



Zurich Statutory Liability Insurance

Policy Wording



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Welcome to Zurich

About Zurich

The insurer of this product is Zurich Australian Insurance Limited, ABN 13 000 296 640 (ZAIL incorporated in Australia) trading as Zurich New Zealand. In this policy wording, Zurich New Zealand may also be expressed as 'Zurich', 'we', 'us' or 'our'.

ZAIL is part of the Zurich Insurance Group, a leading multi-line insurer that serves its customers in global and local markets. Zurich provides a wide range of general insurance and life insurance products and services in more than 210 countries and territories. Zurich's customers include individuals, small businesses, and mid-sized and large companies, including multinational corporations.

Important information

This policy is a 'Claims Made and Notified' liability insurance policy. It only provides cover if:

1. Arising out of an *offence* that occurs during the *period of insurance* and is notified to us during the *period of insurance*; and
2. The claim arises out of an *event* which takes place after the *retroactive date* stipulated in the *schedule*.

Duty of Disclosure

Before *you* enter into a contract of general insurance with us, *you* have a duty to disclose to us every matter *you* know, or could reasonably be expected to know, that we would want to take into account in deciding whether to insure *you* and, if so, on what terms. This applies to all persons to be covered under this contract of insurance.

You have the same duty to disclose those matters to us before *you* renew, extend, vary or reinstate a contract of general insurance. *Your* duty however, does not require disclosure of a matter that:

- diminishes the risk to be insured;
- is common knowledge;
- we know or, in the ordinary course of our business, ought to know; or
- we indicate to *you* that we do not require to know.

Non-disclosure or Misrepresentation

If *you* do not comply with this duty of disclosure or if *you* make a misrepresentation to us, we may, subject to policy terms and conditions, treat the policy as if it never existed.

Our contract with you

Your policy is a contract of insurance between *you* and Zurich and contains all the details of the cover that we provide.

Your policy is made up of:

- the policy wording. It tells *you* what is covered, sets out the claims procedure, exclusions and other terms and conditions of cover;
- the proposal, which is the information *you* provide to us when applying for insurance cover;
- *your* most current policy *schedule* issued by us. The policy *schedule* is a separate document unique to *you*, which shows the insurance details relevant to *you*. It includes any changes, exclusions, terms and conditions made to suit *your* individual circumstances and may amend the policy; and
- any other written change otherwise advised by us in writing (such as an endorsement). These written changes vary or modify the above documents.

Please note, only those covers shown in *your* policy *schedule* are insured.

This policy wording is used for any offer of renewal we may make, unless we tell *you* otherwise. Please keep *your* policy in a safe place. We reserve the right to change the terms of this policy wording where permitted to do so by law.

Zurich Statutory Liability Insurance

In consideration of the *insured* having paid or agreed to pay the premium, Zurich, on the basis of all information provided to us, agrees with the *insured* to provide insurance as follows, subject to the provisions of this policy and on the basis that this policy shall not be in force unless it has been signed by an authorised Zurich official.

1. Insuring Clauses

1.1 Statutory liability

We will pay any *fine* payable by *you* for an *offence* under any *Act of Parliament* in connection with the *business*.

1.2 Defence costs

We will pay any *defence costs* incurred by *you* in relation to *your* defence.

2. Extensions of Cover

2.1 Additional defence costs

Subject to the terms and conditions of this policy, if it is alleged that *you* have knowingly, wilfully or intentionally breached an *Act of Parliament*, we will pay *defence costs* incurred by *you* in relation to *your* defence but only if *you* are *acquitted*. For the purposes of the cover under this extension, Exclusion 5.5.1 does not apply.

2.2 Enforceable undertakings

Subject to the terms and conditions of this policy, we will cover *you* for the following costs in respect to an enforceable undertaking accepted by the regulator under Section 123 of the Health and Safety at Work 2015, and arising out of an *event* covered under this policy, always subject to our prior consent by us:

- (a) any payment of reparations paid to the victim(s) of the contravention; and
- (b) reasonable *defence costs* incurred in the drafting and preparation of the enforceable undertaking,

Provided that:

- 2.2.1 the *event* has resulted in a charging document being filed under the Health and Safety at Work 2015 or its regulations; and
- 2.2.2 the payment of amends to the victim will not exceed the amount we would expect to pay to cover a reparation order at sentencing; and
- 2.2.3 the amount payable overall under this Extension of Cover will not exceed the amount we would expect to pay had *you* been convicted and sentenced.

