



Policy

# Wordings.

Material Damage &  
Business Interruption

## Insurance Clause

In consideration of the Insured named in the Schedule having paid or promised to pay the required Premium, the Insurers named in the Schedule will indemnify the Insured as set out in this Policy.

Except where provided to the contrary, the Insurer's liability in total during the Period of Insurance will not exceed the Total Sum Insured stated in the Schedule of Insured Property and, if more than one Item is included in the Schedule, will not exceed in respect of each Item the Sum Insured applicable to that Item.

**Certain Underwriters at Lloyd's and/or Companies (Insurers) acting through their agent International Underwriting Agencies Ltd ("IUA"), a member of the DUAL Group. P O Box 7238, Victoria Street West, Auckland 114**

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## Definitions

**'Accidental'** means unintended and unforeseen by the Insured.

**'Breakdown'** means the actual breaking, seizing, deformation or burning out of any part of the machinery or equipment while in use; the cause being a defect in the machinery or equipment while in use; the result being a stoppage in the function of the machinery or equipment; and repair or replacement being necessary before the machinery or equipment can resume working.

**'Building'** means any building, other structure, and its appurtenances including but not restricted to the plant, fixtures, fittings, pipes and cables pertaining to the building or structure, and includes any fixed sign and lettering, tank, pole, power line and its supports, wall, gate, fence, road, path, yard and the like.

**'Business'** means the business described in the Schedule.

**'Contents'** means the contents of a building, and includes chattels in the open or under shelter, tenants improvements and all other tangible property not more specifically defined, all being owned by the Insured or held by the Insured in trust or on commission, or for which the Insured is under a contractual obligation to arrange insurance.

**'Damage'** means Accidental physical loss of or Accidental physical damage or destruction of the Insured Property. 'Damaged' has a corresponding meaning.

**'Destroyed'** means so damaged that the Building by reason only of that Damage cannot be repaired or the cost of repairs is uneconomic.

**'Event'** means an event or series of events originating from one source or original cause. Where an Event occurs over a period of more than 72 consecutive hours, one excess (or deductible) will be deducted for every 72 consecutive hour period.

**'Insured Property'** means tangible property of every description not expressly excluded, the Insured's own or held by the Insured jointly or in trust or on commission and for which the Insured is responsible.

**'Indemnity'** means the Insured Property's value, allowing for its age and condition, immediately before the Damage happened.

**'Indemnity Period':** means the period, beginning with the occurrence of the Damage and continuing for the maximum period stated in the Schedule, during which the results of the Business are affected in consequence of the Damage.

**'Insured'** as named in the Schedule.

**'Insurers'** as named in the Schedule.

**'Money'** means current coin, bank notes, cheques, postal notes, traveller's cheques, money orders, postage stamps, franking machine credits, tickets, unrealised credit card vouchers or other negotiable instruments.

**'Natural Disaster'** means any of the following: earthquake, subterranean fire, volcanic eruption, tsunami, geothermal activity, hydrothermal activity or fire occasioned by or through or in consequence of any of these

**'Other'** means any specific items insured individually described as Other in the Schedule

**'Period of Insurance'** means the period specified in the Schedule.

**'Premises'** means any premises owned or occupied by the Insured at the Premises specified in the Schedule.

**'Stock'** means stock in trade and includes stock owned by the Insured or held by the Insured in trust or on commission and for which the Insured is responsible, or for which the Insured is under a contractual obligation to arrange insurance.

**'Territory'** means within the territory or locations named in the Schedule.

## Section 1 – Material Damage

If, during the Period of Insurance, Damage happens at the Premises anywhere in the Territory, the Insurers will indemnify the Insured for the Damage subject to the terms of this Section of the Policy.

### Exclusions to Section 1

#### This Section does not cover

**1. Boilers and Pressure Vessels**

Explosion, rupture, bursting, cracking, leaking, or collapse of any steam boiler or pipe or economiser or any other pressure vessel due to fluid pressure within or without, but this exclusion only applies to the vessel in which the explosion, rupture, bursting, cracking, leakage, or collapse occurs and does not apply to damage by chemical explosion.

**2. Breakdown**

Mechanical or electrical Breakdown of machinery or electrical equipment, but this exclusion only applies to the machine or equipment in which the Breakdown occurs and does not apply to resultant Damage to other Insured Property that is not otherwise excluded.

**3. Contract Works**

Insured Property in the course of installation, construction, demolition, erection, or testing following any of them.

**4. Disappearance**

Damage directly resulting from shortages revealed only by the taking of an inventory or shortages due to clerical or accounting errors.

**5. Electronic Date Recognition**

Any Damage, cost, claim or expense, whether preventative, remedial or otherwise, directly or indirectly arising out of or relating to:

- a) the calculation, comparison, differentiation, sequencing or processing of data involving the date change to the year 2000, or any other date change, including leap

year calculations, by any computer system, hardware, programme or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the Insured or not;

- b) any change, alteration, or modification involving the date change to the year 2000, or any other date change, including leap year calculations, to any such computer system, hardware, programme or software and/or any microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether the property of the Insured or not.

This Exclusion applies regardless of any other cause or event that contributes concurrently or in any sequence to the loss, damage, cost, claim or expense.

#### **6. Faulty Materials, Workmanship or Design**

The cost of:

- a) repairing or replacing defective materials;
- b) putting right defective workmanship;
- c) putting right work performed to a defective design plan or design specification;

However this Exclusion does not apply to any Damage occurring as a result of the defective materials, workmanship, or work.

#### **7. Fumes, Dust, Smoke, Soot**

Damage to the property or part immediately affected caused by or arising out of fumes, dust, smoke or soot but this Exclusion does not apply to any resultant Damage to other Insured Property.

#### **8. Interruption**

Damage directly caused in respect of the Insured Property or part immediately affected by total or partial cessation of work, retarding or interruption or cessation of any process.

#### **9. Land Movement**

Damage directly caused by or resulting from subsidence, landslip or erosion of land.

#### **10. Natural Disaster**

Damage directly caused by or resulting from Natural Disaster unless specified with a Sum Insured in the Schedule to this Policy.

#### **11. Nature of the Property (Stock)**

Damage to the Insured Property or part immediately affected caused by or arising out of the nature of the property (including shrinkage, evaporation, loss of weight, change in flavour, or colour or texture or finish) or the action of light.

#### **12. Normal Damage**

Damage comprising wear and tear, erosion, corrosion, slowly developing deformation or distortion or the consequences of normal working; or arising out of or from mould, rot, vermin or insects. Nor does this insurance cover the cost of normal maintenance. However, this Exclusion does not apply to resultant Damage not otherwise excluded.

#### **13. Order of Authorities**

Confiscation, requisition or Damage to Insured Property by lawful order of any government or local authority unless the order is given for the purpose of controlling any peril of a kind insured against under this Policy.

**14. Pollution**

Damage to the Insured Property or part immediately affected caused by or arising out of pollution or contamination unless the pollution or contamination itself is caused by an Accidental event not otherwise excluded.

**15. Precious Goods**

Jewellery, precious stones, furs, precious metals or bullion, other than as Stock of the Business or as part of any plant of the Business.

**16. Pre Existing Damage**

Any Damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in consequence of any Insured Property hereunder where such property has pre-existing Damage, at the inception date of this insurance.

- a) being undamaged nor
- b) in making good any pre-existing Damage

**17. Process**

Damage caused to Insured Property by the normal operation of a process where the Damage is a direct and natural consequence of the process.

**18. Theft**

Damage directly resulting from theft:

- a) by any of the Insured's employees; or
- b) by any other person unless accompanied by violence or threat of violence to any person or by violent or forcible entry to or exit from premises.

However, if a Special Limit for Theft appears in the Schedule, part (b) of this Exclusion will only apply to loss in excess of that limit.

**19. Utilities**

Damage in respect of the Insured Property or part immediately affected directly or indirectly caused by interruption of the supply to the site of water, gas, electricity or any fuel.

## Conditions to Section 1

### Claims

Upon becoming aware of any event giving rise, or likely to give rise, to a claim under this insurance, the Insured must:

- a) take prompt steps to minimise the Damage;
- b) take reasonable steps to protect the property from further Damage;
- c) immediately notify the Insurers;
- d) if a criminal act is suspected, inform the police;
- e) as soon as practicable, submit full particulars of the claim in writing to the Insurers;
- f) at the Insured's expense, provide the Insurers with any reasonably required proof and information in respect of the claim.

### Warranties for premises with Composite Panel Construction

In respect of Premises constructed with Composite Panel Construction the Insured warrants that:

- a) All Buildings to have maintained, operational heat or smoke detection.
- b) The electrical supplies are to be checked by a registered electrician on a maximum three year rolling basis and a Policy issued as to their adequacy. This check must include the use of thermo graphic scanning on all major electrical components.
- c) All electrical service penetrations are to be run in appropriate plastic conduit and where appropriate sealed at the penetration.
- d) There shall be a weekly inspection (and log book kept) of the composite panel and any breaches of the metal sheathing or unsealed service penetrations must be repaired immediately.
- e) No waste bins, idle pallets or other combustible materials is to be stored within 5 metres of any external composite panel wall.
- f) Fork lift truck or other battery charging facilities are to be against non-combustible walls or, where against a composite panel, they must be fitted with a non-combustible metal or other barrier extending a minimum of 1.8 metres horizontally (both sides) and vertically between the charger and the wall.
- g) All hose reels and fire extinguishers are to be serviced on an annual basis.
- h) No open flame gas heaters and the like are to be situated adjacent to composite panel walls
- i) No potential must exist for the foam core to be exposed to temperatures in excess of 75 deg C. Any hot flue ducts and the like are to be adequately fire separated from the composite panel.
- j) Any grease, oils or solid particle carrying flues, vents or ducts are to be inspected regularly and cleaned.
- k) A Welding and Hot Work Permit system is to be in place and operational. There shall be a total prohibition on welding or other hot work on or within the vicinity of composite panel without executive sign off prior to any work being carried out. Precautions shall include the use of welding screens and blankets, fire watch and adequate first aid firefighting equipment and post "hot work" checks.

