



Commercial Property Policy **DOMINION** INSURANCE

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We would like to make sure You are aware of all Your entitlements under this policy, so please read the document carefully. After You have read it, please contact Our Office if You would like further information.

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Introduction and agreement

We agree to provide the cover set out in this policy during the period of cover provided You have paid the premium and subject to the policy's terms, limits, conditions and exceptions.

Your insurance contract consists of three parts:

1. this printed policy document;
2. the personalised schedule, with details of the cover which applies to You. (The policy schedule is updated from time to time as changes are made to Your cover. Any changes to the standard cover in this policy will be noted on the schedule or other specification); and
3. the proposal or application form or brokers submission

Definitions

Definitions explain words frequently used in the policy. Defined words are shown in **bold style** paragraphs 1 to 40

1. **The Company, Insurer, Dominion, We, Us or Our** means Dominion Insurance (Tonga) Limited.
2. **The Insured, You or Your** means the insured named in the schedule.
3. **Reserved**
4. **Period of cover** means the “period” or “period of insurance” specified in the schedule.
5. **Schedule** is the latest current policy schedule, expiry notice or insurance renewal issued to You.
6. **Other specification** is the amended or additional terms and clauses agreed to by Us and confirmed in writing.
7. **Premium** is the consideration for this contract. This may mean the first premium or any subsequent renewal or endorsement premium and includes any government levies and charges.
8. **Tongan dollars** is the currency in which this policy is issued.
9. **Market Value** means the reasonable value of the insured property immediately prior to the loss or damage.
10. **Accidental** means a sudden and unforeseen event causing physical loss or damage that is not intended or expected by You.
11. **Buildings** means the buildings and other structures including but not limited to the appurtenances, plant, fixtures, fittings, pipes and cables pertaining to any of them, all located in or about the premises. Also including any fixed signs and lettering, tanks, walls, gates and fences,
 - 11.1 but does not include
 - 11.1.1 standing timber, growing crops, pastures, livestock, trees, planted hedges, shrubs, lawns and plants and all other landscaping,
 - 11.1.2 dams, canals, reservoirs (but not tanks), retaining walls, land, drainage systems, dams, reservoirs, canals, culverts, aqueducts, tunnels, bridges, docks, piers, wharves, breakwaters or mining property located above or underground road or railway tunnels, road or railway bridges;
 - 11.1.3 any land including topsoil and backfill.
12. **Contents** means the contents of any buildings, chattels in the open or under shelter, tenants improvements and all other tangible property not more specifically described within the policy schedule
 - 12.1 but does not include
 - 12.1.1 Motor vehicles, motor cycles, other mechanically or electrically propelled vehicles (including but not limited to railway locomotives and rolling stock), watercraft, outboard motors, aircraft and accessories unless this property forms part of the stock of Your business however such stock will not be covered whilst being driven, towed, sailed or flown;
 - 12.1.2 Livestock, trees, growing crops;
 - 12.1.3 Jewellery, precious stones, works of art, precious metals or bullion other than stock or plant of Your business
 - 12.1.4 Cash, negotiable checks, money orders, stamps, credit cards, invoices, other negotiable instruments,
 - 12.1.5 motor vehicles, watercraft and aircraft of every kind, and accessories contained in them or on them, other than as stock of the business;
 - 12.1.6 any of the following property unless it is specified in the schedule:
 - 12.1.6.1 computer software, computer systems records and electronic data including the replacing or reproducing of information contained in or on them; or
 - 12.1.6.2 the loss of value of the information contained in or on computer software computer systems records and electronic data;
13. **Situation** means the location of the property insured
14. **Constructive Total Loss** means a situation where the cost of repairs exceeds the sum insured or market value less the estimated amount of any salvage.
15. **Average** means that if the sum insured is less than the actual value of the property insured any claim will be proportionately reduced. Because of this You should review Your sum insured at each renewal to be sure that it represents the actual value of the property insured
16. **Deductible or Excess** is the first amount of any claim that You must pay. You must contribute the amounts shown in the policy and/or schedule under the heading “deductible and or excesses” as the first amount of any claim. It is the

amount which will be deducted from the adjusted loss (net of salvage and other recoveries) in respect to each loss/each location arising out of any one event during any one 72 hour period.

