NZI / NZBROKERS GROUP

BUSINESS INTERRUPTION POLICY

INSURING AGREEMENT

In consideration of the Insured named in the Schedule having paid or promised to pay the required premium, the Company named in the Schedule agrees (subject to the conditions expressed in or endorsed on this Policy) that if, during the Period of Insurance, any tangible property owned or used by the Insured or held by them jointly or in trust or on commission or on consignment or sold but not delivered or for which they are responsible or have assumed responsibility at the Premises for the purpose of the Business suffers:

- **Physical loss or physical damage, unintended and unforeseen by the Insured as covered by the Insured's Material Damage Policy(ies), or would be but for the application of an excess or deductible, or**

- **Explosion, rupture, bursting, cracking, leakage or collapse due to generated or applied fluid pressure within or without unintended and unforeseen by the Insured, of any steam boiler, economiser, pipe, or other vessel**

(all such loss or damage being hereinafter termed "Damage") and the Business carried on by the Insured at the Premises is consequently interrupted or interfered with, then the Company will pay to the Insured in respect of each Item in the Schedule the amount of loss resulting from such interruption or interference in accordance with the provisions of this Policy.

Provided that:

- the Company will not be liable for any loss under this Policy unless the damaged property is covered against such Damage (except loss arising out of explosion, rupture, bursting, cracking, leakage or collapse, of any steam boiler, economiser, pipe, or other vessel due to generated or applied fluid pressure within or without) and the Company(ies) (including The Earthquake Commission) has (or would have, but for the application of an excess or deductible) paid for or admitted liability in respect of such Damage.

- subject to the "Goods and Services Tax" Condition and "Reinstatement of Amount of Insurance" Memoranda of this Policy, the Company's liability will not exceed during the Period of Insurance the Total Sum Insured; and if more than one Item is included in the Schedule, will not exceed in respect of each Item the Sum Insured applicable to that Item.

Important:

- This is your Policy of Insurance. Read it carefully so that you know exactly what you are covered for.
- If you do not fully understand this Policy, have your NZbrokers Group insurance broker explain it to you.
- All claims and general enquiries should be directed to your NZbrokers Group insurance broker.

THE INSURANCE

ITEM 1 GROSS PROFIT

The insurance under this Item covers loss of Gross Profit due to (a) **Reduction in Turnover** and (b) **Increase in Cost of Working.** The amount payable hereunder shall be:

(a) **In Respect of Reduction in Turnover:** the sum produced by applying the Rate of Gross Profit to the amount by which the Turnover during the Indemnity Period shall, in consequence of the Damage, fall short of the Standard Turnover;

(b) **In Respect of Increase in Cost of Working:** 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 in consequence of the Damage, but not exceeding the sum produced by applying the Rate of Gross Profit to the amount of the reduction thereby avoided;

less any sum saved during the Indemnity Period in respect of such of the charges and expenses of the Business payable out of Gross Profit as may cease or be reduced in consequence of the Damage.

Memo 1.

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

Memo 2.

If any charges and expenses of the Business are not covered by this Policy (having been deducted in arriving at the Gross Profit as defined herein) then in computing the amount recoverable hereunder as Increase in Cost of Working that proportion only of the additional expenditure shall be brought into account which the Gross Profit bears to the sum of the Gross Profit and all such charges and expenses not covered by this Policy.

ITEM 2 GROSS REVENUE

The insurance under this Item covers (a) **Loss of Gross Revenue** and (b) **Increase in Cost of Working**. The amount payable hereunder shall be:

(a) **In Respect of Loss of Gross Revenue:** the amount by which the Gross Revenue during the Indemnity Period shall, in consequence of the Damage, fall short of the Standard Gross Revenue;

(b) **In Respect of Increase in Cost of Working:** the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the Loss of Gross Revenue which, but for that expenditure, would have taken place during the Indemnity Period in consequence of the Damage, but not exceeding the amount of the reduction of the Gross Revenue thereby avoided;

less any sum saved during the Indemnity Period in respect of such of the charges and expenses of the Business payable out of Gross Revenue as may cease or be reduced in consequence of the Damage.

Memo 1.

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

ITEM 3 GROSS RENTALS AND MANAGEMENT FEES RECEIVABLE

The insurance under this Item covers (a) **Loss of Gross Rentals and Management Fees Receivable** and (b) **Increase in Cost of Working**. The amount payable hereunder shall be:

(a) **In Respect of Loss of Gross Rentals and Management Fees Receivable:** the amount by which the Gross Rentals and Management Fees Receivable during the Indemnity Period shall, in consequence of the Damage, fall short of the Standard Gross Rentals and Management Fees Receivable;

(b) **In Respect of Increase In Cost Of Working**: the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the Loss of Gross Rentals and Management Fees Receivable which, but for that expenditure, would have taken place during the Indemnity Period in consequence of the Damage, but not exceeding the amount of the reduction in Gross Rentals and Management Fees Receivable thereby avoided,

less any sum saved during the Indemnity Period in respect of such of the charges and expenses of the Business payable out of Gross Rentals and Management Fees Receivable as may cease or be reduced in consequence of the Damage.

