

THE NEW INDIA ASSURANCE COMPANY LIMITED

Employer'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 *Civil Liability*

2.1.1 **We** will indemnify **you** against **your liability** arising out of any of **your employees** sustaining **bodily injury** in New Zealand after the **retroactive date** in connection with **your business**, provided:

- (a) The **claim** is first notified to **you**, or **you** first become aware of the **claim**, during the **period of insurance**, and
- (b) **You** first notify **us** about the **claim** either
 - during the **period of insurance**, or
 - within 30 days after the **period of insurance** ends.

2.2 *Effect of notifications*

2.2.1 Once (a) and (b) above have occurred, any **liability**, arising out of that **bodily injury** is covered based on the terms of this policy.

2.3 *Defence costs*

2.3.1 In addition, **we** will indemnify **you** for **defence costs**.

3 OPTIONAL EXTENSION

3.1 *Civil liability - exemplary damages in New Zealand (optional)*

3.1.1 If **your schedule** shows **you** have Exemplary Damages cover, then this policy is amended as follows:

- (a) Exclusion 4.2 does not apply to **liability** for exemplary damages, and
- (b) Exclusion 4.8 is deleted, and
- (c) General condition 7.9 is deleted.

4 EXCLUSIONS

4.1 *Prior claims*

4.1.1 There is no cover under this policy for any **claim** first notified to **you** prior to the **period of insurance**, or which **you** first became aware of prior to the **period of insurance**.

4.2 *Accident insurance*

4.2.1 There is no cover under this policy for **liability** arising from **bodily injury** for which compensation:

- (a) Is available under the Injury Prevention, Rehabilitation and Compensation Act 2001, or
- (b) Would have been available under that Act except for **your** decision to share some of the accident risk **yourself**.

4.3 *Overseas judgments*

4.3.1 There is no cover under this policy for **liability** that has been determined by judgment or decision of a Court outside of New Zealand.

4.3.2 This is regardless of whether that judgment is enforceable in New Zealand or not.

4.4 *Dishonesty / fraud / malice*

4.4.1 There is no cover under this policy for **liability** that involves an act or omission by **you**, that is:

- (a) Dishonest, or
- (b) Fraudulent.

4.5 *Exposure before the commencement of this policy*

4.5.1 There is no cover under this policy for **liability** arising from **bodily injury** where:

- (a) That **bodily injury** is caused by a disease, and
- (b) **Your employee** was first exposed to the conditions leading up to that disease before the first time **you** took a policy of this type out with **us**.

4.6 *Asbestos*

4.6.1 There is no cover under this policy for **liability** connected in any way with asbestos.

4.7 *Fines*

4.7.1 There is no cover under this policy for any fine or penalty imposed on **you**.

4.8 *Exemplary damages*

4.8.1 There is no cover under this policy for any punitive or exemplary damages awarded against **you**.

4.9 *Employment Contracts Act*

4.9.1 There is no cover under this policy for **liability** arising under the Employment Relations Act 2000.

4.10 *War/Confiscation/Nuclear*

4.10.1 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.

4.11 *Terrorism*

4.11.1 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, 2.3 and 3.1 above, in total, during the **period of insurance** is the Sum Insured shown in the **schedule**.

5.2 *Excess*

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

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 *Comply with the policy*

You must meet the following conditions before **we** are obliged to pay **you**:

- 7.1.1 **You** must comply with all the policy terms, and

7.1.2 **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.

7.2 *Cancellation*

7.2.1 **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**.

7.2.2 **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**.

7.3 *Change in circumstances*

7.3.1 **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.

7.3.2 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.

7.3.3 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.

7.4 *Double insurance*

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

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

7.5 *Goods and Services Tax*

7.5.1 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.

7.6 *Governing Law*

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

7.7 *Insurance Law Reform Acts*

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

7.8 *Notices*

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

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

7.9 *Take reasonable care*

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

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

7.10 *Acts of Parliament*

7.10.1 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.

7.11 *Separate insurance*

7.11.1 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).

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

7.12 *Headings*

7.12.1 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.

Bodily injury means the **accidental** death of, or the **accidental** bodily injury to any person, including sickness, disease, disability, shock, fright, mental anguish or mental injury.

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

Claim means:

- (a) A civil proceeding commenced against **you** alleging **liability**, or
- (b) A notice received from any person of an intention to make a claim against **you** alleging **liability**, or
- (c) Any circumstance of which **you** become aware that is likely to give rise to (a) or (b) above.

This is regardless of whether the claim amount exceeds the **excess**.

Computer virus means a set of corrupting, harmful or unauthorised instructions or code, including a set of maliciously introduced and unauthorised instructions or code, programmed or any thing else, which duplicates itself through a computer system or network. This includes, but is not limited to Trojan horses, worms, and time or logic bombs.

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

Employees mean **employees** directly employed by **you** in the **business**. It does not include independent contractors.

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

Event means a **claim** or series of **claims** arising from the one source or original cause.

Liability means civil legal liability to pay damages. It includes:

- (a) Interest, and

(b) Claimant's costs and expenses, and

(c) Settlements approved by **us**.

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

Retroactive date means the date shown in the **schedule**.

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.