

General Liability Policy



Thank you for choosing Ando General Liability Insurance

Find out what your insurance does and doesn't cover

This document explains how the insurance works, your responsibilities, and how to make a claim. Please read it carefully, as it's really important you understand it. While there's a lot of information, if you take time to read it now, you'll know what the insurance covers. Just as important – you'll also know what it doesn't cover.

This General Liability Insurance policy document sets out the policy's benefits, what's not covered, and the main terms and conditions of the insurance agreement.

If you are viewing this digitally, I'm interactive. Click the section you'd like in the Table of Contents and go directly there.

Looking for something specific? Search key words by pressing **Ctrl + F (PC)** or **Command + F (Mac)** on your computer.

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Important information about this policy

Our promise to you

In return for **you** having paid the required premium **we** agree to insure **you** as set out in this **policy**.

Your policy

Your **policy** with **us** consists of:

- > any information provided to **us** by **you** or on **your** behalf including **your proposal**;
- > this **policy** document;
- > any endorsements or clauses that **we** apply to **your policy**; and
- > the **schedule**.

Duty of disclosure

When **you** apply for insurance, **you** have a legal duty of disclosure. This means **you** or anyone applying on **your** behalf must tell **us** everything **you** know (or could be reasonably expected to know) that might affect **our** decision when deciding:

- > to accept **your** insurance; and/or
- > the cost or terms of the insurance, including the **excess**.

In particular, **you** should tell **us** anything which may increase the chance of a claim under this **policy**, or the amount of a claim under this **policy**.

You also have this duty every time **your** insurance renews and when **you** make any changes to it. If **you** or anyone on **your** behalf breaches this duty of disclosure, **we** may treat this **policy** as being of no effect and to have never existed.

Please ask **us** if **you** are not sure whether **you** need to tell **us** about something.

Changes to facts or circumstances during the policy

You must tell **us** of any material change to any of the facts or circumstances existing at the beginning of the **period of insurance**.

If **you** do notify **us** of a change, **we** may alter the premium, the terms of **your** insurance or cancel the insurance with effect from the date on which the change first occurred.

Changing your mind

If **you** change **your** mind **you** can cancel **your policy** within 30 days of it starting provided **you** have not made a claim.

We will then cancel the **policy** from its commencement and refund in full any premium **you** have paid.

Reading this policy

There are words in bold that have specific meaning(s) and are explained in the 'Definitions' section at the end of this **policy** document.

The headings that **we** have used in this **policy** document are intended to help **you** find **your** way through it more easily. They are not intended to be used for interpreting the contents of the **policy** document.

Privacy Act and the Insurance Claims Register

By entering into this insurance contract with **us**, **you** consent to **your** personal information being collected by **us** and being shared by **us** with other insurance companies, claims supply partners and brokers, for the purposes of entering into this **policy** with **you** and any claim in connection with this **policy**.

You also consent to any personal information **we** hold in connection with any claim that **you** make being transferred to the Insurance Claims Register, a register operated by Insurance Claims Register Limited for use by participant insurers, including **us**.

This information may be accessed by participant insurers for the purpose of managing claims.

Fair Insurance Code

We are committed to complying with the Fair Insurance Code as published by the Insurance Council of New Zealand. This means **we'll**:

- > provide insurance contracts which are understandable and show the legal rights and obligations of both **us** and **you**;
- > explain the meaning of legal or technical words or phrases;
- > explain the special meanings of words or phrases as they apply in the **policy**;
- > manage claims quickly, fairly and transparently;
- > clearly explain the reason(s) why a claim has been declined;
- > provide **you** with a written summary of **our** complaints procedure as soon as disputes arise and advise **you** how to lodge a complaint and tell **you** about the Insurance and Financial Services Ombudsman Scheme.

Concern or complaint

We aim to provide a great standard of service in everything **we** do.

If **you** have a concern or complaint, **we** want to hear from **you** so that **we** have the opportunity to make it right. **You** can contact **us** on the details below or see www.ando.co.nz for information on **our** complaints and dispute resolution process.

Complaints Officer
Ando Insurance Group Limited
PO Box 6649
Victoria Street West
Auckland 1142
New Zealand

p 09 377 1432
e complaints@ando.co.nz

Complaints that cannot be resolved by the Complaints team may be referred to the Insurance and Financial Service Ombudsman. Further details will be provided at the appropriate stage of the complaints process.

Section 1: Coverage

In consideration of the payment of the premium to **us** and in reliance on the written **proposal** and any other underwriting information provided, which will be deemed to be incorporated into and to be the basis of this **policy**, **we** will indemnify **you**, subject to the **policy** terms, as follows.

1.1 Public and product liability

We will insure you for amounts that **you** become legally liable to pay as compensation for **personal injury** or **property damage** caused by an **occurrence**.

1.2 Limit of indemnity

a) **Our** maximum liability:

- (i) for any claim under this **policy**, or any series of claims, arising out of one **occurrence**; or
- (ii) in the aggregate for an **occurrence** involving **your products**;

excluding **defence costs**, will not exceed the **limit of indemnity** or **sublimit** in any applicable Additional Coverage Clause.

All **personal injury** or **property damage** caused by continuous or repeated exposure to the same general conditions will be one **occurrence**.

b) A payment under any Additional Coverage Clause will be part of and not in addition to the **limit of indemnity**.

Provided:

- (i) immediately after **we** have paid the **limit of indemnity** or the **sublimit** in any applicable Additional Coverage Clause to **you** or, in respect of any judgment or settlement, **our** liability in relation to **defence costs** will cease; and
- (ii) if a payment exceeding the **limit of indemnity** has to be made to dispose of a claim, **our** liability in relation to **defence costs** will be limited to the same proportion as the **limit of indemnity** bears to the amount required to dispose of the claim.

1.3 Defence costs

In addition to the applicable **limit of indemnity** or any specified **sublimit**, **we** will pay **defence costs** necessarily and reasonably incurred in relation to a claim against **you** for which there is cover under this **policy** irrespective of whether or not **you** are found legally liable.

1.4 Excess

- a) **You** must pay the **excess** in respect of each and every claim, or series of claims, under the **policy** arising out of one **occurrence**.
- b) If more than one **excess** applies, a single **excess** will be payable and the applicable **excess** will be the highest specified **excess**.

Section 2: Additional Coverage Clauses

Additional Coverage Clauses are included automatically unless otherwise stated in the **schedule**. They are to be read together with the Coverage Clauses above and are subject to the **policy** terms.

