

## PROFESSIONAL INDEMNITY – CIVIL LIABILITY

Welcome to NZI. Thank you for selecting us as your insurer. This is your Barristers & Solicitors Professional Indemnity – Civil Liability Policy Document.

It will tell you what you are insured for and what you are not insured for, as well as any obligations that you or we must abide by to ensure an enforceable policy. This policy document is a legal contract so please read it thoroughly and keep it in a safe place. If you need help with understanding your policy document, please contact your insurance broker.

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IAG New Zealand Limited pays remuneration to brokers and insurance intermediaries when they issue NZI policies, and when these policies are renewed or varied.



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### INTRODUCTION TO THIS POLICY

#### AGREEMENT

**You** agree to pay **us** the premium described in the **schedule** and comply with this policy. In exchange, **we** agree to insure **you** as set out in this policy.

#### POLICY CONTRACT

This policy consists of the following parts:

1. **your** insurance proposal form, and any oral or written supporting statements or documents supplied by **you**, and
2. this policy wording (including any endorsements or warranties), and
3. the **schedule**.

#### INTERPRETING THIS POLICY

Certain words in this policy have a specific meaning. These words appear in **bold** in this policy wording and in Title Case in endorsements shown in the **schedule**. **You** will find the meaning listed in the 'Definitions' section at the end of this policy. The definitions apply to the plural and any derivatives of the bolded words.

**You** will also find examples and comments to make parts of this policy easier to understand. These examples and comments, which appear in *italics*, do not affect or limit the meaning of the section they refer to.

The headings in this policy are for reference only and do not form part of it. They are not to be used when interpreting the policy.

### WHAT YOU ARE INSURED FOR

#### A. CIVIL LIABILITY

**You** are insured for **your civil liability** arising from an **error** that occurs after the **retroactive date** in the conduct of **professional services**, provided:

1. **you** first knew, or ought to have known, of the **claim** in relation to that **error** during the **period of insurance**, and
2. **you** have advised **us** of that **claim** as soon as possible, but no later than 30 days after the **period of insurance** ends.

#### B. DEFENCE COSTS

**You** are insured for all legal costs and legal expenses necessarily and reasonably incurred with **our** prior written consent to defend or settle a **claim** alleging **civil liability** covered by this policy.

Costs and expenses incurred solely for a Judicial Review or seeking an Injunction are not covered by this policy.



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### AUTOMATIC EXTENSIONS

The following Automatic Extensions apply to this insurance subject to the provisions outlined in 'What you are insured for' (except for Automatic Extension D. Disciplinary Proceedings and Enquires) and the terms of this policy.

Except for 'Automatic Extension A. Automatic Reinstatement of the Aggregate Limit', all other Automatic Extensions are included within the sum insured shown in the **schedule**, they are not in addition to it.

#### A. AUTOMATIC REINSTATEMENT OF THE AGGREGATE LIMIT

1. If all **civil liability** that would otherwise be insured under 'What you are insured for – A. Civil Liability' and 'B. Defence Costs' exceeds the sum insured shown in the **schedule**, then **we** will provide up to a maximum of two automatic reinstatements of the sum insured.

Provided that this does not apply:

- 1.1 to any **claim** that is connected with the same **error** as a **claim** already met or to be met under this policy, and
- 1.2 to Optional Extensions A. 'Dishonesty of Partners'; B. 'Dishonesty of Employees' and C. 'Employment Practices Liability' (where applicable), and
- 1.3 to 'Automatic Extension D. Disciplinary Proceedings and Enquiries', and
- 1.4 until any separate policy (including an 'excess policy') that

insures **you**, after the sum insured under this policy is exceeded, is exhausted.

#### B. CONTINUOUS COVER

This policy is extended to insure any **claim**, or circumstance that may give rise to a **claim**, that **you** first knew of or ought to have known of, and that should have been advised to **us** during any previous period of insurance with **us**.

