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# *Advanced Consequential Loss*

(CONSTRUCTION/ERECTION)

# Advanced Consequential Loss / (CONSTRUCTION/ERECTION) INSURANCE POLICY

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# Advanced Consequential Loss

## (CONSTRUCTION/ERECTION) INSURANCE POLICY



Welcome to NZI. Thank you for selecting us as your insurer. This is your Advanced Consequential Loss (Construction/Erection) 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.

### INTRODUCTION

#### AGREEMENT

The **insured** agrees to pay the **insurer** the premium described in the **schedule** and comply with this Policy. In exchange, the **insurer** agrees to insure the **insured** as set out in this Policy.

#### POLICY CONTRACT

This Policy consists of the following parts:

1. the **insured's** application for insurance, and any oral or written supporting statements or documents supplied by the **insured**, 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** and the meanings are listed in the 'Definitions' section at the end of this Policy. The definitions apply to the plural and any derivatives of the bolded words.

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.

#### THIS POLICY

For the purposes of this Policy, the **insurer** and **insured** are as referred to in the **schedule**.

Subject to the payment of the premium, the **insurer** does hereby extend insurance cover to the **insured** in the manner and subject to the Terms, Conditions and Exclusions described in this Policy, including the Schedule and any Certificate or Renewal Certificate.

The **insured** is the Principal of the contract works to be carried out and referred to in the Construction Insurance Policy specified in the **schedule**.

The **insurer** relies upon the information contained in the Proposal and any written statements made by the **insured**.

### PERIOD OF INSURANCE

#### PERIOD OF INSURANCE

The Period of Insurance will commence on the date specified in the **schedule** and will terminate:

- (a) on the date specified in the **schedule**, or
- (b) when the construction period cover of the Construction Insurance Policy specified in the **schedule** ceases, whichever is the earlier.

Any extension to the Period of Insurance must be subject to written agreement by the **insured** and an extension of the Period of Insurance under the Construction Insurance Policy will not automatically result in an extension of the Period of Insurance under this Policy.

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## SCOPE OF COVER

### WHAT YOU ARE INSURED FOR

Subject to the Terms, Conditions and Exclusions of this Policy, the **insurer** hereby agrees with the **insured** that if:

- (a) any part of the contract works referred to in the **schedule** suffers any physical loss or damage at the construction site as a result of any accident during the Period of Insurance, in circumstances requiring its repair or replacement, and
- (b) such physical loss or damage interferes with the progress of such contract works and results in a **delay**, then the **insurer** will indemnify the **insured** as provided in this Policy. Indemnification will be in accordance with the Basis of Loss Settlement.

The cover under this Policy:

1. is limited to those items described in the Specification of Interests Insured, and
2. will cease for any parts of the contract works referred to in the **schedule** from the time they are taken over or occupied or put into service at any earlier date.

Any alteration of the **scheduled date of commencement of the insured business** must be notified to the **insurer** and will have effect for this Policy only if specifically agreed in writing by the **insurer**.

The liability of the **insurer** will not exceed in all the Total Sum Insured.

## EXCLUSIONS

### YOU ARE NOT INSURED FOR

This Policy does not cover:

1. any **delay** directly or indirectly caused by or arising out of or aggravated by:
  - (a) war, invasion, act of foreign enemy. Hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, mutiny, the use of any military or usurped power, conspiracy, confiscation, commandeering, requisition, destruction or damage by order of any Government whether lawful or de facto or by any Public Authority,
  - (b) the conduct of any person or persons taking part in any riot, civil commotion, strike, lock-out, industrial dispute or persons acting maliciously on behalf of or in connection with any political organisation,
  - (c) persons taking part in any strike, industrial disputation or picket causing any process, operation or work to cease or to be interrupted,
  - (d) nuclear reaction, nuclear radiation or radioactive contamination,
  - (e) the wilful act or omission or recklessness of the **insured** or the agents or representatives of the **insured**,
  - (f) cessation of work for any reason whether total or partial.