17. **The Property Insured** The Property Insured means the property as described under the relevant section of the Policy Schedule, and is Your own or held by You jointly or in trust or on commission and for which You are legally responsible.
18. **Indemnity Value** Unless otherwise agreed and endorsed within the policy the property is insured for its indemnity value and not its replacement value or any other agreed value. This means that the market value and accumulated depreciation will be considered when any claim is adjusted.
19. **Replacement value** as defined in the Reinstatement Memorandum page 6.
20. **Sub Limit** means the maximum amount that can be claimed in respect to any loss to which the sub limit refers irrespective of the total sum insured.
21. **Cyclone** includes loss or damage resulting from Cyclone, Windstorm, Gale, Hurricane or Tropical cyclone.
22. **Flood** means loss or damage to the insured property directly caused by water which, through flood, has risen or overflowed beyond the normal boundaries of any river, watercourse or body of water other than the sea.
23. **Burglary** means and is limited to theft accompanied by
 - 23.1 violence or threat of violence to persons, or
 - 23.2 violent and forcible entry to or exit from any enclosed building
24. **Riot** is an act of a group of at least 12 (twelve) persons, who in the execution of their common purpose cause public disturbance tumultuously with violence and damage to the property of others, not amounting to a Civil Commotion.
25. **Strikes** is a deliberate act of damage, by a group of workers of at least 12(twelve) persons or one half of the entire workforce (if the number of workers is less than 24 persons), refusing to work as usual in an attempt to force the employer to accept their demands or to protest against any terms of employment enforced by the employer.
26. **Locked-out Workers** is a deliberate act of damage, by a group of workers of at least 12 (twelve) persons or one half of the entire workforce (if the total number of workforce is less than twenty-four persons), to protest against the termination or suspension of a fellow employee by the employer.
27. **Malicious Acts** is an act of any person (s) deliberately causing damage to the property of others driven by vengeance, hatred, anger or vandalistic intentions, except such acts done by the employee(s) of Yours, or any person(s) on behalf of You, or by person (s) entrusted by You to maintain or keep such property, or by thieves or robbers.
28. **Civil Commotion** is an act of a large number of people acting together disrupting public peace and disturbance tumultuously with violence and a chain of destruction of a large number of properties, indicated by the cessation of more than one half of the normal activity of commercial/shopping or business areas or schools or public transportation in one city or town for at least 12 (twelve) hours consecutively commencing immediately before, during or after the event.
29. **Insurrection/Popular Rising** is an uprising of a majority of the people in the capital city of the country, or in three or more of the towns in the country within 12 (twelve) days, demanding a change in the government de jure or de facto, or open resistance against the government de jure or de facto, not amounting to a rebellion
30. **Usurped Power** is a situation where the established order has been overthrown and replaced by some illegal authority which is in a position to lay down rules of conduct and also ensure that the rules are obeyed.
31. **Revolution** is an uprising of the people with force to make a radical change to the current public administration system of the country or to overthrow the established government de jure or de facto, not amounting to a Rebellion.
32. **Rebellion** is a state of organised resistance against the established authority with the object of supplanting or overthrowing it with force using firearms which threatens the existence of such authority.
33. **Military Rising** is an act by a group of home or foreign armed forces personnel consisting of at least 30 (thirty) persons using force with the intention to overthrow the established authority or to cause public disorder and disturbance.
34. **Invasion** is an act by the military power of one country to penetrate or invade the territory of another with the object of permanently or temporarily occupying and taking control over such territory.

35. **Civil War** is an armed conflict between regions or political factions within the territorial limits of a country with the object of gaining legitimate power.
36. **War and Hostilities** is a widespread armed conflict (whether or not war has been declared) or a warlike situation between two or more countries, including military exercises of a country or joint-military exercises between countries.
37. **Subversive Acts** is an act by any person on behalf of or in connection with any organisation with activities directed towards the overthrow by force of the government de jure or de facto, or to the influencing of it by terrorism or sabotage or violence.
38. **Terrorism** is an act by any person using force to create public fear in an attempt to achieve a goal that according to public opinion has a political background.
39. **Sabotage** is a destructive act against property or the obstruction of work process or causing the reduction in value of work, by any person in an attempt to achieve a goal that according to public opinion has a political background.
40. **Looting** is the appropriation of property belonging to another by any person (excluding those employed by or under Your control, with the intention of permanently depriving the other of it.

What You are insured for

We will indemnify You for accidental loss or damage to any of the insured property occurring during the period of insurance.

You will be indemnified by payment or, at Our option, by repair or by replacement of the lost or damaged property. Subject to the reinstatement of amount of insurance extension Our liability will not exceed the total sum insured; or where more than one item is included in the schedule will not exceed in respect of each item the sum insured applicable to that item. Subject always to the terms and conditions of this policy.

What We will pay

At Our option, We will pay for the reinstatement or repair of the property insured or the Indemnity Value or other value as noted on the schedule.

We will also pay for:

1. Demolition

- 1.1 We will pay:
- 1.2 the cost of demolishing and removing the debris including contents for which a claim has been accepted.
- 1.3 also the cost of temporary repairs and other measures necessary to secure the property or to make it safe or suitable for continued use.
- 1.4 Any payment under this benefit will be within the sum insured shown on the schedule.

2. Professional Fees

- 2.1 We will pay:
- 2.1.1 architects, engineers and other professional fees incurred in the rebuilding or repairs to the property for which a claim has been accepted
- 2.1.2 Any payment under this benefit will be within the sum insured shown on the schedule.

Additional benefits

1. Automatic Reinstatement of Cover

- 1.1 We will not reduce cover by the amount of any claim provided You pay any additional premium that may be required.

2. Sale and Purchase

- 2.1 If You have contracted to sell Your interest in the Building(s), We will continue to provide the purchaser with cover under this policy until the purchaser takes possession of the Building(s), provided the purchaser is not otherwise insured. The terms, conditions and exclusions apply to You and the purchaser as if You are insured jointly.

