



# Nautilus Marine Business Interruption Insurance Policy Wording

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# Welcome to Nautilus Marine Insurance

## ABOUT NAUTILUS MARINE INSURANCE

Nautilus Marine Underwriting Agency Ltd, trading as NM Insurance NZBN: 9429031454261, FSP: 388326, is an insurance underwriting agency and has a binding authority from ZAIL which allows it to enter into policies of insurance. Nautilus Marine Insurance acts on behalf of ZAIL and not *You* when providing these services. Always consider the relevant Policy wording before purchasing an insurance Policy. ZAIL is a signatory to the Fair Insurance Code. This aims to raise standards of practice and service in the insurance industry. Nautilus Marine Insurance supports and adheres to the Code.

## ABOUT ZURICH

The insurer of this product is Zurich Australian Insurance Limited (ZAIL incorporated in Australia), ABN 13 000 296 640, trading as Zurich New Zealand. In this Policy wording, Zurich New Zealand may also be expressed as '*Zurich*', '*We*', '*Us*' or '*Our*'.

ZAIL is part of the Zurich Insurance Group, a leading multi-line insurer that serves its customers in global and local markets. Zurich provides a wide range of general insurance and life insurance products and services in more than 210 countries and territories. Zurich's customers include individuals, small businesses, mid-sized and large companies, including multinational corporations.

# Duty of Disclosure

Before *You* enter into an insurance contract, *You* have a duty to tell *Us* anything that *You* know, or could reasonably be expected to know, may affect *Our* decision to insure *You* and on what terms.

*You* have this duty until *We* agree to insure *You*. *You* have the same duty before *You* renew, extend, vary or reinstate an insurance contract.

*You* do not need to tell *Us* anything that

- reduces the risk *We* insure *You* for; or
- is common knowledge; or
- *We* know or should know as an Insurer; or
- *We* waive *Your* duty to tell *Us* about.

# If You Do Not Tell Us Something

If *You* do not tell *Us* anything *You* are required to, *We* may cancel *Your* contract or reduce the amount *We* will pay *You* if *You* make a claim, or both.

If *Your* failure to tell *Us* is fraudulent, *We* may refuse to pay a claim and treat the contract as if it never existed.

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# Our Contract With You

*Your Policy* is a contract of insurance between *You* and *Us* and contains all the details of the cover that *We* provide.

*Your Policy* is made up of:

- the Policy wording. This is common to all customers who buy our Business Interruption Insurance product. It tells *You* what is covered, sets out the claims procedure, exclusions and other terms and conditions of cover;
- the proposal, or declaration which is the information *You* provide to *Us* when applying for insurance cover;
- *Your* most current *schedule* issued by *Us*. The *schedule* is a separate document unique to *You*, which shows the insurance details relevant to *You*. It includes any changes, exclusions, terms and conditions made to suit *Your* individual circumstances and may amend the Policy, and
- any other written change otherwise advised by *Us* in writing (such as an endorsement). These written changes vary or modify the above documents.

Please note, only those covers shown in *Your Policy schedule* are insured.

This Policy wording is used for any offer of renewal *We* may make, unless *We* tell *You* otherwise. Please keep *Your Policy* in a safe place. *We* reserve the right to change the terms of this Policy wording where permitted to do so by law.

# Business Interruption Insurance Policy Wording

In consideration of *You* having paid or agreeing to pay the premium, *We* agree to indemnify *You* in the manner and to the extent set out in this Policy.

## Definitions

Whenever these words appear in this policy, they have the following meaning.

### Accidental

Accidental means unexpected and unintended by *You*.

### Act of terrorism

Act of terrorism means an act including but not limited to the use or threat of force or violence 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) which from its nature or context is committed for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public or any section of the public in fear.

### Buildings

Buildings mean buildings, other structures, and their appurtenances including but not restricted to the plant, fixtures, fittings, pipes, cables, lights, aerials, signs and lettering, tanks, poles, power lines and their supports, underground and above ground services directly associated with the building, walls, gates, fences, landscaping, gardens, ornamental trees and shrubs, roads, paths, yards and the like pertaining to any of them and located in or about the situation.

Provided that the building is:

1. owned by *You* (including joint ownership with others); and
2. located at the situation at the start of the *period of insurance*.

### Business interruption

Business interruption means interruption to or interference with *Your* business.

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## Computer system

Computer system means interconnected electronic, wireless, web or similar systems, including computer hardware, software and the electronic data stored thereon, as well as associated input and output devices, mobile devices (including, but not limited to, smart phone, laptop, tablet, wearable device), electronic data storage devices, servers, cloud or microcontroller including any similar system media libraries, networking equipment, components, firmware and electronic backup facilities, including systems accessible through the internet, intra nets, extranets or virtual private networks, owned or operated by *You* or any other party.

## Communicable disease

Communicable disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:

1. the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not; and
2. the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms; and
3. the disease, substance or agent can cause or threaten damage to human health or human welfare or can cause or threaten damage to, deterioration of, loss of value of, marketability of or loss of use of insured property.

## Computer virus

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'.

## Cyber act

Cyber act means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any computer system.

## Cyber incident

Cyber incident means:

1. deliberate and unauthorised corruption, amendment or erasure of electronic data by *You* or *Your* directors, partners, employees, officers or any other person who has an interest in the *insured property* whether acting alone or in collusion with any other person; or
  2. any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any computer system; or
  3. the gaining of unauthorised access to *Your* computer via any communication system that is used by *Your* computer system by any person other than *You* or *Your* directors, partners, employees, officers or any other person who has an interest in the *insured property* and any indirect financial loss or consequence arising from or in connection with a breakdown; or
  4. the operation or presence of any computer program, including any computer virus, that alters or erases electronic data or programs in a manner that is undesired by *You*.
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### Data processing media

Data processing media means any *insured property* covered by this Policy on which electronic data can be stored but not the electronic data itself.

