

**Policy** Wording

# Hangarkeeper's Liability



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*Titles and headings are inserted for the purpose of convenient reference only and are not to be deemed part of this Policy. Certain words and phrases used in this Policy have special meanings, which can be found in the Policy under the heading Definitions.*

**Insuring Clause**

The Insurer hereby agrees to the extent and in the manner hereinafter provided, to pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay or by final judgment be adjudged to pay, up to but not exceeding the amounts specified in the Schedule, to any person or persons as damages:

- (a) for bodily injury including death at any time resulting therefrom but excluding nervous shock or psychological injury unaccompanied by, or not caused by, physical injury (hereinafter referred to as bodily injury) or
- (b) for loss of or damage to property of others (hereinafter referred to as property damage) caused by accident occurring during the period of insurance mentioned in the Schedule and arising out of the circumstances set out in Sections 1, 2, 3 and 4 below, provided that cover for any Section is only available if an amount is shown against that Section in the Schedule.

Provided further that the Insured shall first pay the amount shown as a deductible in the Schedule, in respect of each and every claim paid or payable by the Insurer under this Policy.

**Section 1**

Bodily injury or property damage

- (a) in or about the premises, as declared, as a direct result of the services granted by the Insured;
- (b) elsewhere in the course of any work or of the performance of any duties carried out by the Insured or their employees in connection with the business or operations specified in the Schedule caused by the fault or negligence of the Insured or any of their employees engaged in the Insured's business or by any defect in the Insured's premises, ways, works, machinery or plant used in the Insured's business.

This section is subject to the following exclusions:

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

- 4. Bodily injury or property damage arising out of construction of, demolition of or alterations to Buildings, Runways, or Installations by the Insured or their contractors or sub-contractors (other than normal maintenance operations) unless previously agreed by the Insurer.
- 5. Bodily injury or property damage arising out of any goods or products manufactured, constructed, altered, repaired, serviced, treated, sold, supplied, or distributed by the Insured or their employees after such goods or products have ceased to be in the possession or under the control of the Insured, but this exclusion shall be deemed not to apply to the supply, by the Insured, of food or drink at the premises specified in the Schedule.

**Section 2**

Loss of or damage to Aircraft or Aircraft equipment, not owned, rented or leased by the Insured, whilst on the ground in the care, custody or control of or whilst being serviced, handled or maintained by the Insured or any servant of the Insured.

This section is subject to the following exclusions:

- (a) Loss of or damage to wearing apparel, personal effects or merchandise of any description.
- (b) Loss of or damage to Aircraft or Aircraft equipment, hired or leased by or loaned to the Insured.
- (c) Loss of or damage to any Aircraft while in flight as defined.

**Section 3**

Bodily injury or property damage arising out of the possession, use, consumption or handling of any goods or products manufactured, constructed, altered, repaired, serviced, treated, sold, supplied or distributed by the Insured or their employees, but only in respect of such goods or products which form part of or are used in conjunction with aircraft, and then only after such goods or products have ceased to be in the possession or under the control of the Insured

This section is subject to the following exclusions:

- (a) Damage to the property of the Insured or to property within their care, custody or control.
- (b) The cost of repairing or replacing any defective goods or products manufactured, constructed, altered, repaired, serviced, treated, sold, supplied or distributed by the Insured or any defective part or parts thereof.
- (c) Loss arising out of improper or inadequate performance, design or specification but this exclusion shall be deemed not to apply to bodily injury or property damage as insured hereby resulting therefrom.
- (d) Loss of use of any Aircraft not actually lost or damaged in an accident giving rise to a claim hereunder.

**Section 4**

All sums that the Insured shall become legally liable to pay for:

- 1. Costs (but excluding levies for expenditure under Sections 44 and 45 and fines and penalties) incurred and apportioned by any Fire Authority under the Forest and Rural Fires Act 1977 or any amendment or replacing Act, and
- 2. Costs claimed by any other party in order to protect their property from fire.

ALL arising in connection with the Business of the Insured.

PROVIDED THAT

- (a) The liability of the Insurer under this section shall not exceed the amount specified in the Schedule;
- (b) The Insured shall bear the deductible specified in the Schedule in the aggregate for all sums payable to any

claimant or any number of claimants in respect of or arising out of any occurrence or in respect of or arising out of all occurrences of a series consequent on or attributed to one source or original cause.

This Section shall also:

- (c) apply whether Property Damage has occurred or not;
- (d) apply to machinery, plant, trailers or mechanically propelled vehicles (in so far as liability covered under this section is not otherwise insured).

**Exclusions applicable to all Sections of this Policy**

1. THIS POLICY DOES NOT COVER liability for bodily injury to any person, who at the time of sustaining such injury is a director or employee of the Insured or partner in the Insured's business whilst acting in the course of his or her employment with or duties for the Insured.
2. THIS POLICY DOES NOT COVER liability for any part of a claim in connection with the entitlement of a worker or employee to compensation in respect of loss of income or earnings by reason of any workers' compensation, employees' compensation, accident compensation, occupational health and safety or similar legislation other than a subrogation claim brought by an insurer to recover sums paid pursuant to such legislation, which is not otherwise excluded by this Policy.
3. THIS POLICY DOES NOT COVER the cost of making good any faulty workmanship for which the Insured, their employees, contractors or subcontractors may be liable (but this limitation shall not exclude resulting damage arising out of such faulty workmanship).
4. THIS POLICY DOES NOT COVER liability assumed by the Insured by Agreement under any Contract unless such liability would have attached to the Insured even in the absence of such Agreement.
5. THIS POLICY DOES NOT COVER claims caused by
  - (a) War, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, martial law, military or usurped power or attempts at usurpation of power.
  - (b) Any hostile detonation of any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.
  - (c) Strikes, riots, civil commotions or labour disturbances.
  - (d) Any act of one or more persons, whether or not agents of a sovereign Power, for political or terrorist purposes and whether the loss or damage resulting therefrom is accidental or intentional.
  - (e) Any malicious act or act of sabotage.
  - (f) Confiscation, nationalisation, seizure, restraint, detention, appropriation, requisition for title or use by or under the order of any Government (whether civil military or de facto) or public or local authority.
  - (g) Hi-jacking or any unlawful seizure or wrongful exercise of control of the Aircraft or crew in Flight (including any attempt at such seizure or control) made by any person or persons on board the Aircraft acting without the consent of the Insured.

Furthermore this Policy does not cover claims arising whilst the Aircraft is outside the control of the Insured by reason of any of the above perils. The Aircraft shall be deemed to have been restored to the control of the Insured on the safe return of the Aircraft to the Insured at an airfield not excluded by the geographical limits of this Policy, and entirely suitable for the operation of the

Aircraft (such safe return shall require that the Aircraft be parked with engines shut down and under no duress).

6. THIS POLICY DOES NOT COVER liability arising out of the operation of an airfield control tower unless previously agreed by Insurers.
7. THIS POLICY DOES NOT COVER liability to pay punitive, aggravated or exemplary damages or any fines or penalties.
8. THIS POLICY DOES NOT COVER liability arising out of the possession, handling, storage, sale, dealing in or distribution (by aircraft or otherwise) of agricultural fertilizers, chemicals, herbicides and/or insecticides.
9. THIS POLICY DOES NOT COVER liability arising out of the provision of advice, the failure to advise or any breach of any professional duty owed by the Insured or by the Insured's employees, agents or contractors.
10. THIS POLICY DOES NOT COVER liability arising out of, created or determined by the laws, statutes or tribunals of the United States of America.
11. THIS POLICY DOES NOT COVER claims which are payable under any other policy or policies of insurance except in respect of any excess beyond the amount which would have been payable under such other policy or policies had this Policy not been effected.
12. THIS POLICY DOES NOT COVER (in respect of ionising radiation or contamination by radioactivity from any nuclear fuel):
  - (i) loss of or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss
  - (ii) any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:
    - (a) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
    - (b) ionizing radiations or contamination by radioactivity from, or the toxic, explosive or other hazardous properties of, any other radioactive source whatsoever.
13. A. THIS POLICY DOES NOT COVER claims directly or indirectly occasioned by, happening through or in consequence of:-
  - (i) noise (whether audible to the human ear or not), vibration, sonic boom and any phenomena associated therewith,
  - (ii) pollution and contamination of any kind whatsoever,
  - (iii) electrical and electromagnetic interference,
  - (iv) interference with the use of property;
 unless caused by or resulting in a crash fire explosion or collision or a recorded in-flight emergency causing abnormal aircraft operation.

Where Section 3 is covered by this Policy exclusion A (ii) is deemed not to apply to pollution or contamination of a product sold or supplied by the Insured.

B. With respect to any provision in the Policy concerning any duty of the Insurer to investigate or defend claims, such provision shall not apply and the Insurer shall not be required to defend

- (i) claims excluded by Paragraph A or
- (ii) a claim or claims covered by the Policy when combined with any claims excluded by Paragraph A (referred to below as "Combined Claims").

C. In respect of any Combined Claims, the Insurer shall (subject to proof of loss and the limits of the Policy) reimburse the Insured for that portion of the following items which may be allocated to the claims covered by the Policy:

- (iii) damages awarded against the Insured and
- (iv) defence fees and expenses incurred by the Insured.

D. Nothing herein shall override any radioactive contamination or other exclusion clause attached to or forming part of this Policy.