3. Other Interests

- 3.1 Where You are under an obligation to insure the interest of any person or corporation having an insurable interest in any of the Insured Property, We will indemnify You and that person or corporation as if a separate policy had been issued to each. Any cash claim settlement will be paid to the other interested party (ies) whose receipt thereof shall be a full and sufficient discharge to Us. However:
 - 3.1.1 We will not be liable to indemnify any person or corporation whose interest has not been declared to Us by the time indemnity becomes payable; and
 - 3.1.2 Our liability will not be increased beyond the amount that would be payable if this extension had not been incorporated in the policy.

4. Progress Claim Payments

- 4.1 In the event of loss or damage giving rise to a claim under this policy We will make progress claim payments on production of acceptable evidence of an 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.

5. Branded Goods

- 5.1 We will not sell or otherwise dispose of salvaged branded goods without Your prior consent. Where You decline to give consent, You may retain possession of the salvaged goods and their reasonable salvage value will be deducted from the amount of the claim.

6. Capital Additions

- 6.1 This policy extends to cover property (including, but not limited to, alterations, additions, and improvements to existing property) situated anywhere in Tonga and acquired by You during the period of insurance.
- 6.2 Subject to the additional conditions:
 - 6.2.1 This extension does not apply to
 - 6.2.1.1 stock in trade or property of any kind expressly excluded from this insurance;
 - 6.2.1.2 any appreciation of the value which is not due to a physical alteration, addition or improvement.
 - 6.2.2 Cover under this extension commences on each acquired property when the risk in the property passes to You.
 - 6.2.3 Within 30 days of acquisition particulars of each property acquired must be given to Us and an additional pro-rata premium paid.
 - 6.2.4 Our liability under this extension will not exceed 5% of the sum insured or \$100,000 (whichever is the lesser) in respect of each item/column insured.

7. Temporary Removal

- 7.1 We will cover You for damage to any of the insured property (except stock) while temporarily removed to any place in Tonga and while in transit to or from that place.
- 7.2 However, Our liability will not exceed the amount for which We would be liable had the damage occurred at the particular place from which the property is temporarily removed.
- 7.3 This benefit does not apply to any of the insured property that is intended for use as a portable item (unless removed for service or repair).

8. Employees Personal Effects

- 8.1 This policy extends to cover property **Employees Personal Effects** (but excluding motor vehicles) but only whilst the effects are in or about premises owned or occupied by You, or elsewhere whilst being worn, kept, carried or used by employees acting in the course of their employment. Our liability under this benefit will be discharged by payment of claims to You as trustee for the employees. Any such claim will be payable free of any deductible that might otherwise apply, but will not exceed \$350 in respect of any one employee.

9. Protection Costs

- 9.1 We will cover You for any costs You reasonably incur for the purpose of, and for damage directly resulting from, controlling any cause of loss that involves or threatens to involve insured property which is covered under this policy.
- 9.1.1 However, this benefit does not apply to costs or damage for which indemnity would be payable under this material damage section in the absence of this extension.
- 9.1.2 Our liability will not exceed for any one cause of loss \$100,000 unless an alternative amount is shown in the schedule.

10. Social Club Property

- 10.1 This policy extends to cover the property of any pension fund, social club, sports club, or similar entity, whose activities are principally for the benefit of Your employees. Our liability under this benefit will be discharged by payment of claims to You as trustee for members of the entity concerned.

11. Unharmed property

- 11.1 We will cover You for the cost to demolish, damage or remove any property or part unharmed where these costs are incurred for the sole purpose of reinstating damaged insured property.
- 11.2 We will also cover You for the cost of reinstating the property or part to a condition the same as, but not better nor more extensive than, its condition immediately prior to the demolition, damage or removal.
- 11.3 The indemnity provided by this benefit will not increase Our liability beyond the sum insured on the insured property damaged.

12. Redundant foundations

- 12.1 For the purpose of claims under this policy the meaning of damage is extended to include the loss of value of foundations where the foundations of any building are made redundant for any reason in consequence of insured damage to the superstructures or plant resting on them. If it is not necessary to demolish the foundations in order to reinstate damaged property and if the presence of the abandoned foundations increases the market value of the property to which they are fixed the amount of increase will be treated as salvage in the adjustment of loss for claim settlement purposes.
- 12.2 The indemnity provided by this benefit will not increase Our liability beyond the sum insured on the insured property damaged.

13. Redundant plant and stock

13.1 Redundant plant

- 13.1.1 We will cover You for redundant:
- 13.1.1.1 interdependent plant; or
- 13.1.1.2 spare parts of the insured property affected; following loss or damage covered by this policy.

13.2 Redundant stock

- 13.2.1 We will cover You for unavoidable permanent loss of the value of undamaged stock resulting from a loss of or damage to other insured property.
- 13.3 The indemnity provided by this benefit will not increase Our liability beyond the sum insured on the insured property damaged.

Memorandum

Reinstatement memorandum

In the event of any insured property, to which this Memorandum applies, being lost, destroyed or damaged, the basis on which the amount payable under this Policy is to be calculated shall be the cost of reinstatement of the property, subject to the special provisions of this Memorandum.

Definitions

For the purpose of insurance under this Memorandum, and unless the context otherwise requires -

1. "Reinstatement" means:

- 1.1 where property is lost or destroyed, its replacement by equivalent property.
- 1.2 where property is damaged, the repair of the damage and the restoration of the damaged portion of the property to a condition substantially the same as but not better or more extensive than its condition when new.

