

Vero Marine Carriers' Legal Liability Wording

CCLB 0915



**Note: individual policies may not include all the coverage sections
shown in this sample wording**

Limited Carrier's Risk section

We cover *your* liability as a *Carrier* under the *Act* for *carriage* at *Limited Carrier's Risk*. We do not cover any *carriage* under *Declared Value* or *Declared Terms* or any other liability assumed by *you* in private agreement with *your customers*, unless we agree specifically to cover any such liability on terms in writing between *you* and *us*.

We will indemnify *you* for:

- (a) all sums which *you* shall become legally liable to pay as a *Carrier* under the *Act*, subject to the terms of this *Policy*, in respect of *loss* of or physical *damage* to *goods* arising from an *occurrence* during the *Period of Insurance*. *Our* liability for all sums payable for any one *occurrence* shall not exceed the applicable Limit(s) of Liability specified in the *Schedule*.

If *you* choose, *you* will not be required to rely on the defence of saving life or property in peril available under section 14(d) of the *Act* in any *claim* made against *you*.

Further, in addition to the Maximum Amount Any One Occurrence in the *Schedule*, we will indemnify *you* for:

- (b) all costs and expenses of litigation recovered by any claimant against *you*;
- (c) all costs and expenses of litigation incurred with *our* prior consent;
- (d) Debris Removal and Clean-Up: where we have agreed that a *claim* is payable for lost or damaged *goods*, the costs of the removal of debris (that were the *goods*) following an *accident*, and any subsequent clean-up costs. However, any insurance cover available under *your* commercial motor vehicle or general liability policy / policies must first be exhausted.
- (e) Expediting Expenses: where we have agreed that a *claim* is payable for lost or damaged *goods*, the reasonable additional costs incurred by *you* to carry any surviving *goods* to their destination.
- (f) Consequential Loss: where we have agreed that a *claim* is payable for lost or damaged *goods*, we shall also reimburse *you* for any sum that *you* are found legally liable to pay for consequential losses that are found to be a direct result of the *loss* of or physical *damage* to those *goods*. However, we will not pay for *loss of market*, or fines or *punitive damages* of any kind.

Limited Carrier's Risk - Restricted Cover section

We cover *your* liability as a *carrier* under the *Act* for contracts for carriage at Limited Carrier's Risk, for loss or damage caused by certain identified perils only, or as may otherwise specifically be agreed in writing between *you* and *us*.

Under this restricted cover we will indemnify *you* for:

- (a) all sums which *you* shall become legally liable to pay as a *Carrier* under the *Act*, subject to the terms of this *Policy*, in respect of *loss* of or physical *damage* to *goods* arising from an *occurrence* reasonably attributable to:
- fire or explosion
 - the *carrying conveyance* colliding with any external object
 - the *carrying conveyance* overturning or being derailed
 - the *carrying conveyance* being a waterborne vessel, or being on board a waterborne vessel, that is stranded, grounded, capsized or sunk

during the *Period of Insurance*.

Our liability for all sums payable for any one *occurrence* shall not exceed the applicable Limit(s) of Liability specified in the *Schedule*.

If *you* choose, *you* will not be required to rely on the defence of saving life or property in peril available under section 14(d) of the *Act* in any *claim* made against *you*.

Further, in addition to the Maximum Amount Any One Occurrence above, we will indemnify *you* for:

- (b) all costs and expenses of litigation recovered by any claimant against *you*;
- (c) all costs and expenses of litigation incurred with *our* prior consent;
- (d) Debris Removal and Clean-Up: where we have agreed that a *claim* is payable for lost or damaged *goods*, the costs of the removal of debris (that were the *goods*) following an *accident*, and any subsequent clean-up costs. However, any insurance cover available under *your* commercial motor vehicle or general liability policy / policies must first be exhausted.
- (e) Expediting Expenses: where we have agreed that a *claim* is payable for lost or damaged *goods*, the reasonable additional costs incurred by *you* to carry any surviving *goods* to their destination.
- (f) Consequential Loss: where we have agreed that a *claim* is payable for lost or damaged *goods*, we shall also reimburse *you* for any sum that *you* are found legally liable to pay for consequential losses that are found to be a direct result of the *loss* of or physical *damage* to those *goods*. However, we will not pay for *loss of market*, or fines or *punitive damages* of any kind.