In any action, suit or other proceedings brought under this Policy, where the **insurer** alleges that by reason of the provisions of Clause 1(a) or (b) above, any **delay** is excluded from this Policy, the burden of proving that the Exclusion does not apply will be upon the **insured**.
2. Consequential loss of any kind or description whatsoever, including penalties, fines, lack of performance, loss of contract, or breach of contract other than any loss described within the Scope of Cover.
3. Any **delay** resulting from loss or damage:
  - (a) due to any fault, defect, error or omission in design, plan or specification,
  - (b) due to wear and tear, corrosion, oxidation, or deterioration whether from lack of use or atmospheric conditions,
  - (c) caused by or arising from the test operation, or test loading or any other operation of any machinery, equipment or plant the installation of which forms part of the contract works, unless specially agreed upon by endorsement,
  - (d) to tools, equipment, temporary buildings, scaffolding, hoardings, formwork, falsework, construction machinery, vehicles, waterborne vessels or aircraft,
  - (e) to files, drawings, accounts, bills, currency, stamps, deeds, evidence of debt, notes, securities, cheques or any other documents of whatever nature,

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- (f) discovered only at the time an inventory is taken,
  - (g) to any part of the contract works which is of a prototype nature unless specially agreed upon by endorsement.
4. Any **delay** resulting from:
- (a) the replacement, repair or rectification of any loss or damage caused by any fault, defect, error or omission in material, casting or workmanship, but this Exclusion will be limited to the machine, structure or works immediately affected and will not exclude **delay** caused by loss of or damage to work properly carried out resulting from an accident due to such fault, defect, error or omission,
  - (b) alterations, additions, improvements, rectifications of defaults, or elimination of any deficiencies carried out during the repair or replacement of loss or damage to the contract works,
  - (c) shortage, deterioration or loss of or damage to any feedstock materials or operating media necessary for the operation of the Insured Business,
  - (d) any restrictions on reconstruction or operation imposed by any public authority,
  - (e) the non-availability of funds to finance the contract work or for the repair or replacement of loss or damage to the contract works,
  - (f) repair of any items or property not forming part of the contract works, even if such repair is in consequence of loss or damage to the contract works,
  - (g) abandonment for any reason whatsoever of the contract works.

## CONDITIONS

- |  |   |
|--|---|
| <b>1. OBSERVANCE OF TERMS AND CONDITIONS</b> | The <b>insured</b> , its employees and agents must comply with and observe all the Terms and Conditions of this Policy insofar as they relate to anything to be done or complied with by the <b>insured</b> .   |
| <b>2. PRECAUTIONS</b>                        | The <b>insured</b> and its employees and agents must at the <b>insured's</b> expense: <ul style="list-style-type: none"><li>(a) take all reasonable precautions to prevent loss or damage or <b>delay</b>,</li><li>(b) comply with all reasonable recommendations made by the <b>insurer</b> to prevent loss or damage or <b>delay</b>,</li><li>(c) comply with all the statutory requirements and recommendations of manufacturers.</li></ul>  |
| <b>3. INSURER'S RIGHT OF INSPECTION</b>      | The <b>insurer</b> , its employees and agents will at any reasonable time have the right to inspect and examine the premises and any other location, article, plant or equipment, associated directly or indirectly with the risk the subject of this Policy and the <b>insured</b> must provide to the <b>insurer</b> , its employees or agents all details and information.   |
| <b>4. CONTRACT WORKS PROGRAMME</b>           | Prior to commencement of the Period of Insurance the <b>insured</b> must at its own expense provide the <b>insurer</b> with a copy of the detailed construction schedule or work programme showing the Scheduled Date of Completion of the contract works. The <b>insured</b> must also at its own expense provide the <b>insurer</b> with a further copy of the contract works programme whenever it is amended or revised in any way which has the effect of altering the Scheduled Date of Completion of the contract works. The <b>insured</b> must on request also provide the reasons for the amendments or revisions and all relevant detail which the <b>insurer</b> requires.  |
| <b>5. ALTERATION OF RISK</b>                 | The <b>insured</b> must notify the <b>insurer</b> immediately by fax or telephone of any material change in the risk and the nature of the risk and confirm such notification by providing full details in writing. In such event the <b>insured</b> must at its own expense take such additional precautions to minimise the risk or any hazard to the risk as are reasonable in all the circumstances and must comply with any reasonable directions or requirements of the <b>insurer</b> . The scope of cover and/or premium will, if necessary, be adjusted by the <b>insurer</b> accordingly. Provided that no material alteration will be made or allowed by the <b>insured</b> whereby the risk is increased unless agreed in writing by the <b>insurer</b> . |