However this cover:

1. only applies if:
  - 1.1 **you** had continuous Professional Indemnity – Civil Liability cover with **us** since that previous period of insurance, and
  - 1.2 **your** failure to disclose the **claim**, or circumstance that may give rise to a **claim**, at each subsequent renewal was not deliberate, and
  - 1.3 **you** advise **us** of the **claim**, or circumstance that may give rise to a **claim**, no later than the end of this **period of insurance** (or 30 days thereafter), and
2. is subject to:
  - 2.1 the terms of the policy in existence when **you** first knew of the **claim**, or circumstance that may give rise to a **claim**, or
  - 2.2 the terms of this policy,



whichever provides lesser cover. **We** have the sole discretion to elect which policy applies.

‘Exclusion P.’ does not apply to this Extension.

### C. DEFAMATION

This policy is extended to insure **your civil liability** arising from defamation in the conduct of **professional services**.

‘Exclusion B.’ does not apply to this Extension.

### D. DISCIPLINARY PROCEEDINGS AND ENQUIRIES

This policy is extended to insure all legal costs and legal expenses necessarily and reasonably incurred with **our** prior written consent for **your** representation at a legal proceeding or quasi legal proceeding considering:

1. whether, in the conduct of **professional services** after the **retroactive date**, **you** have breached any relevant professional code of conduct administered by any overseeing professional association, or
2. a charge against **you** in the conduct of **professional services** after the **retroactive date**, by a statutory disciplinary tribunal, similar regulatory authority or coroner,

provided that:

- (a) **you** first become aware, or ought to have become aware, of the enquiry during the **period of insurance**, and

- (b) **you** have advised **us** of the enquiry as soon as possible, but no later than 30 days after the **period of insurance** ends.

The most **we** will pay under this extension for any one proceeding and all proceedings **you** first become aware of, or ought to have become aware of during the **period of insurance** is the sum insured shown in the **schedule** for Disciplinary Proceedings and Enquiries.

### E. DOCUMENTS

This policy is extended to insure **your civil liability** arising from loss of or damage to **documents** that were in **your** physical custody or control at the time of loss or damage.

‘Exclusion E.’ does not apply to this Extension.

### F. EMPLOYEES

This policy is extended to insure **your employees** for **errors** in the conduct of **professional services** that result in their **civil liability**.

**We** will insure **your employees** on the same terms as **we** insure **you**.

### G. ESTATES AND LEGAL REPRESENTATIVES

This policy is extended to insure **your** estate, legal representative or assignees for **your errors** in the conduct of **professional services** that result in their **civil liability** after **you** have died or become legally incompetent or insolvent.

**We** will insure **your** estate, legal representative or assignees on the same terms as **we** insure **you**.

### H. EXTENDED REPORTING PERIOD

If **we** elect not to offer renewal of this policy, then **you** may pay **us** an additional premium (being 50% of the last premium), to extend **your** cover under the policy for 12 months.

However, this will only cover **you** for **errors** that happened before the expiry of the **period of insurance**.

**You** cannot extend **your** cover if **we** cancelled this policy or declared this policy unenforceable because **you** did not:

1. pay the premium, or
2. disclose information material to the risk, or
3. comply with terms of this policy.

If **you** choose to extend the policy as described above, then **you** must give **us** notice that **you** wish to do so within 30 days of **us** refusing to renew this policy.

### I. FAIR TRADING ACT

This policy is extended to insure **your civil liability** arising from a breach of the Fair Trading Act 1986.

'Exclusion H.' does not apply to this Extension.

### J. INTELLECTUAL PROPERTY

This policy is extended to insure **your civil liability** arising from an infringement of any patent, copyright, design or trademark.

'Exclusion L.' does not apply to this Extension.

### OPTIONAL EXTENSIONS

The following Optional Extensions apply to this insurance if they are shown in the **schedule**.

Cover under these 'Optional Extensions' are subject to the provisions outlined in 'What you are insured for' and the terms of this policy.

'Optional Extensions' are included within the sum insured shown in the **schedule**, they are not in addition to it.

### A. DISHONESTY OF PARTNERS

This policy is extended to insure **your civil liability** arising from a dishonest, fraudulent, criminal or malicious act or omission by any person who is or has at any time been **your** partner or director.