### Destroyed

Destroyed means so physically damaged by an insured loss that the property, by reason only of that loss, cannot be repaired or the cost of repair is uneconomic.

### Electronic data

Electronic data means facts, concepts and information converted to a form useable for communications, display, distribution, interpretation or processing by electronic and electromechanical data processing media or electronically controlled equipment and includes programs, software and other coded instructions for such equipment.

### Event

Event means an event, including continuous or repeated exposure to substantially the same conditions, or a series of events resulting from, or attributable to, one source or original cause. A series of events arising from any one cause during any period of 72 consecutive hours will be treated as one event.

### Excess

Excess means the first amount *You* bear in relation to each loss.

### Gross profit

Gross profit means the amount by which:

1. the sum of the turnover and the amount of the closing stock exceeds;
2. the sum of the amount of the opening stock and the amount of the uninsured working expenses.

#### Notes about this calculation:

- (a) The amount of the opening and closing stocks shall be arrived at in accordance with *Your* normal accounting methods, due provision being made for depreciation, and
- (b) The words and expressions used in this definition shall have the meaning usually attached to them in *Your* books and accounts.

### Gross rentals and management fees

Gross rentals and management fees mean the amount of fees received or receivable for services in respect of or associated with the rental of the situation including but not restricted to contributions to any variable and/or promotional funds, operational expenses, rates, insurance premiums, car parking rentals and any other expenses of whatsoever nature and description and any services rendered by *You*.

### Gross revenue

Gross revenue means the monies paid or payable to *You* for work done or services provided as part of *Your* business operations.

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### Group of related companies

Group of related companies means a group of companies related or associated to one another by virtue of their ownership.

### Indemnity period

Indemnity period means the period beginning with the occurrence of the loss and ending not later than the number of months or weeks specified in the *schedule* thereafter during which the results of *Your* business are affected in consequence of the loss.

### Loss

Loss means accidental physical loss or accidental physical damage.

### Material damage policy

Material damage Policy is a Policy that *You* have with *us* that insures loss to tangible property.

### Managed Recreational Boating Group

Managed Recreational Boating Group means a professionally managed boat membership program that provide shares and or memberships for recreational use of boats.

### Media material

Media material means any optical discs or any magnetic medium that can be used to store data or software such as, but not limited to, tapes, discs or cards.

### Natural hazard

Natural hazard means any sudden and accidental loss that results directly or indirectly from earthquake, hydrothermal and/or geothermal activity, subterranean fire, volcanic activity, tsunami, or fire caused by any of these perils.

### Natural Disaster

Natural Disaster means natural hazard.

### NHI Act

NHI Act means Natural Hazards Insurance Act 2023 and any Act in substitution of that Act.

NHI Act will also be taken to mean the Earthquake Commission Act 1993 where the claimed loss and/or damage occurred while that Act was in force. In such circumstances, the equivalent definitions under that Act will apply.

### NHI residential property

NHI residential property mean residential property that is covered by the relevant sections of the NHI Act.

If any NHI residential property insured by the material damage Policy suffers natural hazard damage during the *period of insurance* of the kind covered by the NHI Act, our liability will be limited to any costs in excess of those covered by the Act. The excess amount under this Policy will only apply to the extent that it exceeds the amount of the cover under that Act. For the purpose of this definition, the cover under the NHI Act is deemed to include the amount of 'excess' imposed by the terms of that cover.

## Payroll

Payroll means the gross remuneration (including but not limited to salaries, wages, Accident Compensation, redundancy payments, levies, bonuses, sick pay, holiday pay, long service leave, superannuation contributions and other payments and charges pertaining to payroll calculated on a 'per capita' or percentage of payroll basis) for all employees engaged in activities of *Your* business.

## Period of insurance

Period of insurance means the period of time stated in the *schedule* that this Policy is in force.

## Policy

Policy means the proposal and any other information *You* supplied *Us* when this insurance was arranged, this Policy Wording, the *schedule* and any endorsement attaching to the Policy.

## Property

Property means all tangible property of every description which *You*:

1. own (solely or jointly); or
2. hold in *Your* care, custody or control, and are legally responsible or have assumed responsibility for,

within the categories specified in the material damage Policy *schedule*.

## Rate of payroll

Rate of payroll to turnover during the financial year immediately before the date of the loss.

## Rate of wages

Rate of wages means the rate of wages to turnover during the financial year immediately before the date of the loss. To which such adjustments shall be made as may be necessary to provide for the trend of *Your* business and for variations in or other circumstances affecting *Your* business either before or after the loss or which would have affected *Your* business had the loss not occurred so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the loss would have been obtained during the relative period after the loss.

## Rate of gross profit

Rate of gross profit means the rate of gross profit earned on the turnover during the financial year immediately before the date of the loss. To which such adjustments shall be made as may be necessary to provide for the trend of *Your* business and for variations in or other circumstances affecting *Your* business either before or after the loss or which would have affected *Your* business had the loss not occurred so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the loss would have been obtained during the relative period after the loss.

## Regulations

Regulations means building or other regulations made under or framed in pursuance of any Act of Parliament or regulation or by-law of any local authority. A reference to any statute, regulation or subordinate legislation includes any amendment, replacement, successor or equivalent to or of that statute, regulation or subordinate legislation.

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## Schedule

Schedule means the most recent *schedule* to this Policy.

## Shortage in turnover

Shortage in turnover means the amount by which the turnover during a period shall in consequence of the loss fall short of the part of the standard turnover which relates to that period.

## Situation

Situation means the situations described in the *schedule* located in New Zealand.

## Software

Software means any instructions used to control the operation of a computer provided that these instructions are recorded on media material.