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## 6. NOTICE AND CLAIMS

- (a) In the event of any accident which might give rise to a claim under this Policy, the **insured** must:
  - (i) notify the **insurer** immediately by fax or telephone and confirm such notification in writing giving an indication of the nature and extent of the loss or damage. The **insurer** will not be liable in any event to extend cover in respect of loss or damage of which no notice has been received by it within fourteen days of its occurrence.
  - (ii) take all steps within the power of the **insured** to minimise the nature and extent of the loss or damage.
  - (iii) preserve the parts affected and make them available for inspection by the **insurer**, its employees or agents.
  - (iv) furnish all such information and documentary evidence as the **insurer** may require.
  - (v) in the event of loss or damage caused by theft or burglary, formally report the matter to the Police.
- (b) Upon notification of any loss or damage being given by the **insurer**, the **insured** may carry out minor repairs or make good any minor damage, but in all other cases the **insured** must give the **insurer**, its employees or agents an opportunity to inspect the loss or damage before any repairs or alterations are effected. If no inspection is carried out by or on behalf of the **insurer** within a period of time which is reasonable having regard to the location of the risk, weather conditions and any other relevant factors, the **insured** may proceed with such repairs or replacement.
- (c) Nothing contained in this Clause or in any other Clause of this Policy will relieve the **insured** of any obligation to take such steps as are necessary to ensure that the contract work is at all times carried out so as to minimise the risk of any claim being made under this Policy.
- (d) The **insurer** will, without prejudice to any rights or entitlement under this Policy have access to the construction site where any loss or damage has occurred for the purpose of direct negotiation with any responsible contractor or subcontractor in order to establish the possible cause, extent and effect of any loss or damage, to examine the possibilities for minimising any **delay** and to make any reasonable recommendations to avoid or minimise such **delay**. The **insurer** and all persons authorised by the **insurer** will be entitled to rely on this provision as evidence of its entitlement to do or carry out the matter referred to. If the **insured** or anyone acting on behalf of the **insured** hinders or obstructs the **insurer** in carrying out or undertaking anything which the **insurer** is entitled to do under this condition, or if the **insured** does not comply with any recommendations reasonably made by the **insurer**, the **insured** will not be entitled to make any claim under this Policy.
- (e) In the event of a claim being made under this Policy the **insured** will at his or her own expense deliver to the **insurer** not later than 30 days after the **delay** upon which the claim was based, or within any further period which the **insurer** may allow in writing, a written statement setting out particulars of the claim. The **insured** must at his own expense produce and furnish the **insurer** with such books of account and other documentation, including invoices, balance sheets, receipt books and banking records and any other information whether written or oral that the **insurer** may reasonably require for the purpose of investigating or verifying any claim, and the **insurer** may require and the **insured** must make available if requested verification as to the truth of any claim and any matters connected with any claim on oath by way of statutory declaration.
- (f) Any monies payable by way of indemnity under this Policy will be paid one month after final determination of the sum properly payable. The **insurer**, may at its discretion and after it has been notified of any loss and acknowledged liability pay moneys to the **insured** on account of any sums payable in such amount and during such periods as it shall at its sole discretion determine.
- (g) The **insurer** will be entitled to postpone payment if there is any doubt about the **insured's** entitlement to receive payment, until all necessary proof has been furnished and any official investigations concerning the causes of **delay** have been completed.

