

# Associations Liability

Policy wording



Business Insurance for  
a growing New Zealand

Welcome to NZI.

Thanks for selecting us as your insurer. This is your Associations Liability policy wording.



#### Why NZI

NZI is one of New Zealand's largest and most well-known insurance brands. We're proudly backed by IAG (Insurance Australia Group) New Zealand. IAG is Australasia's largest general insurer. At IAG, our purpose is to make your world a safer place.



#### Get in touch

If you have any questions, or you would like more information on this insurance policy, please contact your broker.

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## Introduction

<b>About this policy</b>	This Associations Liability Policy consists of: <ul style="list-style-type: none"><li>(a) this policy document, and</li><li>(b) the <b>schedule</b>, and</li><li>(c) any endorsements that have been applied.</li></ul>
<b>Duty of disclosure</b>	The <b>insured</b> has a legal duty of disclosure when they apply for insurance. This means the <b>insured</b> or anyone acting on the <b>insured's</b> behalf must tell <b>us</b> everything they know (or could be reasonably expected to know) that a prudent insurer would want to take into account in deciding: <ul style="list-style-type: none"><li>(a) to accept or decline the insurance, and/or</li><li>(b) the cost or terms of the insurance, including the <b>excess</b>.</li></ul> The <b>insured</b> also has this duty every time their insurance renews and when they make any changes to it. If the <b>insured</b> , or anyone acting on the <b>insured's</b> behalf, breaches this duty, <b>we</b> may treat this policy as being of no effect and to have never existed. Please ask if you are not sure whether you need to tell <b>us</b> about something.
<b>Defined words</b>	If a word is shown in <b>bold</b> , it has a specific meaning. There is a list of these words and what they mean in 'Section 8 – 'Definitions'.
<b>Headings</b>	The headings in this policy document are for reference only and do not form part of it. They must not be used when interpreting the policy document.

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## 1. Insurance agreement

<b>1.1 Our agreement</b>	The <b>insured</b> agrees to pay <b>us</b> the premium and comply with this policy. In exchange, and in reliance on the <b>application</b> , <b>we</b> agree to provide cover as set out in this policy.
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## 2. What this policy covers

<b>2.1 Officers liability</b>	<b>We</b> will cover an <b>insured person</b> where the <b>association</b> is not legally permitted to indemnify the <b>insured person</b> , for <b>liability</b> arising out of a <b>claim</b> : <ul style="list-style-type: none"><li>(a) first made against an <b>insured person</b> and notified to <b>us</b> during the <b>period of insurance</b> or within 30 days of its expiry, and</li><li>(b) for any <b>wrongful act</b> that happened after the <b>retroactive date</b>.</li></ul>
<b>2.2 Association reimbursement</b>	<b>We</b> will cover the <b>association</b> to the extent it is legally permitted to indemnify an <b>insured person</b> , for <b>liability</b> arising out of a <b>claim</b> : <ul style="list-style-type: none"><li>(a) first made against an <b>insured person</b> and notified to <b>us</b> during the <b>period of insurance</b> or within 30 days of its expiry, and</li><li>(b) for any <b>wrongful act</b> that happened after the <b>retroactive date</b>.</li></ul>
<b>2.3 Association liability</b>	<b>We</b> will cover the <b>association</b> for <b>liability</b> arising out of a <b>claim</b> : <ul style="list-style-type: none"><li>(a) first made against the <b>association</b> and notified to <b>us</b> during the <b>period of insurance</b> or within 30 days of its expiry, and</li><li>(b) for any <b>wrongful act</b> that happened after the <b>retroactive date</b>.</li></ul>
<b>2.4 Professional indemnity</b>	<b>We</b> will cover the <b>insured</b> for <b>liability</b> arising out of a <b>claim</b> : <ul style="list-style-type: none"><li>(a) first made against the <b>insured</b> and notified to <b>us</b> during the <b>period of insurance</b> or within 30 days of its expiry, and</li><li>(b) for any <b>wrongful act</b> in connection with the <b>insured's professional services</b> that happened after the <b>retroactive date</b>.</li></ul>

### 2.5 Defence costs

In addition to the **limit of indemnity**, **we** will also cover the **insured** for **defence costs** reasonably and necessarily incurred with **our** prior written consent for the investigation, defence, settlement or appeal of any **claim** for **liability** covered by this policy.

The most **we** will pay for **defence costs** during the **period of insurance** for all **claims** covered by this policy is \$5,000,000 or an amount equivalent to the **limit of indemnity**, whichever is the lesser amount.

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## 3. Automatic extensions

Subject to the terms of Section 2 – ‘What this policy covers’, and all the other terms of this policy, the following extensions are included automatically.

Some automatic extensions have a specified sub-limit and **excess** and these will apply unless specifically stated otherwise in the **schedule**. Unless specifically stated otherwise, all sub-limits are included in, and are not in addition to, the **limit of indemnity** or the amount payable for **defence costs**, whichever is applicable.

