

**F|M|ROmniPack**

Fraser Macandrew Ryan

**MATERIAL DAMAGE**

**&**

**BUSINESS**

**INTERRUPTION POLICY**

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# MATERIAL DAMAGE & BUSINESS INTERRUPTION POLICY

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# MATERIAL DAMAGE AND BUSINESS INTERRUPTION INSURANCE

## OPERATIVE CLAUSE

In consideration of the Insured having paid or promised to pay the required premium, the Underwriter(s) agree to indemnify the Insured in accordance with the terms of this Policy.

Cover under each Section of the Policy is subject to all terms of the Policy applicable to that Section. Each Section of the Policy is to be read as a separate contract of insurance.

The Policy Schedule attached to this Policy is deemed to be part of the Policy.

## COLLECTIVE INSURANCE

If more than one Underwriter subscribes to this Policy the liability of each Underwriter is several and not joint with any other Underwriter.

The liability of each Underwriter for each sum payable under the Policy will not exceed the percentage set against the Underwriter(s) name. The Underwriter(s) and their respective percentages will be shown in the Policy Schedule.

The Underwriter first named is deemed to be the Leading Underwriter.

Each following Underwriter agrees to follow the decision of the Leading Underwriter in all matters arising out of this Policy.

## DEFINITIONS

Wherever the following words are used in this Policy in Title Case, they have the following meaning. This applies to all derivatives of the words.

- Buildings:** any of the following provided they are located at any Site at the start of the Period of Insurance (or where specifically added and noted during the Period of Insurance):
- (a) buildings,
  - (b) glass that forms part of the building,
  - (c) walls, retaining walls,
  - (d) gates, fences,
  - (e) permanent signs,
  - (f) underground and above-ground services,
  - (g) site improvements, including but not limited to:
    - (i) paths,
    - (ii) landscaping, gardens, ornamental trees and shrubs,
    - (iii) roads,
    - (iv) yards,
  - (h) permanent fixtures and fittings at the building(s), including but not limited to permanently wired alarm systems and permanently wired security cameras.
- Event:** any one event, or a series of events arising from one source or original cause.
- Excess:** the amount, shown in the Policy Schedule or this policy wording, which will be deducted from the loss or damage for each Event.

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**Insured:** the persons or entities named in the Policy Schedule.

Where any entity is a company, this includes any subsidiary company provided that more than half the nominal value of the subsidiary companies equity share capital is owned by that entity either directly or through other subsidiaries, and includes any other entity over which that subsidiary company exercises management control.

**Insured Property:** tangible property (other than Money) within the following Categories:

Category A Buildings, and

Category B Machinery, Plant and Contents, and

Category C Stock, and

Category D other property specified in the Policy Schedule,

provided that:

- (i) the Category is specified in the Policy Schedule, and
- (ii) the property is owned by the Insured (including joint ownership with others)

Insured Property also includes:

- (a) the Insured's own property and any other property, other than Buildings, that is in the Insured's care, custody and control and for which the Insured is responsible,
- (b) the personal effects of any employee, director or consultant of the Insured, and of any visitor to the Insured's premises, but only:
  - (i) where the effects are in the Insured's care, custody and control, or where the Insured is otherwise responsible, and
  - (ii) the property is being worn, carried or used while they are acting in the course of their duties or employment, anywhere in New Zealand.

The Underwriter(s) liability for this property will not exceed the Special Limit shown in the Policy Schedule

**Machine:** any device that:

- (a) converts and directs motion or energy, or
- (b) performs any electronic process, including any protective component connected with that device.

**Machinery, Plant and Contents:** machinery, plant and contents, including but not limited to the following:

- (a) contents of a Building,
- (b) consumables used by the business,
- (c) business fixtures, fittings and furnishings,
- (d) tenants improvements of any type,
- (e) property owned by another person or entity, and left in the Insured's care, custody or control.

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<b>Money:</b>	any of the following, where they are associated solely with the Insured's business operations: <ul style="list-style-type: none"> <li>(a) current coin, bank and currency notes,</li> <li>(b) cheques and travellers' cheques,</li> <li>(c) bank drafts and money orders,</li> <li>(d) phone cards,</li> <li>(e) unused postage and revenue stamps,</li> <li>(f) credit card vouchers, redeemable vouchers and tokens,</li> <li>(g) franking machine credits,</li> <li>(h) other negotiable instruments.</li> </ul>
<b>Natural Disaster Perils:</b>	earthquake, volcanic eruption, hydrothermal activity, subterranean fire, tsunami, geothermal activity, or fire caused by any of these.
<b>Period of Insurance:</b>	the period shown in the Policy Schedule, that specifies the start and end dates of this insurance contract.
<b>Policy Schedule:</b>	the most recent version of the Policy Schedule that forms part of this Policy.
<b>Records:</b>	any manuscript, drawing, document, microfilm, computer media or other record of whatsoever kind.
<b>Region:</b>	the areas of land in the Regions and Districts as defined in the Local Government New Zealand (LGNZ) Regional and Districts boundaries map.
<b>Site:</b>	any parcel of land owned or occupied by The Insured
<b>Stock:</b>	stock and materials in trade.
<b>Storage Container:</b>	any: <ul style="list-style-type: none"> <li>(a) shipping container or similar, or</li> <li>(b) portable shed or similar structure, or</li> <li>(c) non-portable container, such as a metal or wooden container that has been built into or secured to a vehicle.</li> </ul>
<b>Undamaged</b>	not damaged physically and directly by an event insured under this Policy.

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## **SECTION 1 – MATERIAL DAMAGE**

### **INSURING CLAUSE**

This Section of the Policy covers physical loss or physical damage that is unintended and unforeseen by the Insured, but only if it happens to Insured Property during the Period of Insurance and is not expressly excluded from cover under this Policy.

## **MATERIAL DAMAGE – EXCLUSIONS**

### **BOILERS OR PRESSURE VESSELS**

This Section does not cover the cost of repairing or replacing any part of a boiler or pressure vessel that suffers loss or damage through internal failure or breakdown, including:

1. collapse or overheating, or
2. cracking or leaking, or
3. the generation of fluid pressure or vacuum (but not pressure caused by chemical explosion), or
4. explosion, overheating, rupture or bursting, of the boiler or pressure vessel.

This exclusion does not apply to loss or damage:

- (a) caused by fire or explosion to other separately identifiable parts of the boiler or pressure vessel, or
- (b) to other separate Insured Property, that occurs as a result of the boiler or pressure vessel failure or breakdown.

### **BUILDING DEFECTS**

This Section does not cover loss, damage, liability, prosecution or expense of any type connected in any way with a building or structure being affected by:

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

that is caused directly or indirectly by:

- (a) non-compliance with the New Zealand Building Code, or
- (b) faulty design or faulty specification, including but not limited to faulty sequence, procedure or programme, or
- (c) faulty materials, or
- (d) faulty workmanship, when the building or structure was constructed, manufactured, altered, repaired, renovated or maintained.

This exclusion does not apply however, to loss or damage that is caused by or directly arises from the leakage of internal pipes (but not internal gutters), internal water systems or internal cisterns.

### **CONSEQUENTIAL LOSS**

This Section does not cover any consequential loss whatsoever including but not limited to any penalty, loss of use of any property, loss of market or loss resulting from delay.

### **COSTS NOT COVERED**

This Section does not cover the cost of:

1. repairing or replacing faulty materials, or
2. fixing faulty workmanship, or
3. fixing any work performed to a faulty:
  - (a) design plan, or

- 
- (b) design specification, or
4. altering or modifying any part of any refrigeration or air conditioning plant to enable the plant to operate with a more ozone friendly refrigerant.

This exclusion does not apply to any resultant physical loss or physical damage arising from the above.

## ELECTRONIC DATA

This Section excludes loss of or damage to Electronic Data from any cause whatsoever including, but not limited to, a Computer Virus.

This includes loss of use, reduction in functionality or any other associated loss or expense in connection with Electronic Data.

However, this exclusion does not apply to physical damage to other Insured Property that results from that loss of or damage to Electronic Data, and which is not otherwise excluded.

For the purpose of this exclusion, the following definitions apply.

**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, which propagate themselves through a computer system or network of whatsoever nature. This includes but is not limited to 'Trojan Horses', 'Worms' and 'Time or Logic Bombs'.

**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. It includes programs, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment

## EXCESS

The Excess shown in the Policy Schedule will be deducted from the amount of the loss or damage for each Event unless a different excess or a nil excess is shown in this policy wording.