There is no cover under this Extension of Cover for:

- (i) any costs associated with the regulators administration fee; or
- (ii) any costs in connection with compliance, rectifications, consultation, improvements, training, donations, remedial actions or otherwise meeting the enforceable terms of the enforceable undertaking; or
- (iii) any costs associated with compliance monitoring activities for the enforceable undertaking; or
- (iv) any amount payable to any party, other than the victim (or their estate in the event of death) under the definition of victim under the Sentencing Act 2002 (or equivalent definition in a succeeding *Act of Parliament*) had the *event* resulted in a conviction; or
- (v) any *finer* or *defence costs* that may arise from *your* failure to comply with or cause *you* to be in contravention of terms contain in the enforceable undertaking; or
- (vi) any expert costs incurred in the drafting and preparation of the enforceable undertaking without our prior consent.

2.3 Extended reporting period

If we refuse to renew this policy, *you* may, upon payment of an additional premium of 100% of the full annual premium payable for the expiring *period of insurance*, extend the cover under this policy for a further 12 months from the date of expiry.

Provided that:

- 2.3.1 this option to extend the policy must be notified in writing to us within 30 days of the date of expiry;
- 2.3.2 the extension only applies in respect of a circumstance reasonably expected to result in an offence before the expiry date;
- 2.3.3 an offer by us of any renewal terms or premiums different from expiring terms or premiums does not constitute a refusal to renew;
- 2.3.4 the *limit of liability* under this extension is part of and not in addition to the *limit of liability* specified in the *schedule*.

2.4 Newly created or acquired subsidiary

If any *subsidiary* is created or acquired by *you* after the inception of this policy, *your* new *subsidiary* will be included.

Provided that:

- 2.4.1 written notice of such creation or acquisition is given to us together with appropriate underwriting information and the payment of any additional premium required by us;
- 2.4.2 in respect of acquisitions, cover granted under this policy only applies to an *event* both discovered by *you* after the date of such acquisition and suffered after the *retroactive date*, and for which *you* have agreed to cover any such *subsidiary*.

2.5 Official investigations

Subject to the terms and conditions of this policy, we will pay *your civil defence legal costs* in relation to any inquiry involving *you*.

2.6 Subsidiary change of ownership

2.6.1 In the event that an entity ceases to be a *subsidiary* during the *period of insurance*, cover under this policy with respect to such *subsidiary* will continue until the expiry date of the *period of insurance*.

Provided that such cover will only apply in respect of an *event* that occurred after the *retroactive date* or the date of creation or acquisition by *you* (whichever is the later), and until the date such entity ceased to be a *subsidiary*.

2.6.2 Where the entity has ceased to be a *subsidiary* because it is acquired by a third party, then this extension will only apply where *you* have agreed to retain a continuing obligation to indemnify the third party arising out of an *event* that has taken place whilst it was a *subsidiary*.

3. Definitions

3.1 Acquitted

acquitted means the dismissal of charges before or after a defended hearing or trial, or entry of a not guilty verdict (but does not include the disposition of a charge pursuant to a plea bargain where multiple information's have been laid).

3.2 Act of Parliament

Act of Parliament means any Act of the New Zealand Parliament including amendments to or re-enactments of those Acts, and any Code or Regulations or other subordinate legislation made under those Acts, but does not include Acts within Exclusion 5.7 'Excluded Acts'.

3.3 Act of terrorism

act of terrorism means any act, or preparation in respect of action, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological or similar purposes to intimidate the public or a section of the public of any nation 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) de jure or de facto, and which:

- 3.3.1 involves violence against one or more persons;
- 3.3.2 involves damage to property;
- 3.3.3 endangers life other than that of the person committing the action;
- 3.3.4 creates a risk to health or safety of the public or a section of the public; or
- 3.3.5 is designed to interfere with or to disrupt an electronic system.

3.4 Business

business means all *your* activities and operations stated in the *schedule*.

3.5 Change in control

change in control means an event or events occurring, with the result that any person, entity or group:

- 3.5.1 acquires more than 50% of the *insured's* share capital;
- 3.5.2 acquires the majority of the voting rights in the *insured*;
- 3.5.3 assumes the right to appoint or remove the majority of the board of directors (or equivalent position) of the *insured*;
- 3.5.4 assumes control pursuant to written agreement with other shareholders over the majority of the voting rights in the *insured*; or
- 3.5.5 merges with the *insured*, such that the *insured* is not the surviving entity.