Memo 1.

If during the Indemnity Period any services shall be rendered to tenants elsewhere than at the Premises for the benefit of the Business either by the Insured or by others on behalf of the Insured, the money paid or payable in respect of such services shall be brought into account in arriving at the Gross Rentals and Management Fees Receivable during the Indemnity Period.

ITEM 4 WAGES - DUAL BASIS

The insurance under this Item covers loss in respect of Wages. The amount payable hereunder shall be:

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

(i) **Initial Period:** during the portion of the Indemnity Period beginning with the occurrence of the Damage and ending not later than the number of weeks specified in the Schedule thereafter, the sum produced by applying the Rate of Wages to the Shortage in Turnover during such portion of the Indemnity Period less any saving during such portion of the Indemnity Period through reduction in consequence of the Damage in the amount of Wages paid;

(ii) **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 the remaining portion of the Indemnity Period less any saving during such remaining portion of the Indemnity Period through reduction in consequence of the Damage in the amount of Wages paid, but not exceeding the sum produced by applying the 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 Clause (a) (i);

(iii) **Optional Period:** at the option of the Insured, the number of weeks referred to in Clause (a) (i) above may be increased to the Optional Number specified in the Schedule provided that the amount arrived at under the provisions of Clause (a) (ii) shall not exceed such amount as is deducted under Clause (a) (i) for savings effected during the Optional Number of weeks.

(b) **In Respect of Increase in Cost of Working:** so much of the additional expenditure described in Clause (b) of Item 1 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 Clauses (a) (i) and (ii) of this Item had such expenditure not been incurred.

ITEM 5 PAYROLL/WAGES IN LIEU OF NOTICE

The insurance under this Item covers the loss incurred by the Insured by the payment of Payroll/Wages for a period beginning with the Damage and ending not later than the number of weeks specified in the Schedule thereafter.

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

ITEM 6 PAYROLL - DUAL BASIS

The insurance under this Item covers loss in respect of Payroll. The amount payable hereunder shall be:

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

(i) **Initial Period:** during the portion of the Indemnity Period beginning with the occurrence of the Damage and ending not later than the number of weeks specified in the Schedule thereafter, the sum produced by applying the Rate of Payroll to the Shortage in Turnover during such portion of the Indemnity Period less any saving during such portion of the Indemnity Period through reduction in consequence of the Damage in the amount of Payroll paid;

(ii) **Remainder Period:** during the remaining portion of the Indemnity Period, the sum produced by applying the Rate of Payroll to the Shortage in Turnover during the remaining portion of the Indemnity Period less any saving during such remaining portion of the Indemnity Period through reduction in consequence of the Damage in the amount of Payroll paid, but not exceeding the sum produced by applying the remainder percentage of the Rate of Payroll 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 Clause (i);

(iii) **Optional Period:** at the option of the Insured, the number of weeks referred to in Clause (a) (i) above may be increased to the Optional Number specified in the Schedule provided that the amount arrived at under the provisions of Clause (a) (ii) shall not exceed such amount as is deducted under Clause (a) (i) for savings effected during the Optional Number of weeks.

(b) **In Respect of Increase in Cost of Working:** so much of the additional expenditure described in Clause (b) of Item 1 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 Clauses (a) (i) and (ii) of this Item had such expenditure not been incurred.

ITEM 7 PAYROLL

The insurance under this Item covers loss in respect of Payroll. The amount payable hereunder 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 Clause (b) of Item 1 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 in consequence of the Damage.

ITEM 8 REDEPLOYMENT EXPENSES

The insurance under this Item covers expenditure reasonably incurred by the Insured during the Indemnity Period in the necessary relocation of employees where in consequence of the Damage, the Insured elects to permanently redeploy employees at any alternative sites. The cover for expenses will include all such expenses as the Insured 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 the Business.

ITEM 9 SEVERANCE AND REDUNDANCY PAYMENTS

The insurance under this Item covers all payments which the Insured is required to pay to employees in accordance with their employment contracts whose services are lawfully terminated in consequence of Damage.

ITEM 10 ADDITIONAL COST OF WORKING

The insurance under this Item covers the additional costs and expenditure reasonably incurred by the Insured during the Indemnity Period in consequence of the Damage for the purpose of avoiding or diminishing a reduction in Turnover and/or for resuming or maintaining any normal Business operations or services that are not otherwise covered under this policy (other than because of the inadequacy of the Sums Insured under any Item), but excludes expenditure incurred in the repair or reinstatement of loss or damage to any property.

ITEM 11 BOOK DEBTS

The insurance under this Item covers the sum which the Insured is unable to recover from customers who purchase goods on a credit basis, directly due to Damage to the Insured's books of account or other business books or records anywhere in New Zealand. The amount payable hereunder shall be:

(a) the difference between the total amount of debit balances in customers' accounts due to the Insured and outstanding as at the date of Damage, and the total of all amounts in respect thereof that can be established during the twelve months after occurrence of the Damage as still owing by customer's subject to an equitable allowance for bad debts or any abnormal conditions of trade which had or could have had a material effect on the Business;

(b) the additional expenditure reasonably incurred by the Insured after the Damage in tracing, establishing and verifying customers' debit balances.