However, where a series of events arising from one original source or one original cause occurs over a period of more than 72 consecutive hours, one Excess will be deducted for every 72 consecutive hour period.

Where any Event results in multiple claims under multiple parts (or sections) of this policy, then only one Excess will apply, being the highest applicable Excess.

## EXCLUDED PROPERTY

The Insured Property does not include any of the following types of property unless it has been declared by the Insured and expressly accepted by the Underwriter(s) for cover under this Policy.

1. Any watercraft, aircraft, railway rolling stock, and their accessories. This exclusion does not apply to any watercraft situated on land and being stock of the Insured's business.
2. Any animal, standing timber or growing crop.
3. Any bullion, precious stone, jewellery, fur or precious metal. This exclusion does not apply to stock of the Insured's business or to objects forming part of the Insured's plant or equipment.
4. Any vehicle or trailer and their accessories, other than any unregistered mobile plant. This exclusion does not apply to items of stock of the Insured's business or to vehicles held by the Insured for sale or auction while in or around the Site.
5. Any land, earth or fill, dam, canal, or reservoir, any underground services outside the site, any rail or road bridge, any road or rail tunnel, any dock, pier or wharf, any mining property located beneath the surface of the ground, any transmission distribution lines or supporting structures located more than 100 meters from the site owned or occupied by the Insured.

Subject always to the applicable Sum Insured, the exclusion of any reservoir, tunnel or bridge does not apply to any such property located at sites owned or occupied by the Insured and whose individual value does not exceed the amount specified in the Policy Schedule.

6. Property in the course of any of the following:

- installation,                 }
  - construction,                }
  - demolition,                  }
  - erection,                     }
- or testing following any of these,

unless:

- 6.1 the property is owned or to be owned or occupied by the Insured, and
- 6.2 the estimated completed value of the works, including principal-supplied materials, does not exceed the Property Under Construction value specified in the Policy Schedule.

7. Any Money.

## **INFECTIOUS DISEASES**

This Section does not cover loss, damage or interruption in connection with a Notifiable Infectious Disease under the Health Act 1956.

## **LANDSLIP, SUBSIDENCE AND MOVEMENT**

This Section does not cover loss or damage following any of these events:

- 1. landslip, subsidence, erosion or expansion of the ground,
- 2. normal settlement, normal shrinkage or normal expansion of: buildings, foundations, walls, pavements, roads and other structural improvements.

## **LOSS AND DAMAGE NOT COVERED**

This Section does not cover:

- 1. any of the following types of damage to Insured Property:
  - 1.1 slowly developing deformation or distortion,
  - 1.2 marring or scratching,
  - 1.3 gradual deterioration,
  - 1.4 rot, mould, fungi or mildew.
- 2. loss caused by any of the following:
  - 2.1 action of micro-organisms, insects, vermin or pests,
  - 2.2 corrosion (caused only by atmospheric conditions), action of light, or inherent nature of the property,
  - 2.3 wear and tear, or normal working,
  - 2.4 fumes, gas, dust, smoke, smut or soot,
  - 2.5 evaporation, loss of weight, change of flavour, change of colour, change of texture or finish,
  - 2.6 maintenance of insured property.

This exclusion only applies to the parts of the Insured Property first affected. It does not apply to any resultant physical loss or physical damage to other parts of the Insured Property.

- 3. loss or damage following exposure to weather conditions if the insured property is not designed to be left in the open (unless reasonable precautions have been taken to protect the property from those conditions).
- 4. loss or damage immediately preceded by any of the following:
  - 4.1 interruption of the supply of water, gas, electricity, or any other fuel to the situation,
  - 4.2 total or partial stoppage of work, or interruption or cessation of any process,

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4.3 a change in artificially controlled temperature or atmosphere.

For the purpose of this exclusion, "immediately preceded by" means: the event occurring immediately in sequence prior to the loss or damage. If there is a chain of events, this will be the last event occurring immediately prior to the loss or damage.

## **MACHINERY BREAKDOWN**

This Section does not cover any mechanical or electrical breakdown, derangement or failure of any Machine.

This exclusion does not apply to:

1. damage originating completely outside the Machine that subsequently results in the mechanical or electrical breakdown, derangement or failure of the Machine.

However, this write-back does not apply to damage originating from any:

- (a) error in: setting, programming or operating the Machine, or
  - (b) object that:
    - (i) is part of the Machine, or
    - (ii) was intended to be drawn into the machine, being drawn into the Machine, or
  - (c) failure to service or maintain the Machine correctly.
2. loss or damage:
    - (a) to other separate Insured Property, or
    - (b) caused by fire or explosion to other separately identifiable parts of the Machine, that occurs as a result of mechanical or electrical breakdown, derangement or failure of the Machine.
  3. loss or damage to any:
    - (a) electric motor or starter that does not individually exceed 5 kW, or
    - (b) distribution switchboard or permanently installed electrical reticulation, directly caused by failure of electrical insulation or abnormal electric current or electrically induced self heating.

## **NATURAL DISASTER**

This Section does not cover loss or damage directly or indirectly caused by Natural Disaster Perils

## **NUCLEAR RISKS**

This Section does not cover any loss, damage, liability, prosecution or expense of any type in connection with:

1. ionising radiation or contamination by radioactivity from:
  - (a) any nuclear fuel, or
  - (b) any nuclear waste from the combustion or fission of nuclear fuel.
2. nuclear weapons material.

## **ORDER OF AUTHORITIES**

This Section does not cover loss or damage directly or indirectly caused by any confiscation, nationalisation, destruction or requisition of Insured Property by the order of government or local authority unless the order is given for the purpose of controlling physical loss or physical damage of a kind to which this insurance applies.

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## POLLUTION AND CONTAMINATION

This Section does not cover loss, damage, liability, prosecution or expense of any type in connection with seepage, pollution or contamination, unless the pollution or contamination results from sudden physical loss or sudden physical damage to Insured Property, which is unintended and unforeseen by the Insured, and for which a claim is otherwise covered under this Section 1 of this Policy.

## PRODUCTION PROCESS

This Section does not cover loss or damage of Insured Property while undergoing any production process, where the loss or damage is caused by the normal operation of or to that process.

## TERRORISM

This Section does not cover any loss, damage, liability, prosecution or expense of any type in connection with an Act of Terrorism, including in connection with controlling, preventing, suppressing, retaliating against, or responding to an Act of Terrorism.

For the purpose of this exclusion, the following meaning applies.

**Act of Terrorism:** includes any act, or preparation in respect of action, or threat of action designed to influence or coerce the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological, or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and that:

1. involves violence against one or more persons, or
2. involves damage to property, or
3. endangers life other than that of the person committing the action, or
4. creates a risk to health or safety of the public or a section of the public, or
5. is designed to interfere with or disrupt an electronic system.

## THEFT, FRAUD, AND UNEXPLAINED LOSS

This Section does not cover loss or damage caused by any of the following:

1. unexplained disappearances, shortages revealed only by the taking of an inventory, and shortages resulting from clerical or accounting errors,
2. theft or attempted theft,
3. any fraudulent scheme or device, or false pretence practised on the Insured or any other person,
4. theft, attempted theft or fraud by the Insured or an employee of the Insured.

## TRANSIT OF PROPERTY

This Section does not cover loss or damage to Insured Property while in transit other than at Sites owned or occupied by the Insured.

## WAR

This Section does not cover any loss, damage, liability, prosecution or expense of any type in connection with any of the following, including controlling, preventing or suppressing any of the following:

war, invasion, act of foreign enemy, hostilities or war like operations (whether war is declared or not), civil war, mutiny, rebellion, revolution, civil commotion assuming the proportions of or amounting to an uprising, insurrection, military or usurped power.

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## **MATERIAL DAMAGE - CONDITIONS**

### **BASIS OF SETTLEMENT – MAXIMUM AMOUNT PAYABLE**

Where any individual items of Insured Property have been separately listed and have a separately recorded value (either in the Policy Schedule or in a separate schedule of values), the Underwriter(s) liability for loss of or damage to each of these items of Insured Property will not exceed that recorded value plus 5%.

However, the Underwriter(s) liability for all claims payable under Section 1 of this Policy will not exceed the Total Sum Insured specified for Section 1 in the Policy Schedule, plus the limits allowed for in the Policy Schedule for Property Under Construction and Capital Additions. If a Sum Insured is set against more than one item, the Underwriter(s) liability in respect of that item will not exceed the Sum Insured set against it.