3.6 Civil defence legal costs

civil defence legal costs mean the legal costs and expenses, including witness costs and expenses, necessarily and reasonably incurred in relation to:

- 3.6.1 a formal inquiry by a regulatory body, which could lead to a prosecution for an *offence*;
- 3.6.2 proceedings before a Human Rights or Privacy Complaints Review Tribunal.

3.7 Deductible

deductible means in respect of:

- 3.7.1 the *insured* named in the *schedule* and its *subsidiaries*;
- 3.7.2 a natural person insured under this policy who is a trustee, director, officer, sole trader, partner or employee of the *insured* named in the *schedule* or its *subsidiaries*,

the applicable amount specified in the *schedule you* first bear in relation to each *event*, specified in the *schedule* or elsewhere in this policy. The *deductible* applies to all amounts payable under this policy.

3.8 Defence costs

defence costs mean the legal costs and expenses, including witness costs and expenses, necessarily and reasonably incurred with our prior consent, in investigating and/or defending any prosecution or threatened prosecution alleging the commission of an *offence*.

3.9 Event

event means any act or omission in the course of the *business* that gives rise, or may give rise, to a prosecution for an *offence*, a formal inquiry by a regulatory body, which could lead to a prosecution for an *offence*, or proceedings before a Human Rights or Privacy Complaints Review Tribunal.

3.10 Fine

fine means any fine or costs assessed by a court pursuant to any statute, upon conviction for an *offence*, for which we may legally indemnify *you*. This does not include a *fine* imposed pursuant to the Health and Safety at Work Act 2015, but this definition is extended to include a sentence of reparation imposed following a conviction under that Act.

Fine does not include any pecuniary penalty, damages, compensation or other sums ordered by a court.

3.11 Inception date

inception date means the commencement date of the *period of insurance* stated in the *schedule*.

3.12 Limit of liability

limit of liability means the Limit of Liability stated in the *schedule*.

3.13 Offence

offence means any information alleging the commission by *you* of an offence under an *Act of Parliament*, for which *you* are liable to a *fine* if convicted.

3.14 Period of insurance

period of insurance means the Period of Insurance stated in the *schedule*.

3.15 Retroactive date

retroactive date means the Retroactive Date stated in the *schedule*.

3.16 Schedule

schedule means the Schedule attaching to and forming part of the policy, including any *schedule* substituted for the original *schedule*.

3.17 Securities

securities mean any bond, debenture, note, share, stock, American Depository Receipts or other equity or security for debt which is issued or given by the company, and includes any certificate of interest or participation in, receipt for, warrant or other right to subscribe to or to purchase, voting trust certificate relating to, or other interest in any of the foregoing items.

3.18 Subsidiary

subsidiary means a company or legal entity in respect of which *you* directly or indirectly:

3.18.1 control or controlled the composition of the board of directors; and/or

3.18.2 control or controlled more than half of the voting power; and/or

3.18.3 hold or held more than half of the issued share capital or other ownership of the entity,

and in any event includes any company or legal entity whose financial accounts are required to be consolidated with those of the named *insured* pursuant to the New Zealand Company Law or the applicable New Zealand Accounting Standards.

3.19 You, Your, Insured

you, your, insured means:

3.19.1 the Insured named in the *schedule*; or

3.19.2 any *subsidiary* of the Insured described in 3.19.1,

and includes any person who is, or was at the time of the *event*, a trustee, director, officer, sole trader, partner or employee of *yours*.

4. Limit of liability

Our liability to indemnify *you* for all *events* under this policy is limited in the aggregate to the amount specified in the *schedule* applicable for the *period of insurance* within which *you* have, or should have, first notified us of the *event*.

Where an *event* is alleged to have taken place on, over or between a number of specified dates, which fall within more than one *period of insurance*, for the purposes of the applicable *limit of liability* and *deductible*, the *event* will be treated as if it occurred in the *period of insurance* in which *you* have, or should have, first notified us of the *event*.

The most we will pay in total for all *defences costs* incurred during the *period of insurance* is the *limit of liability*. The *deductible* will be borne by *you* in respect of each and every *event*.

5. Exclusions

We will not pay anything in respect of:

5.1 Asbestos

any liability of whatsoever nature in connection with, directly or indirectly caused by or contributed to by or arising from asbestos or asbestos products in whatever form or quantity.

5.2 Aggravated, Punitive or Exemplary damages

any damages, including and exemplary, punitive, liquidated or aggravated damages imposed by a Court for the breach on any *Act of Parliament*.

