

Combined Broadform, Employers and Statutory Liability Policy



Thank you for choosing Vero Insurance New Zealand Limited to provide *you* with *your* insurance cover.

Arranging insurance means *you* are making a legal contract under which *you* promise to meet certain obligations and conditions, and in return *we* promise to provide specified insurance cover.

The obligations, memoranda, warranties, exclusions, extensions and conditions in this contract are subject to *your* rights under the Insurance Law Reform Acts 1977 and 1985.

Words shown in *italics* are words that have had their meaning defined. These meanings are found under the general definitions, in a section or in the *schedule* of this policy. Any word or expression to which a specific meaning has been given will have the same meaning wherever it appears.

Please examine this document, including the *schedule*, to ensure the insurance protection is in accordance with *your* requirements. If it does not meet *your* requirements, or *you* wish to make changes to the insurance cover, please contact *your* insurance broker, adviser or *your* nearest Vero office.



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Introduction

Privacy Act and the Insurance Claims Register (ICR)

The ICR is a database of insurance claims to which participant insurers have access. The purpose of the ICR is to prevent insurance fraud. The ICR is operated by Insurance Claims Register Limited (ICR Ltd), PO Box 474, Wellington.

This policy is issued to *you* conditional upon *you* authorising *us* to place details of any claims made against this policy on the database of ICR Ltd, where they will be retained and be available for other insurance companies to inspect.

You also authorise *us* to obtain from ICR Ltd personal information about *you* that is (in *our* view) relevant to this policy or any *claim* made against it. *You* have certain rights of access to and correction of this information, subject to the provisions of the Privacy Act 1993.

Insurance contract

In consideration of *you* having paid or promised to pay the required premium *we* agree to indemnify *you* in the manner and to the extent set out in the applicable parts of this policy.

The insurance contract consists of any statements on which this insurance is based, *your* proposal, the applicable parts of this policy, and the *schedule*.

General obligations

These are the general obligations that apply to all parts of this policy. In addition, there are specific obligations, conditions, memoranda or warranties set out in the different sections of this policy. *You* must comply with all the obligations, memoranda, conditions or warranties of this policy. If *you* do not in some instances *your* claim will not be paid.

Some parts of this policy may cover other people or companies or *entities* as well as *you*. To gain the benefit of any cover under this policy they must meet all the same conditions and obligations *you* are required to meet.

To disclose material information

You must advise *us* of all *material information* before inception of the policy and before each renewal or variation of the policy. Failure to do so entitles *us* to avoid the policy.

Material information includes any information which might influence the decision *we* make as to whether or not to provide insurance and if so on what terms and at what premium.

If circumstances change

1. *You* must *notify us* immediately of any change in circumstances that has happened after the start of this policy or that *you* know is going to happen and which may increase:
 - (a) the amount of the risk; or
 - (b) the risk of loss or liability; or
 - (c) the risk of insuring *you*.
2. If *you* do *notify us* of a change *we* may alter the premium and/or the terms of this contract.
3. If *you* do not comply with this obligation any loss or liability that happens after the date of the change in circumstance may not then be insured and *we* may not continue to insure *you*.

To provide accurate information

You must make sure all statements made to *us* are in every respect correct and complete.

To avoid loss, damage, or liability

If *you* are insured with *us* then *you* must take all reasonable care at all times to avoid any loss, *damage* or *personal injury* for which *you* could be held legally liable.

You must not intentionally or recklessly cause loss or *damage* to any property for which *you* could be held legally liable.

You must not allow anyone else to cause loss, *damage* or *personal injury*, or do anything for which *you* could be held legally liable.

You must comply with all legal requirements imposed by any government or public authority for the safety of people or property.

You must comply at *your* expense with all reasonable recommendations *we* give *you* to prevent loss, *damage* or *personal injury* for which *you* could be held legally liable.

Claims conditions

What you need to know about making a claim

These general claims conditions apply to all parts of this policy. In addition, there may be specific claims conditions set out in the different sections of this policy.

As soon as *you* are aware of any event, circumstance or *occurrence* that is likely to result in a claim under this policy:

You must:

- (a) *notify us* immediately;
- (b) take prompt steps to minimise the loss, *damage, personal injury* or liability and avoid any further loss, *damage, personal injury* or liability; and
- (c) take reasonable steps to obtain details of any other person, property or *vehicle* involved and any witnesses.

You must not:

- (a) start any repairs without *our* permission unless it is necessary to prevent further loss or liability;
- (b) admit responsibility for any loss or liability; or
- (c) make or give any admission (of fault or fact), offer, promise, payment or indemnity or say or do anything that prejudices *our* ability to defend, negotiate or settle any claim made against *you* or make recovery for the loss from any other person who may be responsible for it;

whether or not any such action or statement is ultimately relied upon in determining any issue of liability.

If you wish to make a claim on this policy

You must then:

1. fully complete *our* claim form as soon as practical;
2. give *us* free access to examine and assess any loss or liability;
3. provide any other information or assistance *we* reasonably request in relation to *your* claim;
4. forward any letter of demand or court documents to *us* immediately;
5. if *we* request it provide a statutory declaration to verify the loss or liability;
6. if *we* request it attend interviews with any person *we* nominate; and
7. unless *we* are deducting it from any claim settlement to *you* be responsible for the payment of the *excess* to *us*.

After you have made a claim

After *you* have made a claim on this policy *we* have the sole right to act in *your* name and on *your* behalf to negotiate, defend or settle any action against *you*. If *we* do this it will be at *our* expense, except in relation to any *excess* that applies.

After your claim is accepted

After we have paid a claim or accepted liability for a claim on this policy either in whole or in part we have the right to take over in full any legal right of recovery or indemnity that *you* have. If *we* do this *we* may exercise these rights for *our* own benefit at *our* own expense and *you* must co-operate with *us* in all respects to allow *us* to do anything reasonably necessary to enforce that right. If *you* do not co-operate with *us* *you* must repay any amounts *we* have paid to *you* or any other party in respect of *your* claim.

You must not voluntarily and knowingly release any third party from liability arising from loss or *damage* insured by this policy unless first declared to and accepted by *us*.

If any person is ordered to make or otherwise makes *reparation* to *you* for *loss* or *damage* to any property for which *we* have paid a claim under this policy *you* must reimburse *us* for that payment as soon as any *reparation* is made, subject to adjustment if *you* have not been fully indemnified.

If you don't agree with our claim decision

If *you* do not agree with *our* decision on *your* claim then *you* should ring *your* adviser, *your* agent or *your* broker. If *you* are still not satisfied and believe *our* decision is incorrect *you* can ring *our* Head Office on 0800 808 508 or write to *us* at Private Bag 92 120 Auckland.

General exclusions

These are the general exclusions that apply to all parts of this policy. In addition, there are specific exclusions set out in the different sections of this policy.

There is no cover under this policy for any claim, loss, *damage*, *personal injury*, liability, or any other form of cover otherwise available under this policy resulting from or directly or indirectly caused by or arising in connection with:

1. Confiscation

confiscation, requisition, destruction of, or *damage* to property by order of any Government or Local Authority unless it is to prevent or control loss or *damage* that would otherwise have been covered by this policy.

2. Electronic data

- (a) total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of *electronic data*;
- (b) error in creating, amending, entering, deleting or using *electronic data*;
- (c) total or partial inability or failure to receive, send, access or use *electronic data* for any time or at all;
- (d) communication, display, distribution or publication of *electronic data* but not where this causes *bodily injury* if otherwise covered by this policy or a section of this policy but for this exclusion;

regardless of any other contributing cause or event whenever it may occur.

3. Radioactivity

nuclear weapons material, ionising radiations or contamination from any nuclear fuel or from any nuclear waste which results from the combustion (including self sustaining process of nuclear fission) of nuclear fuel.

4. *Terrorism*

any *act of terrorism* regardless of any other cause or event contributing concurrently or in any other sequence to such loss, *damage*, liability, death, *injury*, *illness*, cost or expense or action taken in controlling, preventing, suppressing or in any way relating to any *act of terrorism*.

5. *Unlawful to insure*

any act, event or *occurrence* deemed to be unlawful to insure against.

6. *War*

war, invasion, act of foreign enemy, hostilities or warlike operations (whether war is declared or not), civil war, civil commotion assuming the proportions of or amounting to a popular rising, military rising, mutiny, rebellion, revolution, insurrection, military or usurped power.

General conditions

These general conditions apply to all parts of this policy. In addition, there are specific conditions set out in the different sections of this policy.

1. *Breach of condition*

If *you* or any *insured* under this policy breaches any condition in this policy all benefits under this policy will be forfeited. However, nothing in this policy affects *our* common law rights, including *our* right to avoid the policy for non-disclosure.

2. *Cancellation by us*

We may cancel this policy at any time by sending a letter, facsimile or e-mail to *you* at *your* last postal address, facsimile number or e-mail address on *our* records. The cancellation will take effect at 4 pm on the 14th day after the letter, facsimile or e-mail has been sent. In the event of such cancellation *we* will refund to *you* a pro rata proportion of the premium (subject to any adjustment required by the terms of this policy).

3. *Cancellation by you*

You may cancel this policy at any time, and with immediate effect, by written notice delivered to *us* or by facsimile transmission or e-mail. In the event of such cancellation, *we* will be entitled to a pro rata proportion of the premium (subject to any adjustment required by the terms of this policy) for the time during which the policy has been in force.

4. *Correctness of statements and fraud*

All statements made by *you* or on *your* behalf either in the application or otherwise in support of this policy or any claim must be correct in all respects. If any claim under this policy is supported by any incorrect information or statement or is in any respect fraudulent, then *your* claim is not payable and the entire policy automatically terminates from the date that the incorrect statement or fraudulent claim was made to *us*.

5. *Goods and services tax*

Provided that goods and services tax (GST) is recoverable by *us*, the sum or sums insured by this policy are exclusive of GST to the extent that, in the event of a claim, *we* will pay a maximum of the sum insured plus additional GST to a maximum of the current rate of GST applied to that sum insured.

6. *Governing law*

This policy will be governed in accordance with the laws of New Zealand. Any disputes arising out of or under this policy will be submitted to the exclusive jurisdiction of the courts of New Zealand.