2.1 Advertising liability

We will pay amounts that **you** become legally liable to pay as compensation for **advertising liability** during the **period of insurance** within the **policy territory** provided that **we** will not insure **you** for any **advertising liability** directly or indirectly arising out of:

- a) statements made at **your** direction with the knowledge that such statements are false; or
- b) any breach of contract, provided that this exclusion will not apply to claims for unauthorised appropriation of advertising ideas; or
- c) any incorrect description of **your products** or services; or
- d) any mistake in the advertised price of **your products** or services; or
- e) the failure of **your products** or services to conform with advertised performance, quality, fitness or durability; or
- f) liability incurred by **you** if **your business** is advertising, broadcasting, publishing or telecasting.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum aggregate amount payable by **us** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.9 (Defamation) does not apply to this Additional Coverage Clause.

2.2 Business advice or service

We will pay amounts that **you** become legally liable to pay as compensation for an **occurrence** arising out of an error or omission in:

- a) advice or services in relation to **your products** without charge; or
- b) product training and/or demonstrations given by **you** without charge; or
- c) emergency medical advice or emergency medical treatment provided by **you** on **your** premises.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum amount payable by **us** for any one **occurrence** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.23 (Professional liability) does not apply to this Additional Coverage Clause.

2.3 Car park liability

We will pay amounts that **you** become legally liable to pay as compensation for **personal injury** or **property damage** caused by an **occurrence** relating to the operation or ownership of a car park including damage to **vehicles** caused by **you** parking a **vehicle** (other than to **vehicles** owned or used by or on behalf of **you**) in the car park.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum amount payable by **us** for any one **occurrence** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.31 (Vehicles) does not apply to this Additional Coverage Clause.

2.4 Care, custody or control

We will pay amounts that **you** become legally liable to pay as compensation for **property damage**, caused by an **occurrence** where the liability arises while the property is in **your** care, custody or control (including employees' property) provided:

- a) real property is excluded; and
- b) property owned, hired or leased by **you** is excluded.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum aggregate amount payable by **us** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.25(b) (Property owned or in your care, custody or control) does not apply to this Additional Coverage Clause.

2.5 Defective work

We will pay amounts that **you** become legally liable to pay:

- a) as compensation for **property damage** to property owned by a third party and that **you** are or have been working on caused by an **occurrence**; or
- b) for the cost of repairing, correcting, removing, or replacing the whole or a part of **your product** which is faulty, defective, harmful or has failed to perform the function for which it was sold, supplied, manufactured or installed, where **your product** has caused accidental physical loss or destruction to other tangible property arising from an **occurrence**.

In relation to this Additional Coverage Clause 2.5(b) only Definition 5.30 (Your products) is deleted, and **your products** instead means:

*any property, good, product, or other thing, including labels, instructions for use, advice and property which has been manufactured, constructed, erected, installed, repaired, serviced, treated, sold, supplied or distributed by **you**; after it has ceased to be:*

*(i) in **your** possession; or*

*(ii) under **your** control; or*

*(iii) owned by **you** (including but not limited to any ownership by way of any retention of title agreement).*

*Where work is staged or includes separate areas of work or parts **your product** will not cease to be in **your** possession or under **your** control until final completion and delivery of all stages, areas or parts.*

Provided that **we** will not insure **you** for liability arising from or in connection with:

- (i) any defect in any design, plan, process or specification; or
- (ii) the **service or repair** of any **vehicle, aircraft or watercraft**.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum aggregate amount payable by **us** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusions 3.10(c) (Defective materials, design and work), 3.25(b) (Property owned or in your care, custody or control) and 3.24 (Property damage to products) do not apply to this Additional Coverage Clause.

2.6 Goods on hook

We pay amounts that **you** become legally liable to pay as compensation for **property damage** to property while being lifted or lowered or moved or carried by any crane(s) owned, hired, or otherwise **your** responsibility caused by an **occurrence** provided:

- a) **You** are not otherwise insured for **your** liability under any other policy of insurance; or
- b) **You** are not insured for **property damage** in connection with dual lifts (where two cranes are used for any one lift) or multi-lifts; or

- c) **You** are not insured for **property damage** to property being carried under a Contract of Carriage in accordance with Part 5, Subpart 1 of the Contract and Commercial Law Act 2017.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum aggregate amount payable by **us** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusions 3.10 (Defective materials, design and work) and 3.25(b) (Property owned or in your care, custody or control) do not apply to this Additional Coverage Clause.

2.7 Hot work

We will pay amounts that **you** become legally liable to pay as compensation for **personal injury** or **property damage** that arises from **hot work** caused by an **occurrence** provided:

- a) the **hot work** complies with the New Zealand Standard 4781:1973 Code of Practice for Safety in Welding and Cutting; and
- b) the area of the **hot work** is cleared of combustible material for a safe distance from or beneath the place where such **hot work** is being carried out. A safe distance will be not less than ten metres from where **hot work** operations are being carried out. Where these precautions are impracticable such material will be covered with fireproof blankets or similar protective equipment. Combustible parts of premises will be similarly protected; and
- c) hose reels or fire extinguishers of a type and capacity suitable for the combustible material and the premises will be kept adjacent to the area of work and available for immediate use; and
- d) equipment will be lit or switched on for as short a time as possible before use and extinguished immediately after use; and
- e) lighted or heated **hot work** equipment will not be left unattended; and
- f) a thorough examination for any signs of combustion will be made within or below the area in which work has been undertaken immediately then thirty (30) minutes after the termination of each period of **hot work**; and
- g) before applying heat to metal built into or projecting through walls, floors or ceilings an examination will be made to ensure that the other end of the metal is not in hazardous proximity to combustible material; and
- h) **you** comply with the conditions of any specific **hot work** permit in addition to complying with precautions (a) – (g) above.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum aggregate amount payable by **us** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.15 (Hot work) does not apply to this Additional Coverage Clause.

2.8 Innkeeper's liability

We will pay amounts that **you** become legally liable to pay under the Innkeepers Act 1962.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum aggregate amount payable by **us** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.25(b) (Property owned or in your care, custody or control) does not apply to this Additional Coverage Clause.

2.9 Landlord's liability

We will pay amounts that **you** become legally liable to pay as compensation for **personal injury** or **property damage** arising from **your** legal ownership, but not physical occupation of any premises caused by an **occurrence**.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum amount payable by **us** for any one **occurrence** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.25(a) (Property owned or in your care, custody or control) does not apply to this Additional Coverage Clause.

