



Assetinsure

Owner-Builder Warranty Insurance

Victoria

Effective date:17/06/2022



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Important Information

Introduction

Welcome and thank **you** for choosing the Assetinsure Owner-Builder Warranty Insurance – Victoria, distributed by Australian Owners Builders Insurance Services Pty Ltd.

In this section, where we use the term 'you'/your'/yourself', we are referring to the person(s) who applied for this Policy and submitted an Insurance Application. In the next section of the Policy wording, you are later referred to as the Owner-Builder.

About Assetinsure

You can contact Assetinsure by:

- post, at PO Box R299, Sydney NSW 1225;
- telephone, at (02) 9251 8055; or
- email, at info@assetinsure.com.au

Assetinsure Pty Ltd ("**Assetinsure**") is authorised by the Australian Prudential Regulation Authority ("**APRA**") to conduct general insurance business. For further information visit their website at www.assetinsure.com.au

About AOBIS

This insurance is arranged by Australian Owner Builders Insurance Services Pty Ltd ("**AOBIS**") ABN 95 122 431 654 operating under AFSL No. 308705. In arranging this insurance, AOBIS is acting under the authority and as the agent of Assetinsure (and not as **your** agent).

You can contact AOBIS by:

- post, at PO Box 2294, Seaford VIC 3198;
- telephone, at 1300 850 131; or

email, at underwriter@aobis.com.au

Duty to take reasonable care not to make a misrepresentation

This **Policy** is a consumer insurance contract for the purposes of the *Insurance Contracts Act 1984* (Cth).

Before **you** enter into this contract of insurance, **you** have a duty to take reasonable care not to make a misrepresentation. This means that **you** need to take reasonable care to provide honest, accurate and complete answers to **our** questions. A misrepresentation includes a statement that is false, partially false, or which does not fairly reflect the truth.

If **you** are not sure of the answers to any of **our** questions, or whether the information **you** previously provided remains honest, accurate and complete, **you** should check it and find out. It is also important to understand that, in answering the questions and checking the information, **you** are answering for **yourself** and anyone else to whom the questions apply. If **you** are answering questions on behalf of anyone, **we** will treat your answers or representations as theirs.

As **we** use **your** answers to decide what insurance **we** will offer, to calculate **your** premium, and to assess any claim **made**, it is essential that **you** contact **us** if **you** have any doubts.

Whether **you** have taken reasonable care not to make a misrepresentation will be determined with regard to all relevant circumstances, including:

- explanatory material or publicity produced or authorised by **us**;
- how clear, and how specific any questions **we** asked were and how clearly **we** communicated to **you** the importance of answering those questions, and the possible consequences of failing to do so;
- whether or not an agent was acting for **you**;
- whether the contract was a new contract or was being renewed, extended, varied or reinstated;
- any particular characteristics or circumstances relating to **you** which **we** are



aware or ought reasonably to have been aware.

Any misrepresentation made fraudulently is a breach of **your** duty.

If **your** circumstances make it difficult for **you** to know how to answer any of **our** questions, or **you** are not clear how to explain **your** situation to **us**, **you** should contact AOBIS.

Limitation or Exclusion of Rights Against Third Parties

This **Policy** provides that **you** must not limit or exclude **your** rights against a party from whom **you** might otherwise be able to recover in respect to the loss or damage - see Condition e) of this **Policy**.

Interested Parties

This **Policy** provides that the cover provided by this **Policy** does not extend to an interest in the **Dwelling** that is not **your** interest - see Condition f) of this **Policy**.

Privacy Statement & Collection Notice

This Privacy Statement describes how Assetinsure and AOBIS collect, use, handle and disclose **your** personal information. It also describes the matters to which **you** give your consent when applying for a **Policy**.

AOBIS and Assetinsure are committed to protecting the privacy of personal information and are bound by the provisions of the *Privacy Act 1988* (Cth), which sets out the standards to be met in the collection, holding, use and disclosure of personal information.

Collection and use of personal information

We collect personal information, including through **our** agents and licensees such as AOBIS, to determine whether and on what terms **we** might issue **you** an insurance **Policy**, or to manage a claim in relation to an insurance **Policy** **you** have with **us**. **We** may use **your** personal information for other purposes if **you** consent. This may also be the case in other limited circumstances permitted under the *Privacy Act 1988* (Cth), such as where **you** would reasonably expect **us** to do so and/or the other purpose is related to the

purpose for which **we** collected the information.

