

THE NEW INDIA ASSURANCE COMPANY LIMITED

Carrier's Liability Policy

1 INTRODUCTION

Thank **you** for purchasing insurance from The New India Assurance Company Limited.

1.1 *Your insurance policy:*

Your insurance policy consists of:

- **Your** proposal and any other information **you** supplied **us**, and
- This policy wording, and
- The policy **schedule**

1.2 *Premium*

Once **you** have paid, or agreed to pay, the premium, **we** will insure **you** on the terms set out in this policy.

1.3 *Your satisfaction guaranteed*

We will give **you** a full refund of **your** premium within the first 30 days if **you** are not completely happy with the policy. **You** will not be able to claim under the policy if **you** request a refund during this period.

1.4 *Your duty of disclosure*

When arranging this insurance, **you** must tell **us** everything **you** know (or could be reasonably expected to know) that a prudent insurer would want to take into account in deciding:

- Whether to accept **your** proposal, and
- If so, on what terms.

Examples of what **you** must tell **us** include:

- Anything that increases the risk of a claim
- Any criminal offending or convictions
- Any previous insurance claims
- Any refusal by another insurer to insure **you** on standard terms, or to continue to insure **you** on standard terms.

You must also tell **us** this every time this policy renews, and when **you** make any changes to it.

If **you** fail to do this, **we** may avoid the policy back to when it started as if **you** were never insured at all.

When in doubt, disclose. We treat all information confidentially.

2 INSURING CLAUSE

2.1 *Carrier's Liability*

2.1.1 **We** will cover **you** against all sums **you** become **liable** to pay for **property damage** occurring during the **period of insurance** to **goods you** contract to carry in connection with the **business** whilst:

- (a) in transit anywhere in New Zealand (including any loading and unloading); and
- (b) temporarily housed (either on or off the carrying conveyance) in the normal course of transit, but not at any store, warehouse or holding pen owned or occupied by **you**, or under **your** control, unless solely for the purpose of an "Incidental service" as defined by the Carriage of Goods Act 1979.

2.1.2 This cover does not apply to the carriage of **goods** for the purpose of:

- (a) household removal; or
- (b) office removal

which is not part of an international transit.

2.2 *Defence Costs*

2.2.1 In addition, **we** will cover **you** for **defence costs**.

3 AUTOMATIC EXTENSIONS

3.1 *Subcontractors and actual carriers*

3.1.1 This policy is extended to include **your liability** to pay for **property damage** to **goods** carried by a subcontractor or actual carrier, on **your** behalf, provided the subcontractor's or actual carrier's conditions of contract are not more extensive than **yours**.

3.1.2 This policy does not insure the subcontractor's or actual carrier's liability.

4 EXCLUSIONS

4.1 *Liability by agreement*

- 4.1.1 There is no cover under this policy for **liability** arising from a contractual term you have entered into, which is greater than that specified in the Carriage of Goods Act 1979.

4.2 *Alcohol/drugs*

- 4.2.1 There is no cover under this policy for **liability** arising from a motor vehicle being driven by **you**, or anyone with **your** permission, whilst the driver:
- (a) has a proportion of alcohol in his or her breath or blood which exceeds the legal limit; or
 - (b) is under the influence of any other intoxicating substance or drug; or
 - (c) is not the holder of a motor driver's licence for the appropriate class and use (if such is required when driving the vehicle) which is in full force and effect. If the licence has been issued subject to any condition, it shall be deemed to be not in full force and effect if the holder is driving in breach of that condition.
- 4.2.2 General Exclusion 4.2.1(c) shall not apply if the driver has had, and is not disqualified from holding or obtaining, and actually obtains such a licence without a further driving test, nor if any vehicle is being used for the purpose of teaching a learner to drive and all the requirements of the law in that connection are being complied with.

4.3 *Unsafe vehicles*

- 4.3.1 There is no cover under this policy for **liability** caused by the carrying conveyance being driven in an unsafe manner or condition which **you**, or anyone driving with **your** permission, knew or ought to have known about.

4.4 *Wilful misconduct*

- 4.4.1 There is no cover under this policy for **liability** arising from **your** wilful misconduct.

4.5 *Electrical/mechanical malfunction*

- 4.5.1 There is no cover under this policy for **liability** caused solely by the electrical or mechanical malfunction of the **goods**.

4.6 *Loss of market/delay/consequential losses*

- 4.6.1 There is no cover under this policy for **liability** for loss of market, or delay or consequential loss of any kind.

