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Welcome to QBE Insurance and thank you for trusting us with your insurance.

QBE has been committed to New Zealand and its commerce since 1888. We are Australasia's largest international insurance and reinsurance group and have specialist staff operating all over the globe, providing insurance to clients in over 140 countries. Our standing in the insurance marketplace has been achieved through consistent delivery of quality service to both our brokers and policyholders.

This is your Employers Liability Policy document, which should be read in conjunction with your Policy Schedule. Together, they form your contract of insurance and tell you what you are, and are not, insured for.

We want your experience with QBE Insurance to be the best. To allow us to make your claims experience fast and easy, it is important that you provide us with all the information that could influence our decision about your insurance. You need to tell either QBE or your broker about facts known to you as well as those facts you become aware of, which you could have been reasonably expected to know about. If you are in any doubt as to whether or not a fact may be material to your insurance, you can discuss this with QBE or your broker who will guide you.

By not telling us something that it was your duty to tell us it may mean that your claim may not be accepted or an entitlement under the policy could be reduced.

If you need help understanding any aspect of your insurance cover, please contact your insurance broker.



Employers Liability Policy

It is declared that the Insured named in the Policy Schedule ('Insured') carrying on the Business stated in the Policy Schedule ('Business') has made to QBE Insurance (Australia) Limited ('QBE') a written proposal and declaration which it is agreed is the basis of this contract and incorporated herein. In consideration of the payment of the agreed premium, QBE agrees to indemnify the Insured in accordance with the coverage provided herein.

Operative clause

QBE shall indemnify the Insured in respect of legal liability for any Claim brought by an Employee for:

1. Cover A Damages as a result of that Employee sustaining Personal Injury in New Zealand that arose out of, or in the course of, such Employee's employment in the Business provided that the personal Injury was not a personal Injury for which coverage is determined to exist under the Accident Rehabilitation and Compensation Insurance Act 1992 or the Accident Insurance Act 1998 or any amending or replacement legislation; or
- Cover B Punitive or Exemplary Damages as a result of that Employee sustaining Personal Injury in New Zealand that arose out of, or in the course of, such Employee's employment in the Business provided that the Personal Injury was a Personal Injury for which coverage is determined to exist under the Accident Rehabilitation and Compensation Insurance Act 1992 or the Accident Insurance Act 1998 or any amending or replacement legislation

Provided that in respect of Cover A and B above:

- 1.1 the Claim against the Insured was first made during the Period of Insurance; and
- 1.2 the Claim was immediately notified in writing to QBE by the Insured during the Period of Insurance or within twenty-one (21) days of expiry, time being of the essence; and
- 1.3 the Personal Injury arose out of an event, circumstance, accident or happening which occurred subsequent to the Retroactive Date and before the expiry of the Period of Insurance

Provided that claims which do not accord with 1.1, 1.2 and 1.3 of this Operative Clause are not the subject of this insurance or any indemnity;

2. Legal Costs and Expenses incurred in the defence of such Claims;
3. Legal Costs and Expenses incurred where, in respect of a Claim, the Insured makes an application to the Court to determine whether the Personal Injury is properly the subject of cover pursuant to the Accident Rehabilitation and Compensation Insurance Act 1992 or the Accident Insurance Act 1998 or any amending or replacement legislation.

Limits of indemnity

1. QBE's maximum liability for all Claims that are notified to QBE during the Period of Insurance is limited to the Limit of Indemnity specified in the Policy Schedule, irrespective of:
 - 1.1 the number of Claims made; or
 - 1.2 the number of Personal Injuries sustained; or
 - 1.3 whether indemnity is granted for Claims under either or both Cover A or B of this Policy.
2. Where:
 - 2.1 the Insured gives notice of any Claim to QBE during the Period of Insurance; and
 - 2.2 the Employee in a subsequent period of insurance makes further Claims, or alleges further and/or different injuries ('the additional claims') were suffered in the event, circumstance, accident or happening which first gave rise to the original Claim, then all such additional claims shall be treated for the purposes of the Limit of Indemnity and Excess as if they had been incurred in the Period of Insurance in which the first notice of Claim was originally made.

Definitions

1. 'Business' means:

The Business specified in the Policy Schedule and any other activity which the Insured now undertakes, or may undertake, in accordance with their Memorandum of Association or Constitution.

2. 'Claim' means:

- 2.1 legal proceedings instituted and served upon the Insured;
- 2.2 any threat or intimation of a Claim; or
- 2.3 any circumstance which may give rise to a Claim.

3. 'Damages' means:

For the purposes of Cover A, monies ordered to be paid or agreed to be paid pursuant to (respectively) a judgment or settlement of any common law claim brought, or capable of being brought, in the District or High Court of New Zealand in respect of Personal Injury to an Employee of the Insured, but not including any such monies payable pursuant to any remedy or relief provided in any statute of New Zealand, whether by way of damages, penalty, fine, reparation or other order.