### 3.1 Advancement of defence costs

**We** will advance **defence costs** to an **insured person** in connection with an **investigation** or a **claim** made against an **insured person** that would be covered by this policy, but for Exclusions 4.9 ‘Fraud or dishonesty’ or 4.18 ‘Personal profit’, prior to the disposition of such **claim**. If it is established by judgment, written admission or other final adjudication that such **defence costs** are not covered by this policy, the **insured person** agrees to repay such **defence costs**.

### 3.2 Automatic reinstatement

On payment of a **claim** under clause 2.4 ‘Professional indemnity’ only, the **limit of indemnity** will be reinstated, without additional premium, to the extent of the amount paid in respect of that **claim**, provided that:

- (a) the total amount payable by **us** for any one **claim** will not exceed the **limit of indemnity**,
- (b) in respect of all **claims** in a **period of insurance**, the total amount reinstated will not exceed an amount equal to the **limit of indemnity**.

### 3.3 Committees

**We** will cover the **insured** for **liability** arising from any committee convened by the **insured**.

### 3.4 Continuity of cover

**We** will cover any **claim** against the **insured** that would otherwise be covered by this policy but for Exclusion 4.14 ‘Known claims or circumstances’, provided that:

- (a) **we** were the **insured's** associations liability insurer under a policy (‘the former policy’) at the time the **insured** should have notified **us** of the **claim** or circumstance that might give rise to a **claim**, and
- (b) **we** have continued without interruption as the **insured's** associations liability insurer from the time the **insured** should have notified **us** up until such time as the **claim** was made against the **insured** and notified to **us**, and
- (c) **our** liability is limited to the amount for which **we** would have been liable at the time referred to in (a) in accordance with the terms and conditions of the former policy, and
- (d) **our** liability will be reduced by the amount that fairly represents the extent to which liability for the **claim** could have been reduced had the circumstances been reported under the former policy.

### 3.5 Court attendance costs

**We** will pay to the **association** \$500 per day for each day an **insured person** is required to attend a court as a witness in connection with a **claim**.

The most **we** will pay under this extension during the **period of insurance** is \$20,000.

### 3.6 Dishonesty of employees

**We** will cover the **association** for **liability** arising from any dishonest, fraudulent, criminal or malicious act or omission of an **employee**, provided that the **association** has dual authorisation requirements for all payments or withdrawals.

Exclusion 4.9 ‘Fraud or dishonesty’ does not apply to this extension.

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<b>3.7 Emergency defence costs</b>	<p>If <b>our</b> prior written consent cannot reasonably be obtained before the <b>insured</b> incurs <b>defence costs</b>, <b>we</b> will waive the requirement for prior written consent provided that <b>our</b> written consent is obtained within 14 days following the date such costs start being incurred.</p> <p><b>We</b> will not pay <b>defence costs</b> in relation to a <b>claim</b> that is not covered by this policy.</p> <p>The most <b>we</b> will pay for <b>defence costs</b> incurred without <b>our</b> prior written consent is 10% of the amount payable for <b>defence costs</b>.</p>
<b>3.8 Employment liability</b>	<p><b>We</b> will cover an <b>insured person</b> for <b>liability</b> arising from a <b>claim</b> brought against an <b>insured person</b> for an employment grievance.</p> <p>Cover under this extension also applies to an employment grievance brought against any <b>insured person</b> in relation to an outside position covered by Automatic extension 3.19 'Outside position'. There is no cover under this extension for the <b>association</b>.</p> <p>Exclusions 4.2 'Bodily injury', 4.12 'Insured versus insured' and 4.17 'Obligations to employees' do not apply to this extension.</p>
<b>3.9 Estates, legal representatives and spousal liability</b>	<p><b>We</b> will cover an <b>insured person's</b> lawful spouse, estate, heirs, legal representatives or assignees for their <b>liability</b> that arises from a <b>wrongful act</b> committed by an <b>insured person</b> on the same terms and conditions as <b>we</b> cover the <b>insured person</b>.</p>
<b>3.10 Extended reporting period</b>	<p>If <b>we</b> do not offer to renew this policy, then the <b>insured</b> may extend cover under this policy for another 12 months. However, this extended period will only cover a <b>wrongful act</b> that happened before the expiry of this policy's current <b>period of insurance</b> but not a <b>wrongful act</b> that happens during the extended period.</p> <p>If the <b>insured</b> elects to extend this policy as described above, then notice of such election must be given to <b>us</b> within 30 days of <b>our</b> refusal to renew this policy and the <b>insured</b> must pay <b>us</b> an additional premium (being 50% of the last annual premium).</p> <p>This policy cannot be extended if <b>we</b> cancel this policy or declare this policy unenforceable because the <b>insured</b> did not:</p> <ul style="list-style-type: none"><li>(a) pay the premium, or</li><li>(b) disclose information material to the risk, or</li><li>(c) comply with terms of this policy.</li></ul> <p>This extension does not provide a new <b>limit of indemnity</b> for the extended period.</p>
<b>3.11 Fair Trading Act</b>	<p>In respect of cover under clause 2.4 'Professional indemnity' only, <b>we</b> will cover the <b>insured</b> for <b>liability</b> arising from a breach of the Fair Trading Act 1986.</p> <p>Exclusion 4.6 'Fair Trading Act' does not apply to this extension.</p>
<b>3.12 Health and safety defence costs</b>	<p><b>We</b> will cover an <b>insured person</b> for <b>defence costs</b> in respect of a <b>claim</b> against an <b>insured person</b>, or in relation to an <b>investigation</b>, alleging a breach by an <b>insured person</b> of the Health and Safety at Work Act 2015.</p> <p>There is no cover under this extension for the <b>association</b>.</p> <p>Cover under this extension only applies in excess of any other insurance in force in respect of such a breach.</p> <p>Exclusion 4.2 'Bodily injury' does not apply to this extension.</p>
<b>3.13 Intellectual property</b>	<p><b>We</b> will cover the <b>insured</b> for <b>liability</b> arising from an unintentional breach of confidential information or plagiarism or an unintentional infringement of any copyright, design or trademark.</p> <p>Exclusion 4.11 'Intellectual property' (a) to (c) do not apply to this extension.</p>
<b>3.14 Insured versus insured</b>	<p><b>We</b> will cover an <b>insured person</b> for:</p> <ul style="list-style-type: none"><li>(a) <b>defence costs</b> in connection with a <b>claim</b> brought by any other <b>insured person</b>,</li><li>(b) a <b>claim</b> bought by:<ul style="list-style-type: none"><li>(i) any other <b>insured person</b> for contribution or indemnity, if the <b>claim</b> directly results from another <b>claim</b> otherwise covered under this policy,</li><li>(ii) any person who was covered by this policy.</li></ul></li></ul> <p>Exclusion 4.12 'Insured versus insured' does not apply to this extension.</p>

