

## insuring clause

In consideration of the payment of premium and in reliance on the written proposal and declaration and any other information provided which shall be deemed to be the basis of this Policy and subject to its terms, deductibles, conditions, exclusions, warranties and endorsements, Vero Liability Insurance Limited ("the Company") will indemnify the Insured for:

- (a) such amounts as the Insured shall become legally liable to pay by reason of claims made in respect of Damage to Property occurring during the Period of Insurance whilst stored or held under the Insured's custody and control at Insured Locations;
- (b) any reasonable and necessary expenses incurred by the Insured with the Company's permission during or after the happening of Damage to mitigate Loss or to protect, preserve or recover any Property.

In addition the Company agrees to pay the costs and expenses incurred at its direction or with its written consent, in the defence of any such claim, provided always that if a payment in excess of the Limit of Indemnity has to be made to settle or dispose of any claim the Company's liability for such costs and expenses shall be such proportion thereof as the Limit of Indemnity bears to the amount payable to settle or dispose of the claim.

## definitions

"Insured" means the Insured(s) named in the Schedule including:

- (a) all subsidiaries (including any newly acquired) and/or other entities under the Insured's sole control, direction and/or management,
- (b) any director, employee, partner or shareholder of the Insured but only whilst acting within the scope of their duties in such capacity.

"Damage" means direct physical loss of, destruction of or damage to Property which is neither expected or intended by the Insured.

"Property" means any physical property belonging to others stored or held by the Insured under its care, custody or control at an Insured Location.

"Insured Location" means storage facilities as declared to and approved by the Company, situated as specified in the Schedule.

"Limit of Indemnity" means the amount stated in the Schedule for each Insured Location which shall be the Company's limit of liability for each Loss at that Location and in the aggregate for all Losses at that Location during any one Period of Insurance.

"Policy Limit" means the amount stated in the Schedule which shall be the Company's aggregate Limit of Indemnity for all Losses during any one Period of Insurance.

"Loss" means the amount required to settle or dispose of any claim hereunder

"Policy" means this document, its Schedule and any Endorsements thereto.

"Period of Insurance" means the Period of Insurance stated in the Schedule.

## deductible

Deductible is the amount stated in the Schedule which sum shall be deducted from each Loss.

## exclusions

1. There is no indemnity under this Policy for Damage to Property arising from:

- (a) rust, wear and tear, gradual deterioration, moths, vermin, inherent vice;
- (b) any process of repair, restoration, alteration, servicing or testing;
- (c) the wilful or wrongful sale, conversion, secretion or disposal of Property by the Insured;
- (d) forged or falsified warehouse receipts and/or dispatch notes;
- (e) the infidelity or dishonesty of the Insured or its employees, contractors or of any person or entity to whom the Insured has entrusted or allowed access to the Property;
- (f) Property shortages or mysterious disappearance of Property discovered or revealed by the taking of an inventory or arising from clerical, book-keeping or accounting errors either manual or electronic.

2. There is no indemnity under this Policy for Damage to Property comprising grain and /or rice caused by its natural shrinkage or moisture content.

3. This Policy does not apply to any liability:

- (a) for money, notes, securities, bills, deeds, promissory notes and other evidences of debt;
- (b) for delay, loss of market or any other consequential loss;
- (c) assumed by the Insured under any agreement, oral or written, unless specifically approved by the Company or to the extent that the Insured would be liable in the absence of such agreement;
- (d) arising from litigation in existence at the commencement of the Period of Insurance.

4. This Policy does not apply to:

- (a) 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:
- 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;
  - ii. 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 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;

- (b) Damage directly or indirectly caused by or contributed to by or arising from ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
- (c) any actual or alleged liability whatsoever for any claim or claims in respect of Loss directly or indirectly arising out of, resulting from or in consequence of, asbestos in whatever form or quantity;
- (d) any liability for, or to 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:
- (i) 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
  - (ii) 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
  - (iii) 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:
    - (a) external water or moisture; or
    - (b) either durability or protection from external water or moisture entering that building or structure, or the effects thereof.

## warranty

### Temperature Controlled Storage

It is warranted by the Insured as a condition precedent to indemnity that temperature control systems and machinery will be inspected and serviced at prudent intervals by a reputable maintenance or servicing engineer and in the event of Damage for which a claim is received, proof of such inspection and servicing shall be made available to the Company.

## conditions

### 1. Inspection

Any authorised representative of the Company shall be entitled to inspect any Insured Location, its plant, equipment and works and the Insured shall permit access to premises at any reasonable time upon reasonable notice. In exercising this Condition, the Company assumes no responsibility or liability beyond its undertakings under the Policy.

### 2. Notice of Claims

The Insured shall give the Company immediate written notice, with full particulars of:

- (a) any claim(s) made against the Insured in respect of Damage which may be indemnifiable under the Policy;
- (b) any circumstances which could give rise to a claim under the Policy.

### 3. Claims Co-operation

It shall be a condition precedent to the Insured's right to indemnity under the Policy, that in event of any claim(s) for which indemnity may be sought:

- (a) the Insured shall make no admission of liability to any party nor make any offer of settlement;
- (b) the Insured shall co-operate with the Company in the defence of any claim(s) or proceeding(s) including the provision of all relevant documentation, files or records;
- (c) the Company shall be entitled to take over and conduct in the name of the Insured the defence and/or settlement of any claim or counterclaim;
- (d) upon the Company's request the Insured shall attend hearings and trials and shall assist in any in achieving settlement by securing and giving evidence and obtaining the attendance of witnesses at any proceedings.

4. **Waiver of Privilege**  
Where the Company instructs a lawyer to investigate or defend any claim(s) under this Policy 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.
5. **Subrogation**  
The Company in agreeing to indemnify the Insured shall be subrogated to all of the Insured's rights of recovery against any person or entity and the Insured shall execute and deliver instruments or papers and take any necessary steps to secure such rights and shall in no way prejudice such rights.
6. **Fraudulent Claims**  
If the Insured makes any claim for indemnity under the Policy knowing the same to be false, fraudulent or exaggerated in any way the Policy shall become null and void and any claim(s) shall be forfeited.
7. **Non-Contribution**  
The Policy does not apply to any claim for which at the time of Damage there is/are other insurance(s) in force under which indemnity is available to the Insured except to the extent that the Policy provides Indemnity beyond that available under the other insurance(s).
8. **Goods and Services Tax**  
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 indemnity payment under this Policy, the Company will reimburse the Insured for the cost of that tax. The reimbursement amount shall be in addition to any Limit of Indemnity or indemnity payment.
9. **Cancellation**  
The Insured may cancel this Policy at any time with immediate effect by giving written notice to the Company. The Company will then retain 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, and will refund the unearned balance to the Insured. The Company may cancel this Policy at any time by giving written notice to the Insured or to the Insured's broker. The notice must be delivered personally or by a method that requires confirmation of delivery. The cancellation will take effect at 4 p.m. on the 30th day after the notice has been issued. The Company will then refund to the Insured a pro-rata proportion of the premium less 10%, subject to any adjustment required by the terms of this Policy or any minimum premium applicable.

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