4. 'Employee' means:

Any person who is directly employed by the Insured in connection with its Business and in respect of whose remuneration the Insured deducts PAYE tax at source, and includes any temporary employees engaged either directly or indirectly by the Insured to be employed in connection with its Business.

5. 'Insured' means:

The named Insured specified in the Policy Schedule and if the Insured is a company it includes its directors and any subsidiary company and its directors.

6. 'Legal Costs and Expenses' means:

The Legal Costs and Expenses and/or defence witness costs and expenses and/or defence expert costs and expenses incurred in investigating and/or defending any Claim.

7. 'Limit of Indemnity' means:

The limit of indemnity specified in the Policy Schedule.

8. 'Period of Insurance' means:

The period of time specified in the Policy Schedule as the Period of Insurance.

9. 'Personal Injury' means:

Bodily injury, sickness, disease or infection, including death resulting therefrom, and shall further include disability, shock, fright, mental anguish or mental injury sustained by an Employee which arose out of, or in the course of, such Employee's employment in the Business.

10. 'Policy' means:

This document, the Policy Schedule and any endorsements issued by QBE.

11. 'Policy Schedule' means:

The current schedule or any replacement schedule issued by QBE.

12. 'Punitive or Exemplary Damages' means:

For the purposes of Cover B, monies ordered to be paid as punitive or exemplary damages pursuant to a judgment of the District or High Court of New Zealand in respect of a common law action brought by an Employee against the Insured in relation to Personal Injury.

13. 'Retroactive Date' means:

The date specified as such in the Policy Schedule.

Specific exclusions to Cover A

Under Cover A, QBE will not indemnify the Insured in respect of:

1. Any Personal Injury suffered by an Employee for which cover to any extent is provided by the Accident Rehabilitation and Compensation Insurance Act 1992, or would be so provided if the Insured were not an exempt employer under the Act, or the Accident Insurance Act 1998 or any amending or replacement legislation, or would have been so provided had a claim been lodged under such legislation;
2. Any Claim seeking aggravated, punitive, or exemplary damages;
3. Any Claim as a result of an Employee sustaining Personal Injury which arose out of any wilfully intentional or deliberate conduct of the Insured which it knew, or should have known, could cause injury to any Employee;
4. Any Claim resulting from, or contributed to by, any dishonest, fraudulent, criminal, or malicious act or omission of the Insured;
5. Any Claim as a result of an Employee sustaining Personal Injury which arose out of the failure by the Insured to comply with any improvement, prohibition or suspension notice issued to the Insured or its Employees under the Health and Safety in Employment Act 1992.

Specific exclusions to Cover B

Under Cover B, QBE will not indemnify the Insured in respect of:

1. Any Claim in respect of Personal Injury suffered by an Employee, which, if made the subject of a claim under the Accident Rehabilitation and Compensation Insurance Act 1992 or the Accident Insurance Act 1998 or any amending or replacement legislation, would not be eligible for cover under such legislation;
2. Any Claim seeking any relief other than Punitive or Exemplary Damages;
3. Any Claim by an Employee as a result of that Employee sustaining Personal Injury which was caused by any wilfully reckless and/or contumelious conduct of the Insured;
4. Any Claim as a result of an Employee sustaining Personal Injury which arose out of the wilfully reckless omission of the Insured to comply with any improvement, prohibition or suspension notice issued to the Insured under the Health and Safety in Employment Act 1992 or any amending or replacement legislation.

General exclusions

QBE will not indemnify the Insured in respect of:

1. Any Damages or Punitive or Exemplary Damages sought by, or awarded to, an Employee pursuant to a cause of action pleading or alleging against the Insured trespass to the person, assault, battery, false imprisonment, intentional physical harm, malicious prosecution, sexual harassment or sexual abuse;
2. Any Claim as a result of the Insured directing an Employee to undertake activities otherwise than in the course of, or in connection with, the usual activities of the Insured's Business;
3. Any Claim as a result of an Employee sustaining Personal Injury that arose out of any event, circumstances or accident that occurred prior to the Retroactive Date;
4. Any liability under any judgment entered in any court other than a New Zealand court or any debt incurred by the Insured as the result of such a judgment;
5. Any Claim arising from any event, circumstance, accident or happening of which the Insured had become aware prior to the inception of the Period of Insurance and which a reasonable person in the Insured's Business would at any time prior to such inception have considered may give rise to a Claim;
6. Any actual or alleged liability whatsoever for any Claim or Claims in respect of losses directly or indirectly arising out of, resulting from or in consequence of, or in any way involving, asbestos or any materials containing asbestos in whatever form or quantity;
7. Any loss, damage, death, injury, illness, 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.

For the purpose of this exclusion an 'Act of Terrorism' means an act, including but not limited to the use of force or violence and/or threat 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 loss, damage, death, injury, illness, 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 any Act of Terrorism.

General conditions

1. Excess

The Excess specified in the Policy Schedule shall be borne by the Insured, uninsured and at its own risk, in respect of each and every Claim under this Policy. QBE's liability shall be in excess of this amount.