ITEM 12 PENALTY PAYMENTS

The insurance under this Item covers any penalties, damages or other amounts which the Insured is legally liable to pay, in accordance with the terms and conditions of any contract, for any unavoidable breach of contract by the Insured resulting from any interruption to or interference with the Business of the Insured as a sole consequence of Damage.

ITEM 13 CLAIM PREPARATION COSTS

The insurance under this Item covers all costs, professional fees and expenses reasonably incurred by the Insured for the purpose of assessing, preparing, presenting and certifying any claims made under this Policy and the Insured's Material Damage Policy(ies) insofar as such costs are not more specifically covered or recoverable under any other policy of insurance.

Salaries, wages, overheads and other expenses of the Insured's employees and consultants will be deemed to be part of such costs and expenses.

ITEM 14 LOSS OF LEASE GOODWILL

The insurance under this Item covers loss of lease goodwill should the whole or any part of leased Premises occupied by the Insured suffer Damage 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 By-Laws of any Municipal or other Local Authority'; or

(b) the owner of the Premises not being the Insured, decides for any reason whatsoever, not to undertake the rebuilding or reinstatement of the premises at the existing site following such Damage; or

(c) the owner of the Premises not being the Insured terminates the lease in accordance with the terms thereof following such Damage.

The amount payable hereunder shall be limited to the unexpired value of the lease goodwill at the date of Damage calculated by reducing the purchased value of the lease goodwill pro-rata according to the proportion of the term of the lease which has elapsed at the date of Damage.

If the Insured is able to obtain suitable alternative premises for the purpose of the Business after the termination of the Lease by the Lessor then, after calculation of the loss of lease goodwill as set out above, the amount payable shall be reduced to a figure which shall represent as nearly as reasonably practicable the actual Loss of Lease Goodwill.

DEFINITIONS

GROSS PROFIT

The amount by which:

- the sum of the Turnover and the amount of the closing stock exceeds;
- the sum of the amount of the opening stock and the amount of the Uninsured Working Expenses.

Notes about this Gross Profit:

- The amount of the opening and closing stocks shall be arrived at in accordance with the Insured's normal accounting methods, due provision being made for depreciation; and
- the words and expressions used in this Definition shall have the meaning usually attached to them in the books and accounts of the Insured.

GROSS RENTALS AND MANAGEMENT FEES RECEIVABLE

The amount of Gross Rentals and Management Fees received or receivable for services in respect of or associated with the rental of the Premises 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 the Insured.

GROSS REVENUE

The monies paid or payable to the Insured for work done or services provided as part of the Insured's Business operations.

INDEMNITY PERIOD

The Period beginning with the occurrence of the Damage and the number of weeks or months specified in the Schedule thereafter during which the results of the Business are affected in consequence of the Damage.

NATURAL DISASTER PERILS

Earthquake, subterranean fire, volcanic eruption, tsunami, geothermal activity, hydrothermal activity, or fire occasioned by or through or in consequence of any of these.

PAYROLL

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 the Business.

RATE OF WAGES

The rate of wages to Turnover during the financial year immediately before the date of the Damage

RATE OF GROSS PROFIT

The rate of Gross Profit earned on the Turnover during the financial year immediately before the date of the Damage

RATE OF PAYROLL

The rate of Payroll to Turnover during the financial year immediately before the date of the Damage

to which such adjustments shall be made as may be necessary to provide for the trend of the Business and for variations in or other circumstances affecting the Business either before or after the Damage or which would have affected the Business had the Damage not occurred so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the Damage would have been obtained during the relative period after the Damage.

STANDARD GROSS REVENUE

The Gross Revenue earned during the Period in the Twelve months immediately before the date of the Damage which corresponds with the Indemnity Period

STANDARD GROSS RENTALS AND MANAGEMENT FEES RECEIVABLE

The Gross Rentals and Management Fees Receivable during the period in the twelve months immediately before the date of the Damage which corresponds with the Indemnity Period

STANDARD TURNOVER

The Turnover during the period in the twelve months immediately before the date of the Damage which corresponds with the Indemnity Period

to which such adjustments shall be made as may be necessary to provide for the trend of the Business and for variations in or other circumstances affecting the Business either before or after the Damage or which would have affected the Business had the Damage not occurred so that the figures thus adjusted shall represent as nearly as may be reasonably practicable the results which but for the Damage would have been obtained during the relative period after the Damage.

SHORTAGE IN TURNOVER

The amount by which the Turnover during a period shall in consequence of the Damage fall short of the part of the Standard Turnover which relates to that period.

TURNOVER

The money paid or payable to the Insured for goods sold and delivered and for services rendered in the course of the Business.

WAGES

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 the Insured's Books of Account.

UNINSURED WORKING EXPENSES

Those expenses that are:

- subtracted in the calculation of Gross Profit covered by this Policy; or
- in the event of loss, variable in direct proportion to the variation in turnover or, that part of which is variable in direct proportion to the variation in turnover; or
- specifically excluded from the Policy.

