

# Carrier's transit liability

## Insurance agreement

### ▶ Our agreement

You agree to pay **us** the premium. In exchange, **we** agree to insure **you** as set out in this policy document.

## What you are insured for

### 1. Carriers liability

You are insured for **your liability** for **property damage** occurring during the **period of insurance** to **goods you** contract to carry in connection with the **business** while:

1. in transit anywhere in New Zealand (including any loading and unloading), and
2. temporarily housed (either on or off the carrying conveyance) in the normal course of transit, BUT NOT at any store, warehouse or holding pen owned or occupied by, or under the control of, **you**, unless solely for the purpose of an "incidental service" as defined by the Carriage of Goods Act 1979.

#### Subcontractors and actual carriers

You are insured for **your liability** to pay for the **property damage** to **goods** carried by a subcontractor or actual carrier on **your** behalf, provided the subcontractor's or actual carrier's conditions of contract are no more extensive than **yours**.

This extension does not insure the subcontractor's or actual carrier's **liability**.

### 2. Defence costs

You are insured for all legal costs and legal expenses necessarily and reasonably incurred by **you** to defend any legal action that if proven, would be covered by this policy.

## Automatic extension

### 1. Saving or attempting to save life or property in peril

If **you** choose to waive the defence available to **you** under Section 14(d) of the Carriage of Goods Act 1979 which excludes **your** liability in relation to **property damage** in certain circumstances, where that liability would otherwise have been covered under 'What you are insured for 1. Carrier's liability' above, **you** are insured for that **property damage**.

In respect of claims made against **you** where this waiver applies, **we** will provide cover:

- 1.1 as set out under the next heading 'Basis of settlement', and
- 1.2 as set out under the heading 'What you are insured for 2 Defence costs'. 'Exclusion 1. Types of liability not covered 1' does not apply to this extension.

## Basis of settlement

### ▶ Maximum payable

The most **we** will pay under 'What you are insured for 1. Carrier's liability' is the sum insured listed in the **schedule**.

The most **we** will pay for any one unit of **goods** is in accordance with Section 8(1)(b) of the Carriage of Goods Act 1979 for a contract of carriage at limited carriers risk of \$2,000 GST inclusive.

### ▶ Policy limits

All sums insured are in New Zealand dollars.

### ▶ Excess

For each **event**, the excess amount in the **schedule** will be deducted from the amount of **your** claim.

## Exclusions

### 1. Types of liability not covered

**You** are not insured for any of the following:

1. **liability** arising out of a contract entered into by **you**, which is greater than that specified in the Carriage of Goods Act 1979,
2. **liability** arising from a motor vehicle being driven by **you**, or anyone with **your** permission, while the driver:
  - 2.1 has a proportion of alcohol in his or her breath or blood which exceeds the legal limit, or
  - 2.2 is under the influence of any other intoxicating substance or drug, or
  - 2.3 is not the holder of a motor driver's licence for the appropriate class and use (if such is required when driving the vehicle) which is in full force and effect. If the licence has been issued subject to any condition, it shall be deemed to be not in full force and effect if the holder is driving it in breach of that condition.

This exclusion 2.3. does not apply if the driver has had, and is not disqualified from holding or obtaining, and actually obtains such a licence without a further driving test, or if any vehicle is being used for the purpose of teaching a learner driver to drive if all the requirements of the law in that connection are being complied with,
3. **liability** caused by the carrying conveyance being driven in an unsafe manner or condition which **you**, or anyone driving with **your** permission, knew, or ought to have known, about,
4. **liability** arising from **your** wilful misconduct, or
5. **liability** caused solely by the electrical or mechanical malfunction of the **goods**, or
6. **liability** for loss of market, or delay or consequential loss of any kind.

### 2. Types of property not covered

This policy does not insure **liability** for **property damage** to:

1. jewellery, gold and silver articles, precious stones, bullion, cash, banknotes, deeds, bonds, bills of exchange and other documents representing money.
2. any of the following:
  - 2.1 aircraft of any kind including helicopters,
  - 2.2 accessories in or on any aircraft or helicopter.
3. **goods** carried for the purpose of:
  - 3.1 household removal, or
  - 3.2 office removal.

### 3. Nuclear, war risks and terrorism

**You** are not insured for **liability**, prosecution or expense of any type 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,
2. confiscation, nationalisation, requisition, destruction or damage to property by any government or public or local authority,
3. an **act of terrorism** or a person acting with a political motive,
4. ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel. The radioactive, toxic, explosive, or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof.