This extension is subject to the following:

- (a) the amount payable will be reduced by the amount of any money that is held by **you** and is due to and can be withheld from that partner or director,

- (b) no amount will be payable under this extension to any partner or director who has committed or condoned the dishonest, fraudulent, criminal or malicious act or omission,
- (c) this extension does not apply to loss arising from the dishonest, fraudulent, criminal or malicious act or omission of any partner or director after **you** could reasonably have suspected or discovered the improper conduct,
- (d) the most **we** will pay for any one **claim** and all **claims** during the **period of insurance**, including investigation, defence and settlement costs, will not exceed the amount shown in the **schedule** as 'Dishonesty of Partners'.
- (e) each claim under this extension will be subject to the excess shown in the **schedule** as 'Dishonesty of Partners'.

'Exclusion D.' does not apply to this Extension.

### B. DISHONESTY OF EMPLOYEES

This policy is extended to insure **your civil liability** arising from a dishonest, fraudulent criminal or malicious act or omission by any person who is or has at any time been **your employee**.

This extension is subject to the following:

- (a) the amount payable will be reduced by the amount of any money that is held by **you** and is due to and can be withheld from that **employee**,

- (b) no amount will be payable under this extension to any **employee** who has committed or condoned the dishonest, fraudulent, criminal, malicious act or omission,
- (c) this extension does not apply to loss arising from the dishonest, fraudulent, criminal or malicious act or omission of any **employee** after **you** could reasonably have suspected or discovered the improper conduct of that **employee**,
- (d) the most **we** will pay for any one **claim** and all **claims** during the **period of insurance** under this extension, including investigation, defence and settlement costs, will not exceed the amount shown in the **schedule** as 'Dishonesty of Employees'.
- (e) each claim under this extension will be subject to the excess shown in the **schedule** as 'Dishonesty of Employees'.

'Exclusion D.' does not apply to this Extension.

### C. EMPLOYMENT PRACTICES LIABILITY

This policy is extended to insure **your civil liability** for **claims** brought against **you**:

1. by an **employee** arising from:
  - 1.1 unjustified dismissal or unjustified disadvantage, of that **employee**, or
  - 1.2 workplace harassment (whether sexual or otherwise) of that **employee**, or

- 1.3 wrongful demotion of, wrongful failure to promote, wrongful deprivation of career opportunity of, wrongful discipline of, or negligent evaluation of, or negligent failure to grant tenure of employment to that **employee**, or
- 1.4 workplace stress, or
- 2. for wrongful refusal to employ a potential **employee**, or
- 3. for defamation arising from employment-related matters, or
- 4. for misrepresentation or misleading advertising as to the terms and conditions of employment, or
- 5. for denial of natural justice to an **employee** concerning his or her employment.

**You** are not insured for:

- (a) **civil liability** to pay any amount pursuant to:
  - (i) an obligation under a contract of employment, or
  - (ii) any Act of Parliament other than the Employment Relations Act 2000, or
- (b) **civil liability** in connection with:
  - (i) an industrial dispute, strike, picket, lock-out, go slow or work to rule, or
  - (ii) union relations or union access, or
  - (iii) the Injury Prevention, Rehabilitation and Compensation Act 2001, workers compensation or health and safety legislation, or similar legislation, or

- (iv) bodily injury, sickness, disease or death of any person, or
- (v) the cost of physical modifications to premises, plant or equipment owned or occupied by **you**, or
- (vi) a contract of employment alleged to have been obtained by unfair bargaining, or
- (vii) the dismissal or disciplining of an **employee**, unless prior to this **you** had obtained and followed **our** advice or the advice of an employment lawyer approved by **us**, or
- (c) for the cost of complying with any compliance order, or any other order in the nature of an injunction, or
- (d) for legal costs that **you** incur to obtain legal advice from an employment lawyer prior to the dismissal or disciplining of an **employee**.

'Exclusions F., M. & Q.' do not apply to this Extension.

The most **we** will pay under this extension for any one **claim** and all **claims** during the **period of insurance** is the amount shown in the **schedule** as 'Employment Practices Liability'.

All legal costs and legal expenses insured under this extension are included in this amount.