### 3.15 Investigations and inquiries

We will cover the **insured** for **defence costs** in relation to an **investigation** where such **investigation** may lead to a **claim**, which if made, would be covered by this policy, but only where:

- (a) the notice of the **investigation** is first notified to the **insured**, and to **us**, during the **period of insurance**, and
- (b) the conduct which is the subject of the **investigation** happened after the **retroactive date**, if any.

The **insured** must refund **defence costs** advanced by us where it is established by the **investigation** that the conduct which is the subject of the **investigation** was:

- (a) dishonest, fraudulent or criminal, or
- (b) a reckless or knowing breach of any law.

This extension does not cover:

- (a) any investigation under the Health and Safety at Work Act 2015, or
- (b) an investigation by Inland Revenue, or
- (c) any investigation brought outside the jurisdiction specified in the **schedule**.

### 3.16 Joint venture

We will cover the **insured** for **liability** arising from the **insured's** involvement in any joint venture or partnership.

There is no cover for the joint venture, the joint venture partners or partnerships.

Exclusion 4.10 'Joint venture' does not apply to this extension.

### 3.17 Loss of documents

We will cover the **insured** for **liability** arising out of the loss of, damage to or destruction of any documents that were in the custody or control of:

- (a) the **insured**,
- (b) any other person to whom the **insured** had entrusted, lodged, deposited or delegated custody of the documents to in the ordinary course of business.

Exclusion 4.15 'Loss of documents' does not apply to this extension.

### 3.18 New subsidiary

If the **association** creates an entity or acquires more than 50% of the voting rights of another entity during the **period of insurance**, we will automatically cover the new entity:

- (a) from the date of acquisition but only in respect of a **wrongful act** occurring after the date of acquisition, or
  - (b) from the date it was created,
- but only if the entity being acquired or created:

- (a) is incorporated, domiciled and conducts business in New Zealand, and
- (b) does not have revenue or estimated revenue of more than 25% of the combined gross annual consolidated revenue of the **association** at the commencement of the **period of insurance**, and
- (c) has business activities not materially different to the business activities conducted by the **association** at the commencement of the **period of insurance**, and
- (d) has **professional services** the same as the **professional services**.

### 3.19 Outside position

We will cover an **insured person** for a **claim** in connection with an **insured person's** appointment as a director, officer, trustee or manager (or other equivalent position) of any:

- (a) corporation, association, trust, fund, institution, society, enterprise or foundation not included in the definition of **insured** that is established for charitable, community, industry or social purposes, or
- (b) entity in which the **association** owns, at the time of the **wrongful act**, (either directly or indirectly) between 20% and 50% of the issued or unissued shares,

provided that such appointment is undertaken with the knowledge and consent of, or at the request of, the **association**.

We will not cover any **claim** made against an **insured person**:

- (a) by, or on behalf of any entity noted in (a) or (b) above or any of its directors, or
- (b) brought by or on behalf of any past or present shareholder of any entity noted in (a) or (b) above who had or has direct or indirect control or ownership of more than 15% of the shares or rights of that entity.

Cover under this policy only applies in excess of any other insurance in force in respect of such appointment.

