



*Professional Risks*

ASSOCIATION LIABILITY

POLICY WORDING

*Professional Risks* / ASSOCIATION LIABILITY INSURANCE POLICY

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**Welcome to NZI. Thank you for selecting us as your insurer. This is your Association 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.

### INTRODUCTION

**You** and the **insured entity** agree to pay **us** the premium described in the **schedule** and comply with this policy. In exchange, **we** agree to insure **you** and the **insured entity** 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 or within the particular section. 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. OFFICE BEARERS LIABILITY

**You** are insured for **your liability** arising from a **wrongful act** that occurs after the **retroactive date** in connection with the **insured entity**, provided:

1. **your liability** is not lawfully indemnifiable by the **insured entity**, and
2. **you** first knew, or ought to have known, of the **claim** in relation to that **wrongful act** during the **period of insurance**, and
3. **you** have advised **us** of that **claim** as soon as possible, but no later than 30 days after the **period of insurance** ends.

#### B. ASSOCIATIONS REIMBURSEMENT

**We** will pay on behalf of the **insured entity**, to the extent it is lawfully permitted to indemnify **you**, for **your liability** (and defence costs covered under 'What you are insured for Part E' below) arising from a **wrongful act** that occurs after the **retroactive date** in connection with the **insured entity**, provided:

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

#### C. TRUSTEES LIABILITY

**You** are insured for **your liability** arising from a **wrongful act** that occurs after the **retroactive date** in connection with the **insured entity**, provided:

1. **you** first knew, or ought to have known, of the **claim** in relation to that **wrongful act** 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.

#### D. PROFESSIONAL INDEMNITY – LIABILITY

**You** and the **insured entity** are insured for **liability** arising from a **wrongful act** that occurs after the **retroactive date** in the conduct of **insured services**, provided:

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

## E. DEFENCE COSTS

1. **You**, and
  2. the **insured entity** (in respect of Part D above),  
are insured for all legal costs and legal expenses necessarily and reasonably incurred with **our** prior written consent to defend or settle:
    1. a **claim** alleging **liability** covered by this policy, and
    2. a criminal proceeding brought against **you**, arising from a **wrongful act** covered by this policy, provided that **you** are **acquitted**. In the event that **you** are convicted of an offence in such a criminal proceeding, **you** are obliged to repay to **us** any monies **we** have paid in respect of legal costs or legal expenses in relation to that proceeding.
- You** are not insured for any legal costs and legal expenses in respect of any action, proceeding, inquiry, investigation or prosecution against **you** by the New Zealand Police.

## AUTOMATIC EXTENSIONS

The following Automatic Extensions apply to this insurance subject to the provisions outlined in 'What you are insured for' and the terms of this policy.

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

### A. ADVANCEMENT OF DEFENCE COSTS

1. If **we** have confirmed in writing that **we** will cover **your claim**, **we** will pay legal costs and legal expenses arising from that **claim**.
2. If **we** have not confirmed in writing that **we** will cover **your claim**:
  - (a) Where **we** elect to conduct the defence or settlement of that **claim**, **we** will advance legal costs and legal expenses arising from that **claim**.
  - (b) In all other cases, **we** may, at **our** discretion, advance legal costs and legal expenses arising from that **claim**.

If **your claim** is withdrawn, or **we** subsequently withdraw cover, **we** will cease to advance legal costs and legal expenses. **You** must refund to **us** all legal costs and legal expenses **we** have advanced to **you**.

### B. AMALGAMATION / MERGER

This policy is extended to insure entities that are created or acquired by the **insured entity** during the **period of insurance**.

**We** will insure these entities on the same terms as **we** insure the **insured entity**, provided that:

1. cover is limited to the same **insured services**, and
2. the '**retroactive date**' definition for created or acquired entities is the date of the creation or acquisition, and
3. **we** have been advised of the creation or acquisition of the entity as soon as possible, but no later than 30 days after the creation or acquisition, and
4. any reasonable additional premium required is paid to **us**.

### C. AUTOMATIC REINSTATEMENT OF THE AGGREGATE LIMIT

If all **liability** that would otherwise be insured exceeds the sum insured shown in the **schedule**, then **we** will provide automatic reinstatement of the sum insured. **We** will provide automatic reinstatement only once during the **period of insurance**.