#### D. NEW ZEALAND LAW SOCIETY STANDARDS COMMITTEE

This policy is extended to insure **you** for:

- 1. fines imposed on **you**, and

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2. compensation orders made against **you**, and
3. costs and/or expenses awarded against **you**,

by the New Zealand Law Society Standards Committee, provided that cover under 'Automatic Extension D. Disciplinary Proceedings and Enquiries' applies, or would have applied but for the excess, in relation to the complaint before the Standards Committee.

The most **we** will pay under this extension for all fines, compensation orders, and costs and/or expenses is the sum insured shown in the **schedule** for New Zealand Law Society Standards Committee.

The reference to 'fine' in 'Exclusion J.' Item 1' does not apply to this Extension. 'Managing Your Claim, A. Item 1.2' does not apply to this Extension where **you** are required to comply with investigations or give evidence before the Standards Committee.

### E. PREVIOUS BUSINESS

This policy is extended to insure **you** for **claims** in connection with **professional services** previously provided by **you** through any firm of which **you** were previously a partner, except where **you** are entitled to insurance under **your** previous firm's professional indemnity insurance policy.

## EXCLUSIONS

### A. ASBESTOS

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with asbestos.

### B. DEFAMATION

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with defamation.

### C. DIRECTOR'S LIABILITY

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with an **error** of a director of a company established as part of the person, firm or practice named in the **schedule** while acting in that capacity.

### D. DISHONESTY OR FRAUD

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with **your** dishonest, fraudulent, criminal or malicious acts or omissions.

### E. DOCUMENTS

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with the physical loss of or damage to documents.



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### F. EMPLOYER'S LIABILITY

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with **your** capacity or obligations as an employer.

### G. EXISTING LITIGATION

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with any litigation in existence at the commencement of the **period of insurance**.

### H. FAIR TRADING

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with the Fair Trading Act 1986.

### I. FINANCIAL POSITION

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with **your** insolvency, liquidation, receivership, bankruptcy or statutory management.

### J. FINES AND EXEMPLARY DAMAGES

**You** are not insured for:

1. any fine or penalty imposed on **you** (whether under contract or statute), or
2. any punitive or exemplary damages awarded against **you**.

### K. FOREIGN COURTS

**You** are not insured for **civil liability** in connection with a **claim**:

1. first brought in a court outside New Zealand (unless that country is shown under 'Jurisdictional Limits' in the **schedule**), or
2. brought in a court within New Zealand to enforce a judgment made by a court outside of New Zealand (unless that country is shown under 'Jurisdictional Limits' in the **schedule**), or
3. where the **claim** is governed by or the **civil liability** arises under the law of a country other than New Zealand (unless that country is shown under 'Jurisdictional Limits' in the **schedule**).

### L. INTELLECTUAL PROPERTY

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with **your** infringement of any patent, copyright, design or trademark.

### M. INSURED VS INSURED

**You** are not insured for **civil liability** or legal costs and legal expenses arising from **claims** brought against **you**, by:

1. another party covered by this policy, or
2. any company or trust that is operated or controlled by **you** or **your employees**, nominees or trustees, and in which **you** or **your** family or extended family have a direct or indirect financial interest, or
3. a member of **your** family.



#### N. INTENTIONAL DAMAGE

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with an **error** by **you**:

1. with the intention of causing loss, damage or injury, or
2. with reckless disregard for the consequences.

#### O. JOINT VENTURES

**You** are not insured for **civil liability** or legal costs and legal expenses in respect of joint ventures of which **you** are a party.

#### P. KNOWN CLAIMS & CIRCUMSTANCES

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with any **claim** or circumstance that may give rise to a **claim** that **you** first knew of or ought to have known of, prior to the inception date of this policy.

#### Q. LIABILITY BY AGREEMENT

**You** are not insured for obligations assumed under, or for **civil liability** or legal costs and legal expenses:

1. arising from **you** breach of a contract, warranty, guarantee or undertaking, unless **you** would otherwise have been liable in the absence of that contract, warranty, guarantee or undertaking, or

2. to the extent **you** have limited any potential right to receive contribution or indemnity in relation to that **civil liability** from a person, in an arrangement or agreement with that person, or
3. that **you** agree to accept outside of what is normal in the conduct of **professional services**.