7. *Headings*

Where headings or margin references are used in this policy they are purely descriptive in nature and are not to be used for interpretative purposes.

8. *Instalment premiums*

Where we have agreed to accept payment of premium by instalments:

- (a) in the event of a claim being made against the policy we reserve the right to require immediate payment of the balance of any annual premium; and
- (b) all benefits under this policy will be forfeited from the date the first unpaid instalment was due and *your* policy automatically cancelled if any premium instalment remains unpaid for 28 days.

Where any instalment is overdue but the policy has not been cancelled, all benefits under this policy will be suspended from the date the first unpaid instalment was due until the date we receive all the overdue premiums.

9. *Joint insurance*

Except in respect of the Employers Liability and the Statutory Liability sections of this policy if there is more than one *insured* named in the *schedule* this policy insures the *insureds* jointly. This means that if one of *you* does or fails to do anything so that there is no cover there will be no cover for any of *you*, not just the person or *entity* responsible.

10. *Observance of terms and conditions*

The due observance and fulfilment of the terms and conditions of this policy by *you* in so far as they relate to anything to be done or complied with by *you*, and the correctness of any statements made to *us* (whether made by *you* or not), are conditions precedent to any liability we may have to provide any indemnity under this policy.

11. *Other insurance*

If, at the time of any claim arising under this policy, there is any other valid and collectable insurance covering all or part of the same loss or liability this policy will apply only to the amount of any loss or liability in excess of that recoverable under the other insurance.

12. *Sanctions*

This policy will not provide cover, nor will we be liable to pay any claim or provide any benefit hereunder, to the extent that the provision of such cover, payment of such claim or provision of such benefit is prohibited by any sanction, prohibition or restriction under the laws or regulations of any jurisdiction applicable to *us* or *our* parent company or its ultimate controlling entity.

13. *Terms, exclusions and conditions*

In all cases "The Indemnity" in each section is subject to all the terms, exclusions and conditions of the relevant section, and all the general obligations, general exclusions and general conditions of this policy.

Broadform liability

The indemnity

We will indemnify *you* for all amounts *you* become legally liable to pay as direct compensation consequent upon:

- (a) *personal injury*; or
- (b) *damage to property*;

happening within the *geographical limits* during the *period of insurance* as a result of an *occurrence* in connection with the *business*.

Limit of indemnity

The total amount payable by *us* for all amounts in respect of:

- (a) one *occurrence* or series of *occurrences* as a result of or attributable to one source or original cause;
- (b) any one *period of insurance* for all claims in respect of *products*; and
- (c) any one *period of insurance* for all claims in respect of releases (including discharge, dispersal, seepage, migration and escape) of *pollutants*;

will not exceed the limit of indemnity shown in the *schedule* irrespective of the number of parties entitled to indemnity under this broadform liability section.

For the purposes of establishing the total amount payable by *us* for one *period of insurance*, it is understood that any releases of *pollutants* as a result of or attributable to one source or original cause (regardless of whether the release is continuous or intermittent) will be considered as one release.

If *we* accept a claim under this broadform liability section *we* will pay, in addition to the applicable limit of indemnity, *defence costs* for any actual or threatened legal action against any of the *persons insured*.

Automatic extensions

These automatic extensions form part of this broadform liability section and are subject to all its provisions (unless otherwise stated). The total of all payments made under these automatic extensions will be part of and not in addition to the applicable policy limit of indemnity unless otherwise stated.

If there is any conflict or inconsistency between this broadform liability section and the extension, only the extension will apply. If there is any conflict or inconsistency between the extensions, only the more particular extension will apply.

1. Compensation for court appearance

We will provide payment at the rate of \$250 per day for each day on which any of the *persons insured* attend as a witness in connection with a claim brought under the broadform liability section of this policy.

The total amount payable under this extension will not exceed \$7,500 in any one *period of insurance*.

2. Defamation

We will cover *you* for *your* legal liability for defamation or invasion of right of privacy, excluding claims arising out of defamation:

- (a) when the first publication was made before the commencement of the *period of insurance*; or
- (b) made at the direction of any of the *persons insured* with knowledge of its falsity; or
- (c) made in the course of or relating to:
 - (i) advertising, broadcasting or telecasting activities;
 - (ii) activities using the internet, intranet or the world wide web;
 - (iii) publication of newspapers, journals, books, or periodicals;

conducted by or on behalf of any of the *persons insured*.

3. Employees personal effects

Notwithstanding exclusion 5 of this broadform liability section we will cover *you* for *your* legal liability to pay direct compensation as a result of *damage* to the personal effects of *your employees*.

4. Forest & Rural Fires Act

We will cover *you* for *your* legal liability under the Forest & Rural Fires Act 1977 (or any replacement Act) and any subsequent amendments for:

- (a) costs and levies under sections 43 and 46 incurred and apportioned by any fire authority; or
- (b) costs claimed by any other party in order to protect their property from fire.

This extension will apply:

- (a) whether or not *damage to property* has occurred; and
- (b) to *vehicles*, whether or not the *vehicle* is or should have been registered.

An excess of \$1,000 will apply to claims under this extension unless an alternative amount is shown in the *schedule*.

Our liability under this extension will not exceed \$1,000,000 in any one *period of insurance* unless an alternative limit is shown in the *schedule*.

5. Indemnity to landlord

Notwithstanding exclusion 9 of this broadform liability section we will cover *you* for *your* legal liability under a lease agreement to indemnify *your lessor* against third party actions, suits or demands to pay direct compensation as a result of *personal injury* or *damage to property*.

6. *Innkeeper's Act*

We will cover *you* for *your* legal liability as an innkeeper as regulated by the Innkeepers Act 1962 (or any replacement *Act*) and any subsequent amendments. Provided that property specifically entrusted to any of the *persons insured* as an innkeeper must be kept in a locked safe or strongroom.

Our liability under this extension will not exceed the lesser of the limit of indemnity of this broadform liability section of the policy or \$250,000 unless an alternative limit is shown in the *schedule*.

7. *Landlord's liability*

We will cover *you* for *your* legal liability to pay direct compensation as a result of *personal injury* or *damage to property* arising in connection with *your* legal ownership, but not physical occupation, of any premises.

8. *Mechanical plant and machinery*

We will cover *you* for *your* legal liability to pay direct compensation as a result of *personal injury* or *damage to property* arising in connection with any tool of trade or item of mechanically propelled plant or item of machinery that is being operated as such, independent of any *vehicle* whether or not it is attached to a *vehicle*, and not operated solely as a *vehicle*.

Exclusion 16 does not apply to this extension.

9. *Motor and watercraft repair*

We will cover *you* for *your* legal liability caused by or arising out of the repair, renovation, maintenance, installation or servicing by any of the *persons insured* of any:

- (a) *vehicle*;
- (b) *watercraft* not exceeding 8 metres in length;
- (c) internal combustion engines; or
- (d) accessories or fittings of either of the above;

where such items are or have been in the care, custody or control of, but are not owned, hired, leased, rented or borrowed by, any of the *persons insured*.

However, cover is not provided for *your* legal liability to pay the cost of performing, completing, correcting or improving any work done or undertaken or rectifying defective work. This exclusion will not apply to legal liability for resultant *damage* to other separate property or parts that any of the *persons insured* have not been working on.

Our liability to cover *you* under this extension:

- (a) for the item under repair, renovation, installation or servicing will not exceed for any one *occurrence* \$500,000 unless an alternative limit is shown in the *schedule* for motor and watercraft repair; and
- (b) in total under this extension will not exceed the limit of indemnity applicable to this broadform liability section.

An excess of \$1,000 will apply under this extension for each *occurrence* unless an alternative amount is shown in the *schedule*.

We will not cover *you* under this extension for *your* legal liability for *personal injury* or *damage to property* that occurs while any *vehicle* or *watercraft* is being driven, sailed or navigated by any of the *persons insured* who:

- (a) does not have a valid licence that authorises them to drive the *vehicle* at the time of the *accident*;
- (b) at the time of the *accident* giving rise to a claim under this extension is under the influence of intoxicating liquor or a drug or who has a proportion of alcohol in their blood or breath that is higher than that allowed under New Zealand traffic law; or
- (c) fails to stop or leaves the scene of the *accident* when it is an offence to do so or refuses to undergo a breath test or provide a blood sample having been lawfully requested to do so.

Exclusions 14 and 16 do not apply to this extension.

10. *Product recall*

We will contribute to those costs *you* are legally liable to pay for physically recalling or withdrawing *products* that have already given rise to a claim covered by the broadform liability section of this policy, if *we* agree that such recall or withdrawal is necessary to prevent similar claims arising.

Our contribution will be limited to 80% of the costs in excess of the first \$2,500. Subject to a maximum contribution by *us* of \$100,000 in respect of all such costs incurred in respect of all such recalls or withdrawals in any one *period of insurance* unless an alternative limit is shown in the *schedule*.

11. *Property in care, custody or control*

We will cover *you* for *your* legal liability to pay direct compensation as a result of *damage to property* held in trust by or in the care, custody or control of any of the *persons insured*.

However *we* will not be liable for *damage to property*:

- (a) in respect of which and to the extent that any of the *persons insured* has agreed to provide insurance;
- (b) owned, leased, rented or hired by any of the *persons insured* or under any hire purchase or conditional agreement;
- (c) being land or *buildings* including their fixtures and fittings;
- (d) being *vehicles* or *watercraft* held for service or repair; or
- (e) being property in storage and in the care, custody or control of any of the *persons insured* while they store the property as a bailee for reward.

Our liability under this extension will not exceed \$500,000 in any one *period of insurance* unless an alternative limit is shown in the *schedule*.

An excess of \$1,000 will apply under this extension for each *occurrence* unless an alternative amount is shown in the *schedule*.

Exclusion 14 does not apply to this extension.

12. *Reparation*

Notwithstanding exclusion 6 of this broadform liability section, we will cover *you* for *your* legal liability to pay an award of *reparation* in respect of *personal injury* or *damage to property* happening within the *geographical limits* during the *period of insurance* as a result of an *occurrence* in connection with the *business*.

