



## Commercial Legal Expenses

# Get on the front foot.

Legal fees have reached a level where businesses are having to consider whether or not to participate in legal actions, particularly for SMEs where they feel they have no support when entering into contracts with larger entities. SMEs also often struggle to keep up to date with business legislation and regulatory requirements, including data protection, employment, health and safety, or many other industry specific regulatory requirements. Legal Expenses insurance offers cover that protects your business, your directors and your employees against the potential costs of legal action brought by or against you.

### COVERAGE INCLUDES

#### Data Protection

Pays for the legal expenses for any dispute brought against you under privacy legislation.



#### Property Disputes

Pays for legal expenses in respect of property and tenancy disputes.



#### Statutory Licence

Pays legal fees for an appeal by you against a loss, revocation, suspension or proposed amendment to your operating licences.



#### Employment Disputes

Pays legal expenses incurred by you for defending proceedings brought against you by an employee or ex-employee.



#### Employees breach of restrictive covenants

Pays legal expenses in pursuing legal proceedings against a former employee who have breached their contractual obligations.



#### Criminal Prosecution

Pays for legal expenses incurred in defending a criminal prosecution against you or an appeal by you, against the service of a remedial or stop-work order under the Health and Safety at Work Act 2015.



#### Commercial contract disputes

Pays legal expenses in the pursuit or defence of legal proceedings with a customer or supplier, including pursuit of unpaid invoices.



### COVERAGE BENEFITS

#### Free legal advice

Free access to telephone advice from experienced lawyers



#### Any dispute activates policy

No alleged liability is required to activate the policy, merely the fact a dispute exists



#### Protects you from legal risk



#### Extensive coverage

Cover for a wide range of situations/disputes which would not trigger a liability policy



#### Both pursuit and defence coverage

Both pursuit and defence coverage included (legal pursuit coverage is outside the remit of standard liability policies)



### TERRITORY



> New Zealand

### CAPACITY

# \$100,000

### TARGET SEGMENTS



> Broad range of industries

## CLAIMS EXAMPLES

### Contract dispute with a customer



A honey manufacturer provided goods to a new customer. The usual quality standards were in place and the honey was delivered on time, however the customer hadn't paid the invoices by the required date. Upon chasing, the customer refused to pay due to alleged contamination of the honey in transit. The insured informed the customer the honey was of satisfactory quality and must be paid for or legal action would follow. Investigations found that the goods were of appropriate quality and the customer was simply trying to avoid payment. The insured was covered by Commercial Legal Expenses Insurance for the \$25,000 of legal costs incurred in pursuing the customer and enforcing the contract in Court.

### Contract dispute with a supplier



A small retailer agreed with a tile supplier to buy 12 months' worth of goods at a fixed price, delivered in 12 instalments and to be paid in 12 instalments of \$10,000. Part way through the contract the supplier terminated the contract and ceased supply of the tiles. The insured was forced to seek a replacement supplier who charged \$15,000 per monthly instalment. The insured sued the original supplier for breach of contract and sought damages of \$40,000, being the additional cost resulting from the breach. The insured was covered by the Commercial Legal Expenses Insurance for the \$14,000 of legal costs incurred in pursuing the original supplier and obtaining an out of court settlement.

### Employment dispute



A well-established plumber hired an employee who, when he first joined the company, had been a hard and good worker. After a couple of years he started to let his standards drop and was failing to do his job properly. The insured was unable to tolerate this poor work so took advice from the Delta Legal Line about what they should do. The employee was given a warning and told to improve or he would face a disciplinary hearing. The employee reacted positively to the process, improved their time keeping and standard of work. The insured was able to retain a quality staff member without the process of dismissal, recruitment and retraining. Had the employee failed to improve their work standards and responded negatively to feedback resulting in dismissal, the legal costs arising from any challenge to the validity of this would have been covered by the Commercial Legal Expenses Insurance.

### Property dispute as a landlord



An accountancy firm owned an office building that subleased sections to various tenants. One tenant

used their unit as a showroom and office. At the end of the lease, the tenant did not renew the lease and left for alternative premises. The terms of the lease required the property to be put back in the same condition as the date the tenancy commenced. The tenant merely left the unit for the future incoming tenant to return to the original state. The insured sued for damages. The matter was eventually resolved at a court hearing, but not before the insured had incurred \$30,000 of legal costs which were covered by the Commercial Legal Expenses Insurance.