## Managing your claim

### A. Your obligations

#### 1. Advise us

If **you** become aware of any situation that is likely to give rise to a claim, **you** must contact **us** immediately.

#### 2. Minimise the loss

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

#### 3. Provide full information

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

- 3.1 disclosed to **us**, and
- 3.2 transferred to the Insurance Claims Register Limited.

**You** must:

- (a) give **us** free access to examine and assess the claim, and
- (b) send any relevant correspondence or documents to **us**, and
- (c) complete a claim form 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.

#### 4. Be truthful

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

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

This is at **our** sole discretion.

#### 5. Do not admit liability

**You** must not:

- 5.1 admit **you** are **liable**, or
- 5.2 do or say anything that may prejudice **our** ability to defend the claim against **you** or take recovery action in **your** name.

## B. Managing your claim

### 1. Subrogation

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

**You** must, at **our** expense, fully co-operate in the enforcement of this right by **us**.

### 2. Defence of liability claims

After **you** have made a claim, **we** have the sole right to act in **your** name and on **your** behalf to defend, negotiate or settle the claim as **we** see fit (this will be done at **our** expense).

**We** may appoint **our** own lawyers to represent **you**. They will report directly to **us** and **you** agree to waive in **our** favour the legal professional privilege to **your** communications with them.

### 3. Discharge of liability claims

**We** may elect at any time to pay **you**:

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

Once **we** have paid this (plus any defence costs already incurred) **our** responsibility to **you** under the policy is met in full.

## General conditions

### A. How we administer this policy

#### 1. Cancellation and modification

1.1 By you

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

1.2 By us

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

#### 2. Other insurance

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

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

#### 3. GST

All amounts in this policy include GST.

#### 4. Instalment premiums

If **you** choose to pay the premium by instalments less than annually, then:

- 4.1 **you** must use the Deduction Authority **we** require, and
- 4.2 this policy is for the initial **period of insurance** starting on the 'From' date and ending on the 'To' date stated in the **schedule**.

The policy will be renewed for further periods of insurance (e.g. monthly – as indicated in the **schedule**) by payment of each instalment premium due under the Deduction Authority.

### 5. Premium adjustments and declarations

**You** carry **goods** at 'limited carrier's risk', the deposit premium for this policy has been calculated as a percentage of the estimated gross income derived from such contracts of carriage.

If, at the end of the **period of insurance** the actual gross income exceeds the estimated income on which the deposit premium was calculated, then the annual premium shall be adjusted and the difference paid by **you**, and **we** shall retain, in any case the deposit premium paid.

**You** shall keep accurate records containing all relevant particulars and shall allow **us** to inspect them. **You** shall within one calendar month after each anniversary of the commencement of this policy, or after its earlier termination, provide **us** with such particulars and information as **we** may require.

### 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 sub-ordinate legislation made under it, and any other subsequent Acts or regulations.

#### 2. Governing law and jurisdiction

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

#### 3. Insurance law reform acts

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

### C. Your obligations

#### 1. Comply with the Policy

**You** (and any other person or entity **we** cover) must comply with the conditions of this policy at all times. If **you** fail to comply, **we** may not pay **your** claim.

#### 2. Provide accurate information

**You** must make sure all statements and representations that are made to **us**, at any time, either by **you** or anyone else, are truthful and complete.

#### 3. Reasonable care

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

#### 4. Change in circumstances

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

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

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

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

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

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

*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

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

*For example, the definition of 'accident' also applies to the words 'accidentally', 'accidental' and 'accidents':*

**accident**

An **event** that is sudden, unintended and unexpected by **you**.

**act of terrorism**

Includes any unlawful act, or preparation in respect of action, or threat of action designed to influence or coerce the government de jure or de facto of any nation or any political division therefore, 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 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:

- (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 public or section of the public, or
- (e) is designed to interfere with or disrupt an electronic system.

**business**

the business named in the **schedule**.

**event**

any one event or series of events arising from one source or original cause.

**goods**

goods, baggage, and chattels of any description, including animals and plants.

**liable**

legally liable pursuant to the Carriage of Goods Act 1979, but only by virtue of contracts as specified in Section 8 at limited carrier's risk.

**period of insurance**

the period of cover referred to in the **schedule**.

**property damage**

**accidental** physical loss or **accidental** physical damage to **goods**.

**schedule**

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

**we**

State, a business division of IAG New Zealand Limited. *We may also use the words 'us', 'our' or 'company' to describe State.*

**you**

the person(s) shown as the Insured in the **schedule**. *We may also use the word 'insured' to describe you.*

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