Provided that:

- (a) *you* notify us immediately if *you* or any other person entitled to cover under this broadform liability section for liability to pay *reparation* is charged with any offence in connection with the *business* which has resulted in *personal injury* to another person or *damage to property*;
- (b) *you* do not make any offer of *reparation* (including as part of any case management conference or sentencing hearing) without *our* written approval.

Our liability for Sentencing Act Reparation claims will not exceed the limit of indemnity shown in the *schedule* or \$10,000,000, whichever is the lesser, irrespective of the number of parties entitled to indemnity under this policy.

Cover for *defence costs* does not apply to a claim under this extension. We will not pay *defence costs* in relation to an offence or where *your* liability is to pay *reparation*.

This extension does not cover *reparation* arising from prosecution of an offence under the Health and Safety in Employment Act 1992 and/or the Health and Safety at Work Act 2015 (or any replacement Act) and any subsequent amendments.

13. *Tenant's liability*

Notwithstanding exclusion 14 of this broadform liability section we will cover *you* for *your* legal liability to pay direct compensation as a result of *damage* to premises (including their fixtures and fittings) leased or rented by *you* or in *your* custody or control but not owned by *you*, or for *damage to property* in *business* premises that *you* temporarily occupy, but excluding legal liability arising in connection with the failure of *you* or the *persons insured* to arrange insurance on the property.

14. *Vibration or weakening of support*

Notwithstanding exclusion 17 of this broadform liability section we will cover *you* for all amounts that *you* become legally liable to pay as direct compensation as a result of *personal injury* or *damage to property* caused by vibration or the withdrawal or weakening of support of any structure or land.

Our liability under this extension will not exceed \$500,000 in any one *period of insurance* unless an alternative limit is shown in the *schedule*.

An excess of \$5,000 will apply to claims under this extension for each *occurrence* unless an alternative amount is shown in the *schedule*.

Exclusions

Refer also to the general exclusions of this policy.

We will not be under any obligation to indemnify *you* or any other *insured* under this broadform liability section for legal liability for *personal injury* or *damage to property*:

1. *Aerial device products*

Directly or indirectly caused by *products* intended specifically for, and installed in or on, any *aerial device*, or directly or indirectly caused by or arising in connection with *products* which any of the *persons insured* knew would be so installed where such *products* are essential to the operation or navigation of any *aerial device*.

2. *Asbestos*

Directly or indirectly caused by or arising out of or in connection with:

- (a) the inhalation of;
- (b) exposure to;
- (c) fears of the consequences of inhalation of or exposure to;
- (d) cleaning up, removal of; or
- (e) *damage* to or loss of use of any property arising out of;

asbestos, asbestos fibres or any derivatives of asbestos.

3. *Building defects and mould*

In respect of any *building* or structure directly or indirectly caused by or arising in connection with:

- (a) the action or effects of *micro-organisms*, mould, fungi, mildew, rot, decay, gradual deterioration, bacteria, protozoa or any similar or like forms; or
- (b) the failure of any *building* or structure to comply with or perform to the requirements of any building code or to meet the level of performance, quality, fitness or durability of its intended purpose; or
- (c) the failure of any *building* or structure to contain or incorporate materials, a design, a system or a standard of work which effectively prevents or manages the presence or penetration of moisture or water to which the *building* or structure might reasonably be subjected.

In addition, we will not be liable to indemnify *you* for any costs or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralising, remediating or disposal of, or in anyway responding to or assessing the effects of *micro-organisms*, mould, fungi, mildew, rot, decay, gradual deterioration, bacteria, protozoa or any similar or like forms.

This exclusion will not exclude any indemnity for *personal injury* or *damage to property* that is caused by or arises out of leakage of internal water pipes, cisterns or sewerage systems.

4. Defective work

Where *your* liability is for the cost of performing, completing, correcting or improving any work done or undertaken by any of the *persons insured*.

This exclusion will not apply to legal liability for resultant *damage* to other separate property or parts that any of the *persons insured* have not been working on.

5. Employees and Accident Compensation Act

To or of:

- (a) any *employee* other than (b) and (c) of the *employee* definition; or
- (b) any person where the *personal injury* falls within the scope of cover provided by the Accident Compensation Act 2001 (or any replacement Act) and any subsequent amendments or any liability imposed by the provisions of any workers compensation legislation or any accident compensation legislation or any industrial award or agreement or determination, or would fall within the scope of cover but for:
 1. a failure by the victim to correctly notify a claim to the Accident Compensation Corporation within the time required under the Act, or to claim any amount he or she would be entitled to under the Act for any other reason whatsoever; or
 2. the decision of any authority including the Accident Compensation Corporation to decline a claim or limit its liability in whole or in part and for any reason whatsoever.

6. Fines and penalties

In respect of any fines, penalties, *reparation*, exemplary, aggravated or liquidated damages.

7. Fraudulent or criminal intent

Directly or indirectly caused by any act or omission having fraudulent, dishonest, criminal or malicious intent.

8. Intentional or Reckless Acts

Arising directly or indirectly from any intentional or reckless act or omission.

9. Liability under agreement

Arising out of or in connection with liability assumed under an agreement unless such liability:

- (a) would have attached in the absence of such agreement;
- (b) is assumed by any of the *persons insured* under a warranty of fitness or quality, or is implied by law, in respect of *products*;

but this extension of cover does not apply to *damage to property* which is the subject of the agreement.

10. Loss of use

Or loss of use of tangible property that has not been physically *damaged* or destroyed resulting from:

- (a) a delay in or lack of performance by or on behalf of any of the *persons insured* of any contract or agreement; or

- (b) the failure of *products* or work performed by or on behalf of any of the *persons insured* to meet the level of performance, quality, fitness or durability warranted or represented by any of the *persons insured*.

This exclusion does not apply to loss of use of other tangible property resulting from the sudden and *accidental* physical *damage* to or destruction of *products* or work performed by or on behalf of any of the *persons insured* after such *products* or work have been put to their intended use by any person or organisation other than a *person insured*.

11. *Pollutants*

Directly or indirectly caused by or arising out of *pollutants* unless caused by or arising out of an identifiable and sudden *accidental* and unexpected release (including discharge, dispersal, seepage, migration and escape) of *pollutants* that takes place in its entirety at a specific time and place.

12. *Product repair or replacement*

In respect of any amount payable for the cost of recalling, withdrawing, replacing or repairing *products* or of making any refund on the price paid for *products*, provided that this exclusion does not apply to liability for physical loss or *damage* to *products* caused by other *products* if they were physically independent at the time of such physical loss or *damage*.

13. *Professional duty*

Arising out of a breach of the duty owed in a professional capacity by any of the *persons insured*, but this exclusion does not apply to services rendered by members of *your* own first aid or ambulance services.

14. *Property in care, custody or control*

Owned, occupied or held in trust by or in the care, custody or control of any of the *persons insured* other than:

- (a) premises that are not owned or rented by any of the *persons insured* but at which any of the *persons insured* is undertaking work in connection with the *business*;
- (b) property in *your* custody or control in any free car park operated by *you*.

15. *Underground services*

Consisting of underground services, pipes or cables or legal liability arising out of that *damage* regardless of how the *damage* is caused unless the *person insured* has taken all reasonable steps immediately prior to the commencement of the work to establish the position of such services and has taken all reasonable steps to avoid *damage* in which case the *excess* shown in the *schedule* for Underground Services will apply to all such valid claims.

16. *Vehicles*

Caused by the ownership, possession, or use by any of the *persons insured* of any *vehicle* which is or should have been registered or is otherwise insured in respect of the same liability.

However if the *person insured* is not entitled to indemnity under any other policy this exclusion will not apply to claims arising from:

- (a) the loading or unloading of a *vehicle* or the bringing to or taking away of a load from a *vehicle*; or
- (b) the use of the *vehicle* as a tool of trade and not use as a motor *vehicle*.

17. *Vibration or weakening of support*

Directly or indirectly caused by vibration or by the withdrawal or weakening of support of any structure or land.

18. *Watercraft and aircraft*

Directly or indirectly caused by the ownership, possession, operation, repair, maintenance or use by any of the *persons insured* of any:

- (a) *aerial devices*;
- (b) *watercraft* exceeding 8 metres in length.

Conditions

Refer also to the general conditions of this policy.

1. *Change of business*

If any change occurs in the *business* that increases the risk of insuring *you*, then *you* will give written notice to *us* within a reasonable period of becoming aware of such change.

2. *Contribution to costs*

Where the amount paid to settle any liability claim against *you* or any *insured* exceeds the limit of indemnity for this broadform liability section *our* obligation to pay *defence costs* under this broadform liability section is limited to a proportion of the *defence costs* that is equivalent to the proportion that the limit of indemnity bears to the total amount paid.

This condition only applies when *we* have not exercised *our* right under the payment of limit of indemnity condition.

3. *Cross liability*

Any claim made by a *person insured* against any other *person insured* will be treated as though the party so claiming is not a *person insured*. Where more than one party is described as an *insured* each such party will constitute a separate *person insured* for the purpose of this clause.

Provided that nothing contained in this condition:

- (a) will operate to increase the limit of indemnity shown in the *schedule*;
- (b) overrides the provisions of General Condition 9 (Joint Insurance).

4. *Duty of care*

The *persons insured* will take reasonable precautions to prevent *personal injury* and *damage to property* and to:

- (a) comply with all obligations and *regulations* set out in any legislation applicable or imposed by any authority;

- (b) maintain premises and plant and everything used in the *business* in proper repair; and
- (c) at their own expense remedy any defect or eliminate any danger that may give rise to *personal injury or damage to property*.

5. *Excess*

The claim will be adjusted net of the *excess* shown in the *schedule* which *you* must contribute as the first amount of any claim arising from each and every *occurrence* inclusive of *defence costs*.

6. *Jurisdiction*

This insurance will not apply to any judgement delivered by a court outside New Zealand (or any judgement, registration or order obtained in New Zealand to enforce that same judgement) where the *persons insured* are represented in a country outside New Zealand by or through any:

- (a) branch;
- (b) trading division;
- (c) *subsidiary*;
- (d) associated company or companies; or
- (e) *employee* or company holding a power of attorney on behalf of any of the *persons insured*.