EXCLUSIONS

1. This Policy does not cover any financial loss or expense of any type in connection with any of the following, including controlling, preventing or suppressing any of the following:

(a) war, invasion, act of foreign enemy, hostilities or warlike 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;

(b) confiscation, requisition, or destruction of or damage to property by order of Government, Civil or Local Authority unless the order is given for the purpose of preventing or controlling fire or other event for which cover is provided by this Policy;

(c) nuclear weapons material;

(d) Ionising radiation or contamination by radioactivity from any nuclear fuel, or from any nuclear waste from the combustion of nuclear fuel;

(e) Natural Disaster Perils.

2. This Policy does not cover financial loss caused by or arising from pollution or contamination.

3. This Policy does not cover financial loss caused by mechanical or electrical or electronic breakdown of machinery or electrical equipment;

but this Exclusion is limited to the machinery or electrical equipment immediately affected and does not apply to subsequent Damage to other Insured Property not otherwise excluded.

For the purpose of this Exclusion:

- breakdown" means the actual breaking, failure, seizing, deformation or burning out of any part of the machinery or equipment due solely to internal stress or a fault in the machinery or equipment whilst in use and not by any cause or event external to the affected machinery or equipment; and
- machinery" means any contrivance for the conversion and direction of motion or energy, or for the performance of any electronic process, and includes any protective device in connection with that contrivance.

4. This Policy does not cover any 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: an act, including but not limited to the use of force or violence and/or threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), which from its nature or context is done 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.

5. **This Policy does not cover any financial loss or expense following loss 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 the Electronic Data.

However, this Exclusion does not apply to physical damage to other Insured Property that results from that loss 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 of 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.

6. **This Policy does not cover financial loss or expense of any type in connection with a Notifiable Infectious Disease under the Health Act 1956 or notifiable disease under the Biosecurity Act 1993.**

CONDITIONS

BREACH OF WARRANTY OR CONDITION

The cover 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 the knowledge or consent of the Insured.

Provided that notice is given to the Company as soon as practicable once the Insured becomes aware of any such breach. The Insured agrees to pay an appropriate additional premium and/or agree to a change in terms and conditions if required.

CANCELLATION

- **By the Insured:**

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

- **By the Company:**

  The Company may cancel this Policy at any time by giving written notice to the Insured or the Insured's NZbrokers Group insurance broker. The notice may be delivered personally or posted to the Insured's or the Insured's NZbrokers Group insurance broker's last known postal address. The cancellation will take effect at 4pm on the 30th day after the notice has been delivered or posted. In the event of such cancellation, the Company will refund to the Insured a pro-rata proportion of the premium (subject to any adjustment required by the terms of this Policy) for the unexpired period of the Policy.

CLAIMS

On the happening of any Damage which may or will result in a claim under this Policy, the Insured will:

- take prompt steps to minimise any interruption of or interference with the Business and avoid or diminish the loss;
- immediately notify the Company;
- if a criminal act is suspected, inform the police;
- within 30 days or as soon as practicable thereafter, submit to the Company:

- a statement in writing setting out all particulars and details of the claim;
- details of all other insurances (if any) covering the Damage or any part of it or consequential loss of any kind resulting therefrom;

- produce and furnish to the Company:
  - as and when required all such books of account and other business books, invoices, vouchers, balance sheets, and other documents, proofs, information, explanations and other evidence and facilities as may be reasonably required for investigating and verifying the claim; and
  - if required, a statutory declaration verifying the particulars.

CURRENCY

Where any Sum or Sums Insured, Special Limits, Deductibles or other amounts are stated, these amounts are in New Zealand Dollars (NZD) unless expressed otherwise.

DEFERRED INDEMNIY PERIOD

The Insured has the option to defer the commencement of the Indemnity Period after Damage occurs on the following basis:

(a) the Insured must notify the Company (in writing or by electronic means) within 180 days of the Damage occurring of the Insured's intention to defer the commencement of the Indemnity Period; and

(b) The deferred Indemnity Period must commence:

(i) no later than the number of months specified in the Schedule as the Indemnity Period; or

(ii) within 12 months, from the date the Damage occurred;

whichever is the earlier otherwise this option to defer expires; and

(c) The Indemnity Period cannot be deferred if the Company has already paid or agreed to pay a claim under any Insured Item (other than for Claims Preparation Costs for quantification of the Insured's Material Damage claim) resulting from the Damage.

(d) If the Insured defers the commencement of the Indemnity Period then, the Insured must notify the Company (in writing or by electronic means) of the actual date on which the Insured elects the Indemnity Period to commence as soon as possible, and no later than 30 days after that actual date.

DEFINED WORDS

This Policy and the Schedule shall be read together as one contract and words and expressions to which specific or special meanings have been given will, unless the context otherwise requires, have that same meaning whenever they may appear in the Policy.

FRAUD

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

For the purpose of this Condition, and if the Insured comprises more than one person or entity, each of the Insured shall be treated as having been issued with a separate policy.

A breach of this Condition by one person or entity comprising the Insured shall not prevent any other person or entity comprising the Insured who is not a party to the fraud from claiming under this Policy.