### **CLAIMS SETTLEMENT - PORTABLE ELECTRONIC EQUIPMENT**

The basis of settlement for any of the following:

- cellphones, video data projectors, digital cameras,
- other audio visual equipment,
- portable computing devices and portable data storage devices,

where insured under Reinstatement Conditions, will be the replacement cost of any item only if the item is less than two years of age since new.

### **CLAIMS SETTLEMENT – SUSTAINABLE OFFICE EQUIPMENT**

Where the Insured Property is office equipment (being: desktop or laptop computers, fax machines, monitors, printers, document scanners, refrigerators and dishwashers), the Underwriter(s) will pay the cost to replace the equipment with an alternative model(s) of that Office Equipment, provided that:

1. the alternative model has more energy-efficient features, and
2. the alternative model has otherwise comparable features and capabilities, and
3. the office equipment was uneconomic to repair, and
4. the Underwriter(s) approve the upgrade (approval will not unreasonably be withheld).

### **CLAIMS SETTLEMENT – RECORDS**

The basis on which claims will be paid for loss or damage to Insured Property comprising of Records will be the value of the medium.

This insurance does not cover the value of lost information.

### **CLAIMS SETTLEMENT – WORKS OF ART**

Where a claim is payable for damage to Insured Property comprising a work of art, the Underwriter(s) may appoint an independent and suitably qualified valuer or restorer to determine whether the work of art can be restored to its pre-damage condition.

If the valuer or restorer determines that the work of art cannot be economically restored to its pre-damage condition, the work of art will be deemed destroyed. Its pre-damage value will be determined by the valuer, or, providing the restorer is suitably qualified, by the restorer. The amount payable as indemnity will be the difference between the pre-damage value and any salvage value of the damaged work of art.

If the valuer or restorer determines that the work of art can be economically restored to its pre-damage condition, the amount payable as indemnity will be the cost of restoration or, if the restoration is not carried out, the restorer's reasonable estimate of the cost of restoration.

In the Event of the total loss of any work of art, which are part of a set, Underwriter(s) agree to pay the Insured the full amount of the value of such pair or set and the Insured agrees to surrender the remaining article or articles of the pair or set to the Underwriter(s).

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Providing a work of art has been satisfactorily restored following damage, this insurance does not cover any reduction in value due solely to the fact of the work of art having been damaged and restored. The onus of proving that any restoration work is unsatisfactory rests with the Insured.

For the purpose of this Section, a 'work of art' is a creation, such as a print, sculpture or a painting, that has been made in order to be a thing of beauty in itself or a symbolic statement of meaning, rather than having a practical function.

## **BRANDED GOODS**

Where a claim is payable for lost or damaged branded stock, the Underwriter(s) will not be entitled to sell any salvaged stock without the Insured's consent. If the Insured declines to give that consent, the reasonable salvage value of the stock will be deducted from the amount of claim otherwise payable.

## **DESIGNATION OF PROPERTY**

Where it is necessary to determine the designation of any Insured Property for the purpose of this insurance, the Underwriter(s) will accept the designation under which the property is entered in the Insured's records.

## **NATURAL DISASTER DAMAGE – RESIDENTIAL PROPERTY**

Where the Insured Property includes residential property subject to compulsory EQC cover under the Earthquake Commission Act 1993, then, in the event of the property suffering Natural Disaster Damage during the Period of Insurance covered under EQC cover this policy does not insure loss or damage to the extent it is covered by the Earthquake Commission Act or that would have been covered but for:

1. the deduction of an Excess, or
2. the Earthquake Commission exercising its power to decline a claim for that loss or damage.

Where the Earthquake Commission agrees to provide cover, but the Insured's loss or damage exceeds the Earthquake Commission payment, the most Underwriter(s) will pay is the difference between what the Earthquake Commission pays, or would have covered, and the Insured's maximum entitlement under this policy.

## **PROFIT MARGIN**

Where the Insured carries out any reinstatement work for which a claim is payable under this Policy, the Insured will be entitled to a reasonable margin of profit on the cost of the work. The amount payable, however, will not exceed the cost that would reasonably have been incurred if the work had been contracted to others.

## **PROGRESS PAYMENTS**

Where a claim on this insurance has been admitted by the Underwriter(s), the Insured will be entitled to reasonable progress payments of the claim. The Underwriter(s) may at their discretion require that any application for a progress payment be supported by:

1. a statement of loss or damage from an assessor authorised by the Underwriter(s) to assess the loss or damage, or
2. other evidence that the Insured has sustained the loss or damage for which the payment is to be made.

Where there are other interested parties entitled to be indemnified under this policy, any settlement requested under these provisions will take into account the interests of those other parties.

Payments made under this clause are subject otherwise to all terms of this insurance insofar as they can apply.

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## MATERIAL DAMAGE – EXTENSIONS

Where the terms of any Extension incorporated in this insurance are inconsistent with any other terms of the insurance, the terms of the Extension will prevail. Where the terms of an extension clause are inconsistent with the terms of any other Extension, the terms most favourable to the Insured will prevail.

Except as otherwise stated the limits shown in the Extensions shall not increase the liability of the Underwriter(s) beyond the sums stated in the Policy Schedule

## BURGLARY FROM THE INSURED'S PREMISES

This Section extends to cover physical loss or physical damage to Insured Property at any of the following:

- any enclosed building (or part of a building),
- Storage Container,
- vehicle,

caused by theft or attempted theft:

1. accompanied by violence, or threat of violence, to any person, or
2. involving violent and forcible entry to, or exit from, an enclosed building (or part of an enclosed building), or
3. of a permanently attached part of the building by the forcible removal of it.

Item 2 of the 'Theft, Fraud and Unexplained Loss' exclusion does not apply to this Extension.

## CAPITAL ADDITIONS

Subject to the additional conditions set out below, this Section extends to cover property comprising Insured Property (including, but not limited to alterations, additions and improvements to existing assets) acquired by the Insured during the Period of Insurance.

### ADDITIONAL CONDITIONS

1. This Extension of cover does not apply to:
  - (a) property of any kind expressly excluded from this insurance,
  - (b) any appreciation of value that is not due to a physical alteration, addition or improvement.
  - (c) Stock
2. Cover on the acquired property commences when the risk in the property passes to the Insured.
3. The Insured undertakes to notify the Underwriter(s) of any such acquisition no later than expiry of the Period of Insurance. Upon notification:
  - (a) the terms of this Extension will be fully reinstated for other acquisitions of which the Underwriter(s) have not yet been notified, and
  - (b) the Underwriter(s) will be entitled to charge an additional premium calculated pro-rata from the date on which cover on the notified acquisition commenced.

### ADDITIONAL SUM INSURED

At any one time, the Underwriter(s) liability for any acquisition that falls within the scope of this Extension will be limited to the Special Limit set against 'Capital Additions Extension' in the Policy Schedule, which limit shall be in excess of the sums insured stated in the Policy Schedule.

## CLAIMS ASSESSMENT

This Section extends to cover costs and fees reasonably incurred to pay:

- The Insured's own staff,
- The Insured's accountant or
- another professional consultant,

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for quantification (but not negotiation) of claims under this Section of this policy.

## **EXPEDITING COSTS**

This Section of the Policy extends to cover the Insured for such additional costs of express freight, air freight and overtime labour that may be reasonably incurred for the purpose of expediting the cost of reinstating Insured Property covered by this Policy.

The cover provided here will not increase the Underwriter(s) liability beyond the Sum Insured for that property.

## **GENERAL AVERAGE**

Where this Section covers Insured Property in transit by coastal shipping between ports of New Zealand, the insurance also extends to cover general average and salvage charges payable according to foreign statement or to York Antwerp rules if in accordance with any freight contract.

## **HAZARDOUS SUBSTANCE EMERGENCY**

This Section extends to cover charges 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 Insured Property during the Period of Insurance, where there is damage or threat of damage to the Insured Property.

'Hazardous Substance Emergency' has the same meaning as defined in the Fire Service Act 1975.

The Underwriter(s) liability for such charges will not exceed the Special Limit shown in the Policy Schedule. The limit does not apply to any loss or damage that would be recoverable under this insurance without the benefit of this Extension.