2.10 Lost or stolen keys

We will pay the costs reasonably and necessarily incurred in altering or replacing locks, and their keys or combinations, if the keys or combinations are lost, stolen or believed on reasonable grounds to have been duplicated without proper authority, during the **period of insurance** within the **policy territory** provided:

- a) the keys or combinations are in **your** possession in connection with **your business**; and
- b) **you** do not own, hire, lease or rent the property to which the keys or locks relate.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum aggregate amount payable by **us** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.25(b) (Property owned or in your care, custody or control) does not apply to this Additional Coverage Clause.

2.11 Motorised plant

We will pay amounts that **you** become legally liable to pay as compensation for **personal injury** or **property damage** caused by an **occurrence** and:

- a) arises from loading or unloading any **vehicle** used by or on **your** behalf but not in **your** care, custody or control; or
- b) arises from any **vehicle** while it is being operated for its specialised function or purpose, and not being driven on a public road as a **vehicle**; or
- c) relating to any bridge, viaduct, weighbridge, road or anything beneath the **vehicle** caused by vibration or by the weight of any **vehicle** and/or its load provided that any designated weight restrictions were not exceeded, but only while the **vehicle** is being operated for its specialised function or purpose and not being driven on a public road as a **vehicle**.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum aggregate amount payable by **us** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.31 (Vehicles) does not apply to this Additional Coverage Clause.

2.12 Pollution – sudden and accidental

We will pay amounts that **you** become legally liable to pay as compensation for **personal injury** or **property damage** caused by an **occurrence**, anywhere in the world except for **North American countries** arising from the discharge, dispersal, release or escape of **pollutants** into or on land, the atmosphere, or any watercourse or body of water provided:

- a) the discharge, dispersal, release or escape is sudden, identifiable, unexpected and unintended from **your** standpoint; and
- b) takes place in its entirety at a specific time and place.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum aggregate amount payable by **us** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.22 (Pollution) does not apply to this Additional Coverage Clause.

2.13 Product withdrawal costs

We will pay the reasonable recall costs incurred by **you** or a third party where it is necessary for **you** to withdraw or recall **your products** during the **period of insurance** within the **policy territory** provided that the defect(s) in **your product** which causes the withdrawal or recall has already given rise to a claim covered by the **policy**.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum aggregate amount payable by **us** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.35 (Withdrawal or repair of products) does not apply to this Additional Coverage Clause.

2.14 Punitive or exemplary damages

We will pay punitive or exemplary damages **you** are ordered to pay by a New Zealand Court for **personal injury** provided **you** are not insured for:

- a) any punitive or exemplary damages connected with a dishonest, fraudulent or deliberate act or omission by **you**;
- b) any liability arising from trespass to the person, assault, battery, false imprisonment, malicious prosecution, sexual harassment or sexual abuse.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum aggregate amount payable by **us** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.13 (Fines and penalties) does not apply to this Additional Coverage Clause.

2.15 Service or repair – equipment or machinery

We will pay amounts that **you** become legally liable to pay as compensation for **personal injury** or **property damage** caused by an **occurrence** to equipment or machinery (not being a **vehicle**, **aircraft** or **watercraft** or part thereof) arising from **service or repair** of that equipment or machinery, provided:

- a) **you** have taken all reasonable steps to avoid the happening of any **occurrence** and, in particular, ensure:
 - (i) employees are properly trained and supervised and comply with all statutory obligations; and
 - (ii) there are proper safety systems, equipment, practices and procedures in place, and that employees use and comply with them at all times; and
 - (iii) all plant is kept properly maintained; and
- b) the equipment or machinery is not owned, hired, leased or rented by **you**, and is or was in **your** care, custody or control solely for the purpose of the **service or repair**; and
- c) the cost of rectifying, repairing or replacing the actual part or parts being **serviced or repaired** is excluded but resultant **property damage** arising from the **service or repair** is not excluded.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum amount payable by **us** for any one **occurrence** under this Additional Coverage Clause is the **sublimit** in respect of any claim or series of claims arising out of one **occurrence**, or in the aggregate during the **period of insurance**.

Exclusions 3.10 (Defective materials, design and work), 3.25(b) (Property owned or in your care, custody or control) and 3.24 (Property damage to products) do not apply to this Additional Coverage Clause.

2.16 Service or repair – vehicle or watercraft

We will pay amounts that **you** become legally liable to pay as compensation for **personal injury** or **property damage** caused by an **occurrence** arising from **service or repair** of any:

- a) **vehicle**; or
- b) **watercraft** not exceeding ten metres in length;

Provided the **vehicle** or **watercraft** is not owned, hired, leased or rented by **you**, and is or was in **your** care, custody or control solely for the purpose of the **service or repair**.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum amount payable by **us** for any one **occurrence** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit** in respect of any claim or series of claims arising out of one **occurrence**, or in the aggregate during the **period of insurance**.

Exclusions 3.10 (Defective materials, design and work), 3.25(b) (Property owned or in your care, custody or control), 3.31 (Vehicles), 3.33 (Watercraft) and 3.24 (Property damage to products) do not apply to this Additional Coverage Clause.

2.17 Tenant's liability

We will pay amounts that **you** become legally liable to pay as compensation for **personal injury** or **property damage** to premises (including landlord's fixtures and fittings) leased, rented or hired by **you** for a fee but not owned by **you** caused by an **occurrence**.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum amount payable by **us** for any one **occurrence** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.25(b) (Property owned or in your care, custody or control) does not apply to this Additional Coverage Clause.

2.18 Underground services

We will pay amounts that **you** become legally liable to pay as compensation for **personal injury** or **property damage** caused by an **occurrence** in New Zealand to any existing underground cables, existing underground pipes, or other existing underground facilities, provided:

- a) prior to the commencement of any work **you** enquired of the relevant authorities and owners to verify the existence and the location of the cables, pipes or other underground facilities; and
- b) **you** took all reasonable precautions to prevent **personal injury** or **property damage**.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum amount payable by **us** for any one **occurrence** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.30 (Underground services) does not apply to this Additional Coverage Clause.

