



Hangar Keepers Liability Insurance Policy

(Policy number HKL-M01)

Issued to clients of VMIA



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Insurance Authority



Victorian Managed Insurance Authority (VMIA) acknowledges the Traditional Custodians of the land on which we do business, and we pay our respects to Elders past and present. We acknowledge the important contribution that Aboriginal and Torres Strait Islander peoples make in creating a thriving Victoria.

Agreement to Insure

Victorian Managed Insurance Authority ('We', 'Us' or 'Our' or 'The Company'), in consideration of the payment of the **Premium** and in reliance upon the information provided by **You** 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 **You** all sums which **You** shall become legally liable to pay or by final judgement 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 **Policy 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 **Policy Schedule**.

Section 1: Liability for Airfield Premises

1.1 Coverage

This section covers liability arising from **Bodily Injury** or **Property Damage**:

- a) in or about the premises specified in the **Policy Schedule**, as a direct result of the services granted by **You**;
- b) elsewhere in the course of any work or in the performance of any duties carried out by **You** or **Your** employees in connection with the business or operations specified in the **Policy Schedule**;

caused by the fault or negligence of **You** or any of **Your** employees engaged in **Your** business or by any defect in **Your** premises, ways, works, machinery or plant used in **Your** business.

1.2 Exclusions Applicable to Section 1 only

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; while being handled, serviced or maintained by, **You** or any servant of **You**, but this exclusion shall be deemed not to apply to vehicles that are not the property of **You** while on the premises specified in the **Policy Schedule**;
- b) **Bodily Injury** or **Property Damage** caused by:
 - i. any mechanically propelled vehicle which **You** may cause or permit any other person to use on the road in a manner as to render them responsible for insurance under any domestic or international law appertaining to road traffic, or where no law exists, while the vehicle is on any public highway;
 - ii. any Ships, Vessels, Craft or Aircraft owned, chartered, used or operated by or on account of **You**, 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 this Section is insured or not.
- c) **Bodily Injury** or **Property Damage** arising out of any **Air Meet**, **Air Race** or **Air Show**, nor any stand involved for the accommodation of spectators, unless previously agreed by **Us**;
- d) **Bodily Injury** or **Property Damage** arising out of construction of, demolition of or alterations to Buildings, Runways or Installations by **You** or **Your** contractors or sub-contractors (other than normal maintenance operations) unless previously agreed by **Us**;
- e) **Bodily Injury** or **Property Damage** arising out of any goods or products manufactured, constructed, altered, repaired, serviced, treated, sold, supplied or distributed by **You** or **Your** employees after the goods or products have ceased to be in the possession or under the control of **You**, but this exclusion shall be deemed not to apply to the supply, by **You**, of food or drink at the premises specified in the **Policy 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 3-5 of the Australian Consumer Law in Schedule 2 of the *Competition and Consumer Act 2010* (Cth).

Section 2: Liability for Aircraft in Care, Custody or Control

2.1 Coverage

This section covers liability arising from loss of or damage to Aircraft or Aircraft Equipment, not owned, rented or leased by **You**, while on the **Ground** or during a test **Flight** and while in the care, custody or control of or while being serviced, handled or maintained by **You** or a servant of **You**.

2.2 Exclusions Applicable to Section 2 only

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 3-5 of the Australian Consumer Law in Schedule 2 of the Competition and Consumer Act 2010 (Cth)*;

Section 3: Liability for Aircraft Maintenance, Sales or Repairs

3.1 Coverage

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 **You** or **Your** employees, but only in respect of goods or products which form part of or are used in conjunction with Aircraft, and then only after the goods or products have ceased to be in the possession or under **Your** control;
- b) for which **You** are liable under Part 3-5 of the *Australian Consumer Law* in Schedule 2 of the *Competition and Consumer Act 2010* (Cth), except as a deemed manufacturer pursuant to the provisions of that Act.

