

**Policy** Wording

# Personal Directors & Officers Liability



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### Insuring Clause

In consideration of the payment of premium and based upon the proposal and/or declaration furnished by you (which is deemed to be incorporated within the Policy), we will indemnify you against Loss and Legal Expenses incurred with our prior written consent, such consent not to be unreasonably withheld, arising from any claim or claims first made against you, and notified to us, during the Period of Insurance by reason of any Wrongful Act, subject to:

- 1.1 the limit of our liability referred to in the Schedule;
- 1.2 the exclusions set out in Clauses 3.1 to 3.12;
- 1.3 the conditions set out in Clauses 4.1 to 4.12;
- 1.4 the application of the Deductible referred to in the Schedule and in Clause 4.8.

### Extension of Cover

2. Upon payment of a premium calculated at one half of our usual rate, and subject to the terms, conditions and exclusions of this Policy, we may at our discretion offer renewal of this Policy after you have ceased to be a Director of any company where we have previously insured the Directorship.

### Exclusions

We shall not be liable to make any payment under this Policy in respect of or arising out of:

#### Fraud

- 3.1 Any act or omission committed with criminal, fraudulent or dishonest purpose or intent, if a legal judgment or other legal determination establishes that there was criminal, fraudulent or dishonest conduct by the Insured.

#### Injury

- 3.2 Any claim made against you arising out of injury, disease or death of any of your employees or of any person who is deemed under any applicable law to be your employee.

#### Pollution

- 3.3 Any claim made against you arising out of seepage, pollution or contamination unless:
  - 3.3.1 such seepage, pollution or contamination is caused by a sudden unintended and unexpected event, and
  - 3.3.2 no claim has been or can be successfully made either in part or in whole against any company or other party arising out of the same seepage, pollution or contamination.

#### Territorial Limits

- 3.4 Any claim or legal proceedings made, commenced or brought outside the Territorial Limits, or any order made within the Territorial Limits to enforce any judgement or award made outside the Territorial Limits.

#### Criminal Prosecution

- 3.5 Any claim made against you as a result of any criminal prosecution that has been deliberately or intentionally solicited by you unless the action is required to discharge duties of the director/officer as defined in the relevant Companies and/or Securities legislation.

#### Prior Circumstances

- 3.6 Any act, omission or dispute whether actual or alleged which occurred prior to the Period of Insurance and which you knew or ought reasonably to have known was likely to give rise to a claim being made or legal proceedings being brought against you.

#### Punitive Damages

- 3.7 Fines, penalties, punitive or exemplary damages of any kind.

### Property Damage

- 3.8 Loss or destruction of or damage to any property whatsoever or any loss or expenses whatsoever resulting or arising therefrom or any consequential loss, or any legal liability of whatsoever nature, directly or indirectly caused by or contributed to by or arising from:
  - 3.8.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from combustion of nuclear fuel;
  - 3.8.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof
  - 3.8.3 (i) 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
    - (ii) arising from 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 governments(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 (i) and/or (ii) above;

### Professional Duty

- 3.9 Any claim arising from a breach of any professional duty provided that this exclusion does not apply to the breach or alleged breach of any duty owed as a Director.

### Asbestos

- 3.10 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.

### Retroactive Date

- 3.11 Any Wrongful Act committed, attempted or allegedly committed or attempted prior to the Retroactive Date referred to in the Schedule.

### Wet Buildings

- 3.12 Any liability for, or fulfil any obligation in respect of any claim or defence costs, which are directly or indirectly caused by or contributed to, or arises directly or indirectly out of:
  - (a) the action or effects of mould, fungi, mildew, rot, decay, gradual deterioration, micro-organisms, bacteria, protozoa or any similar or like forms, in any building or structure; or
  - (b) any cost or expense arising out to 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, gradual deterioration, micro-organisms, bacteria, protozoa or 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 relation to:

- (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.

## Conditions

### Reasonable Care

- 4.1 You must take all reasonable precautionary measures to avoid or lessen the chance of any claim being made or any legal proceedings being instituted. You shall not pursue a course of action which you know or ought reasonably to know will bring about any claim or legal proceedings unless this is undertaken to discharge your duties as defined in the relevant Companies and/or Securities legislation or Common Law duties.

### Notice

- 4.2 You must give written notice to us as soon as possible after you become aware of any claim or any circumstances which may give rise to a claim under this policy. Every letter, claim, writ, summons or process must be forwarded to us immediately it is received.

### Conduct

- 4.3 You must not make or give any admission, offer, promise or payment without our written consent. We are entitled to take over and conduct in your name or to prosecute in your name for our own benefit any claim for indemnity or damages or otherwise. We shall have full discretion in the conduct of any proceedings and in the settlement of any claim and you must give all such information and assistance as we may reasonably require.

### Fraud

- 4.4 If any claim, in whole or in part, is intentionally exaggerated or is in any other respect fraudulent, all benefit in respect of such fraudulent claim shall be forfeited.

### Limit of Liability

- 4.5 We may at any time pay to you in connection with any claim or series of claims under this policy the amount of the limit of liability. Upon such payment being made, we shall relinquish the conduct and our control of such claim or claims and we shall have no further liability under this Policy.

### Circumstances

- 4.6 If you notify us in writing during the Period of Insurance of any circumstances which might give rise to a claim we shall treat any subsequent claim in respect of the circumstances so notified as though the claim had been made during the Period of Insurance.

### Limit of Liability

- 4.7 The limit of our liability in the aggregate with respect to all indemnity granted during anyone annual Period of Insurance shall be as stated in the Schedule.

### Deductible

- 4.8 You shall bear the amount shown as the Deductible in the Schedule in respect of each claim.

### Recovery

- 4.9 In the event Exclusion Clause 3.1 applies we shall have the right to recover from you all Legal Expenses which we may have paid.

### Cancellation

- 4.10 We may cancel this Policy at any time by giving you notice in writing and such cancellation shall take effect 30 days after the date of such notice.

- 4.11 You may cancel this Policy at any time by giving us notice in writing stating when such cancellation shall take effect.

- 4.12 If you cancel this insurance any refund of premium shall be calculated at our customary short-term rates. If we cancel this insurance any refund will be calculated on a pro-rata basis.

## Definitions

For the purposes of this Policy the following definitions apply:

### We/our/us

- 5.1 means Vero Liability Insurance Limited

### You/your

- 5.2 means the Insured Person(s) named in the Schedule.

### Director/Officer

- 5.3 means a director of a company; a chief executive officer, a company secretary; or a trustee

### Period of Insurance

- 5.4 means the period specified in the Schedule.

### Legal Expense

- 5.5 means:
- 5.5.1 Any legal expenses and other disbursements necessarily and reasonably incurred for claims or proceedings brought against you including costs and expenses of expert witnesses in connection with any such claims or proceedings.
  - 5.5.2 Any costs incurred by persons other than you in so far as you are liable to pay such costs in any proceedings by reason of an order of any Court, Arbitrator or Tribunal.
  - 5.5.3 Any legal expenses and other disbursements necessarily and reasonably incurred in appealing or resisting an appeal from the judgement or determination of a Court, Arbitrator or Tribunal.
  - 5.5.4 Costs, charges and expenses reasonably incurred by you in obtaining legal representation at, or legal advice in respect of an official investigation, examination or other proceedings ordered or commissioned by a competent authority including a Board or Tribunal or professional body.

### Loss

- 5.6 means such sums as you shall become legally liable to pay by reason of any Wrongful Act but shall not mean fines, penalties, punitive or exemplary damages.

### Wrongful Act

- 5.7 means any act, error, misstatement, misleading statement, omission, neglect or breach of duty or breach of warranty of authority; attempted or allegedly made, committed or attempted by you, individually or otherwise, in the course of your duties or solely by reason of your serving as a Director or Officer of the company/companies referred to in the Schedule.

### Territorial Limits

- 5.8 means the limits stated in the Schedule.

### Company

- 5.9 means the company or companies listed in the Schedule and shall be deemed to include those companies which are subsidiaries as defined at law.