2.19 Unmanned aerial vehicles

We will pay amounts **you** become legally liable to pay as compensation for **personal injury** or **property damage** caused by an **occurrence** arising from **your** use of any Remotely Piloted Aircraft Systems (RPAS), Unmanned Aerial Systems (UAS), Unmanned Aerial Vehicles (UAV) or Model Aircraft, provided:

- a) they are not used to carry cargo of any nature other than camera equipment; and
- b) weigh less than a gross weight of 25kg; and
- c) the RPAS, UAS, UAV or Model Aircraft is not flown or operated where flying is prohibited by any Government or Local Authority law, bylaw, rule or regulation, or in contravention to any Government or Local Authority regulation including but not limited to the Civil Aviation Authority rules or regulations.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum aggregate amount payable by **us** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

In relation to this Additional Coverage Clause only Definition 5.16 (Personal injury) is deleted, and **personal injury** instead means:

*Physical bodily injury caused solely and directly by a violent sudden accident that happens during the **period of insurance** within the **policy territory** and caused by an **occurrence**.*

Exclusion 3.2 (Aircraft) does not apply to this Additional Coverage Clause.

2.20 Vibration or removal of support

We will pay amounts that **you** become legally liable to pay as compensation for **personal injury** or **property damage** caused by an **occurrence** in New Zealand arising from vibration, or removing, weakening or interfering with the support of land or buildings or structures provided they are not owned or occupied by **you**.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum amount payable by **us** for any one **occurrence** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.32 (Vibration or removal of support) does not apply to this Additional Coverage Clause.

2.21 Visits to North American countries

We will pay amounts that **you** become legally liable to pay as compensation for **personal injury** or **property damage** caused by an **occurrence** in the **North American countries** arising solely out of the actions of non-resident directors, executives and salespersons temporarily visiting the **North American countries** in the course of **your business** provided:

- a) **you** have no premises, branch or subsidiary operation in the **North American countries**;
- b) any work performed in, on, or in connection with the manufacture, assembly, repair, servicing, maintenance, amendment, alteration or enhancement to any of **your products** is excluded;
- c) the ownership, possession, control, or maintenance or use of any **vehicle** or **watercraft** is excluded;
- d) notwithstanding Coverage Clause 1.3 (Defence costs), the **limit of indemnity** inclusive of **defence costs**, any one **period of insurance** will be the **limit of indemnity**.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum amount payable by **us** for any one **occurrence** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusions 3.18 (North American countries) and 3.19 (North American exports) do not apply to this Additional Coverage Clause.

2.22 Warrant of fitness

We will pay amounts that **you** become legally liable to pay as compensation for **personal injury** or **property damage** caused by an **occurrence** in connection with:

- a) the inspection and certification of **vehicles** for the issuing of a warrant of fitness or other inspection certificate as may be required by law; or
- b) 'pre-purchase' or **vehicle** appraisal services;

provided:

- (i) the coverage under this Additional Coverage Clause does not extend to include the valuation of any **vehicle** and/or accessory of any type whatsoever; and
- (ii) **you** are licensed and qualified to issue a warrant of fitness or other inspection certificates as may be required by law.

You will pay the **excess** for every claim under this Additional Coverage Clause. The maximum aggregate amount payable by **us** under this Additional Coverage Clause during any one **period of insurance** is the **sublimit**.

Exclusion 3.23 (Professional liability) does not apply to this Additional Coverage Clause.

Section 3: Exclusions

We will not insure **you** for any claim under this **policy** for, or directly or indirectly arising from, or out of, or in connection with:

3.1 Aesthetic defects

Any defect in aesthetics, colour, style or appearance.

3.2 Aircraft

Your ownership, possession, control, operation, use, maintenance, service or repair, manufacture, sale, supply, loading or unloading of any **aircraft** or hovercraft.

3.3 Aircraft products

Any of **your products** which, with **your** knowledge were, or were intended to be, incorporated into any **aircraft**.

3.4 Asbestos

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, or aggravated by asbestos, in whatever form or quantity.

3.5 Building defects

a) A building or structure:

- (i) affected by moisture or water build-up; or
- (ii) subject to the penetration of external moisture or water; or
- (iii) subject to the action or effects of bacteria, fungi, gradual deterioration, micro organisms, mildew, mould, protozoa, rot decay, or any similar or like forms; or

b) the failure of any building or structure:

- (i) to be fit for its intended purpose; or
- (ii) to comply with, or perform to, the requirements of any building code or standard; or
- (iii) to meet any applicable standard of durability, fitness, performance or quality.

This exclusion does not apply to any claim under the **policy** in relation to a leak in a building's internal pipes, internal water systems or internal water containment or storage systems.

3.6 Communicable diseases

Any:

- a) highly pathogenic avian influenza in humans; or
- b) disease(s) determined to be a quarantinable disease as defined and stated in the Health Act 1956 (New Zealand) s2(1).; or
- c) mutation of the diseases described in a) to b) inclusive, including any fear or threat thereof (whether actual or perceived) or action taken by a competent public authority in controlling, preventing or suppressing such disease.

For the avoidance of doubt, loss, liability, cost or expense includes any cost to clean-up, decontaminate, disinfect, remove, replace, monitor or test:

- (i) for any such diseases; or
- (ii) any property insured hereunder that is affected by or suspected to be affected by such disease.

3.7 Contractual liability

Liability assumed by **you** under any contract except to the extent that **you** would have been liable even if there had been no contract in existence. However, this exclusion will not apply to liability pursuant to any:

- a) lease or hire of property;
- b) representation or warranty of the fitness or quality of **your products**, or a representation or warranty that work performed by or on behalf of **you** will be done in a workmanlike manner; or
- c) contracts noted in the **schedule**.

3.8 Cyber loss

Any legal liability caused by or arising out of **cyber act** or **cyber incident** including but not limited to any action taken in controlling, preventing, suppressing, or remediating any **cyber act** or **cyber incident**.

3.9 Defamation

Liability for defamation.

3.10 Defective materials, design and work

Liability for:

- a) defective materials;
- b) any defect in any design, plan or specification;
- c) defective work; or
- d) improving or correcting any work undertaken by **you** or on **your** behalf.

This exclusion does not apply to resultant **property damage** arising from defective materials, design or work.

3.11 Electromagnetic fields

Any actual or alleged liability, costs, or expenses in respect of any loss or claim arising directly or indirectly out of electromagnetic fields or electromagnetic interference.

3.12 Expected or intended

Personal injury or **property damage** expected or intended from **your** perspective.

This exclusion does not apply to:

- a) **Your** liability for compensation as the result of an act committed by **your** employee which results in **personal injury** or **property damage** expected or intended from the standpoint of **your** employee, provided such act was not committed at **your** direction or with **your** knowledge (*subject to clause 4.18(a) Severability*); or
- b) **Personal injury** or **property damage** resulting from the use of reasonable force to protect persons or property.