#### R. NUCLEAR

This policy does not insure **civil liability** or legal costs and legal expenses of any type in connection with:

1. ionising radiation or contamination by radioactivity from:
  - (a) any nuclear fuel, or
  - (b) any nuclear waste from the combustion or fission of nuclear fuel.
2. nuclear weapons material.

#### S. POLLUTION

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with **pollutants**.

#### T. PROPERTY LIABILITY

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with **you** ownership, possession or use of any land, buildings, aircraft, watercraft, vessel or mechanically propelled vehicle.

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### U. REFUND OF FEES

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with any dispute over:

1. professional fees or charges (by way of damages or otherwise), or
2. paying trading debts or the repayment of a loan.

### V. SUPPLY OF GOODS

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with the manufacture, sale, supply or distribution of goods or products by **you** or on **your** behalf.

### W. NOMINEE COMPANY RULES

**You** are not insured for **civil liability** or legal costs and legal expenses in connection with the failure to comply with the Lawyers and Conveyancers Act (Lawyers: Nominee Company) Rules 2008 and any amendments.

### X. TERRORISM

This policy does not insure **civil liability** or legal costs and legal expenses of any type in connection with an **act of terrorism**, including in connection with controlling, preventing, suppressing, retaliating against, or responding to an **act of terrorism**.

### Y. WAR

This policy does not insure **civil liability** or legal costs and legal expenses of any type in connection with any of the following, including controlling, preventing or suppressing any of the following:

war, invasion, act of foreign enemy, hostilities or war like operations (whether war is declared or not), civil war, mutiny, rebellion, revolution, civil commotion assuming the proportions of or amounting to an uprising, insurrection, military or usurped power.

## BASIS OF SETTLEMENT

### A. MAXIMUM AMOUNT PAYABLE

The most **we** will pay in total under 'What you are insured for' 'A. Civil Liability' and 'B. Defence Costs' and all Automatic Extensions other than A. and D. for:

1. any one **claim**, and
2. all **claims** (subject to 'Automatic Extension A.', if it applies),

**you** first knew of, or ought to have known of, during the **period of insurance** is the sum insured shown in the **schedule**.



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### B. EXCESS

If a **claim** arises:

1. under the jurisdiction of a New Zealand Court, then the excess shown in the **schedule** for 'New Zealand Jurisdiction' will be deducted from the amount **we** pay. **You** must also pay this excess when **we** cover legal costs and legal expenses if the **schedule** states 'Costs Inclusive'. If the **schedule** states 'Costs Exclusive', then no excess applies to legal costs and legal expenses, and/or
2. under the jurisdiction of a court outside of New Zealand, then the excess shown in the **schedule** for 'Other Jurisdictions' will be deducted from the amount **we** pay. **You** must also pay this excess when **we** cover legal costs and legal expenses, and/or
3. under any extension subject to a separate excess, then the excess will apply in substitution for any other excess and will apply to all claims under that extension.

**We** will deduct only one excess for a series of **claims** arising from one **error**. If a **claim** arises from separate **errors** then an excess will apply to each **error**.

## MANAGING YOUR CLAIM

### A. YOUR OBLIGATIONS

#### 1. Do Not Admit Liability

**You** must not:

- 1.1 admit **you** are liable, or

- 1.2 do or say anything that may prejudice **our** ability to defend the **claim** against **you** or take recovery action in **your** name.

#### 2. Advise us

If **you** become aware of any **claim** or enquiry referred to in Automatic Extension D., **you** must notify **us** immediately.

#### 3. Minimise the Loss

**You** must take all reasonable steps to minimise the **claim** and avoid any further liability arising.

#### 4. Notify the Police

**You** must immediately lay a complaint with the Police if **you** suspect criminal activity has occurred.

#### 5. Provide Full Information

When **you** make a claim **you** consent to **your** personal information in connection with the claim being:

- 5.1 disclosed to **us**, and
- 5.2 transferred to the Insurance Claims Register Limited.