Owner's Risk section

Under this Owner's Risk cover we will indemnify *you* for:

- (a) Debris Removal and Clean-Up: where we agree that a loss is payable involving damaged *goods*, the costs of the removal of debris (that were the *goods*) following an *accident*, and any subsequent clean-up costs incurred by *you*. However, any insurance cover available under *your* commercial motor vehicle or general liability policy / policies must first be exhausted.
- (b) Expediting Expenses: where we agree that a loss is payable involving lost or damaged *goods*, the reasonable additional costs incurred by *you* to carry any surviving *goods* to their destination.

Declared Value Risk section

We cover your liability as a *Carrier* under the *Act* for contracts for carriage at *Declared Value Risk*, as specifically agreed with us.

In addition to the Maximum Amount Any One Occurrence in the *Schedule*, we will indemnify you for:

- (a) Debris Removal and Clean-Up: where we have agreed that a *claim* is payable for lost or damaged *goods*, the costs of the removal of debris (that were the *goods*) following an *accident*, and any subsequent clean-up costs. However, any insurance cover available under your commercial motor vehicle or general liability policy / policies must first be exhausted.
- (b) Expediting Expenses: where we have agreed that a *claim* is payable for lost or damaged *goods*, the reasonable additional costs incurred by you to carry any surviving *goods* to their destination.
- (c) Consequential Loss: provided there is a limit specified in the *Schedule*, where we have agreed that a *claim* is payable for lost or damaged *goods*, we shall also reimburse you for any sum that you are found legally liable to pay for consequential losses that are found to be a direct result of the *loss* of or physical *damage* to those *goods*. However, we will not pay for *loss of market*, or fines or *punitive damages* of any kind.

Declared Terms section

We cover *your* liability as a *Carrier* under the *Act* for *contracts for carriage on Declared Terms*, as specifically agreed with *us*.

Further, in addition to the Maximum Amount Any One Occurrence in the *Schedule*, we will indemnify *you* for:

- (a) Debris Removal and Clean-Up: where we have agreed that a *claim* is payable for lost or damaged *goods*, the costs of the removal of debris (that were the *goods*) following an *accident*, and any subsequent clean-up costs. However, any insurance cover available under *your* commercial motor vehicle or general liability policy / policies must first be exhausted.
- (b) Expediting Expenses: where we have agreed that a *claim* is payable for lost or damaged *goods*, the reasonable additional costs incurred by *you* to carry any surviving *goods* to their destination.
- (c) Consequential Loss: provided there is a limit specified in the *Schedule*, where we have agreed that a *claim* is payable for lost or damaged *goods*, we shall also reimburse *you* for any sum that *you* are found legally liable to pay for consequential losses that are found to be a direct result of the *loss* of or physical *damage* to those *goods*. However, we will not pay for *loss of market*, or fines or *punitive damages* of any kind.

Introduction

Privacy Act and the Insurance Claims Register (ICR)

The ICR is a database of insurance claims to which participant insurers have access. The purpose of the ICR is to prevent insurance fraud. The ICR is operated by Insurance Claims Register Limited (ICR Ltd), PO Box 474, Wellington.

This *Policy* is issued to *you* conditional upon *you* authorising *us* to place details of any *claims* made against this *Policy* on the database of ICR Ltd, where they will be retained and be available for other insurance companies to inspect.

You also authorise *us* to obtain from ICR Ltd personal information about *you* that is (in *our* view) relevant to this *Policy* or any *claim* made against it. *You* have certain rights of access to and correction of this information, subject to the provisions of the Privacy Act 1993 or any subsequent re-enactments.

General Conditions

The following General Conditions apply to the whole policy

1. Attachment and Termination of Cover

The cover attaches from the time the *goods* for which *you* accept responsibility are accepted for carriage, as defined in section 9(2) of the *Act*. Cover continues until *your* responsibility for the *goods* ends as in sections 9(3) and 9(4) of the *Act*.

However, we do not cover the *goods* when not *in transit*; or when left unattended at the intended point of delivery.