3.2 Exclusions Applicable to Section 3 only

This Section does not cover:

- a. Damage to **Your** property or to property within **Your** 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 **You** or any defective part or parts;
- c. Loss arising out of improper or inadequate performance, design, construction or specification but this exclusion shall be deemed not to apply to resulting **Bodily Injury** or **Property Damage** claims;
- d. Loss of use of any Aircraft not actually lost or damaged in an **Accident** resulting in a claim under this section;
- e. 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

This policy does not cover;

4.1 Workers' Compensation

Liability for **Bodily Injury** to any person, who at the time of sustaining such injury is engaged in the service of **You** or acting on **Your** behalf or liability for which **You** or their 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.

4.2 Faulty Workmanship

The cost of making good any faulty workmanship or replacing defective materials for which **You**, **Your** employees, contractors or subcontractors may be liable (but this limitation shall not exclude resulting damage arising out of faulty workmanship).

4.3 Contract

Liability assumed by **You** by agreement under any contract unless the liability would have attached to **You** even in the absence of such agreement.

4.4 War, Hijacking and Other Perils

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**.

Additionally, this Policy does not cover claims arising while the Aircraft is outside **Your** control by reason of any of the above perils.

The Aircraft is considered to have been restored to **Your** control on the safe return of the Aircraft to **You** at an airfield not excluded by the geographical limits of this Policy, and entirely suitable for the operation of the Aircraft (safe return requires that the Aircraft be parked with engines shut down and under no duress).

4.5 Control Tower

Liability arising out of the operation of an airfield control tower unless previously agreed by **Us**.

4.6 Other Sections

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.

4.7 Nuclear Risks

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.

4.8 Punitive Damages

Liability to pay punitive, exemplary or aggravated damages.

4.9 Environmental Risks

- a) 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, except in relation to a claim or claims arising from refuelling any Vehicles, Ships, Vessels, Craft or Aircraft and always provided that **the Company's** liability shall not exceed the amount stated in the Schedule, and all fuel storage installations and fuelling operations are maintained and conducted in accordance with all applicable laws, regulations &/or directives applying to the storage, handling and distribution of hazardous goods.
 - 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 **Us** to investigate or defend claims, the provision shall not apply and **We** 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, **We** shall (subject to proof of loss and the limits of the Policy) reimburse **You** for that portion of the following items which may be allocated to the claims covered by the Policy:
 - i. damages awarded against **You**; and
 - ii. defence fees and expenses incurred by **You**.

4.10 Agricultural Chemicals

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.

4.11 Professional Indemnity

Liability arising out of the provision of advice, the failure to advise or any breach of any professional duty owed by **You** or by **Your** employees, agents or contractors.

4.12 US Risks

Liability arising out of, created or determined by the laws, statutes or tribunals of the United States of America.

Further to Section 4: (A), Clause (12), this policy does not cover and will not respond to legal liability to third parties resulting in legal proceedings, claims, demands or disputes arising in jurisdictions other than those referred to in the geographical limits set out in the **Policy Schedule**.

4.13 Other Insurance

When making a claim, **You** must notify **Us** of any other insurance that **You're** aware will or may, whether in whole or in part, cover any loss **Insured** under **Your** Policy.

If at the time of any loss, damage or liability there's any other insurance (whether issued to **You** or any other person) which covers the same loss, damage or liability **You** must provide **Us** with any reasonable assistance **We** require to make a claim for contribution from any other insurer(s).

4.14 Sanctions and Embargo Clauses

Notwithstanding anything to the contrary in the Policy the following shall apply:

- a) If, by virtue of any law or regulation which is applicable to **Us** at the inception of this Policy or becomes applicable at any time thereafter, providing coverage to **You** is or would be unlawful because it breaches an embargo or sanction, **We** shall provide no coverage and have no liability whatsoever nor provide any defence to **You** or make any payment of defence costs or provide any form of security on **Your** behalf, to the extent that it would be in breach of such law or regulation.
- b) In circumstances where it is lawful for **Us** provide coverage under the Policy, but the payment of a valid and otherwise collectable claim may breach an embargo or sanction, then **We** will take all reasonable measures to obtain the necessary authorisation to make such payment.
- c) In the event of any law or regulation becoming applicable during the Policy period which will restrict the ability of **Us** to provide coverage as specified in paragraph one, then both **You** and **Us** shall have the right to cancel its participation on this Policy in accordance with the laws and regulations applicable to the Policy provided that in respect of cancellation by **Us** a minimum of 30 days notice in writing be given. In the event of cancellation by either **You** or **Us**, **We** shall retain the pro rata proportion of the **Premium** for the period that the Policy has been in force. However, in the event that the incurred claims at the effective date of cancellation exceed the earned or pro rata **Premium** (as applicable) due to **Us**, and in the absence of a more specific provision in the Policy relating to the return of **Premium**, any return **Premium** shall be subject to mutual agreement. Notice of cancellation by **Us** shall be effective even though **We** make no payment or tender of return **Premium**.

4.15 Laws impacting cover

We will not be liable to provide any cover, pay any claim or provide any benefit under this Policy, to the extent that it is unlawful for **Us** to do so.

4.16 Data Event Clause

To any loss, damage, expense or liability arising out of a **Data Event**.

This exclusion does not apply to:

- a) physical loss of or physical damage to an aircraft or spares and equipment; and/or
- b) **Bodily Injury** and/or **Property Damage** caused by an aircraft **Accident**; and/or
- c) **Bodily Injury** and/or damage to tangible property including resultant loss of use of such property arising out of **Your** aviation operations caused other than by an aircraft **Accident**.

For the purpose of sub-paragraphs (b) and (c):

- i. solely;
- ii. **Data** shall not be considered as tangible property.

4.17 Asbestos Exclusion Clause

This Policy does not cover any claims of any kind whatsoever directly or indirectly relating to, arising out of or in consequence of:

1. the actual, alleged or threatened presence of or exposure to asbestos in any form whatsoever, or
2. any obligation, request, demand, order, or statutory or regulatory requirement that any **Insured** or others test for, monitor, clean up, remove, contain, treat, neutralize, protect against, indemnify for any costs or damages relating to or in any way respond to the actual, alleged or threatened presence of asbestos in any form whatsoever.

Notwithstanding any other provisions of this Policy, **the Company** will have no duty to investigate, defend or pay defence costs in respect of any claim excluded in whole or in part under Sections 1, 2 or 3 of this Policy.

Section 4: (B) General Conditions Applicable to All Sections

You are required to act reasonably, and observe and fulfil the following Conditions, each of which may be conditions precedent to **Our** liability to make any payments under this Policy:

5.1 Limit and Legal Costs

Our liability under any Section of this Policy shall not exceed the amount of indemnity stated in the **Policy Schedule**, less any amount specified in the **Policy Schedule** as a deductible.

We will also cover any legal costs and expenses (Legal Costs), incurred with **Our** written consent, in defending any action brought against **You** for compensatory damages (Claim) covered by Section 2, subject to the following:

- a) should **Your** liability, or the amount paid or awarded in settlement of any Claim, exceed the Limit of Indemnity stated in the **Policy Schedule**;
- b) **Our** liability for Legal Costs may be limited to the proportion of the Legal Costs as the Limit of Indemnity bears to the amount paid to dispose of the Claim.

5.2 Claims Procedure

Notice should be given as soon as possible of any event likely to result in a claim under this Policy. In all cases **You** are required to:

- a) Provide full particulars in writing of the event and forward as soon as possible notice of any claim with any letters or documents relating to the claim;
- b) give notice of any impending prosecution or inquiry;
- c) give all relevant information and do all things reasonably necessary, to assist **Us** and **Our** agents in the investigation of an event likely to give rise to a claim under this Policy or in connection with any third party claim, proceeding or inquiry;
- d) do all things reasonably necessary to attend conferences and give evidence and/or instructions when requested by **Us** or **Our** agents, and ensure that employees or other persons connected to **You** are required by **Us** to assist and give evidence (if so required) are available to do so;
- e) not act in any way to the detriment or prejudice **Our** interests;
- f) not make any admission of liability or payment or offer or promise of payment without **Our** written consent.

