



**ROSSER**  
**SurePac**  
LIABILITY

**Liability**  
**Insurance**

**CHUBB®**



**INFORMATION FOR BROKERS AND CLIENTS**

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## Comprehensive Liability Cover for SME Businesses, Incorporated Societies, Trusts, Charities, Bodies Corporate, Community Organisations and others

### 1. Introduction

This summary provides insurance brokers and their clients with general information about liability insurance together with details of the comprehensive features and benefits of **Rosser SurePac Liability** insurance policy.

This summary relates to the ROSSER SurePac Liability Policy and is issued by Rosser. It provides you with a factual summary of the key features and exclusions of the ROSSER SurePac Liability Policy and does not take into account your personal circumstances, objectives, financial situation or needs. You should read the ROSSER SurePac Liability Policy, which sets out the full insuring clauses, definitions, schedule, extensions, terms, conditions, exclusions and limits of liability, having regard to your own circumstances, before making any decisions about this insurance policy and contact your financial adviser to obtain financial advice as required.

Rosser Underwriting has since 1996 been providing Association Liability insurance cover for many hundreds of organisations in the social service and community sectors throughout New Zealand.

Our uniquely designed insurance solution to cover the liability exposures of SMEs and Not for Profit organisations under one policy is backed by Chubb Insurance New Zealand Limited.



## 2. Insurer

**ROSSER SurePac Liability** cover is backed by **Chubb Insurance New Zealand Limited**

### Financial Strength Rating

At the time of print, Chubb Insurance New Zealand Limited (**Chubb**) has an “AA-” insurer financial strength rating given by S&P Global Ratings. The rating scale is:

AAA	Extremely Strong	BBB	Good	CCC	Very Weak	SD or D – selective default or default
AA	Very Strong	BB	Marginal	CC	Extremely Weak	R - Regulatory Action
A	Strong	B	Weak			NR – Not Rated

The rating from ‘AA’ to ‘CCC’ may be modified by the addition of a plus (+) or minus (-) sign to show relative standings within the major rating categories. A full description of the rating scale is available on the S&P Global Ratings website.

Chubb’s rating is reviewed annually and may change from time to time, so please refer to Chubb’s website for its latest financial strength rating.

### Fair Insurance Code

Chubb is a member of the Insurance Council of New Zealand (**ICNZ**) and a signatory to ICNZ’s Fair Insurance Code (**the Code**). The Code and information about the Code is available at [www.icnz.org.nz](http://www.icnz.org.nz) and on request.



### 3. What Cover Does ROSSER SurePac Liability Provide?

**ROSSER SurePac Liability** Policy provides Small to Medium Enterprises and Not for Profit groups with a full suite of comprehensive liability insurance covers.

The unique structure of our policy puts cover selection where it belongs – in the hands of brokers and insureds.

#### Reserved Costs and Expenses

Reserved expenses are used for the legal costs involved in a claim. This has a separate limit dedicated for the costs only. The covers chosen in the policy share this cost limit.

#### Policy Section A

- **General Liability**

Public Liability – property damage or bodily injury caused by the insured business activity that the insured is legally liable.

Product Liability – property damage or bodily injury caused by the products /service of the insured business that the insured is legally liable.

#### Policy Section B

- **Statutory Liability**

Covers legal liability and costs (fines, court proceedings and defence costs) when the insured has breached New Zealand Statutes.

- **Employer's Liability**

Covers personal injury of employees that the insured is legally liable for anything above or not covered by ACC.

- **Management & Entity Liability**

Covers financial losses and defence costs that the entity or the insured person individually is legally liable due to errors & omissions of directors, officers or managers causing financial losses to third parties or to the entity itself.

- **Employment Practices Liability**

Covers losses to the entity when it is legally liable to pay employees after employment dispute tribunal court hearing or arbitration action taken.

- **Crime Protection**

Covers financial losses arisen from a crime committed by insured person or third parties.

- **Cyber**

Covers costs involved in forensic, data recovery/reconstruction, software repair/restoration or cyber extortion damages including cyber threat and ransom.