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- 3.20 Public relations expenses** We will cover the reasonable fees, costs, charges and expenses incurred with **our** prior consent, for a public relations consultant retained by the **insured** to mitigate the adverse effect on the reputation of the **insured** as a result of a **claim** covered under this policy.  
We will only pay the cost of publicising findings made in a final judicial disposition of a **claim** in the **insured's** favour.  
The most **we** will pay under this extension during the **period of insurance** is \$25,000, or the amount payable for **defence costs**, whichever is the lesser amount.
- 3.21 Punitive or exemplary damages** We will cover the **insured** for **liability** to pay punitive or exemplary damages ordered by a New Zealand Court as a result of an injury covered under the Accident Compensation Act 2001 in connection with medical, welfare, counselling and other social services included in the **insured's professional services**.  
The most **we** will pay under this extension during the **period of insurance** is \$1,000,000 or the **limit of indemnity**, whichever is the lesser amount.  
The **excess** payable under this extension will be the greater of \$10,000 or the **excess** specified in the **schedule**.  
Exclusions 4.2 'Bodily injury' and 4.7 'Fines and penalties' do not apply to this extension.

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## 4. Exclusions

- 4.1 Asbestos** This policy does not cover any **claim** arising out of, relating to or in any way connected with asbestos.
- 4.2 Bodily injury** This policy does not cover any **claim** arising from or in connection with bodily injury, sickness, disease, disability, or death.  
This exclusion does not apply to shock, fright, mental anguish or mental injury.
- 4.3 Building defects** This policy does not cover any **claim** arising from or in connection with a building or structure:  
(a) being affected by moisture or water build-up or the penetration of external moisture or water,  
(b) being affected by the action or effects of mould, fungi, mildew, rot, decay, gradual deterioration, micro-organisms, bacteria, protozoa, or any similar or like forms,  
(c) failing:  
(i) to comply with, or perform to, the requirements of any building code or standard,  
(ii) to meet any standard of performance, quality, fitness or durability,  
(iii) to be fit for its intended purpose.  
This exclusion does not apply to any **claim** that is caused by, or directly arises from the leakage of internal pipes, internal water systems or internal cisterns.
- 4.4 Contractual liability** This policy does not cover any **claim** arising from or in connection with any contractual liability, warranty or guarantee assumed or provided by the **insured** except if the **insured** would have been liable in the absence of the contractual liability, warranty or guarantee.
- 4.5 Existing litigation** This policy does not cover any **claim** in connection with any pending or prior litigation or any civil, criminal, administrative or regulatory proceeding or investigation in existence at the commencement of the **period of insurance**.
- 4.6 Fair Trading Act** This policy does not cover any **claim** in connection with the Fair Trading Act 1986.
- 4.7 Fines and penalties** This policy does not cover any **claim** for:  
(a) any fine or penalty imposed, whether under contract or statute,  
(b) any punitive, aggravated, liquidated, or exemplary damages.
- 4.8 Foreign courts** This policy does not cover any **claim** arising from or in connection with any legal proceedings:  
(a) first brought in a court outside of the jurisdiction stated in the **schedule**,  
(b) brought in a court within the jurisdiction stated in the **schedule** for the purposes of enforcing a judgment made by a court outside the jurisdiction stated in the **schedule**,  
(c) where the proper law to be applied to the issue/s is that of a country other than that of a country within the jurisdiction stated in the **schedule**.

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<b>4.9 Fraud or dishonesty</b>	This policy does not cover any <b>claim</b> arising from or in connection with any dishonest, fraudulent, criminal or malicious act, error, omission or conduct of any <b>insured person</b> or of any other person covered by this policy.
<b>4.10 Joint venture</b>	This policy does not cover any <b>claim</b> arising from or in connection with a joint venture or partnership.
<b>4.11 Intellectual property</b>	This policy does not cover any <b>claim</b> arising from or in connection with: (a) breach of confidential information, (b) plagiarism, (c) infringement of any copyright, design or trademark, (d) infringement of any patent.
<b>4.12 Insured versus insured</b>	This policy does not cover any <b>claim</b> which is brought by or on behalf of an <b>insured person</b> or by the <b>association</b> .
<b>4.13 Intentional or reckless acts</b>	This policy does not cover any <b>claim</b> arising from or in connection with any wilful or intentional breach of any duty, statute or contract, or any act, error, omission or conduct committed or omitted or alleged to have been committed or omitted with a reckless disregard for the consequences.
<b>4.14 Known claims or circumstances</b>	This policy does not cover any <b>claim</b> : (a) made or intimated against an <b>insured</b> prior to the commencement of the <b>period of insurance</b> , (b) notified under a previous policy, (c) arising from or in connection with circumstances: (i) that the <b>insured</b> was aware of prior to the <b>period of insurance</b> , and (ii) that a reasonable person in the position of the <b>insured</b> would have considered might give rise to a <b>claim</b> .
<b>4.15 Loss of documents</b>	This policy does not cover any <b>claim</b> arising from or in connection with the loss of, damage to or destruction of any documents.
<b>4.16 Nuclear</b>	This policy does not cover any <b>claim</b> arising from or in connection with any atomic energy risks, being operations employing the process of nuclear fission or fusion or handling of radioactive material, which operations include but are not limited to: (a) the use of nuclear reactors such as atomic piles, particle accelerators or generators or similar devices, (b) the use, handling or transportation of radioactive materials, (c) the use, handling or transportation of any weapon of war or explosive device employing nuclear fission or fusion.
<b>4.17 Obligations to employees</b>	This policy does not cover any <b>claim</b> arising from or in connection with a breach of any obligation owed as an employer.
<b>4.18 Personal profit</b>	This policy does not cover any <b>claim</b> arising from or in connection with: (a) an <b>insured person</b> gaining any personal profit, remuneration or financial advantage to which they were not legally entitled, or (b) the improper use of position or information to gain personal profit or advantage or cause detriment to the <b>association</b> .  This exclusion will only apply if there is a written admission, settlement, judgment or other final adjudication which establishes that such conduct did in fact occur.
<b>4.19 Pollution</b>	This policy does not cover any <b>claim</b> arising from or in connection with pollution or contamination.
<b>4.20 Product liability</b>	This policy does not cover any <b>claim</b> arising from or in connection with the sale, supply, installation or manufacture of goods by or on behalf of the <b>insured</b> .
<b>4.21 Property liability</b>	This policy does not cover any <b>claim</b> arising from or in connection with the ownership, possession or use by or on behalf of the <b>insured</b> of any land, buildings, aircraft, watercraft or vehicle.



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- 4.22 Refund of fees** This policy does not cover any **claim** in connection with a refund of professional fees or charges, by way of damages or otherwise.
- 4.23 Sanctions** This policy does not cover any **claim** or provide any cover to the extent such cover would expose **us** to any sanction, prohibition or restriction under any United Nations resolution, or any trade or economic sanctions, laws or regulations of the European Union, United Kingdom, United States of America, Australia or New Zealand.
- 4.24 Territorial limits** This policy does not cover any **claim** arising from or in connection with any act, error, omission or conduct that occurred outside of the territorial limit specified in the **schedule**.
- 4.25 Terrorism** This policy does not cover any **claim** for death, injury, illness, loss or damage directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with any **act of terrorism**, regardless of any other cause or event contributing concurrently or in any other sequence to the loss including in connection with controlling, preventing, suppressing, retaliating against, or responding to an **act of terrorism**.
- 4.26 War** This policy does not cover any **claim** for loss or damage directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not) civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

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## 5. Basis of settlement

- 5.1 Maximum amount payable** Subject to Automatic extension 3.2 'Automatic reinstatement' in respect of clause 2.4 'Professional indemnity' only, the most **we** will pay during the **period of insurance** in total for any one **claim** and all **claims** covered by this policy is the **limit of indemnity**.  
Where more than one **claim** arises out of the same **wrongful act** or connected or interrelated **wrongful acts**, then all those **claims** will be treated as one **claim** for the purposes of the application of the **limit of indemnity**.
- 5.2 Excess payable** **We** will only pay that part of either **liability** or **defence costs** that exceeds the amount of the **excess**, but in respect of any one **claim**, only one **excess** is payable.  
No **excess** applies to **liability** or associated **defence costs**, covered under clause 2.1 'Officers liability'.

## 6. Claims conditions

### The insured's obligations

- 6.1 Advise us of a claim or circumstance** If the **insured** becomes aware of any **claim**, or circumstance that may give rise to a **claim** under this policy during the **period of insurance**, regardless of the anticipated amount, they must notify **us** in writing as soon as possible.  
Once a circumstance is notified to **us** in writing, any subsequent **claim** arising from that circumstance is deemed to be a **claim** in the **period of insurance** in which the circumstance was first notified.
- 6.2 Co-operation** The **insured** must, at their own cost, provide all information and reasonable assistance to **us** to determine cover under this policy and to enable **us** to investigate, defend or settle a **claim**.
- 6.3 Dishonest or fraudulent statements** If the **insured** makes any dishonest or fraudulent statement in connection with a **claim** or any **application** for cover under this policy, **we** may:  
(a) decline the **claim**, either in whole or in part, and/or  
(b) declare either this policy or all insurance the **insured** has with **us** to be of no effect and to no longer exist from the date of the dishonest or fraudulent statement.
- 6.4 Do not admit liability** The **insured** must not:  
(a) admit liability,  
(b) do or say anything that may prejudice **our** ability to defend the **claim** against the **insured** or take recovery action in the **insured's** name.
- 6.5 Minimise the claim** The **insured** must, at their own cost, take all reasonable steps to minimise a **claim** and avoid any further loss or liability arising.
- 6.6 Obtain our agreement** The **insured** must obtain **our** agreement in writing before:  
(a) incurring any **defence costs** or other expenses in connection with any **claim** under this policy,  
(b) negotiating, paying, settling, admitting or denying any **claim** against them,  
(c) doing anything that may prejudice **our** rights of recovery.
- 6.7 Other insurance** The **insured** must notify **us** of any other insurance policy that may cover or partially cover the **insured** for any of the risks covered under this policy.  
If the **insured** holds other insurance cover with any other insurer in respect of any **claim** covered under this policy, then **we** will only pay under this policy once cover under the other policy has been exhausted.
- 6.8 Waiver of legal privilege** The lawyers **we** instruct to act on behalf of the **insured** in relation to any **claim** against the **insured**, are at liberty to disclose to **us** any information they receive in that capacity, including information they receive from the **insured**. The **insured** authorises the lawyers to disclose this information to **us**.