2. **"Equivalent Property"** (if the property is neither plant nor stock in trade) means:
 - 2.1 property which is as nearly as is practicable the same as the property lost or destroyed, using currently equivalent materials and techniques and incorporating such alterations as are necessary to comply with building or other regulations made under or framed in pursuance of any Statute or Subordinate Instrument.
 - 2.2 where as a result of any special circumstances no property which falls within the scope of paragraph 2.1 is able to be constructed; a property which is designed to perform a purpose or function which is the same as or equivalent to, but not more extensive than, that performed by the property lost or destroyed.
 - 2.3 where as a result of any special circumstances no property which falls within the scope of paragraph (b)(i) above is suitable to the requirement of the Insured; a property which is designed to perform a purpose or function suitable to the requirement of the Insured, but not more extensive than that performed by the property lost or destroyed.
3. **"Equivalent Property"** (if the property is plant) means any plant which is as nearly as practicable the same as or equivalent to the plant lost or destroyed, having regard to the current state of technology, and having an equivalent capacity to that of the lost or destroyed plant, but not a greater capacity, unless plant with an equivalent capacity is not available and the replacement plant is the nearest to an equivalent capacity.
4. **"Destroyed"** means so damaged by an insured contingency that the property cannot, by reason only of the extent of that damage, be repaired.
5. **"Site"** means any parcel of land owned or occupied by the Insured.

Special Provisions

1. The amount payable under this Memorandum shall include the cost incurred in reinstatement which is necessary to comply with the terms of any Statute or of any Subordinate Instruments, provided that the amount payable shall not include the cost incurred in work necessary to comply therewith
 - 1.1 to the extent to which such work had already been required of the Insured by notice served prior to the happening of the destruction or damage; or
 - 1.2 in respect of undamaged property or undamaged portions of property; and for this purpose "undamaged" means not damaged physically and directly by an insured contingency. This Special Provision 1.2 shall apply whether or not the undamaged property or portion comprises separate property.
2. Where property is lost or destroyed, the work of reinstatement shall be carried out on the same site unless
 - 2.1 reinstatement on the same site is not permissible by reason of any Statute or Subordinate Instrument; or
 - 2.2 reinstatement on the same site is not suitable to the Insured's reasonable requirements;

in which case, the reinstatement may be carried out on any alternative site or sites.
3. Where the work of reinstatement is carried out in the terms of Definition 2.2 or 2.3, or on another location on the same site or on any other site or sites, the liability of the Company in respect of the cost of reinstatement shall not exceed the cost which would have been incurred had reinstatement been carried out in the terms of Definition 2.1 and on the original location at the original site.
4. When any property insured under this Memorandum is damaged, the liability of the Company shall not exceed the amount the Company could have been called upon to pay for reinstatement if such property had been destroyed.
5. If property insured under this Memorandum is itemised in the Schedule, the liability of the Company under this Memorandum in respect of any item shall in no case exceed the sum insured under this Memorandum in respect of that item.
6. In any of the following circumstances, the provisions of this Memorandum shall not apply and no payment shall be made under this Memorandum.
 - 6.1 Where the Insured elects not to reinstate the property.
 - 6.2 Where the work of reinstatement is not commenced and carried out with reasonable dispatch.
 - 6.3 Until the cost of reinstatement has actually been incurred, or agreed between the Company and the Insured.
 - 6.4 Where the property is damaged, but not destroyed, and repair of the damage is not permissible

by reason of any Statute or Statutory Instrument or in pursuance thereof or by reason of the condition of the undamaged portion of the property.