This condition does not apply to the activities of the *persons insured* who have a normal place of residence in New Zealand and are away from New Zealand for a short time in connection with the incidental performance of clerical, managerial, marketing or sales responsibilities but not the performance of actual assembly, construction, dismantling, farming, manufacture, renovation or repair work and not involving the performance of any other physical work of a manual nature or in respect of a trade.

7. *Payment of limit of indemnity*

We may at any time pay to *you*, or at *our* discretion to any of the *persons insured* claiming to be indemnified, the appropriate limit of indemnity (after deduction of any amounts already paid) or any lesser amount for which a claim or claims can be settled. Following payment under this condition we will relinquish control of the claim or claims and we will be under no further liability in connection with it, except for costs and expenses incurred before the date of the payment.

8. *Premium adjustment*

If any part of the premium or renewal premium is based on estimates furnished by *you*, *you* will keep an accurate record containing all relative particulars and will allow *us* to inspect such record. *You* will within a reasonable period of the expiry of each *period of insurance* furnish such information as we may require. The premium or renewal premium will be adjusted and the difference paid by or allowed to *you*.

Additional extensions and memoranda

Each of the following extensions or memoranda will have no effect unless there is a statement in the *schedule* that the particular extension or memorandum will apply. They are subject to all the provisions of the policy and of this broadform liability section (unless otherwise stated). If there is any conflict or inconsistency between this broadform liability section and the extension or memorandum only the extension or memorandum will apply. If there is any conflict or inconsistency between extensions or memoranda only the more particular extension or memorandum will apply.

Additive products PLB500

We will not cover *you* under this section in respect of *damage* to or loss of any mixture of which any *product* supplied by any of the *persons insured* is a constituent.

Burning in the open air PLB502

It is a condition of this section that when *you* burn in an open air location that the following precautions will be complied with on each occasion:

- (a) fires to be in a cleared area and at a distance of at least nine metres from any property;
- (b) fires not to be left unattended at any time;
- (c) a suitable fire extinguisher to be kept available for immediate use; and
- (d) fires to be extinguished at least one hour before leaving the site.

Concrete products PLB504

We will not cover *you* under this section for *your* legal liability for *damage* to any *building* or other structure incorporating concrete *products* supplied by any of the *persons insured* where the *damage* is caused by those *products*.

Deep frying equipment PLB507

If on any premises owned or occupied by *you* there is any deep frying with oil or fat *you* warrant that:

- (a) each vat is fitted with a close-fitting steel lid that is shut when the vat is not in use;
- (b) a fire blanket is installed in a conspicuous place in the vicinity of, but at a safe distance away from, the frying operation and that the fire blanket is readily accessible for immediate use at all times during any deep frying operation;
- (c) a fully charged multi-purpose extinguisher of not less than 2.25kg capacity or a fully charged extinguisher specifically designed for use on flammable liquid fires is installed in a conspicuous place in the vicinity of, but at a safe distance away from, the frying operation and is accessible for immediate use at all times during any deep frying operation;
- (d) all thermostats, pans, blankets and extinguishers are at all times maintained in good working order;
- (e) extraction filters are cleaned weekly and extraction flues and ducting inspected monthly and cleaned as necessary;

- (f) where the fryer is an electric fryer a separate non-adjustable manual reset thermostat is fitted to it and set to disconnect the power supply when the temperature of the cooking liquids reaches 240 degrees centigrade; and
- (g) all cooking liquids for disposal are at all times stored in a metal bin with a close-fitting metal lid until removal from the premises.

If *you* are not the occupier of the premises or operator of the equipment *you* will in writing instruct the occupier and operator to carry out the requirements in (a) to (g) above to ensure that the terms of this warranty are met at all times.

Drugs clinical trials PLB508

We will not cover *you* under this section for *your* legal liability for *personal injury* arising in connection with clinical trials.

Fire risk work away PLB510

It is warranted that in respect of the application of heat involving a naked flame or open heat source that takes place away from *your* own premises the following precautions will be complied with on each occasion:

- (a) the area of the work will be cleared of combustible material for a safe distance from or beneath the place where such work is being carried out. A safe distance will be not less than six metres when welding or cutting operations are carried out. Where such precautions are impracticable such material will be covered with fireproof blankets or similar protective equipment. Combustible parts of premises will be similarly protected;
- (b) a fire extinguisher of a type and capacity suitable for the combustible material and the premises will be kept immediately adjacent to the area of work and available for immediate use;
- (c) equipment will be lit or switched on for as short a time as possible before use and extinguished immediately after use;
- (d) lighted or heated equipment will not be left unattended;
- (e) a thorough examination for any signs of combustion will be made within or below the area in which work has been undertaken half an hour after the termination of each period of work;
- (f) before applying heat to metal built into or projecting through walls, floors or ceilings an examination will be made to ensure that the other end of the metal is not in hazardous proximity to combustible material.

Paints and cladding products PLB515

We will not cover *you* under this section for *your* legal liability for *damage* to any surface to which any *product* supplied by any of the *persons insured* is applied.

Hairdressers and Beauty Therapists treatment risk PLB516

We will cover *you* for *your* legal liability for direct compensation as a result of *personal injury* to customers arising in connection with treatment prescribed or administered by or on behalf of any of the *persons insured* provided that:

- (a) *our* liability will not exceed \$100,000 in respect of any one *occurrence* or series of *occurrences* as a result of or attributable to one source or original cause and limited in total in any one *period of insurance* to that amount; and
- (b) no claims will be admitted for any *personal injury* sustained or alleged to be sustained or becoming evident more than 30 days after treatment; and
- (c) no claims will be admitted for any *personal injury* sustained arising from surgical beauty treatments or the use of ultraviolet (UV) or any similar radiation.

An excess of \$1,000 will apply under this extension for each *occurrence* unless an alternative amount is shown in the *schedule*.

New Zealand jurisdiction PLB521

The jurisdiction condition is deleted and replaced by the following:

The cover under this section will only apply to judgements that are delivered by or obtained from a court within New Zealand. In addition, the insurance will not apply in respect of any judgement or order obtained in New Zealand for the enforcement of a judgement obtained elsewhere.

Non-efficacy PLB522

We will not cover *you* under this section for *your* legal liability for *personal injury* or *damage to property* directly or indirectly caused by or alleged to be caused by the failure of any *products* manufactured or supplied by any of the *persons insured* to correctly perform their intended function.

Non-efficacy installation PLB523

We will not cover *you* under this section for *your* legal liability for *personal injury* or *damage to property* directly or indirectly caused by or alleged to be caused by the failure of any *products* installed, serviced or repaired by any of the *persons insured* to correctly perform their intended function where the failure arises from such installation, servicing or repair.

Faulty packing PLB524

We will not cover *you* under this section for *your* legal liability for *personal injury* or *damage to property* directly or indirectly caused by inadequate or incorrect packing.

Advice design, formula or specification exclusion PLB525

We will not cover *you* under this section for *your* legal liability arising in connection with error or omission in:

- (a) advice, directions, instructions, markings or warnings given or omitted to be given; or
- (b) design, formula or specification.

Electromagnetic radiation exclusion PLB526

We will not cover *you* under this section for *your* legal liability for *personal injury* or *damage to property* directly or indirectly caused by exposure to or contact with electromagnetic radiation.

For the purposes of this exclusion electromagnetic radiation includes but is not limited to magnetic energy, waves, fields or forces generated, produced, distributed, transmitted or maintained by charges, currents, frequencies, energy or forces of electricity.

Amended pollutants exclusion PLB527

The *pollutants* exclusion 11 of this broadform liability section is deleted and replaced by the following:

Directly or indirectly caused by or arising out of *pollutants* unless caused by or arising out of an identifiable, unexpected and *accidental* release (including discharge, dispersal, seepage, migration and escape) of *pollutants* which commences during any *period of insurance* and is:

- (a) detected within 7 days of its commencement; and
- (b) reported to *us* within 7 days of its being detected.

The commencement of any intermittent release shall be deemed to be at the start of the first release of the series.

Clean up costs exclusion PLB528

We will not be under any obligation to indemnify *you* or any other *insured* for any costs arising out of any obligation on any of the *persons insured* to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise or in any way respond to or assess the effects of *pollutants* on structures, premises, sites or land currently or previously owned, occupied, used by or under the control of any of the *persons insured* where the obligation arises out of such ownership, occupancy, use or control by any of the *persons insured*.

USA and Canada exports PLB531

The *geographical limits* definition 2 (b) is amended to read:

(b) *products* supplied from New Zealand.

The following is added to the Limit of indemnity clauses:

Notwithstanding the provision for the payment of *defence costs* for any actual or threatened legal action against any of the *persons insured* the Limit of indemnity will be inclusive of *defence costs* in respect of any *personal injury* or *damage to property* happening in the United States of America or its territories or possessions or in Canada.

Exemplary damages PLB532

We will cover *you* for *your* legal liability for exemplary damages awarded by any New Zealand court in respect of *personal injury* happening in New Zealand, provided that:

- (a) *our* liability to pay under this extension for any one *period of insurance* will not exceed the lesser of the limit of indemnity or \$1 million, inclusive of any *defence costs*;
- (b) there is no cover in respect of exemplary damages arising out of any dishonest or malicious act or omission by any of the *persons insured*; and
- (c) none of the *persons insured* has revealed the existence of terms of this cover without *our* written consent, unless legally obliged to do so.

Australian operations PLB533

With the exception of the extension for Exemplary damages (if it is included in this section) the words "New Zealand" are replaced by the words "New Zealand and Australia" wherever else they appear in this section. This change does not in any way alter the provisions of General Condition no. 6 (Governing Law) in the Introduction section of this policy.

Competitors exclusion PLB534

We will not cover *you* under this section for *your* legal liability for *personal injury* or *damage to property* to or of any competitor or participant directly or indirectly caused by participation in or practice or preparation for any performance, game, contest, race or display.

Computer services PLB535

We will not cover *you* under this section for *your* legal liability arising in connection with the supply of computer software which does not correctly perform its intended function or which causes *personal injury* or *damage to property*.