GOODS AND SERVICES TAX

Provided that Goods and Services Tax (GST) is recoverable by the Company, the Sums Insured and Special Limits and limits of insurance/liability specified in this Policy are **exclusive of GST.**

In the event of a claim, the Company will pay a maximum of:

- the Total Sum Insured; or
- Special Limit or limit of insurance/liability;

(whichever is applicable) plus additional GST to a maximum of the current rate of GST applied to that Total Sum Insured or Special Limit or limit of insurance/liability.

However, all Deductibles specified in this policy are **inclusive of GST**.

JURISDICTION

Any disputes arising out of or under this Policy are subject to the law of New Zealand and the New Zealand courts have sole jurisdiction.

LIQUIDATION, RECEIVERSHIP OR CESSATION OF INTEREST

This Policy will be cancelled automatically if, for any reason other than Damage:

- the Business is wound up or carried on by a liquidator or receiver or is permanently discontinued; or
- the Insured's interest in the Business ceases otherwise than by death;

at any time after the commencement of this Insurance, unless the Company has agreed in writing to its continuance.

MISDESCRIPTION

This Policy will not be invalidated or prejudiced by:

- any innocent alteration or inadvertent misdescription of property or occupancy or any other innocent or inadvertent inaccuracy;
- any act of the occupier whereby the risk of loss or damage to property not in the occupation of the Insured is increased without the authority or knowledge of the Insured;
- any innocent or inadvertent misdescription or non-disclosure of any material particular;

provided that notice is given to the Company immediately the Insured becomes aware of any such happenings. The Insured agrees to pay an appropriate additional premium and/or agrees to a change in terms and conditions if required.

MUTUALLY ACCEPTABLE ADJUSTERS

Where the Company wishes to appoint any loss adjuster, assessor, surveyor, valuer or investigator in respect of any claim under this Policy, the appointee must be mutually acceptable to the Company and the Insured.

OBSERVANCE OF TERMS AND CONDITIONS

The due observance and fulfilment of the terms, provisions, conditions and endorsements of this Policy in so far as they relate to anything to be done or complied with by the Insured, and the truth of statements and answers in the written submission or proposal or supporting documents, or in any claim form, or in any statement in support of a claim, whether made by the Insured or by others on behalf of the Insured, will be conditions precedent to the Company's liability to make any payment under this Policy.

OTHER INSURANCE

If at the time of any claim arising under this Policy there is any other valid and collectable insurance covering the financial loss, this Policy will only apply in excess of the amount payable under the other insurance, even if there is a similar Other

Insurance Condition in the other insurance policy.

For the purpose of applying the Deductible applicable to this Policy, the amount of any other such insurance will not be taken into account, as the other insurance is permitted on the financial loss within the Deductible amount.

PRIORITY OF CLAUSES

In the event that any person or entity is entitled to cover by virtue of more than one of the several clauses or Memoranda of this Policy, the Company will cover that person or entity in terms of the clause or Memoranda most favourable to them.

RIGHTS OF MULTIPLE INSUREDS

If more than one person or entity is named as the Insured in the Schedule; then:

- the cover provided by this Policy will apply to each of the Insured separately, as though a separate policy had been issued to each of the Insured;
- the rights of each of the Insured will not be prejudiced by failure of any other of the Insured to disclose any material fact, nor by any material misrepresentation made by any other of the Insured;
- the rights of each of the Insured will not be prejudiced by any breach of warranty or condition of this Policy by any other of the Insured.

Provided that nothing in this Condition will increase the Company's total aggregate liability beyond that payable for a single Insured.

SANCTIONS

The Company will not pay any claim when the payment would contravene:

- any sanction, prohibition, or restriction under United Nations resolutions; or
- the trade or economic sanctions, laws or regulations of New Zealand, Australia, United Kingdom, the United States of America or the European Union.

SUBROGATION

Where, upon accepting liability for a claim under this Policy, the Company is entitled to become subrogated to the Insured's right of recovery or claim they may have against any other person or entity, the Insured must, at the Company's expense, do and concur in doing and permit to be done anything reasonably required by the Company 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 Company.

THE CONTRACT

This Policy is a contract consisting of the following parts:

- the written submission and/or completed proposal and/or other supporting documents supplied by the Insured; and
- this Policy wording; and
- the Schedule (including any endorsements).

This Policy, and any Schedule or endorsements will be read together as one contract.

MEMORANDA

The terms of each Memorandum attaching to this Policy are deemed to be incorporated in this insurance as if fully set out in the Policy. In the event of any conflict or inconsistency between the Policy and the Memorandum, the terms of the Memorandum will prevail. In the event of any conflict or inconsistency between Memoranda, the Memorandum most favourable to the Insured will prevail.

If the Insured's loss is covered under more than one of the following: 'Closure of Transport Routes, Ports or Airports', 'Customer's/Suppliers Premises – New Zealand', 'Dependent Business that Attracts Customers', 'Loss of Utilities', Prevention of Use/Access – Closure by an Authority', Prevention of Use/Access – other Causes', 'Prevention of Use/Access –Property Damage', 'Customers Suppliers Premises – Australia' and 'Natural Disaster Damage' Memoranda only the Memorandum with the highest level of cover applies.