In some circumstances, **we** may collect **your** personal information from another person or another source. This will only be where it is unreasonable or impracticable for **us** to collect it directly from **you** or **you** would expect **us** to collect the information from the nominated third party. For example, where **you** authorise a representative, e.g. an insurance broker, a financial planner, a legal services provider, an agent or carer providing services to **you** to deal with **us** on **your** behalf.

If **you** provide information about any other person, **you** agree to tell them that **you** are providing this information to **us**, of **our** contact details in this document, the reason **you** are providing this information, the fact that **we** have collected personal information from **you** and of the contents of this Privacy Statement.

Consequences if information is not provided

If **you** do not provide all the information requested, the main consequence is that **we** may not be able to issue **you** with a **Policy** or pay **your** claim.

Disclosure

You agree that **we** may disclose **your** personal information to:

- AOBIS;
- **our** external service providers and contractors (such as any mail house, commercial agent or entities engaged to carry out certain business activities on **our** or **your** behalf);
- **our** related entities or assigns, another insurer, **our** reinsurers, **our** agents and external advisers (such as legal and other professional advisers);
- any other person **we** consider necessary to execute **your** instructions;
- any financial institution to or from which a payment is made in relation to any **Policy** **you** have;
- a person with **your** consent or where disclosure is authorised or compelled by law, to regulatory, law enforcement,



dispute resolution or government bodies.

Transfer of personal information overseas

You agree that **we** may disclose **your** information overseas, including the USA, Canada, Bermuda, Europe (including the United Kingdom), Singapore, Hong Kong and India.

Access and Complaint

Assetinsure's Privacy Policy is currently available on **our** website at: www.assetinsure.com.au/key-policies/privacy-policy/.

The Privacy Policy sets out details of how **you** can access (and, if necessary, correct) the personal information **we** hold about **you**. It also sets out how and to whom **you** might complain about a breach of Privacy Law.

If **you** require any other information regarding Privacy, **you** can contact Assetinsure's Privacy Officer by:

- post, at Level 21, 45 Clarence Street, Sydney NSW 2000;
 - telephone, at (02) 8274 2898; or
- email, at privacy@assetinsure.com.au

Dispute Resolution Process

At AOBIS and Assetinsure, **we** strive to do things the right way and keep **our** customers happy. However, both AOBIS and Assetinsure recognise that occasionally disputes may arise.

Making a Complaint

If **you** have a complaint concerning the financial product or services provided to **you** we will try to resolve it immediately. The best first step is to approach the person at AOBIS with whom **you** were dealing to see if they can resolve the matter to **your** satisfaction.

If **you** remain dissatisfied with the solution AOBIS offers, please contact **us** and we will refer the matter to Assetinsure's Complaint Management process.

Regardless of who is managing **your** complaint, the goal is to resolve **your** complaint and respond with a decision within 30 calendar days.

You may also seek a review of a decision **we** make about a claim made under this **Policy** at the Victorian Civil and Administrative Tribunal provided **you** do so within 28 days of the decision. Please visit www.vcat.vic.gov.au for more information.

Our Agreement with You

This **Policy** is a legal contract between **you** and **us**.

This **Policy** will only respond to claims in connection with **Work** described in the Contract which supported the **Insurance Application** for this insurance, and carried out at the site described in the **Policy**.

Applying for Insurance

To apply for this insurance, **you** will need to complete an **Insurance Application** and provide the information **we** require to determine whether to issue a **Policy**, and if so, on what terms.

Where **we** issue a **Policy**, cover is provided on the basis:

- that **you** have paid or agreed to pay **us** the premium for the cover provided;
- that the verbal and/or written information provided by **you** which must be given in accordance with **your** duty to take reasonable care not to make a misrepresentation either verbally or in writing.

Your Policy

Your Policy consists of the **Policy** terms and conditions in this booklet, any endorsements and the **Certificate of Insurance** **we** issue **you**. Please read **your Policy** carefully, and satisfy **yourself** that it provides the cover that **you** require. **You** should keep this booklet and the **Certificate of Insurance** together in a secure place for future reference.