## Standard turnover

Standard turnover means the turnover during the period in the twelve months immediately before the date of the loss which corresponds with the indemnity period, to which such adjustments shall be made as may be necessary to provide for the trend of *Your* business and for variations in or other circumstances affecting *Your* business either before or after the loss or which would have affected *Your* business had the loss not occurred so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the loss would have been obtained during the relative period after the loss.

## Stock

Stock means stock and materials in trade.

Provided that they are:

1. owned by *You* (including joint ownership with others); or
2. in *Your* care, custody or control and for which *You* are legally responsible.

## Subsidiary

Subsidiary means a company that has more than half of its equity share capital owned by a parent company either directly or through other subsidiaries.

## Transmission and distribution lines

Transmission and distribution lines means overhead transmission and distribution lines and their supporting structures or any equipment which includes but is not limited to, wire, cables, poles, pylons, standards, towers, other supporting structures and any equipment of any type which may be attendant to such installations of any description for the purpose of transmission or distribution of electrical power, telephone or telegraphic signals, and all communication signals whether audio or visual.

## Turnover

Turnover means the money paid or payable to *You* for goods sold and delivered and for services rendered in the course of *Your* business.

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### Vehicle

Vehicle means any type of machine on wheels, tracks or rollers that is propelled by its own power, and anything designed to be towed by such a machine.

### Wages

Wages mean the remunerations (including bonuses, holiday pay, sick pay, long service leave, accident compensation levies and any other benefits and charges pertaining to wages and treated as part of remuneration) of all employees other than those whose remunerations are treated as salaries in *Your* books of account.

### Uninsured working expenses

Uninsured working expenses means those expenses that vary in direct proportion to the turnover.

### You, Your, Yours

*You, Your, Yours* means the persons or entities named in the *schedule* as Insured, who are insured severally, and any subsidiary or any other organisation under the active management control of that insured. *We* may also use the word 'insured' to describe *You*.

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# Business Interruption

## COVER

If *Your* business carried on at the situation is interrupted or interfered with in consequence of a loss at the situation during the *period of insurance* We will indemnify *You* for business interruption up to the limits specified in the *schedule* for each item insured set out below.

Provided that

- (i) We will not be liable under this Policy unless *Your* property damaged at the situation is insured against the loss (except loss arising out of explosion of any boiler or economiser) under the material damage Policy and We (including the Natural Hazards Commission where applicable) have (or would have, but for the application of an excess or deductible) admitted liability in respect of such loss under the material damage Policy.
- (ii) subject to the 'Goods and Services Tax' clause and 'Reinstatement of Amount of Insurance' clause of this Policy, *Our* liability will not exceed the Total Sum Insured specified in the *schedule*, and if more than one insured item is included in the *schedule*, will not exceed in respect of each item the sum insured applicable to that item.

## INSURED ITEMS

### 1. Gross profit or gross revenue (as selected)

Where gross profit or gross revenue has been selected in the *schedule*, the amount payable as indemnity shall be:

1. In respect of reduction in gross profit/gross revenue, the amount by which the gross profit/gross revenue earned by *Your* business during the indemnity period is less than the amount that would have been earned if the interruption or interference had not occurred, and;
2. In respect of additional expenditure, the additional expenditure necessarily and reasonably incurred during the indemnity period to avoid or minimise the reduction in profit/gross revenue that *Your* business suffers as a result of the interruption or interference. The amount payable shall not exceed the reduction in gross profit/gross revenue thereby avoided, less expenses saved as a result of the loss.

#### 1.1 Gross rental and management fees

Where gross rentals and management fees has been selected in the *schedule*, the amount payable as indemnity shall be:

- (a) In respect of reduction in gross rentals and management fees, the amount by which the gross rentals and management fees earned by *Your* business during the indemnity period is less than the amount that would have been earned if the interruption or interference to *Your* business had not occurred, and;
- (b) In respect of additional expenditure, the additional expenditure necessarily and reasonably incurred during the indemnity period to avoid or minimise the reduction in gross rentals and management fees that *Your* business suffers as a result of the interruption or interference.

The amount payable shall not exceed the reduction in gross rentals and management fees thereby avoided, less expenses saved as a result of the loss.

## 1.2 Payroll

Where payroll has been mentioned in the *schedule*, the amount payable as indemnity shall be:

- (a) In respect of reduction in turnover: the sum produced by applying the rate of payroll to the shortage in turnover during the indemnity period.
- (b) In respect of increase in cost of working: so much of the additional expenditure described in sub-clause 2 of 1 and sub-clause (b) of 1.1 under Insured Items above as exceeds the amount payable thereunder but not more than the additional amount which would have been payable in respect of reduction in turnover under the provisions of (a) of this item had such expenditure not been incurred.

Less any sum saved during the indemnity period through reduction in the amount of payroll paid as a result of the loss.

## 1.3 Wages: dual basis

Where dual wages has been selected in the *schedule* the amount payable as indemnity shall be:

1. In respect of reduction in turnover.
  - (a) **Initial Period:** beginning with the loss and ending not later than the number of weeks specified in the *schedule* thereafter, the actual amount *You* pay as wages to employees whose services cannot, in consequence of the loss, be used by *You*, being the amount produced by applying the rate of wages to the shortage in turnover during that period less any wages saved as a result of the loss in this period;
  - (b) **Remainder Period:** during the remaining portion of the indemnity period the sum produced by applying the rate of wages to the shortage in turnover during that period less any wages saved as a result of the loss in this period;  
but not exceeding the sum produced by applying the remainder percentage of the rate of wages specified in the *schedule* 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 1 (a) above;
  - (c) **Optional Period:** at *Your* option, the number of weeks referred to in 1 (a) above may be increased to the optional number specified in the *schedule* provided that the amount arrived at under the provisions of 1(b) shall not exceed such amount as is deducted under 1 (a) for savings effected during the optional number of weeks.
2. In respect of additional expenditure, the additional expenditure necessarily and reasonably incurred during the indemnity period to avoid or minimise the reduction in wages that *Your* business suffers as a result of the interruption or interference. The amount payable shall not exceed the reduction in wages thereby avoided.