2. Goods covered by this insurance

All *goods* and merchandise, except:

- living animals, including livestock
- household goods & personal effects removals
- office removals
- perishable *goods*
- *Dangerous Goods*
- *Hazardous Substances*
- aircraft of any kind including helicopters
- *Valuable Cargo*
- wines, spirits, tobacco, tobacco products

unless specified in the *Schedule*.

3. Exclusions applicable to this Policy

This *Policy* does not cover:

- 1 Any *deductible* stated in the *Schedule*.
- 2 Liability for *loss* of or *damage* to *goods* arising out of:
 - (a) *your* insolvency
 - (b) acts of suspected theft, pilferage or dishonesty not notified to the Police within 72 hours of *you* becoming aware of the event
 - (c) infidelity or dishonest acts by *your* employees, agents or subcontractors
 - (d) unexplained disappearances, or shortages of *goods* revealed only after the taking of inventory, or due to accounting or clerical errors
 - (e) the actions of any person involved with the *goods* accepted for *carriage* by *you*, where that person
 - (i) is under the influence of any intoxicating liquor, or drug; or
 - (ii) does not hold the appropriate driver's licence for any road conveyance on public roads
 but only when *you* or *your* local managers were aware, or should have been aware, of the substance use or licence deficiency prior to the *accident*

- (f)
 - (i) *carriage* by a *carrying conveyance* which is overloaded or overweight
 - (ii) the use of a *carrying conveyance* that is not in a roadworthy or safe condition
 - (iii) inadequate protection of the *goods* from the weather
 - (iv) inadequate stowage or securing of the *goods*but only where *you* or *your* local managers were aware, or should have been aware of the situation prior to the *accident*
- (g) theft or pilferage from an unattended and unlocked *carrying conveyance*
- (h) *your* acceptance of *goods* for *carriage*, after being advised by a *customer* of any matter breaching either of the implied warranties in section 17(1)(a) of the *Act*
- (i) any mechanical or electrical derangement of the *goods* where there is no evidence of external *damage* to either the *goods* or its external packaging
- (j) *you* intentionally causing *loss* or *damage*.

3 In no case shall we cover *your* liability for *loss* or *damage* directly or indirectly caused by or contributed to, by, or arising from:

- (a) any radiation from civil nuclear power generation, nuclear fuel or military any nuclear chemical, biological, bio-chemical or electromagnetic weapon
- (b) civil strife, terrorism, strikes or war.

4. Your Obligations

Basis of Insurance	Any information provided to <i>us</i> to assess <i>your</i> risk for acceptance for insurance shall form the basis of the contract between <i>you</i> and <i>us</i> .
Advise <i>us</i>	<i>You</i> must contact <i>us</i> immediately if <i>you</i> become aware of any situation that may give rise to a <i>claim</i> against <i>you</i> .
Minimise the <i>loss</i>	<i>You</i> must take all reasonable steps to minimise the <i>claim</i> and avoid any further <i>damage</i> to the <i>goods</i> , or any further liability.
Provide full information	When <i>you</i> make a <i>claim</i> under this <i>Policy</i> <i>you</i> consent to <i>your</i> information in connection with that <i>claim</i> being: <ul style="list-style-type: none"> • disclosed to <i>us</i> • shared with others investigating the <i>claim</i> on <i>our</i> behalf. <i>You</i> must: <ul style="list-style-type: none"> • give <i>us</i> free access to examine and assess the <i>claim</i> • send to <i>us</i> any relevant documentation or correspondence • complete a <i>claim</i> form and statutory declaration on request • provide <i>us</i> with requested information and assistance.
Be truthful	If <i>your</i> dealings with <i>us</i> are dishonest and/or <i>your claim</i> is dishonest or fraudulent in any way, <i>we</i> may: <ul style="list-style-type: none"> • decline <i>your claim</i> in whole or part • declare this <i>Policy</i> or all policies <i>you</i> have with <i>us</i> to be unenforceable from the date of the dishonest or fraudulent act.
Do not admit liability	<i>You</i> must not: <ul style="list-style-type: none"> • admit <i>you</i> are liable to any <i>customer</i> • do or say anything that may prejudice <i>our</i> ability to defend the <i>claim</i> against <i>you</i> or take a recovery action in <i>your</i> name.
Comply with the <i>Policy</i>	<i>You</i> must comply with <i>your</i> obligations under this <i>Policy</i> at all times. If <i>you</i> do not comply with this, <i>we</i> may not pay <i>your claim</i> .
Provide accurate information	At any time, <i>you</i> must make sure that all statements and representations made to <i>us</i> , either by <i>you</i> or anyone else on <i>your</i> behalf, are truthful and complete.
Reasonable care	<i>You</i> must take reasonable care at all times to avoid circumstances that could result in a <i>claim</i> . <i>Your claim</i> may not be covered if <i>you</i> are reckless or grossly irresponsible.
Other insurance	<i>You</i> must notify <i>us</i> as soon as <i>you</i> know of any other insurance policy that covers <i>you</i> for any of the liabilities covered by this <i>Policy</i> . If <i>you</i> can claim under any other insurance policy, <i>we</i> will only pay over and above the amount paid by the other insurance.
Change in circumstances	<i>You</i> must inform <i>us</i> of any change in circumstance which is material to <i>your</i> risk <i>we</i> insure or the amount of premium <i>we</i> charge to cover <i>your</i> risk. Information is material where <i>we</i> would have made different decisions about either: <ul style="list-style-type: none"> • continuing to insure <i>you</i> • the terms of <i>your</i> cover • the amount of premium <i>we</i> charge. Once <i>you</i> have told <i>us</i> of any change in circumstances, <i>we</i> may at <i>our</i> option either cancel <i>your Policy</i> , or alter the premium agreed, or change the terms of cover provided by this <i>Policy</i> . If <i>you</i> fail to tell <i>us</i> about a change of circumstance to the risk <i>we</i> have agreed to insure, <i>we</i> may at <i>our</i> option: <ul style="list-style-type: none"> • declare this <i>Policy</i> unenforceable • decline any <i>claim</i> in whole or in part. These actions will be taken from the date <i>you</i> knew, or ought to have known, of the increase or alteration of the risk <i>we</i> insure.