Excluded perils and events

1. It shall be a condition precedent to Your right to indemnity under this policy that You prove to Our satisfaction that the loss, damage or liability claimed for did not arise directly or indirectly from, was not related in any way to, and was not contributed to in any way by:
 - 1.1 Cyclone. Windstorm, Gale, Hurricane or Tropical cyclone;
 - 1.2 Earthquake, volcanic eruption and/or subterranean fire, tidal wave or tsunami;
 - 1.3 Flood;
 - 1.4 Burglary or theft;
 - 1.5 Riot, malicious acts, civil commotion, strikes or locked-out workers, persons taking part in labour disturbances or any activities in connection therewith;
 - 1.6 Civil war, insurrection, popular rising, rebellion, revolution, terrorism, sabotage, subversive acts, any action of any political or vigilante group, military rising, military or usurped power, invasion, war and hostilities, any action of military, police, security, or other authorities or instrumentality whether governmental or not, including any loss damage or liability directly or indirectly resulting from any of the above;
 - 1.7 Looting, sacking and/or pillaging;
 - 1.8 Permanent or temporary dispossession resulting from confiscation, commandeering, requisition by any lawfully constituted authority or body, or unlawful occupation by any person.
 - 1.9 The actions of the police, any armed forces or any lawfully constituted body where such actions are in connection with 1.5, 1.6, 1.7 or 1.8 above;
 - 1.10 Any deliberate fire, whether to the insured property or not, and started by You;
 - 1.11 Or caused to any property that at the time of such loss had been unoccupied or unattended for more than 7 consecutive days;
 - 1.12 Arising from wear, tear, depreciation, mildew, mould, rot, corrosion, rust, gradual depreciation, contamination, pollution, mechanical breakdown, neglect of maintenance, defective workmanship material or design, or structural alterations or repair.
 - 1.13 Any consequential loss of any kind;
 - 1.14 War, invasion, act of foreign enemy, hostilities or warlike operations (whether war be declared or not) civil war, mutiny, civil commotion assuming the proportions of or amounting to a popular uprising, military rising, rebellion, revolution, insurrection, terrorism, military or usurped power;
 - 1.15 Nuclear weapons material or ionising radiation or contamination by radioactivity from any nuclear waste or from the combustion of nuclear fuel;
 - 1.16 Subsidence, landslip, erosion, settling, cracking or removal or weakening of support;
 - 1.17 Confiscation, nationalisation or requisition by order of the Government or Local Authority;
 - 1.18 The failure of power or other utility service supplied to the prescribed premises, however caused, if the failure occurs away from the described premises.
2. **Computer virus and data corruption**
 - 2.1 This policy does not cover loss or damage directly or indirectly caused by or resulting from:
 - 1.1.1 the gaining of access to Your computer system via data communication media that terminate in Your computer system;
 - 1.1.2 data corruption, amendment of data or erasure of data by electronic or non-electronic means; or
 - 1.1.3 computer virus, being an executable programme or computer code segment that is self-replicating (or requires a host programme to replicate itself), requires a host programme or executable disc segment in which it can be contained, and which destroys or alters the host programme or other computer code or data, causing undesired programme or computer system operation.
3. **Criminal acts and disappearance**
 - 3.1 This policy does not provide cover for:
 - 3.1.1 Unexplained disappearance;
 - 3.1.2 shortages revealed only by the taking of an inventory
 - 3.1.3 shortages due to clerical or accounting errors; or damage directly resulting from
 - 3.1.4 Theft; any fraudulent scheme or device or false pretence practised on You or on any other person having care of the insured property.
4. **Damage to machinery**
 - 4.1 In respect the machine or pressure vessel immediately affected,
 - 4.1.1 explosion, overheating, rupture, bursting, cracking, leakage, collapse, of steam boilers, or pipes, or economisers, or any other pressure vessels, due in each case to generated or applied fluid pressure within or without (excluding pressure caused by chemical explosion); or
 - 4.1.2 mechanical or electrical breakdown or derangement of any machine or pressure vessel.
 - 4.2 However, this exclusion does not apply to:
 - 4.2.1 damage to other property that is not otherwise excluded; or
 - 4.2.2 damage as defined in 4.1.1 and 4.1.2 above, caused by or arising from a peril or event not otherwise excluded under this policy.

5. Faulty workmanship, design and materials

- 5.1 This policy does not insure the cost of putting right:
- 5.1.1 or repairing or replacing faulty materials;
 - 5.1.2 faulty workmanship;
 - 5.1.3 work performed to a faulty or defective design, plan or design specification; or
 - 5.1.4 faulty or defective work where the fault or defect results from an error or omission in design, plan or design specification;
- 5.2 but this exclusion does not apply to any consequential damage occurring as a result of 5.1.1 to 5.1.4 as shown in this exclusion that is not otherwise excluded.

6. Moisture penetration

- 6.1 This policy does not insure loss or damage as a result of or in connection with the failure of any building or structure to contain or incorporate:
- 6.1.1 materials; or
 - 6.1.2 a design; or
 - 6.1.3 a system; or
 - 6.1.4 a standard of workmanship;
- that effectively prevents or manages the presence or penetration of moisture or water to which the building or structure might reasonably be subjected.

7. Other processes

- 7.1 This policy does not insure damage directly or indirectly caused by or resulting from:
- 7.1.1 action or effects of micro-organisms, mould, mildew, rot, fungi, other than direct damage by fire as a result of any of these;
 - 7.1.2 normal settlement, shrinkage or expansion of buildings, foundations, walls, pavements, roads and other structural improvements;
 - 7.1.3 subsidence, landslip, erosion, settling, cracking or movement of the land;
 - 7.1.4 gradual deterioration, other than direct damage by fire as a result of this.
- 7.2 This policy does not insure damage directly caused by:
- 7.2.1 fumes, gas, dust, smoke, smuts unless caused by a sudden single identifiable event;
 - 7.2.2 normal working, maintenance, wear and tear, erosion, corrosion, slowly developing deformation or distortion, marring or scratching;
 - 7.2.3 action of vermin, insects;
 - 7.2.4 the inherent nature of the property;
 - 7.2.5 action of light;
 - 7.2.6 pollution or contamination;
 - 7.2.7 changes in artificially controlled temperature or atmosphere;
 - 7.2.8 exposure to weather conditions where the property is not normally left in the open.
 - 7.2.9 interruption of the supply to the site of water, gas, electricity or any fuel;
 - 7.2.10 total or partial cessation of work, retarding or interruption or cessation of any process.

8. Property

- 8.1 This policy does not insure:
- 8.1.1 property in the course of installation, construction, demolition, erection, or testing following any of them;
 - 8.1.2 property in transit other than at premises You own or occupy; or
 - 8.1.3 property damaged as a result of it undergoing any production process where the damage is directly caused by the normal operation of that process.