2. Claims notification and duties

The Insured shall give QBE prompt advice in writing upon becoming aware of any circumstance(s) or event(s) that may constitute a Personal Injury or Claim. At the same time, or as soon thereafter as possible, the Insured shall:

- 2.1 provide full details of such, together with any documentation, information and details that are relevant to the Claim;
- 2.2 co-operate with QBE or our authorised representatives in the investigation, settlement or defence of the Claim;
- 2.3 not make any admission of liability, offer, promise, payment or settlement in connection thereto without the prior consent in writing of QBE;
- 2.4 if the Personal Injury is a continuing one, promptly take, at its own expense, all reasonable steps to prevent its continuation.

3. Reasonable precautions

The Insured shall take all reasonable precautions to prevent Personal Injury and comply with all statutory obligations relating to the Insured's Business.

4. Conduct of defence

Upon acceptance by QBE of the Insured's Claim to be indemnified, QBE shall have the right to nominate a solicitor to act as the Insured's solicitor and shall have total discretion as to the conduct of defence of any Claim, prosecution, inquiry, settlement negotiation or proceedings instituted by any person against the Insured.

5. Prejudice

Where the Insured's breach or non-compliance with General Conditions 2 (Claims Notification and Duties) and 3 (Reasonable Precautions) of this Policy results in prejudice to QBE in relation to the handling of any Claim which in all other respects qualifies to be indemnified under this Policy, the indemnity afforded by this Policy in respect of such Claim shall be reduced to such sum as would have been payable by QBE in the absence of such prejudice.

6. Other insurance

If in respect of any Claim, the Insured is, or but for the existence of this Policy would be, entitled to indemnity under any other policy, QBE shall not be liable, except in respect of any excess beyond the amount which would have been payable under such other policy had this Policy not been effected.

7. Jurisdiction

This insurance shall be governed by the laws of New Zealand whose courts shall have jurisdiction in any dispute arising hereunder.

8. Subrogation

In the event of a payment under this Policy to or on behalf of the Insured, QBE shall be subrogated to and/or receive assignment of all the Insured's rights of recovery against all persons and organisations. The Insured shall do all that is necessary to assist QBE in the exercise of such rights, including prosecuting proceedings in the name of the Insured at QBE's expense. Any such amount so recovered shall first be apportioned to reimburse QBE to the extent of its actual payment hereunder, and secondly to pay the Insured's excess.

9. Cancellation

This Policy may be cancelled:

- 9.1 by the Insured at any time by giving notice in writing to QBE stating when the cancellation shall be effective. In the event of such cancellation, QBE will be entitled to a pro-rata proportion of the premium for the time the Policy has been in force, subject to any minimum premium chargeable;
- 9.2 by QBE at any time by giving notice in writing to the Insured of QBE's intention to cancel this Policy. The notice may be delivered personally or posted by registered mail to the Insured's last known postal address, or by email. The cancellation will take effect at 4pm on the thirtieth (30th) day after the notice has been dispatched or sent. In the event of such cancellation, QBE will refund to the Insured a pro-rata proportion of the premium.

10. Assignment

No assignment of interest under this Policy shall bind QBE unless with QBE's written consent on the Policy Schedule.

11. Goods and services tax

Where, upon receiving any indemnity payment under this Policy, the Insured is liable to pay tax under section 5(13) of the Goods and Services Tax Act 1985 (or any amendment or re-enactment of the section or Act), QBE will indemnify the Insured for the cost of that tax. The indemnity under this clause is in addition to the Limit of Indemnity specified in the Policy Schedule.

12. Cessation

The insurance provided by this Policy ceases absolutely at the time and date specified in the Policy Schedule.

13. Circumstances notified

Provided that notice referred to in General Condition 2 (Claims Notification and Duties) of this Policy has been given to QBE prior to the expiration of the Period of Insurance, any Claim arising from the circumstances thus notified which is subsequently made after the expiration of such Period of Insurance shall be deemed to have been made and notified to QBE during the currency of this Policy.

14. Change of risk

The Insured shall advise QBE of any material change to the Insured's Business activities during the Period of Insurance.

15. Additional insureds

The Insured shall be entitled to request QBE to add as an Insured any new company or entity formed or acquired by it during the Period of Insurance provided that the Insured exercises active management control over its activities and first obtains QBE's written consent and endorsement to its inclusion as an Insured. QBE shall be entitled to charge an additional premium for such additional Insureds.

16. Extended reporting period

If QBE refuses to renew this Policy, the Insured may, upon payment of an additional premium of fifty per cent (50%) of the full annual premium payable for the expiring Period of Insurance, extend the cover under this Policy for a further twelve (12) months from the date of expiry, but only in respect of any Claims arising out of any Personal Injury which occurred before such expiry. This option to extend the Policy must be notified in writing to QBE within thirty (30) days of the Policy expiring.