The **insurer** will not be liable to pay interest on indemnity money withheld under this Condition.



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## 7. SUBROGATION

The **insurer** retains the right to recover any money paid under this Policy from any person whom the **insured** may be able to hold liable or responsible. If the **insured** has entered into any agreement with such a person having the effect of excluding or limiting the **insurer's** rights in this regard the **insured** will have no cover under this Policy. The **insurer** will have full discretion in the conduct, defence or settlement of any claim and to take any action in the **insured's** name. Any party entitled to cover under this Policy must not hinder these rights and must give all information and co-operation required by the **insurer**.

If the **insurer** makes any recovery as a result of such action the **insured** may only recover from the **insurer** any amount by which the amount recovered by the **insurer** exceeded the amount paid to the **insured** under the Policy in relation to the loss.

## 8. INTEREST OF OTHER PARTIES

The **insurer** will not be required to recognise the interest of any third party under this Policy unless written notice of such interest has been given to and accepted by the **insurer**.

## 9. PERIOD FOR ACTION

In the event of any claim under this Policy being rejected by the **insurer** and no action or suit being commenced within two years after such rejection, the **insured** will forfeit all rights to claim under this Policy.

## 10. OTHER INSURANCE

In the event of any claim being made under this Policy, the **insured** must notify the **insurer** of any other insurance covering the same loss or damage.

## LOSS OF GROSS PROFIT

### SPECIFICATION OF INTERESTS INSURED

#### WHAT YOU ARE INSURED FOR

The items to be indemnified under this Policy are limited to:

1. Loss of Gross Profit resulting from a reduction in **turnover**, and
2. Increase in Cost of Working.

#### BASIS OF LOSS SETTLEMENT

In the event of any claim under this Policy the basis of any settlement will be:

- (a) in respect of Loss of Gross Profit, the sum obtained by applying the **rate of gross profit** to the amount by which the actual **turnover** during the **indemnity period** falls short of the **turnover** which would have been achieved had the **delay** not occurred,
- (b) in respect of Increase in Cost of Working, the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in **turnover** which, without such expenditure, would have taken place during the **indemnity period** as a direct result of the **delay**, but not exceeding the sum obtained by applying the **rate of gross profit** to the amount of the reduction in **turnover** thereby avoided.

The duration of the **indemnity period** in (a) and (b) above is subject to the **indemnity period limit**.

If the Sum Insured for Twelve Months is less than the sum obtained by applying the **rate of gross profit** to the **annual turnover**, the amount payable will be reduced proportionately.

In calculating the **annual turnover** and the **rate of gross profit**, the following will be taken into consideration:

- (i) the use of alternative facilities by the **insured** during the **indemnity period**, whether initiated by the **insured** or the **insurer**, and the **turnover** earned or which could have been earned by the **insured** from those facilities,
- (ii) the results of the Insured Business for the twelve month period after actual date of commencement,
- (iii) all variations and special circumstances which would have affected the Insured Business had the **delay** not occurred,
- (iv) all variations and special circumstances affecting the Insured Business after commencement, so that the final figures represent as closely as may be reasonably practicable the results which the Insured Business would have obtained after the **scheduled date of commencement** had the **delay** not occurred.

The **deductible** will be subtracted from the amount calculated in accordance with the above.