3.13 Fines and penalties

Liability for any fine, penalty, performance warranty or liquidated damages, punitive and/or exemplary damages.

3.14 Genetically Modified Organisms (GMO)

Any actual or alleged liability, costs, or expenses in respect of any loss or claim arising directly or indirectly, out of, or in any way involving the manufacture, production (but not non-experimental farming), breeding, distribution or research and development field trials of genetically modified organisms including the blending or mixing of genetically modified organisms with other organisms or products, or their pollination by genetically modified organisms.

3.15 Hot work

Liability arising out of **hot work**.

3.16 Loss of use

Loss of use of tangible property, which has not been physically damaged or destroyed, where that loss of use is caused by:

- a) a delay in or lack of performance, or inadequacy of performance, by **you** or on behalf of **you** under any contract or agreement; or
- b) the failure of **your products** to meet the level of performance, quality, fitness or durability that has been warranted or represented expressly or impliedly by **you**.

This exclusion does not apply to loss of use of other tangible property resulting from the sudden and accidental physical damage to or destruction of **your products** after **your products** have been put to use by any person or entity other than **you**.

3.17 Molestation

Liability for sexual harassment, the molestation of any person, or any other form of sexual activity or any behaviour of a sexual nature.

3.18 North American countries

- a) liability arising in **North American countries**; or
- b) proceedings issued in **North American countries**, including any liability from or based on a settlement or arbitration in, or a judgment or order of a court in the **North American countries**.

3.19 North American exports

Liability arising from any of **your products** knowingly exported by **you** (or exported by **your** agents or distributors with **your** knowledge) to the **North American countries**, including any liability arising from or based on a settlement or arbitration in, or a judgment or order of a court in the **North American countries**.

3.20 Offshore gas or oil platforms

Liability arising from work performed on or around any offshore gas or oil platform.

3.21 Personal injury to employees

- a) **Personal injury** arising directly or indirectly out of or in the course of employment with **you**; or
- b) An obligation on **you** under any accident or workers compensation legislation or any industrial award, employment contract, agreement or determination.

3.22 Pollution

Liability:

- a) directly or indirectly caused by **pollutants**, seepage, pollution or contamination.
- b) for the cost of removing, nullifying or cleaning up **pollutants**, or seeping, polluting or contaminating substances.

3.23 Professional liability

Any error or omission in advice or service of a professional nature.

3.24 Property damage to products

Property damage to your products.

3.25 Property owned or in your care, custody or control

Property damage to any property:

- a) owned by **you**; or
- b) in **your** care, custody or control.

3.26 Radioactivity

- a) Ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- b) Operations employing the process of nuclear fission or fusion or handling radioactive material, including but not limited to:
 - (i) the use of nuclear reactors such as atomic piles, particle accelerators, generators or similar devices; or
 - (ii) the use, handling or transportation of radioactive materials; or
 - (iii) the use, handling or transportation of any weapon of war or explosive device employing nuclear fission or fusion; or
- c) The radioactive, toxic, explosive or other hazardous properties of any explosive assembly or its nuclear components.

3.27 Sanctions

Any claim where the provision of cover, payment of any claim or provision of any benefit would expose **us** to any sanction, prohibition or restriction under United Nations resolutions or trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America, South Africa, Australia or New Zealand.

3.28 Terrorism

- a) Any liability, loss, damage or expenses 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 liability, loss, damage or expense; or
- b) Any liability, 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 any **act of terrorism**.

3.29 Transmissible Spongiform Encephalopathy

Any actual or alleged liability, costs, or expenses in respect of any loss or claim arising directly or indirectly out of Transmissible Spongiform Encephalopathy.

3.30 Underground services

Liability arising from or in relation to any underground cables, underground pipes or other underground facilities.

3.31 Vehicles

Liability arising out of **your** ownership, possession, control, operation, use, maintenance, **service or repair** by or on behalf of **you** of any **vehicle** which is required by legislation to be registered and/or licensed and/or insured and

- a) being operated while in an unsafe condition; or
- b) being operated by any person who has consumed any liquor or taken any substance or drug; or
- c) insured, or in respect of which **you** are insured under any other policy, even if the other insurance is not collectable because of a breach of Condition or applicable Exclusion.

3.32 Vibration or removal of support

Liability arising from or in relation to vibration, or the removing, weakening or interfering with the support of land, or buildings or structures or anything contained on that land, building or structure.

3.33 Watercraft

Your:

- a) ownership, possession, control, operation, use, manufacture, sale, supply, loading or unloading of any **watercraft** exceeding 10 metres in length.
- b) maintenance, **service or repair**, of any **watercraft**.

3.34 War

War, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, military rising, rebellion, revolution, insurrection, military or usurped power, martial law or looting or pillaging in connection therewith, strike, lock-out, riot, civil commotion, mutiny, confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority or any act or condition incidental to any of the above.

3.35 Withdrawal or repair of products

The recall, including any refund on the price paid, repair, withdrawal, inspection, removal, altering, treating, modification, replacement or loss of use of **your products** or any property of which such products form a part, or of work undertaken by or for **you**.

Section 4: Conditions

4.1 Allocation of costs

If any costs, expenses or amounts of money are incurred both in respect of a claim which is insured under this **policy** and a claim or matter that is not insured under this **policy** then **we** will be liable to pay only a fair proportion of such costs, expenses or amounts.

In the event that **you** and **we** are unable to agree as to a fair proportion, then counsel mutually agreed upon by both parties and whose decision will be final, will determine what is a fair proportion.

4.2 Breach of condition

Where **your** breach of any condition of this **policy** has resulted in prejudice to the handling and/or settlement of any claim to which this **policy** responds, which in all other respects qualifies to be insured under this **policy**, the insurance cover afforded by this **policy** in respect of such claim or loss will be reduced to such amount as would have been payable by **us** in the absence of such prejudice.

4.3 Cancellation

- a) **You** may cancel this **policy** at any time by giving notice to **us**. **We** will refund to **you** on a pro rata basis the amount of the unexpired premium already paid subject to any applicable minimum premium.
- b) **We** may cancel this **policy** after sending at least thirty (30) days' notice to **you** in accordance with Conditions 4.13 (Notices by us). **We** will refund on a pro rata basis the amount of any unexpired premium already paid.