5. Managing Your Claim

Subrogation	<p>Once we have accepted any part of <i>your claim</i> under this <i>Policy</i>, we may, at <i>our</i> own expense, assume <i>your</i> legal right of recovery.</p> <p>If we do so, <i>you</i> must fully co-operate in the enforcement of this right by <i>us</i>.</p>
Defence of <i>claims</i>	<p>After <i>you</i> have made a <i>claim</i>, we have the sole right to act in <i>your</i> name and on <i>your</i> behalf to defend, negotiate or settle the <i>claim</i>, as we see fit. This will be done at <i>our</i> expense.</p> <p>We may appoint <i>our</i> own lawyers to represent <i>you</i>. They will report directly to <i>us</i>. <i>You</i> agree to waive in <i>our</i> favour the legal professional privilege to <i>your</i> communications with them.</p>
Discharge of <i>claims</i>	<p>We may elect at any time to pay <i>you</i></p> <ul style="list-style-type: none"> • the maximum amount payable under the <i>Policy</i>; or • any lesser sum for which we can settle the claim against <i>you</i>. <p>Once we have paid this amount, and any defence costs already incurred, <i>our</i> responsibility to <i>you</i> under this <i>Policy</i> has been met in full.</p>

6. How we administer this Policy

Cancellation	<p><i>You</i> can ask <i>us</i> to cancel this <i>Policy</i> at any time.</p> <p>If so, cover of all risks under this <i>Policy</i> will cease immediately on cancellation. We will then refund the proportion of the unused premium paid, calculated from the date of the cancellation less 15% which will be retained by <i>us</i>.</p> <p>We can cancel this <i>Policy</i> by advising <i>you</i>, or those who represent <i>you</i>, by letter, fax or email. Cancellation will take effect at midnight on the 7th day after the date of <i>our</i> communication. We will refund the proportion of the unused premium paid, calculated from the date of the cancellation.</p>
Modification	<p><i>You</i> can ask <i>us</i> to modify this <i>Policy</i> at any time. We must agree to any modification before it takes effect.</p> <p>We can modify this <i>Policy</i> by advising <i>you</i>, or those who represent <i>you</i>, by letter, fax or email. The modification will take effect at the agreed time.</p>
GST	<p>Except at where otherwise stated, the Limits of Liability in the <i>Schedule</i> are exclusive of GST.</p>
Premium adjustments and declarations	<p>For <i>goods</i> carried at <i>Limited Carrier's Risk</i>, where we have charged <i>you</i> a deposit premium, then the annual premium can be adjusted by <i>us</i>, based on the agreed method of calculation. <i>You</i> agree to declare to <i>us</i> the estimated and actual values of the gross income derived from these contracts. This might result in an additional premium payable by <i>you</i>. No portion of a deposit premium is refundable.</p> <p>If we have specifically agreed to include <i>goods</i> carried at <i>Declared Value</i>, <i>you</i> agree to declare to <i>us</i> the value of the <i>goods</i> carried.</p> <p>If we have specifically agreed to include <i>goods</i> carried at <i>Declared Terms</i>, <i>you</i> agree to declare to <i>us</i> the gross income derived from these contracts.</p> <p><i>You</i> shall keep accurate records and agree to allow <i>us</i> to inspect them.</p>