**You** must:

- (a) give **us** free access to examine and assess the claim, and
- (b) send any relevant correspondence or documents to **us**, and
- (c) complete a claim form and/or statutory declaration to confirm the claim if **we** request it, and



(d) provide any other information, proof of ownership or assistance that **we** may require at any time.

### 6. Be Truthful

If **your** claim is dishonest or fraudulent in any way, **we** may:

- 6.1 decline **your** claim either in whole or in part, and/or
- 6.2 declare this policy or all policies **you** have with **us** to be unenforceable from the date of the dishonest or fraudulent act.

This is at **our** sole discretion.

### 7. Incurring Costs

**You** are not authorised to incur any costs or expenses without **our** prior written consent.

### 8. Cooperation

**You** must provide any other assistance that **we** may reasonably require at any time.

## B. MANAGING YOUR CLAIM

### 1. Allocation of defence costs

If a claim is covered only partly by this policy, then **we** will attempt to ensure fair and proper allocation of the legal costs and legal expenses for insured and uninsured portions.

If all parties are unable to agree upon the allocation of the legal costs and legal expenses then that allocation shall be referred to a lawyer that **we** and

**you** agree to instruct, whose determination shall be binding upon all parties.

The cost of the lawyer's determination is to be taken as part of 'What you are insured for B., Defence Costs.'

If the parties cannot agree on a lawyer, then a lawyer will be appointed by the President of the New Zealand Law Society.

### 2. Apportionment

If **we** incur costs and/or expenses above the maximum amount payable, then:

- 2.1 **you** must pay this amount when **we** ask for it, or
- 2.2 **we** can offset that payment against what **we** must pay to **you** under this policy.

### 3. Your Defence (*Queens Counsel Clause*)

- 3.1 **We** are not required to defend a **claim** against **you** unless a lawyer that **we** and **you** agree to instruct, advises that the **claim** should be defended.
- 3.2 In formulating his or her advice, the lawyer must be instructed to consider:
  - (a) the economics of the matter, and
  - (b) the damages and costs likely to be recovered, and
  - (c) the likely costs of defence, and
  - (d) **your** prospects of successfully defending the **claim**.

3.3 The cost of the lawyer's opinion is to be taken as part of 'What you are insured for B., Defence Costs.'

3.4 If the lawyer advises that the **claim** should be settled and if the terms of the settlement that **we** recommend are within limits that are reasonable (in the lawyer's opinion and in the light of the matters he/she is required to consider), then:

- (a) **you** cannot object to the settlement, and
- (b) **you** must immediately pay the excess shown in the **schedule**.

#### 4. Subrogation

Once **we** have accepted any part of **your** claim under this policy, **we** may assume **your** legal right of recovery.

If **we** initiate a recovery **we** will include **your** excess, and any other uninsured losses suffered by **you**. Where **we** do this, **you** agree to pay **your** proportional share of the recovery costs, and subsequently the proceeds of the recovery will be shared on the same proportional basis, except that **we** will reimburse **your** excess first.

#### 5. Recovery from Employees

**We** will not recover any amount paid out as a claim under this policy from any of **your employees** or former **employees** unless the claim arose from that employee's dishonest, fraudulent, criminal or malicious acts, omissions or conduct.

#### 6. Defence of liability claims

After **you** have made a claim under this policy, subject to 'Managing Your Claim B. Item 3 – Your Defence (*Queens Counsel Clause*)', **we** have the sole right, which shall be a condition precedent to **your** right to be covered, to:

- 6.1 appoint **our** own lawyers to represent **you**. They will report directly to **us**.
- 6.2 act in **your** name and on **your** behalf to defend, negotiate or settle the **claim** as **we** see fit (this will be done at **our** expense), and
- 6.3 defend or legally represent **you** at a legal or quasi legal enquiry as covered by 'Automatic Extension D. Disciplinary Proceedings and Enquiries', and
- 6.4 publish a retraction or apology (in the case of defamation proceedings).

#### 7. Discharge of liability claims

Subject to 'Managing Your Claim B. Item 3 – Your Defence (*Queens Counsel Clause*)' **we** may elect at any time to pay **you**:

- 7.1 the maximum amount payable under this policy, or
- 7.2 any lesser sum that the **claim** against **you** can be settled for.