### How we manage a claim

- 6.9 Allocation of defence costs** If a **claim** is only partly covered by this policy, **we** will attempt to ensure fair and proper allocation of the **defence costs** for covered and uninsured portions.  
If **we** and the **insured** are unable to agree upon the allocation of the **defence costs** then that allocation will be decided by a lawyer that **we** and the **insured** agree to instruct, whose determination will be binding. The cost of the lawyer's determination is to be taken as part of the **defence costs** covered under this policy.  
If **we** and the **insured** cannot agree on a lawyer, then a lawyer will be appointed by the President of the New Zealand Law Society.
- 6.10 Claim below the excess** If **we** believe that a **claim** will not exceed the **excess**, **we** may instruct the **insured** to conduct the investigation, defence and settlement at the **insured's** expense.  
Should the **claim** subsequently exceed the **excess**, **we** agree to reimburse the reasonable **defence costs** incurred by the **insured** or pay on behalf of the **insured** any additional **defence costs**.

<b>6.11 Claim in excess of the limit of indemnity</b>	<p>If any payment, settlement or judgment in excess of the <b>limit of indemnity</b> has to be made to settle or dispose of any <b>claim</b>, <b>our</b> liability for <b>defence costs</b> is limited to such proportion as the <b>limit of indemnity</b> bears to the amount payable to dispose of the <b>claim</b>.</p> <p>The <b>insured</b> must refund to <b>us</b> all amounts <b>we</b> pay for <b>defence costs</b> in excess of <b>our</b> proportion.</p>
<b>6.12 Defence costs</b>	<p><b>We</b> will pay <b>defence costs</b> incurred in connection with a <b>claim</b> covered by this policy, but only where the <b>insured</b> has sought <b>our</b> prior written consent before incurring such <b>defence costs</b>. <b>Our</b> consent will not be unreasonably delayed or withheld.</p>
<b>6.13 Defence of a claim</b>	<p><b>We</b> are entitled, but not obliged to:</p> <ul style="list-style-type: none"><li>(a) act in the <b>insured's</b> name and on the <b>insured's</b> behalf to defend, negotiate or settle any <b>claim</b> as <b>we</b> see fit,</li><li>(b) appoint <b>our</b> own lawyers to defend or legally represent the <b>insured</b> and the lawyers will report directly to <b>us</b>.</li></ul>
<b>6.14 Discharge of a claim</b>	<p><b>We</b> may elect at any time to pay the <b>insured</b>:</p> <ul style="list-style-type: none"><li>(a) the maximum amount payable under this policy in relation to a <b>claim</b>, or</li><li>(b) any lesser sum that the <b>claim</b> against the <b>insured</b> can be settled for.</li></ul> <p>Once <b>we</b> have paid this (including any <b>defence costs</b> already incurred up to the date of the election), <b>our</b> responsibility to the <b>insured</b> under this policy for that <b>claim</b> is met in full.</p>
<b>6.15 Insured's right to contest settlement of a claim</b>	<p>If the <b>insured</b> does not agree with a decision by <b>us</b> to settle a <b>claim</b>, the <b>insured</b> can elect to contest the <b>claim</b> at their own expense but <b>our</b> liability will not exceed the amount for which the <b>claim</b> could have been settled in the opinion of the lawyer appointed under Condition 6.17 'Requirement to defend a claim'.</p> <p><b>We</b> will pay <b>defence costs</b> incurred up to the date the <b>insured</b> notifies <b>us</b> in writing of their election under this clause and will pay the <b>insured</b> (subject to the <b>excess</b>) the amount for which the <b>claim</b> could have been settled. The <b>insured</b> expressly agrees that <b>our</b> liability in respect of such <b>claim</b> will then be at an end.</p>
<b>6.16 Preservation of indemnity</b>	<p>If the <b>association</b> is legally permitted to indemnify an <b>insured person</b> in respect of a <b>claim</b> which would be covered under clause 2.2 'Association reimbursement' but for whatever reason the <b>association</b> fails or refuses to provide indemnity, then <b>we</b> will cover the <b>insured person</b> under clause 2.1 'Officers liability'.</p>
<b>6.17 Requirement to defend a claim</b>	<p><b>We</b> will not require the <b>insured</b> to defend any legal proceedings in respect of a <b>claim</b>, nor will the <b>insured</b> require <b>us</b> to defend on its behalf, any legal proceedings in respect of a <b>claim</b>, unless a lawyer mutually agreed by the parties advises such proceedings should be defended. In formulating his or her advice, the lawyer will be instructed to consider the:</p> <ul style="list-style-type: none"><li>(a) damages and costs likely to be recovered,</li><li>(b) likely costs of defence of the <b>claim</b>, and</li><li>(c) the prospects of successfully defending the <b>claim</b>.</li></ul> <p>The cost of the lawyer's opinion is to be taken as part of the <b>defence costs</b> covered under this policy.</p> <p>If the lawyer advises that the <b>claim</b> should be settled and if the terms on which settlement can be achieved are within limits that are reasonable (in the lawyer's opinion, and in consideration of the matters), then the <b>insured</b>:</p> <ul style="list-style-type: none"><li>(a) will cooperate with <b>us</b> to effect such settlement in accordance with this policy, and</li><li>(b) if applicable, must pay the <b>excess</b> shown in the <b>schedule</b>.</li></ul>
<b>6.18 Severability</b>	<p>If an <b>insured person</b> fails to comply with their duty of disclosure, makes a misrepresentation or breaches any condition of this policy, <b>we</b> will not deny cover to any other <b>insured person</b> on these grounds, if that other person was unaware of the matter not disclosed or the fact of the misrepresentation or did not breach a policy condition.</p>