Goods and Services Tax (GST)

The premium on this **Policy** includes an amount for GST and if **we** pay a claim **your** GST status may determine the amount to be paid on the claim.

You must advise **us** if **you** are registered, or required to be registered, for GST purposes, and **you** must when requested tell **us** what **your** entitlement to Input Tax Credits (ITCs) is for **your** insurance premium.



When determining the amount to be paid for a claim under this **Policy**, any payment or supply **we** make to **you** for the acquisition of goods, services or other supply (or monetary compensation in lieu thereof) or otherwise for **your** claim will be calculated on the GST inclusive cost of **your** claim. In calculating such payment, **we** are entitled to reduce it by any ITC to which **you** are, or would be, entitled:

- for the acquisition of such goods, services or other supply; or
- if the payment had been used to acquire such goods, services or other supply.

However, the total of all payments **we** make will not exceed \$300,000.--.

All amounts referred to in this **Policy** are inclusive of any taxes, levies, duties or charges that payment would be affected by or subject to.

If **you** make a claim and we are obliged by law to withhold any amount from the payment in order to satisfy that law (for example, because you have not provided your ABN where required to do so), the amount withheld will be treated as forming part of the claim payment paid under this Policy (even though you have not received the withheld amount).

Confirming Transactions and Updating Information

You can ask **us** to confirm any transaction under **your** insurance by contacting **us**. If **you** need any of the information contained in this document or if **you** have any queries, please contact AOBIS:



Definitions

Some key words and terms used in this **Policy** have special meanings. Wherever the following words or terms are used in the **Policy** they mean what is set out below.

Please note that from this section onwards, the terms 'you/your/yours' is separately defined and have a different meaning to the preceding pages of this **Policy**. Whereas the preceding pages of this **Policy** define 'you/your/yours' as the **Owner-Builder** and person(s) who applied for this **Policy** and submitted an **Insurance Application**, in this section of the **Policy** wording, 'you/your/yours' means the purchaser of the **Dwelling** and any successor in title (see full definition over the page).

Act means the Building Act 1993 (VIC) as amended from time to time.

Act of 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), which from its nature or context is done for, or in connection with, political, religious, ideological or similar purposes or reason, including the intention to coerce or influence any government and/or to intimidate or put the public, or any section of the public, in fear, but does not include acts which are:

- i) advocacy, protest, dissent or industrial action; and
- ii) not intended to cause serious physical harm, death, or endangerment of life to a person (other than the life of person committing the act) or create a serious risk to health or safety to the public or a section of the public.

Authority means the same as it does in the **Order**.

Certificate of Insurance means the most recent certificate issued by **us** in connection with this **Policy**.

Completion Date means the same as it does in the **Order**.

Defective means the same as it does in the **Order**.

Disappearance (and its corresponding forms) means the same as it does in the **Order**.

Domestic Building Work means the same as it does under the **Order**.

Dwelling means the home (as defined in the **Order**) described in the **Insurance Application**.

Insolvent (and its corresponding forms) means the same as it does in the **Order**.

Insurable Contract of Sale means the same as it does under the **Order**.

Insurance Application means the application form completed by the **Owner-Builder** applying for this insurance.

Non-Structural Defect means the same as it does in the **Order**.

Order means the Order made under the **Act** by the Minister for Planning and as gazetted in May 2003 entitled 'Domestic Building Insurance Ministerial Order' as supplemented and/or amended from time to time.

Owner-Builder means the owner-builder described in the **Insurance Application** who is also an owner-builder under the **Order**, but does not include owner-builders who are registered builders.

Policy means this policy wording, any endorsements and the **Certificate of Insurance**.

Statutory Warranty means a warranty implied into the **Insurable Contract of Sale** by section 137C of the **Act**.

Structural Defect means the same as it does in the **Order**.

Trade Practices Provision means the same as it does under the **Order**.

Tribunal means the same as it does in the **Order**.

We/us/our means Assetinsure Pty Limited (Assetinsure) (ABN 65 066 463 803).

Work means the **Domestic Building Work** which is carried out or to be carried out by the **Owner-Builder** to the **Dwelling**.