Once **we** have paid this (plus any legal costs and legal expenses already incurred up to the maximum amount payable under this policy) **our** responsibility to **you** under this policy is met in full.

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### 8. Waiver of Professional Privilege

The solicitors **we** instruct to act on behalf of **you** are at liberty to disclose to **us** any information they receive in that capacity, including information they receive from **you**.

**You** authorise the solicitors to disclose this information to **us**.

## GENERAL CONDITIONS

### A. HOW WE ADMINISTER THIS POLICY

#### 1. Authorisation

The person(s) who signed the proposal form is appointed as agent of each person who is entitled to cover under this policy, in all matters relating to this policy and to **claims** covered by it.

#### 2. Territorial Limits

This policy covers an **error** occurring anywhere in the world excluding USA and Canada and their respective territories and protectorates.

#### 3. Cancellation and Modification

##### 3.1 By You

**You** may ask **us** to cancel or modify this policy at any time. **We** must agree in writing to any modification before it will take effect.

##### 3.2 By Us

**We** may cancel or modify this policy by advising **you** (or **your** Broker

or Agent) by letter, fax or email. Cancellation or modification will take effect at 4.00pm, on the 30th day after the date of **our** advice.

**We** will refund the proportion of unused premium paid, calculated from the date of cancellation.

If **you** pay **your** premium by instalments, **you** must pay **us** any unpaid instalments that are due.

#### 4. Protecting our Position

Once **you** have advised **us** of a **claim**, **we** will take whatever action **we** consider appropriate to protect **our** position. This does not however:

- 4.1 indicate that **you** are entitled to be covered under this policy, or
- 4.2 jeopardise **our** rights under this policy or at law.

#### 5. Other Insurance

**You** must notify **us** as soon as **you** know of any other insurance policy that covers **you** for any of the risks covered under this policy.

If **you** or anyone else who can claim under this policy can claim under any other insurance, **we** will only pay over and above the limit payable by the other insurances.

#### 6. Currency

All sums in this policy wording (including any attachments) and in the **schedule** are specified in New Zealand dollars.



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### 7. GST

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

- 7.1 all sums insured exclude GST, and
- 7.2 all sub limits exclude GST, and
- 7.3 all excesses include GST, and
- 7.4 GST will be added, where applicable, to claim payments.

### B. LAWS & ACTS THAT GOVERN THIS POLICY

#### 1. Acts of Parliament

Where this policy refers to any Act of Parliament, it also includes any sub-ordinate legislation made under it, and any subsequent Acts or Regulations.

#### 2. Disputes about this policy

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

#### 3. Insurance Law Reform Acts

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

### C. YOUR OBLIGATIONS

#### 1. Comply with the policy

**You** (and any other person or entity **we** cover) must comply with the

terms of this policy at all times. If **you** fail to comply, **we** may, at **our** sole discretion, not pay **your** claim.

#### 2. Provide Accurate Information

**You** must make sure all statements and representations **you** make to **us** at any time are truthful and complete.

#### 3. Reasonable Care

**You** must take reasonable care at all times to avoid circumstances that could result in a claim. **Your** claim will not be covered if **you** are reckless or grossly irresponsible.

#### 4. Nominee Company Rules

**You** must make reasonable efforts to comply with the requirements of the Lawyers and Conveyancers Act (Lawyers: Nominee Company) Rules 2008 in respect of any advice or loans given or made by **you**.

#### 5. Change in Circumstances

**You** must tell **us** immediately if there is a material:

- 4.1 increase in the risk insured, or
- 4.2 alteration of the risk insured.

Once **you** have told **us** of the change, **we** may then cancel or alter the premium and/or terms of this policy.

If **you** fail to notify **us** about a change in the risk insured, **we** may:

- (a) declare this policy unenforceable, or

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(b) decline any subsequent claim either in whole or in part.