Provided that this does not apply:

1. to any **claim** that is connected with the same **error** as a **claim** already met or to be met under this policy, and
2. to 'Optional Extension Part B Employment Practices Liability' (where it applies), and
3. until any separate policy (including an 'excess policy') that insures **you**, after the sum insured under this policy is exceeded, is exhausted.

### D. CONTINUOUS COVER

This policy is extended to include any **claim** that **you** and/or the **insured entity** 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:

- (a) only applies if:
  - (i) **you** and the **insured entity** had continuous Association Liability cover with **us** since that previous period of insurance for the time **you** were a director, secretary, officer, trustee, committee member, volunteer or **employee**, and

- (ii) **your** and/or the **insured entity's** failure to advise was not deliberate, and
  - (iii) **you** and/or the **insured entity** had advised **us** of the **claim** no later than the end of this **period of insurance** (or 30 days thereafter), and
- (b) is subject to:
- (i) the terms of the policy in existence when **you** and/or the **insured entity** first knew, or ought to have known of the **claim**, or
  - (ii) the terms of this policy,
- whichever provides lesser cover. **We** have sole discretion to elect which policy applies.

**Our** liability will be reduced by the amount that fairly represents the extent by which **we** could have mitigated **our** liability under the previous policy, had the circumstances been reported in accordance with the previous policy.

'Exclusion Part Q' does not apply to this Extension.

## E. ESTATES AND LEGAL REPRESENTATIVES

This policy is extended to insure **your** estate, legal representative or assigns for **wrongful acts** that result in their **liability** after **you** have died or become legally incompetent or insolvent.

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

## F. EXTENDED REPORTING PERIOD

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

However, this will only cover **you** and the **insured entity** for **wrongful acts** that happened before the expiry of the **period of insurance**.

**You** and the **insured entity** cannot extend cover if **we** cancelled this policy or declared this policy unenforceable because **you** and the **insured entity** did not:

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

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

## G. INNOCENT NON-DISCLOSURE

This policy will continue to insure **you** and the **insured entity** under 'What you are insured for Part A, B and C' only, if **you** and/or the **insured entity** innocently fail to disclose or innocently misrepresent a material fact, provided that:

1. **we** are satisfied that non-disclosure or misrepresentation was innocent, not careless or reckless, and with no intent to deceive, and
2. **we** were **your** and the **insured entity's** Association Liability insurer during the period when:
  - 2.1 **you** and/or the **insured entity** should have disclosed or correctly represented, and
  - 2.2 **you** and/or the **insured entity** did disclose or correctly represent.

**We** will amend the premium and/or terms of this policy, to take effect from the period when **you** and/or the **insured entity** should have disclosed or represented.

The maximum amount **we** will pay will not exceed the amount **we** would have paid if an accurate disclosure or representation had been made.

## H. INTELLECTUAL PROPERTY

This policy is extended to insure **your** and the **insured entity's liability** arising from an unintentional infringement of any patent, copyright, registered design or trademark.

'Exclusion Part N' does not apply to this Extension.

## I. OFFICIAL INVESTIGATIONS

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 any official investigation, examination or inquiry:

1. held as the result of an allegation of a **wrongful act** against **you**, and
2. in connection with a **claim** which, if made, would be covered by this policy, and
3. that **you** and/or the **insured entity** are required to attend.

This Extension does not cover investigations connected with revenue collection.

The most **we** will pay under this Extension is \$250,000 for all **claims** in the aggregate under the policy.

## J. OUTSIDE DIRECTORSHIPS – NON-PROFIT ORGANISATIONS

This policy is extended to insure **your liability** arising from a **wrongful act** in connection with **outside directorships** that **you** hold at the request of the **insured entity** at any time during the **period of insurance** in a non-profit organisation, provided that:

1. **your liability** is not indemnified by the non-profit organisation, and
2. **your liability** is not covered by any other insurance, and
3. this Extension does not extend to cover anyone else, including any director, officer or executive of the non-profit organisation or the non-profit organisation itself.

This cover is in excess of any applicable insurance through the outside entity.

## K. PRESERVATION OF INDEMNITY

This policy is extended to insure **your liability** arising from a **wrongful act** that can lawfully be indemnified by the **insured entity**, but that **you** cannot recover from the **insured entity** because the **insured entity** is in liquidation (other than by voluntary liquidation) and has insufficient funds available to indemnify **you**.

**You** must provide satisfactory proof of the **insured entity's** financial position, including documentary evidence of the **insured entity's** assets and liabilities and any official statements issued by the liquidator.