5.3 Building defects

any liability of whatsoever nature in connection with, any building or structure being affected by:

5.3.1 moisture or water or the penetration of external moisture or water;

5.3.2 the action or effects of mould, fungi, mildew, rot, decay, micro-organisms, bacteria, protozoa or any similar or like forms;

5.3.3 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. This expressly includes the requirements of the New Zealand Building Code contained in the first schedule to the Building Regulations 1992 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.

In addition we will 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.

5.4 Daily continuing offences

5.4.1 the cost or payment of any abatement, enforcement order, remedial order or compliance order;

5.4.2 failing to comply with an abatement, compliance, enforcement or remedial notice or order;

5.4.3 any *fine* imposed in relation to a daily continuing *offence* where the *fine* is imposed in relation to a period of time after *you* first received notice from the informant or his employing body of the intention to commence a prosecution in relation to that *offence*.

5.5 Deliberate disregard

the prosecution for an *offence* which has allegedly resulted from the:

- 5.5.1 deliberate or reckless disregard by *you* of any of the provisions of any *Act of Parliament* which *you* are alleged to have contravened;
- 5.5.2 *you* instructing another person to discharge one or more of *your* obligations under any of the provisions of the *Act of Parliament* and failing to take all reasonable steps to ensure that *your* obligations were discharged as instructed;
- 5.5.3 failure by *you* to comply with any lawful abatement notice or enforcement order, improvement notice, prohibition notice or suspension notice, building consent, Notice to Rectify, Compliance Schedule, Gazetted Notice, or order made by a Human Rights or Privacy Review Tribunal.

5.6 Dishonest acts

any *event* actually or allegedly brought about or contributed to, by any dishonest, fraudulent or malicious act or omission by or on *your* behalf.

5.7 Excluded Acts

any *fine* under, and any *defence costs* or *civil defence legal costs* payable in relation to:

- 5.7.1 Arms Act 1983;
 - 5.7.2 Aviation Crimes Act 1972;
 - 5.7.3 Crimes Act 1961;
 - 5.7.4 Criminal Investigations (Blood samples) Act 1995;
 - 5.7.5 Criminal Proceeds (Recovery) Act 2009;
 - 5.7.6 Land Transport (Road Safety and Other Matter) Amendment Act 2011;
 - 5.7.7 Misuse of Drugs Act 1975;
 - 5.7.8 Summary Offences Act 1981;
 - 5.7.9 Land Transport Act 1998; or
 - 5.7.10 Anti-Money Laundering and Countering Financing of Terrorism Act 2009,
- and any other *Act of Parliament* specified in the *schedule* as a further Excluded Act.

5.8 Orders and Costs

- 5.8.1 any order for payment of costs made under the Commissions of Inquiry Act 1908;
- 5.8.2 any court order in the nature of damages or compensation, except a sentence of reparation following a Health and Safety at Work Act prosecution;
- 5.8.3 any action, proceeding, inquiry, investigation or prosecution taken against *you* by the Inland Revenue Department or any other revenue collecting authority.

5.9 Personal grievances

any contract of service with any current, former or prospective employee, including any personal grievance or similar action by an employee, but this exclusion does not apply to any investigation or inquiry by WorkSafe New Zealand pursuant to the Health and Safety at Work Act 2015.

5.10 Prior and pending

any *event* after the *retroactive date* but before the *inception date*, if *you* knew, or ought reasonably to have known, of the *event* and failed to notify the *event* to us before the *inception date*.

5.11 Private prosecutions

any investigation of or defence of any action, proceeding, inquiry, investigation or prosecution taken against *you* by a person other than the statutory authority or enforcement agency given that responsibility under the relevant *Act of Parliament*, but this exclusion does not apply to any private prosecution brought under the Health & Safety at Work Act 2015 or any amendment to or re-enactment of that Act or regulations or other subordinate legislation made under that Act.

5.12 Radioactive contamination

5.12.1 any ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. For the purpose of this Exclusion combustion includes any self-sustaining process of nuclear fission;

5.12.2 any nuclear weapons material.

5.13 Securities

any actual or alleged offence under an *Act of Parliament* in relation to the offer, sale or distribution of *securities*.

5.14 Taxes

any *event* or act or omission in connection with a requirement to pay taxes, rated, duties, levies, charges fees or any other kind of revenue under an *Act of Parliament*.

5.15 Territorial limits

any liability suffered outside of New Zealand and from any judgment brought in any Court outside of New Zealand.