4.7 *War/confiscation/Nuclear*

- 4.7.1 There is no cover under this policy for **liability** connected in any way with:
- War, invasion, act of foreign enemy, hostilities or warlike operations (whether war is declared or not), civil war, mutiny, rebellion, revolution, insurrection, military or usurped power,

- Confiscation, nationalisation, requisition or destruction of, or damage to, property by order of government, public or local authority,
- Nuclear weapons material,
- Ionising radiations or contamination by radioactivity from any nuclear fuel, or from any nuclear waste from the fusion or fission of nuclear fuel.
- Nuclear power generation.

4.8 *Terrorism*

4.8.1 There is no cover under this policy for **liability** in connection with:

- An **act of terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the loss, damage, death, injury, illness, liability, cost or expense.
- Any action taken in controlling, preventing, suppressing or in any way relating to an **act of terrorism**.

5 **BASIS OF SETTLEMENT**

5.1 *Maximum amount payable*

- 5.1.1 The most **we** will pay **you** under clauses 2.1 and 3.1 for each **occurrence** is the Sum Insured shown in the **schedule**.
- 5.1.2 Except where specified otherwise, **defence costs** will be paid in addition to this limit.

5.2 *Excess*

- 5.2.1 The **excess** shown in the **schedule** will be deducted from the amount payable for each **occurrence**.

6 **CLAIMS CONDITIONS**

6.1 *Making a claim on this insurance*

You must:

- Tell **us** as soon as **you** are aware of any circumstance likely to result in a claim under this policy
- Complete **our** claim form in full if requested
- Allow **us** to investigate the alleged **liability**
- Provide any other information or assistance which **we** need

- (e) Give **us** permission to obtain personal information that relates to **your** claim held by any other party
- (f) Forward to **us** all relevant information and correspondence
- (g) Provide a statutory declaration to verify the claim if **we** request it
- (h) Minimise **your liability**, and try to avoid any further **liability**
- (i) Take reasonable steps to obtain details of any other person, property or vehicle involved, and any witnesses.

You must not:

- (a) Say or do anything that may prejudice **our** ability to defend the claim made against **you**, or to make a recovery from any other person.

6.2 *If the claim is accepted*

If the claim is accepted:

- (a) **We** have the sole right to act in **your** name and negotiate, defend or settle any **liability** on **your** behalf at **our** own expense.
- (b) **We** may appoint **our** own lawyers to defend **you**. They report to **us**, and **you** waive any privilege **you** have in the information **you** provide to them.
- (c) **We** may pay the maximum amount payable under this policy (or any lesser amount for which the **liability** can be settled), plus the **defence costs** incurred to date. This meets **our** obligations under the policy in full.
- (d) **We** may take over in full any legal right of recovery that **you** have.

6.3 *Dishonest or fraudulent claims*

If **your** claim is dishonest or fraudulent in any way, **we** may, at **our** discretion, decline **your** claim, wholly or partially and/or declare that this policy is unenforceable from the date of the dishonest or fraudulent act.

7 GENERAL CONDITIONS

7.1 *Premium adjustments and declarations*

- 7.1.1 If **you** carry **goods** at limited carrier's risk', the deposit premium for this policy has been calculated as a percentage of the estimated gross income derived from such contracts of carriage. The annual premium will be adjusted and the difference paid by, or allowed to, **you** as the case may be. **We** will retain 75% of the deposit premium paid in any case.
- 7.1.2 **You** must keep accurate records containing all relevant particulars and allow **us** to inspect them.

- 7.1.3 **You** must, within one calendar month after each anniversary of the commencement of this policy, or after its earlier termination, give **us** such particulars and information as **we** may require.
- 7.1.4 If **you** carry goods 'at declared value risk', **you** must declare to **us** monthly every contract and the value of the goods carried, which shall in no case exceed the invoice value to the consignees. The appropriate premium rate will be applied to each declaration and must be paid by **you** monthly.

7.2 *Comply with the policy*

- 7.2.1 **You** must meet the following conditions before **we** are obliged to pay **you**:
- 7.2.2 **You** must comply with all the policy terms, and
- 7.2.3 **You** must provide true statements and answers when **you**:
- apply for this insurance, and
 - notify **us** regarding any change in circumstances, and
 - make any claim under this policy.