### Property dispute with a landlord



The insured leased the top floor of a large complex for their IT consulting business. After a heavy day of rain, the roof began leaking, preventing the insured from using their office and further damaged their equipment. The insured requested the landlord repair the roof, however they claimed it was the tenant's responsibility to repair. The insured sued the landlord and took him to court, where the judge found the roof was the responsibility of the landlord to repair. The landlord was ordered to pay the insured damages to compensate for their losses. The insured's legal costs of \$30,000 were covered by the Commercial Legal Expenses Insurance, some of which was recovered from the landlord.

### Employee breach of restrictive covenant



The sales manager of a small printing business that provided flyers for a number of real estate agents handed in his resignation and went to work for a rival business within the same city. Within a month, all the insured's major customers were approached by the ex-sales manager offering to supply the same or similar services at a cheaper price. The insured sued the former sales manager for breach of the non-solicitation clause in the ex-employee's employment contract. Following contact from the insured's lawyers, the ex-sales manager eventually agreed not to approach those customers for a one year period. The insured had his legal costs of \$5,000 covered by the Commercial Legal Expenses Insurance.

### Statutory licence



Following a number of complaints over a popular nightclub's noise and occasional violence outside the club, police investigated and chose to oppose the renewal of the insureds liquor licence, resulting in this being removed. The insured appealed the decision, setting out their excellent record and number of years trading with no incidents. On appeal, the license was reinstated, and the insured was able to continue trading. The club's legal costs of \$15,000 were covered by the Commercial Legal Expenses Insurance.

Liability insurance policies generally offer protection for costs and or damages associated with legal liability to your customer, employees, suppliers and the general public, depending on the type of insurance policy. While these policies can cover costs of a lawyer and other associated expenses, they are limited to defending the liability claim against you to protect you from having to pay damages. Delta Insurance's Legal Expense insurance covers the costs of lawyers that generally tend to be excluded by your liability insurance policies. While Commercial Legal Expenses Insurance is not an alternative for liability insurance, it complements liability insurance and provides protection for some non-liability related business legal risks.

This policy has been designed to cater for the day to day risks your clients face such as being in a dispute with a customer, supplier, landlord, tenant or employee. It also protects your clients from the costs of defending criminal matters and licensing issues. In addition to the insurance, this policy includes complimentary access to telephone legal advice from qualified lawyers. In providing telephone legal advice as part of our service, your clients have access to lawyers to help them resolve issues and avoid disputes arising. This will save your clients time and money. Acting as both the shield and the sword, this policy provides advice and cover for the legal costs of pursuing or defending legal action. Commercial Legal Expenses Insurance is designed to complement not replace liability insurance policies.

### Are my clients not already receiving legal costs in their other policies?



It is highly likely that your client already has cover for legal costs via other liability policies, however such cover is only available if they have become potentially liable to pay damages. For example, your client's professional indemnity policy may cover the costs of a negligence claim against them, but it would not fund a lawyer to enforce a debt that they were owed by a non-paying customer.

Under our Commercial Legal Expenses Insurance policy, no liability is required to activate the coverage, the trigger is merely the fact that a dispute exists. This allows the policy to respond to a much wider range of scenarios, many of which occur much more commonly than liability matters.

### Is this a stand alone policy?



Delta's Commercial Legal Expenses policy is available as an optional extension of cover on new or existing Professional Indemnity and Management Liability policies.

### What is the benefit of this policy over my client's current liability insurance?



Aside from the wider range of matters to which the policy will respond, by offering complimentary telephone advice via our legal advice help line, both your client and us as the insurer can avoid disputes and problems, whilst also protecting your client from financial and reputational damages. If such damages become payable, sound legal advice and representation throughout any dispute will also reduce the cost of any damages subsequently payable.

Delta's Commercial Legal Expenses Insurance is available for claims arising from contractual disputes, employment matters, property issues, licensing problems and many more.

### What additional information is available?



We want you to have the confidence in selling this product to your clients, so please contact Delta Insurance should you have any further queries. You can also find supporting information in the Products section of our website.