

the cover

1. Indemnity for punitive or exemplary damages for personal injury

Vero Liability Insurance Limited (hereinafter referred to as "the Company") will indemnify the Insured against claims for punitive damages or exemplary damages made by, or on behalf of, a person who has suffered a Personal Injury resulting from an event in connection with the business of the Insured, or the Insured's ownership, occupancy or tenancy of a building, structure or land. The claims must be both:

- (a) Made against the Insured during the Period of Insurance; and
- (b) Notified to the Company during the same Period of Insurance

The Company will also indemnify the Insured against such claims for punitive damages or exemplary damages made against the Insured after the end of the Period of Insurance. However, the claims must arise from facts or circumstances that the Insured has notified to the Company during the Period of Insurance.

In this Policy Personal Injury means bodily injury, sickness, disability or disease. It includes death resulting from bodily injury, sickness, disability or disease. It also includes mental disability, mental shock, mental anguish and mental injury.

2. Indemnity for legal and other costs

The Company will indemnify the Insured against legal and other related costs incurred by the Insured, with the Company's prior written consent, in relation to investigating, settling or defending a claim indemnified under clause 1 of this Policy.

3. Limit of indemnity

The Company will only indemnify the Insured up to the Limit of Indemnity stated in the Schedule in respect of all claims (including legal and other related costs) in any one Period of Insurance.

4. Insured must pay excess in relation to each claim

The Insured must pay the Excess stated in the Schedule in respect of each claim indemnified by this Policy. If a claim involves more than one Personal Injury the Insured must pay an Excess in respect of each of them. Unless otherwise stated in the Schedule the Excess includes the Company's legal and related costs.

exclusions

The Company will not indemnify the Insured against the following claims:

1. Prior claims
Claims made, threatened, or in any way intimated against the Insured before the Period of Insurance commences.
2. Prior circumstances
Claims arising from a circumstance that at the time the Period of Insurance commences, the Insured realises, or should have realised, may give rise to a claim against the Insured.
3. Prior notification
Claims or circumstances which are disclosed on a proposal or which have been notified to any previous insurer (including the Company)
4. Retroactive liability date
Claims arising from Personal Injury or an event that caused personal injury where such personal injury or event occurred prior to the Retroactive Date specified in the Schedule.
5. Claims by employees
Claims arising from Personal Injury to any employee in or arising from the employment of the Insured.
6. Asbestos
Claims in respect 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.
7. Claims outside New Zealand
 - (a) Claims against the Insured brought outside New Zealand or any settlement or compromise of a claim entered into outside New Zealand.
 - (b) Claims arising out of the enforcement of a judgement, order or award obtained outside New Zealand.
 - (c) Claims arising out of any statement, action or omission of the Insured made, done or omitted outside New Zealand.
 - (d) Claims as a result of any judgement entered in any court, other than a New Zealand Court applying the law of New Zealand, or any debt incurred by the Insured as the result of such a judgement.
8. Contractually assumed liability
Claims arising out of liability assumed by a contract entered into by the Insured unless the Insured would still have had the same liability despite the contract.
9. Deliberate, intentional or malicious conduct
Claims arising directly or indirectly from wilful or malicious conduct of the Insured.
10. Dishonesty and fraud
Claims arising directly or indirectly from the dishonesty or fraud of the Insured.
11. Fines and penalties
Claims for fines and penalties imposed on the Insured. In this Policy this exclusion does not apply to awards for punitive or exemplary damages.

12. Professional Duty

Claims arising directly or indirectly from a breach of any duty owed in a professional capacity by the Insured or by persons for whose breach of duty the Insured may be legally liable.

13. Radiation

Claims directly or indirectly resulting from:

- (a) Ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.
- (b) The radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component of it.

14. War

Claims for death, injury, illness, loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

- (a) war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, insurrection, riot, civil commotion assuming the proportions of or amounting to an uprising, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property under the order of any government or public or local authority; or
- (b) any act of terrorism.

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 (a) and/or (b) above

15. Year 2000

Claims for any liability arising directly or indirectly from, or is in any way connected with, the fact that the performance or functionality of any Computer Equipment has been or may be affected because that Computer Equipment does not meet Year 2000 Conformity.

For the purpose of this exclusion the following additional Definitions apply:

- 1. "Computer Equipment" includes but is not limited to any or any combination or part of data, computer hardware, operating system, application, software, and computer chip including microprocessor chip or embedded control logic, and irrespective of by whom it is owned or operated.
- 2. "Year 2000 Conformity" means that neither performance nor functionality is affected by dates prior to, during, or after the Year 2000 and, in particular but without limitation, that:
 - 2.1 No value for current date will cause any interruption in operation;
 - 2.2 Date-based functionality must behave consistently for dates prior to, during and after Year 2000;
 - 2.3 In all interfaces and data storage, the century in any date must be specified either explicitly or by unambiguous algorithm, or inferencing rules;
 - 2.4 Year 2000 must be recognised as a leap year in terms of handling both 29 February and day 366;
 - 2.5 9 September 1999 must be recognised as that date.

The above definition of "Year 2000 Conformity" is based on a definition contained in a document published by Standards Australia and Standards New Zealand under reference no SAA/SNZ MP77:1998 and shall be interpreted in accordance with that document.

16. Wet Buildings

Claims for any liability for, or to fulfil any obligation in respect of Personal Injury which is directly or indirectly caused or contributed to or arises from:

- (i) moisture or water or the penetration of external moisture or water; or
- (ii) the action or effects of mould, fungi, mildew, rot, decay, micro-organisms, bacteria, protozoa or any similar or like forms; or
- (iii) 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.