## 1.4 Payroll/wages in lieu of notice

Where payroll/wages in lieu of notice has been selected in the *schedule* the amount payable as indemnity shall be:

The amount of payroll/wages *You* shall reasonably pay during the period beginning with the loss and ending not later than the number of weeks specified in the *schedule* to employees whose services cannot, in consequence of the loss, be utilised by *You* at all, and an equitable part of the payroll/wages paid to employees whose services cannot, in consequence of the loss, be utilised by *You* to the full (less any wages/payroll saved as a result of the loss).

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## 1.5 Redeployment expenses

Where selected in the *schedule* the insurance under this item covers expenditure reasonably incurred by *You* during the indemnity period in the necessary relocation of employees within New Zealand where, as a result of the loss, *You* elect to permanently redeploy employees at any alternative sites within New Zealand. The insured expenses will include all such expenses *You* would normally incur or reimburse to employees when transferring employees and their families and pets to different places of permanent residence for the purpose of *Your* business.

## 1.6 Severance and redundancy payments

Where selected in the *schedule* the insurance under this item covers all payments which *You* are required to pay to employees in accordance with their employment contract whose services are lawfully terminated as a result of loss.

## 1.7 Additional increased cost of working

Where selected in the *schedule* the insurance under this item covers the additional costs and expenditure reasonably incurred by *You* during the indemnity period in consequence of the loss for the purpose of avoiding or diminishing a reduction in gross profit or gross revenue and/or for resuming or maintaining any normal business operations or services that are not otherwise covered under this Policy, but excluding any cost of reinstating physical damage to *Your* property.

## 1.8 Book debts

Where selected in the *schedule* the insurance under this item covers the net financial loss that is established during the twelve months after the loss resulting solely from the interruption or interference to the business of collectible amounts owed to *You* plus the reasonable costs incurred by *You* in establishing, tracing and recovering those debts less an equitable allowance for bad debts or variations in trade.

## 1.9 Penalty payments

Where selected in the *schedule* the insurance under this item covers any penalties, damages or other amounts which *You* are legally liable to pay, in accordance with the terms and conditions of any contract, for any unavoidable breach of contract by *You* resulting from any interruption to or interference with *Your* business as a sole consequence of loss.

## 1.10 Additional claim preparation costs

Where selected in the *schedule* the insurance under this item covers all costs, professional fees and expenses reasonably incurred by *You* for the purpose of assessing, preparing, presenting and certifying any claims made under this Policy and the material damage Policy insofar as such costs are not more specifically insured or recoverable under any other Policy of insurance. Salaries, wages, overheads and other expenses of *Your* employees and consultants will be deemed to be part of such costs and expenses.

### 1.11 Loss of lease goodwill

Where selected in the *schedule*, the insurance under this item covers loss of lease goodwill should the whole or any part of leased premises occupied by *You* suffer loss during the *period of insurance*, provided that

- (a) the rebuilding or reinstatement of the premises at the existing site is prohibited by building or other regulations under any Act of Parliament of the Bylaws of any Municipal or other local authority; or
- (b) the owner of the premises not being *You*, decides for any reason whatsoever, not to undertake the rebuilding or reinstatement of the premises at the existing site following such loss; or
- (c) the owner of the premises not being *You* terminates the lease in accordance with the terms thereof following such loss.

## 2. Additional Cover

### 2.1 Accumulated stocks

In adjusting any claim, account will be taken and an equitable allowance made if, during the indemnity period, turnover is temporarily maintained from accumulated stocks of finished goods held by *You*, thus causing a shortage of Stock of finished goods after the indemnity period has expired.

### 2.2 Acts of civil authorities

This Policy insures business interruption due to the closure of whole or part of *Your* situation by order of any lawfully constituted civil authority during the *period of insurance* as a result of loss as insured under material damage Policy to any property within 5 kms of *Your* situation.

Clause (i) of 'Cover' does not apply to this additional cover. This clause is limited to 10% of the Total Sum Insured specified in the *schedule* or \$500,000 whichever is the lesser, and further subject to the excess shown in the *schedule*.

### 2.3 Closure of transport routes, ports or airports

This Policy insures business interruption caused by the closure due to loss as the result of a peril insured under the material damage Policy during the *period of insurance* of any transport route, port, container port, airport or railway terminal within 5kms of *Your* situation due to loss to any property at such premises that would be covered under material damage Policy if it had covered that property. Clause (i) of 'Cover' does not apply to this additional cover. This clause is limited to 10% of the Total Sum Insured of this Policy or \$500,000 whichever is the lesser, and further subject to the excess shown in the *schedule*.

### 2.4 Contractual commitments

This Policy insures the amount *You* are legally liable to pay under contracts for purchases unavoidably not used during the indemnity period as a result of a loss during the *period of insurance* covered under this section, less any sums received or receivable by *You* in respect of such purchases through any salvage handling operations or resale.

This clause is limited to \$100,000 or the amount specified in the *schedule* in respect of 'Contractual commitments'.

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## 2.5 Customers'/suppliers' premises – New Zealand

This Policy insures business interruption caused by loss that would be covered under material damage Policy if it had covered that property during the *period of insurance* at any place within New Zealand that is:

1. occupied by manufacturers, processors or suppliers of goods or services to *You*; or
2. occupied by any of *Your* customers.

Clause (i) of 'Cover' does not apply to this additional cover. This clause is limited to 10% of the Total Sum Insured this Policy or \$1,000,000 whichever is the lesser, and further subject to the excess shown in the *schedule*.