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 the Insured, thus causing a shortage of stock of finished goods after the Indemnity Period has expired.

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".

CLOSURE OF TRANSPORT ROUTES, PORTS OR AIRPORTS

This Policy covers loss resulting from interruption of or interference with the Business of the Insured caused by the closure or the threat of closure of any transport route, port, container port, airport or railway terminal due to any of the following occurring during the Period of Insurance:

- ❑ Damage to property; or
- ❑ an order by a lawful authority.

The Company's liability, in respect of any one loss, will not exceed any Special Limits and Standard Memoranda specified in the Schedule in respect of Items 1, 2, 3, 4, 5, 6 and 7.

This Memorandum does not cover any interruption or interference resulting from a notifiable Infectious Disease under the Health Act 1956 or notifiable disease under the biosecurity Act 1993.

Provided for the purposes of this Memorandum Damage need not have been covered nor liability admitted, but this Memorandum does not cover interruption or interference arising from a cause excluded by the Insured's Material Damage Policy.

This Memorandum is subject to the Deductible specified in the Schedule.

CONTRACTUAL COMMITMENTS

This Policy covers the amount the Insured is legally liable to pay under contracts for purchases unavoidably not able to be used during the Indemnity Period as a result of the Damage, less any sums received or receivable by the Insured in respect of such purchases through any salvage handling operations or resale.

The Company's liability, in respect of any one loss, will not exceed the Special Limit specified in the Schedule in respect of Contractual Commitments.

CUSTOMERS' / SUPPLIERS' PREMISES – NEW ZEALAND

This Policy covers loss resulting from interruption of or interference with the Business caused by Damage occurring during the Period of Insurance at any place within New Zealand that is:

- occupied by any supplier of goods or services of any description to the Insured; or
- occupied by any customers of the Insured.

The Company's liability, in respect of any one loss, will not exceed any Special Limits and Standard Memoranda specified in the Schedule in respect of Items 1, 2, 3, 4, 5, 6 and 7.

Notwithstanding anything contained in this Memorandum, there is no cover for any loss resulting from interruption of or interference with the Business of the Insured caused by Damage to any off shore facility and pipelines to shore and the Cook Strait cables, or Damage to any electricity station or sub-station or power lines or telecommunication networks or gas works or natural gas works or energy producing plant or water works or treatment plants or any other supplier of utilities, including all property or plant or equipment or supply pipes or supply lines of any of them that affects the supply to Insured Premises.

Provided for the purposes of this Memorandum Damage need not have been covered nor liability admitted, but this Memorandum does not cover interruption or interference arising from a cause excluded by the Insured's Material Damage Policy.

This Memorandum is subject to the Deductible specified in the Schedule.

DEPARTMENTS

If the 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 Damage. However, the Company's total liability remains unchanged.

DEPENDENT BUSINESS THAT ATTRACTS CUSTOMERS

This Policy covers loss resulting from interruption of or interference with the Business of the Insured caused by Damage occurring during the Period of Insurance to an anchor tenant situated in the same retail shopping complex as the Insured's Business.

The Company's liability, in respect of any one loss, will not exceed any Special Limits and Standard Memoranda specified in the Schedule in respect of Items 1, 2, 3, 4, 5, 6 and 7.

Notwithstanding the Indemnity Period specified in the Schedule, the Indemnity Period applicable under this Memorandum is limited to a period of 30 days from the date the Damage first occurred.

Provided for the purposes of this Memorandum Damage need not have been covered nor liability admitted, but this Memorandum does not cover interruption or interference arising from a cause excluded by the Insured's Material Damage Policy.

This Memorandum is subject to the Deductible specified in the Schedule.

ELECTRONIC DATA

Notwithstanding Exclusion 5. this Policy covers financial loss or expense following loss or damage to Electronic Data caused by any of the following:

- fire, explosion, lightning;
- windstorm, hail, tornado, cyclone, hurricane;
- Natural Disaster Perils;
- flood, freezing, weight of snow;
- impact from any external source, including but not limited to, aircraft or other aerial objects dropped from them and/or by any road vehicle or animal;

- bursting, overflowing, discharging or leaking of water tanks, apparatus or pipes;
- theft of electronic data solely where such theft is accompanied by theft of the computer hardware, firmware, medium, microchip, integrated circuit or similar device containing such electronic data.

LOSS OF UTILITIES

This Policy covers loss resulting from interruption of or interference with the Business of the Insured caused by Damage occurring 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 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 Insured Premises.

This Memorandum excludes off-shore facilities and pipelines to shore and the Cook Strait cable.

The Company's liability, in respect of any one loss, will not exceed any Special Limits and Standard Memoranda specified in the Schedule in respect of Items 1, 2, 3, 4, 5, 6 and 7.

Provided for the purposes of this Memorandum Damage need not have been covered nor liability admitted, but this Memorandum does not cover interruption or interference arising from a cause excluded by the Insured's Material Damage Policy.

This Memorandum is subject to the Deductible specified in the Schedule.