5.16 War, Act of terrorism

any death, injury, illness, loss, damage, costs or expenses of whatsoever nature caused by or arising out of the following regardless of any other cause or event contributing concurrently or in any other sequence by:

5.16.1 any consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power or confiscation, nationalisation, requisition, destruction of or damage to property by or under the order of any government or public or local authority;

5.16.2 any *act of terrorism* or any action taken in controlling, preventing, suppressing or in any way relating to any *act of terrorism*.

6. Standard Conditions

6.1 Apportionment of costs

6.1.1 If there are claims against *you* which contain uninsured allegations or allegations against other parties then we will use our best efforts to agree upon a fair and proper allocation of *defence costs*.

6.1.2 If *you* and Zurich disagree over the allocation of *defence costs*, then we will advance such *defence costs* we believe to be covered under this policy, until a different allocation is negotiated, arbitrated or judicially determined. In this case we will, if requested by *you*, refer the dispute for determination of allocation to an expert mutually agreeable to all parties and such determination will apply retrospectively to all *defence costs* incurred in the defence of that particular claim or *event*.

6.2 Assignment

This policy and any rights thereunder will not be assigned without our prior written consent.

6.3 Cancellation

- 6.3.1 *You* may cancel this policy at any time by giving notice in writing to us;
- 6.3.2 We may cancel this policy at any time by giving notice in writing to *you*, such cancellation to take effect after 30 days from the time of notification received by *you*;
- 6.3.3 Upon cancellation by *you*, a refund of premium will be allowed pro rata of 80% of the premium for the unexpired *period of insurance*;
- 6.3.4 Upon cancellation by us, a refund of premium will be allowed pro rata for the unexpired *period of insurance*.

6.4 Claims notification and Duties

As a condition precedent to our liability, *you* must give us notice in writing of any *event*, within 30 days. At the same time, or as soon as possible thereafter, *you*:

- 6.4.1 provide full details of any notice or circumstance of an *event* together with any documentation, information and details that are relevant;
- 6.4.2 give any notice or circumstance notified to us during the *period of insurance*, any subsequent claim that arises from that *event* is covered under this policy as though the *event* itself was notified during the *period of insurance*;
- 6.4.3 use *your* best endeavours to preserve all property, products, appliances, plant and other things which may assist us in the investigation or conduct of *your* defence. So far as may be reasonably practical, no alteration or repair is to be effected until we have first had the opportunity of inspection;
- 6.4.4 co-operate with us or our authorised representatives in all aspects of the claim;
- 6.4.5 not make any admission of fact or liability, offer, promise or payment or settlement without our prior written consent;
- 6.4.6 if the *offence* alleged is a continuing one, immediately take, at *your* expense, all reasonable steps to prevent its continuation.

As a condition precedent to our liability, you must give us notice in writing of any *offence* no later than 30 days after the expiry of the *period of insurance* or the extended reporting period (if applicable).

6.5 Conduct of defence

- 6.5.1 Upon acceptance by us of *your* claim, we shall have the right to nominate a solicitor to act on *your* behalf and we shall have the total discretion as to the conduct and control of *your* defence, including strategy, in respect of any prosecution, inquiry, settlement, negotiation or proceedings against *you*.
- 6.5.2 If we and the *insured* cannot agree upon the appropriateness or otherwise of a settlement, then the matter will be determined in accordance with advice of Queen's Counsel, the choice of whom will be mutually agreed by the *insured* and us and whose fees will be paid by us, in addition to the *limit of liability*.

6.6 Change in control

If during the *period of insurance* the *insured* undergoes a *change in control*, then the cover provided by this policy will be amended to only apply in respect of an *event* occurring prior to the effective date of such change in control until the policy expiry date. The *insured* will give us written notice of such *change in control* as soon as reasonably practicable.

6.7 Fraudulent claim

If any claim is in any respect fraudulent, or if any false declaration is made or used in support of any claim, or if any fraudulent means or devices are used by *you* or by anyone acting on *your* behalf, to obtain any benefit under this policy, all benefits will be forfeited.

For the purpose of this standard condition, if *you* comprise more than one party then each of *you* will be treated as having been issued with a separate policy.

6.8 Headings

Headings have been included for ease of reference, but do not form part of the policy.

6.9 Material change of risk

You must give us notice of any material change to any of the facts or circumstances existing at the commencement of the *period of insurance* as soon as reasonably practicable. We shall be entitled to charge an additional premium as appropriate.