4.4 Claims notification

- a) **You** must give **us** immediate notice in writing of:
 - (i) any **occurrence**, act, error or omission involving **you** that might give rise to a claim under this **policy** regardless of whether **you** believe that a claim under this **policy** will or will not be made, or would fall below the applicable **excess**, or be groundless; or
 - (ii) the receipt of notice from, or information as to any intention by, any party to make a claim against **you**; or
 - (iii) any circumstance that a reasonable insured in **your** position should have considered may give rise to a claim against you or a claim under this **policy**.
- b) Notice to **us** under Condition 4.4(a) above will be sent to liabilityclaims@ando.co.nz and will be considered to be received and effective upon receipt by **us**.
- c) Upon receipt of notice from **you** under Condition 4.4, **we** may take any action **we** consider appropriate to protect **your** position and **our** position in respect of the claim against **you**, and any such action by **us** will not be construed as an admission of **your** entitlement to cover under this **policy**.

4.5 Conduct of claims

- a) **You** will at **your** own cost take all reasonable steps to avoid any claim against **you** or diminish any loss in respect of any claim against **you**.
- b) **You** will at **your** own cost immediately disclose all information and provide all assistance in order to allow **us** to investigate the claim and determine liability and cover under this **policy**. Failure to comply with this obligation will entitle **us** to deny liability for the claim in whole or in part. **We** may make any investigation into a claim against **you** that **we** reasonably deem necessary.
- c) No alteration or repair will be carried out without **our** written consent until **we** have had an opportunity of inspection and have authorised such repairs.

- d) If **we** believe that our liability for any claim under this **policy** will not exceed the **excess**, **we** may instruct **you** to assume responsibility for the defence, investigation, settlement or appeal of such claim at **your** expense. Should the amount for which **we** will insure **you** for the claim under this **policy** subsequently exceed the **excess**, **we** agree to reimburse the reasonable costs and expenses incurred by **you** that exceed the **excess**. **You** must advise **us** as soon as the total amount or costs of such claim exceed the **excess** or it becomes apparent that they are likely to do so.
- e) **You** will not (without **our** prior written consent) make any decision that affects the investigation, defence, compromise or handling of the claim against **you**, including any admission, offer, promise or payment.
- f) **You** will preserve and will make available to us and any solicitor **we** appoint, all documents, records, accounts, information, explanation and other evidence as may be reasonably required by or on behalf of **us** for the purposes of investigating **your** claim under this **policy**, and any property, products, appliances and plant and all other things which may assist in the investigation or defence of a claim against **you** or in the exercise of rights of subrogation.

If required by **us** **you** will make any declaration on oath, or another legal form, of the truth of the claim under this **policy** or any other matters related to the claim against **you**.

4.6 Conditions precedent

Conditions 4.4 (Claims notification), 4.5 (Conduct of claims), 4.9 (Fraud), 4.12 (Material change) and 4.17 (Reasonable care and precautions) are conditions precedent to **our** acceptance of indemnity under this **policy** and **we** will be entitled to avoid this **policy** or reduce liability to the maximum extent permitted by law in the event of any breach of these conditions precedent.

4.7 Constructive notice and alterations

- a) Except as provided by an Act of Parliament, notice to any agent or broker or knowledge possessed by any agent, broker or other person will not constitute notice to **us**; and
- b) No change in, modification of, or assignment of interest under this **policy** will be effective except when made by a written endorsement to this **policy** which is signed by **our** authorised representative.

4.8 Defence

- a) **We** are entitled, but not required, to at any time appoint a solicitor (of **our** choice) to act in the defence, investigation, settlement, handling or appeal of a claim against **you** or any circumstances that may give rise to a claim under this **policy**.
- b) **You** acknowledge that any solicitor **we** appoint acts for **us**.
- c) The solicitor **we** appoint may disclose to **us** any information obtained in the course of the defence, investigation, settlement or appeal of the claim against **you**, whether the information was obtained from **you** or otherwise. **You** agree to waive all claims to privilege that might otherwise have existed between **you** and the solicitors retained by **us**.
- d) **We** will have full control over the conduct in **your** name of any proceedings in connection with any claim against **you** (or counterclaim, or any circumstance that may give rise to a claim under this **policy**) including as to the defence, investigation, settlement or appeal of the claim and prosecution of any counterclaim.
- e) **You** will give all information, co-operation and assistance that **we** may require in respect of any claim under this **policy**, including any counterclaim.
- f) **You** must not incur any **defence costs** or any other costs and expenses which may be covered under this **policy** without **our** prior written consent.
- g) **We** will not require **you** to defend any claim against **you**, nor will **you** require **us** to defend, on **your** behalf, any such claim unless Senior Counsel advises that such claim should be defended.

In formulating such advice, Senior Counsel will take into consideration the likely outcomes, including whether the defence has a reasonable prospect of success and the likely costs to be incurred in the defence and **our** liability under the **policy**. The cost of the Senior Counsel's opinion will be regarded as part of the **defence costs**.

In the event that the appointed Senior Counsel advises that, having regard to all the circumstances, the matter should be settled, provided that settlement can be achieved within certain limits which, in counsel's opinion, are reasonable, then **you** will co-operate with **us** to achieve such settlement.

In the event that Senior Counsel advises that, having regard to all the circumstances, the matter should not be defended, then **you** can elect to defend the claim or proceeding at **your** own expense, but **our** liability will not exceed the amount that would have been payable had **you** elected not to defend.

4.9 Fraud

If any answers or statements in respect of any claim is false in any way or the claim is in any other respect otherwise dishonest, **we** will not provide any indemnity to **you** under this **policy**.

4.10 GST

Where, on receiving any indemnity payment under this **policy**, **you** are liable to pay tax under section 5(13) of the Goods and Services Tax Act 1985, **we** will insure **you** for the cost of that tax.

The indemnity under this clause is in addition to the applicable **limit of indemnity**.

4.11 Inspection of property

We will be permitted, but not obligated, to inspect **your** property and operations at any reasonable time.

4.12 Material change

You will give immediate notice to **us** of any material change to any of the facts or circumstances existing at the commencement of the **period of insurance**. **We** will be entitled to vary the **policy** terms and/or charge an additional premium.

4.13 Notices by us

Any notice given in writing by **us** to the insured named in the **schedule**, or to the broker through which **you** arranged this **policy**, will be deemed to be notice to all of **you**. Any notices by **us** may be effected by sending an email or letter to the last known contact address of the insured named in the **schedule** or broker. Any such notice will be considered to have been received, if sent by email, at the time of transmission, and if sent by post, three working days after the date of posting.