7. Laws that govern this Policy

The law of New Zealand applies to this *Policy*. The New Zealand Courts have exclusive jurisdiction.

8. Definitions applicable to this Policy

<i>Accident</i>	means an event that is sudden, unintended and unexpected by <i>you</i> .
<i>Act</i>	means the Carriage of Goods Act 1979 and subsequent amendments.
<i>Actual Carrier, Carriage, Carrier, Contracting Carrier, Contracting Party, Contract for Carriage, Declared Value Risk, Declared Terms, Goods, Limited Carrier's Risk and Loss, Damage</i>	where used in this <i>Policy</i> shall, except where the context clearly requires otherwise, have the same meaning as is given to each of them in the <i>Act</i> .
<i>Carrying conveyance</i>	a means of <i>carriage</i> or a vehicle used for the <i>carriage</i> of <i>goods</i> and includes any trailer, b-train, wagon, container or similar vehicle or space in which the <i>goods</i> are carried.
<i>Claim</i>	means a <i>claim</i> against <i>you</i> by a third party which arises from <i>your</i> legal liability as a <i>Carrier</i> under the <i>Act</i> .
<i>Customer</i>	means any <i>contracting party</i> with whom <i>you</i> contract to carry <i>Goods</i> .
<i>Dangerous Goods</i>	has the same meaning as in the Land Transport Rule: Dangerous Goods 1999.
<i>Deductible</i>	means an amount that is first deducted from any <i>claim</i> made under this <i>Policy</i> . A <i>deductible</i> is an amount that is included within a Limit of Liability. For example, if there is a NZD 50,000 Limit, but a NZD 5,000 <i>deductible</i> applies, the maximum we can pay for one <i>claim</i> is NZD 45,000.
<i>Goods</i>	are as defined in the <i>Schedule</i> .
<i>Goods are in transit</i>	when the <i>goods</i> are on any <i>carrying conveyance</i> , including whilst stationary, or whilst on loading docks, wharves or any holding area awaiting on transport. <i>Goods</i> are not 'in transit' when they are in a store and a storage charge is made. <i>Goods</i> under <i>carrier's</i> lien (section 23 of the <i>Act</i>), or under storage and disposal (sections 24, 25 and 26 of the <i>Act</i>) are not 'in transit'.
<i>Hazardous Substances</i>	has the same meaning as in the Hazardous Substances and New Organisms Act 1996.
<i>Loss of market</i>	means a <i>claim</i> made against <i>you</i> by <i>your customer</i> for their <i>loss or damage</i> arising from their inability or unwillingness to sell the <i>goods</i> at the intended price or to a particular purchaser.
<i>Occurrence</i>	means an event or series of events from one source or original cause during the <i>Period of Insurance</i> which results in <i>loss</i> of or physical <i>damage</i> to <i>goods</i> in any circumstances which could give rise to <i>your</i> liability under the <i>Act</i> .
<i>Period of Insurance</i>	means the period shown in the <i>Schedule</i> and any subsequent period for which we have agreed to renew this <i>Policy</i> , and for which <i>you</i> have agreed to pay premium.
<i>Policy</i>	means the terms, conditions and exclusions of this document, including the <i>Schedule</i> .
<i>Punitive damages</i>	means damages awarded against <i>you</i> to reflect punishment and/or of an exemplary nature.
<i>Schedule</i>	means the most recent <i>Policy Schedule</i> (and any <i>Policy</i> endorsements) issued by <i>us</i> .
<i>Valuable Cargo</i>	means bullion, precious metal objects, precious stones, jewellery, bank notes, coins, bonds, negotiable instruments or securities of any kind, antiques, and works of art.
<i>We, Us</i>	means Vero Marine Insurance, an operating division of Vero Insurance New Zealand Limited, the Insurer.
<i>You, your</i> means:	<p>(a) the party named as the Insured in the <i>Schedule</i>; and any</p> <p>(b) subsidiary company.</p> <p><i>You, your</i> can also mean any</p> <p>(c) associated managed company</p> <p>(d) new company or organisation formed or acquired by the party named as the Insured in the <i>Schedule</i></p>
	provided that we are advised in writing within 60 days of the assumption of active management control, or 60 days from the time of any formation or acquisition.