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## LOSS OF ANTICIPATED RENTAL

### SPECIFICATION OF INTERESTS INSURED

#### WHAT YOU ARE INSURED FOR

The items to be indemnified under this Policy are limited to:

1. Loss of Rental, and
2. Increase in Cost of Working.

#### BASIS OF LOSS SETTLEMENT

In the event of any claim under this Policy the basis of any settlement will be:

- (a) in respect of Loss of Rental, the amount by which the actual **rental** during the **indemnity period** falls short of the **standard rental** as a direct result of **delay**, less all sums saved during the **indemnity period** in respect of charges and expenses of the Insured Business payable out of **rental** which cease or are reduced as a result of this **delay**.
- (b) in respect of Increase in Cost of Working, the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the Loss of Rental which, without such expenditure, would have taken place during the **indemnity period** as a direct result of the **delay**, but not exceeding the amount of the reduction in **rental** thereby avoided.

The duration of the **indemnity period** in (a) and (b) above is subject to the **indemnity period limit**.

If the Sum Insured for Twelve Months is less than the pro rata proportion of the **standard rental** equivalent to a 12 month period, the amount payable will be reduced proportionately.

For each month of the **indemnity period**, the maximum liability of the **insurers** will be one twelfth of the Sum Insured for Twelve Months stated in the **schedule**.

In calculating the Loss of Rental, the following will be taken into consideration:

- (i) the use of alternative facilities by the **insured** during the **indemnity period**, whether initiated by the **insured** or the **insurer**, and the **rental** earned by the **insured** from those facilities,
- (ii) the actual duration of lease or rental contracts where the duration is less than the **indemnity period**,
- (iii) all variations and special circumstances which would have affected the **rental** had the **delay** not occurred,

so that the final figures represent as closely as may be reasonably practicable the **rental** which the Insured Business would have received after the **scheduled date of commencement** had the **delay** not occurred.

The **deductible** will be subtracted from the amount calculated in accordance with the above.

## STANDING CHARGES

### SPECIFICATION OF INTERESTS INSURED

#### WHAT YOU ARE INSURED FOR

The items to be indemnified under this Policy are limited to:

1. **standing charges**, and
2. Increase in Cost of Working.

#### BASIS OF LOSS SETTLEMENT

In the event of any claim under this Policy the basis of any settlement will be:

- (a) in respect of **standing charges**, the amount of **standing charges** actually incurred by the **insured** during the **indemnity period** as a direct result of **delay**, less any proportion of the **standing charges** which are recovered or recoverable as a result of any:
  - (i) use or occupancy of the contract works, or
  - (ii) use or occupancy of any alternative facilities, or
  - (iii) conduct of the Insured Business.
- (b) in respect of Increase in Cost of Working, the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the **standing charges** which, without such expenditure, would have been payable during the **indemnity period** as a direct result of



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the **delay**, but not exceeding the amount of **standing charges** thereby avoided.  
The duration of the **indemnity period** in (a) and (b) above is subject to the **indemnity period limit**.  
If the Sum Insured for Twelve Months is less than the pro rata proportion of the **standing charges** equivalent to a 12 month period, the amount payable will be reduced proportionately.  
For each month of the **indemnity period**, the maximum liability of the **insurers** will be one twelfth of the Sum Insured for Twelve Months stated in the **schedule**.  
The **deductible** will be subtracted from the amount calculated in accordance with the above.

## DEFINITIONS

The definitions apply to the plural and any derivatives of the bolded words.