This Automatic Extension K applies to 'What you are insured for Part A,' only.

## L. WITNESS EXPENSES

The policy is extended to compensate **you** for attending court proceedings as a witness in connection with a **claim** covered by this policy.

**We** will pay **you** \$300 per day. The most **we** will pay under this Extension is \$10,000 for all **claims** in the aggregate under the policy.

## AUTOMATIC EXTENSIONS – PROFESSIONAL INDEMNITY

The following Automatic Extensions apply to 'What you are insured for, Part D – Professional Indemnity – Liability' only and are subject to the provisions outlined in 'What you are insured for' and the terms of this policy.

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

### A. DEFAMATION

This policy is extended to insure **your** and the **insured entity's liability** arising from defamation in the conduct of **insured services**.

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

### B. DOCUMENTS

This policy is extended to insure **your** and the **insured entity's liability** arising from loss of or damage to **documents** that were in **your** and/or the **insured entity's** physical custody or control at the time of loss or damage.

'Exclusion Part F' does not apply to this Extension.

### C. DISHONESTY AND FRAUD

This policy is extended to insure **your** and the **insured entity's liability** arising from a dishonest, fraudulent, criminal or malicious act or omission by an **employee** (but there is no cover for the offending **employee**).

Provided also that where theft or misappropriation of money, for which **you** and/or the **insured entity** are legally liable to account, is involved:

1. **you** and the **insured entity** must have kept a separate trust account for that money and the trust account must have been audited at least annually by a qualified independent accountant, and
2. all payments or withdrawals from the trust account, whether by cheque or otherwise, must have had to be authorised by two authorised people, and
3. **you** and the **insured entity** must have taken reasonable precautions to prevent the theft or misappropriation of monies and **you** and the **insured entity** must have performed all the supervision, controls, checks and audits declared in the proposal.

However, there is no cover under this Extension if **you** and/or the **insured entity**:

(a) had knowledge of, or

(b) ought to have reasonably suspected,

a dishonest, fraudulent, criminal or malicious act or omission prior to such act or omission occurring and failed to take any reasonable action to prevent it, or any loss arising from it.

'Exclusion Part E' does not apply to this Extension.

## D. EXEMPLARY DAMAGES

This policy is extended to insure **your** and the **insured entity's liability** for exemplary damages arising from the provision of **insured services**.

The most **we** will pay under this Extension for exemplary damages is \$1,000,000 for all **claims** in the aggregate under the policy.

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

## E. FAIR TRADING ACT

This policy is extended to insure **your** and/or the **insured entity's liability** arising from a breach of the Fair Trading Act 1986.

'Exclusion Part J' 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' is subject to the provisions outlined in 'What you are insured for' and the terms of this policy.

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

### A. CURRENT OUTSIDE DIRECTORSHIPS – OTHER THAN NON-PROFIT ORGANISATIONS

This policy is extended to insure **your liability** arising from a **wrongful act** in connection with **outside directorships** that **you** hold at the request of the **insured entity** at any time during the **period of insurance** in the profit seeking organisations named in the **schedule**, provided that:

1. **your liability** is not indemnified by those organisations, and
2. **your liability** is not covered by any other insurance, and
3. this Extension does not extend to cover anyone else, including any director, officer or executive of those organisations.

This cover is in excess of any applicable insurance through the outside entity.

'Exclusion Part U' does not apply to this Extension.

### B. EMPLOYMENT PRACTICES LIABILITY

This policy is extended to insure the **insured entity's liability** for **claims** brought against the **insured entity**:

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.

The definition of '**wrongful act**' is extended to include 1. to 5.

The **insured entity** is not insured for:

- (a) **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) **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 the **insured entity**, 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 the **insured entity** 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 the **insured entity** incurs to obtain legal advice from an employment lawyer prior to the dismissal or disciplining of an **employee**.

'Exclusions Part G, O and R' do not apply to this Optional Extension.

The most **we** will pay under this Extension is the amount shown in the **schedule** as 'Employment Practices Liability' for all **claims** in the aggregate under the policy.

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

## C. FIDELITY

This policy is extended to insure the **insured entity** for loss of **property** arising from a dishonest act or omission, by specific and identifiable **employee(s)**, that occurs after the **retroactive date**, but not if it occurred more than 3 years before the inception of the current **period of insurance**, provided that:

1. the loss was in connection with the **employees'** employment with the **insured entity**, and
2. all cheques drawn or payment or withdrawals effected by **your employees** are authorised by two authorised persons, and
3. an independent audit of the **insured entity's** accounting records is undertaken annually, by a qualified accountant and all audit recommendations have been implemented, and
4. the loss is discovered during the **period of insurance**.