## **KEYS AND LOCKS**

This Section extends to include the cost of:

1. replacing any lock or key where necessary in consequence of:
  - (a) the key having been lost or stolen, or
  - (b) the Insured having reasonable grounds for believing that the key has been stolen or duplicated during the Period of Insurance.
2. changing any combination where the Insured has reasonable grounds for believing that the combination has become stolen or copied during the Period of Insurance,
3. opening any safe or strongroom following loss of its key or combination during the Period of Insurance.

For the purpose of this clause, the meaning of 'key' includes any device serving an equivalent purpose to that of a key.

The Underwriter(s) liability for any such cost will not exceed the Special Limit shown in the Policy Schedule. The limit does not apply to any loss or damage that would be recoverable under this insurance without the benefit of this Extension.

## **LANDSLIP AND SUBSIDENCE**

This Section extends to cover sudden and unforeseen physical loss or physical damage to Insured Property caused by landslip or subsidence.

The Underwriter(s) liability for such loss or damage will not exceed the Special Limit shown in the Policy Schedule. The limit does not apply to any loss or damage that would be recoverable under this insurance without the benefit of this Extension.

## **MONEY**

This Section extends to cover physical loss of Money, provided the loss occurs in any of the circumstances outlined below:

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## **SECTION A**

1. money in transit, or
2. money at the Insured's sites or places of business during business hours, or
3. money at the Insured's sites or places of business while in a securely locked safe or strongroom outside business hours.

## **SECTION B**

1. money at the Insured's sites or places of business outside business hours and not in a securely locked safe or strongroom, or
2. money at residential premises occupied by you or any: director, employee, or agent, authorised to have possession of the money.

## **MONEY EXCLUSIONS**

This Extension does not cover loss of Money:

- (a) due to any shortage or error in receiving or paying Money,
- (b) due to the fraud or dishonesty of any employee of the Insured unless the loss is discovered within 72 hours (excluding Saturday, Sunday or any public holiday) of its occurrence,
- (c) due to payment of Money for a cheque that is subsequently dishonoured,
- (d) while the Money is entrusted to any person other than the Insured, any principal, employee or authorised agent of the Insured, or any professional money carrier,
- (e) due to any fraudulent scheme or device or false pretence practised on the Insured or any other person to whom Money is entrusted.

The Underwriter(s) liability for such loss will not exceed the Special Limit shown in the Policy Schedule.

If an additional Special Limit designated 'Christmas Carry' is shown in the Policy Schedule it will take the place of the Special Limit for (a), (b) and (c) for the period 1<sup>st</sup> December to 5<sup>th</sup> January of the following year.

The limit does not apply to any loss that would be recoverable under this insurance without the benefit of this Extension.

## **OTHER INTERESTS**

Where the Insured has agreed to arrange to insure the interest of any person or corporation having an insurable interest in any of the Insured Property, the Underwriter(s) will indemnify the Insured and that person or corporation subject to the terms of this Section of the Policy as if a separate policy had been issued to each. However:

1. the Underwriter(s) will not be liable to indemnify any person or corporation whose interest has not been declared to the Underwriter(s) by the time the indemnity becomes payable, and
2. the liability of the Underwriter(s) is not increased beyond their liability to the Insured alone.

## **PROFESSIONAL FEES**

This Section extends to cover the Insured for the cost of professional fees that are necessarily and reasonably incurred as a result of physical loss or physical damage to Insured Property. This Extension does not apply to fees for the preparation or proving of claims made under any Section of the Policy.

## **PROTECTION COSTS**

This Section extends to cover costs that are necessarily and reasonably incurred in fighting or controlling any fire or other insured event where there is damage or threat of damage to the Insured Property that would be otherwise be covered under this Section.

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## REMOVAL OF DEBRIS

This Section extends to cover the following costs that are necessarily and reasonably incurred in consequence of loss or damage to Insured Property by an insured event.

1. The cost of demolishing, dismantling, shoring up or propping of the Insured Property.
2. The cost of removing and disposing of debris and foreign matter from the Site of the Insured Property and any immediately adjoining site.
3. The cost of removing, temporarily storing and returning any damaged and undamaged contents of the Insured Property.
4. The cost of temporary repairs to the Insured Property, and the cost of erecting and maintaining any temporary fencing, hoardings and scaffolding, where necessary to make the Insured Property safe and secure.

In respect of any one Event, these costs are deemed to be included in the Sum Insured for each item of Insured Property.

The Extension of cover provided under this Extension does not include any sums that the Insured becomes legally liable to pay by way of compensation or other damages consequent upon pollution or contamination of property by any of the debris.

## REMOVAL OF UNDAMAGED PROPERTY

Where, for the sole purpose of reinstating Insured Property damaged by an insured event, other Insured Property in the vicinity has to be temporarily dismantled or removed, this insurance extends to cover:

1. the cost of the dismantling or removal, and
2. the cost of restoring the property as nearly as practicable to the way it was before the insured event took place.

### SPECIAL PROVISIONS

- (a) Cover under this Extension does not apply unless the claim payable for damage by the insured event is subject to the Reinstatement Extension.
- (b) The costs payable under this Extension are included in and are subject to the same sum insured as applies to the damage caused directly by the insured event.
- (c) The amount payable under this Extension does not include any additional cost of complying with current building regulations or any other lawful requirement of a competent public authority.

## REINSTATEMENT

If shown in the Policy Schedule as insured for 'Reinstatement', this Reinstatement Extension applies to the applicable Insured Property comprising Buildings, Machinery, Plant and Contents (other than unregistered mobile plant that is more than one year old) and Other Property.

This Reinstatement Extension does not apply to Insured Property that is shown in the Policy Schedule as being insured for 'Indemnity'.

In the event of any Insured Property to which this Extension applies being lost or damaged, the amount payable under this Section will be calculated on the basis of Reinstatement cost. Claims payable under this Extension are subject to the Special Provisions set out below and to all other terms of this Policy in so far as they can apply,

### DEFINITIONS

- (a) 'Reinstatement' means:
  - 1) where property is lost or Destroyed, its replacement by an 'Equivalent Building' or by 'Equivalent Machinery, Plant and Contents' as the case may require,
  - 2) 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.

'Reinstatement' has a corresponding meaning.

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- (b) 'Equivalent Building' means:
- 1) 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 Regulation.
  - 2) where, as a result of any special circumstances, no building or structure that falls within the scope of paragraph (b)1) 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.
  - 3) where, as a result of any special circumstances, no building or structure that falls within the scope of paragraph (b) 1) is suitable to the Insured's reasonable requirement, then, with the consent of the Underwriter(s) (which will not be unreasonably withheld), 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 Machinery, Plant and Contents' 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) 'Destroyed' means so damaged by an insured event that the property, by reason only of that damage, cannot be repaired.
- (e) 'Regulation' means any statutory, regulatory or code requirement imposed under the authority of any Act of Parliament or regulation or by-law promulgated by any lawful authority.

#### SPECIAL PROVISIONS

1. The amount payable under this Extension will include any additional cost necessarily incurred in complying with any Regulation. However, this 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 insured event, or
  - (b) in respect of any part of the Insured Property that was not damaged by the insured event, other than its foundation or where the cost is incurred as the result of physical loss or physical damage to other property at the site.
2. Where Insured Property is destroyed, the Insured may reinstate it upon any site owned or occupied by the Insured. However, the Underwriter(s) liability will not exceed the cost that would have been incurred had reinstatement been carried out on the same location site at the original site.
3. 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 reinstate the property, or
  - (b) if the work of reinstatement is not commenced and carried out with reasonable despatch, or
  - (c) until the cost of reinstatement has been actually incurred, or
  - (d) where a building or structure is damaged, but not destroyed, and the repair of the damage is not permissible because of any Regulations, or because of the Undamaged portion of the Property.
4. The Underwriter(s) liability under this Extension will not exceed the sum insured on the lost or damaged property. If the property is damaged but not destroyed, the Underwriter(s) liability for the cost of reinstatement will not exceed the amount for which they would have been liable had the property been destroyed.

#### **REWARDS**

This Section extends to reimburse the Insured for any reward that it pays in connection with lost or damaged Insured Property covered under this Section, providing:

1. payment of the reward has contributed to the protection or recovery of all or part of the Insured Property, and

2. the Underwriter(s) agreed to the terms of the reward prior to it being offered.

## **SOCIAL CLUB PROPERTY**

This Section extends to cover the property of any social club, sports club or similar body whose activities are for the benefit of the Insured's employees. The property is included in the description of Insured Property as if it were owned by the Insured.

