurers to accept a claim "ex-gratia" or "without prejudice" without the prior written acceptance of the Insurers shall
- a) not be binding on the Insurers, and
- b) not operate to erode any aggregate limit of any Underlying Policy.
- 4.5** Nor shall any action or decision of the Underlying Insurers which prejudices the Insurers in the conduct or settlement of any claim under this Policy be binding on the Insurers.

5. Exclusions

This Policy excludes legal liability:

- 5.1 for or arising out of the deliberate, conscious or intentional disregard by the Person Employed to take all reasonable steps to prevent or reduce a claim under this Policy.
- 5.2 for or arising out Injury to a Person Employed where such Injury arises out of and in the course of employment by the Insured or any liability arising out of the Workers' Compensation Act or any similar legislation anywhere in the world.
- 5.3 for or arising out of liquidated damages clauses, penalty clauses or performance warranties unless it is proven that liability would have attached in the absence of such clauses or warranties.
- 5.4 directly or indirectly occasioned by, happening through or in consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.
- 5.5 directly or indirectly caused by or contributed to by or arising out of:
 - a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
 - b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or its nuclear component
- 5.6 for any award of punitive or exemplary damages whether as fines, penalties, multiplication of compensatory awards or damages.
- 5.7 arising from circumstances known to the Insured or which the Insured ought reasonably to have known prior to the inception date of this Policy.
- 5.8 for any loss directly or indirectly caused by, in connection with or contributed to by or arising from asbestos or asbestos products or asbestos contained in any Products.
- 5.9 for loss, Injury, Damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

This Exclusion 5.9 also applies to loss, Injury, Damage, cost or expense of whatsoever 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 Terrorism.

If the Insurers allege that by reason of this Exclusion 5.9, any loss, Injury, Damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Insured.

In the event any portion of this Exclusion 5.9 is found to be invalid or unenforceable, the remainder shall remain in full force and effect.
- 5.10 for or arising out of Pollution, unless Pollution is a direct result of a sudden, identifiable, unintended and unexpected event occurring in its entirety at a specific time and place during the Period of Insurance.

6. Conditions

- 6.1 This Policy is subject to the same, terms, definitions, conditions and exclusions (except as regards the premium, settlements, the limits of indemnity and as otherwise provided herein to the contrary) as the Underlying Policies. No amendment to the Underlying Policies during the Period of Insurance of this Policy shall be effective in extending the scope of this Policy without the written acceptance of the Insurers.
- 6.2 The Insured shall give written notice to the Insurers as soon as reasonably practicable and at the latest within 30 days of the Insured becoming aware of any occurrence, accident or happening or any claim made against the Insured which could involve an amount in excess of 50% of the Underlying Limit of Indemnity, and the Insured shall give all such information and assistance as the Insurers may require.

The Insured shall also advise the Insurers at the time of any claim under this Policy of the details of all other liability insurance from which the Insured may benefit (other than any Underlying Policy specified in the Schedule) regardless of whether such claim is in the Insured's opinion recoverable from such other insurance, in order for the Insurers to establish rights of contribution which they may have.

6.3 In the event of a claim arising to which the Insurers may be liable to contribute, no claimants' costs and expenses shall be incurred on their behalf without their written consent being first obtained and if they so consent they shall contribute to the said claimants' costs and expenses on the basis stated in the Limits of Indemnity (Clause 4).

If however, a settlement of the claim be practicable prior to taking the case into court (whether by compromise or otherwise) for a sum not exceeding the Underlying Limit of Indemnity no claimants' costs and expenses shall be payable by the Insurers.

No settlement of any claim by agreement shall be effected by the Insured for a sum in excess of the Underlying Limit of Indemnity without the written consent of the Insurers.

6.4 The Insured shall as soon as practicable after becoming aware give notice in writing to the Insurers of any alteration or circumstance which materially affects the risks insured under this Policy.

Until the Insurers be advised of such alteration or circumstance and shall have expressly agreed in writing to accept liability for such altered risk and the Insured has paid or agreed to pay the additional premium if any, having regard to the nature of the risk being assumed, the Insurers shall not be liable in respect of any claims or claims due wholly or partially to any such alteration or circumstance.

6.5 All recoveries or payments recovered or received subsequent to payment of a claim under this Policy shall be applied as if recovered or received prior to such payment and all necessary adjustments shall then be made between the Insurers, the Underlying Insurers and the Insured.

6.6 The Underlying Policies shall be maintained in full effect during the currency of this Policy except for any reduction of any aggregate Underlying Limit of Indemnity solely by payment of claims by the Underlying Insurers.

6.7 The insolvency, bankruptcy, receivership or any refusal or inability to pay of the Insured or the Underlying Insurers shall not operate to

- a) reduce or exhaust the Underlying Limit of Indemnity
- b) increase the Insurer's liability under this Policy.

6.8 Where the premium is provisionally based on the Insured's estimates, the Insured shall keep accurate records and within 90 days of expiry of the Period of Insurance declare such particulars as the Insurers require.

The premium shall then be adjusted and any difference paid or allowed to the Insured as the case may be subject to any minimum premium that may apply.

Failure to declare such particulars to the Insurers shall entitle the Insurers to estimate if they so wish such particulars and to assess the further premium payment due calculated on such estimated particulars.

6.9 If any claim under this Policy is in any respect fraudulent all benefit in respect of such claim shall be forfeited.

6.10 The Insured may cancel this Policy by giving the Insurer notice in writing to that effect.

Provided that such cancellation will take effect from the date the Insured's notice is received by the Insurer or any other date that is mutually agreed between the Insured and Insurer.

6.11 The Insurers may cancel this Policy under any circumstances set out in the Insurance Contracts Act 1984 (Cth) or subsequent amendments to this legislation.

6.12 After cancellation by the Insured, the Insurer will refund to the Insured a proportionate part of the premium applicable to the unexpired Period of Insurance subject to any minimum premium imposed at binding.

6.13 After cancellation by the Insurer, the Insurer will refund to the Insured a proportionate part of the premium applicable to the unexpired Period of Insurance subject to any minimum premium imposed at binding.

6.14 When the premium is subject to adjustment, cancellation will not affect the Insured's obligation to supply the Insurer such information which is necessary to permit the premium adjustment to be calculated and pay the amount of the adjustment applicable up to the date of cancellation.

6.15 This Policy will be interpreted in accordance with the law of Australia. Any word or expression to which a specific meaning has been attached in any part of this Policy shall bear such specific meaning wherever it may appear.

6.16 All disputes concerning the interpretation of this Policy are understood and agreed by both the Insured and the Insurers to be subject to Australian Law.

Each party agrees to submit to the jurisdiction of any court of competent jurisdiction within Australia and to comply with all requirements necessary to give such court jurisdiction.

All matters arising hereunder shall be determined in accordance with the law and practice of such court.

CONTACT

Halo Underwriting

ABN 48 008 497 318, AFS Licence No: 237267

Head Office: The Commons, Level 4, 32 York Street, Sydney, NSW, 2000

Client enquiries www.halounderwriting.com.au

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