## 2.6 Dependent business that attracts customers

This Policy insures business interruption caused by loss that would be covered under material damage Policy if it had covered that property during the *period of insurance* to an anchor tenant situated in the same retail shopping complex as *Your* business.

Clause (i) of 'Cover' does not apply to this additional cover. *Our* liability in respect of any one loss will be limited to an indemnity period of 30 days from the date turnover is first affected and this clause is limited to 10% of the Total Sum Insured of this Policy or \$1,000,000 whichever is the lesser, and further subject to a 24 hour time deductible.

## 2.7 Loss of utilities

This Policy insures business interruption caused by loss that would be covered under material damage Policy if it had covered that property during the *period of insurance* to any electricity station or sub-station or power lines or telecommunication networks or gas works or natural gas works (but excluding any offshore installation) or energy-producing plant or water works or treatment plants or any other supplier of utilities, and including all property or plant or equipment or supply pipes or supply lines of any of them that affects the supply to *Your* premises.

This cover excludes offshore facilities and pipelines to shore and the Cook Strait cable.

Clause (i) of 'Cover' does not apply to this additional cover. This clause is limited to 10% of the Total Sum Insured of this Policy or \$500,000 whichever is the lesser, and further subject to the excess shown in the *schedule*.

## 2.8 Prevention of access

This Policy insures business interruption caused by loss that would be covered under material damage Policy if it had covered that property during the *period of insurance* within a 5km radius in the vicinity of *Your* situation that prevents or hinders the use of or access to the situation during the *period of insurance* regardless of whether *Your* property or situation suffers loss.

Clause (i) of 'Cover' does not apply to this additional cover. This clause is limited to 10% of the Total Sum Insured of this Policy or \$1,000,000 whichever is the lesser, and further subject to the excess shown in the *schedule*.

## 2.9 Purchases from joint insureds

Where, for the purpose of avoiding or diminishing a reduction in turnover, goods or services are purchased from a party jointly covered under this Policy, the reasonable full price of such goods or services (less any discount normally allowed) shall 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.

## 3. Optional Additional Cover

The following optional clause will apply only when designated or specified in the *schedule*.

### 3.1 Customers'/suppliers' premises – Australia

This Policy insures business interruption caused by loss occurring during the *period of insurance* at any place within Australia that is shown in the *schedule*:

- (a) occupied by any supplier of goods or services of any description to *You*; or
- (b) occupied by any of *Your* customers.

This clause is limited to \$1,000,000 or the limit specified in the *schedule*.

Clause (i) of 'Cover' does not apply to this optional additional cover. This cover is subject to no excess for all perils other than natural disaster and a excess of 21 days for natural disaster.

### 3.2 Natural disaster

Notwithstanding clause 1 of exclusion 5, this Policy insures business interruption caused by:

1. natural hazard;
2. measures taken under proper authority, following an event listed above to:
  - (a) avoid its spreading, or
  - (b) reduce its consequences,

during the *period of insurance*.

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# Exclusions

## 1. War and Terrorism

This Policy does not insure any death, injury, loss, damage, liability, cost or expenses of whatever nature directly or indirectly caused by, resulting from, or in connection with, any of the following regardless of any other contributing cause or event:

1. war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war;
2. mutiny, civil commotion assuming the proportions of or amounting to a popular rising, military rising, insurrection, rebellion, revolution, military or usurped power, or any act of any person or persons acting on behalf of or in connection with any organisation the objects of which are or include the overthrowing or influencing of any de jure or de facto government by terrorism or by any violent means;
3. any act of terrorism.

This Policy also excludes any cost or expense of any 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, the events excluded above.

## 2. Confiscation, Nuclear

This Policy does not insure loss directly or indirectly caused by:

1. confiscation, requisition, or destruction of or damage to property by order of government or local authority unless the order is given for the purpose of controlling fire or another peril for which insurance is provided by this Policy;
2. nuclear weapons material;
3. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. (For the purpose of this exclusion, combustion includes any self-sustaining process of nuclear fission).

### 3. Cyber Risk

This Policy does not cover any loss caused directly by or arising directly or indirectly from a cyber incident or a cyber act including any action taken in controlling, preventing, suppressing or remediating such event.

However, subject to all the terms, conditions, limitations and exclusions of this Policy, We will cover any loss to insured property, resulting from any ensuing fire, explosion, implosion, impact by aircraft or aerial object dropped therefrom, impact by road vehicle water, flood and/or water and other liquids and/or substances discharged and/or overflowing and/or leaking from any apparatus and/or pipes only, occurring at *Your* situation, which directly results from a direct cyber incident or cyber act causing such loss and including any consequential loss insured by this Policy.

### 4. Electronic Data

This Policy does not insure:

1. total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of electronic data;
2. error in creating, amending, entering, deleting or using electronic data;
3. total or partial inability to use or failure to receive, send or access electronic data for any time or at all, or
4. any loss of use, reduction in functionality, repair, replacement, restoration or reproduction of any electronic data.

However, in the event that a peril listed below (being a peril insured by this Policy but for this exclusion) causes any of the matters described above, then subject to all provisions in this Policy, We will insure:

- (i) physical loss of or damage or destruction to insured property directly caused by 'Listed peril', and/or
- (ii) consequential loss.

'Listed perils' are fire, lightning, explosion, implosion, earthquake, impact by aircraft or aerial object dropped there from, impact by road vehicle, the acts of persons taking part in riots or civil commotions, storm and/or flood and/or water and other liquids and/or substances discharged and/or overflowing and/or leaking from any apparatus and/or pipes at the premises and the theft of electronic data solely where such theft is a consequence of theft of any computer and/or computer hardware and/or firmware and/or microchip and/or integrated circuit and/or similar device containing such electronic data.