6.10 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 *event* this policy will apply to the amount in excess of that recoverable or in fact recovered under the other insurance, whether such insurance is stated to be primary or excess, unless such other insurance is written only as specific excess insurance over the *limit of liability* under this policy.

6.11 Payments in respect to Goods & Services Tax

All sums insured in this policy (except for the *deductible*) exclude GST where that GST is recoverable by us under the Goods and Services Tax Act 1985. We add GST, where applicable, to claim payments. However, this does not apply to the *deductible* which is GST inclusive.

6.12 Prejudice

Where *you* breach or fail to comply with Standard Conditions 6.4 'Claims notification and duties' or 6.15 'Reasonable precautions' of this policy, and this results in prejudice to us in relation to the handling of any claim, the indemnity afforded by this policy in respect of such claim, shall be reduced to such sum as would have been payable by us in the absence of such prejudice.

6.13 Progress payment of legal expenses

In the event of a claim for which we have agreed to indemnify *you*, on production of acceptable evidence of expenditure prior to the final settlement of the claim, we shall pay *defence costs* or *civil defence legal costs* necessarily and reasonably incurred by *you*.

6.14 Proper law and Jurisdiction

The construction, interpretation and meaning of the provisions of this policy shall be determined in accordance with New Zealand law.

In the event of any dispute arising under this policy including, but not limited, to its construction and/or validity and/or performance and/or interpretation, *you* will submit to the exclusive jurisdiction of any competent Court in New Zealand.

A reference to any statute, regulation or subordinate legislation includes any amendment, replacement, successor or equivalent to or of that statute, regulation or subordinate legislation.

6.15 Reasonable precautions

As a condition precedent to our liability, *you* shall take all reasonable precautions to:

6.15.1 avoid, prevent or minimise any circumstances that may give rise to an *event*;

6.15.2 comply with all relevant statutory obligations.

6.16 Sanctions regulation

Notwithstanding any other terms or conditions under this policy, Zurich shall not be deemed to provide coverage and will not make any payments nor provide any service or benefit to any *insured* or any other party to the extent that such cover, payment, service, benefit and/or any *business* or activity of the *insured* would violate any applicable trade or economic sanctions, law or regulation.

6.17 Severability and Non-imputation

Where this policy insures more than one party, the application for insurance is construed as a separate application by each *insured*. When determining whether coverage is available under this policy:

- 6.17.1 any failure by an *insured* to comply with the duty of disclosure shall not be imputed to any other *insured*, where that *insured* is innocent of and had no prior knowledge of the failure; and
- 6.17.2 for the purposes of the exclusions, no facts pertaining to, conduct of or knowledge possessed by an *insured* shall be imputed to any other *insured*.

6.18 Singular and Plural

Except where the context otherwise requires, a reference to the singular includes the plural and vice versa.

6.19 Subrogation

In the event of a payment under this policy to *you* or on *your* behalf, we shall be subrogated to all *your* rights of recovery against all persons and organisations. *You* shall do all that is necessary to assist us in the exercise of such rights, including prosecuting proceedings in *your* name at our expense.

In no event, however, will we exercise our rights of subrogation against a natural person insured under this policy who is a trustee, director, officer, sole trader, partner or employee unless it is determined by a court judgment or final non-appealable adjudication in the underlying action or in a separate action or proceeding that such person had engaged in any conduct which is the subject of Exclusion 5.5 'Deliberate disregard' or 5.6 'Dishonest acts'.

6.20 Valuation and foreign currency

All premiums, limits of liability, sub-limits of liability, deductibles and other amounts under this policy are expressed and payable in New Zealand currency. Except as otherwise provided, if judgment is rendered, settlement is denominated or another element of loss under this policy is stated in a currency other than New Zealand dollars, payment under this policy will be made in New Zealand dollars at the cash rate of exchange for the purchase of New Zealand dollars as reported in the National Business Review on the date the final judgment is reached, the amount of the settlement is agreed upon or the other element of loss is due, respectively.

6.21 Waiver of privilege

If we instruct any lawyer to investigate or defend any claim made against *you*, *you* shall authorise the lawyer to provide us with any documents, information or advice in respect of the claim, including in relation to indemnity, and *you* waive any privilege to the extent necessary to give full effect to our entitlement in this respect. We agree to keep any documents, information or advice in respect of the claim confidential, and not to take steps to waive privilege over them.

Zurich Australian Insurance Limited

(incorporated in Australia)

Trading as Zurich New Zealand

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