- **Professional Liability for Not for Profits**

Covers financial losses to third parties due to defined activities of a not-for-profit organization.

- **Professional Indemnity**

Covers financial losses to third parties due to wrongful advices/services provided by the insured that the insured is legally liable.

## 4. Policy Coverage Summary

A summary of coverage provided in the various sections of our **SurePac Liability** policy is provided for illustrative purposes only. In the event of any conflict between the descriptions of coverage in this document and the policy of insurance, the provisions contained in the policy of insurance will govern.

### 4.1 Reserved Costs and Expenses

In the event a claim arises that exceeds the policy limit, invoking a charge over the policy in favour of the claimant, defence costs are advanced via the separate Reserved Costs and Expenses section of the policy ensuring that an insured does not have to fund their own defence.

### 4.2 General Liability

Our policy provides broad liability protection to the insured for third party property damage or loss of use of property as a result of property damage, and/or personal injury.

Products Liability covers personal injury or property damage arising from the insured's products while in the possession of others.

#### **What is not covered:**

- Ownership and use of aircraft, hovercraft, and watercraft where the watercraft exceeds 8 metres in length.
- Legal liability for personal injury or property damage directly or indirectly caused by building defects or mould, or from data and cyber claims
- Any liability where that liability only exists due to a contract the insured has entered in to.
- The costs to rectify faulty workmanship (but not for personal injury or property damage resulting from the faulty workmanship. This coverage can be purchased on request with a sub-limit up to \$250,000.
- Damage to the insureds products where that damage arises from that product

#### **Typical Claim Scenarios:**

**Property Damage** – a home furnishing company is installing new curtains in a client's home, when the ladder they are using topples and breaks an expensive vase. The homeowner looks to the installer to replace the vase.

**Products Liability** – a home appliance distributor is found to be at fault when a coffee machine they sold caught fire and damaged the customers home.



### 4.3 Statutory Liability

Our policy provides coverage for unintentional breaches of Government Acts, excluding:

- (i) any of the following Statutes: Arms Act 1983; Aviation Crimes Act 1972; Crimes Act 1961; Land Transfer Act 2017; Land Transport Act 1988; Proceeds of Crime Act 1991; Summary Offences Act 1981; Transport Act 1962; Transport (Vehicle and Driver Registration and Licensing) Act 1986;
- (ii) any violation of any law or regulation with respect to vehicular, air or marine traffic;
- (iii) any violation of any law or regulation with respect to tax, rate, duty, levy, charge, fee or any other revenue charge or impost; or
- (iv) any violation of any law or regulation with respect to any anti-trust, business competition, unfair trade practices or tortious interference in another's business or contractual relationships.

Defence Costs, compensatory damages, and penalties awarded in a judgement or by negotiated settlement are also included.

#### What is not covered:

- Where it is illegal for Chubb to indemnify the insured, such as a fine under the Health and Safety at Work Act 2015.
- Arising out of any civil claim or proceeding, however this does not apply to private prosecutions under the Health and Safety at Work Act 2015.
- Coverage is limited to New Zealand territory and excludes judgements made by a court outside New Zealand.

#### Typical Claim Scenarios:

**Resource Management Act** – an insured business had a fuel facility in its yard, and, due to a break in, the valve in the tank was turned on, and the fuel ran into a nearby stream. A massive clean up operation was undertaken and the council brought an action against the insured under the RMA.

**Fair Trading Act** – a business ran a prize scheme, which had a draw date. Unfortunately the prizes were not in place by the draw date, resulting in the draw not taking place as scheduled. The Commerce Commission prosecuted the insured for violating the Fair Trading Act.

**Sale of Liquor Act** - A tavern operator was found to be selling liquor on Good Friday in contravention of the Liquor Act. The insured was convicted and fined.

**Health & Safety At Work Act** – A building contractor failed to show an employee all the hazards on a work site, and the employee fell through an unsecured skylight and injured his wrist when he fell. The employer was prosecuted under HSWA and reparation and defence costs paid under his policy.

## 4.4 Employers Liability

Our policy provides protection in the event of a claim by an employee for compensation for a work related injury which is not covered by ACC.