You/your/yours means the purchaser of the **Dwelling** or the land on which the **Dwelling** is constructed, and any successor in title to that person. If the domestic building work is carried out on land in a plan of



subdivision containing common property, it also means the body corporate for that land or a **Dwelling** on that land.

It does not include:

- a) the **Owner-Builder**
- b) the purchaser, if the purchaser is a related body corporate (within the meaning of section 50 of the Corporations Act 2001) of the owner builder; or
- c) the purchaser, if neither the purchaser nor the **Owner Builder** is a public company but each has a common director or shareholder.

Our Cover

This **Policy** is intended to comply with the requirements set out under the **Order** and any term of this **Policy** which conflicts with, or is inconsistent with, the **Order** shall be read and be enforceable as if it complies with the **Order**.

We will provide insurance cover to **you**, subject to the terms, conditions and exclusions set out in this **Policy**, if the **Owner-Builder** dies, becomes **Insolvent**, or **Disappears** and **you** suffer:

- a) a loss or damage arising from a breach of a **Statutory Warranty**;
- b) the costs of alternative accommodation, removal and storage that are reasonably and necessarily incurred as a result of a breach of a **Statutory Warranty**. We will only pay the costs of alternative accommodation or storage that are reasonably and necessarily incurred for up to 60 days, excluding any period of delay attributable to **us**;
- c) the cover **we** give in paragraphs a) and b) above extends to the acts or omissions of all persons contracted by the **Owner-Builder** to perform the **Work**.

We will not be required to indemnify the purchaser in respect of a **Statutory Warranty** that all materials used under the **Work** were new to the extent that any materials used were not new if:

- a) the condition report required by section 137B(2)(a) of the **Act** states that the materials were not new; or

- b) it was apparent from the nature of the relevant **Work** that the materials were not new.

Certificate of Insurance

- a) We must provide a **Certificate of Insurance** evidencing that insurance for the **Work** has been issued which complies with the **Order**:
 - i. to **you** immediately on the issue of this **Policy**; and
 - ii. on request by **you** or the **Builder** at any time.
- b) The **Certificate of Insurance** shall be in the form prescribed by the **Order**.
- c) The **Work** is not covered until **we** have provided to the **Owner-Builder** or **you** a **Certificate of Insurance** evidencing insurance for the **Work**.

Period of Cover

- a) This **Policy** provides the cover in relation to **Non- Structural Defects** in respect of loss or damage occurring during the period
 - i. commencing on the date of the contract of sale; and
 - ii. ending 2 years after the **Completion Date** for the **Work**.
- b) Subject to paragraph a) above, this **Policy** provides the cover in respect of all other loss or damage occurring during the period
 - i. commencing on the date of the contract of sale; and
 - ii. ending 6 years after the **Completion Date** for the **Work**.

We will Pay

1. We will pay up to, but not more than \$300,000 in the aggregate, for all claims made under this **Policy** in respect of any one **Dwelling**, including reasonable legal costs and expenses incurred by the **Insured** associated with a successful claim against **us**.
2. If the claim is in respect of the cover for loss or damage resulting from conduct of the **Owner-Builder** which contravenes a **Trade Practices Provision**, we will only pay the costs of rectifying the **Work**.



3. If the **Work** is carried out on land in a plan of subdivision containing common property, and **we** paid a claim relating to the common property then the amount of cover in respect of any home on land on the plan of subdivision is to be reduced by not more than an amount calculated by dividing the amount paid under the claim by the number of homes on land in the plan of subdivision.

All references in the **Policy** to dollar amounts are inclusive of any applicable goods and services tax (GST).

Excess

1. Subject to paragraph 2 below, **you** must bear at **your** own risk:

- a) the first \$1,000 of each claim first made more than 5 years after the **Completion Date**;
- b) the first \$750 of each claim first made between 3 and 5 years after the **Completion Date**;
- c) the first \$500 of each claim first made between 1 and 3 years after the **Completion Date**; or
- d) a claim under \$500 made between 3 and 12 months after the **Completion Date**.

2. For the purposes of paragraph 1 above:

- a) a claim of \$500 or more may relate to more than one defect if the amount claimed for any one or more defects is less than \$500.
- b) The date when a claim is made is the earlier of:
 - i. the date when **you** first notify **us** of a circumstance that may give rise to a claim;
 - ii. and the date a claim is made.
- c) An excess may be applied only once in relation to:
 - i. any claim comprising more than one defect; or
 - ii. two or more claims that relate to the same defect.

Exclusions

- a) **We** will not pay if **you** are the **Owner-Builder**.
- b) **We** will not pay if **your** claim relates to a person who is excepted under the **Order**.
- c) **We** will not indemnify **you** unless **your** claim relates to an **Insurable Contract of Sale** and:
 - i. section 137B of the **Act** applies to that **Insurable Contract of Sale**; and
 - ii. **Work** was carried out on the **Dwelling** before the sale; and
 - iii. the value of the **Work** exceeded \$16,000 at the time the **Work** was carried out.
- d) **We** will not pay any claims in respect of any defect or incomplete **Domestic Building Work** that is referred to in the report to be provided to a purchaser under section 137B of the **Act**.
- e) **We** will not pay for loss or damage in respect of **Work** relating to landscaping, paving, retaining structures, driveways or fencing, with the exception of such works which:
 - i. are integral to the construction of a **dwelling**;
 - ii. require the issue of a building permit under the **Act**;
 - iii. could result in water penetration of or within a **dwelling**;
 - iv. could adversely affect health or safety;
 - v. adversely affect the structural adequacy of a **dwelling**; or
 - vi. are not completed and the **Owner-Builder** has died, become **Insolvent** or **Disappeared**.
- f) **We** will not pay for loss or damage due to fair wear and tear of the **Work**, or from **your** failure to maintain the **Work**.
- g) **We** will not pay for loss or damage incurred as a result of:
 - i. war, invasion, acts of foreign enemies, hostilities, or war-like operations (whether war be declared or not) or civil war;



- ii. an **Act of Terrorism**;
 - iii. a nuclear reaction, nuclear radiation, radioactive contamination or nuclear weapon material;
 - iv. civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, military or usurped power, confiscation, nationalisation, requisition, or destruction of or damage to property by or under order of any government, public or local authority or looting, sacking or pillage following any of the above;
 - v. risks normally insured under a policy for public liability or contract works;
 - vi. asbestos, or any materials containing asbestos in whatever form or quantity;
 - vii. an act of God or nature;
 - viii. **Your** failure to maintain appropriate protection against pest infestation or exposure to natural timbers;
 - ix. consequential loss, such as loss of rent or other income, loss of enjoyment, loss due to delay, loss of market value or depreciation, loss of opportunity, inconvenience or distress, not otherwise covered by the **Order**;
 - x. malfunction in any mechanical or electrical equipment or appliance, if **we** prove that the malfunction is not attributable to the workmanship of, or installation by the **Owner-Builder**.
- 3. If **you** give **us** written notice within 180 days after the date on which **you** first became aware, or might reasonably be expected to become aware, of the death, **Disappearance** or **Insolvency**, of the **Owner-Builder**, **we** will not rely on section 54 of the *Insurance Contracts Act 1984* (Cth) to reduce **our** liability under this **Policy**, or to reduce any amount otherwise payable in respect of a claim made by reason only of a delay in a claim being notified to **us**.
 - 4. If **you** submit a claim to **us** in writing, **we** will make a decision regarding **our** liability within 90 days of receipt of the claim. If **we** do not make a decision regarding **our** liability within 90 days then, unless **we** receive an extension of time from **you** or the **Tribunal**, **we** will be deemed to have accepted liability for the claim.
 - 5. If **you** wish to dispute **our** decision regarding **your** claim, **you** may appeal to the **Tribunal**. If **we** are given notice of proceedings before the **Tribunal**, **we** will accept findings made by the **Tribunal** as to whether any of the following events has occurred:
 - a) the non-completion of the **Work**;
 - b) an event referred to in paragraphs a) to c) under the section of the **Policy** entitled 'Our Cover'; and
 - c) if such an event has occurred, the amount of loss or damage suffered by **you** as a result of the event.
 - 6. If **you** notify **us** of a defect (the initial defect), **we** will consider **you** to have given **us** notice of every other defect to which the initial defect is directly or indirectly related, whether or not the claim in respect of the initial defect is settled.