Extensions only apply if stated in the schedule and You have paid an additional premium

1. Cyclone

- 1.1 When this clause is noted on the schedule We have agreed to extend the policy to include loss or damage resulting from Windstorm, Gale, Hurricane or Tropical cyclone (referred to herein as cyclone) as shown on the policy schedule and an additional premium has been paid and is subject to the following conditions.
- 1.1.1 Only buildings which are entirely enclosed with all outside doors, windows and roofs permanently in place and the contents of such buildings will be covered by this extension.
 - 1.1.2 We will not be liable for any loss or damage occurring before the expiration of 7 days after 4pm on the day of acceptance by Us of this cover.
- 1.2 This extension will not however include loss or damage:
- 1.2.1 to the insured interest by water or rain unless such loss or damage is caused by water or rain entering the building through openings in the walls or roof(s) made by the cyclone.
 - 1.2.2 caused by sea, tidal wave, high-water, flood, erosion, subsidence or landslide.
 - 1.2.3 to solar heating equipment, water tanks, gates, fences, awnings, blinds, signs, power and/or telephone poles and appertances, aerials, masts, satellite dishes, decorative masi, thatching or any other outdoor fixtures or fittings of any description.
 - 1.2.4 to buildings or their contents in the course of construction, reconstruction or repair.

- 1.2.5 by deterioration of frozen or freezer/cooler goods/stock resulting from electricity power failure.
- 1.3 It is a condition of this extension that;
 - 1.3.1 You shall use due diligence to minimise any loss or damage.
 - 1.3.2 We have approved the qualified structural engineer who provided you with the cyclone compliance certificate. Any such certificate must not be more than 7 years old as at the inception date of this policy or any subsequent renewal date.
 - 1.3.3 Should any damage to buildings or contents caused by a peril covered by this extension have occurred prior to the commencement of this insurance or during the term of this insurance such damage not having been made good, We shall not be liable for any subsequent damage.
 - 1.3.4 All fixed glass on the ground and first floor levels to be either cyclone rated or protected by cyclone shutters constructed and affixed in accordance with the recommendations of the qualified structural engineer We have approved. Such shutters to be in place immediately following an official cyclone warning and they are to remain in place during the time the official cyclone warning remains in force.
- 1.4 The applicable deductible as specified below or in the policy schedule, will be deducted from any claim settled under this extension.
- 1.5 When the policy has been extended to include this peril Exclusion number 1 is deemed to be deleted.

2. Earthquake

- 2.1 When this clause is noted on the schedule We have agreed to extend the policy to include loss or damage caused by Earthquake, volcanic eruption and/or subterranean fire, tidal wave or tsunami.
- 2.2 When the policy has been extended to include this peril Exclusion number 2 is deemed to be deleted.

3. Flood

- 3.1 When this clause is noted on the schedule We have agreed to extend the policy to include loss or damage caused by Flood. This extension will not however include loss or damage:
 - 3.1.1 caused during the course of any repairs or alterations.
 - 3.1.2 to carpets or other fixed or loose floor coverings.
 - 3.1.3 to any building component, fixture or fitting which is constructed with wooden chip or particle board or composite building material.
 - 3.1.4 caused by water discharged or leaking from any fire protection sprinkler or drencher installation or from any tank in connection with any such installation.
 - 3.1.5 caused by subsidence and landslip
- 3.2 The applicable deductible as specified below or in the policy schedule will be deducted from any claim settled under this extension.
- 3.3 When the policy has been extended to include this peril Exclusion number 3 is deemed to be deleted.

4. Burglary

- 4.1 When this clause is noted on the schedule We have agreed to extend the policy to include loss or damage caused by burglary.
- 4.2 The applicable deductible as specified below or in the policy schedule will be deducted from any claim settled under this extension.
- 4.3 When the policy has been extended to include this peril Exclusion number 4 is deemed to be deleted.

5. Riot, malicious acts, civil commotion, strikes or locked-out workers

- 5.1 When this clause is noted on the schedule We have agreed to extend the policy to include loss or damage to insured property from Riots, Strikes, Civil Commotion, strikes or locked-out workers as shown on the policy schedule, and an additional premium has been paid.
- 5.2 When the policy has been extended to include these perils the words "Riot, malicious acts, civil commotion, strikes or locked-out workers" contained in Exclusion number 5 is deemed to be deleted.

6. Looting, sacking and/or pillaging

- 6.1 When this clause is noted on the schedule We have agreed to extend the policy to include loss or damage caused by Looting, sacking and/or pillaging directly resulting from riot, civil commotion, strikes or locked out workers as shown on the attached schedule, and an additional premium has been paid.
- 6.2 When the policy has been extended to include this peril Exclusion number 6 is deemed to be deleted.

Deductibles and sub- limits

In the event of any claim made under this policy the final adjusted loss shall be subject to the following deductibles and sub limits to any one item/column as specified in the policy schedule.