5.3 Fraud

If **You**, or anyone acting for **You**, makes a fraudulent claim, for example a loss which is fraudulently caused and/or exaggerated **We**:

- a) will not be liable to pay the claim; and
- b) may recover from **You** any sums paid by **Us** to **You** in respect of the claim; and
- c) may cancel this Policy.

Section 4: (C) General Conditions Applicable to All Sections

It is a condition to the right that **You** will be indemnified under this Insurance that:

5.4 Change in risk

If after this Insurance has been affected, the risks as disclosed at the commencement or renewal of this Policy or in the **Policy Schedule**, are materially altered.

Any alterations must be notified to **Us**, in writing as soon as reasonably practicable. Claims arising subsequent to the notification of any alteration in the risk may not be recoverable unless the alteration in the risk has been accepted by **Us**.

'Materially altered' means any change in the operation of the **Insured**, as disclosed to **the Company** at the commencement or renewal of this Policy, which might reasonably be regarded by **the Company** as increasing their risk in degree or frequency, or reducing possibilities of recovery or subrogation.

5.5 Conduct of proceedings

No liability shall be admitted and no admission, arrangement, offer, promise or payment shall be made by **You** without consent from **Us**.

As to the conduct of proceedings:

- a) **We** may assume responsibility for, conduct or prosecute (in the name of **You**, and for **Your** own benefit) any claim, any claim for indemnity or damages or otherwise against any third party and will keep **You** informed as to the conduct of any negotiations or proceedings or the settlement of any claim;
- b) **Your** reasonable assistance is to be provided to **Us** or **Our** agents.

5.6 Due diligence

You shall at all times:

- a) exercise reasonable care in seeing that equipment, plant, machinery and appliances used in **Your** 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
- b) employ 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 competent personnel are employed in **Your** business.

5.7 Compliance with statutory requirements

You 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.

5.8 Cross liability

The inclusion of more than one person as an **Insured** under this Policy shall not affect the rights under this Policy in respect of any claim brought by **You** or any other **Insured**, or by an employee of **You** or any other **Insured**.

Notwithstanding the inclusion herein of more than one **Insured**, whether by endorsement or otherwise, **Our** total liability in respect of any or all **Insureds** shall not exceed the Limit(s) of Indemnity stated in this Policy.

5.9 Governing law

The laws of Australia govern this Policy. All disputes relating to this Policy will be subject to determination by any court of competent jurisdiction within Victoria. This Policy shall be construed in accordance with Australian Law.

5.10 References to Legislation

Legislation referenced in this Policy includes subsequent legislation. Any term used in this Policy and defined by reference to legislation will have the meaning given in any replacement definition or definition with materially the same object or purpose in subsequent legislation.

'Subsequent legislation' means:

- an act or regulation as amended, replaced or re-enacted;
- where an act or regulation has been repealed, the current equivalent act or regulation (Commonwealth, State or Territory) with materially the same object or purpose whether in whole or in part.

Section 5: Cancellation

This Policy may be cancelled by **Us** where **You**:

- fail to comply with the duty of the utmost good faith;
- make a misrepresentation to **Us** during negotiations prior to this issue of this Policy;
- fail to comply with a provision of this Policy;
- fail to pay the **Premium** or any part or instalment of the **Premium**;
- make a fraudulent claim under the Policy;
- make a fraudulent claim under some other policy of insurance (whether with **Us** or with some other insurer) that provides insurance cover during any part of the term of this Policy;
- fail to give **Us** written notice of a change in the circumstances or the nature of the risks which are covered by this Policy as soon as possible after the change.

This Policy may be cancelled by **Us** where **We** otherwise are lawfully entitled to cancel.

This Policy may be cancelled by **Us** or giving notice of cancellation which shall take effect at the earlier of the following times:

- at the time when another policy which replaces this Policy takes effect; or
- at 4:00 p.m. on the third business day after the day on which the notice was given to **You**.