Claims Procedure

- 1. **You** should notify **us** in writing of any facts or circumstances which may give rise to a claim as soon as reasonably practicable when **you** become aware of them.
- 2. **We** may refuse to accept a claim if it is made later than 180 days after the date on which **you** first became aware, or might reasonably be expected to have become aware, of the death, **Disappearance** or **Insolvency** of the **Owner-Builder**.
- 7. **We** will ask **you** to use **our** claim form to make a claim and to provide **us** with as many details, records and information as may be reasonably practicable, so that **we** can investigate, assess and verify **your** claim.
- 8. Upon making a claim under this **Policy**, **you** must:
 - a) comply with any reasonable direction by **us** in relation to the completion or rectification of the **Work**;



- b) not undertake or cause to be undertaken, any rectification work without notifying **us**, unless those works are reasonably necessary to prevent or minimise any further loss or damage;
 - c) provide **us**, or any builder nominated or approved by **us**, with reasonable access to the relevant building site for the purpose of inspection, rectification and completion of the **Work**. **You** may refuse to provide access to any builder nominated by **us** if **you** have reasonable grounds for doing so (such as loss of confidence in the builder); and
 - d) **We** may not reduce **our** liability to **you** by reason of **your** failure to comply with a requirement under paragraphs 8 a), b) and c) above, unless **we** can prove that **your** failure increased **our** liability under this **Policy**.
9. **You** must not make any admissions, offer, promise or payment in connection with any claim, unless **we** have provided our prior written consent (which will not be unreasonably withheld, conditioned or delayed).

Conditions

- a) **We** may not avoid this **Policy** or refuse to make or reduce any payment under this **Policy** on the grounds that:
 - i. the Owner- breached any duty of the utmost good faith;
 - ii. failed to comply with any duty to take reasonable care not to make a misrepresentation;
 - iii. made representations to **us**;
 - iv. failed to comply with a provision or requirement of the **Policy**;
 - v. prejudiced **our** interests by act or omission of any description; or
 - vi. the premium or any instalment of the premium has not been paid.

- b) **We** are entitled to recover from the **Owner-Builder** any claim paid by **us** in the circumstances referred to in paragraph a) above.
- c) If **we** pay a claim, **we** are entitled to be subrogated to **your** rights against any party in relation to the claim to the extent of the amount paid by **us**.
- d) **We** will notify the **Authority**, at the times and in the manner agreed with the Authority, in the event that:
 - i. a **Builder** is refused insurance, ceases to be eligible to renew or procure insurance or, in respect of **Domestic Building Work** performed prior to the commencement of the **Order**, fails to purchase or maintain required insurance;
 - ii. any claim under this **Policy** is settled or paid by agreement or otherwise.
- e) **You** must not limit or exclude **your** rights against a party from whom **you** might otherwise be able to recover in respect to the loss or damage. If **you** do, **our** liability to **you** is reduced to the extent **we** can no longer recover from that other party as a result of the limitation or exclusion by **you**.
- f) the cover provided by this **Policy** does not extend to an interest in the **Dwelling** that is not **your** interest. **We** will not be liable under this **Policy** to anyone except **you**.
- g) **You** must take reasonable precautions to avoid or minimise loss or damage covered by this **Policy**.
- h) **You** must comply with **your** obligations under the **Policy**. Otherwise, subject to Section 54 of the Insurance Contract Act 1984 (Cth) and the terms stated elsewhere in this **Policy**, **we** may not have to pay **your** claim(s), or **we** may reduce our liability.

How We will Communicate

- a) All communications **you** are required to give or make under this **Policy** must be sent in writing to **us**, electronically or by post.
- b) All communications **we** are required to give or make under this **Policy** will be sent in writing to **you** electronically or by post.



- c) All communications sent by post to **you** or **your** appointed agent will be deemed to have been received by **you** on the third day following the day of posting.

Jurisdiction

This **Policy** is governed by the law of Victoria. The law of Victoria includes Commonwealth legislation such as the Insurance Contracts Act 1984 (Cth). Section 54 of the Insurance Contract Act 1984 applied, or is deemed to apply, to this Policy.