For the purposes of the Basis of Settlement provision in this Policy, computer systems records include electronic data as defined.

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## 5. Natural Hazard/Normal Settlement

Unless explicitly stated in this Policy and/or specifically shown in the *schedule*, this Policy does not insure:

1. natural hazard damage;
2. landslip, subsidence, erosion or expansion of the land; and/or
3. normal settlement, shrinkage or expansion of buildings, foundations, walls, pavements, roads and other structural improvements.

## 6. Infectious Disease

This Policy does not insure business interruption directly or indirectly caused by, arising out of, attributable to, or occurring concurrently or in any sequence by:

1. a notifiable disease under the Health Act 1956; or
2. any pest management plan under the Biosecurity Act 1993; or
3. any communicable disease.

## 7. Transmission and Distribution Lines

This Policy does not insure losses in respect of transmission and distribution lines.

However, this exclusion shall not apply in respect of transmission and distribution lines that extend from the public highway to the insured premises and are *Your* responsibility and which are on or within 300 metres of any insured structure.

## 8. Seismic Strengthening

Notwithstanding any provision in this Policy to the contrary, the amount payable under this Policy in respect of property that is damaged but not destroyed shall not include any cost incurred in connection with the seismic strengthening of the property to a level greater than it was immediately prior to the occurrence of the accidental loss.

For the avoidance of doubt, *You* shall bear any costs of compliance with any seismic strengthening codes or regulations, which result in an increase in the seismic strength or resistance of the property to a level greater than it was immediately prior to the occurrence of the accidental loss.

The fact *You* must incur seismic strengthening costs in order to obtain a building consent or otherwise in connection with the reinstatement of any damaged property shall be disregarded when assessing or adjusting the loss. All other provisions in this Policy concerning Reinstatement and the Basis of Settlement continue to apply.

## 9. Mechanical or Electrical Breakdown

This Policy does not cover business interruption arising from mechanical or electrical breakdown or derangement of machinery or electrical equipment other than as a result of a loss arising from additional cover 2.6 Electric current damage under the material damage Policy or optional additional cover 3.1 Boiler explosion if selected in the material damage Policy *schedule*.

## 10. Transit

This Policy does not cover business interruption arising from property in transit other than at *Your* situation.

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# Conditions

## 1. Application of Additional Cover Clauses

Where the terms of any Additional Cover clause in this Policy are inconsistent with any extensions or covers of the Policy, the terms of the Additional Cover clause will prevail. Where the terms of any Additional Cover clause are inconsistent with the terms of any other Additional Cover clause, the terms most favourable to *You* will prevail.

Where the *schedule* states that an Additional Cover clause is subject to a special limit or other special provision, the limit or provision will apply to that Additional Cover clause but not to other loss that would be covered under the Policy without the Additional Cover clause.

## 2. Alternative Index

In the event of a claim under this Policy, adjustments may be based on turnover or output or whatever other index of business activity affords the most equitable result, and, except in the definition of turnover, the word turnover wherever used in this Policy shall be read as turnover or alternative index.

## 3. Bankruptcy or Insolvency

In the event that *You* should become bankrupt or insolvent, *We* shall not be relieved thereby of the payment of any claims because of such bankruptcy or insolvency. In case of execution against *You* of any final judgement covered by this Policy being returned 'unsatisfied' by reason of such bankruptcy or insolvency, then an action may be maintained by the injured party or their representative against us in the same manner, and to the same extent as *You*, but not in excess of the Total Sum Insured.

## 4. Breach of Warranty or Condition

The indemnity provided by this Policy will not be invalidated or prejudiced by reason of any breach of warranty or condition of this Policy where the breach occurs without *Your* knowledge.

This insurance will also not be prejudiced by any act of the owner or occupier whereby the risk of loss to property is increased without *Your* authority or knowledge provided that notice is given to us immediately when *You* become aware of any of the above happenings, and *You* agree to pay an appropriate additional premium if required.

## 5. Cancellation

1. By *You*:

This Policy may be cancelled by *You* at any time, and with immediate effect, by written notice delivered to *Us*. In the event of such cancellation, *We* will be entitled to a pro rata proportion of the premium (subject to any adjustment required by the terms of this Policy).

2. By *Us*:

This Policy may be cancelled by *Us* at any time by giving notice to *You*. The notice may be by letter, facsimile or email to *Your* last postal address, facsimile or email address on *Our* records (or *Your* insurance broker's or agent's).

To the extent permitted by law, *We* may also cancel this Policy by giving *You* written notice to the effect where:

- (i) *You*, or any person who was at any time the insured, failed to comply with the duty of utmost good faith;
- (ii) the person who was the insured at the time when this Policy was entered into failed to comply with the duty of disclosure;
- (iii) the person who was *You* at the time when this Policy was entered into made a misrepresentation to *Us* during the negotiations for this Policy but before it was entered into;
- (iv) *You* or any person who was at any time the insured failed to comply with a provision of this Policy, including a provision with respect to the payment of the premium;
- (v) *You* made a fraudulent claim under this Policy or any other Policy of insurance (whether with *Us* or some other insurer) that provided insurance cover during any part of the period during which this Policy provides insurance cover;
- (vi) *You* failed to notify *Us* of any specific act or omission where such notification is required under the terms of this Policy; or
- (vii) *You* acted in contravention of or omitted to act in compliance with any condition of this Policy which empowers *Us* to refuse to pay, or reduce its/their liability in respect of, a claim in the event of such contravention or omission.

The cancellation will take effect at 4 p.m. on the 30th day after the notice has been posted, faxed or emailed. In the event of such cancellation, *We* will refund to *You* the pro-rata proportion of the premium and any tax or duty paid or owing for which *We* are unable to obtain a refund (subject to any adjustment required by the terms of this Policy).