- 6.19 Subrogation**
- We** may assume the **insured's** legal right of recovery. The **insured** must fully co-operate with any recovery process.
- We** will not exercise any rights of recovery against an **insured person** unless it is established by written admission, settlement, judgment or other final adjudication that an **insured person** has committed a:
- (a) dishonest, fraudulent or criminal act, or
  - (b) reckless or knowing breach of any law.

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## 7. General conditions

### How we administer this policy

- 7.1 Assignment**
- The **insured** may not assign this policy or any interest under this policy without **our** prior written consent.
- 7.2 Authorisation**
- By acceptance of this policy, the **association** agrees to act on behalf of the **insured persons** in respect of:
- (a) negotiating and binding the terms of cover,
  - (b) giving and receiving of any notice of a claim, cancellation or any other notice required in this policy,
  - (c) payment of premiums and the receiving of any return premiums,
  - (d) agreement to and acceptance of endorsements.
- 7.3 Cancellation**
- By the insured**
- The **insured** may cancel this policy at any time by giving **us**, or their broker, notice in writing or by electronic means. If they do, **we** will refund any premium that is due to the **insured** based on the unused portion of the **period of insurance**. The **insured** must pay any outstanding premium due for the expired portion of the **period of insurance**.
- By us**
- We** may cancel this policy by giving the **insured**, or their broker, notice in writing or by electronic means, at the **insured's**, or their broker's, last known address. The policy will be cancelled from 4pm on the 30th day after the date of the notice. **We** will refund any premium that is due to the **insured** based on the unused portion of the **period of insurance**.
- 7.4 Currency**
- Any amounts shown in this policy or in the **schedule** are in New Zealand dollars, unless otherwise specified in the **schedule**.
- 7.5 Disputes about this policy**
- The law of New Zealand applies to disputes about this policy and the New Zealand Courts have exclusive jurisdiction.
- 7.6 Goods and Services Tax**
- Where GST is recoverable by **us** under the Goods and Services Tax Act 1985:
- (a) the limits of indemnity exclude GST, and
  - (b) all sub limits exclude GST, and
  - (c) any **excess** includes GST, and
- GST will be added, where applicable, to any payments.
- 7.7 Inadvertent non-disclosure**
- We** will waive **our** right to avoid this policy under Condition 7.9 'Change in circumstances' for non-disclosure or misrepresentation of any material increase or alteration of the risk insured but only if the **insured** can establish to **our** satisfaction that such non-disclosure or misrepresentation was innocent and free from any dishonesty or intent to deceive.
- Provided that:
- (a) **we** must have continued without interruption as the **insured's** associations insurer from the time the **insured** should have disclosed or correctly represented material facts to **us** up until such time as the non-disclosure or misrepresentation is notified to **us**, and
  - (b) **we** will be entitled to adjust the premium and terms of this policy to reflect those which would have applied by **us** had the proper disclosure or representation been made at the correct time, and

## Associations Liability / Policy wording

- (c) **our** liability under this policy is limited to the amount for which **we** would have been liable for had the proper disclosure or representation been made at the correct time.

### 7.8 Legislation changes

Any reference to any Act of Parliament or subordinate rules referred to in this policy includes any amendments made or substitutions to that law.

### The insured's obligations

#### 7.9 Change in circumstances

The **insured** must tell **us** as soon as possible if there is a material:

- (a) increase in the risk insured, or
- (b) alteration of the risk insured.

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

If the **insured** fails to notify **us** about a change in the risk **we** may:

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

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

#### 7.10 Comply with this policy

The **insured** (and any other person or entity covered by the policy) must comply with the terms of this policy. If:

- (a) the **insured**,
- (b) any other person or entity covered under this policy,
- (c) anyone acting on the **insured's** behalf,

breaches any of the terms and/or conditions of this policy, **we** may decline the **claim** either in whole or in part.