### Deep Fat Frying Warranty

In respect of Premises in which deep fat frying is carried out the Insured warrants that:

- a) A secondary non-adjustable manually reset thermostat (known as an over-temp cut out) is fitted to each deep fat frying pan that will disconnect each heating element from the power supply when the temperature of the cooking liquid in the pan reaches 220 degrees centigrade.

- b) An easily accessible remote switch is in the “off” position when the fryer is not in use.
- c) Each pan is fitted with a close-fitting steel lid which will be shut down when the pans are not in use.
- d) A fire blanket is installed in a position where it can be readily accessed in the event of fire in any pan.
- e) One fully charged wet chemical extinguisher of not less than 3.5 litres capacity shall be mounted in a conspicuous and readily accessible place no closer than 2 metres from, and be the nearest extinguisher to, the fryer.
- f) All pans, their thermostats and protection devices are at all times maintained in good working order in accordance with manufacturer’s recommendations.
- g) Extraction filters are cleaned weekly and extraction flues, ducting and fans are inspected monthly and cleaned as necessary but at least six monthly.
- h) All cooking liquids for disposal are at all times stored in a metal bin with a close fitting lid until removal from the premises.

### **Deep Fat Frying Warranty (Bench top or Miniature Deep Fat Fryers) -**

In respect of Premises in which deep fat frying is carried out with pans that do not have dual thermostats, the Insured warrants that:

- a) Each pan is fitted with a close-fitting lid which must be shut when the pans are not in use.
- b) A fire blanket and container are installed in a position where it can be readily accessed in the event of fire in any pan.
- c) One fully charged wet chemical extinguisher of not less than 3.5 litres capacity shall be mounted in a conspicuous and readily accessible place no closer than 2 metres from, and be the nearest extinguisher to, the fryer.
- d) All pans, their thermostats and protection devices are at all times maintained in good working order in accordance with manufacturer’s recommendations.
- e) Any extraction filters are cleaned monthly and extraction flues, ducting and fans are inspected quarterly and cleaned as necessary but at least six monthly.
- f) All cooking liquids for disposal are at all times stored in a metal bin with a close fitting lid until removal from the premises.

### **Margin Clause – Limit of Liability**

Notwithstanding the sums insured stated in the schedule, the Insurers' liability in respect of Damage to property in each of the categories of 'Buildings' 'Contents', 'Stock', and any 'Other Property' at each Premise stated in the Schedule will not exceed 110% of the sum insured stated in the Schedule for that category at that Premise'. Nothing in this condition is to be construed as increasing the Insurers' liability beyond the Total Sum Insured under Section 1 of the Policy stated in the Schedule.

This Memorandum does not apply to Damage directly caused by or resulting from Natural Disaster.

### **Other Interests**

Where the Insured is under an obligation to insure the interest of any mortgagee, debenture holder, lessor, agent or any other person with an insurable interest in the Insured Property, this Policy extends to indemnify that mortgagee, debenture holder, lessor, agent, other person, or any of them, together with the Insured, for their respective rights and interests.

### Progress Claim Payments

In the event of Damage giving rise to a claim under this insurance, the Insurers will make progress claim payments on production of acceptable evidence of insured Damage.

If the aggregate of progress payments exceeds the total amount of the adjusted Damage, the Insured will immediately refund the difference between the amount of adjusted Damage and the aggregate of payments actually made.

### Salvage

Where the Insurers have agreed to indemnify the Insured for Damage, the Insurers may:

- a) enter any building where the Damage has occurred and take and keep possession of the Damaged property;
- b) deal with the salvage in any reasonable manner;

However:

- a) the Insured will not be entitled to abandon any Insured Property to the Insurers; and
- b) the Insurers will not be entitled to sell or otherwise dispose of salvaged branded goods without the prior consent of the Insured. In the event of the Insured declining to give consent, the Insured will retain possession of the salvaged goods and their reasonable salvage value will be deducted from the amount of claim that would otherwise be payable. Where it is practical to remove brands labels or other marks, which identify the goods as supplied by the Insured, the salvage value of the goods will be determined after such removal at the Insurers' expense.

### Stock Declaration Conditions

The premium charged for the cover on Stock is provisional and represents 75% of the full premium payable for the Sum Insured on Stock. It is adjustable at the end of the Period of Insurance in accordance with the following conditions:

- a) Declarations of the actual value of the insured Stock held on the last day of each month within the Period of Insurance must be made to the Insurers not later than six weeks after the end of each month.
- b) The Sum Insured on Stock is the limit of the Insurers' liability in respect of that Stock. If any monthly declaration exceeds that amount, then in computing the average of the monthly declarations, the Sum Insured on Stock will be included in place of the actual declaration for that month.
- c) If no declaration is received for any one month, the Sum Insured on Stock will apply in place of the declaration for that month.
- d) The average of these monthly declarations will be computed at the end of the Period of Insurance and the actual premium payable will be assessed on that average (or on one half of the Sum Insured on Stock, whichever is greater).
- e) The Insurers will refund to the Insured the amount by which the provisional premium paid exceeds the actual premium payable as calculated above. Alternatively, the Insured will pay to the Insurers the amount by which the provisional premium paid falls short of the actual premium.

## Extensions to Section 1

In the event of any conflict or inconsistency between this Section of the Policy and any Extension incorporated in this Section, the terms of the Extension will prevail. In the event of any conflict or inconsistency between Extensions, the Extension most favourable to the Insured will prevail. Where an Extension refers to a specific monetary limit specified in the Schedule, if no monetary amount appears next to that Extension in the Schedule cover for the Extension will not apply.

### **A. The amounts payable under these Extensions are in addition to the Total Sum Insured and are not included within it.**

The Insurers indemnify the Insured as follows:

#### **1. Capital Additions**

Additions to:

- a) any newly acquired buildings, machinery, plant, or other similar property, but not stock in trade;
  - b) alterations, additions and improvements to buildings, machinery, plant, or other similar property, but not stock in trade;
- at any Premises specified in the Schedule.

PROVIDED THAT:

- a) at any one time, cover under this Extension will not exceed the sub limit specified in the Schedule. This amount is payable in addition to the Total Sum Insured;
- b) the Insured must give particulars to the Insurers within 28 days of the last day of each quarter of the Period of Insurance of any extension of cover becoming operative during the preceding quarter. Following notification of the particulars, the Insured must pay the appropriate additional premium on the Insured Property, retrospective to the date on which the cover became operative.
- c) the provisions of this Extension will be fully reinstated following notification of particulars in accordance with paragraph b) above;
- d) cover under this Extension will be deemed to have become operative upon the date on which the risk in the Insured Property passes to the Insured.
- e) this Extension does not apply to any appreciation in value of the Insured Property that is not consequent upon any acquisition, alteration, addition or improvement covered by this Extension;
- f) if any Reinstatement Extension is incorporated in this insurance, and unless the Insured gives notice to the contrary, the insurance on Insured Property described in a) and b) above will be subject to that Reinstatement Extension.

#### **2. Contract Works**

Notwithstanding Exclusion 3 in Section 1, Damage to contract works undertaken at the Insured Premises during the course of installation, construction, demolition, erection or testing.

The Insurers liability under this Extension is limited to Damage arising out of contracts where the contract price does not exceed the amount specified in the Schedule; where no limit is specified, cover is not provided under this Policy. The cover under this Extension is payable in addition to the Total Sum Insured.

### 3. Money

Damage to Money as follows:

Money A:

- a) While in transit, or
- b) While at any of the Insured's sites of contract during business hours, or
- c) While at the Insured's Premises during business hours, or
- d) While in a locked safe or strong-room outside business hours

Money B

- a) While in residences of the Insured's authorised principals or employees, or
- b) While in the Insured's premises or sites of contract outside business hours and while not in a locked safe or strong room.

#### Special Exclusions

The insurance under this Extension does not cover:

- a) loss recoverable under insurance arranged by professional Money carriers; or
- b) loss of Money entrusted to any person other than the Insured, the Insured's principals, its employees or its authorised agents; or
- c) loss due to fraud or dishonesty of any employee of the Insured unless the loss is discovered within 72 hours (excluding Saturdays and Sundays and statutory holidays) of its occurrence; or
- d) loss due to shortages resulting from clerical or accounting error.

The Insurers' liability under this Extension is subject to the sub limits for Money A and Money B shown in the Schedule. Where no limit is specified, cover is not provided under this Policy. The cover under this Extension is payable in addition to the Total Sum Insured.

#### **B. The amounts payable under these Extensions are included within the Total Sum Insured and are not in addition to it.**

The Insurers indemnify the Insured as follows:

#### 1. Alternative Residential Accommodation

The reasonable costs of alternative accommodation where any residential accommodation insured by this Policy is rendered uninhabitable by an insured contingency necessarily incurred by the Insured or by the occupant (being an employee of the Insured) provided that:

- a) the costs are not otherwise insured;
- b) the period for which the costs are covered will not exceed the period reasonably required for reinstatement of the affected accommodation;
- c) the Insurer will be entitled to deduct a reasonable allowance for costs reduced or avoided in consequence of the affected accommodation being rendered uninhabitable and;
- d) the amount recoverable under this Extension is deemed to be included in the Sum Insured on the Insured Property, but will be limited to an amount equal to 25% of the cost of reinstating the Insured Property following Damage, to a maximum of \$10,000.

## 2. **Claim Preparation Costs**

The reasonable cost of fees incurred by or on behalf of the Insured for the purpose of assessing insured Damage, preparing a claim on the insurance, or both. The cost is deemed to be included in the Sum Insured on the Damaged Insured Property.

## 3. **Constructive Loss**

If, in the event of Damage, any local authority refuses to issue the necessary permit or permits for reinstatement of the Insured Property and, in consequence of that refusal, the Insured is prevented from making reasonable use of the Damaged Insured Property and any other structures on the same site, then the Damaged Insured Property and other structures will be deemed constructively totally lost for the purpose of claims under this insurance.

In determining whether reasonable use can be made of the affected Insured Property and any other structures, due account will be taken of the reasonable requirements of the Insured's business at the site.

## 4. **Damage by Electric Current**

Notwithstanding Exclusion 2 in Section 1, Damage caused by the actual burning out of part or parts of the Insured Property by artificially generated electric current in them.

However, this Extension of cover does not apply to Damage to lighting or heating elements; fuses or protective devices; electrical contacts at which sparking or arcing occurs in ordinary working.