Cover includes associated legal costs to defend any claim against the insured arising from personal injury to an employee

### What is not covered

- Coverage excludes any allegation which was known or should have been known before the start of the policy period.
- Coverage excludes any personal injury outside New Zealand, or any judgement by a court outside New Zealand.
- Coverage excludes any personal injury arising out of termination of employment or unlawful discrimination (these may be covered under an Employment Disputes policy).

### Typical Claim Scenario:

**Post-Traumatic Stress** – A production studio had a contract with a Government department to produce videos for training purposes, much of which involved filming and editing disturbing material.

The employee eventually developed a severe stress condition - a civil claim was made against the insured, and the court found that the stress was caused by the nature of his work and that the insured had failed to take adequate precautions to mitigate his stressful duties. Costs were awarded to the claimant, and legal costs settled.





## 4.5 Management and Entity Liability

Governors, Executives, Employees and the insured Entity are protected against claims alleging a wrongful act, error or omission in the governance of the business.

Typically this type of claim is both complex and costly. To meet these costs the policy provides for advancement of defence costs thus protecting the Entity's cash flow.

In many cases an insured Entity has in its rules, constitution or trust deed, a clause indemnifying its Executive members against costs they may personally incur as a result of an action against them alleging a wrongful act, error or omission in connection with their duties on behalf of the insured Entity. If the insured Entity has indemnified the Executive as a result of such a claim the policy may step in to reimburse the insured Entity.

Also covered is Crisis Loss, which protects against an unforeseen event that is likely to cause a significant impact on the revenue of an insured Entity. It pays the cost of hiring a Public Relations Consultant to minimise the impact of the event on the organisation. An experienced Consultant, engaged at this time, can greatly assist the resolution of a crisis with a minimum of adverse publicity and disruption to the Entity.

### What is not covered:

Loss arising from:

- Bodily injury and property damage related claims
- Dishonesty, fraudulent acts and intentional breaches of law
- Pending or prior litigation
- Claims arising from Wrongful Acts alleged in any claim of which notice has been given under any policy existing or expired before or on the date of this Policy
- Personal profit or advantage gained by an Insured to which such Insured was not legally entitled
- Pollution, with some provisions for cover available

### Typical Claim Scenarios:

**Fair Trading Act** - Executives of an Industry Organisation were called to attend a formal enquiry in fair trading. They were found not to be at fault but incurred legal fees for their representations with the consent of their insurer.

**Family Trust Fund** – An accountant acted as a trustee on a client account. The accountant did not invest capital as requested, and when the beneficiaries came to use the trust funds, the capital had been eroded by a considerable amount due to the prevailing financial market conditions. The trustees had failed in their duty, and a claim was met for the value of the reduced value of the funds, along with defence costs.

**Non-Executive Directors** - The principal shareholder and director of a small retail company died and the shareholding was left to his widow. However, the company became insolvent due to mismanagement, and a substantial supplier brought an action against the widow, as the sole director, for the amount they were owed. The court found in favour of the claimant as it was no defence that the widow did not know about the company's affairs.

## 4.6 Employment Practices Liability

**Our policy responds to alleged employment disputes and personal grievances arising from wrongful acts in connection with the employment or termination of an employee.**

These increasingly common claims come in many forms and include:

- (i) allegations of harassment
- (ii) discrimination
- (iii) personal grievance due to constructive or unjustified termination

### **What is not Covered**

Loss arising from:

- Claims made against any Insured in relation to any circumstance if written notice of such circumstance has been given under any policy of which this policy is a renewal or replacement
- Claims made against any Insured in relation to violation of responsibilities, obligations or duties owed by fiduciaries, trustees or administrators charged with duties with respect to any superannuation, pension or any other employee benefit plan or trust
- Claims made against any Insured in relation to bodily injury, sickness, disease or death, or damage to or destruction of any tangible property
- Claims made against any Insured as a result of deliberately fraudulent acts or omissions

### **Typical Claim Scenarios:**

**Wrongful Dismissal** - A former employee alleged wrongful dismissal against an entity and lodged an action with the Employment Relations Authority (ERA). This was defended in court in conjunction with the insurer. The ERA found in favour of the former employee, awarding damages and costs against the organisation. With the addition of the \$38,000 in legal costs required to defend the claim, the total costs covered by the policy amounted to close to \$80,000.

