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:**

(a) Tell us as soon as you are aware of any circumstance likely to result in a claim under this policy

(b) Complete our claim form in full if requested

(c) Allow us to investigate the alleged liability

(d) 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.

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**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.