- 1. In respect to any claim for cyclone and when the policy has been extended to include this peril the amount of the deductible shall be 2.5% of the sum insured or \$2,500 whichever is the greater during any one period of 72 consecutive hours.
- 2. In respect to any claim for earthquake, volcanic eruption, tsunami or tidal wave the amount of the deductible shall be 7.5% of the sum insured or \$2,500 whichever is the greater during any one period of 72 consecutive hours.

3. In respect to any claim for flood and when the policy has been extended to include this peril the deductible shall be \$2,500 during any one period of 72 consecutive hours in respect of each item/column as specified in the policy schedule.
4. In respect to any claim for burglary and when the policy has been extended to include this peril
 - 4.1 the deductible shall be \$1,000 or other amount stated in the schedule and
 - 4.2 the sub limit 15% of the sum insured.
5. In respect to riot, malicious acts, civil commotion, strikes or locked-out workers and when the policy has been extended to include these perils the amount of the deductible shall be 2.5% of the sum insured or \$2,500 whichever is the greater during any one period of 72 consecutive hours.
6. In respect to looting sacking and/or pillaging and when the policy has been extended to include these perils the deductible shall be 7.5% of the sum insured and the sub limit shall be 50% of the sum insured for stock and or contents
7. In respect to any claim for loss or damage to any curiosity or work of art, mat, tapa, artefact and the like, the sub limit shall be \$1,000
8. In respect to documents, manuscripts, magnetic media, business books, microfilm, technical drawings, plans, designs, patterns, models, moulds and other records which may be insured under this policy only their value as materials is insured. The value of the information is not insured.

Conditions

1. Alteration

- 1.1 This policy shall be void and no benefits paid with respect to any item insured in regard to which there has been any alteration after the commencement of this insurance whereby;
 - 1.1.1 the trade, manufacture carried on or nature of the occupation or of other circumstances affecting the property insured be changed in such a way as to increase the risk of destruction or damage.
 - 1.1.2 the building insured or containing the insured property becomes unoccupied for more than 14 consecutive days.
 - 1.1.1 Your interest ceases except by will or operation of the law.

2. Fraud:

- 2.1 This policy is void in case of fraud by You at any time as it relates to this policy. It is also void if You or any other insured, at any time, intentionally conceal or misrepresent a material fact or circumstance concerning:
 - 2.1.1 This policy
 - 2.1.2 The Property Insured
 - 2.1.3 Your interest in the Property Insured; or
 - 2.1.4 A claim under this policy including the value of any property lost or damaged.

3. Claims

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

- 3.1 You must:
 - 3.1.1 take prompt steps to minimise the claim;
 - 3.1.2 take all reasonable steps to prevent further loss, damage or personal injury;
 - 3.1.3 immediately notify Us;
 - 3.1.4 inform the police if any theft burglary, arson or malicious damage if any other criminal act has occurred or is suspected;
 - 3.1.5 immediately send to Us any legal process issued or commenced against You, and give all assistance to enable the claim to be settled or resisted.
 - 3.1.6 at Your expense, provide Us with any reasonably required proof and information in respect of the claim;
 - 3.1.7 allow Us to enter any premises where loss or damage has occurred and take and keep possession of the property and deal with salvage in a reasonable manner;
 - 3.1.8 allow Us to take proceedings in Your name to obtain relief from any third party and undertake the conduct, control or compromised of any such proceedings.
- 3.2 You must not:
 - 3.2.1 prejudice Our ability to settle the claim;
 - 3.2.2 act in any way to the detriment or prejudice Our interest;
 - 3.2.3 dispose of or abandon any Property for which You intend to make a claim;
 - 3.2.4 start any repairs without Our permission unless it is necessary to prevent further loss;
 - 3.2.5 without Our the written consent;
 - a incur any expense of litigation.
 - b repudiate liability, negotiate or make any admission, offer, promise or payment.
- 3.3 You must then:

- 3.3.1 within 14 days submit in writing full particulars of the claim in such a form or manner as may be reasonably required by Us so that any claim is not prejudiced;
- 3.3.2 give Us free access to examine and assess any loss or damage;
- 3.3.3 provide any other information or assistance We reasonably request in relation to Your claim;
- 3.3.4 co-operate with the necessary investigations and provide all necessary information and submit all particulars in order to enable Us to expedite the claim;
- 3.3.5 forward any letters of demand or court documents to Us immediately;
- 3.3.6 if We request it, provide a statutory declaration to verify the Loss;
- 3.3.7 if We request it, attend interviews with any person We nominate;
- 3.3.8 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.

If Your property is mortgaged or secured by any other financial agreement, We may make payment for any loss direct to the interested party. This will meet Our obligations under this policy.

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.

4. Other Insurance:

- 4.1 If at the time of any loss, damage or liability there shall be any other insurance covering such loss, damage or liability or any part thereof, We shall be liable only for the amount of loss not covered by such other insurance.

5. Cancellation and Variations:

- 5.1 You may cancel this policy at any time in which case We will refund 75% of the unused basic and burglary premium. No refund will be given in respect of any cyclone premium.
- 5.2 We may cancel this policy or amend the terms, exclusions and limitations after 4.00pm on the 14th day following dispatch or written notice to Your last known address. You shall be entitled to a return of premium proportionate to the unexpired period of the cancelled policy.