If the premium has been funded by a premium funding company which holds a legal right over the Policy by virtue of a notice of assignment and irrevocable power of attorney, a refund will be made to the premium funding company of the proportionate part of the premium applicable to the unexpired portion of the *period of insurance* excluding any tax or duty paid or owing for which *We* are unable to obtain a refund.

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## 6. Change of Facts or Circumstances

*You* must notify *Us* as soon as reasonably practicable if the risk of loss, damage, injury, illness or liability covered by *Your* Policy is materially increased by any change in circumstances, existing at the commencement of *Your* Policy, or at any subsequent renewal date, including, for example, a change to:

- (a) the nature or type of business carried on by *You* or *Your* tenants; or
- (b) other circumstances that affect the premises or the property insured in such a way as to materially increase the risk of loss.

We reserve the right to assess any such change and may accept or deny coverage and/or vary the terms of coverage for any increased risk the change poses. If *We* and *You* agree to accept or vary the terms of coverage, *You* must pay such reasonable additional premium as *We* may require for any such coverage. If *You* fail to comply with this condition, *We* may be able to:

- (i) refuse a claim;
- (ii) reduce *Our* liability to pay a claim by an amount that fairly represents the extent to which *Our* interests are prejudiced by the failure to comply; or
- (iii) cancel this Policy.

However, this insurance will not be prejudiced by:

1. such changes in the use or occupancy of the situation as are usual or incidental to *Your* business;
2. the performance of any structural alterations or repairs to insured property, providing the circumstances are reported to *Us* in writing within a reasonable time after *You* become aware of them; and provided that *You* agree to pay a reasonable additional premium for the increased risk if so required by *Us*;
3. the cessation of operations or vacancy of any building for a period not exceeding 30 days;

However, the cessation of operations or vacancy of any building for a period in excess of 30 consecutive days is allowed, providing the circumstances are reported to *Us* within a reasonable time after *You* become aware of them; and provided that *You* exercise reasonable care and attention to the premises and make sure the situation is safe and secure.

## 7. Claims

Upon becoming aware of any circumstance, occurrence or loss giving rise, or likely to give rise, to a claim under this Policy

You must:

1. take prompt steps to minimise the loss;
2. take reasonable steps to protect the property from further loss;
3. notify *Us* as soon as reasonably practicable;
4. if a criminal act is suspected, inform the police;
5. at *Your* expense, provide *Us* with any reasonably required proof and information in respect of the claim.

You must not:

1. prejudice *Our* ability to settle the claim;
2. dispose of or abandon any property for which *You* intend to make a claim;
3. start any repairs without *Our* permission unless it is necessary to prevent further loss.

You must then:

1. fully complete *Our* claim form as soon as reasonably practicable;;
2. give *Us* free access to examine and assess any loss;
3. provide any other information or assistance *We* reasonably request in relation to *Your* claim;
4. forward any letters of demand or court documents to *Us* immediately;
5. if *We* request it, provide a statutory declaration to verify the loss;
6. if *We* request it, attend interviews with any person *We* nominate;
7. be responsible for the payment of the deductible to *Us* or to the repairer unless *We* are deducting it from any claim settlement to *You*.

*Your* compliance with the terms and conditions of this Policy, and the truth of any statements made to *Us* (whether made by *You* or not), are conditions precedent to any liability for *Us* to provide any indemnity under this Policy. In the event of a valid claim under this Policy, *We* will make progress claim payments on production of acceptable evidence of insured loss;

Provided that, if the aggregate of progress payments exceeds the total amount of the adjusted loss, *You* will immediately refund the difference between the amount of adjusted loss and the aggregate of payments actually made.

## 8. Deductible

*We* are not liable for the deductible shown in the *schedule* for each event.

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## 9. Departments

If *Your* business is conducted in departments, subsidiaries or other units and the independent trading results are ascertainable, the provisions of this Policy shall apply separately to each department, subsidiary or other unit affected by the loss. However, *Our* total liability remains unchanged.

## 10. Fraud

If any claim is in any respect dishonest or fraudulent, all benefit under the claim to *You* will be forfeited. For the purpose of this condition if *You* consist of more than one person or entity, each of them will be treated as having been issued with a separate Policy.

## 11. Goods and Services Tax

Provided that Goods and Services Tax (GST) is recoverable by *Us*, the sums insured by this Policy are exclusive of GST to the extent that, in the event of a claim, *We* 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.

## 12. Liquidation, Receivership or Cessation of interest

The cover provided by this Policy will be voided if, for any reason other than loss:

1. *Your* business is wound up or carried on by a liquidator or receiver or is permanently discontinued; or
2. *Your* interest in *Your* business ceases other than by death;

at any time after the commencement of this insurance, unless *We* have agreed to its continuance.

## 13. Inspection

*We* are entitled to inspect the insured property at any reasonable time and *You* must provide such information as may be reasonably required by *Us* in relation to *Your* property. Neither this condition, nor any inspection performed by *Us*, nor any report arising from such an inspection, are to be regarded as an undertaking by *Us* to determine or warrant that any operations or premises are safe.

## 14. Headings

Headings have been included for ease of reference, but do not form part of the Policy.

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## 15. Misdescription

This Policy is voidable retrospectively by *Us* in the event of any misrepresentation, misdescription or non-disclosure of any material fact prior to inception. However, the insurance will not be prejudiced by:

1. any innocent and inadvertent misdescription of property or occupancy in the proposal;
2. any act of the occupier whereby the risk of loss to insured property is increased without *Your* authority or knowledge;

provided that notice is given to *Us* immediately *You* become aware of any of the above happenings and *You* agree to pay an appropriate additional premium if required.

## 16. More Than One Insured

Where this Policy is to the benefit of more than one person or entity named as the insured in the *schedule*:

1. The person or entity first named in the *schedule* will be responsible for payment, on behalf of all of *You*, of any premium due or that may become due in terms of this Policy,
2. *Our* obligation to make any payment to *You* in terms of this Policy will be discharged on making that payment to the person or entity first named in the *schedule*;
3. Any notice, for which provision is made in this Policy, given by or given to the person or entity first named in the *schedule* will be deemed sufficient notice by or to all of *You*.

## 17. Mutually Acceptable Adjusters

Where *We* wish to appoint a loss adjuster in respect of any claim under this Policy, the appointee must be mutually acceptable to *You* and *Us*.

## 18. New Business

For the purpose of any claim arising from loss occurring before the completion of the first year's trading of *Your* business at the situation the terms rate of gross profit, rate of wages and standard turnover shall have the following meanings and not as stated within:

- rate of gross profit means the rate of gross profit earned on the turnover during the period between the date of the commencement of *Your* business and the date of the loss.
- rate of payroll means rate of payroll to turnover during the period between the date of commencement of the business and date of the loss.
- rate of wages means the rate of wages to turnover during the period between the date of the commencement of *Your* business and the date of the loss.
- standard turnover means the proportional equivalent, for a period equal to the indemnity period, of the turnover realised during the period between the commencement of *Your* business and the date of the loss.

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For the purposes of this clause the rate of gross profit, rate of wages and standard turnover shall be adjusted as may be necessary to provide for the trend of *Your* business and for variations in or other circumstances affecting *Your* business either before or after the loss or which would have affected *Your* business had the loss not occurred, so that the figure thus adjusted shall represent as nearly as may be reasonably practicable the results which, but for the loss, would have been achieved during the relative period after the loss.

## 19. Reduced Margin

If, in consequence of loss giving rise to a claim under this Policy, turnover is maintained at a reduced rate of gross profit, an equitable allowance shall 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 shall be made for an increase in the ratio of any other uninsured expense to turnover.

## 20. Reinstatement of Amount of Insurance

In the event of a claim payment under this Policy, and in the absence of written notice by *Us* or *You* to the contrary, any amount of insurance cancelled by the payment will be automatically reinstated. *You* agree to pay such pro rata premium at the applicable rate as may be required for the reinstatement.

However, if the loss is caused by natural hazard, the amount of insurance reduced or cancelled by such claim will not be reinstated unless agreed by *Us*.

## 21. Other Insurance

When *You* make a claim on *Your* Policy *You* must provide *Us* with details of all insurance policies that may respond in whole or in part to that claim.

## 22. Other Interested Parties

If there is any mortgagee, debenture holder, hire purchase company, conditional purchaser or other party with a financial interest in any insured property which has been notified to *Us*, we may, at our option, pay any claim to the interested parties in the order of their legal priorities, and to the extent of their financial interest.

However, *Our* total liability will not exceed the amount that would have been paid to *You*.

## 23. Proper Law and Jurisdiction

The construction, interpretation and meaning of the provisions of this Policy shall be determined in accordance with New Zealand law.

In the event of any dispute arising under this Policy including, but not limited to, its construction and/or validity and/or performance and/or interpretation, *You* will submit to the exclusive jurisdiction of any competent Court in New Zealand.

A reference to any statute, regulation or subordinate legislation includes any amendment, replacement, successor or equivalent to or of that statute, regulation or subordinate legislation.

## 24. Recovery Apportionment

If *We*, having exercised *Our* right of subrogation, recover 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:

1. *You* will be fully reimbursed for any uninsured portion of the loss, excluding any underinsurance, including
2. that portion of the loss which is uninsured by reason of a deductible;
3. *We* will be fully reimbursed to the extent of *Our* actual payment under this Policy, with any remaining balance belonging to *You*.

## 25. Sanctions Regulation

Notwithstanding any other terms or conditions under this Policy, Zurich shall not be deemed to provide coverage and will not make any payments nor provide any service or benefit to *You* or any other party to the extent that such cover, payment, service, benefit and/or any business or activity of *Yours* would violate any applicable trade or economic sanctions, law or regulation.

## 26. Subrogation

Where, upon accepting liability for a claim under this Policy, *We* are entitled to become subrogated to *Your* right of recovery or indemnity from any other person or corporation, *You* must, at *Our* expense, do and permit to be done anything reasonably required by *Us* for the purpose of enforcing that right. *You* must comply with this condition when required, whether before or after having been indemnified by *Us*.

*You* shall not voluntarily and knowingly release any third party from liability arising from loss insured by this Policy unless declared to and accepted by *Us*.

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## 27. Turnover Elsewhere

If during the indemnity period, any goods are sold or services are rendered elsewhere than at the situation for the benefit of *Your* business, either by *You* or by others on *Your* behalf, the money paid or payable in respect of those sales or services shall be brought into account in arriving at the turnover during the indemnity period.

## 28. Use of Accountant or Auditors

Any particulars or details contained in *Your* books of account or any other business books or documents which may be required by *Us* under the claims condition of this Policy for the purpose of investigating or verifying any claim may be produced and certified by *Your* accountant or auditors or their agents, whose certificate shall be prima facie evidence of the particulars and details required.

## 29. Waiver of Recovery

This Policy will not be invalidated or prejudiced by reason of *You*:

1. having waived any right of recovery or indemnity *You* may have (by agreement with *Us*) against any:
  - (a) party to a contract or agreement with *You* in the ordinary course of *Your* business, provided the contract or agreement is not for the supply of goods or services by *You* and the waiver was made in writing before the loss occurred;
  - (b) related company forming part of a group of related companies of which *You* are a member. For the purpose of this Condition, 'related company' has the same meaning as the definition of those words in the Companies Act 1993;
  - (c) other party provided that the waiver is made and has been declared to and accepted by *Us*; or
2. having to release from liability any party in accordance with any legislative or regulatory requirement.



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