However, this cover does not apply:

- (a) if the existence of, and the amount of the **property** lost cannot be proven, other than by an inventory or profit and loss computation, and
- (b) to any consequential loss, and
- (c) if the loss is a result of an **employee's** dishonest input, alteration, deletion or inaction of any data or instructions to, or from any computer system, or communication system.

For the purposes of this Optional Extension, the definition of '**employee**' does not include:

- (a) a director, or
- (b) a managing director, or
- (c) a person holding an equivalent senior managerial position.

The most **we** will pay under this Extension is \$100,000 for all **claims** in the aggregate under the policy.

'Exclusion Part V' does not apply to this Optional Extension.

## EXCLUSIONS

### A. ASBESTOS

**You** and the **insured entity** are not insured for **liability** in connection with asbestos.

### B. BODILY INJURY

**You** and the **insured entity** are not insured for **liability** in connection with bodily injury, sickness, disease or death of any person.

### C. BUILDING DEFECTS

**You** and the **insured entity** are not insured for **liability** in connection with a building or structure being affected by:

1. moisture or water build-up or the penetration of external moisture or water, or
2. the action or effects of mould, fungi, mildew, rot, decay, gradual deterioration, micro-organisms, bacteria, protozoa, or any similar or like forms,

provided that the **liability** is caused directly or indirectly by:

- (a) non-compliance with the New Zealand Building Code, or
- (b) faulty design or faulty specification, including but not limited to faulty sequence, procedure or programme, or
- (c) faulty materials, or
- (d) faulty workmanship, or
- (e) faulty inspection, or

(f) faulty certification of compliance, when the building or structure was constructed, manufactured, altered, repaired, renovated or maintained.  
This exclusion does not apply to **liability** that is caused by, or directly arises from, the leakage of internal pipes, internal water systems or internal cisterns.

<b>D. DEFAMATION</b>	<b>You</b> and the <b>insured entity</b> are not insured for <b>liability</b> in connection with defamation.
<b>E. DISHONESTY OR FRAUD</b>	<b>You</b> and the <b>insured entity</b> are not insured for <b>liability</b> in connection with <b>you</b> and/or the <b>insured entity's</b> dishonest, fraudulent, criminal or malicious acts or omissions.
<b>F. DOCUMENTS</b>	<b>You</b> and the <b>insured entity</b> are not insured for <b>liability</b> in connection with loss of or damage to <b>documents</b> .
<b>G. EMPLOYMENT CLAIMS</b>	<b>You</b> and the <b>insured entity</b> are not insured for <b>liability</b> in connection with <b>you</b> and/or the <b>insured entity's</b> capacity as an employer.
<b>H. EXISTING LITIGATION</b>	<b>You</b> and the <b>insured entity</b> are not insured for <b>liability</b> in connection with litigation in existence or that <b>you</b> should have anticipated at the commencement of the <b>period of insurance</b> .
<b>I. FAILURE TO INSURE</b>	<b>You</b> and the <b>insured entity</b> are not insured for <b>liability</b> in connection with a failure to obtain or maintain adequate insurance.
<b>J. FAIR TRADING</b>	<b>You</b> and the <b>insured entity</b> are not insured for <b>liability</b> in connection with the Fair Trading Act 1986.
<b>K. FEES / DEBTS</b>	<b>You</b> and the <b>insured entity</b> are not insured for <b>liability</b> in connection with any dispute over: <ol style="list-style-type: none"> <li>1. professional fees or charges (by way of damages or otherwise), or</li> <li>2. paying trading debts or the repayment of a loan.</li> </ol> This Exclusion K applies to 'What you are insured for, Part D – Professional Indemnity – Liability' only.
<b>L. FINES, TAXES AND EXEMPLARY DAMAGES</b>	<b>You</b> and the <b>insured entity</b> are not insured for: <ol style="list-style-type: none"> <li>1. any fine, penalty or tax imposed on <b>you</b> and/or the <b>insured entity</b> (whether under contract or statute), or</li> <li>2. any exemplary damages awarded against <b>you</b> and/or the <b>insured entity</b>.</li> </ol>
<b>M. FOREIGN COURTS</b>	<b>You</b> and the <b>insured entity</b> are not insured for <b>liability</b> in connection with a <b>claim</b> : <ol style="list-style-type: none"> <li>1. first brought in a court outside New Zealand (unless that country is shown under 'Jurisdictional Limits' in the <b>schedule</b>), or</li> <li>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 <b>schedule</b>), or</li> <li>3. where the <b>claim</b> is governed by or the <b>liability</b> arises under the proper law of a country other than New Zealand (unless that country is shown under 'Jurisdictional Limits' in the <b>schedule</b>).</li> </ol>
<b>N. INTELLECTUAL PROPERTY</b>	<b>You</b> and the <b>insured entity</b> are not insured for <b>liability</b> in connection with an infringement of any patent, copyright, registered design or trademark by <b>you</b> and/or the <b>insured entity</b> .
<b>O. INSURED VS INSURED</b>	<b>You</b> and the <b>insured entity</b> are not insured for <b>liability</b> arising from <b>claims</b> brought against <b>you</b> and/or the <b>insured entity</b> , by or on behalf of: <ol style="list-style-type: none"> <li>1. the <b>insured entity</b> or any of its <b>subsidiary companies</b>, or</li> <li>2. any other person or entity covered by this policy, or</li> <li>3. a shareholder of the <b>insured entity</b> in their own right, or on behalf of the <b>insured entity</b>.</li> </ol>
<b>P. JUDICIAL REVIEW</b>	<b>You</b> and the <b>insured entity</b> are not insured for costs and expenses incurred in respect of an application for judicial review or an injunction (or other order having an effect equivalent to an injunction).
<b>Q. KNOWN CLAIMS AND CIRCUMSTANCES</b>	<b>You</b> and the <b>insured entity</b> are not insured for <b>liability</b> in connection with any <b>claim</b> that <b>you</b> and/or the <b>insured entity</b> first knew of, or ought to have known of, prior to the inception date of this policy.