NEW BUSINESSES

For the purpose of any claim arising from Damage occurring before the completion of the first years' trading of the Business at the Premises the terms **Rate of Gross Profit, Rate of Payroll, Rate of Wages, Standard Gross Revenue, Standard Gross Rentals and Management Fees Receivable** and **Standard Turnover** shall have the following meanings and not as previously stated:

- **Rate of Gross Profit:** the Rate of Gross Profit earned on the Turnover during the period between the date of the commencement of the Business and the date of the Damage.
- **Rate of Payroll:** the Rate of Payroll to Turnover during the period between the date of the commencement of the Business and the date of the Damage.
- **Rate of Wages:** the Rate of Wages to Turnover during the period between the date of the commencement of the Business and the date of the Damage.
- **Standard Gross Revenue:** the proportional equivalent, for a period equal to the Indemnity Period, of the Gross Revenue realised during the period between the commencement of the Business and the date of the Damage.
- **Standard Gross Rentals and Management Fees Receivable:** the proportional equivalent, for a period equal to the Indemnity Period, of Gross Rentals and Management Fees Receivable realised during the period between the commencement of the Business and the date of the Damage.
- **Standard Turnover:** the proportional equivalent, for a period equal to the Indemnity Period, of the Turnover realised during the period between the commencement of the Business and the date of the Damage.

For the purposes of this Memorandum the Rate of Gross Profit, Rate of Payroll, Rate of Wages, Standard Gross Revenue, Standard Gross Rentals and Management Fess Receivable and Standard Turnover shall be adjusted as may be necessary to provide for the trend of the Business and for variations in or other circumstances affecting the Business either before or after the Damage or which would have affected the Business had the Damage not occurred, so that the figure thus adjusted shall represent as nearly as may be reasonably practicable the results which, but for the Damage, would have been achieved during the relative period after the Damage.

PREVENTION OF USE/ACCESS – CLOSURE BY AN AUTHORITY

This Policy covers loss resulting from interruption of or interference with the Business of the Insured caused by closure in compliance with any Act of Parliament or Regulation or By-Law, or from the legitimate action of any civil/public authority as a consequence of:

- the discharge or escape of any gases, toxic chemicals, other hazardous material and/or fumes; or
- defective or non-supply of water, gas, electricity, fuel, waste, sewage, stormwater or telecommunications systems, or any other utility service or supply; or
- the threat of any of them;

occurring during the Period of Insurance to or on or in the vicinity of the Premises and which hinders or prevents the use of or access to the property (regardless of whether the Insured's property or Premises suffers from such events or action).

The Company's liability, in respect of any one loss, will not exceed any Special Limits and Standard Memoranda specified in the Schedule in respect of Items 1, 2, 3, 4, 5, 6 and 7.

This Memorandum does not cover any interruption or interference resulting from a notifiable Infectious Disease under the Health Act 1956 or notifiable disease under the Biosecurity Act 1993.

This Memorandum is subject to the Deductible specified in the Schedule.

PREVENTION OF USE/ACCESS – OTHER CAUSES

This Policy covers loss resulting from interruption of or interference with the Business of the Insured caused by or as a consequence of:

- danger to human life; or
- injury or illness to any person; or
- murder or suicide of any person; or
- any other criminal act but, excluding any criminal act caused by the Insured;

occurring during the Period of Insurance to or on or in the vicinity of the Premises and which hinders or prevents the use of or access to the property (regardless of whether the Insured's property or Premises suffers from such events or action).

The Company's liability, in respect of any one loss, will not exceed any Special Limits and Standard Memoranda specified in the Schedule in respect of Items 1, 2, 3, 4, 5, 6 and 7.

This Memorandum does not cover any interruption or interference resulting from a notifiable Infectious Disease under the Health Act 1956 or notifiable disease under the Biosecurity Act 1993.

This Memorandum is subject to the Deductible specified in the Schedule.

PREVENTION OF USE/ACCESS – PROPERTY DAMAGE

This Policy covers loss resulting from interruption of or interference with the Business of the Insured caused by or as a consequence of:

- Damage to property; or
- compliance with any Act of Parliament or Regulation or By-Law, or from the legitimate action of any civil/public authority resulting from the threat of Damage to any property;

occurring during the Period of Insurance to or on or in the vicinity of the Premises and which hinders or prevents the use of or access to the property or Premises (regardless of whether the Insured's property or Premises suffers Damage).

The Company's liability, in respect of any one loss, will not exceed any Special Limits and Standard Memoranda specified in the Schedule in respect of Items 1, 2, 3, 4, 5, 6 and 7.

Provided that for the purposes of this Memorandum Damage need not have been covered nor liability admitted, but this Memorandum does not cover interruption or interference arising from a cause excluded by the Insured's Material Damage Policy.

This Memorandum is subject to the Deductible specified in the Schedule.

PROGRESS CLAIM PAYMENTS

The Insured will be entitled to progress claim payments from the Company, provided that:

- a claim is accepted under this Policy;
- acceptable evidence of loss is produced;
- where required, an interim statement of loss is supplied by the Insured and approved by the Company's assessor/surveyor;
- if the aggregate of progress payments exceeds the total amount of the adjusted loss, the Insured will immediately refund the difference between the amount of adjusted loss and the aggregate of payments actually made.