The Insurers' liability under this Extension is subject to the sub limit shown in the Schedule. The cover under this Extension is included within the Total Sum Insured. Where no limit is specified, cover is not provided under this Policy. This Extension does not apply to Damage that would be recoverable under this insurance in the absence of the Extension.

## 5. **Demolition and Removal of Debris**

The following costs which are incurred in consequence of Damage for which a claim is payable under this Policy:

- a) costs incurred in the necessary demolition, dismantling, shoring up or propping of the Damage, disposal of debris (whether or not the debris is part of the Insured Property), and the recovery, removal, storage, and return of chattels whether Damaged or undamaged;
- b) costs actually incurred for temporary repairs and other measures necessary to secure the Damaged property or to make it safe or suitable for continued use;

Cover under this Extension is included in the Sum Insured on the Damaged Insured Property.

## 6. **Employees Effects**

Employees' personal effects (including Money) as if the effects were owned by the Insured, but only while the effects are in or about Premises owned or occupied by the Insured, or elsewhere while being worn, kept, carried or used by employees acting in the course of their employment.

The Insurer's liability under this Extension will not exceed the amount stated in the Schedule any one loss or series of losses arising out of any one Event. Cover under this Extension is included within the Total Sum Insured. Where no limit is specified, cover is not provided under this Policy

**7. Expediting Costs**

Such additional costs of express freight and overtime labour as are reasonably incurred where a claim is payable under this insurance for the cost of reinstating any of the Insured Property, for the purpose of expediting that reinstatement. However, this Extension does not increase the Insurer's liability beyond the Sum Insured on that Insured Property.

**8. General Average**

General Average and Salvage charges payable according to Foreign Statement or to York Antwerp Rules if in accordance with the contract of affreightment, but only where the charges are payable in consequence of threat to a ship carrying Insured Property.

This Extension of cover is not subject to any Deductible. The cover under this Extension is included within the Total Sum Insured.

**9. Gradual Damage**

Notwithstanding Exclusion 11, this Policy extends to cover Loss or Damage to Insured Property discovered during the Period of Insurance resulting from hidden rot, hidden mildew or hidden gradual deterioration, caused by water that leaks, overflows or is discharged from any internal tank (being a tank that is plumbed into the water reticulation system of the building and is permanently used to store water), internal water pipe or internal waste disposal pipe installed at the building.

The liability of the Insurer, in respect of any one loss, is limited to the amount specified in the Schedule for Gradual Damage. The cover under this Extension is included within the Total Sum Insured.

**10. Landslip**

Notwithstanding Exclusion 8 in Section 1, Damage caused by Landslip. However, this Extension of cover does not apply to Damage for which a claim would also be payable under the Subsidence Extension.

Subject always to the Sum Insured on the Insured Property, the Insurer's liability under this Extension will not exceed the amount stated in the Schedule for any one loss or series of losses arising out of any one Event. The cover under this Extension is included within the Total Sum Insured. Where no limit is specified, cover is not provided under this Policy.

The amount to be deducted from the loss or series of losses arising out of any one Event in accordance with the Deductible condition will be the Deductible specified in the Schedule or \$5,000, whichever is the greater.

**11. Lost or Stolen Keys**

The costs reasonably and necessarily incurred in altering or replacing locks and replacing their keys where any key giving access to insured property is lost, stolen or believed on reasonable grounds to have been duplicated without proper authority during the Period of Insurance. This insurance also extends to cover the reasonable cost of opening any safe or strong room following theft or loss of its key or combination. For the purpose of this Extension, 'key' includes any equivalent device for opening locks. The Insurer's liability under this Extension will not exceed the amount stated in the Schedule. The cover under this Extension is included within the Total Sum Insured. Where no limit is specified, cover is not provided under this Policy.

**12. Machinery Breakdown**

Notwithstanding Exclusion 2, this Policy extends to cover mechanical or electrical or electronic breakdown of machinery or electrical equipment being Insured Property, with no reduction being made for parts replaced where Damage is repaired.

For Insured Property that is uneconomic to repair, the basis of settlement will be the

replacement cost at the time of its replacement if 10 (ten) years old or less, or its Indemnity Value if more than 10 (ten) years old

The Insurers will not be liable under this Extension for:

- a) damage to belts, ropes, wires, chains, tyres, dies, exchangeable tools, engraved cylinders, glass components, porcelain components, ceramics, refractories, felts, sieves, fabrics, jointing, packaging and operating media (except loss of refrigerant or insulating oil);
- b) wasting or wearing away or wearing out of any part caused by or naturally resulting from ordinary use or working, gradual deterioration, damage due to cavitation scratching of painted or polished surfaces;
- c) the cost of carrying out alterations, additions, improvements, overhauls or maintenance.

The cover provided by this Extension will not increase the liability of the Insurers beyond the cover specified under the Refrigerated Goods Extension of this Policy.

The liability of the Insurers in respect of any one loss is limited to the amount specified in the Schedule for Machinery Breakdown – if there is no limit shown there is no cover provided by this Extension. The cover under this Extension is included within the Total Sum Insured.

### 13. Natural Disaster

Notwithstanding Exclusion 9 in Section 1, Damage directly caused by or resulting from Natural Disaster.

The Insurers' liability under this Extension is subject to the Special Limit shown in the Schedule - where no limit is specified, cover is not provided under this Policy. The cover under this Extension is included within the Total Sum Insured.

This Extension does not apply to loss that would be recoverable under this insurance in the absence of the Extension.

In the event of the Insured having insured residential property for which compulsory Natural Disaster Damage cover under the Earthquake Commission Act 1993 applies then in the event of such property suffering Natural Disaster Damage during the Period of Insurance and covered by Natural Disaster Damage cover as provided under Earthquake Commission, then the Insurers' liability will be limited to the difference between the amount of the Natural Disaster cover and the applicable sum insured. In the event that residential contents are covered under this insurance and suffer Natural Disaster Damage, for the purposes of Section 20 of the Earthquake Commission Act 1993, each situation (and/or resident is deemed to have a separate fire insurance contract).

In the event that Natural Disaster is covered under this Policy the liability of the Insurers shall not exceed the sum insured for that item. The sum insured shall include any amounts paid or payable to the insured by the Earthquake Commission under the Earthquake Commission Act 1993, or any subsequent amendments to that Act, or any Regulations made under that Act or any subsequent Acts dealing with Natural Disaster Damage cover.

**Example:** The sum insured is \$300,000. You suffer a total loss. The Earthquake Commission pays you \$100,000. The maximum sum you will recover from the Insurers is \$200,000, less any excess payable.

The excess payable would be the difference between the excess as stated in the Schedule and the amount recoverable from EQC but only if the excess stated in the Schedule is greater than the amounts paid or payable to the Insured by the Earthquake Commission

#### 14. Professional and Other Fees

All professional and clerk of works fees, salaries and costs necessarily incurred in the reinstatement of Damage by an insured peril. The insured fees, salaries and costs are deemed to be included in the sum insured on the Insured Property. This Extension does not cover fees for preparing claims on this insurance.

#### 15. Protection Costs

Costs or Damage directly resulting from, or reasonably incurred by or imposed on the Insured for the purpose of protection against or fighting any fire or other insured peril that either involves or threatens to involve Insured Property. This includes any charge that the New Zealand Fire Service is authorised to make against the Insured in respect of any Hazardous Substance Emergency arising out of or in connection with any Insured Property during the Period of Insurance. The indemnity will be payable regardless of whether the Insured Property has been damaged. 'Hazardous Substance Emergency' has the same meaning as defined in the Fire Service Act 1975 or any statutory amendment to or replacement of that Act. The Insurer's liability under this Extension will not exceed the sub limit stated in the Schedule for any one loss or series of losses arising out of any one Event. In respect of claims payable under this Extension, the Deductible specified in the Schedule is amended to \$100. The cover under this Extension is included within the Total Sum Insured.

#### 16. Records

The expression 'tangible property' is deemed to include documents, manuscripts, computer systems media, business books, microfilm, technical drawings and other records. Insured Property of these descriptions is covered by this insurance, but only for its value as materials plus the cost of collecting and reproducing the information on them. The value of the information is not insured. The Insurer's liability under this Extension will not exceed the sub limit stated in the Schedule for any one loss or series of losses arising out of any one Event. The cover under this Extension is included within the Total Sum Insured. Where no limit is specified, cover is not provided under this Policy.

#### 17. Redundant Foundations

Where Building or plant foundations are rendered redundant for any reason in sole consequence of Damage to the superstructures or plant resting on them, the affected foundations will be deemed constructively totally lost for the purpose of claims on this insurance. If it is not necessary to demolish the foundations in order to effect reinstatement of Damage, and if the presence of the abandoned foundations increases the market value of the Insured Property to which they are fixed, the amount of increase will be treated as salvage and will be deducted from the amount of claim payable by the Insurer.

#### 18. Redundant Plant

Where, in sole consequence of Damage comprising plant, any undamaged or salvaged:

- a) plant in the same interdependent system or line; and
- b) spare parts held exclusively for the lost or damaged plant or other plant in that system or line;

are rendered redundant; the redundant plant and parts will be treated for the purpose of this insurance as lost by the same Event that caused the Damage. Claims payable under this Extension will be net of any realisable salvage value of the redundant plant and parts.

#### 19. Refrigerated Goods

Notwithstanding Exclusion 18, in Section 1, Damage to goods stored in refrigerated cabinets or chambers and costs reasonably incurred to avoid or minimise the Damage by transferring the threatened goods to alternative storage or by other means arising from Accidental stoppage or malfunction of refrigerating plant from any cause except as provided below;

PROVIDED THAT:

- a) the words goods stored are deemed to include goods anywhere on the Insured's Premises at the time of the Damage causing event and that would, but for the event, have been placed in the refrigerated cabinets or chambers.
- b) this Extension does not cover Damage due to the disconnection of the public electricity supply by the supplier where prior notice of the disconnection has been given at the time of the Damage. The Insurer's liability under this Extension will not exceed the sub limit shown in the Schedule. The cover under this Extension is included within the Total Sum Insured. Where no limit is specified, cover is not provided under this Policy
- c) This Extension does not apply to Damage that would be recoverable under this insurance in the absence of the Extension.