## R. LIABILITY BY AGREEMENT

**You** and the **insured entity** are not insured for obligations assumed under or for **liability**:

1. arising from **your** and/or the **insured entity's** breach of a contract, warranty, guarantee or undertaking (including a representation which is treated as if it were a term), unless **you** and/or the **insured entity** would otherwise have been liable in the absence of that contract, warranty, guarantee or undertaking, or
2. to the extent **you** and/or the **insured entity** have limited any potential right to receive contribution or indemnity in relation to that **liability** from a person, in an arrangement or agreement with that person, or
3. that **you** and/or the **insured entity** agree to accept outside of what is normal in the conduct of **insured services**.

This Exclusion R applies to 'What you are insured for, Part D – Professional Indemnity – Liability' only.

## S. NUCLEAR

**You** and the **insured entity** are not insured for **liability** in connection with any operations employing the process of nuclear fission or fusion, or handling of radioactive material. This includes, but is not limited to:

1. the use of nuclear reactors such as atomic piles, particle accelerators or generators or similar devices, and
2. the use, handling or transportation of any radioactive material, and
3. the use, handling or transportation of any weapon or explosive device employing nuclear fission or fusion.

## T. POLLUTION

**You** and the **insured entity** are not insured for **liability** in connection with **pollutants**.

## U. OUTSIDE DIRECTORSHIPS – PROFIT SEEKING ORGANISATIONS

**You** and the **insured entity** are not insured for **liability** in connection with any **outside directorships** that **you** hold at the request of the **insured entity** in any profit seeking organisations.

## V. PROPERTY DAMAGE

**You** and the **insured entity** are not insured for **liability** for loss of, destruction of or damage to, or loss of use of tangible property.

This Exclusion V applies to 'What you are insured for, Part A – Office Bearers Liability', 'What you are insured for, Part B – Associations Reimbursement', and 'What you are insured for, Part C – Trustees Liability' only.

## W. SUPPLY OF GOODS AND WORKMANSHIP

**You** and the **insured entity** are not insured for **liability** in connection with:

1. the manufacture, installation, assembly, processing, sale, supply, distribution of goods or products by **you** and/or the **insured entity** or on **your** and/or the **insured entity's** behalf, or
2. any workmanship by **you** and/or the **insured entity** or on **your** and/or the **insured entity's** behalf, relating to the business of manufacturing, fabrication, construction, erection, installation, assembly, alteration, servicing, remediation, repair, demolition or disassembly (including any materials, parts or equipment), or from **your** and/or the **insured entity's** supervision of such workmanship.