In addition the Company shall not be liable 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 mould, fungi, mildew, rot, decay, micro-organisms, bacteria, protozoa or similar or like forms.

17. Prior Litigation

Claims for liability arising out of any litigation in existence at the commencement of the Period of Insurance.

conditions

INSURED'S DUTIES DURING THE PERIOD OF COVER

- 1. Duty to avoid and minimise claims
The Insured must do everything practicable to avoid or minimise any claim or Personal Injury.
- 2. Duty to comply with statutory obligations
The Insured must do everything practicable to comply with all statutory obligations
- 3. Duty to assist the Company
The Insured must:
 - (a) Give the Company all information and assistance the Company may reasonably ask for;
 - (b) Do everything practicable to preserve anything that may be useful as evidence in connection with a claim;
 - (c) Allow the Company, at all reasonable times, to inspect the property, buildings, plant, works and appliances owned or used by the Insured.

CLAIMS

1. Notice of claims or circumstances
As a condition precedent to the Insured's right to be indemnified under this Policy, the Insured must notify the Company as soon as possible in writing if:
 - (a) A claim is made against the Insured
 - (b) Someone gives the Insured notice that he or she intends to hold the Insured responsible for something the Insured have done, or have not done, which may give rise to a claim under this Policy; or
 - (c) The Insured becomes aware of any facts or circumstances which may give rise to a claim under this Policy.

This applies even if the claim is likely to be less than the Excess stated in the Schedule.
2. No admissions of liability, incurring costs or settling claims
The Insured must not:
 - (a) Admit liability;
 - (b) Incur any costs (other than first aid costs); or
 - (c) Settle or compromise a claim against the InsuredWithout the Company's prior written consent.
3. The Company has the right to take over proceedings/ negotiations
The Company is entitled to take over from the Insured (which shall be a condition precedent to the Insured's right to be covered under this Policy) the defence of a claim and to settle it (and any counter claim)
4. The Company's Liability if Insured doesn't settle claim when recommended
If the Insured objects to a settlement recommended by the Company, and wishes to continue to defend an action against the Insured, the Company is entitled to relinquish conduct of the Insured's defence and will not be liable if the Insured had agreed to the settlement.
5. Fraudulent Claims
The Company may avoid this Policy from its inception if the Insured, or anyone acting on the Insured's behalf, makes a fraudulent claim under this Policy.
6. Subrogation – The Company's rights of recovery
If the Company pays the Insured's claim under this Policy, the Company shall be subrogated to any rights of recovery the Insured may have against anyone else. The Insured must give the Company all assistance the Company reasonably requires in exercising those rights. The Insured must do everything necessary to preserve any rights the Insured may have against someone else.

MORE THAN ONE INSURED

1. Application of indemnity
Where more than one party is included as the Insured, indemnity applies as though individual policies have been issued to each party. However, the limit of indemnity for the Insured collectively remains as stated in the Schedule.
2. Application of statements and declarations in proposal
The proposal for this Policy will be construed as a separate application for coverage by each of the Insured (if more than one). No declaration or statement in the proposal for this insurance, or knowledge possessed by any Insured, will be imputed to any other Insured for the purposes of deciding the availability of coverage with respect to claims made against any Insured.

CANCELLATION

The Company or the Insured may cancel this Policy at any time by notifying the other in writing at the other's last known address. Cancellation is effective immediately by delivery of the notice to the Insured or the Company by hand, courier, facsimile or transmitted electronically. Notice of cancellation sent by post is effective from 4pm on the 14th day after it is posted.

If the Company cancels the Policy, it will refund the Insured a pro rata proportion of the premium for the unexpired Period of Insurance to the Insured.

If the Insured cancels the Policy, the Company will refund the proportion of the premium to the Insured for the unexpired Period of Insurance, calculated at the Company's customary short period rates.

If this Policy is cancelled by either the Insured or the Company, the Insured must provide to the Company all details the Company may require to decide what proportion of premium is to be refunded to the Insured.

PREMIUM

Insured must pay premium

The Insured must pay the Company the premium stated in the Schedule within the agreed period. Until the Insured has paid the premium to the Company, the Company does not have to indemnify the Insured for any claim under this Policy. If the Insured does not pay the premium to the Company within the agreed period, the Company may avoid this Policy from its inception.

MISCELLANEOUS

1. Schedule must be signed for Policy to be valid
This Policy is only valid if an authorised officer of the Company signs the attached Schedule. However, if the Insured have paid the premium to the Company and the Schedule hasn't been signed, the Company can choose to sign the Schedule or to return the premium to the Insured.

Note: In some circumstances the Company will authorise other parties to sign on its behalf. In these circumstances such other parties will sign subject to a specific authorisation granted by the Company.
2. Other Insurance
If at the time of any claim under this Policy, there is any other valid and collectable insurance covering all or part of the same claim, this Policy will apply only to the amount of the claim over that recoverable under the other insurance, subject to the Excess stated in the Schedule.
3. Waiver of conditions
Except as provided at law, nothing in this Policy can be varied, waived, discharged or released without the Company's prior written consent.
4. Restriction on Assignment
Any interest in this Policy, can only be assigned by the Insured with the Company's prior written consent.

5. Law that Applies

This Policy is issued in New Zealand. The laws of New Zealand apply to it. Any arbitration or court proceedings that arise in relation to this Policy must be brought and heard in New Zealand.

6. Waiver of Privilege

If the Company instructs any lawyer to investigate or defend any claim against the Insured, the Insured authorises the lawyer to provide to the Company any documents, information or advice in respect of the claim, including in relation to indemnity; and the Insured waives any privilege to the extent necessary to give full effect to the Company's entitlement in this respect.

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