4.14 Other insurance

Upon giving notice of any claim, **you** will provide **us** with written details of any other insurance that may cover or partially cover that claim.

In the event that **you** hold other insurance cover with another insurer in respect of any claim for which cover would otherwise be available under this **policy**, then the indemnity under this **policy** will not be available until the **limit of indemnity** under any other policy has been exhausted.

4.15 Payment of limit of indemnity

At any time, **we** will be entitled to pay to **you** the balance of indemnity available up to the applicable **limit of indemnity**, or such lesser sum for which the claim can be settled. Upon such payment, **we** will have no further liability to **you** under this **policy**, except for **defence costs** already incurred up until the time of payment.

4.16 Policy disputes

This **policy** will be governed by the laws of New Zealand whose courts have exclusive jurisdiction in any dispute which may arise in relation to the operation or interpretation of this **policy**.

4.17 Reasonable care and precautions

You will take all reasonable precautions to:

- a) avoid or prevent the happening of any circumstances that may give rise to a claim against **you** or a claim under the **policy**; and
- b) comply, and ensure that directors, officers and employees comply, with all statutory obligations, orders or instructions, by-laws or regulations imposed by a regulator or public authority; and
- c) ensure all employees are properly trained and supervised; and
- d) ensure there are proper safety systems, equipment, practices and procedures in place, and that all employees use and comply with them at all times; and
- e) ensure all plant and equipment is kept properly maintained.

4.18 Severability

- a) If more than one legal entity is insured under this **policy**, each entity is covered in the same manner as though **we** had issued them with a separate **policy**. However where the insured named in the **schedule** is a company with a sole director the knowledge of that sole director will be imputed to the insured named in the **schedule**.
- b) If there is a claim against more than one insured entity in respect of the same **occurrence**, only one **excess** and one **limit of indemnity** will apply, regardless of the number of entities indemnified. Where the **limit of indemnity** is insufficient to fully indemnify all insured entities, it will apply in priority to the named insured.
- c) This Condition does not apply to entities which are insured under this **policy** by Definition 5.28(g) and 5.28(h) (You, your).

4.19 Subrogation

- a) If **we** make any payment whatsoever under this **policy**, **we** will be entitled to all **your** rights of recovery against any party; and
- b) **You** will do all that is necessary to assist **us** in the exercise of our rights of subrogation, including prosecuting proceedings in **your** name at **our** expense, providing information, executing documents, and giving evidence; and
- c) If **you** effect any recovery in respect of the claim, **you** will account to **us** for the full amount received in accordance with this **policy**; and
- d) **We** will not exercise any subrogated rights of recovery against any employee unless the claim has been brought about or contributed to by the dishonest, fraudulent, criminal or malicious act or omission of the employee.

4.20 Words

Certain words in this **policy** have a specific meaning. These words appear in bold and **you** will find the meaning listed in Section 5 'Definitions' of this **policy**. Words importing persons will include companies and other legal entities. The singular includes reference to the plural and vice versa, and reference to any gender includes all other genders.

Any reference to legislation, regulation, Code or Standard shall include any subsequent amendment, replacement or successor legislation, regulation, Code or Standard.

Section 5: Definitions

5.1 Act of terrorism

An act, including but not limited to the use of force or violence and/or the 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), committed for political, religious, ideological, or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

5.2 Advertisement

Any communication to the public promoting **your business** including by way of print, electronic or digital media, publication, communication, broadcast, message, programme, content, or exhibit, where that communication first occurs during the **period of insurance** and within the **policy territory**.

5.3 Advertising liability

Liability arising out of one or more of the following acts, errors or omissions:

- a) Defamation arising out of statements first published during the **period of insurance**; or
- b) Infringement of copyright, title or slogan; or
- c) Unfair competition, misappropriation of advertising ideas or style of doing business; or
- d) Invasion of privacy;

where committed or alleged to have been committed in any **advertisement** by **you** or on **your** behalf, in the course of carrying out **your business**.

5.4 Aircraft

Any machine, craft or thing made or intended to fly or move in or through the atmosphere or space.

5.5 Computer system

Any computer, hardware, software, firmware and the **data** stored thereon, as well as associated input and output devices, **data** storage devices, networking equipment, components and storage area network or other electronic back up facilities owned or operated by **you** or any other party.

5.6 Cyber act

An unauthorised or malicious act or series of related unauthorised or malicious acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any **computer system** or any **data** by any person or group(s) of persons.

5.7 Cyber incident

- a) Any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **computer system**; or
- b) Any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **computer system** arising from any **cyber act** or under 5.7(a).

5.8 Data

Information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a **computer system**.

5.9 Defence costs

Reasonable fees, costs, charges and expenses incurred by **us** on **your** behalf or by **you** with **our** written consent, which will not be unreasonably delayed or withheld.

Defence costs will not include any remuneration or reimbursement of fees for **your** time including any time spent in assisting **us** or **our** appointed lawyers with the conduct of any claim.

5.10 Excess

The excess specified in the **schedule** for each Coverage Clause or Additional Coverage Clause, which will be exclusive of costs, unless otherwise specified. All insureds are jointly and severally liable to pay the **excess**. In order to recover the **excess**, **we** may deduct the amount of the **excess** from any amount paid under this **policy**. The **limit of indemnity** will apply over and above the applicable **excess**.

5.11 Hot work

Any work involving:

- a) the application of heat, a naked flame or open heat source or work that produces sparks; or
- b) cutting involving the use of rotary disc or grinding equipment; or
- c) the use of gas welding, arc welding, oxyacetylene welding equipment including cutting with such equipment; or
- d) soldering, brazing, or use of heat guns.

5.12 Limit of indemnity

The limit of indemnity specified in the **schedule**, or applicable Additional Coverage Clause.

5.13 North American countries

The United States of America and Canada, including those territories to which the legal jurisdiction of the United States of America or Canada extends or applies.

5.14 Occurrence

Any one event in connection with **your business**, including continuous or repeated exposure to substantially the same general conditions, which results in **personal injury** or **property damage** that is not expected or intended from **your** standpoint.

5.15 Period of insurance

The period specified in the **schedule**.

5.16 Personal injury

Bodily injury, sickness, disease or infection, illness, including death resulting therefrom, and will include disability, shock, fright, mental anguish or mental injury, as well as bodily injury caused by:

- a) false arrest, wrongful detention, false imprisonment or malicious prosecution committed by **you**; or
- b) wrongful entry or eviction or other invasion of the right of privacy committed by **you**; or
- c) assault and battery committed by **you**, provided that this was not committed by **you** or at **your** direction except for the purpose of preventing or eliminating danger to persons or property; or
- d) trespass to the person committed by **you**;

happening during the **period of insurance** and within the **policy territory**.