This Exclusion W applies to 'What you are insured for, Part D – Professional Indemnity – Liability' only.

## X. TERRORISM

**You** and the **insured entity** are not insured for **liability** in connection with an **act of terrorism**.

## Y. WAR

**You** and the **insured entity** are not insured for **liability** in connection with:

1. war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, or
2. confiscation, nationalisation, requisition, destruction or damage to property by any government or public or local authority.

## BASIS OF SETTLEMENT

- A. MAXIMUM AMOUNT PAYABLE** The most **we** will pay in total, including legal costs and legal expenses, under all insuring clauses and extensions, for:
1. any one **claim**, and
  2. all **claims** (subject to Automatic Extension Part C), during the **period of insurance**, is the sum insured shown in the **schedule**.
- B. EXCESS** The relevant excess shown in the **schedule** will be deducted from the amount **we** pay for a **claim** brought under all insuring clauses and extensions.
- We** will deduct only one excess for a series of **claims** arising from one **wrongful act**. If a **claim** arises from separate **wrongful acts** then an excess will apply to each **wrongful act**.

## MANAGING YOUR CLAIM

- A. YOUR OBLIGATIONS**
- 1. Confidentiality**  
**You** and/or the **insured entity** must not disclose the nature of the **liabilities** covered by this policy unless **you** are required by law.
  - 2. Do Not Admit Liability**  
**You** and/or the **insured entity** must not:
    - 2.1 admit **you** and/or the **insured entity** are liable, or
    - 2.2 do or say anything that may prejudice **our** ability to defend the **claim** against **you** and/or the **insured entity** or take recovery action in **your** and/or the **insured entity's** name.
  - 3. Advise us**  
If **you** and/or the **insured entity** become aware of any **claim**, **you** and/or the **insured entity** must notify **us** immediately.
  - 4. Minimise the Loss**  
**You** and/or the **insured entity** must take all reasonable steps to minimise the **claim** and avoid any further **liability** or loss arising.
  - 5. Provide Full Information**  
When **you** and/or the **insured entity** make a claim under the policy **you** and/or the **insured entity** consent to **your** and/or the **insured entity's** personal information in connection with the **claim** being:
    - 5.1 disclosed to **us**, and
    - 5.2 transferred to the Insurance Claims Register Limited.**You** and/or the **insured entity** 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** and/or the **insured entity's claim** is dishonest or fraudulent in any way, **we** may:
    - 6.1 decline the **claim** either in whole or in part, and/or
    - 6.2 declare this policy or all policies **you** and/or the **insured entity** has with **us** to be unenforceable from the date of the dishonest or fraudulent act.This is at **our** sole discretion.
  - 7. Incurring Costs**  
**You** and/or the **insured entity** are not authorised to incur any costs or expenses without **our** prior written consent.
  - 8. Cooperation**  
**You** and/or the **insured entity** 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** and/or the **insured entity** 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 Part E'.

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

### 2. Your Defence (*Queen's Counsel Clause*)

2.1 **We** are not required to defend a **claim** against **you** and/or the **insured entity** unless a lawyer that **we** and **you** and/or the **insured entity** agree to instruct, advises that the **claim** should be defended.

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

2.2 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) the prospects of successfully defending the **claim**.

2.3 The cost of the lawyer's opinion is to be taken as part of 'What you are insured for Part E'.

2.4 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** and/or the **insured entity** cannot object to the settlement, and
- (b) **you** and/or the **insured entity** must immediately pay the excess shown in the **schedule**.

### 3. Subrogation

Once **we** have accepted any part of **your** and/or the **insured entity's claim** under this policy, **we** may assume **your** and/or the **insured entity's** legal right of recovery.

If **we** initiate a recovery **we** will include **your** and/or the **insured entity's** excess, and any other uninsured losses suffered by **you** and/or the **insured entity**. Where **we** do this, **you** and/or the **insured entity** agrees to pay **your** and/or the **insured entity's** 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** and/or the **insured entity's** excess first.

### 4. Defence of Liability Claims

After **you** and/or the **insured entity** has made a **claim** under this policy, subject to 'Managing Your Claim Part B Item 2 – Your Defence (*Queens Counsel Clause*)', **we** have the sole right (which shall be a condition precedent to **your** and/or the **insured entity's** right to be covered) to:

- 4.1 act in **your** and/or the **insured entity's** name and on **your** and/or the **insured entity's** behalf to defend, negotiate or settle the **claim** as **we** see fit (this will be done at **our** expense), and
- 4.2 publish a retraction or apology (in the case of defamation proceedings).