## **TEMPORARY REMOVAL**

This Section extends to cover any of the Insured Property (except stock) while temporarily removed to any place in New Zealand. However, the Underwriter(s) liability will not exceed the amount for which the Underwriter(s) would be liable had the physical loss or physical damage occurred at the particular place from which the property is temporarily removed.

In this Extension, 'temporarily removed' means removed for a particular purpose, with the intention that the property be returned to the place from which it has been removed once that purpose has been served.

## **THEFT**

This Section extends to cover physical loss or physical damage to Insured Property caused by theft or attempted theft occurring:

1. at any Site, or
2. in transit, or
3. elsewhere in New Zealand.

No cover is provided under this Extension for theft or attempted theft from an unsecured motor vehicle.

Item 2 of the 'Theft, Fraud and Unexplained Loss' exclusion does not apply to this Extension.

The Underwriter(s) liability for such loss or damage will not exceed the Special Limit shown in the Policy Schedule.

## **TRANSIT OF PROPERTY**

This Section extends to cover Insured Property while in transit within New Zealand.

Where the property comprises goods destined for transit beyond New Zealand, cover on the goods ceases at the earliest of:

1. the time the goods pass over the ships rail or through air transport loading doors for overseas transit from any New Zealand port or airport, or
2. when the Insured's risk in the goods ceases in accordance with the contract of sale.

The Underwriter(s) liability for physical loss or physical damage will not exceed the Special Limit shown in the Policy Schedule. The Special Limit does not apply to any loss that would be recoverable under this insurance without the benefit of this Extension.

Cover under this Extension also extends to cover Insured Property while in transit within Australia where the Underwriter(s) have agreed prior to the physical loss or physical damage occurring that the Policy extends to include Insured Property while located there

## **UNDAMAGED FOUNDATIONS**

Where, by reason of any Regulation, the undamaged foundation of any Insured Property damaged by an insured event cannot continue to be used for its intended purpose, the foundation will be deemed destroyed by the same event that damaged the Insured Property. However, cover under this Extension will only apply where the amount payable for the damage is subject to the Policy's Reinstatement Conditions. 'Regulation' has the same meaning as given to it in the Reinstatement Conditions.

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## MATERIAL DAMAGE – OPTIONAL EXTENSIONS

The Policy Schedule states whether any of the following Optional Extensions apply.

Where applicable, the terms of the Optional Extension are deemed to be fully incorporated in this insurance. Where the terms of an Optional Extension are inconsistent with any other terms of this insurance, the terms of the Optional Extension will prevail. Where the terms of an Optional Extension are inconsistent with the terms of any other clause, the terms most favourable to the Insured will prevail.

Except as otherwise stated the limits shown in the Optional Extensions shall not increase the liability of the Underwriter(s) beyond the sums stated in the Policy Schedule.

### COMPUTER BREAKDOWN

This Section extends to cover physical loss or physical damage to Insured Property, where it consists of computer or electronic control equipment, provided that the loss or damage is caused by Breakdown.

For the purpose of this Extension, Breakdown means: any mechanical, electrical, electro-mechanical, electronic or hydraulic malfunction, failure, derangement, breakdown or non-operation of whatsoever kind.

The Underwriter(s) liability for under this Extension will not exceed the Limit shown in the Policy Schedule.

The Limit does not apply to any loss or damage that would be recoverable under this Section without the benefit of this Extension.

### ELECTRICAL DAMAGE

This Section extends to cover physical loss or physical damage to Insured Property caused by the burning out of any part of the Insured Property by an electrical surge or an electrical spike.

However, this Extension does not apply to loss or damage caused to any of the following:

- lighting or heating element,
- fuse or protective device.
- electrical contact,

where sparking or arcing occurs as part of its normal function.

The Underwriter(s) liability for under this Extension will not exceed the Limit shown in the Policy Schedule.

The Limit does not apply to any loss or damage that would be recoverable under this Section without the benefit of this Extension.

### GRADUAL DAMAGE

This Section extends to cover physical loss or physical damage to buildings and structures 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, internal waste disposal pipe installed at the building.

The Underwriter(s) liability for such damage will not exceed the Limit shown in the Policy Schedule.

### NATURAL DISASTER

This Section extends to cover Insured Property against physical loss or physical damage caused by Natural Disaster Perils

For the purpose of this Extension, 'Event' means: Any one event, or a series of events arising from one source or original cause occurring during a period of 72-consecutive hours.

### REDUNDANT PLANT

This Section extends to cover the loss of value of Insured Property comprising:

- (a) any undamaged or salvaged plant that is rendered redundant in consequence of damage to other plant in the same interdependent line or system, and

(b) any spare parts held exclusively for the redundant or damaged plant.

The loss of value will be recoverable under this Policy in the same manner and to the same extent as if the loss of value had resulted from physical loss or physical damage, due allowance being made for its salvage value. However, no claim will be payable under this Extension unless:

1. the Insured also has a valid claim on this insurance for the physically damaged plant, and
2. the loss of value is attributable solely to plant in the same interdependent line or system being damaged beyond economic repair and compatible replacement plant being unobtainable.

The amount payable for the loss of value will not exceed the indemnity value of the undamaged or salvaged plant and spare parts.

The Underwriter(s) liability for such loss or damage will not exceed the Limit shown in the Policy Schedule.

## **RESIDENTIAL ACCOMMODATION**

Where any Insured Property comprising residential accommodation is rendered uninhabitable by an insured event for which a claim is payable under this Section of the Policy, this Section extends to cover the reasonable cost of alternative accommodation necessarily incurred by the Insured or the occupant, being a director or employee of the Insured, provided that:

1. the cost is not otherwise insured,
2. the period for which the cost is covered will be limited to the period reasonably required for reinstatement of the Insured Property,
3. the Underwriter(s) will be entitled to deduct a reasonable allowance for costs reduced or avoided as a result of the Insured Property being rendered uninhabitable, and
4. the Underwriter(s) liability for such costs arising out of any one Event will not exceed 25% of the cost of reinstating the Insured Property or \$20,000, whichever is the lesser. The limit applies separately to each unit of residential accommodation and does not apply to any loss or damage that would be recoverable under this insurance without the benefit of this Extension.

## **SEASONAL STOCK INCREASE**

The sum insured for Stock (if any) is automatically increased by the percentage shown in the Policy Schedule during the nominated months.

## **SPOILAGE**

This Section extends to cover deterioration during the Period of Insurance of any Insured Property comprising refrigerated goods following:

1. mechanical or electrical Breakdown of refrigeration plant, or
2. failure of the supply of power to the refrigeration plant (unless at least 24 hours notice of interruption to the supply have been provided by the supplier), or
3. accidental or malicious disconnection of the supply of power to the refrigeration plant.

The Underwriter(s) liability for such deterioration will not exceed the Special Limit shown in the Policy Schedule. The Special Limit does not apply to any deterioration that would be recoverable under this insurance without the benefit of this Extension.

## **STOCK DECLARATION CONDITIONS**

These conditions have no application unless a separate sum insured is shown for Insured Property comprising stock (Stock) in the Policy Schedule.

The initial premium payable for the insurance on Stock is provisional only. The premium is adjustable at the end of the Period of Insurance in accordance with the following conditions:

1. Declarations of the actual value of the Stock held on the last day of each month (or any agreed alternative date) within the Period of Insurance must be made in writing to the Underwriter(s). Declarations made to the Insured's insurance broker will be deemed equivalent to declarations made to the Underwriter(s).

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2. 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 the greater).
  3. If any monthly declaration exceeds the sum insured on Stock, then, in calculating the average of the monthly declarations, the sum insured will be included in place of the actual declaration for that month.
  4. If no declaration is received for any one month, the sum insured on Stock will apply in its place.
  5. The Underwriter(s) will refund to the Insured the amount by which the provisional premium paid exceeds the actual premium payable calculated as above. Alternatively, the Insured must pay to the Underwriter(s) the amount by which the provisional premium paid falls short of that actual premium.

## **SUSTAINABLE REBUILDING COSTS**

This Section extends to cover additional reasonable costs incurred to upgrade Building(s) with Sustainable Products, provided that:

1. the Building(s) have suffered a total loss covered by this policy, and
2. Reinstatement Conditions apply to the Building(s), and
3. the Building(s) are reinstated, and
4. the Underwriter(s) approve the Sustainable Products (approval will not unreasonably be withheld).

The Underwriter(s) liability for such additional costs will not exceed the Limit shown in the Policy Schedule.