5.17 Policy

This document, the **schedule**, the **proposal** and any endorsements issued by **us**.

5.18 Policy territory

Worldwide, unless otherwise stated in the **schedule**, and:

- a) except where the local laws require **you** to have insurance with an insurer or insurance provider licensed in that territory; and
- b) subject to:
 - (i) Exclusions 3.18 (North American countries) and 3.19 (North American exports);
 - (ii) New Zealand only in Additional Coverage Clause 2.13 (Product withdrawal costs), 2.14 (Punitive or exemplary damages), 2.15 (Service or repair – equipment or machinery), 2.16 (Service or repair – vehicles or watercraft), 2.18 (Underground services), 2.20 (Vibration or removal of support) and 2.22 (Warrant of fitness); and
 - (iii) New Zealand and Australia only in Additional Coverage Clause 2.19 (Unmanned aerial vehicles).

5.19 Pollutants

Any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapor, soot, fumes, acid, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

5.20 Property damage

- a) Physical injury to or destruction or loss of tangible property including resulting loss of use; or
 - b) Loss of use of tangible property, which has not been physically injured or destroyed provided such loss of use arises out of physical damage to or destruction or loss of other tangible property;
- happening during the **period of insurance** and within the **policy territory**.

5.21 Proposal

All proposals including attachments, materials and information submitted with them for this **policy** or for any policy of which this **policy** is a renewal or replacement. All such proposals, attachments and materials are deemed to be incorporated into this **policy**.

5.22 Schedule

The current schedule to this **policy** issued by **us**.

5.23 Service or repair

The repair, alteration, installation, renovation, service, scheduled maintenance, or any necessarily incidental activities.

5.24 Sublimit

The sublimit for the applicable Coverage Clause or Additional Coverage Clause specified in the **schedule**. If no sublimit is specified in the **schedule**, then no cover is available.

5.25 Vehicle

Any type of machine on wheels or on self-laid tracks made or intended to be propelled by other than manual or animal power and any trailer or other attachment made or intended to be drawn by any such machine, and includes its accessories, tools, specialised equipment and spare parts.

5.26 Watercraft

Any vessel, craft or thing made or intended to float on and travel on or through water. Any reference in this **policy** to the length of the **watercraft** is to be measured in length overall being stem to stern excluding any fixed or movable projections extending beyond these points.

5.27 We, our, us

Ando Insurance Group Limited for and on behalf of the Underwriters noted in the **schedule**.

5.28 You, your

- a) The insured(s) named in the **schedule**.
- b) All subsidiaries incorporated in New Zealand, and any other organisation under the sole control of the insured named in the **schedule** and which it actively manages:
 - (i) as at the commencement of the **period of insurance**;
 - (ii) acquired or taken control of during the **period of insurance**, provided that a named insured gives **us** written notice and obtains **our** acknowledgement of coverage within sixty (60) days of acquisition or taking control.
- c) Every director, officer, employee, partner or shareholder of an insured designated in clause 5.28(a) and 5.28(b) whilst acting within the scope of their duties as such, except in respect of any liability under the Companies Act 1993.
- d) Every principal in respect of their vicarious liability arising solely out of the performance by an insured as defined under 5.28(a), 5.28(b) or 5.28(c) of any contract of work for such principal, but always subject to the terms of this **policy**.
- e) Every office bearer or member of social and sporting clubs formed with the consent of the insured named in the **schedule** (other than an insured designated in clause 5.28(d), 5.28(f), 5.28(g) or 5.28(h)) in respect of claims arising from the duties connected with the activities of any such club.
- f) Each joint venture, co-venturer or joint lessee of a named insured but only with respect to liability incurred as a joint venture, co-venturer or joint lessee, provided that the insured named in the **schedule** gives written notice to **us** and obtains **our** written acknowledgement of coverage for such joint venture, co-venture or joint lease.
- g) Any contractors or subcontractors who supply only their labour and who work fully under the direction, control and supervision of the insured but only while they are engaged and working in New Zealand for and on behalf of the entities described at clause 5.28(a) and 5.28(b) and provided they are not otherwise insured. Condition 4.18 (Severability) does not apply in respect of such contractors or sub-contractors; and
- h) Any volunteer but only while they are engaged and working in New Zealand for and on behalf of the entities described at clause 5.28(a) and 5.28(b) and that they are not otherwise insured.

5.29 Your business

- a) The business stated in the **schedule**, which will include:
 - (i) the provision and management of lunch room facilities, social, sports, welfare and similar organisations for the benefit of **your** employees; and
 - (ii) Fire Brigade, first aid, medical and ambulance services; and
 - (iii) property owners, lessors, lessees and tenants; and
 - (iv) organisation of and participation in exhibitions, trade fairs, conferences and the like; and
 - (v) the organisation of charitable events or similar fundraising activities; and
 - (vi) sponsorship of events, organisations, entities and individuals.
- b) Any other activity that **you** may undertake provided that **you** give **us** prior written notice and obtain **our** written acknowledgement of coverage.

5.30 Your products

Any property, good, product, or other thing, including labels, instructions for use, advice and property which has been manufactured, constructed, erected, installed, repaired, serviced, treated, sold, supplied or distributed by **you** after it has ceased to be:

- a) in **your** possession; or
- b) under **your** control; or
- c) owned by **you** (including any ownership by way of any retention of title agreement).

ANDO GL 0323





Ando General Liability - Building Defects Endorsement (GL236)

Exclusion 3.5 (Building Defects) will not apply in respect of any amounts **you** become legally liable to pay as compensation for **property damage** caused by an **occurrence** and to which a claim under this **policy** applies, provided;

- a) **you** will pay an excess of \$2,500 for every claim under this endorsement; and
- b) The maximum aggregate amount payable by **us** under this endorsement during any one **period of insurance** is \$25,000 inclusive of **defence costs**.

For the purposes of this endorsement only Exclusion 3.10 (defective materials, design and work) is deleted and replaced as follows:

Liability for:

- a) defective materials;
- b) any defect in any design, plan or specification;
- c) defective work; or
- d) improving or correcting any work undertaken by **you** or on **your** behalf.

This exclusion does not apply to resultant **property damage** arising from defective work under Exclusion 3.10 (C).

For the avoidance of doubt all other provisions of the **policy** apply to this extension.