14. THIS POLICY DOES NOT COVER death, injury, illness, loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

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

This exclusion also excludes death, injury, illness, loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to the above;

15. THIS POLICY DOES NOT COVER any actual or alleged liability whatsoever for any claim or claims in respect of loss or losses directly or indirectly arising out of, resulting from or in consequence of, asbestos in whatever form or quantity.
16. THIS POLICY DOES NOT COVER any liability for injury, loss or damage arising from:
- (a) the fuelling, refuelling or defuelling of aircraft
  - (b) the sale or supply of any aviation fuel or lubricant.
17. Each section of this Policy excludes liability which is or would be covered under any other section of the Policy, whether such other section is insured hereunder or not.

### Payment of Costs

In addition to the limits set out in the Schedule, the Insurer will pay all legal and other costs incurred with its written consent in the defence of any claim made against the Insured.

PROVIDED THAT:

In the event of the Insurer requiring any claim to be contested

- (a) If the claim be successfully resisted by the Insured the Insurer will pay all costs, charges and expenses incurred by the Insured in connection therewith up to but not exceeding the amount of indemnity under this Policy.

- (b) If a payment exceeding the amount of indemnity provided by this Policy has to be made to dispose of a claim, the liability of the Insurer to pay any costs, charges and expenses in connection therewith shall be limited to such proportion of the said costs, charges and expenses as the amount of indemnity provided by this Policy bears to the amount paid to dispose of the claim.

With respect to any coverage which is subject to an aggregate limit the Insurer shall not be obligated to defend any suit nor pay any costs or expenses after the aggregate amount of indemnity under this Policy has been exhausted and in this event the Insured shall have the right to take over control of proceedings from the Insurer.

### Definitions

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

1. ACCIDENT. The word "accident" shall be understood to mean an accident or series of accidents arising out of one event or occurrence.
2. STATUTORY REQUIREMENTS means legislation and delegated legislation (including applicable legislation and delegated legislation of another country) and orders, rules, directions, notices, approvals, certificates and licences issued by a competent authority.
3. FLIGHT. The term "in flight" means the time commencing with the actual take off run of the aircraft and continuing thereafter until it has completed its landing run.
4. INSURED means those specified in the schedule.
5. INSURER means Vero Liability Insurance Limited.

### General Conditions

1. Upon the happening of any accident likely to give rise to a claim under this Policy or upon the receipt by the Insured of notice of any claim or of any other subsequent proceedings, notice in writing with full particulars shall be given to the Insurer as soon as possible after the same shall come to the knowledge of the Insured or the Insured's representative. Every letter, claim, writ, summons or process shall be forwarded to the Insurer immediately on receipt by the Insured.
2. All notices as specified above shall be given by the Insured to the person(s) or firm named for the purpose in the Schedule.
3. If the Insured shall make any claim knowing the same to be false or fraudulent as regards amount or otherwise the Insurer shall be entitled to refuse the claim.
4. This Policy may be cancelled by either the Insurer or the Insured giving 30 days notice in writing of such cancellation. If cancelled by the Insurer it will return a pro rata portion of the premium in respect of the unexpired period of the Policy. If cancelled by the Insured a return of premium shall be at the discretion of the Insurer.
5. It is a condition of this Insurance that
  - (a) If after this Insurance has been effected, the risk is materially altered, such alterations must be notified in writing to the Insurer immediately.
  - (b) No liability shall be admitted and no admission, arrangement, offer, promise or payment shall be made by the Insured without the written consent of

the Insurer, who shall be entitled, if it so desires, to take over and conduct in the name of the Insured the defence of any claim or to prosecute in the name of the Insured for the Insurer's benefit any claim for indemnity or damages or otherwise against any third party, and shall have full discretion in the conduct of any negotiations or proceedings or the settlement of any claim, and the Insured shall give all such information and assistance as the Insurer may require.

- (c) The Insured shall and will at all times exercise reasonable care in seeing that the ways, implements, plant, machinery and appliances used in the Insured's business are substantial and sound and in proper order, and fit for the purpose for which they are used, and that all reasonable safeguards and precautions against accidents are provided and used.
  - (d) The Insured shall comply with all Statutory Requirements which affect the maintenance, repair, inspection and safe operation of the aircraft, the operation and conditions of places of work and the qualifications and supervision of engineers.
6. Notwithstanding the inclusion herein of more than one Insured, whether by endorsement or otherwise, the total liability of the Insurer in respect of any or all Insureds shall not exceed the limit(s) of liability stated in this Policy.
7. This Policy shall be construed in accordance with New Zealand Law and any dispute or difference between the Insured and the Insurer shall be submitted to a court in New Zealand for determination.
8. Where the Insured is liable to pay tax under the Goods and Services Tax Act 1985 (or any statutory amendment or re-enactment of the Act) on receiving any payment under this policy, the Insurer will cover the Insured for the cost of that tax. The amount payable under this clause is payable by the Company in addition to the amounts specified in the Schedule.