7.3 *Cancellation*

- 7.3.1 **You** may cancel the policy by giving **us** notice. **We** will refund to **you** the unexpired portion of any premium **you** have already paid to **us**.
- 7.3.2 **We** may cancel this policy at any time by giving notice to **you**. It will be effective from 4.00pm 14 days after the notice is given. The 14-day period starts on the day the notice is delivered or posted. **We** will refund to **you** the unused portion of any premium **you** have already paid to **us**.

7.4 *Change in circumstances*

- 7.4.1 **You** must tell **us** immediately, after the start of the policy, if there is a material fact that **you** know that would:
- Increase in the risk insured, or
 - Alteration in the risk insured.
- 7.4.2 After **you** have told **us** about a change in the risk insured, **we** may amend **your**:
- Premium payable, and/or
 - Terms and conditions of this policy.
- Those changes will be effective immediately.
- 7.4.3 If **you** fail to tell **us** about a change in the risk insured, **we** may:
- Declare this policy unenforceable, or
 - Completely or partially refuse any subsequent claim.

These actions will be taken from the date **you** knew, or ought to have known, of the increase or alteration in the risk insured.

7.5 *Double insurance*

7.5.1 **You** must notify **us** immediately of any other insurance policy that covers any of the risks covered under this policy.

7.5.2 If any other insurance policy exists, **we** will only pay over and above the limit payable under that other policy.

7.6 *Goods and Services Tax*

7.6.1 Where GST is recoverable by **us** under the Goods and Services Tax Act 1985:

- all Sums Insured exclude GST (unless otherwise stated), and
- GST will be added, where applicable, to claim payments.

7.7 *Governing Law*

7.7.1 The law of New Zealand applies to this policy and the New Zealand Courts have exclusive jurisdiction.

7.8 *Insurance Law Reform Acts*

7.8.1 The exclusions and conditions in this policy are subject to **your** rights under the Insurance Law Reform Acts 1977 and 1985.

7.9 *Notices*

7.9.1 Notices from **you** to **us** must be delivered personally, posted or emailed to **us**.

7.9.2 Notices from **us** to **you** must be delivered personally, posted or emailed to **your** last known postal address

7.10 *Take reasonable care*

7.10.1 **You**, and anyone else covered under this policy, must take reasonable care to avoid circumstances that may result in a claim.

7.10.2 **Your** claim will not be covered if **you** are reckless or grossly irresponsible.

7.11 *Acts of Parliament*

7.11.1 Where this policy refers to any Act of Parliament, this includes any Statutory Regulations made under it. It also includes any Act or Regulations enacted in substitution.

7.12 *Separate insurance*

7.12.1 If more than one person or entity is named as 'Insured' in the **schedule**, then all the parties are insured separately (as though a separate policy had been issued to each person/entity).

7.12.2 However, the limits contained in this policy are the most **we** pay to all persons and entities combined.

7.13 *Headings*

7.13.1 Headings in this policy are for ease of reference only. They do not form part of the policy, and are not to be used as an aid to interpretation

8 DEFINITIONS

8.1 These words (and any derivatives) marked in **bold** throughout the policy are defined as follows:

Accident means an event or omission that is unexpected and unintended from **your** point of view.

Act of terrorism means an act, including but not limited to the use of force or violence and threat of any person or group, whether acting alone or on behalf of or in connection with any organisation or government that from its nature or context is done 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 part of the public in fear.

Business means the business described in the **schedule**.

Defence costs means necessary and reasonable defence costs **you** incur to defend the alleged legal **liability**. However, that legal **liability** must be of a nature that is covered under this policy if proven.

Excess means the amount stated in the policy or shown in the **schedule**.

Goods means goods, baggage, and chattels of any description, including animals and plants, but excluding jewellery, gold and silver articles, precious stones, bullion, cash, banknotes, deeds, bonds, bills of exchange and other documents representing money.

Liable means legally liable pursuant to the Carriage of Goods Act 1979, but only by virtue of the following kinds of contract as specified in Section 8 of that Act:

- at limited carrier's risk,
- at declared value risk.

Occurrence means an event, or series of events, that results from one source or original cause.

Period of insurance means the period of time shown in the **schedule**.

Property damage means **accidental** physical loss or **accidental** physical damage to the **goods**

Schedule means the most recent schedule to this policy that **we** issued to **you**.

We/us/our means The New India Assurance Company Limited.

You means any person or entity named in the **schedule** as 'Insured'. This includes any subsidiary company, or joint venture, or any company over which active management is exercised provided they are based in New Zealand