**Discrimination** - An action was taken against an entity by two former employees alleging a breach in the organisation's advertising of employment positions. In conjunction with the insurer a \$36,000 settlement was negotiated to achieve timely and final resolution of the matter. Legal costs incurred in reaching this resolution amounted to an additional \$3,400.



## 4.7 Crime Cover

**Crime cover assists in protecting or restoring your financial position should your business or organisation suffer a financial loss as a result of dishonest or fraudulent acts committed against you.**

Unlike traditional Fidelity Guarantee cover, our Crime policy extends to include financial and property loss resulting from theft and fraudulent acts committed by third parties as well as employees. Loss is also extended to include not just money, but also physical property. A criminal prosecution is not necessary for a claim to be lodged.

### **What is not covered:**

- Loss of confidential information, income, cryptocurrency and consequential loss
- Loss resulting from trading or due to fire
- Fees, costs or expenses incurred in prosecuting or defending legal proceedings

### **Typical Claim Scenarios:**

**Fraud** - A part time employee of an insured was found to have made fraudulent electronic transfers and written fraudulent cheques in her own favour while working for the insured and for another organisation. The employee admitted theft of \$320,000 over a 24 month period in order to fund a gambling addiction. The combined loss was calculated at over \$400,000. The insured's policy responded to this loss and a claim was paid.

**Theft of Fuel** – An insured commercial cleaning company held contracts which covered a wide geographical area. One of its employees who did the out of town work was supplied with a company vehicle and a fuel card. The employee ran up large amounts of fuel on the fuel card, and it was later found that he had been on-selling to friends and family. The thief was duly arrested and convicted of theft as a servant. The policy responded by reimbursement of the cost of the fuel to the insured.



## 4.8 Cyber Cover

**Our Cyber section provides quality protection from liabilities associated with data protection laws, the management of personal data and the consequences of losing corporate information.**

Today, many organisations are dependent on their data. They all face significant potential losses should their systems be hacked and that data enter the public domain. Unfortunately, such data breaches are becoming increasingly common.

High profile media stories regularly report on the impact that the loss of personal or corporate data has on individuals, companies and other organisations, their customers and employees. Cyber cover should be included as a key component in the insurance portfolios of data-dependent SME and NFP clients as they are all vulnerable to losses in this area of their operations.

### **What is not covered:**

- Loss on account of any claim alleging or based upon intentional wrongful collection or use of personal data, discrimination breach of contract, bodily injury or property damage

### **Typical Claim Scenarios:**

**Privacy Liability** – Hackers gained access to an insureds account information, which included names, email addresses, and financial information of their customers and suppliers. Privacy Liability and Privacy Forensic Costs were claimed – defence costs, settlement costs to individuals and forensic investigation costs were incurred. This scenario highlights the importance of storing sensitive information correctly, and having up to date firewalls, intrusion detection software and encryption of databases.

**Human Error** – An HR recruiter accidentally attached the wrong file when sending an email to four job applicants. The file included data consisting of former employee names and addresses. Under the Privacy Liability section, costs were claimed, including defence costs and settlement costs to former employees. As innocent as it seems, human error can be very costly.



## 4.9 Professional Liability for Not for Profit Organisations

**Professional Liability cover will respond in the event an insured Not for Profit organisation faces legal action for a failure in providing advice or in discharging a professional responsibility to a client or customer.**

Those who perform **professional services** are held to a higher legal standard of behaviour, and our Policy covers Executives, Trustees, and Employees for actual or alleged Breaches of Duty, acts, errors or omissions, misstatement, misleading or deceptive conduct, infringement, libel or slander committed unintentionally, breach of confidentiality, or omission in the performance or failure to perform professional services.