**We** have this right even if the **claim** against **you** and/or the **insured entity** concerns matters covered only partly by this policy.

**We** may appoint **our** own lawyers to represent **you** and/or the **insured entity**. They will report directly to **us**.

## 5. Discharge of Liability Claims

Subject to 'Managing Your Claim Part B Item 2 – Your Defence (*Queens Counsel Clause*)'

**we** may elect at any time to pay **you** and/or the **insured entity**:

5.1 the maximum amount payable under this policy, or

5.2 any lesser sum that the **claim** against **you** and/or the **insured entity** can be settled for.

Once **we** have paid this, **our** responsibility to **you** and/or the **insured entity** under this policy is met in full.

## 6. Waiver of Professional Privilege

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

**You** and/or the **insured entity** authorises 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 **wrongful acts** occurring anywhere in New Zealand.

#### 3. Cancellation and Modification

##### 3.1 By You

**You** and/or the **insured entity** 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** and/or the **insured entity** (or **your** and/or the **insured entity's** 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** and/or the **insured entity** pay **your** and/or the **insured entity's** premium by instalments, **you** and/or the **insured entity** must pay **us** any unpaid instalments that are due.

#### 4. Protecting our Position

Once **you** and/or the **insured entity** have advised **us** of a **claim**, **we** will take whatever action **we** consider appropriate to protect **our** position including dealing with, or appointing lawyers to deal with, the claimant on **your** and/or the **insured entity's** behalf. This does not however:

4.1 indicate that **you** and/or the **insured entity** are entitled to be covered under this policy, or

4.2 jeopardise **our** rights under this policy or at law.

#### 5. Other Insurance

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

If **you** and/or the **insured entity** 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.

#### 7. Separate Insurance

If more than one person or entity is named as 'Insured' in the **schedule**, then all the parties are insured separately.

However, the maximum amount **we** will pay to all parties is the amount stated in the 'Basis of Settlement', subsequent attachments or **schedule**.

## 8. GST

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

- 8.1 all sums insured exclude GST, and
- 8.2 all sub limits exclude GST, and
- 8.3 all excesses include GST, and
- 8.4 GST will be added, where applicable, to claim payments.

## B. LAWS AND ACTS THAT GOVERN THIS POLICY

### 1. Acts of Parliament

Where this policy refers to any Act of Parliament, it also includes any subordinate 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** and/or the **insured entity's** rights under the Insurance Law Reform Acts 1977 and 1985.

## C. YOUR OBLIGATIONS

### 1. Comply with the Policy

**You** and/or the **insured entity** (and any other person or entity **we** cover) must comply with the terms of this policy at all times. If **you** and/or the **insured entity** fail to comply, **we** may, at **our** sole discretion, not pay **your** and/or the **insured entity's claim**.

### 2. Provide Accurate Information

**You** and/or the **insured entity** must make sure all statements and representations **you** and/or the **insured entity** make to **us** at any time are truthful and complete.

### 3. Reasonable Care

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

### 4. Change in Circumstances

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

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

- (a) declare this policy unenforceable, or
- (b) decline any subsequent **claim** either in whole or in part.

These actions will be taken from the date **you** and/or the **insured entity** 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'.*