## 20. Reinstatement of Property

In so far as it can, this Extension applies to all Insured Property other than Stock unless otherwise provided.

Where any Insured Property to which this Extension applies is Damaged, then, subject to the Special Provisions set out below, the basis on which the amount payable under Section 1 of this Policy is to be calculated will be the cost of its Reinstatement.

### DEFINITIONS:

In this Policy, unless the context requires otherwise:

- a) **'Reinstatement'** means:
  - i. where property is lost or Destroyed, its replacement by an Equivalent Building or by Equivalent Plant as the case may require.
  - ii. where property is damaged but not Destroyed, the restoration of the damaged portion of the property to a condition substantially the same as, but not better or more extensive than, its condition when new, but including any alterations that may be necessary to comply with any Regulations.
- b) **'Equivalent Building'** means:
  - i. a building or structure that is as nearly as practicable the same as the building or structure lost or Destroyed, using currently equivalent materials and techniques and incorporating such alterations as are necessary to comply with any Regulations.
  - ii. where, as a result of any special circumstances, no building or structure that falls within the scope of paragraph b) i can be constructed; a building or structure that is designed to perform a purpose or function the same as or equivalent to (but not more extensive than) that performed by the building or structure lost or Destroyed.
  - iii. where, as a result of any special circumstances, no building or structure that falls within the scope of paragraph b) i is suitable to the Insured's reasonable requirement, a building or structure that is designed to perform a purpose or function suitable to that requirement, but not more extensive than that performed by the building or structure lost or Destroyed.
- c) **'Equivalent Plant'** means any plant or equipment as nearly as practicable the same as or equivalent to the plant or equipment lost or Destroyed, having regard to the current state of technology, and having an equivalent capacity to that of the lost or Destroyed plant or equipment, but not greater capacity unless plant or equipment with an equivalent capacity is not available and the replacement plant or equipment has the nearest to an equivalent capacity.
- d) **'Site'** means any parcel of land owned or occupied by the Insured.

- e) **'Regulations'** means any statutory, regulatory or code requirement imposed by the authority of any Act of Parliament or regulation or by-law promulgated by any lawful authority.
- f) **'Undamaged'** means not damaged physically and directly by an event insured under this Section of the Policy.

## Special provisions

### Compliance with Regulations

The amount payable under this Extension will include the cost incurred in Reinstatement that is necessary to comply with any Regulations; provided that the amount payable will not include any such cost:

- a) to the extent to which the work had already been required of the Insured by notice served prior to the happening of the Damage; or
- b) in respect of Undamaged property or Undamaged portions of property other than foundations (unless foundations are expressly excluded from insurance under this Section of the Policy).

Special Provision b) will apply whether or not the Undamaged property or portion comprises a separate Building or structure or a separate item of plant or equipment.

### Seismic Strengthening

Notwithstanding anything in the Policy to the contrary, the amount payable under this Reinstatement of Property Extension or otherwise under the Policy in respect of a Building that is damaged but not Destroyed shall not include any cost incurred in connection with the seismic strengthening of the Building to a level greater than it was immediately prior to the occurrence of the Damage.

For the avoidance of doubt, the Insured shall bear any costs incurred or necessary to comply with any seismic strengthening requirements of the Building Code or similar regulation, which result in an increase in the seismic strength or resistance of the Building to a level greater than it was immediately prior to the occurrence of the Damage.

However this provision does not apply if the Building has been earthquake strengthened to 100% of the 1976 NZS 4203 Building Code.

All other provisions in the Policy concerning reinstatement and the basis of settlement continue to apply.

### Site of Reinstatement

Where property is Destroyed, the work of Reinstatement must be carried out on the same Site; provided that the work may be carried out upon any other Site:

- a) where Reinstatement on the same Site is not permissible by reason of any Regulations, or
- b) where Reinstatement on the same Site is not suitable to the Insured's reasonable requirement.

### Limitations on Amount Payable

- a) Where the work of Reinstatement is carried out in terms of Definition (b) ii. or (b) iii. of "Equivalent Building", or on any location other than the original location, the Insurers' liability in respect of the cost of Reinstatement will not exceed the cost that would have been incurred had Reinstatement been carried out in terms of Definition b) i. on the original location.

- b) Where the Insured Property is damaged but not Destroyed, the Insurer's liability will not exceed the amount the Insurer could have been called upon to pay for Reinstatement if the property had been Destroyed.
- c) The Insurer's liability under this Extension in respect of any item of Insured Property will not exceed the Sum Insured in respect of that item.

#### Circumstances Where This Extension Does Not Apply

No payment, beyond the amount that would have been payable had this Extension not been incorporated in the Policy, will be made:

- a) if the Insured elects not to Reinstatement the Insured Property;
- b) if the work of Reinstatement is not commenced and carried out with reasonable despatch;
- c) until the cost of Reinstatement has been actually incurred;
- d) where a Building or structure is damaged, but not Destroyed, and the repair of the damage is not permissible by reason of any Regulations, or by reason of the condition of the Undamaged portion of the property.

Where, by reason of any of these circumstances, no payment is to be made beyond the amount that would have been payable if this Extension had not been incorporated in the Policy, the rights and liabilities of the Insured and the Insurers in respect of the Damage will be the same as if this Extension had not been incorporated in the Policy.

#### Rates, Tax and Other Charges

The amount payable under this Extension will not include the amount of any rate, tax, duty, development charge, or any other charge or assessment arising out of capital appreciation, that may be payable in respect of the Insured Property by reason of compliance with any Regulations.

#### Laptop Computers and Video Data Projectors – Age limitation

The Reinstatement of Property Extension, if otherwise applicable to the laptop computer or video data projector, will not apply to any such unit more than two years old as from the date upon which the unit was purchased as a new unit. Instead, claims will be settled on the basis of indemnity, being the cost of repairs or, where the unit cannot be economically repaired, the cost of replacement less a reasonable allowance for betterment.

### 21. Rewards

The cost of any reward paid by the Insured for the purpose of protecting or recovering any of the Insured Property. However:

- a) no payment will be made unless it contributes to the protection or recovery of the property;
- b) the terms of the reward are to be agreed by the Insurers prior to the reward being offered; and
- c) the Insurers' liability will not be deemed to be increased beyond the sum insured on the Insured Property.

The Insurers will not unreasonably refuse its agreement to the terms of a reward payable under this Extension.

### 22. Social Club Property

The property of any pension fund, social club, sports club, or similar entity, whose activities are principally for the benefit of the Insured's employees, as if it were owned by the Insured.

### 23. Subsidence

Notwithstanding Exclusion 8 in Section 1, Damage caused by the sudden and unforeseen subsidence of land beneath or adjacent to the Insured Property as the Premises. However,

this Extension does not apply to Damage consequent upon normal settling, shrinkage, or expansion of any building or its foundations.

Subject always to the sum insured on the Insured Property, the Insurers' liability under this Extension will not exceed the sub limit shown in the Schedule for any one loss or series of losses arising out of any one Event. The cover under this Extension is included within the Total Sum Insured.

The amount to be deducted from the loss will be the Deductible specified in the Schedule or \$5,000, whichever is the greater.

#### **24. Temporary Removal**

Damage to Insured Property (other than Stock) while temporarily removed from the Premises to a different location anywhere in the Territory, including while in transit to and from that location (but not international transit). The Insurers' liability under this Extension will not exceed the amount for which the Insurers would have been liable had the Damage occurred at the Insured Property's original location.

This Extension does not apply to Damage that would be recoverable under this insurance in the absence of this Extension.

#### **25. Theft**

Notwithstanding Exclusion 17, in Section 1, Damage caused by theft. The Insurers' liability under this Extension is subject to the sub limit and Deductible shown in the Schedule. The cover under this Extension is included within the Total Sum Insured. Where no limit is specified, cover is not provided under this Policy. This Extension does not apply to loss that would be recoverable under this insurance in the absence of the Extension.

#### **26. Transit (Limited Cover)**

Damage while in transit within the Territory, including transit between ports of the same country but not international transit, but only where the Damage is caused by fire, flood, or storm, or the collision, overturning, sinking or wrecking of the conveyance in which the Insured Property is being carried. The Insurer's liability under this Extension is subject to the sub limit shown in the Schedule. The cover under this Extension is included within the Total Sum Insured. Where no limit is specified, cover is not provided under this Policy. This Extension does not apply to Damage that would be recoverable under this insurance in the absence of the Extension.

#### **27. Transit (Full Cover)**

Damage while in transit within the Territory, including transit between ports of the same country but not international transit. The Insurer's liability under this Extension is subject to the sub limit shown in the Schedule. The cover under this Extension is included within the Total Sum Insured. Where no limit is specified, cover is not provided under this Policy. This Extension does not apply to Damage that would be recoverable under this insurance in the absence of the Extension.

#### **28. Unharmed Property**

If, for the sole purpose of reinstating Damaged Insured Property, it is necessary to demolish, Damage or remove any property or part unharmed by that peril, the Insurers will indemnify the Insured for the cost of doing so. The Insurers will also indemnify the Insured for the cost of reinstating the property or part to a condition the same as, but not better nor more extensive than, its condition immediately prior to the demolition, Damage or removal. Cover under this Extension will not be deemed to increase the Insurers' liability beyond the sum insured on the Damaged Insured Property.

## Section 2 – Business Interruption

If, during the Period of Insurance, any property or part used or to be used by or for the Insured at the Premises for the purpose of the Business is Damaged by:

- a) such perils as are covered under Section 1 of this Policy;
- b) explosion of any boiler or economiser or pipe or other vessel under fluid pressure;

and the Business carried on by the Insured at the Premises is consequently interrupted or interfered with; the Insurers will pay to the Insured in respect of each Item of Insured Interest the amount of financial loss resulting from the interruption or interference in accordance with the provisions of this insurance.

However, the Insurers will not be liable for any financial loss under this insurance unless the Insured's property, if Damaged at the Premises, is insured against the applicable Damage (financial loss arising out of Damage by explosion of any boiler or economiser or pipe or other vessel under fluid pressure excepted) and the Insurers of the Insured Property have (or would have, but for the application of an excess or Deductible) paid for or admitted liability in respect of the Damage.

The most the Insurers will pay in the aggregate under this Section 2 during the Period of Insurance is the sum insured stated in the Schedule for each Item of Insured Interested specified.

## Interests Insured Under Section 2

These Items shall only apply if specified with a Sum Insured in the Schedule to this Policy:

### ITEM A. Loss of Gross Profit

This insurance covers loss of Gross Profit due to (a) reduction in Turnover and (b) increase in cost of working and the amount payable as indemnity will be:

- a) **In Respect of Reduction in Turnover**  
the sum produced by applying the Rate of Gross Profit to the amount by which the Turnover during the Indemnity Period falls short of the Standard Turnover in consequence of Damage.
- b) **In Respect of Increase in Cost of Working**  
costs necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in Turnover that would otherwise have occurred during the Indemnity Period in consequence of Damage, but not exceeding the sum produced by applying the Rate of Gross Profit to the amount of the reduction thereby avoided;  
less any sum saved during the Indemnity Period in respect of such costs of the Business payable out of Gross Profit as may cease or be reduced in consequence of Damage.

### Definitions applicable to Item A. Loss of Gross Profit

**Gross Profit:** The amount by which the sum of the Turnover and closing Stock exceeds the sum of opening Stock and Uninsured Working Costs. The amount of the opening and closing Stocks is to be arrived at in accordance with the Insured's normal accountancy methods.

**Uninsured Working Costs:** All costs deducted by the Insured from Turnover in arriving at the sum to be insured on Gross Profit.

**Turnover:** The money paid or payable to the Insured for goods sold and delivered and for services rendered in the course of the Business at the Premises. For the avoidance of doubt, rent paid or payable to the Insured is deemed to be money paid or payable to the Insured for service in the course of the Business.

**Rate of Gross Profit:** The rate of Gross Profit earned on the Turnover during the financial year immediately before the date of the Damage to which such adjustments will be made as may be necessary to provide for the trend of the Business and for variations in or other circumstances affecting the Business either before or after the Damage or that would have affected the Business had the Damage not occurred so that the figures thus adjusted represent as nearly as reasonably practicable the results that, but for the Damage, would have been obtained during the relative period after the Damage.

**Standard Turnover:** The Turnover during that period in the twelve months immediately before the date of the Damage that corresponds with the Indemnity Period; Where the Damage has occurred before completion of the first year's trading of the Business, the words 'during the financial year immediately before the date of the Damage' are deemed to read 'during the period between the date of the commencement of the Business and the date of the Damage'. Where Damage occurs before sufficient Gross Profit or Turnover has been realised for the above definitions to produce an equitable result, the Rate of Gross Profit will be the rate of Gross Profit that would have been earned and the Standard Turnover will be the Turnover that would have been realised during the Indemnity Period had no Damage occurred.

### **Provisions (Gross Profit) applicable to Item A. Gross Profit**

**a) Alternative Trading**

If, during the Indemnity Period, goods are sold or services are rendered elsewhere than at the Premises for the benefit of the Business, either by the Insured or by others on behalf of the Insured, the money paid or payable in respect of those sales or services will be brought into account in arriving at the Turnover during the Indemnity Period.

**b) Departments**

If the Business is conducted in departments or other units, the independent trading results of which are ascertainable, the provisions of Gross Profit clauses a) and b) will apply separately to each department or other unit affected by the Damage.

**c) Reduced Margin**

If, in consequence of Damage giving rise to a claim on this insurance, Turnover is maintained at a reduced Rate of Gross Profit, an equitable allowance will be made for the loss of Gross Profit resulting from an increase in the ratio of Stock usage or purchases (adjusted for Stock variation) to Turnover. No allowance will be made for an increase in the ratio of any other uninsured cost to Turnover.

**d) Uninsured Fixed Costs**

If any fixed costs of the Business are not insured by this Policy (having been deducted in arriving at the Gross Profit), then, in computing the amount payable as increase in cost of working, that proportion only of any additional cost will be

brought into account that the Gross Profit bears to the sum of the Gross Profit and those uninsured fixed costs.

#### **ITEM B. Loss of Revenue**

This insurance covers loss of Gross Revenue and increase in cost of working and the amount payable as indemnity will be:

a) **In Respect of Loss of Gross Revenue**

The amount by which the loss of Gross Revenue during the Indemnity Period falls short, in consequence of Damage, of the loss of Gross Revenue that would have been earned during that period had no Damage occurred;

b) **In Respect of Increase in Cost of Working**

any additional cost incurred for the sole purpose of avoiding or diminishing the loss of Gross Revenue that would have taken place during the Indemnity Period in consequence of Damage had the cost not been incurred, but not exceeding the amount by which the loss of Gross Revenue is thereby avoided or diminished; less any sum saved during the Indemnity Period in respect of such costs of the Business payable out of Gross Revenue as may cease or be reduced in consequence of Damage.

#### **Definitions applicable to Item B. Loss of Gross Revenue**

**'Gross Revenue'** means the money paid or payable to the Insured for services rendered in the course of the Business at the Premises, including any money paid or payable by tenants to others for rates, insurance and other fixed costs that would otherwise be payable by the Insured.

**'Rate of Gross Revenue':** The rate of Gross Revenue earned during the financial year immediately before the date of the Damage to which such adjustments will be made as may be necessary to provide for the trend of the Business and for variations in or other circumstances affecting the Business either before or after the Damage or that would have affected the Business had the Damage not occurred so that the figures thus adjusted represent as nearly as reasonably practicable the results that, but for the Damage, would have been obtained during the relative period after the Damage.

**'Standard Gross Revenue'** shall mean the anticipated total amount of Revenue due to the Insured at the commencement of the Period of Insurance which amount shall be adjusted as necessary to take account of any circumstances affecting the Business such that the amount so adjusted represents as nearly as may be reasonably practicable the results that would have been obtained had the Business not been interrupted or interfered with.

Where the Damage has occurred before completion of the first year's trading of the Business, the words 'during the financial year immediately before the date of the Damage' are deemed to read 'during the period between the date of the commencement of the Business and the date of the Damage'.

Where Damage occurs before sufficient Revenue has been realised for the above definitions to produce an equitable result, the rate of Gross Revenue will be the Rate of Gross Revenue that would have been earned and the Standard Gross Revenue will be the Gross Revenue that would have been realised during the Indemnity Period had no Damage occurred.

#### **Alternative Services**

If, during the Indemnity Period, services are rendered elsewhere than at the Premises for the benefit of the Business, either by the Insured or by others on behalf of the Insured, the money paid or payable in respect of those services will be brought into account in arriving at the loss of Gross Revenue during the Indemnity Period.

#### **ITEM C. Loss of Rental Income**

This insurance covers loss of Rental Income and increase in cost of working and the amount payable as indemnity will be:

a) **In Respect of Rental Income**

The amount by which the Rental Income during the Indemnity Period falls short, in consequence of Damage, of the Rental Income that would have been earned during that period had no Damage occurred;

b) **In Respect of Increase in Cost of Working**

any additional cost incurred for the sole purpose of avoiding or diminishing the loss of Rental Income that would have taken place during the Indemnity Period in consequence of Damage had the cost not been incurred, but not exceeding the amount by which the loss of Rental Income is thereby avoided or diminished; less any sum saved during the Indemnity Period in respect of such costs of the Business payable out of Rental Income as may cease or be reduced in consequence of Damage.

#### **Definitions applicable to Item C. Loss of Rental Income**

**'Rental Income'** means the money paid or payable to the Insured for services rendered in the course of the Business at the Premises, including any money paid or payable by tenants to others for rates, insurance and other fixed costs that would otherwise be payable by the Insured.

**'Rate of Gross Rental Income':** The rate of Gross Rental Income earned during the financial year immediately before the date of the Damage to which such adjustments will be made as may be necessary to provide for the trend of the Business and for variations in or other circumstances affecting the Business either before or after the Damage or that would have affected the Business had the Damage not occurred so that the figures thus adjusted represent as nearly as reasonably practicable the results that, but for the Damage, would have been obtained during the relative period after the Damage.

**'Standard Gross Rental Income'** shall mean the anticipated total amount of Rental Income due to the Insured at the commencement of the Period of Insurance which amount shall be adjusted as necessary to take account of any circumstances affecting the Business such that the amount so adjusted represents as nearly as may be reasonably practicable the results that would have been obtained had the Business not been interrupted or interfered with.

Where the Damage has occurred before completion of the first year's trading of the Business, the words 'during the financial year immediately before the date of the Damage' are deemed to read 'during the period between the date of the commencement of the Business and the date of the Damage'.

Where Damage occurs before sufficient Rental Income has been realised for the above definitions to produce an equitable result, the Rate of Gross Rental Income will be the rate of Gross Rental Income that would have been earned and the

Standard Gross Rental Income will be the Gross Rental Income that would have been realised during the Indemnity Period had no Damage occurred.

**Alternative Services**

If, during the Indemnity Period, services are rendered elsewhere than at the Premises for the benefit of the Business, either by the Insured or by others on behalf of the Insured, the money paid or payable in respect of those services will be brought into account in arriving at the loss of Rental Income during the Indemnity Period.

**ITEM D. Wages (Dual Basis)**

This insurance covers financial loss in respect of Wages due to a) reduction in Turnover and b) increase in cost of working and the amount payable as indemnity will be:

a) **In Respect of Reduction in Turnover**

- i. during the portion of the Indemnity Period beginning with the occurrence of the Damage and continuing for not more than the Initial Period stated in the Schedule, the sum produced by applying the Rate of Wages to the Shortage in Turnover during that portion of the Indemnity Period less any saving, during that portion of the Indemnity Period, through reduction in consequence of the Damage in the amount of Wages paid;
- ii. during the remaining portion of the Indemnity Period, the sum produced by applying the Rate of Wages to the Shortage in Turnover during that remaining portion of the Indemnity Period less any saving during that remaining portion of the Indemnity Period through reduction, in consequence of the Damage, in the amount of Wages Paid;

but not exceeding the sum produced by applying the percentage, stated in the Schedule, of the Rate of Wages to the Shortage in Turnover during that remaining portion of the Indemnity Period, increased by such amount as is deducted for savings under the terms of Clause 1)a)i).

NOTE: At the option of the Insured, the number of weeks referred to in Clause a) i. above may be increased to the consolidated number of weeks stated in the Schedule, provided that the amount arrived at under the provisions of Clause a) ii. will not exceed such amount as is deducted under Clause a) i. for savings affected during the increased number of weeks.

b) **In Respect of Increase in Cost of Working**

so much of the additional expenditure described in Clause (b) of the Loss of Gross Profit Item as exceeds the amount payable under that Item but not more than the additional amount that would have been payable in respect of Shortage in Turnover under the provision of Clauses a) i. and ii. of this item had such expenditure not been incurred.

**Definitions applicable to Specification D. Wages (Dual Basis)**

**‘Wages’:** The remuneration (including all payments pertaining to wages, such as accident compensation levies, bonuses, holiday pay, superannuation contributions and the like) of all employees other than those where remuneration is treated as salaries in the Insured's accounting records.

**'Rate of Wages':** The rate of Wages to Turnover during the financial year immediately before the date of the Damage, to which such adjustments will be made as may be necessary to provide for the trend of the Business and for variations in or other circumstances affecting the Business, either before or after the Damage or that would have affected the Business had the Damage not occurred, so that the figures thus adjusted will represent as nearly as reasonably practicable the results that, but for the Damage, would have been obtained during the relative period after the Damage.

**'Shortage in Turnover':** The amount by which the Turnover during a period, in consequence of the Damage, falls short of the part of the Standard Turnover that relates to that period.

Where the Damage has occurred before completion of the first year's trading of the Business, the words 'during the financial year immediately before the date of the Damage' are deemed to read 'during the period between the date of the commencement of the Business and the date of the Damage'.

Where Damage occurs before sufficient Wages have been paid for the above definition to produce an equitable result, the Rate of Wages will be the Rate of Wages that would have applied during the Indemnity Period had no Damage occurred.

**Turnover:** The money paid or payable to the Insured for goods sold and delivered and for services rendered in the course of the Business at the Premises. For the avoidance of doubt, rent paid or payable to the Insured is deemed to be money paid or payable to the Insured for service in the course of the Business.

#### ITEM E. Wages – Limited Period Basis

The Insurance under this Item on the Schedule is limited to the financial loss incurred by the Insured by the payment of Wages for a period beginning with the occurrence of the Damage and ending not later than the number of weeks thereafter described in the Schedule as the Limited Period.

The amount payable as indemnity under this Item shall be the actual amount which the Insured shall pay as Wages for such period to employees whose services cannot in consequence of the Damage be utilised by the Insured at all and an equitable part of the Wages paid for such period to employees whose services cannot in consequence of the Damage be utilised by the Insured to the full,

PROVIDED THAT,

if the Sum Insured by this Item shall be less than the aggregate amount of the Wages that would have been paid during the number of weeks described in the Schedule as the Limited Period immediately following the Damage had the Damage not occurred, the amount payable shall be proportionately reduced.

#### **Definitions applicable to Specification E. Wages (Limited Period Basis)**

For the purpose of this Item

**Wages:** shall mean the remuneration (including National Insurance Contributions, Payments pertaining to Wages, Bonuses, Holiday Pay and the like) of all employees other than those whose remuneration is insured as part of a different Item of the Schedule.

**Limited Period:** shall mean the payment of Wages for a period beginning with the occurrence of the Damage and ending not later than the number of weeks as stated in the Schedule

#### **Adjustment of Premium**

In the event of the Sum Insured under this Item being greater than the amount arrived at by, taking that proportion of the Wages paid by the Insured during the accounting period most nearly concurrent with any period of Insurance which the Limited Period specified in the Schedule bears to 52 weeks, a pro rata return of premium not exceeding 50 per cent. of the premium paid on such Sum Insured for such period of Insurance will be made in respect of the difference,  
PROVIDED THAT,  
if any Damage shall have occurred giving rise to a claim under this Item, no such return of premium shall be made.

#### **ITEM F. Professional and Other Fees**

This insurance covers the actual costs incurred by the Insured, of reasonable fees payable to the Insured's accountants, auditors, or other professionals and the cost of using the Insured's employees, for producing and certifying any particulars or details contained in the Insured's books or documents, or such other proofs, information or evidence required by the Insurers resulting from an insured loss payable under this Policy for which the Insurers have accepted liability.

#### **ITEM G. Additional Costs**

This insurance covers additional costs reasonably incurred by the Insured in consequence of the Damage for the purpose of resuming or maintaining any normal operation or service of the Business during the Indemnity Period, but excluding costs:

- a) to the extent the costs are otherwise recoverable under this Section of the Policy;  
or
- b) incurred in the reinstatement of physically damaged property other than those incurred in the reconstitution of records.

#### **ITEM H. Book Debts**

This insurance covers financial loss sustained by the Insured in respect of outstanding debit balances that remain outstanding directly due to Damage and the amount payable will be:

- a) the difference between the outstanding debit balance and the total of the amounts received or traced in respect of that balance; and
- b) the additional cost incurred with the Insurers' prior consent in tracing and establishing customer's debit balances after the Damage.

## **Extensions to Section 2**

In the event of any conflict or inconsistency between this Section of the Policy and any Extensions incorporated in this Section, the terms of the Extension will prevail. In the event of any conflict or inconsistency between Extensions, the Extension most favourable to the Insured will prevail. Unless stated otherwise all Extensions below are included in the sum insured on the Insured Item and not in addition.

### **This insurance extends to cover**

#### **1. Advance Interruption**

For the purpose of claims arising from Damage to property in the course of construction, erection, alteration, installation or testing (and the materials, components and works pertaining to any of them), the Indemnity Period will begin on the date that the property would, but for the Damage, have been put in to use for the purpose of the Business, and not

as otherwise stated. The insurance by this Extension shall only apply if such work is covered under Extension 5 of Section 1 of this Policy.

## 2. Customers and Suppliers

Financial loss consequent upon Damage to any property whatsoever at the premises of direct suppliers or direct customers anywhere in New Zealand, or at any port installation, railway premises or airport in New Zealand, as if it were financial loss resulting from Damage to property used by the Insured at the Premises.

In respect of financial loss resulting from Damage described above, the Indemnity Period will commence 48 hours after the financial loss to which this insurance applies has commenced in consequence of the Damage and not as otherwise stated.

The Company's liability under this Memorandum is limited to 10% of the sum insured for Gross Profit, Revenue, Wages, Claim Preparation Costs, Additional Costs and Book Debts to the extent any of these Items applies. This Memorandum does not apply to financial loss that would fall within the scope of this insurance in the absence of the Memorandum.

## 3. Indemnity Period Deferment

The Insured may elect to defer the start of the Indemnity Period after Damage occurs subject to:

- a. the Insured notifying the Insurers within 90 days, in writing or by electronic means, of the Damage occurring of the intention to defer the commencement of the Indemnity Period, and
- b. the deferred Indemnity Period must start:
  - (i) no later than the number of months specified in the Schedule as the 'Indemnity Period', or
  - (ii) within 12 months of the date the Damage occurred, whichever is the earlier, otherwise this option to defer the Indemnity Period expires, and
- c. the Indemnity Period cannot be deferred if the Insurers have already paid a claim under any 'Insured Item' of Section 2 of this policy (other than for Rewriting of Records, or Claims Preparation Costs covered under Section 1 of this policy) resulting from that Damage.

Should the Insured elect to defer commencement of the Indemnity Period as described above, then:

- A. The Insured must notify the Insurers of the actual date on which the Insured elects the Indemnity Period to start as soon as possible, but no later than 30 days, in writing or by electronic means, after that actual date, and
- B. When calculating the Insured's claim under all 'Insured Items', the Insurers will make allowance for adjustments that are necessary to provide for:
  - a. the trend of the Insured's Business operations, and
  - b. variations in the Insured's Business operations, and
  - c. other circumstances affecting the Insured's Business operations, that:
    - (i) occur before or after the start of the Indemnity Period, or
    - (ii) would have affected the Insured's Business operations had the Damage not occurred, so that the final adjusted figures should represent, as close as is reasonably practicable, the results that would have been achieved during the Indemnity Period but for the Damage.

## 4. Murder, Suicide and Disease

Financial loss consequent upon any of the following as if it were loss consequent upon Damage to property used by the Insured at the Premises:

- a) murder or suicide or disease at the Premises (but this extension does not apply in respect of any Notifiable Infectious Diseases under the Health Act 1956 – including

- any others that may be added from time to time – including the threat thereof occurring at the Premises);
- b) bodily injury or illness sustained by any guest arising from or traceable to foreign or injurious matter in food or drink on the Premises, or
  - c) closing of the whole or part of the Premises by order of a competent public authority consequent upon defects in the drains and other sanitary arrangements at the Premises:

For the purpose of insurance under this Extension, the Indemnity Period will commence 24 hours after commencement of the financial loss and not as otherwise stated.

The Insurer's liability under this Extension is limited to 10% of the Sum Insured on Gross Profit or \$250,000, whichever is the lesser.

#### **5. Prevention of Access**

Financial loss consequent upon Damage or threat of Damage to any property within a one kilometre radius of the Premises that prevents or hinders the use of or access to the Premises will be deemed to be financial loss resulting from Damage to property used by the Insured at the Premises.

For the purpose of any claim under this Extension, the Indemnity Period will commence 48 hours after the financial loss to which this insurance applies has commenced in consequence of the Damage, and not as otherwise stated.

The Insurer's liability under this Extension in respect of any one loss or series of losses arising out of any one Event is limited to 10% of the Sum Insured for each specific insured item that applies.

#### **6. Property in Transit**

For the purpose of this insurance:

- a) if the Insured's Material Damage policy covering property used by the Insured for the purpose of the Business includes cover on any of the Insured Property while it is in transit; and
- b) if, in consequence of Damage to that Insured Property in transit, the Business carried on by the Insured at the Premises is interrupted or interfered with, the Damage will be deemed to have occurred at the Premises.

#### **7. Public Authorities**

Financial loss if an order of a Public Authority prohibits or hinders the use of or access to the Premises consequent upon Damage to any property (whether the property is at the Premises or elsewhere within one kilometre of the Premises and whether or not the property is used or to be used by the Insured for the purpose of the Business) as if it were financial loss consequent upon Damage to property used by the Insured at the Premises.

This Extension does not apply to financial loss that falls within the scope of any other Extensions incorporated in this Section of the Policy.

The Insurers' liability under this Extension in respect of any one loss or series of losses arising out of any one Event is limited to 10% of the Sum Insured for each specific insured item that applies.

#### **8. Utilities**

Financial loss consequent upon any of the following as if it were financial loss consequent upon Damage to Insured Property used by the Insured at the Premises:

- a) Damage to the property of any supplier of electricity, gas or water anywhere in New Zealand (other than works comprising the Maui or Kapuni gas installations) resulting in interruption to or interference with the supply of electricity, gas or water to the Premises; or
- b) Damage to the property of any public authority in New Zealand resulting in interruption to or interference with the discharge of effluent from the Premises.

For the purpose of any claim under this Memorandum, the Indemnity Period will commence 48 hours after the financial loss to which this insurance applies has commenced in consequence of the Damage, and not as otherwise stated.

The Insurer's liability under this Extension in respect of any one loss or series of losses arising out of any one Event is limited to 10% of the Sum Insured for each specific insured item of Gross Profit, Revenue, Wages, Claim Preparation Costs, Additional Costs or Book Debts that applies.

## Conditions to Section 2

### 1. Accumulated Stocks

In adjusting any financial loss, account will be taken, and an equitable allowance made, if any shortage in Turnover due to the Damage is postponed by reason of the Turnover being temporarily maintained from accumulated stocks of goods held by the Insured.

### 2. Adjustment of Premium

The premium charged for this insurance is adjustable at the end of the Period of Insurance in accordance with the following conditions:

- a) Within six months after the end of the Period of Insurance, or as soon as practicable thereafter, the Insured must submit to the Insurers a Policy setting out the actual Gross Profit or Revenue (and, if separately insured, the actual Wages) in the accounting year most nearly concurrent with the Period of Insurance.
- b) The premium will be adjusted at the agreed rates on the amounts so certified.
- c) If any claim occurs during the period for which the premium is to be adjusted, the amount paid or payable for financial loss (other than financial loss payable under a non-adjustable item) occurring during that period will be regarded as actually earned.

### 3. Alternative Index

A claim on this insurance will be adjusted on the basis of Turnover or any other index of business activity, whichever affords the more equitable result. Except in the definition of **'Turnover'**, the word 'Turnover' wherever used in this Policy is understood to mean 'Turnover or Alternative Index'.

### 4. Claims

Upon becoming aware of the happening of any Damage, the Insured must;

- a) forthwith give notice thereof in writing to the Insurers;
- b) use due diligence and do and concur in doing all things reasonably practicable to minimise any interruption of or interference with the Business and to avoid or diminish the financial loss;
- c) forthwith deliver to the Insurers a statement in writing of any claim certified by the Accountant, whose reasonable fee will be paid by the Insurers, with all particulars and details reasonably practicable of the financial loss;
- d) produce and furnish all books of account and other business books, invoices, vouchers and other documents, proofs, information, explanations and other evidence and facilities as may reasonably be required for investigation and verification of the claim and, if required, a statutory declaration in verification of the particulars.

The term **'Accountant'** under this condition means an accountant or adjuster whose qualifications are acceptable to both the Insurer(s) and the Insured and is appointed by both the Insurer(s) and Insured.

### 5. Departments

If the Business is conducted in departments or other units, the independent trading results of which are ascertainable, the provisions of clauses (a) and (b) of the Gross Profit Item (and, if separately insured, of the item on Wages) will apply separately to each department or other unit affected by the Damage.

### 6. Increased Costs – Joint Insured's

Where, for the purpose of avoiding or diminishing a reduction in Turnover, goods or services are purchased from a party jointly insured under this Policy, the reasonable full price of such

goods or services (less any discount normally allowed) will be taken into account for the purpose of adjusting a claim, as though the goods or services were purchased during the course of normal Business.

**7. Progress Claim Payments**

Progress claim payments will be made to the Insured during the Indemnity Period if desired on production of a statement of claim certified by the Accountant appointed in accordance with the Claims conditions of this insurance.

**8. Winding Up or Cessation of Interest**

This Section 2 will be void if, for any reason other than Damage:

- a) the Business is wound up or carried on by a liquidator or receiver or is permanently discontinued; or
  - b) the Insured's interest ceases otherwise than by death;
- at any time during the Period of Insurance, unless its continuance is agreed by the Insurers.

## General Conditions Applicable To Sections 1 and 2

### 1. Innocent Breach of Warranty or Condition

This Insurance will not be invalidated by breach of any warranty or condition where the breach occurs without the Insured's knowledge, providing the Insurers are advised of the circumstances immediately they become known to the Insured. For the purpose of this condition, knowledge of the Insured is deemed to mean knowledge of the Insured's Insurance Manager (or equivalent).

### 2. Cancellation by the Insurers

This Policy may be cancelled by the Insurers at any time by giving written notice to the Insured. The notice may be delivered personally, posted, or by electronic delivery, to the Insured's last known postal, or electronic delivery address (or the address of their appointed Insurance Broker or Agent). The cancellation will take effect at 4 pm on the 30th day after the notice has been delivered or posted. In the event of such cancellation, the Insurers will refund to the Insured a pro-rata proportion of the premium, subject to any adjustment required by the terms of this Policy.

### 3. Cancellation by the Insured

This Policy may be cancelled by the Insured at any time, and with immediate effect, by written notice delivered to the Insurers. In the event of such cancellation, the Insurers will be entitled to a pro-rata proportion of the premium (subject to any adjustment required by the terms of this Policy) for the time during which the Policy has been in force.

### 4. Deductible

Each loss or series of losses arising out of one Event will be adjusted separately. The adjusted loss will be net of salvage and other recoveries. From each adjusted loss the amount specified in the Schedule will be deducted.

Where more than one deductible could apply to the same loss, only the highest of them will be deducted from that loss.

### 5. Diligence and Compliance

The Insured must make reasonable endeavours to ensure:

- a) that all fire protection and security devices in the Insured's control at Premises where Insured Property is located are maintained in working condition at all times;
- b) compliance with relevant government and local authority laws and regulations, including but not limited any law or regulation relating to the storage of dangerous goods and smoking in the workplace.

### 6. Disclaimers and Release of Liability

This insurance will not be invalidated by reason of the Insured having released:

- a) any fire brigade or firefighting authority;
- b) any fire protection equipment supplier;
- c) any oil company;
- d) any government authority;

from liability for loss that is covered by this Policy.

Further, this insurance will not be invalidated by reason of the Insured having agreed to a disclaimer clause in any contract entered into by the Insured for:

- a) the storage of goods; or
- b) the leasing of property;

whether or not the disclaimer has been disclosed to the Insurers.

#### **7. Fraud**

If any claim is in any respect fraudulent or if any false declaration is made or used in support of any claim, or if any fraudulent means or devices are used by the Insured or anyone acting on behalf of the Insured to obtain any benefit under this Policy in respect of the claim, all benefit under this Policy will be forfeited.

#### **8. Goods and Services Tax**

Where the Insured is liable to pay GST on receiving any indemnity payment under this Policy, the Insurers will reimburse the Insured for the cost of that tax. The reimbursement will be made in addition to the indemnity otherwise payable and will not be subject to any Sum Insured or other limit of the Insurers liability. For the purposes of this clause "GST" means tax payable under section 5 (13) of the Goods and Services Tax Act 1985, or under any statutory amendment to or re-enactment of the Section or Act.

#### **9. Landlord**

Where the Insured is a landlord of a property with any tenants, the Insured must advise the tenants when they are required to comply with any specific Policy Conditions or specific Warranties.

#### **10. Mis-description**

This insurance will not be prejudiced by:

- a) any innocent alteration or inadvertent mis-description of property or occupancy;
- b) any act of the occupier whereby the risk of Damage to property not in the occupation of the Insured is increased without the authority or knowledge of the Insured;

provided that notice is given to the Insurers immediately the Insured's Insurance Manager (or equivalent) becomes aware of any of the above happenings. The Insured agrees to pay an appropriate additional premium if required.

#### **11. Mutually Acceptable Adjusters**

Where the Insurers wish to appoint any loss adjuster or assessor in respect of any claim on this insurance, the appointee must be mutually acceptable to the Insurer and the Insured.

#### **12. Observance**

The due observance and fulfilment of the terms of this Policy in so far as they relate to anything to be done or complied with by the Insured, and the truth of statements made, are conditions precedent to any liability of the Insurers to provide indemnity under this Policy.

#### **13. Other Insurance**

If, at the time of any claim arising under this insurance, there is any other valid and collectable insurance covering all or part of the same Damage or financial loss:

- a) the amount payable under the other insurance will be determined as though this insurance did not exist; and
- b) this insurance will only apply to any loss in excess of either;
  - i. the amount payable under the other insurance; or
  - ii. the amount of any Deductible applicable to this insurance;

whichever is the greater.

#### **14. Recovery Apportionment**

If the Insurer, having exercised its right of subrogation, recovers any part or all of a loss in respect of which a claim has been paid or is payable under this Policy, the amount so recovered will be apportioned as follows:

- a) The Insured will be fully reimbursed for the uninsured portion of the loss, excluding that portion of the loss uninsured by reason of a Deductible.
- b) Any remaining balance will be apportioned between the Insured and the Insurer in the ratio of their respective losses; the loss to the Insured being that portion of the loss that is uninsured by reason of any Deductible, and the loss to the Insurer being the amount of its actual payment under the Policy.

The costs of all recovery proceedings will be apportioned in the ratio of respective recoveries. If no recovery is made, proceedings conducted solely by the Insurer will be at its own expense.

Notwithstanding anything to the contrary in the Deductible clause of this Policy, no account is to be taken of subrogated recoveries in determining the amount of adjusted loss to which the Deductible applies.

#### **15. Reinstatement of Sum Insured**

In the event of loss for which a claim is payable under this Policy, and in the absence of written notice by the Insurers or the Insured to the contrary, the amount of insurance reduced by the loss will be automatically reinstated but only when the lost or destroyed Insured Property has been replaced. Where Insured Property is damaged, reinstatement of the amount of the insurance reduced by the loss will only occur as and when repairs have been completed, and only to the extent of the value of those completed repairs. The Insured undertakes to pay such pro rata premium at the rate applicable to the item or items or insured property concerned as may be required for the reinstatement.

#### **16. Renewal Terms**

If the Insurers intend to refuse renewal of this Policy, or to offer renewal on any terms less favourable to the Insured than those applying during the current Period of Insurance, the Insurers will give the Insured notice of that intention. The notice must be received by the Insured not less than 30 days before the expiry of the current Period of Insurance. If the notice is not received by that time, the Insurers will, if so required by the Insured, extend the current Period of Insurance so that it will expire not less than 30 days after the notice is received by the Insured. The Insured undertakes to pay a pro rata proportion of the annual premium for the period of any such extension.

#### **17. Subrogation**

Where, upon accepting liability for a claim under this Policy, the Insurers are entitled to become subrogated to the Insured's right of recovery or indemnity from any other person or corporation, the Insured must, at the Insurers' expense, do and concur in doing and permit to be done anything reasonably required by the Insurers for the purpose of enforcing that right. The Insured must comply with this condition when required, whether before or after having been indemnified by the Insurers.

#### **18. Vacancy Clause**

In the event that the Insured becomes aware that the Insured Property might become vacant or unoccupied and remain so for more than 60 (sixty) days the Insured shall notify the Insurers of such vacancy or unoccupancy. The Insurers may agree to continue with the Insurance cover at amended terms and conditions, such amendment taking immediate effect.

#### **19. Waiver of Recovery Rights**

Where the Insured is a parent or subsidiary in a group of related companies, this insurance will not be invalidated by reason of the Insured waiving or having waived any right of recovery it may have against any other company in the same group. 'Subsidiary company means a company, more than half the nominal value of whose equity share capital is owned by a parent company either directly or through other subsidiaries; and a group of related companies means a group of companies related to one another by virtue of such ownership.

This insurance will not be invalidated if the Insured, by agreement, waives right of recovery or indemnity from any party (other than a related company as provided for above in respect of loss or damage insured by this Policy, provided that the waiver is made prior to the occurrence of financial loss or Damage.

## General Exclusions Applicable To Sections 1 and 2

### 1. Antiques, Curiosities and Art

This insurance does not cover any one antique, curiosity or work of art whose value exceeds the amount specified in the Schedule.

### 2. Explosives

This insurance does not cover explosives, being any material designed to explode with the object of causing Damage for commercial or military purposes.

### 3. LMA3100 Sanctions Limitation And Exclusion Clause

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolution or the trade or economic sanctions, laws or regulation of the European Union, United Kingdom or United States of America.

### 4. LMA 5018 Micro-organism Exclusion (Absolute)

This Policy does not insure any loss, Damage, claim, cost, expense or other sum directly or indirectly arising out of or relating to:

mould, mildew, fungus, spores or other micro-organism of any type, nature, or description, including but not limited to any substance whose presence poses an actual or potential threat to human.

This Exclusion applies regardless whether there is

- a) Damage to Insured Property;
- b) any insured peril or cause, whether or not contributing concurrently or in any sequence;
- c) any loss of use, occupancy, or functionality; or
- d) any action required, including but not limited to repair, replacement, removal, cleanup, abatement, disposal, relocation, or steps taken to address medical or legal concerns.

This Exclusion replaces and supersedes any provision in the Policy that provides insurance, in whole or in part, for these matters.

### 5. Money

This insurance does not cover Money. However, this Exclusion shall not apply to any such property for which a Special Limit is specified in the Schedule.

### 6. NMA 464 War and Civil War Exclusion Clause

(Approved by Lloyd's Insurers' Non-Marine Association)

Notwithstanding anything to the contrary contained herein this Policy does not cover loss, Damage, claim, cost, expense or other sum 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.

## 7. NMA2915 Electronic Data Endorsement B

### Electronic Data Exclusion

Notwithstanding any provision to the contrary within the Policy or any endorsement thereto, it is understood and agreed as follows:

- a) This Policy does not insure loss, Damage, destruction, distortion, erasure, corruption or alteration of Electronic Data from any cause whatsoever (including but not limited to Computer Virus) or loss of use, reduction in functionality, cost, expense of whatsoever nature resulting there from, regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

Electronic Data means facts, concepts and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.

Computer Virus means a set of corrupting, harmful or otherwise unauthorised instructions or code including a set of maliciously introduced unauthorised instructions or code, programmatic or otherwise, that propagate themselves through a computer system or network of whatsoever nature. Computer Virus includes but is not limited to 'Trojan Horses', 'worms' and 'time or logic bombs'.

- b) However, in the event that a peril listed below results from any of the matters described in paragraph a) above, this Policy, subject to all its terms, conditions and exclusions, will cover physical Damage occurring during the Policy period to property insured by this Policy directly caused by such listed peril.

#### Listed Perils:

Fire  
Explosion

### Electronic Data Processing Media Valuation

Notwithstanding any provision to the contrary within the Policy or any endorsement thereto, it is understood and agreed as follows:

Should electronic data processing media insured by this Policy suffer Damage insured by this Policy, and then the basis of valuation shall be the cost of the blank media plus the costs of copying the Electronic Data from back-up or from originals of a previous generation. These costs will not include research and engineering or any costs of recreating, gathering or assembling such Electronic Data. If the media is not repaired, replaced or restored the basis of valuation shall be the cost of the blank media. However this Policy does not insure any amount pertaining to the value of such Electronic Data to the Insured or any other party, even if such Electronic Data cannot be recreated, gathered or assembled.

## 8. NMA 2920 Terrorism Exclusion Endorsement

Notwithstanding any provision to the contrary within this Policy or any endorsement thereto it is agreed that this Policy excludes loss, Damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from 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.

For the purpose of this Exclusion an Act of Terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This Exclusion also excludes loss, Damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any Act of Terrorism.

If the Insurer(s) allege that by reason of this Exclusion, any loss, Damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Insured.

In the event any portion of this Exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

#### **9. NMA 2962 Biological or Chemical Materials Exclusion**

It is agreed that this Policy excludes loss, Damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence thereto.

#### **10. Property**

This insurance does not cover any of the following property unless it is specified in the Schedule:

Any standing timber, growing crop, livestock, dam, canal, tunnel, bridge (other than a bridge on the Insured's premises), dock, pier, wharf, mining property located beneath the surface of the ground, or any land, including but not limited to topsoil and backfill.

#### **11. Radioactive Contamination and Explosive Nuclear Assemblies**

This insurance does not cover:

- a) loss or destruction of or Damage to any property whatsoever or any loss or expense whatsoever resulting or arising there from or any consequential loss, or
- b) any legal liability of whatsoever nature

directly or indirectly caused by or contributed to by or arising from:

- i. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel.
- ii. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

#### **12. Riot, Civil Commotion and Industrial Dispute**

This insurance does not cover loss, Damage, claim, cost, expense or other sum caused directly by:

- a) partial or total cessation of work; or
- b) delay, interruption or cessation of any process;

consequent upon any riot, civil commotion or industrial dispute.

#### **13. Settling, Shrinkage or Expansion**

This insurance does not cover loss, Damage, claim, cost, expense or other sum directly caused by or resulting from normal settling, shrinking or expansion of buildings, foundations, walls, pavements, roads, or any other structural improvement. However, this Exclusion does not apply to Damage arising from an ensuing cause not otherwise excluded.

#### **14. Transit**

This insurance does not cover property in transit other than at Premises owned or occupied by the Insured.

**15. Vehicles**

This insurance does not cover any kind of motor vehicle or trailer or their accessories while in or on either of them. However, this Exclusion does not apply to any mobile plant used in and around the Insured's premises unless the plant is insured under a policy of Motor Vehicle insurance.

**16. Watercraft and Aircraft**

This insurance does not cover any kind of watercraft or aircraft, or accessories while in or on any of them. However, this Exclusion does not apply to stock of the Insured's business.

**17. Weather Conditions**

In respect of the property or part immediately affected this insurance does not cover Damage directly caused by exposure to weather conditions where the property is not normally left in the open unless reasonable precautions have been taken to protect the property from those conditions.

## Endorsements

**The insurance provided by this Policy is endorsed as follows:**

### Australian Locations

In respect of any locations insured hereunder location in the Commonwealth of Australia:

- a) Exclusions to Section 1 are extended to include:

#### **Flood Exclusion Australia**

In respect of any assets in Australia physical loss, destruction or damage occasioned by or happening through: -

- a) flood, which shall mean the inundation of normally dry land by water overflowing from the normal confines of any natural watercourse or lake (whether or not altered or modified), reservoir, canal or dam.
- b) water from or action by the sea, tidal wave or high water. Provided that Perils Exclusions 19 (a) and 19 (b) shall not apply if loss, destruction or damage is caused by or arises out of an earthquake or seismological disturbance

- b) Extensions to Section 1 are extended to include:

#### **Australian Terrorism Insurance Act 2003 Notice NMA 2984**

The Underwriters have treated this Insurance (or part of it) as an Insurance to which the Australia Terrorism Insurance Act 2003 (ATIA) applies.

**ATIA and the supporting regulations made under the Act deem cover into certain policies and provide that the Terrorism exclusion to which this Insurance is subject shall not apply to any “eligible terrorism losses” as defined in ATIA.**

Any coverage established by ATIA is only in respect of any “eligible terrorism loss” resulting from a “terrorist act” which is a “declared terrorist incident” as defined in ATIA. The Terrorism exclusion to which this Insurance is subject applies in full force and effect to any other loss and any act or event that is not a “declared terrorist incident.”

All other terms, conditions, insured coverage and exclusions of this Insurance including applicable limits and deductibles remain unchanged.

If any or all of the Underwriters have reinsured this Insurance with the Australian Reinsurance Pool Corporation, then any such Underwriters will not be liable for any amounts for which they are not responsible under the terms of ATIA due to the application of a “reduction percentage” as defined in ATIA which results in a cap on the Underwriter’s liability for payment for “eligible terrorism losses”.

The Laws of new Zealand continue to govern this Policy and any disputes arising out of this Policy are still subject to the exclusive jurisdiction of the courts of New Zealand.

# Contact Us

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