Under insuring section **Professional Liability for Not for Profits, professional services** means:

the following professional services provided by the **Entity**:

- (i) advocacy and promotion of the **Entity's** objectives and area of focus or interest, including publication or information in any media type;
- (ii) registration, training and accreditation of members;
- (iii) publication of professional or technical standards;
- (iv) acting as an insurance intermediary for the purpose of distributing personal lines, general and/or life insurance to members;
- (v) events for members and others that promote the **Entity's** area of focus or interest; or
- (vi) fund raising activities.

**What is not covered:**

- Any loss consisting of or which is due to committing or condoning dishonest or fraudulent acts
- Loss resulting from claims related to bodily injury or property damage, or directors' and officers' liability
- Prior Matters – claims or circumstance which are known to or ought to have known prior to commencement of the policy

**Typical Claim Scenarios:**

**Defamation** – A professional body produced a brochure for its members and some unintentional libellous comments resulted in a major defamation claim by a third party. Settlement was reached out of court to avoid a lengthy trial.

**Improper Advice** - A professional association was investigated by the Commerce Commission for giving life insurance advice to its members, which could have been construed as advocating price-fixing, a restrictive trade practice under the Commerce Act.

The association made a claim for representation costs in respect of the official enquiry, and was directed to modify its advice to its members.

## 4.10 Professional Indemnity

**This policy is designed to respond in the event an insured faces legal action for a failure in providing advice or in discharging a professional responsibility to a client or customer.**

In service based organisations, reputation means everything. It can take years to build a strong professional standing, but an accusation of negligence, professional misconduct, or a breach of duty of care can destroy it in weeks, or even days. Those who perform professional services are held to a higher legal standard of behaviour than the general population.

Each day, professionals need to make decisions and some of these may be questioned – in some cases even years after the event. Professional Indemnity cover allows everyone in the organisation to do their jobs, confident in the knowledge that they will be supported in the event of an error or omission.

The policy covers Executives, Trustees and Employees for:

- (i) actual or alleged breaches of duty;
- (ii) acts, errors or omissions
- (iii) misstatement
- (iv) misleading or deceptive conduct
- (v) infringement
- (vi) libel or slander committed unintentionally
- (vii) breach of confidentiality
- (viii) omission in the performance or failure to perform professional services

**What is not covered:**

- Any loss consisting of or which is due to committing or condoning dishonest or fraudulent acts
- Loss resulting from claims related to bodily injury or property damage, or directors' and officers' liability
- Prior Matters – claims or circumstance which are known to or ought to have known prior to commencement of the policy

### Typical Claim Scenarios:

**Breach of Copyright and/or Design Registration** - An Insured is an importer and distributor of stationery products and supplies. At the request of one of its customers, the insured arranged for the manufacture and supply of filing racks similar to another product supplied to the customer by another manufacturer.

The insured failed to make reasonable efforts to determine if any Patent, Copyright or Design Registration existed on the specific rack design in question. The other manufacturer issued proceedings against the insured for significant damages arising from infringement of Copyright and/or Design and an agreed out of court settlement was negotiated.

**Inappropriate Advice** – An insured is an industry association, and one of its member firms was involved in a personal grievance arising from the redundancy of an employee.

The firm lodged a claim against the association alleging that an association employee had provided information and guidance to the redundant employee contrary to the interests of the member firm. The allegations were substantiated and the claim was settled by the Professional Indemnity policy.

## 5. Contact Us

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Policy wordings, proposal forms and all other product information may be found on our website.

When requesting quotations or providing submissions, full and accurate disclosure is required of information such as occupation (and previous occupations), any hazardous activities, and any regulatory requirements, to ensure that the risk is assessed correctly.

## 6. Disclaimer

The information contained in this publication is for general guidance only on matters related to liability insurance and to the Rosser SurePac Liability policy. In the event of any conflict between the descriptions of coverage in this document and the policy of insurance, the provisions in the policy of insurance will govern.

The summaries of coverage and claim scenarios contained in this publication are for illustrative purposes only. Coverage is subject to terms and conditions and to certain restrictions, limitations and exclusions contained in the policy of insurance and neither Rosser Underwriting Limited (Rosser) nor Chubb Insurance New Zealand Limited (Chubb) give any guarantee or undertaking that any particular risk is or will be covered under its policy of insurance.

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