Bailees liability PLB537

Exclusion (e) in the Property in Care Custody or Control extension is deleted. The limit of indemnity and the *excess* to apply in respect of this deletion is the same as for that extension unless an alternative amount for Bailees Liability is shown in the *schedule*.

Treatment risk PLB538

We will not cover *you* in respect of *personal injury* arising out of treatment given and/or *products* sold, prescribed or administered by or on behalf of any of the *persons insured*.

Genetic modification PLB539

We will not cover *you* under this section for *your* legal liability for *personal injury* or *damage to property* directly or indirectly caused by:

- (a) the presence on any premises of or the production of or the supply of any genetically modified organism or any other material that has been genetically modified where liability may be directly or indirectly attributed to the genetic characteristics of such organism or material;
- (b) the spread of or the threat of spread of any genetically modified organism characteristics into the environment or any change to the environment arising from research into, testing of or production of genetically modified organisms or other material.

Warrant of Fitness PLB552

We will cover *you* for *your* legal liability to pay direct compensation for any negligent act, error or omission occurring within the *period of insurance* arising from *your* inspection and certification of *vehicles* for the purpose of issuing Warrants of Fitness, other inspection certificates, *vehicle* appraisal services and pre purchase reports.

Provided that;

- 1 this extension will not apply to *your* liability in connection with the valuation of any *vehicle*;

- 2 this extension will not apply to *your* liability in connection with Certificates of Fitness;
- 3 *you* are licensed and qualified to issue Warrants of Fitness; and
- 4 *you* hold any required license or qualification to issue other inspection certificates or pre-purchase reports, or to offer any *vehicle* appraisal services.

Our liability to cover *you* under this extension will not exceed the figure specified in the *schedule* in any one *period of insurance* including claimants' costs and expenses.

The following *excesses* will apply under this extension for each *occurrence* unless an alternative amount is shown in the *schedule*:

\$1,000 for Warrants of Fitness.

\$2,500 for pre purchase reports, *vehicle* appraisal services and other inspection certificates.

Warrant of Fitness and Certificate of Fitness PLB553

We will cover *you* for *your* legal liability to pay direct compensation for any negligent act, error or omission occurring within the *period of insurance* arising from *your* inspection and certification of *vehicles* for the purpose of issuing Warrants of Fitness, Certificates of Fitness, other inspection certificates, *vehicle* appraisal services and pre purchase reports.

Provided that;

- 1 this extension will not apply to *your* liability in connection with the valuation of any *vehicle*;
- 2 *you* are licensed and qualified to issue Warrants of Fitness or Certificates of Fitness; and/ or
- 3 *you* hold any required license or qualification to issue other inspection certificates or pre-purchase reports, or to offer any *vehicle* appraisal services.

Our liability to cover *you* under this extension will not exceed \$1,000,000 unless an alternative limit is shown in the *schedule*, in any one *period of insurance* including claimants' costs and expenses.

The following *excesses* will apply under this extension for each *occurrence* unless an alternative amount is shown in the *schedule*:

\$1,000 for Warrants of Fitness and Certificates of Fitness.

\$2,500 for pre purchase reports, *vehicle* appraisal services and other inspection certificates.

Defective Workmanship PLB554

We will cover *you* for *your* legal liability to pay direct compensation (including liability for resulting loss of use) consequent upon *accidental damage* to property on which *you* are or have been working, where the *damage* is caused by *your* defective workmanship, providing that:

- (a) the defective workmanship is done or undertaken by any of the *persons insured* during the *period of insurance*; and
- (b) the *damage* to property happens within the *geographical* limits.

Exclusions 4 and 12 do not apply to this extension.

We will also cover *you* under this extension for *your* legal liability that would have been covered by automatic extensions 9 or 11 of this Broadform liability section but for the exclusion from cover for *your* legal liability to pay the cost of performing, completing, correcting or improving any work done or undertaken or rectifying defective work, providing that all requirements for cover under this extension are also met and *your* liability would have been covered under this extension but for exclusion 14.

Our liability under this extension will not exceed \$100,000 unless an alternative limit is shown in the *schedule*, in any one *period of insurance* inclusive of any *defence costs*.

An excess of \$1,000 will apply to claims under this extension for each *occurrence* unless an alternative amount is shown in the *schedule*.

Except as expressly stated, nothing in this extension overrides any exclusion including exclusions 3 and 13. *Workmanship* means work done in the process of manufacturing, constructing, erecting, installing, servicing, repairing or treating property.

Employers Liability

The indemnity

We will indemnify *you* for *defence costs* and all sums that *you* become legally liable to pay as *damages* arising from *claims* resulting from any *employee* sustaining *personal injury* in New Zealand arising out of or in the course of their employment in the *business* shown in the *schedule*, provided that:

- (a) *you* first become aware of the *claim* during the *period of insurance*; and
- (b) the *claim* is *notified to us* during the *period of insurance* or within 30 days after the end of the *period of insurance*; and
- (c) the *personal injury* occurred on or after the *retroactive date*.

Automatic extensions

These extensions form part of this section and are subject to all its provisions (unless otherwise stated). The total of all payments made under these automatic extensions will be part of and not in addition to the limits of indemnity for this employers liability section unless otherwise stated. Any reference to *claim* in these extensions will mean any *claim notified to us* during the *period of insurance* or within 30 days after the end of the *period of insurance*.

If there is any conflict or inconsistency between this employers liability section and the extension, only the extension will apply. If there is any conflict or inconsistency between the extensions, only the more particular extension will apply.

1. *Advancement of defence costs*

We will advance *defence costs* to *you* as and when they are incurred before the final disposition of the *claim*. Such payments will be repaid to *us* by *you* severally, according to *your* respective interests, in the event and to the extent that the *claim* is in fact determined not to be covered or is resolved on terms or in a manner that excludes it from cover under this employers liability section.

2. Continuous cover

Notwithstanding exclusion 8 of this employers liability section, where:

- (a) *you* first became aware of any *claim*, or fact or circumstance as described in condition 6, after the *continuity date* and before the *period of insurance*; and
- (b) *you* do not *notify us* of such *claim*, or fact or circumstance, until a date during the *period of insurance* or within 30 days after the *period of insurance*, then:
 - (i) in the absence of fraudulent non-compliance with the duty of disclosure or fraudulent misrepresentation by any of *you* in respect of such *claim*, fact or circumstance; and
 - (ii) provided that *we* have continuously been *your* employers liability insurer from and after the *continuity date*;

we will accept notification of such *claim*, or any *claim* arising from such facts or circumstances, during the *period of insurance*.

The cover provided will be in the terms of this policy except that the applicable limit of indemnity and *excess* will be as they were at the date when *you* first became aware of the *claim* or facts or circumstances.

Optional Extensions

Each of the following extensions will have no effect unless there is a statement in the *schedule* that the particular extension will apply. They are subject to all the provisions of the policy and of this employers liability section (unless otherwise stated). If there is any conflict or inconsistency between this employers liability section and the extension only the extension will apply. If there is any conflict or inconsistency between extensions only the more particular extension will apply.

Defence Costs 565

In the event of any *claim* under the statutory liability or employers liability sections of this policy which is subject to a charge under Section 9 of the Law Reform Act 1936 and as a consequence of which *defence costs* cannot be paid under these sections then the policy is extended to indemnify *defence costs* up to a limit of \$250,000 unless an alternative limit is shown in the *schedule*, for any one *claim* and in the aggregate;

- a) during the *period of insurance*; and
- b) over both sections.

Exclusions

Refer also to the general exclusions of this policy.

We will not be liable for:

1. Accident Insurance Act cover

compensation for *personal injury* in respect of which the claimant is entitled to compensation to any extent under the Injury Prevention, Rehabilitation, and Compensation Act 2001 (or any replacement *Act*) and any subsequent amendments, or would be so entitled had a *claim* been lodged under such *Acts*, or if *you* were not an exempt employer under such *Acts*.

2. Asbestos

any *claims* directly or indirectly caused by or arising out of or in connection with:

- (a) the inhalation of;
- (b) exposure to;
- (c) fears of the consequences of inhalation of or exposure to;
- (d) cleaning up, removal of; or
- (e) *damage* to or loss of use of any property arising out of;

asbestos, asbestos fibres or any derivatives of asbestos.

3. Building defects and mould

or fulfil any obligation in respect of any *claim* (including *defence costs* or any other costs) or *personal injury* that is directly or indirectly caused by or contributed to, or arises in connection with:

- (a) the action or effects of *micro-organisms*, mould, fungi, mildew, rot, decay, gradual deterioration, bacteria, protozoa or any similar or like forms, in any *building* or structure; or
- (b) the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralising, remediating or disposal of, or in anyway responding to or assessing the effects of *micro-organisms*, mould, fungi, mildew, rot, decay, gradual deterioration, bacteria, protozoa or any similar or like forms, in any *building* or structure.

4. Deliberate or wilful non-compliance

any liability arising directly or indirectly from, or in any way connected with any *claim* that arises from:

- (a) *your* deliberate or wilful breach of or failure to comply with or disregard for the provisions of any *Act*;
- (b) *your* deliberate or wilful failure to comply with or disregard for any lawful notice or order issued by any regulatory authority under any *Act*;
- (c) *your* deliberate or wilful obstruction, hindrance or resistance to any person exercising their powers under any *Act*.

5. Employment contract

claims arising directly or indirectly out of the unjustifiable dismissal of any *employee* or other personal grievance arising out of a contract of employment.

6. HSE notices

any *claim* arising directly or indirectly out of any failure by *you* to comply with any improvement, prohibition or suspension notice issued to *you* or any *employee* under The Health and Safety in Employment Act 1992 or equivalent notices issued under any replacement *Act*.

7. *Other than usual business*

any *employee* not directly employed to carry out the normal activities of the *business* unless *you* give prior notice of such employment to *us* and *we* confirm *our* agreement in writing.

8. *Prior claims and known circumstances*

- (1) any *claim* made, threatened or intimated against *you* before the *continuity date*;
- (2) any *claim* arising directly or indirectly from any facts or circumstances:
 - (a) notified under any insurance that was in force before the inception of the employers liability section of this policy; or
 - (b) known to *you* before the *continuity date* and which might reasonably be expected to give rise to a *claim*.