Liability Claims Procedure

Vero Marine Insurance
P O Box 1759
Auckland
New Zealand

Tel +64 9 363-2600
Fax +64 9 363-2601
E-mail claims@veromarine.co.nz
Website <http://www.veromarine.co.nz>

Notification

Please advise *our* nearest office (either directly or through *your* broker) immediately should any of the following occur:

- *Claim* - this includes any legal proceedings and/or allegations of wrongdoing coupled with a demand for compensation
- Complaint - this includes allegations of incompetence, poor performance or expressions of dissatisfaction, as well as complaints lodged with any professional body or association
- Circumstance that might give rise to a *claim* - this includes any mistake, error or problem that *you* ought to reasonably identify as possibly giving rise to a subsequent *claim*.

Further Action Required

Following initial advice to *us*, as soon as reasonably practicable *you* must:

- provide details of the circumstances to *us* in writing, together with any documents and information which we deem necessary to obtain; and
- on receipt, forward to *us* every letter, writ, summons, process and claims; and
- inform *us* in writing of notice of any prosecution or inquest.

It is good practice to note the names and addresses of witnesses, to take photographs and to video, and to draw diagrams as soon as possible after the *occurrence*.

Important

Notification should be given irrespective of the perceived merit of any actual or potential *claim* or the quantum at issue.

You should not:

- admit liability without *our* written consent; or
- take any action which may be considered an admission of liability; or
- repudiate or settle a *claim*.

If *you* do not follow these instructions, *you* may prejudice *your* insurance *claim*

Subrogation

1. If we have accepted liability for a *claim* under this *Policy*, we are entitled to become subrogated to *your* rights of recovery or indemnity from any other person or entity.
2. We have the sole right and option to act in *your* name and on *your* behalf to negotiate, defend or settle any *claim* and to make over for its own benefit any legal right to recovery *you* might have, whether before or after *you* have been indemnified by *us*.
3. Where we recover from other parties a sum more than the amount of its loss (including administrative, survey and legal costs), then the order in which the sum recovered is to be applied shall be as follows:
 - i) first - in meeting *our* loss.
 - ii) second - in compensating *us* for interest foregone in respect of *our* loss for the period commencing from the date of *your claim/s* to the date of receipt of moneys recovered from other parties calculated at the current market "on call" rate and compounded 6 monthly.
 - iii) third - in meeting *your* uninsured losses (if any).
 - iv) fourth - for *our* benefit.

Initial Notice of Claim

Notification to other Carriers of a Potential Claim

This Notice should be faxed to any actual carrier who may be legally responsible by the Carriage of Goods Act 1979 or subsequent amendments for causing damage or partial loss to the items detailed below, or may have been in possession of the items at that time. ***This Initial Notice should be lodged with the actual carrier within 10 days of receiving a Notice of Claim: section18(2).***

To	Date
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From Company	
Company Address	Contact Person Telephone Fax

Location of Goods Goods may be examined at this address. Please advise us prior to attending as the insurance surveyor may wish to conduct a joint survey.	Contact Person Telephone Fax or paste your business card here
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We hold you responsible for damage to
No. of Units

Transit Document No.	
Conveyance(s)	
Transit From	
Transit To	
Estimate of Loss	
Date of Discharge	
Date of Loss	

Yours faithfully

NAME: TITLE: