



NSW

# Residential Construction Warranty Insurance





# Important Notices

The policy is made up of this policy wording, any endorsements and the certificate of insurance. You should read those documents together, to tell you what we cover, what we exclude, what we pay to settle claims and other important information.

Please note that you have obligations under the policy with which you must comply, otherwise we may not have to pay your claim(s).

## Renewal

The policy will not be renewed and is not of a kind that it is usual to renew.

## Duty of Disclosure

Before you enter into a contract of general insurance with an insurer, you have a duty, under the *Insurance Contracts Act 1984*, to disclose to the insurer every matter that you know, or could reasonably be expected to know, is relevant to the insurer's decision whether to accept the risk of insurance and, if so, on what terms.

You have the same duty to disclose those matters to the insurer before you renew, extend, vary or reinstate a contract of general insurance.

Your duty however does not require disclosure of any matter:

- ▼ that diminishes the risk to be undertaken by the insurer;
- ▼ that is of common knowledge;
- ▼ that your insurer knows or, in the ordinary course of its business, ought to know;
- ▼ as to which compliance with your duty is waived by the insurer.

### **Non-disclosure**

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce its liability under the contract in respect of a claim or may cancel the contract.

If your non-disclosure is fraudulent, the insurer may also have the option of avoiding the contract from its beginning.

# Limitation or Exclusion of Rights Against Third Parties

You must not limit or exclude your rights against a party from whom you might otherwise be able to recover in respect of loss or damage. If you do, our liability to you is reduced to the extent that we can no longer recover from that other party as a result of the limitation or exclusion by you.

## Interested Parties

The cover provided by this policy does not extend to an interest in the residential building that is not your interest. We will not be liable under this policy to anybody except you.

## Privacy Statement

The Privacy Act 1988 (Cth) (as amended) now applies and requires us to inform you that:

### **Purpose of Collection**

We collect personal information (*this is information or an opinion about an individual whose identity is apparent or can reasonably be ascertained and which relates to a natural living person*) from or about you for the purposes of:

- ▼ providing insurance services to you;
- ▼ evaluating the project application by the builder;
- ▼ evaluating any request for amendment to any insurance provided;
- ▼ issuing, administering and managing the insurance provided following acceptance of a project application;
- ▼ investigating and, if covered, managing claims made in relation to any insurance you have with us or other companies within the Suncorp group, and
- ▼ understanding your needs and improving our financial products and services, including training and developing our staff and representatives.

The personal information collected can be used or

disclosed by us for a secondary purpose related to those purposes listed above, but only if you would reasonably expect us to use or disclose the information for this secondary purpose.

However for sensitive information, the secondary purpose must be directly related to the purposes listed above.

The personal information collected can be used or disclosed by us as required by any relevant home building insurance legislation.

## **Disclosure**

When necessary and in connection with the purposes listed above, we may disclose your personal information to, and/or receive some personal information from:

- ▼ other companies within the Suncorp Group;
- ▼ your insurance intermediary or our agent;
- ▼ Government bodies, loss assessors, claims investigators, reinsurers;
- ▼ other insurance companies, mailing houses, claims reference providers, legal and other professional advisers;
- ▼ other service providers, hospitals, medical and health professionals.

## **Consequences if Information is not Provided**

If you do not provide us with the information we need we will be unable to administer your policy or manage any claim under your policy.

## **Access**

You can request access to the personal information we hold about you by contacting us at Vero Insurance Limited, Level 18, 36 Wickham Terrace, Brisbane, QLD 4000.

In some circumstances we may not agree to allow you access to some or all of the personal information we hold such as when it is unlawful to give it to you. In such cases we will give you reasons for our decision.

## **Privacy Statement issued**

Vero Insurance Limited, Level 18, 36 Wickham Terrace, Brisbane, QLD 4000.

## **Other Offers**

We would like to use your personal information to keep

you up to date with the range of other products and services available from us or other members of the Suncorp Group. We may give your personal information to our agent or your broker to enable us to send you this information. Please contact us if you do not want us to do this.

# Goods and Services Tax

This policy has a provision concerning GST on premium and claims.

## 1. Definitions

In the **policy**:

**“You/Your”** means the person on whose behalf the **work** is done or is to be done, and any successor in title to that person.

**“We/Our/Us”** means Vero Insurance Limited ABN 48 005 297 807.

**“Act”** means the *Home Building Act 1989*.

**“Act of Terrorism”** means 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), which from its nature or context is committed for or in connection with political, religious, ideological, ethnic or similar purposes or reasons including the intention to influence any government and/or to put the public or any section of the public in fear.

**“Builder”** is the builder described in the **project application**.

**“Common property”** has the same meaning as it does under the **Regulation**.

**“Contract”** means a contract between you and the **builder** pursuant to which the **work** is done or is to be done.

**“Developer”** has the same meaning as it does under the **Act**.

**“Disappearance”** has the same meaning as it does under the **Act**.

**“Dwelling”** means dwelling(s) (as defined under the **Act**) described in the **project application**.

**“Insolvency”** has the same meaning as it does under the **Act**.

**“Licence”** means a contractor licence (whether or not an endorsed contractor licence), or a building consultancy licence.

**“Period of Insurance”** means the period of cover specified in clause 5 of the Policy. **“Policy”** means this policy wording, any endorsements and the certificate of insurance.

**“Project Application”** means the application form completed by you or the **builder** applying for this insurance.

**“Regulation”** means the *Home Building Regulation 2004*.

**“Residential Building Work”** has the same meaning as it does under the **Act**.

**“Residential Flat Building”** means any building containing 2 or more strata or company title home units (including any associated structures and improvements).

**“Residential Flat Building work”** means **work** which is done or is to be done on the **common property** of an existing single **residential flat building**, where the value of the **work** is more than \$12,000.

**“Statutory Warranty”** has the same meaning as it does under the **Act**.

**“Structural Defect”** has the same meaning as it does under the **Regulation**.

**“Structural Element of a Building”** has the same meaning as it does under the **Regulation**.

**“Work”** means the **residential building work** which is done or is to be done by the **builder** to the **dwelling** under the **contract**.

A reference to any legislation is a reference to the legislation as amended from time to time.

## 2. The Policy

This policy is subject to the law of New South Wales. The law of New South Wales includes Commonwealth legislation such as the *Insurance Contracts Act 1984*. Any rights to refuse to pay a claim are subject to section 54 of that **Act**.

This policy is intended to comply with the requirements set out under the **Act** and any term of this policy which conflicts with, or is inconsistent

with, the **Act** shall be read and be enforceable as if it complies with the **Act**.

## 3. What's Covered

### 3.1 When We Will Pay

Subject to the terms of this policy, including the exclusions, we will pay you if you suffer:

- (a) loss or damage resulting from non-completion of the **work** because of the **insolvency**, death or **disappearance** of the **builder**; or
- (b) the following loss or damage, being loss or damage in respect of which you cannot recover compensation from the **builder** or have the builder rectify because of the **insolvency**, death or **disappearance** of the **builder**:
  - (i) loss or damage arising from a breach of a **statutory warranty**; loss or damage resulting from faulty design, where the design was provided by the builder;
  - (ii) loss or damage resulting from non-completion of the **work** because of the early termination of the **contract** due to the **builder's** wrongful failure or refusal to complete the **work**;
  - (iii) the cost of alternative accommodation, removal and storage costs reasonably and necessarily incurred as a result of an event referred to in clauses 3.1(a) or 3.1(b) above;
  - (iv) the loss of a deposit or progress payment due to an event referred to in clauses 3.1(a) or 3.1(b) above; and
  - (v) any legal or other reasonable costs incurred by you in seeking to recover compensation from the **builder** for the loss or damage or in taking action to rectify the loss or damage.
- (c) loss or damage to the extent covered by clause 3.1(a) or 3.1 (b) as if the builder were deemed to be insolvent provided:
  - (i) the loss is the subject of a building claim money order obtained by you against the builder which remains unsatisfied; and
  - (ii) The builder's licence has been suspended as a consequence of the builder's failure to satisfy the money order referred in clause 3.1 (c)(i) above.

The cover we give in clauses 3.1 extends to the acts or omissions of a person contracted by the **builder** to perform the **work**.

## 3.2 What We Will Pay

We will either make good or pay the amount of that loss or damage (at our option), subject to the following limitations:

- (a) We will not pay the first \$500 of each claim made against the policy;
- (b) If the **work** is not **residential flat building work**, we will not pay more than \$300,000 (or such other amount as may be prescribed from time to time by the Act and the Regulation) in the aggregate for all claims under this **policy**;
- (c) If the **work** is **residential flat building work**, and the amount obtained by dividing the value of the **work** by the number of **dwellings** in the building does not exceed \$12,000, we will not pay more than \$300,000 in the aggregate for all claims made under this **policy**;
- (d) If the **work** is **residential flat building work**, and the amount obtained by dividing the value of the **work** by the number of **dwellings** in the building exceeds \$12,000, we will not pay more than \$300,000 in the aggregate for all claims made under this policy in respect of each **dwelling** in the building;
- (e) If the claim is in respect of loss or damage resulting from non-completion of the **work**, we will not pay more than 20% of the contract price (including any agreed variation to the contract price) for the **work**;
- (f) We will not pay for any part of a deposit or payment that exceeds the amount specified for such a deposit or payment in section 8 under the **Act**;
- (g) We will not pay for any part of a progress payment that exceeds the amount specified for such a payment under the **contract**.

## 3.3 What We Exclude

We will not pay:

- (a) if you are the **builder**;
- (b) if you are a **developer**;

- (c) if you are a person who does **residential building work** other than under a contract;
- (d) if you are a holder of a contractor licence who or which carried out **residential building work**;
- (e) if you are a company related (within the meaning of section 50 of the *Corporations Act 2001*) to any corporate person referred to in clauses 3.3(a) – 3.3(d) above;
- (f) claims that may otherwise arise under the **contract** in the nature of liquidated damages for delay or damages for delay. However, this limitation does not extend to any increase in rectification costs caused by the effluxion of time;
- (g) a claim for loss, damage, costs or expenses of any nature directly or indirectly resulting from or in respect of the following,
  - (i) war,
  - (ii) an act of terrorism, or any action taken in controlling, preventing, suppressing or in any way relating to an act of terrorism, regardless of whether any other cause or event contributed concurrently to the death, injury, illness, loss, damage, costs or expenses,
  - (iii) civil unrest,
  - (iv) a nuclear event,
  - (v) risks normally insured under a policy for public liability or contract works,
  - (vi) an act of God or nature,
  - (vii) failure by you to maintain appropriate protection against pest infestation or exposure of natural timbers.
  - (viii) consequential loss, including, without limitation, loss of rent or other income, loss of enjoyment, loss of business opportunity, inconvenience or distress,
  - (ix) malfunction in any mechanical or electrical equipment or appliance, if we prove that the malfunction is not attributable to the workmanship of, or installation by, the contractor or supplier of a kit home.
- (h) for loss or damage that could reasonably be expected to result from fair wear and tear of the **work**, or from your failure to maintain the **work**;
- (i) a claim in relation to a defect in, or the repair of damage to, **structural elements** in the non-

residential part of a building that supports or gives access to the residential part, unless it is a defect or damage that adversely affects the structure of the residential part or the access to it;

- (j) for damage caused by the normal drying out of the **work** if the **builder** has taken all reasonable precautions in allowing for the normal drying out when carrying out the **work**;
- (k) for damage due to or made worse by your failure or your predecessors in title to take reasonable and timely action to minimise the damage;
- (l) a claim in relation to an appliance or apparatus (such as a dishwasher or air conditioning unit) if the claim is made after the expiry of the manufacturer's warranty period for the appliance or apparatus concerned, or, if there is no warranty period, outside the reasonable lifetime of the appliance or apparatus;
- (m) a claim in relation to damage to **work** or materials that is made outside the reasonable lifetime of that **work** or materials or the manufacturer's warranty period for the materials;
- (n) a claim in relation to a defect due to a faulty design provided by you or your predecessors in title;
- (o) a claim in relation to loss, damage, costs or expenses of any nature directly or indirectly arising from or in respect of:
  - (i) the inhalation of, or exposure to, asbestos, asbestos fibres or derivatives of asbestos; or
  - (ii) the fear of consequences of exposure to, or inhalation of, asbestos, asbestos fibres or derivatives of asbestos.
- (p) for that part of a claim in relation to loss, damage, costs or expenses directly or indirectly arising from or in respect of the cost of cleaning up, or removal of, or damage to, or loss of use of, property arising out of any asbestos, asbestos fibres or derivatives of asbestos.

The cover provided by this **policy** does not extend to an interest in the **dwelling** that is not your interest. We will not be liable under this **policy** to anybody except you.

## 4. When Cover Becomes Effective

Even though you or another person who applies for this insurance may be required to pay the premium (and associated statutory charges) when lodging a **project application**, we may refuse to accept the **project application**. The **work** is not covered until we have provided to you or that other person a certificate of insurance evidencing insurance for the **work**.