The amount payable under this Extension is in addition to the Maximum Amount Payable

For the purpose of this Extension, **Sustainable Products** means:

- (a) products that increase the efficiency of the building relating to the use of energy and/or water,
- (b) rebuilding materials that reduce environmental impacts.

## **UNDAMAGED STOCK**

Where damage for which a claim is payable under this insurance prevents the timely use of undamaged stock, this Section extends to cover any consequent deterioration or reduction in the value of the undamaged stock. Cover under this Extension only applies to deterioration or loss of value that is attributable solely to the occurrence of the insured damage. The Extension does not cover loss to the extent that it could have been avoided by reinstating the damaged Insured Property with reasonable despatch.

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## SECTION 2 – BUSINESS INTERRUPTION

### BUSINESS INTERRUPTION - INSURING CLAUSE

This Section insures financial loss resulting from interruption to or interference with the Business caused by Damage to buildings or other property used or to be used by the Insured at the Premises.

### BUSINESS INTERRUPTION - DEFINITIONS

Wherever the following words are used in this Section of the Policy in Title Case, they have the following meaning. This applies to all derivatives of the words.

- Business:** the business named in the Policy Schedule
- Damage:** physical loss or physical damage to property, unintended and unforeseen by the Insured, occurring during the Period of Insurance:
- (i) for which the Underwriter(s) have paid or admitted liability under Section 1 Material Damage or would have, but for the Excess, or
  - (ii) that is not Insured Property but for which the Underwriter(s) would have paid or admitted liability under Section 1 Material Damage if it were Insured Property and is not a type of property excluded, or
  - (iii) is caused by the explosion of a boiler.
- Excess:** The amount (period or percentage), shown in the Policy Schedule or this policy wording, which will be deducted from the loss or damage for each Event.
- However, where a series of events arising from one original source or one original cause occurs over a period of more than 72 consecutive hours, one excess will be deducted for every 72 consecutive hour period.
- Gross Revenue:** the money paid or payable to the Insured as fees for services rendered in the course of the Business at the Premises.
- Indemnity Period:** the period beginning with the occurrence of the Damage and continuing for not more than the number of months shown in the Policy Schedule.
- Insured Gross Profit:**
- (i) the sum of Turnover plus Closing Stock  
less
  - (ii) the sum of the Opening Stock plus Purchases  
less
  - (iii) Wages or Payroll only if Wages or Payroll is insured under Item 8  
less
  - (iv) other expenses that have been deducted in calculating the sum insured under the Gross Profit Item.
- Provided:
- (a) The Opening and Closing Stock shall be determined in accordance with the Insured's normal accounting methods, due provision being made for depreciation and obsolescence, and
  - (b) The words and expressions used in the Definition shall have the meaning usually attached to them in the books and accounts of the Insured, and

	(c) If Wages have been insured under Item 7, Dual Wages or Dual Payroll they are an uninsured expense in accordance with the definition of Gross Profit.
	(d) If Payroll has been insured under Item 7, Dual Wages or Dual Payroll it is an uninsured expense in accordance with the definition of Gross Profit.
<b>Premises:</b>	all premises owned or occupied by the Insured and all places where the Insured has property used, or to be used, for the purpose of the Business
<b>Rate of Insured Gross Profit:</b>	the rate of Insured Gross Profit that would have been earned on the Turnover during the Indemnity Period but for the Damage.
<b>Rate of Wages or Payroll:</b>	the rate of wages or payroll to Turnover that would have been achieved during the Indemnity Period but for the Damage.
<b>Reduction in Turnover:</b>	the reduction in Turnover in consequence of the Damage. Similarly, 'Reduction in Gross Revenue' and 'Reduction in Rents or Management Fees Receivable' are limited to the reduction in consequence of the Damage.
<b>Rents or Management Fees Receivable:</b>	the money paid or payable to the Insured including expenses reimbursable by tenants in respect of rental of the Premises or management services provided.
<b>Turnover:</b>	the money paid or payable to the insured for goods supplied or services rendered in the course of the business at the premises

## BUSINESS INTERRUPTION - EXCLUSIONS

### COMPUTER BREAKDOWN

This Section excludes financial loss resulting from loss of or damage to any computer or electronic equipment from any mechanical or electrical breakdown.

### ELECTRICAL DAMAGE

This Section excludes financial loss resulting from loss of or damage to any Insured Property by an electrical surge or electrical spike.

### ELECTRONIC DATA

This Section excludes financial loss resulting from loss of or damage to Electronic Data from any cause whatsoever including, but not limited to, a Computer Virus.

This includes loss of use, reduction in functionality or any other associated loss or expense in connection with Electronic Data.

However, this exclusion does not apply to physical damage to other insured property that results from that loss of or damage to electronic data, and which is not otherwise excluded.

For the purpose of this exclusion, the following meanings apply.

**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, which propagate themselves through a computer system or network of whatsoever nature. This includes but is not limited to 'Trojan Horses', 'Worms' and 'Time or Logic Bombs'.

**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. It includes programs, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment

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## INFECTIOUS DISEASES

This Section does not insure financial loss in connection with a Notifiable Infectious Disease under the Health Act 1956.

## LANDSLIP, SUBSIDENCE AND MOVEMENT

This Section does not cover financial loss following any of these events:

- (a) landslip, subsidence, erosion or expansion of the ground,
- (b) normal settlement, normal shrinkage or normal expansion of: buildings, foundations, walls, pavements, roads and other structural improvements.

## NATURAL DISASTER

This Section does not cover financial loss directly or indirectly caused by Natural Disaster Perils

## NUCLEAR RISKS

This Section does not insure financial loss or expense in connection with:

1. ionising radiation or contamination by radioactivity from:
  - (a) any nuclear fuel, or
  - (b) any nuclear waste from the combustion or fission of nuclear fuel.
2. nuclear weapons material.

## ORDER OF AUTHORITIES

This Section does not cover financial loss directly or indirectly caused by any confiscation, nationalisation, destruction or requisition of Insured Property by the order of government or local authority unless the order is given for the purpose of controlling physical loss or physical damage of a kind to which this Section applies.

## OTHER CAUSES

This Section does not insure financial loss in connection with any of the following:

1. spoilage as insured under Section 1
2. the closure, quarantining or evacuation of the whole of or part of the Premises by order of a competent public authority as a result of the outbreak of an infectious or contagious disease or bacterial infection or any related infectious contamination.

## PROPERTY UNDER CONSTRUCTION

This Section does not insure financial loss in connection with property in the course of installation, construction, demolition, or erection, unless:

1. the property is owned or occupied by the Insured, and
2. the Underwriter(s) have paid or admitted liability under Section 1 Material Damage for the physical loss or physical damage, or would have, but for the Excess

## TERRORISM

This Section does not insure financial loss or expense of any type in connection with an Act of Terrorism, including controlling, preventing, suppressing, retaliating against, or responding to an Act of Terrorism.

For the purpose of this exclusion, the following meaning applies.

**Act of Terrorism:** includes any act, or preparation in respect of action, or threat of action designed to influence or coerce the government de jure or de facto of any nation or any political division therefore, or in pursuit of political, religious, ideological, or similar purposes to intimidate the public or a section of the

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public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and that:

1. involves violence against one or more persons, or
2. involves damage to property, or
3. endangers life other than that of the person committing the action, or
4. creates a risk to health or safety of the public or a section of the public, or
5. is designed to interfere with or disrupt an electronic system.

## **WAR**

This Section does not insure financial loss or expense if any type in connection with any of the following, including controlling, preventing or suppressing any of the following:

war, invasion, act of foreign enemy, hostilities or war like operations (whether war is declared or not), civil war, mutiny, rebellion, revolution, civil commotion assuming the proportions of or amounting to an uprising, insurrection, military or usurped power.

## **BUSINESS INTERRUPTION - AUTOMATIC EXTENSIONS**

This Section also insures financial loss resulting from interruption to or interference with the Business caused by:

1. damage to property at the premises of any direct suppliers of goods to or direct customers of the Insured anywhere in New Zealand, or
2. damage to property that affects the supply to the Insured's premises of any of the following:
  - electricity, gas, water, }
  - telecommunications and internet services, } including Damage to stations and
  - waste water disposal, } sub-stations, cables, reticulation
  - lines or pipes

(but excluding off-shore facilities and pipelines including pipelines to shore and the Cook Strait cables). Financial loss is not insured under this Automatic Extension during the first 24 hours after the Damage, or

3. damage to property or where there is a threat of Damage to property, excluding transportation routes, at or within 10 kilometres of the Premises, which prevents or hinders access to or use of the Premises. Financial loss is not insured under this Automatic Extension during the first 24 hours after the Damage, or
4. damage to property at the premises of an anchor tenant in the same retail complex as the Premises. Financial loss is not insured under this Automatic Extension during the first 72 hours after the Damage or beyond the first 30 days after the Damage, or
5. damage to property or where there is a threat of Damage to property resulting in closure of transit routes, ports or airports as a result of physical loss or physical damage or by order of any authority as a result of threat of loss or damage. Financial loss is not insured under this Automatic Extension during the first 7 days after the Damage.

This Section also insures financial loss resulting from interruption to or interference with the Business during the Period of Insurance:

6. caused by the sudden escape of any of the following:
  - fumes,
  - gases,
  - toxic chemicals,
  - hazardous substances,

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that is unintended and unforeseen by the Insured. Financial loss is not insured under this Automatic Extension during the first 24 hours after the escape, or

7. following action taken by a competent New Zealand public authority:
- (a) as a result of injury or illness sustained by any person arising from or traceable to foreign or injurious matter in food or drink provided on the Premises, or
  - (b) in closing, quarantining or evacuation of whole or part of the Premises consequent upon defects in the drains and/or other sanitary arrangements at the Premises, but specifically excluding the closing, quarantining or evacuation of an area greater than the Premises, or
  - (c) as a result of bodily injury, murder, suicide or criminal injury occurring at or in the vicinity of the Premises.

Financial loss is not insured under this Automatic Extension during the first 24 hours after the action is taken, or

8. caused by bodily injury to, murder or suicide of any person or the threat of any of them occurring during the Period of Insurance at or within 10 kilometres of the premises, which prevents or hinders access to or use of the Premises

Financial loss is not insured under this Automatic Extension during the first 48 hours after the action is taken.

## **BUSINESS INTERRUPTION – OPTIONAL EXTENSIONS**

The Policy Schedule states whether the following Optional Extension clause applies.

Where applicable, the terms of the Optional Extension clause is deemed to be fully incorporated in this insurance. Where the terms of an Optional Extension are inconsistent with any other terms of this insurance, the terms of the Optional Extension will prevail. Where the terms of an Optional Extension are inconsistent with the terms of any other clause, the terms most favourable to the Insured will prevail.

Except as otherwise stated the limits shown in the Optional Extensions shall not increase the liability of the Underwriter(s) beyond the sums stated in the Policy Schedule.

### **NATURAL DISASTER**

This Section also insures financial loss resulting from interruption to or interference with the Business caused by Natural Disaster Perils

For the purpose of this Extension, '**Event**' means: Any one event, or a series of events arising from one source or original cause occurring during a period of 72-consecutive hours.

## **BUSINESS INTERRUPTION - INSURED ITEMS**

### **FINANCIAL LOSS**

The amount payable in respect of financial loss will be calculated in accordance with the following Items and Memoranda. The maximum payable under each Item is the Sum Insured listed for that Item on the Policy Schedule.

#### **ITEM 1 - INSURED GROSS PROFIT**

This Item insures:

- (a) the sum produced by applying the Rate of Insured Gross Profit to the Reduction in Turnover during the Indemnity Period,

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- (b) the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the Reduction in Turnover which but for that expenditure would have taken place during the Indemnity Period, but not exceeding the sum produced by applying the Rate of Insured Gross Profit to the amount of the reduction thereby avoided,
  - (c) less any sum saved during the Indemnity Period in consequence of the Damage, in the charges and expenses of the Business payable out of Insured Gross Profit.

## ITEM 2 – GROSS REVENUE

This Item insures:

- (a) the Reduction in Gross Revenue during the Indemnity Period,
- (b) the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the Reduction in Gross Revenue which but for that expenditure would have occurred during the Indemnity Period, but not exceeding the amount of the Reduction in Gross Revenue thereby avoided,

less any sum saved during the Indemnity Period in consequence of the Damage, in the charges and expenses of the Business payable out of Gross Revenue.

## ITEM 3 – RENTS OR MANAGEMENT FEES RECEIVABLE

This Item insures:

- (a) the Reduction in Rents or Management Fees Receivable (including expenses reimbursable by a tenant) during the Indemnity Period,
- (b) the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the Reduction in Rents or Management Fees Receivable and expenses reimbursable, which but for that expenditure would have occurred during the Indemnity Period, but not exceeding the amount of the Reduction in Rents or Management Fees Receivable and expenses reimbursable thereby avoided,

less any sum saved during the Indemnity Period in consequence of the Damage, in the charges and expenses of the Business payable out of Rents or Management Fees.

## ITEM 4 – ADDITIONAL INCREASED COSTS

This Item insures additional expenditure reasonably incurred by the Insured during the Indemnity Period in consequence of the Damage, for the purpose of:

- (a) avoiding or diminishing a Reduction in Turnover, Reduction in Gross Revenue or Reduction in Rents or Management Fees Receivable,
- (b) resuming or maintaining any normal business operation or service,
- (c) the restoration of Records where they are required to resume or maintain any normal business operation or service.

The Electronic Data exclusion does not apply to item 4(c), unless the loss is caused by a Computer Virus.

A **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, which propagate themselves through a computer system or network of whatsoever nature. This includes but is not limited to 'Trojan Horses', 'Worms' and 'Time or Logic Bombs'.

This Item 4(a) and 4(b) does not insure any expenditure incurred for reinstating the Insured's property damage.

## ITEM 5 – CLAIM PREPARATION EXPENSES

This Item insures the reasonable fees, and other expenses including salaries and wages incurred by the Insured for the preparation of a claim under Sections 1 (Material Damage) and 2 (Business Interruption) of this policy.

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## **ITEM 6 – BREACH OF CONTRACT, PENALTIES AND DAMAGES**

This item insures penalties or damages for breach of contract and related legal costs incurred by the insured in consequence of non-completion or late completion of orders resulting from Damage.

## **ITEM 7 – DUAL WAGES OR DUAL PAYROLL**

This Item insures the loss in respect of wages or payroll and the amount payable as indemnity shall be:

- (a) In respect of Reduction in Turnover
  - (i) the sum produced by applying the Rate of Wages or Payroll to the Reduction in Turnover during the initial period stated in the Policy Schedule  
less any saving in wages or payroll during the initial period in consequence of the Damage,
  - (ii) the sum produced by applying the Rate of Wages or Payroll to the Reduction in Turnover during the remainder of the Indemnity Period  
less any saving in wages or payroll during the remainder of the Indemnity Period in consequence of the Damage.

The amount payable under sub-clause (ii) is limited to the remainder period percentage limit stated in the Policy Schedule, of the Rate of Wages or Payroll applied to the Reduction in Turnover during the remainder of the Indemnity Period, and increased by the savings in wages or payroll deducted in terms of clause (i).

Note: At the option of the Insured the number of weeks referred to as the initial period in clause (a)(i) may be increased to the Optional Initial Period stated in the Policy Schedule provided that the amount calculated under clause (a)(ii) shall not exceed the savings in wages or payroll deducted under clause (a)(i).

- (b) In respect of increase in cost of working  
so much of the additional expenditure described under Clause (b) of the Insured Gross Profit Item as exceeds the amount payable under that Clause but not more than the additional amount that would have been payable in respect of Reduction in Turnover under Clauses (a)(i) and (a)(ii) of this Item had such expenditure not been incurred.

## **ITEM 8 - REDUNDANCY WAGES AND PAYROLL**

This Item insures the amount by which the wages or payroll paid during the Indemnity Period exceeds the wages or payroll that would have been paid but for the Damage as a result of redundancy payments necessarily incurred in consequence of the Damage.

## **BUSINESS INTERRUPTION - MEMORANDA**

### **MEMO 1: ALTERNATIVE TRADING**

If during the Indemnity Period, Turnover or Gross Revenue is generated or Rents or Management Fees Receivable are receivable elsewhere than at the Premises for the benefit of the Business, either by the Insured or by others on behalf of the Insured, the Turnover, Gross Revenue or Rents or Management Fees Receivable shall be brought into account in the calculation of financial loss.

### **MEMO 2: OUTPUT**

The calculation of financial loss may be based on Turnover or output or whatever other index of business activity produces the most equitable result, and except in the definition of Turnover, the word 'Turnover' shall be read as 'Turnover or Alternative Index'.