PROPERTY IN TRANSIT

This Policy covers loss resulting from interruption of or interference with the Business caused by Damage occurring during the Period of Insurance to property whilst in transit between places in New Zealand or whilst temporarily housed in the course of such transit, provided that the Damage would have been covered under the Insured's Material Damage Policy (or would be but for the application of an excess or deductible) if that policy had insured that property at the time.

PROPERTY NOT IN USE

Where the Insured has -

- property which at the time of its Damage is not being used for the purpose of the Business; but
- the Insured can provide evidence that there are plans in place and good reason to believe that such property would, but for the Damage, have been so used during the Indemnity Period;

such property shall be deemed to be property used by the Insured for the purpose of the Business at the time of its Damage.

This Memorandum does not include any Damage caused to property in the course of installation, construction, demolition, erection, or testing following any of them unless covered by the Insured's Material Damage Policy(ies).

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.

RECOVERY APPORTIONMENT

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

- the Insured will be fully reimbursed for any portion of the loss not covered, including that portion of the loss which is not covered by reason of a Deductible; with
- any remaining balance belonging to the Company.

The Company will pay the costs of all recovery proceedings.

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

REDUCED MARGIN

If, in consequence of Damage 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 expense not covered by this Policy to Turnover.

REINSTATEMENT OF AMOUNT OF INSURANCE

In the event of any claim under this Policy, and in the absence of written notice by the Company or the Insured to the contrary, the amount of insurance reduced or cancelled by such claim will be automatically reinstated from the date of ~~loss~~ payment of the claim.

The Insured agrees to pay such pro-rata premium at the rate applicable to the item(s) concerned as may be required by the Company for the reinstatement.

However, if the Damage is caused by Natural Disaster Perils, the amount of insurance reduced or cancelled by such claim will not be reinstated unless agreed to by the Company.

RENEWAL TERMS

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

TURNOVER ELSEWHERE

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

USE OF ACCOUNTANTS OR AUDITORS

Any particulars or details contained in the Insured's books of account or any other business books or documents which may be required by the Company under the Claims Condition of this Policy for the purpose of investigating or verifying any claim may be produced and certified by the Insured's Accountant or Auditors or their agents, whose Certificate shall be prima facie evidence of the particulars and details required.

WAIVER OF RECOVERY RIGHTS

Where the Insured is a company forming part of a group of related companies, the cover provided by this Policy will not be invalidated if the Insured waives any right of recovery or claim they may have against any other company in the same group. For the purpose of this Memorandum "related companies" has the same meaning as defined in the Companies Act 1993.

The cover provided by this Policy will not be invalidated if the Insured, by agreement with the Company, waives any right of recovery or claim against any party (other than a related company as provided for above) in respect of loss covered by this Policy, provided that the waiver is made prior to the occurrence of the Damage.

OPTIONAL MEMORANDA

The following Optional Memoranda will apply only when designated or specified in the Schedule.

ADJUSTMENT OF PREMIUM

The Premium payable by the Insured in respect of Items 1, 2, 3, 4, 5, 6, 7 and 11 of this Policy is deemed to be provisional and subject to adjustment on expiry of each Period of Insurance as follows:

- Within six months of the period for which the premium is to be adjusted or as soon as practicable thereafter, the Insured will submit to the Company a certificate from the Insured's Auditors or Accountants setting out, if insured, the actual Gross Profit, Gross Revenue, Gross Rentals and Management Fees Receivable, Wages – Dual Basis, Payroll/Wages in Lieu of Notice, Payroll – Dual Basis, Payroll and Book Debts for the accounting year most nearly concurrent with the Period of Insurance.

- The provisional premium will be adjusted at the agreed rate(s) on such actual amounts, or a multiple thereof if the indemnity period exceeds twelve months, by payment to the Company of an additional premium or by refund to the Insured of a return premium as the case may be, provided that if an additional premium or a return premium is due, it will in no case exceed 50% of the provisional premium charged.

- In the event of a claim occurring during the Period of Insurance, the amount paid or payable for the loss in respect of the period will be regarded as actually earned.

CUSTOMERS' / SUPPLIERS' PREMISES – AUSTRALIA

This Policy covers loss resulting from interruption of or interference with the Business caused by Damage occurring during the Period of Insurance at any place within Australia that is:

- occupied by any supplier of goods or services of any description to the Insured; or

- occupied by any customers of the Insured.

The Company's liability, in respect of any one loss, will not exceed any Special Limits and Standard Memoranda specified in the Schedule in respect of Items 1, 2, 3, 4, 5, 6 and 7.

Provided for the purposes of this Memorandum Damage need not have been insured nor liability admitted, but this Memorandum does not cover interruption or interference arising from a cause excluded by the Insured's Material Damage Policy.

NATURAL DISASTER DAMAGE

Notwithstanding Exclusion 1. (e) this Policy covers Damage caused by:

- Natural Disaster Perils; or

- measures taken under proper authority, following any event covered by this Memorandum to:
    - avoid its spreading; or
    - reduce its consequences.