If we have provided to you or another person a certificate of insurance evidencing insurance for the **work**, we are not entitled to refuse to pay a claim in respect of the **work** or to cancel the insurance merely on the grounds that the premium (and associated statutory charges) were not paid.

## 5. How Long We Cover You For

5.1 The policy provides cover in respect of loss or damage;

- (a) arising from non-completion of the **work** for 12 months after the failure to commence, or cessation of, the **work**;
- (b) arising from a **structural defect** for 6 years after the **completion** of the work or the end of the **contract**, whichever is the later;
- (c) other than loss or damage arising from a **structural defect** or non-completion of the **work**, for 2 years after the **completion** of the **work** or the end of the **contract**, whichever is the later.

5.2 Work is taken to be complete:

- (a) on the date that the work is completed within the meaning of the contract under which the work was done, or
- (b) if the contract does not provide for when work is completed or there is no contract, on the date of the final inspection of the work by the applicable principal certifying authority, or
- (c) in any other case, on the latest date that the contractor attends the site to complete the work or hand over possession to the owner or

if the contractor does not do so, on the latest date the contractor attends the site to carry out work.

## 6. When Must You Notify Of Your Loss

Without limiting clause 7, this policy provides insurance cover in respect of loss only if:

- a) in the case of cover for loss arising from non-completion of work, loss becomes apparent and is notified to us within the period of insurance, or
- b) in any other case:
  - (i) the loss becomes apparent and is notified to the insurer within the period of insurance, or
  - (ii) the loss becomes apparent during the last 6 months of the period of insurance and is notified to us within 6 months after the loss becomes apparent.

A loss “becomes apparent” when you first become aware (or ought reasonably have become aware) of the loss.

## 7. When You Must Make a Claim

- (a) Except as referred to in clause 7(b) we will not pay any claim if the claim is notified to us later than 6 months after you first become aware, or ought reasonably to be aware, of the fact or circumstance giving rise to the claim;
- (b) We will not pay any claim for loss or damage resulting from incomplete **work** if the claim is notified to us later than 12 months after:
  - (i) the **Contract** date;
  - (ii) the date provided in the **contract** for commencement of **work**; or
  - (iii) the date **work** ceased,whichever is the later.
- (c) We may not reduce our liability under this **policy** or reduce any amount otherwise payable in respect of a claim, merely because of a delay

by you in notifying us of a claim if the claim is notified to us within the time periods specified in clauses 7(a) and 7(b) above.

- (d) Provided we have received your claim, we are taken to have accepted liability for the claim if written notice of our decision in relation to your claim is not given to you within 90 days of you lodging your claim with us, or such further time as may be agreed between you and us.

## 8 Non-disclosure or Misrepresentation

We are not entitled to either refuse to pay a claim under this **policy** or to cancel the **policy** on the grounds that the policy was obtained by misrepresentation or non-disclosure by the builder.

We may, however, recover from the **builder** any amount we would not otherwise have paid in those circumstances.

You must comply with your obligations under the **policy**, otherwise we may not have to pay your claim(s).

## 9. Subrogation

If we pay a claim, we are entitled to be subrogated to your rights against any party in relation to the claim to the extent of the amount paid by us.

You must not limit or exclude your rights against a party from whom you might otherwise be able to recover in respect of loss or damage. If you do, our liability to you is reduced to the extent that we can no longer recover from that other party as a result of the limitation or exclusion by you.

## 10. Other Terms

In addition to notifying us of your loss within the period of insurance, you are required to take action to enforce the statutory warranty from the breach to which your loss arises. Should no action be taken by you, Vero is able to reduce its liability by an amount that fairly represents the extent to which our interests have been prejudiced.

You must use our claim form to make a claim.

A claim will be deemed to be received by the Insurer when the Insurer receives from you all of the

Prescribed Claim Information, which includes;

- a) The name, address and telephone number of each owner of the property, which is subject to the claim;
- b) The address of the property subject of the claim;
- c) The name, address and if known the telephone number of the Builder;
- d) Details and all relevant documents obtained by you in support of your belief that



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**Vero Insurance Limited contact details:**

CI Home Claims – Warranty  
GPO Box 1509  
Melbourne VIC 3001

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Insured by:  
Vero Insurance Limited  
ABN 48 005 297 807

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**Effective date: 19/05/09**