9. *Prior injury*

any *personal injury* sustained before the *retroactive date* shown in the *schedule*.

10. *Third party exclusion*

any liability arising directly or indirectly from, or in any way connected with any *claim* that arises from, the acts or omissions of any third party contracted by *you* in accordance with *your business*.

Conditions

Refer also to the general conditions of this policy.

1. *Authority*

The *entity* agrees to act on *your* behalf with respect to:

- (a) giving notice of a *claim*;
- (b) the payment of premium and the receipt of any refund of premium that may become due;
- (c) the negotiation and receipt of any endorsement.

2. *Conduct of claim*

We will be entitled to take over and conduct in *your* name, with full discretion in the conduct of the proceedings, the defence of any *claims* or the prosecution in *your* name for *your* own benefit any *claim*. If *you* do not agree with *our* decision to settle a *claim* the terms of Condition 7 will apply.

3. *Election to settle*

We may settle any *claim* with *your* consent, or where settlement is recommended by a senior counsel in accordance with condition 7 of this employers liability section.

If however consent to such settlement is still withheld by *you* *our* liability for the *claim* will not exceed the amount for which the *claim* could have been settled plus *defence costs* incurred with *our* consent up to the date such settlement was recommended.

4. Excess

The *claim* will be adjusted net of the *excess* shown in the *schedule* which *you* must contribute as the first amount of any *claim*.

A single *excess* will apply to all *claims* alleging a *single personal injury*.

5. Limits of indemnity

The total amount payable in any one *period of insurance* by *us* under this employers liability section (including automatic extensions and endorsements) on *your* behalf in respect of all *damages* and *defence costs* arising out of all *claims* will not exceed the limits of indemnity shown in the *schedule* for this employers liability section of the policy.

6. Notification of circumstance

If during the *period of insurance* any of *you* become aware of any facts or circumstances that may give rise to a *claim* against *you*, and such facts or circumstances are *notified to us* during the *period of insurance*, any *claim* that may subsequently arise out of those facts or circumstances will be deemed to have been first made against *you* during the *period of insurance* and *notified to us* during the *period of insurance* in which the facts or circumstances were *notified*.

7. Senior counsel

If *you* and *we* disagree as to whether a *claim* should be settled or defended, a senior counsel (to be mutually agreed upon by *you* and *us*) will be appointed to recommend whether to settle or defend the *claim*. The senior counsel will take into consideration the economics of the matter, costs that are likely to be recovered by the prosecuting authority, the likely *defence costs* and the prospects of *you* successfully defending the action. The cost of the senior counsel's opinion will be paid by *us* and will be payable in addition to the limits of indemnity shown in the *schedule* for this employers liability section.

8. Severability and non-imputation of proposal and policy

The proposal or submission will be construed to be a separate application for cover by each of *you*.

For the purpose of determining the availability of cover with respect to *claims* made against any of *you*, no fact pertaining to, no statement or declaration made in the proposal or submission, no state of mind or knowledge possessed and no failure to comply with the general and *claims* conditions by one of *you* will be imputed to any other of *you*.

9. Take-over

If, during the *period of insurance* a *take-over* occurs the cover provided under this employers liability section of this policy is amended to apply only to *personal injuries* occurring before the effective date of the *take-over*.

Statutory liability

The indemnity

Insuring clause A - Entity liability

We will pay on *your* behalf any *fine* under an *Act* and *defence costs* arising out of a *claim* made against *you*, provided that:

- (a) *you* first become aware of the *claim* during the *period of insurance*; and
- (b) the *claim* is *notified to us* during the *period of insurance* or within 30 days after the end of the *period of insurance*; and
- (c) the *occurrence* took place on or after the *retroactive date*; and
- (d) the *fine* and *defence costs* do not arise from an *excluded Act*.

Insuring clause B - Entity reimbursement

We will pay on *your* behalf any *fine* under an *Act* and *defence costs* for which *you* are lawfully permitted or required to indemnify, and have agreed to so indemnify, an *insured person* arising out of a *claim* made against an *insured person*, provided that:

- (a) the *entity* and/or the *insured person* first becomes aware of the *claim* during the *period of insurance*; and
- (b) the *claim* is *notified to us* during the *period of insurance* or within 30 days after the end of the *period of insurance*; and
- (c) the *occurrence* took place on or after the *retroactive date*; and
- (d) the *fine* and *defence costs* do not arise from an *excluded Act*.

Insuring clause C - Insured person liability

We will pay on behalf of the *insured person* any *fine* under an *Act* and *defence costs* arising out of a *claim* made against the *insured person*, provided that:

- (a) the *insured person* and/or *entity* first becomes aware of the *claim* during the *period of insurance*; and
- (b) the *claim* is *notified to us* during the *period of insurance* or within 30 days after the end of the *period of insurance*; and
- (c) the *occurrence* took place on or after the *retroactive date*; and
- (d) the *fine* and *defence costs* do not arise from an *excluded Act*.

However, we will not pay any *fine* or *defence costs* arising out of any *claim* to the extent that the *entity* has indemnified an *insured person* for the *fine* or *defence costs*.

Automatic extensions

These extensions form part of this statutory liability section and are subject to all its provisions (unless otherwise stated). The total of all payments made under these automatic extensions will be part of and not in addition to the limits of indemnity for this statutory liability section unless otherwise stated. Any reference to *claim* in these extensions will mean any *claim notified to us* during the *period of insurance* or within 30 days after the end of the *period of insurance*.

If there is any conflict or inconsistency between this statutory liability section and the extension, only the extension will apply. If there is any conflict or inconsistency between the extensions, only the more particular extension will apply.

1. *Acquittal*

No *excess* will apply and we will reimburse any *defence costs* paid by *you* including where it was alleged that *you* intentionally, knowingly, or wilfully committed an *occurrence*, in the event of:

- (a) an *acquittal* of all of *you*; or
- (b) a dismissal or a withdrawal of the prosecution of the offence without the payment of any *fine* by any one of *you*.

Provided however that in the case of (b) above such reimbursement will occur 90 days after the date of dismissal or agreement to withdraw the prosecution as long as no *claim* alleging the same or any related *occurrence* is again brought within that time. Reimbursement will also be subject to an undertaking by *you* in a form acceptable to *us* that such reimbursement will be paid back by *you* to *us* in the event that a *claim* alleging the same or related *occurrence* is brought after the 90-day period.

2. *Advancement of defence costs*

We will advance *defence costs* to *you* as and when they are incurred before the final disposition of the *claim*. Such payments will be repaid to *us* by *you* severally, according to *your* respective interests, in the event and to the extent that the *claim* is in fact determined not to be covered or is resolved on terms or in a manner that excludes it from cover under this statutory liability section.

3. *Continuous cover*

Notwithstanding exclusion 7 of this statutory liability section, where:

- (a) *you* first became aware of any *claim*, or fact or circumstance as described in Claims Condition 3, after the *continuity date* and before the *period of insurance*; and
- (b) *you* do not *notify us* of such *claim*, or fact or circumstance, until a date during the *period of insurance* or within 30 days after the *period of insurance*, then:
 - (i) in the absence of fraudulent non-compliance with the duty of disclosure or fraudulent misrepresentation by *you* in respect of such *claim*, fact or circumstance; and
 - (ii) provided that *we* have been *your* statutory liability insurer continuously from and after the *continuity date*;

we will accept notification of such *claim*, or any *claim* arising from such facts or circumstances, during the *period of insurance*.

The cover provided will be in the terms of this policy except that the applicable limit of indemnity and *excess* will be as they were at the date when any of *you* first became aware of the *claim* or facts or circumstances.

4. *Preservation of indemnity*

In the event and to the extent that the *entity* is permitted or required to indemnify any *insured person*, but for whatever reason fails or refuses to do so, we will pay on behalf of the *insured person* the *fine* and *defence costs* in accordance with insuring clause C. In such event the *excess* shown in the *schedule* applicable to insuring clause B will be paid by the *entity* to us. In the event of the *entity* being placed in liquidation (other than voluntary liquidation), no *excess* will apply.

Optional Extensions

Each of the following extensions will have no effect unless there is a statement in the *schedule* that the particular extension will apply. They are subject to all the provisions of the policy and of this statutory liability section (unless otherwise stated). If there is any conflict or inconsistency between this statutory liability section and the extension only the extension will apply. If there is any conflict or inconsistency between extensions only the more particular extension will apply.

Defence Costs 565

In the event of any *claim* under the statutory liability or employers liability sections of this policy which is subject to a charge under Section 9 of the Law Reform Act 1936 and as a consequence of which *defence costs* cannot be paid under these sections then the policy is extended to indemnify *defence costs* up to a limit of \$250,000 unless an alternative limit is shown in the *schedule*, for any one *claim* and in the aggregate;

- a) during the *period of insurance*; and
- b) over both sections.

Exclusions

Refer also to the general exclusions of this policy.

We will not be liable for:

1. *Asbestos*

any *claims* directly or indirectly caused by or arising out of or in connection with:

- (a) the inhalation of;
- (b) exposure to;
- (c) fears of the consequences of inhalation of or exposure to;
- (d) cleaning up, removal of; or
- (e) *damage* to or loss of use of any property arising out of;

asbestos, asbestos fibres or any derivatives of asbestos.

2. *Building defects and mould*

or fulfill any obligation in respect of any *claim* (including *defence costs* or any other cost) that is directly or indirectly caused by or contributed to, or arises in connection with:

- (a) the action or effects of *micro-organisms*, mould, fungi, mildew, rot, decay, gradual deterioration, bacteria, protozoa or any similar or like forms, in any *building* or structure; or
- (b) the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralising, remediating or disposal of, or in anyway responding to or assessing the effects of *micro-organisms*, mould, fungi, mildew, rot, decay, gradual deterioration, bacteria, protozoa or any similar or like forms, in any *building* or structure; or
- (c) the failure of any *building* or structure to meet or perform to the requirements of the New Zealand Building Code contained in the first schedule to the Building Regulations 1992 (or any amendment or substitution thereof) in respect of:
 - (i) external water or moisture; or
 - (ii) either durability or protection from external water or moisture entering that *building* or structure, or the effects thereof.