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### **MEMO 3: REDUCED MARGIN & SALVAGE SALE**

An equitable allowance shall be made if, as a result of the Damage, Turnover is maintained during the Indemnity Period at a reduced Rate of Insured Gross Profit, including but not limited to the circumstances of a salvage sale.

### **MEMO 4: ACCUMULATED STOCKS**

An equitable allowance shall be made if, during the Indemnity Period, Turnover is temporarily maintained from accumulated stocks of finished goods held by the Insured, thus causing a shortage of finished goods after the Indemnity Period has expired.

### **MEMO 5: DEPARTMENTS**

If the Business is conducted in departments or other units, the independent trading results of which are ascertainable, the provisions of the Policy will apply separately to each department or other unit affected by the Damage.

### **MEMO 6: UNINSURED EXPENSES**

If any expense that is not variable with Turnover or output has been deducted as uninsured in the calculation of claim under Item 1 then the increased costs claimable under that Item will be reduced by the proportion that such uninsured costs bear to the total Insured Gross Profit.

### **MEMO 7: WAGES IN LIEU OF NOTICE AND REDUNDANCY PAY**

For the purpose of calculating a claim under Section 2, wages, salaries or payroll paid during the Indemnity Period shall include wages, salaries or payroll in lieu of notice and redundancy pay.

## **BUSINESS INTERRUPTION - CONDITIONS**

### **PAYMENT ON ACCOUNT**

In the event of a claim on this Section, payments on account will be made to the Insured on production of evidence to the Underwriter(s) satisfaction of a financial loss covered by this Section.

### **PREMIUM ADJUSTMENT**

The premium charged for this Section is provisional. It is adjustable at the end of the Period of Insurance, whether or not the policy is renewed, in accordance with the following conditions:

1. Within six months after the end of the Period of Insurance, or as soon as practicable thereafter, the Insured must submit to the Underwriter(s) a certificate setting out the actual Insured Gross Profit or Gross Revenue (and, if separately insured, the actual payroll) in the accounting year most nearly concurrent with the Period of Insurance.
2. The premium will be adjusted at the agreed rates based on the amounts so certified, the amounts being proportionately increased where necessary for any Indemnity Period longer than 12 months. Any refund of premium will not exceed 50% of the premium initially charged for the insurance.
3. If any claim occurs during the period for which the premium is to be adjusted, the amount paid or payable for loss (other than loss payable under a non-adjustable item) occurring during that period will be regarded as actually earned.

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## **GENERAL CONDITIONS - APPLICABLE TO ALL SECTIONS OF THE POLICY**

### **ACTS OF PARLIAMENT**

Where this policy refers to any Act of Parliament, it also includes any sub-ordinate legislation made under it, and any subsequent Acts

### **ALTERATION OF RISK**

Upon the Insured becoming aware of any material change in the nature or occupancy of Insured Property, the Insured must immediately notify the Underwriter(s) of that change. The Underwriter(s) will be entitled to charge reasonable additional premium for the increase in risk. If the Insured fails to notify the Underwriter(s) of the change within a reasonable time after becoming aware of it, cover on the affected property will cease.

A change is deemed to be material if it would influence the judgement of a prudent Underwriter in fixing the premium or in determining whether the Underwriter(s) would have taken or continued the risk upon substantially the same terms.

Notwithstanding the foregoing, notification is not required of any of the following changes:

- (a) Any change that is usual to or incidental to the Insured's business. This includes but is not limited to change in occupancy of tenanted buildings.
- (b) The repairing or altering of any Insured Property that does not involve structural alterations.
- (c) The cessation of operations or vacating of any building, providing the cessation or vacancy is of no more than 60-days duration.

### **CANCELLATION**

The Insured may cancel this Policy at any time by giving written notice to the Underwriter(s). Cancellation will be effective immediately or on the date specified in the notice. The Underwriter(s) may cancel the Policy at any time by giving written notice to the Insured at the address last known to them. Cancellation will be effective from 4:00 pm on the 30th day after posting or personal delivery of the notice.

Subject to any adjustment of premium as may be required by the terms of this Policy, the Underwriter(s) will be entitled to a pro rata proportion of the premium for the time during which the Policy has been in force.

### **FALSE OR FRAUDULENT CLAIMS**

If any claim is in any respect fraudulent, or if any false declaration is made or used in support of it, all benefit under this Policy in respect of that claim will be forfeited.

For the purposes of this condition, if the Insured comprises more than one person or corporation, each of the Insured shall be treated as having been issued with a separate policy.

### **GOODS AND SERVICES TAX (GST)**

Provided that Goods and Services Tax (GST) is recoverable by the Underwriter(s), the Sum or Sums Insured (including any sub-limits) by this Policy are exclusive of GST to the extent that, in the event of a claim, the Underwriter(s) will pay a maximum of the Sum Insured plus additional GST to a maximum of the current rate of GST applied to that Sum Insured.

The Excess is inclusive of GST.

### **INSPECTION**

The Underwriter(s) are entitled to inspect Insured Property at any reasonable time after giving the Insured notice of the inspection. The Insured must provide such information as may be reasonably required by the Underwriter(s) in relation to the subject of this insurance. Neither this condition, nor any inspection performed by the Underwriter(s), nor any report arising from such an inspection, are to be regarded as an undertaking by the Underwriter(s) to determine or warrant that any operations or premises are safe.

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## **MIS-DESCRIPTION**

The Underwriter(s) will not be entitled to void this Policy by reason of any innocent mis-description of any material fact providing the Underwriter(s) are notified of the circumstances in writing as soon as practicable after the Insured becomes aware of them. The Underwriter(s) may charge reasonable additional premium for any increase in the risk that was not contemplated when fixing the premium.

Where the Underwriter(s) have the right to void the Policy by reason of any mis-description or non-disclosure of any material fact, each Insured will be treated as if issued with a separate policy, each being separately subject to the Insured's duty of disclosure.

## **MUTUALLY ACCEPTABLE ASSESSORS**

Any loss adjuster or assessor appointed by the Underwriter(s) in connection with a claim on this Policy must be one that is mutually acceptable to the Underwriter(s) and the Insured.

## **NEW ZEALAND POLICY**

This Policy is to be governed by and construed in accordance with the laws of New Zealand, whose courts will have sole jurisdiction over any legal action arising out of or in connection with this Policy.

## **NOTIFICATION OF CLAIMS**

On the happening of any Event, likely to give rise to a claim on this Policy, the Insured must:

- (a) take prompt steps to minimise the loss or damage,
- (b) notify the Underwriter(s) as soon as practicable,
- (c) provide the Underwriter(s) with as much information as they may reasonably require in connection with the claim.

## **OBSERVANCE OF TERMS**

Subject to the Alteration of Risk and Mis-description conditions of this Policy, the Insured's due observance and fulfilment of its terms insofar as they relate to anything to be done or complied with by the Insured, and the truth of the statements made in the proposal for this insurance, and of any other statements made in support of that proposal, will be conditions precedent to any liability of the Underwriter(s) to provide any cover under this Policy.

## **OTHER INSURANCE**

If at the time of an insured Event, there is any other insurance that is valid and collectable by the Insured on the same loss or damage, no claim will be payable under this Policy unless and until the Insured has first made a claim on the other insurance and the amount of the other insurance has been exhausted.

## **REINSTATEMENT OF AMOUNT OF INSURANCE**

In the event of a loss or damage for which a claim is payable under this Policy and in the absence of written notice by the Underwriter(s) or the Insured to the contrary, the amount of insurance cancelled by loss will be automatically reinstated from the date of loss. The Insured undertakes to pay reasonable additional premium for the reinstatement if so required.

## **RELEASE OF LIABILITY**

Where the Insured is required by legislation or by contractual agreement to release any of the following from liability arising from loss or damage insured by this Policy, the release is allowed without prejudice to this insurance:

- the Crown.
- any government-owned corporation.
- any municipal or local authority.
- the New Zealand Fire Service.

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- any certified fire protection equipment supplier.
  - any lift maintenance engineer.
  - any oil company.
  - any party to a contract entered into by the Insured for the storage of goods or the leasing of property.
  - any other party to an agreement where such agreement was in place prior to the occurrence of any loss indemnified by this Policy.

## **SUBROGATION**

Where, upon accepting liability for a claim under this Policy, the Underwriter(s) 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 Underwriter(s) expense, do and concur in doing and permit to be done anything reasonably required by the Underwriter(s) 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 Underwriter(s).