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

*For avoidance of any doubt, information is 'material' where we would have made different decisions about either:*

- (i) accepting your insurance, or*
- (ii) setting the terms of your insurance,*

*if we had known that information. If in any doubt, notify us anyway.*

### DEFINITIONS

The definitions apply to the plural and any derivatives of the bolded words. *For example, the definition of 'we' includes 'us' and 'our'.*

#### act of terrorism

Includes any unlawful act, or preparation in respect of action, or threat of action designed to influence or coerce the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological, or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and that:

1. involves violence against one or more persons, or
2. involves damage to property, or
3. endangers life other than that of the person committing the action,

or

4. creates a risk to health or safety of the public or a section of the public, or
5. is designed to interfere with or disrupt an electronic system.

#### civil liability

Liability for damages (but not fines, penalties, or punitive or exemplary damages, or compensation awarded by the New Zealand Law Society Standards Committee), interest, costs and expenses that a civil court, or arbitrator orders **you** to pay or settlements negotiated by **us**, in relation to a **claim**. It includes the legal costs of the person making the **claim**, for which **you** become liable.

#### claim

The earliest of the following:

1. service on **you** of a legal or arbitral proceeding by any third party,
2. **your** receipt of written notice from any third party that they hold **you** liable, or intend to commence legal proceeding, quasi legal proceeding, or arbitral proceedings against **you**,
3. any circumstance that may give rise to either 1. or 2. above.

#### documents

Physical documents of any nature, excluding:

1. bearer bonds, coupons, bank notes, cheques, Bills of Exchange, currency notes, stamps or other negotiable instruments, and

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- electronically stored data, software or computer programs for or in respect of any computer system.

### employee

A person who is deemed to be employed by **you** pursuant to the Employment Relations Act 2000.

### error

Any actual or alleged error, omission, act or conduct.

### period of insurance

The period **you** are insured for. This is shown in the **schedule**.

### pollutants

Any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acid, alkalis, chemicals and waste. Waste includes material to be recycled, reconditioned or reclaimed.

### professional services

**Your** professional services means:

- advice given or services performed:
  - in the conduct of the profession named in the **schedule** by, or on behalf of **you**,
  - by **you** through participation in any community law or advice centre,
  - as a director or officer of a company, but only:

- in respect of liability arising from professional advice given in the capacity of a solicitor or barrister, and
- if any fees earned from that advice are payable to **you**, and
- if those fees are included in the total annual income declared in the proposal form,

1.4 in connection with financial planning activities, but only:

- if any fees earned from that advice are payable to **you**, and
- those fees are included in the total annual income declared in the proposal form.

This professional service (Item 1.4) is only included in this policy if it is specified on the **schedule** as insured,

1.5 in connection with the operation of any Nominee Company. This professional service is only included in this policy if it is specified on the **schedule** as insured,

- any services performed by **you** as agents of other practitioners,
- any duties undertaken as a trustee including any joint and severable exposures arising from **your** appointment as trustee, but only:
  - if any fees earned from those duties are payable to **you**, and
  - and those fees are included in the total annual income declared in the proposal form.

### retroactive date

The date shown in the **schedule**.

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### schedule

The latest version of the Schedule **we** issue to **you** for this policy.

### we

NZI, a business division of IAG New Zealand Limited.

We may also use the words, 'us', 'our' or 'company' to describe NZI.

### you

The following:

1. the person, firm, practice, or company named in the **schedule**, and the partners and directors of the firm, practice, or company,
2. any person who ceases to be a partner or director of the person, firm, practice, or company during the **period of insurance**,
3. any person who becomes a partner or director of the person, firm, practice, or company during the **period of insurance**,
4. any predecessor in business of the person, firm, practice, or company,
5. each firm or company established for the purpose of providing administration services to the person, firm, practice, or company, provided that all such fees are included in the gross fees declared in the proposal form,
6. each Nominee Company currently or previously operated by the person, firm, practice, or company and declared in the proposal form,
7. each firm or company established specifically for the purpose of

providing services as corporate trustee where appointed in that capacity but only where all the directors of the company are partners, directors or **employees** of the person, firm or practice,

8. any person at any time engaged as a consultant to the person, firm, practice or company in respect of work performed for and on behalf of the person, firm practice, or company provided that any fees earned from those services are payable to the person, firm, practice or company and are included in the total income declared to **us** annually in the proposal form.

**We** may also use the word 'insured' to describe **you**.