<b>annual turnover</b>	The turnover which, had no <b>delay</b> occurred, would have been achieved during the 12 months after the <b>scheduled date of commencement of the insured business</b> .
<b>deductible</b>	The amount arrived at by multiplying the actual average weekly indemnifiable loss suffered by the <b>insured</b> due to <b>delay</b> by the number of weeks specified as the Deductible Period in the <b>schedule</b> .
<b>delay</b>	The period of time between the <b>scheduled date of commencement of the insured business</b> and the date on which the Insured Business: (a) actually commenced operation, or (b) although not actually put into operation would have been able to commence operation, whichever is the earlier.
<b>indemnity period</b>	The period commencing on the <b>scheduled date of commencement of the insured business</b> and during which the results of the Insured Business are actually affected as a result of a <b>delay</b> .
<b>indemnity period limit</b>	The period stated in the <b>schedule</b> commencing on the <b>scheduled date of commencement of the insured business</b> being the maximum period during which the <b>insurer</b> will indemnify the interests of the <b>insured</b> .
<b>insured</b>	The person(s) or entity named in the <b>schedule</b> as "Insured": (a) but only in their capacity as principal or main contractor, and (b) only in their capacity as sub-contractor where shown in the <b>schedule</b> , for their respective rights and interests.
<b>insurer</b>	NZI, a business division of IAG New Zealand Limited.
<b>rate of gross profit</b>	The rate which, had the <b>delay</b> not occurred, would have been earned by the <b>turnover</b> during the <b>indemnity period</b> .
<b>rental</b>	The estimated amounts of money paid or payable to the <b>insured</b> in the conduct of the Insured Business under property, lease or rental agreements which: (a) related to the whole or part of the contract works, and (b) have been: (i) concluded by specific written contract, or (ii) the subject of a written offer, prior to the Scheduled Date of Completion of the contract works.
<b>schedule</b>	The latest version of the agreement together with all its terms and agreements the <b>insurer</b> issued to the <b>insured</b> for this Policy.
<b>scheduled date of commencement of the insured business</b>	The date stated in the <b>schedule</b> on which the Insured Business was intended to become operational.
<b>standard rental</b>	The rental which, had no <b>delay</b> occurred, would have been received or receivable in respect of rental periods or parts thereof which fall within the <b>indemnity period</b> .

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## **standing charges**

The expenses paid or payable by the **insured**, of the type listed and described in the **schedule**, which:

- (a) relate to the contract works, and
- (b) are not otherwise recoverable by, or reimbursable to, the **insured**.

## **turnover**

The estimated amounts of money (less discounts allowed) paid or payable to the **insured** by way of income to be derived from the conduct of the Insured Business on completion of the contract works.

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## SCHEDULE

### The Insurer

Name NZI

### The Insured (BEING THE INSURED PRINCIPAL NAMED IN THE CONSTRUCTION INSURANCE POLICY)

Name and

Address

### The Contract Works

(a) Title of Contract

(b) Description of work

(c) Location of construction site

The Construction Insurance Policy Number

The Insured Business (to be concluded on completion of the contract works)

Scheduled Date of Completion of Contract Works

20.....

Scheduled Date of Commencement of the Insured Business

20.....

Indemnity Period

months

Deductible Period (to be used in the calculation of the Deductible)

weeks

### Interests Insured

Item No.	Description	Sum Insured for Twelve Months (\$)
Total of Sums Insured for Twelve Months		\$
Sum Insured for Indemnity Period Limit (Total Sum Insured for this Policy)		\$

Incorporated in the Policy is (are) Proposal(s) and Questionnaire(s) dated.

The following endorsements are attached to and form part of this Policy	Premium \$
	G.S.T \$
	Total \$

Period of Insurance: From To 4pm on

Signed on behalf of NZI, a business division of IAG New Zealand Limited

at this day of 20

Signature



*NZI is a business division of IAG New Zealand Limited, a wholly owned subsidiary of Insurance Australia Group, Australasia's largest general insurer. Established in 1859, it is today one of the country's largest and longest-serving fire and general insurance brands, protecting tens of thousands of New Zealanders every year.*

*Through our broad range of commercial, personal, marine, professional risks and rural insurance products, we pride ourselves on helping people to achieve the best protection for their assets.*

*We partner with a network of skilled and experienced brokers and other insurance intermediaries who distribute our products. We pay remuneration to our brokers and intermediaries when they issue our policies, and when these policies are renewed or varied.*

*To find out more about the advantages of choosing NZI, talk to your broker or visit [nzi.co.nz](http://nzi.co.nz).*

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