3. *Continuing offence*

that part of a *fine* for a continuing offence under any *Act* which is imposed for a period of time after which *you* knew, or should have known, that an offence was being committed.

4. *Handling materials*

the handling or disposal of materials by any person or organisation acting on *your* behalf unless *you* have taken all reasonable steps to ensure that the materials will be handled or disposed of in a lawful manner.

5. *Intentional breach*

any *occurrence* which has arisen out of any intentional, knowing, or wilful breach by *you* of any provision or provisions of any *Act*.

6. *Intentional failure to comply*

any *occurrence* which has arisen out of *your* intentional, knowing, or wilful failure to comply with any lawful abatement notice or enforcement order, improvement notice, prohibition notice or suspension notice, building notice, notice to rectify, compliance schedule, gazetted notice, or order made by a commission, tribunal, or standards review board, or lawful consent, determination, memorandum, notice, order, or schedule issued under any *Act*.

7. *Prior claims and known circumstances*

- (a) any *claim* made, threatened or intimated against any one of *you* before the *continuity date*;
- (b) any *claim* arising directly or indirectly from any facts or circumstances:
 - (i) notified under any insurance that was in force before the inception of the statutory liability section of this policy; or
 - (ii) known to any one of *you* before the *continuity date* and which might reasonably be expected by *you* to give rise to a *claim*;

- (c) any *claim* arising directly or indirectly from any litigation with respect to any *occurrence* committed or alleged to have been committed by any one of *you* before the *continuity date*, whether or not disclosed to *us*.

Claims conditions

1. Conduct of claim

We will be entitled to take over and conduct in *your* name, with full discretion in the conduct of the proceedings, the defence of any *claims* or the prosecution in *your* name for *your* own benefit any *claim*. If *you* do not agree with *our* decision to settle a *claim* the terms of Claims Condition 4 will apply.

2. Election to settle

We may settle any *claim* with *your* consent, or where settlement or a guilty plea is recommended by a senior counsel in accordance with Claims Condition 4.

If, however, consent to such settlement or entry of a guilty plea is still withheld by *you*, *our* liability for the *claim* will not exceed the amount for which the *claim* could have been settled plus *defence costs* incurred with *our* consent up to the date the settlement or entry of a guilty plea was recommended.

3. Notification of circumstances

If during the *period of insurance* any one of *you* become aware of any facts or circumstances that may give rise to a *claim* against any one of *you*, and such facts or circumstances are *notified to us* during the *period of insurance*, any *claim* that may subsequently arise out of those facts or circumstances will be deemed to have been first made against any one of *you* during the *period of insurance* and *notified to us* during the *period of insurance* in which the facts or circumstances were *notified*.

4. Senior counsel

If *you* and *we* disagree as to whether a *claim* should be settled or defended, a senior counsel (to be mutually agreed upon by *you* and *us*) will be appointed to recommend whether to settle or defend the *claim*. The senior counsel will take into consideration the economics of the matter, the *fine* and costs that are likely to be recovered by the prosecuting authority, the likely *defence costs* and *your* prospects of successfully defending the action. The cost of the senior counsel's opinion will be paid by *us*, and will be payable in addition to the limits of indemnity shown in the *schedule* for this statutory liability section.

Conditions

Refer also to the general conditions of this policy.

1. Authority

The *entity* agrees to act on *your* behalf with respect to:

- (a) giving notice of a *claim*;
- (b) the payment of premium and the receipt of any refund of premium that may become due;
- (c) the negotiation and receipt of any endorsement.

2. Confidentiality

You will not disclose the existence of this statutory liability policy, its limits of indemnity, the nature of the insurance or the premium payable under it to any person or *entity* who is not an *insured* except where and to the extent:

- (a) *you* are required to do so by law; or
- (b) *we* give *our* prior written consent to such disclosure.

3. Excess

The *claim* will be adjusted net of the *excess* shown in the *schedule* which *you* must contribute as the first amount of any *claim*.

A single *excess* amount will apply to all *claims* alleging a *single occurrence*.

4. Limits of indemnity

The total amount payable in any one *period of insurance* by *us* under this statutory liability section (including automatic extensions and endorsements) on *your* behalf in respect of all *finer* and *defence costs* arising out of all *claims* will not exceed in the aggregate the limit of indemnity shown in the *schedule* for this statutory liability section.

5. Non-accumulation

Any payment provided under the terms of this policy will be non-cumulative with any cover provided under any other policy issued by any member company of Suncorp Group Limited.

6. Severability and non-imputation of proposal and policy

The proposal or submission will be construed to be a separate application for cover by each of *you*.

For the purpose of determining the availability of cover with respect to *claims* made against any of *you*, no fact pertaining to, no statement or declaration made in the proposal or submission, no state of mind or knowledge possessed and no failure to comply with the general and *claims* conditions by any one of *you* will be imputed to any other of *you*.

7. Take-over

If, during the *period of insurance* a *take-over* occurs, the cover provided under the statutory liability section of this policy is amended to apply only to *occurrences* taking place before the effective date of the *take-over*.

General definitions

Where headings or margin references are used in this policy the headings or references are purely descriptive in nature and are not to be used for interpretative purposes.

Whenever the following words are used in *italics* in this policy this is what they mean:

Accident

an unforeseen and unintended happening or event occurring anywhere within New Zealand. Accidental refers to accident as defined.

Acquittal

an adjudication of not guilty obtained in favour of all *insureds*, after the exhaustion of all appeals. The term acquittal does not apply to a claim against an *insured* for which settlement has occurred.

Act

any Act of the New Zealand Parliament that is not an *excluded Act* in force at the commencement of the *period of insurance*, or which comes into force during the *period of insurance*, and any substitution of, amendment to, replacement of or statutory *regulation* made under, such *Act*.

Act of terrorism

an act including but not limited to the use of force or violence and/or the threat of that, including the intention to influence any government or to put in fear the public or any section of the public which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s).

Aerial devices

any type of aircraft, hovercraft, spacecraft or other craft or thing made or intended to float on or in or travel through air or space.

Bodily injury

bodily injury, disability, disease, *illness*, shock, fright, mental anguish and mental injury.

Buildings

- (a) buildings, other structures, permanent fixtures and fittings, pipes and cables located in or on the building(s), fixed signs and lettering.
- (b) pipes and cables not located in or on the building(s), tanks, poles, power lines and their supports, walls, gates, fences, gardens, roads, paths and yards.

Business

the business described in the *schedule* and includes:

- (a) the ownership, repair and maintenance of *your* own property; and
- (b) the provision and management of canteen, social, sports and child care facilities, or welfare organisations for the benefit of *your employees* and *your* own fire, first aid and ambulance services.

Claim (only in respect of employers liability)

any threatened or actual legal proceedings, investigation or inquiry as a result of any *employee* sustaining *personal injury* in New Zealand arising out of or in the course of their employment in the *business* shown in the *schedule* and which may give rise to *damages* and the incurring of *defence costs*. Any *claim* arising out of, based upon or attributable to a *single personal injury* will be considered a *single claim* for the purposes of this policy.

Claim (only in respect of statutory liability)

any threatened or actual legal proceedings, investigation or inquiry regarding an *occurrence* in respect of the *business* of the *entity* and which may give rise to the imposition of *fin*es and the incurring of *defence costs*. Any *claim* arising out of, based upon or attributable to a *single occurrence* will be considered a single *claim* for the purposes of this policy.

Continuity date

the date shown in the *schedule*, which is the date from which *you* have maintained uninterrupted cover with *us*, or such other date as agreed in writing by *us*.

Damage to property (only in respect of broadform liability)

physical loss of or *damage* to tangible property including resultant loss of use and also loss of use of tangible property that has not been physically *damaged* or destroyed provided such loss of use is caused by an *occurrence*.

Damages

amounts payable in accordance with judgement against *you* and/or settlements negotiated by *us*, including the other party's costs where applicable, and includes interest on any judgement that accrues after entry of the judgement and before *we* have paid, tendered or deposited in court that part of the judgement that does not exceed the appropriate limit of liability, limit of indemnity or sum insured shown in the *schedule*.

Damages do not include fines, penalties, *reparation*, or any other form of criminal sanction, non-pecuniary relief, taxes or any payment deemed to be unlawful to insure against.

Defence costs (except for statutory liability)

all reasonable legal costs and expenses for expert assistance (other than *your* wages, salaries, lost earnings or fees) incurred by *you* or on *your* behalf with *our* consent which will not be unreasonably withheld in defending, investigating, monitoring, settling, or appealing any claim made against *you*.

Defence costs (only in respect of statutory liability)

all reasonable legal costs and expenses for expert assistance (other than *your* wages, salaries, lost earnings or fees) incurred by *you* or on *your* behalf with *our* consent which will not be unreasonably withheld in defending, investigating, monitoring, settling, or appealing any *claim* made against *you* except where it is alleged that *you* intentionally, knowingly, or wilfully committed any act giving rise to an *occurrence*.

Electronic data

facts, concepts and information converted to a form useable for communications, display, distribution, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for such equipment.

Employee (except for employers liability)

any:

- (a) person under a contract of service or apprenticeship with any of the *persons insured*;
- (b) person hired or borrowed by any of the *persons insured*;
- (c) labour only sub-contractor;

while working for any *person insured* in connection with the *business*.

Employee (only in respect of employers liability)

any person directly employed by *you* in the *business* and from whose remuneration *you* make PAYE tax deductions

Entity

the *insured* shown in the *schedule* and all its *subsidiaries*.

Excess

the first amount of any claim that *you* must pay.

Where a single event causes liability, loss or *damage to property* or items under more than one section or extension of this policy only one excess will apply.

The amount of the excess will be the highest excess of any excess applied by any of the sections or extensions.

Excluded acts

the following *Acts* of the New Zealand Parliament and any amendments to, re-enactment or substitution of, *regulation* of, or other subordinate legislation made under, such *Acts*:

- Arms Act 1983;
- Aviation Crimes Act 1972;
- Commerce Act 1986;
- Crimes Act 1961;
- Criminal Investigations (Blood Samples) Act 1995;
- Hazardous Substances and New Organisms Act 1996 but only as it relates to new organisms;
- Misuse of Drugs Act 1975;
- Proceeds of Crime Act 1991;
- Summary Offences Act 1981;
- Transport Act 1962;
- Transport (Vehicle and Driver Registration and Licensing) Act 1986; or
- any other *Act* shown in the *schedule* as an *excluded Act*.

Fine

any monetary penalty or other monetary fine or costs and disbursements assessed that may be payable by the *insured* as a result of a conviction for an offence under an *Act* arising out of an *occurrence*, except where it has been established that the *insured* has intentionally, knowingly, or wilfully committed the *occurrence*.

Fine does not include the following:

- (a) the cost or payment of any enforcement order, remedial order or compliance order;
- (b) any tax (including any fine or penalty resulting from the failure to pay any tax), rate, duty, or interest on such tax, rate, or duty, except GST as provided in General Condition 5;
- (c) any *damages*, restitution, compensation or *reparation* except *reparation* ordered as a result of a prosecution under the Health & Safety in Employment Act 1992 (or any replacement *Act*) and any subsequent amendments to the extent that such *reparation* is not deemed to be unlawful to insure against;
- (d) the value of any property subject to confiscation or forfeiture;
- (e) a fine, penalty or infringement fee paid or which becomes due to be paid under the Health & Safety in Employment Act 1992 (or any replacement *Act*) and any subsequent amendments on or after 5 May 2003;
- (f) any other monetary payment, penalty or fine deemed to be unlawful to insure against.

Geographical limits (only in respect of broadform liability)

1. New Zealand; or
2. elsewhere in the world but only in respect of *personal injury* or *damage to property* that arises out of:
 - (a) the activities of any *person insured* whose normal place of residence is in New Zealand but who is away for a short time in connection with the incidental performance of clerical, managerial, marketing or sales responsibilities but not the performance of actual assembly, construction, dismantling, farming, manufacture, renovation or repair work and not involving the performance of any other physical work of a manual nature or in respect of a trade; or
 - (b) *products* supplied from New Zealand but the indemnity granted for such *products* will not apply to claims happening in the United States of America or its territories or possessions and/or Canada if to the knowledge of any of the *persons insured* such *products* have been or will be supplied to a person, company or organisation within those areas whether or not in their original form.

Illness

illness, sickness, disease or debilitating or degenerative condition that is not an *injury*.

Injury

external or internal *bodily injury* caused, independently of any other cause, solely and directly by violent, *accidental*, external, and visible means (including exposure to the elements or by inhaling water or gas) or by medical misadventure.

Insured

the insured named in the *schedule*, the *entity* named in the *schedule*, or any *subsidiary company* of either domiciled in New Zealand or the *insured person* named in the *schedule*.

Insured person

any natural person who is:

- (a) a former, current or future director, officer or *employee* of the *entity*; or
- (b) deemed to be a former, current or future director, officer or *employee* of the *entity* by virtue of any applicable legislation; or
- (c) a former, current or future trustee of a superannuation fund established for the benefit of the *employees* of the *entity*; or
- (d) a former, current or future partner or *employee* of the partnership *insured* named in the *schedule*; or
- (e) the person, or former, current or future *employee* of the person named in the *schedule* when acting in that capacity.

It does not mean any liquidator, external auditor, receiver, official assignee, statutory manager, administrator including voluntarily appointed administrators, mortgagees in possession, or any employee of such person.

Insurer

Vero Insurance New Zealand Limited.

Material information

any information which might influence the decision we make as to whether or not to provide insurance or to continue to provide insurance and if so on what terms and at what premium.

Micro-organisms

living things such as amoeba, bacteria, fungi, mould, protozoa, and any similar or like forms.

Notify/notified to us

notify/notified in writing to the *Insurer*.

Occupation

the *insured person's* occupation shown in the *schedule*.

Occurrence (except for statutory liability)

an event, including continuous or repeated exposure to substantially the same general conditions, that results in *personal injury* or *damage to property* neither expected nor intended by *you* the *insured* or *entity* or any of the *persons insured*. All *occurrences* of a series as a result of or attributable to one source or original cause will be deemed one *occurrence*.

Occurrence (only in respect of statutory liability)

any act or omission that results in, or may result in, an allegation of the commission of an offence under any *Act*.

Our

Vero Insurance New Zealand Limited.

Period of insurance

the period shown in the *schedule* commencing on the 'From' date and expiring at 4.00pm on the 'To' date.

Personal injury (only in respect of broadform liability)

1. *bodily injury*, death, disability, disease, *illness*, shock, fright, mental anguish or mental injury; or
2. the effects of:
 - (a) false arrest, wrongful detention, false imprisonment, wrongful eviction, malicious prosecution, malicious humiliation, wrongful entry, wrongful prevention of access;
 - (b) assault or battery not committed by or at the direction of any of the *persons insured* unless committed for the purpose of preventing or eliminating danger to any person or property.

Personal injury (only in respect of employers liability)

bodily injury, disability, disease or *illness* including death as a result of any of these, shock, fright, mental anguish or mental injury but does not include *personal injury*;

- (a) sustained by an *employee* before the *retroactive date* shown in the *schedule*; or
- (b) caused by or arising out of sexual harassment or sexual abuse.

For the purposes of this employers liability section of the policy *personal injury* will be sustained when the *employee* is first exposed to conditions in New Zealand out of which the *personal injury* arose.

Persons insured

1. the *insured*, and any *subsidiary company* (whether or not in existence at the commencement of this policy) domiciled in New Zealand;
2. any partner, director, executive officer of the *insured* or any *employee*, when acting in their capacity as such, but only for liability in respect of which the *insured* would have been entitled to indemnity under this section if the claim had been made against the *insured*;
3. the officers, committees and members of the *insured's* own canteen, social sports and child care facilities or welfare organisations, first aid, fire and ambulance services and pension fund management and administrative committees in their respective capacities as such;
4. any principal of any of the persons *insured*, in respect of the liability of such principal arising out of the performance by such person *insured* of any contract or agreement for the carrying out of work or services in connection with the *business*, but only to the extent required by such contract or agreement;
5. but only in respect of the broadform liability section any partner, director or senior executive of the *insured* in respect of private work undertaken by any *employee* for such partner, director or senior executive, and any such *employee* while undertaking such work.

Pollutants

any solid, liquid, gaseous or thermal irritant or contaminant including but not limited to smoke, vapour, soot, fumes, acids, alkalis, *micro-organisms*, bacteria, chemicals, sewage and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

Products

anything including any packaging or container (other than a *vehicle*) supplied, sold, distributed, grown, extracted, manufactured, constructed, erected, installed, serviced, repaired or treated by any of the *persons insured* in the course of the *business* after it has ceased to be in the possession of or under the control of any of the *persons insured*, and also includes, in respect of broadform liability only:

- (a) the design formula or specification of such products;
- (b) directions, markings, instructions, warnings or advice given or omitted to be given in connection with such products.

Regulations

any *Act* of Parliament or regulations made under or framed in accordance with any *Act* of Parliament or regulation or by-law of any local authority.

Reparation

An amount ordered by a New Zealand Court under section 32 of the Sentencing Act 2002 or any subsequent amendment to be paid to the victim of an offence. Reparation does not include:

- a) *damages*, court costs, fines, penalties, any other form of criminal sanction, non-pecuniary relief, taxes, any payment deemed to be unlawful to insure against; or
- b) *your defence costs* in relation to an offence.

Retroactive date

the date shown in the *schedule*. If instead of a date the word "unlimited" appears the policy responds, subject to its terms, in respect of a *personal injury* or *occurrence* irrespective of when it occurred.

Schedule

the most recently dated schedule issued by *us*. This includes any schedule that is issued at inception or any Expiry Notice or Endorsement Notice issued to renew or endorse this policy.

Single occurrence

an *occurrence* or any related or continuous or repeated *occurrences* committed or alleged to have been committed by *you* individually or jointly and whether directed to or affecting one or more than one person or legal *entity*.

Single personal injury

a *personal injury* or any related, continuous, or repeated *personal injuries* sustained or alleged to have been sustained by the *employee*.

Situation

the situation or location shown in the *schedule*.

Subsidiary company or subsidiary

1. any *entity* that, at the inception of the *period of insurance*, by virtue of any applicable legislation, was or is deemed to be a subsidiary of the *entity* or of the *insured* named in the *schedule*;
2. any *entity* in which the *entity* named in the *schedule*:
 - (a) owns or controls more than fifty percent of the issued share capital;
 - (b) controls the composition of the board of directors;
 - (c) exercises effective management and control, either directly or through one or more of its subsidiary companies; or
3. any other *entity* whose accounts are consolidated into those of the *entity* named in the *schedule* in accordance with the relevant New Zealand Accounting Standard.

Cover in respect of *subsidiaries* will only be provided in respect of an *occurrence*, an event, loss, *damage* or *personal injury* as specifically provided for by the relevant section of this policy occurring or alleged to have occurred while the *entity* was a subsidiary of the *entity* named in the *schedule* unless otherwise agreed to by *us* in writing.

Take-over

any one of the following events:

- (a) the *insured* consolidates with, merges with, or sells all or substantially all of its assets to, another person, *entity* or group of persons and/or entities acting in concert; or
- (b) the *insured* becomes a *subsidiary* of another *entity* by virtue of any applicable law.

Terrorism

an act including but not limited to the use of force or violence and/or the threat of that, including the intention to influence any government or to put in fear the public or any section of the public which from its nature or context is done for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s).

Us

Vero Insurance New Zealand Limited.

Vehicle

any type of *machine* on wheels or on self laid tracks made or intended to be propelled by other than manual power and any trailer made or intended to be drawn by any such *machine* while attached to it.

Watercraft

any type of craft, vessel or thing made or intended to float on or in or travel through water.


We

Vero Insurance New Zealand Limited.

You, your (only in respect of broadform liability)

the *entity, insured, insured person, person, persons or persons insured* named in the *schedule*.

You, your (only in respect of employers liability and statutory liability)

the *entity* or person named in the *schedule*.