If this Policy is cancelled by **Us**, **We** shall retain the earned **Premium** for the period that this Policy has been in force calculated on a pro rata basis. Notice of cancellation by **Us** shall be effective even though **We** make no payment or tender of a proportion of the **Premium**. There will be no return **Premium** in the event that any claim is paid or is payable under this Policy.

This Policy may be cancelled at any time by **You** giving 15 days' notice in writing to **Us**. If cancelled by **You** a return **Premium** shall be at the Aviation Cancellation Scale as follows:

Aviation Cancellation Return Premium Scale

1 month on risk	80% return of annual Premium
2 months on risk	70% return of annual Premium
3 months on risk	60% return of annual Premium
4 months on risk	50% return of annual Premium
5 months on risk	40% return of annual Premium
6 months on risk	30% return of annual Premium
7 months on risk	25% return of annual Premium
8 months on risk	20% return of annual Premium
9 months on risk	15% return of annual Premium

Definitions

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

Accident means an accident or series of accidents arising out of one event or occurrence;

Air Meet means includes a formal or informal, pre-arranged gathering of aircraft, pilots and passengers for recreational or social purposes and may include members of the public.

Air Race includes a formal or informal, pre-arranged gathering of aircraft and pilots for recreational or competitive sports racing events and may include members of the public.

Air Show means a public or private exhibition of aircraft and aviation skills and includes static air shows where aircraft are parked on the **Ground** only.

Bodily Injury includes death but excludes nervous shock or psychological injury unaccompanied by, or not caused by, physical injury;

Data means any information, text, figures, voice, images or any machine readable data, software or programs including any person's or organisation's confidential, proprietary or personal information.

Data Event means any access to, inability to access, loss of, loss of use of, damage to, corruption of, alteration to or disclosure of **Data**.

Flight means the time commencing with the actual take off run of the aircraft and continuing thereafter until it has completed its landing run;

Ground means whilst the aircraft is not in **Flight** but includes whilst **Taxiing** as defined.

Property Damage means loss of or damage to the property of others;

Period of insurance means the period this Policy operates for as shown on **Your Policy Schedule**.

Policy Schedule the Schedule attaching to and forming part of the Policy.

Premium means what **You** pay **Us** to insure **You**. It's the cost of this Policy.

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.

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.

We, Our, Us, The Company means the Victorian Managed Insurance Authority ABN 39 682 497 841.

You, Your, Yours, Insured means the person(s), company(ies) or firm(s) named on the current **Policy Schedule**.

Privacy Statement

We are committed to protecting any information and data, including personal information and health information **We** collect, handle, store or disclose about **You** through **Our** services. **We** manage all information and data, including personal and health information in accordance with the *Victorian Managed Insurance Authority Act 1996 (Act)*, the *Privacy and Data Protection Act 2014*, the *Health Records Act 2001*, the *Freedom of Information Act 1982*, and **Our** [Privacy Policy](#).

From time to time, in accordance with **Our** legislative and regulatory frameworks and applicable laws, **We** may be required to disclose information concerning policies or claims to government bodies authorised by Victorian or Commonwealth legislation.

Collection and use of Personal Information

Personal information means information or an opinion that is recorded in any form, and whether true or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

We collect and record personal information through **Our** client data collection processes which include **Our** website, online forms and surveys. Some examples of when **We** may collect **Your** personal information are when **You**:

- send **Us** an email;
- use **Our** online services, such as completing a form or survey electronically;
- register to attend training and events; and
- access **Our** secure client portal on **Our** website.

Personal information **We** collect can only be used for the purpose of performing functions under **Our** Act and in accordance with all applicable laws and regulations.

Access and Correction

Please contact **Our** Information Privacy Officer at privacy@vmia.vic.gov.au if **You**:

- want to access personal information (if any) that **We** hold about **You**;
- want to know more about what sort of information **We** hold, for what purposes and how **We** deal with that information;
- believe that personal information that **We** hold about **You** is not accurate, complete and up to date; or
- have concerns about **Your** privacy rights.