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## 8. Definitions

### act of terrorism

Any act, or preparation in respect of action, or threat of action designed to influence 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 which:

- (a) involves violence against one or more persons, or
- (b) involves damage to property, or
- (c) endangers life other than that of the person committing the action, or
- (d) creates a risk to health or safety of the public or a section of the public, or
- (e) is designed to interfere with or to disrupt an electronic system.

### application

The information provided to **us** by the **insured**, or on the **insured's** behalf, when the **insured** purchased this insurance or requested a quotation for this insurance from **us**.

### association

The organisation or entity specified as the 'Insured' in the **schedule** and any **subsidiary**.

### claim

- (a) a demand for compensation, damages or other relief,
- (b) legal proceedings instituted and served upon the **insured** seeking compensatory damages,
- (c) a threat or intimation that legal or arbitral proceedings will be issued against the **insured** seeking compensatory damages,
- (d) any civil proceeding or alternative dispute resolution process including but not limited to any arbitration or mediation, made against the **insured** as a result of a **wrongful act**.

It does not include proceedings seeking non-monetary relief, including judicial review, injunctions or declarations.

## Associations Liability / Policy wording

<b>defence costs</b>	Legal costs, expenses and disbursements, witnesses' costs, assessors or experts fees.
<b>documents</b>	Deeds, wills, agreements, maps, plans, books, letters, policies, certificates, forms and documents of any nature whatsoever, whether written, printed or reproduced by any method including records or computer records and electronic data material but will not include bearer bonds or coupons, stamps, bank currency, notes or other negotiable instruments.
<b>employee</b>	Any person who is or was employed by the <b>association</b> under a contract of service or apprenticeship including any volunteer.
<b>excess</b>	The amount specified as the 'Excess' in the <b>schedule</b> or as specified in any extension.
<b>insured</b>	The <b>association</b> and any <b>insured person</b> .
<b>insured person</b>	<p>Any person:</p> <ul style="list-style-type: none"><li>(a) who is, or at the time of the <b>wrongful act</b> was, an officer, secretary, director, committee member or <b>employee</b> of the <b>association</b>, by whatever name called, and whether or not validly appointed, to occupy that position, or</li><li>(b) who is acting on behalf of the <b>association</b> at the direction of:<ul style="list-style-type: none"><li>(i) an officer, or</li><li>(ii) board of directors, or</li><li>(iii) committee,</li></ul>of the <b>association</b>.</li></ul> <p>It does not include any externally appointed officers, including but not limited to, auditors, receivers, statutory managers, trustees, liquidators or mortgagees in possession.</p>
<b>investigation</b>	<ul style="list-style-type: none"><li>(a) an official investigation, hearing, examination or inquiry in relation to the affairs of the <b>association</b>,</li><li>(b) a request for information to an <b>insured</b> by any regulator, government body or authority, governmental or administrative agency or self-regulatory body.</li></ul>
<b>liability</b>	<p>Liability for:</p> <ul style="list-style-type: none"><li>(a) compensatory damages and interest that a civil court or arbitrator orders the <b>insured</b> to pay in civil proceedings,</li><li>(b) legal costs of the party making the <b>claim</b>.</li></ul> <p>It includes settlements negotiated by <b>us</b>, in relation to a <b>claim</b>.</p> <p>It does not include:</p> <ul style="list-style-type: none"><li>(a) liability for taxes, except as covered under General Condition 7.6 'Goods and Services Tax', or</li><li>(b) any amount which is uninsurable under the laws of any jurisdiction covered by this policy.</li></ul>
<b>limit of indemnity</b>	The amount specified as the 'Limit of indemnity' in the <b>schedule</b> .
<b>period of insurance</b>	The 'Period of insurance' specified in the <b>schedule</b> , that specifies the start and end dates of this policy.
<b>professional services</b>	The activities, advice given or services performed by the <b>association</b> as described in the <b>schedule</b> .
<b>retroactive date</b>	The 'Retroactive date' specified in the <b>schedule</b> .
<b>schedule</b>	The latest version of the 'Schedule' <b>we</b> have issued to the <b>insured</b> for this policy.
<b>subsidiary</b>	Any entity that was, or at the beginning of the <b>period of insurance</b> is, controlled by the <b>association</b> holding more than 50% of the voting rights of that organisation or one in which the <b>association</b> has the ability to control decisions made by the board of directors (whether directly or indirectly).

## Associations Liability / Policy wording

**we/us/our**

NZI, a business division of IAG New Zealand Limited.

**wrongful act**

**In respect of clauses 2.1 Officers liability and 2.2 Association reimbursement and 2.3 Association liability**

Any actual or alleged misstatement, misleading statement, act, error or omission, negligence, breach of duty, breach of trust, breach of authority or other act committed or attempted by:

- (a) an **insured person** in their capacity as a director, secretary, officer, committee member or **employee** of the **association** in the course of performing his or her duties, or as a director, officer or manager of any outside entity covered under Automatic extension 3.19 'Outside position'.
- (b) the **association**.

**In respect of clause 2.4 Professional indemnity**

Any actual or alleged act, error, omission committed or attempted by the **insured** in the course of rendering (or failure to render) **professional services**.