<b>act of terrorism</b>	<p>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:</p> <ol style="list-style-type: none"><li>1. involves violence against one or more persons, or</li><li>2. involves damage to property, or</li><li>3. endangers life other than that of the person committing the action, or</li><li>4. creates a risk to health or safety of the public or a section of the public, or</li><li>5. is designed to interfere with or disrupt an electronic system.</li></ol>
<b>acquitted</b>	<p>All charges against <b>you</b> are dismissed either prior to a hearing or after defending a hearing, or <b>you</b> are found not guilty on all charges against <b>you</b>. 'Acquitted' does not include:</p> <ol style="list-style-type: none"><li>(a) a dismissal pursuant to a plea bargain when multiple charges have been laid, or</li><li>(b) a criminal prosecution where <b>you</b> have been charged with more than one offence and then convicted of at least one of those charges.</li></ol>
<b>claim</b>	<p>The earliest of the following:</p> <ol style="list-style-type: none"><li>1. service on <b>you</b> of a legal or arbitral proceeding by any third party, or</li><li>2. <b>your</b> receipt of written or oral notice from any third party that they hold <b>you</b> liable, or intend to commence legal or arbitral proceedings against <b>you</b>, or</li><li>3. any circumstance that may give rise to either 1 or 2 above.</li></ol>
<b>documents</b>	<p>Physical documents of any nature, excluding:</p> <ol style="list-style-type: none"><li>1. bearer bonds, coupons, bank notes, cheques, Bills of Exchange, currency notes, stamps or other negotiable instruments, and</li><li>2. electronically stored data, software or computer programs for or in respect of any computer system.</li></ol>
<b>employee</b>	<p>Any employee of the <b>insured entity</b> as defined in section 6 of the Employment Relations Act 2000.</p>
<b>error</b>	<p>Any actual or alleged act or omission.</p>
<b>insured entity</b>	<p>The organisation shown in the <b>schedule</b>.</p>
<b>insured services</b>	<p>The professional services described in the <b>schedule</b>.</p>
<b>liability</b>	<p>Liability for damages (but not fines or penalties), interest, costs and expenses that a civil court or arbitrator orders <b>you</b> to pay or settlements negotiated by <b>us</b>, in relation to a <b>claim</b>. It includes the legal costs of the person making the <b>claim</b>, for which <b>you</b> become liable.</p>
<b>outside director</b>	<p>A director, officer or executive of an organisation that it is not the <b>insured entity</b>, a <b>subsidiary company</b>, a parent company of the <b>insured entity</b>, or a company with the same parent company as the <b>insured entity</b>.</p>
<b>period of insurance</b>	<p>The period <b>you</b> are insured for. This is shown in the <b>schedule</b>.</p>
<b>pollutants</b>	<p>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.</p>
<b>property</b>	<p>Any property (including money), owned by the <b>insured entity</b>, or for which it is legally responsible.</p>

# Professional Risks / ASSOCIATION LIABILITY INSURANCE POLICY

<b>retroactive date</b>	The retroactive date shown in the <b>schedule</b> .
<b>schedule</b>	The latest version of the Schedule <b>we</b> issued to <b>you</b> for this policy.
<b>subsidiary company</b>	Any subsidiary of the <b>insured entity</b> as defined in section 5 of the Companies Act 1993.
<b>we</b>	NZI, a business division of IAG New Zealand Limited. <i>We may also use the words 'us' or 'our' to describe NZI.</i>
<b>wrongful act</b>	<ol style="list-style-type: none"><li>1. In respect of 'What you are insured for, Part A – Office Bearers Liability' and 'What you are insured for, Part B – Associations Reimbursement': Any <b>error</b> by <b>you</b> in <b>your</b> capacity as a director, secretary, officer, committee member, volunteer, or <b>employee</b> of the <b>insured entity</b>. In relation to 'Automatic Extension Part C' and 'Optional Extension Part A' only, this definition is extended to <b>your</b> capacity as an <b>outside director</b>.</li><li>2. In respect of 'What you are insured for, Part C – Trustees Liability': Any <b>error</b> by <b>you</b> in <b>your</b> capacity as a trustee of a trust forming part of the <b>insured entity</b>.</li><li>3. In respect of 'What you are insured for, Part D – Professional Indemnity – Liability': Any <b>error</b> by <b>you</b> and/or the <b>insured entity</b>, constituting a breach of professional duty in the course of conducting <b>insured services</b>.</li></ol>
<b>you</b>	<p>Any person:</p> <ol style="list-style-type: none"><li>1. who was, or is at any time during the <b>period of insurance</b> a director, secretary, officer, trustee, committee member, <b>employee</b> or volunteer of the <b>insured entity</b>, by whatever name called, and whether or not validly appointed, to occupy that position, or</li><li>2. who is acting on behalf of the <b>insured entity</b> at the direction of:<ol style="list-style-type: none"><li>2.1 an officer, or</li><li>2.2 board of directors, or</li><li>2.3 board of trustees, or</li><li>2.4 committee of management of the <b>insured entity</b>.</li></ol></li></ol> <p>'You' does not include any:</p> <ol style="list-style-type: none"><li>(a) liquidator, external auditor, receiver, receiver and manager, statutory manager, administrator, mortgagee in possession or trustee administering a compromise or scheme of arrangement of the <b>insured entity</b>, or</li><li>(b) trustee, director, officer, or employee of a superannuation or pension organisation.</li></ol> <p><i>We may also use the word 'insured' to describe you.</i></p>





*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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