6. Subject to Average:

- 6.1 If at the time of any loss or damage insured by this policy the sum insured is less than 90% of the actual value then You shall be considered as being Your own insurer for the difference and shall bear a rateable proportion of the loss accordingly. Each item/column of this policy shall be separately subject to this condition.

7. Jurisdiction:

- 7.1 Notwithstanding anything contained in this policy to the contrary the indemnity provided herein shall not be apply to:
- 7.2 Any matter where an action for damages is brought in a court of law outside Tonga and not subject to Tongan law or where an action is brought in Tonga to enforce a foreign judgement whether by way of reciprocal agreement or otherwise.
- 7.3 Costs and expenses of litigation which are not incurred within Tonga.

8. Suit or Legal Action

- 8.1 No suit or legal action on this policy for the recovery of any claim shall be sustainable in any court of law unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months after the date of the loss.

9. Proposal:

- 9.1 The truth of the statements and answers in the proposal form or any other written submission provided by You or on Your behalf prior to the original inception date or each subsequent renewal date shall be a condition precedent to any liability of Us to make any payment under this Policy.

10. Policy Amendment:

- 10.1 Any amendment to the terms and conditions of this policy must be evidenced by written confirmation signed by Us.

11. Debt offset:

- 11.1 Any claim payment payable under this policy may be used to settle any other premium or other debt owed by You to Us.

12. Premium Payment

- 12.1 Unless We have agreed to accept payment of the premium by instalments Your policy will become null and void if the premium is not paid in full to Us before the original inception date or any subsequent renewal date
- 12.2 Where We have agreed to accept payment of the premium by instalments:
 - 12.2.1 We reserve the right in the event of a claim being made to require immediate payment of the balance of any annual premium; and
 - 12.2.2 all benefits under this policy will be forfeited if any instalments remains unpaid.

13. Risk control

- 13.1 **Where the Business and/or Trade and/or Occupancy insured** involves combustible materials of any description (either used in production or type of goods sold) it is a condition of this insurance that You shall comply with the following:
- 13.1.1 the premises have fire protection in accordance with the minimum standards as required by Tongan law,
 - 13.1.2 where dangerous goods are stored they are done so in accordance with the laws of Tonga,
 - 13.1.3 where a monitored burglar alarm is installed that it be in fully operational when the premises are not occupied,
 - 13.1.4 where an automatic sprinkler system is installed that it be in fully operational.
- 13.2 Where an occupation involves **woodworkers, plastic manufacturers, fibreglass manufacturers, chemical manufactures, paint manufacturers, textile manufacturers, clothing manufacturers, upholsterers or the like** It is a condition of this insurance that this policy be subject to the following warranties:
- 13.2.1 It is warranted that smoking be excluded in all working areas,
 - 13.2.2 It is warranted that all trade waste and other refuse be swept up daily, bagged or binned, and removed to a distance of a minimum of five metres from the building(s). If the five metre gap is not available on the site then all rubbish to be stored in approved metal container with lid that is either not against the building or so constructed so as to not allow fire to spread from it to the Insured's property.
- 13.3 Where the occupation involves the use of **a deep fat fryer**, it is a condition of this insurance that this policy be subject to the following **deep fat frying warranty**:
- 13.3.1 There being deep fat frying carried on in the premises described in this policy it is warranted by You: that a separate non-adjustable manually reset thermostat be fitted to each pan which thermostats shall disconnect each heating element from the power supply when the temperature of the cooking oils or cooking fats reaches 220 degrees Centigrade, and
- i that each pan be fitted with close-fitting steel lids which must be shut down in the event of fire and when the pans are not in use, or alternatively, an Asbestos Blanket and Container be installed adjacent to the Deep Frying Pans and be readily accessible for immediate use, and
 - ii that one fully charged Dry Powder Extinguisher of not less and 2 kg capacity or one fully charged BCF Extinguisher of not less than 1.8 kg capacity be mounted in a conspicuous place in the area in which frying operations are carried out and be readily accessible for immediate use, and
 - iii that all Thermostats, Pans, Asbestos Blankets and Containers and Extinguishers be at all times maintained in good working order.
- 13.4 Where the occupation involves **Hotels, Motels, Boarding Houses, Night Clubs or the like** or where We request its inclusion, this insurance is subject to the following vacancy warranty:
- 13.4.1 It is warranted that You comply with the following:
- i The premises are fully secured against illegal entry
 - ii Gas, Electricity and Water supplies are all disconnected
 - iii The premises are fully inspected once a week
 - iv Perils limited to Fire, Lightning, Explosion and Aircraft only.
- 13.5 Where there is **Burning and Welding** at the premises this insurance is subject to the following:
- 13.5.1 It is a condition of this insurance that You shall take all steps to ensure the following precautions are complied with on each occasion where You are using any oxyacetylene or electric welding or cutting plant or any blow lamp or blow torch away from his own premises.
- i the immediate area in which the operation is to be carried out must be segregated to the greatest practicable extent by the use of screens made of metal and/or fire retardant material.
 - ii the whole of this segregated area must be adequately cleaned and freed from combustible material before operations commence.
 - iii combustible floors/substances in or surrounding this segregated area must be liberally covered with sand or protected by overlapping sheets of incombustible material.
 - iv where work is being carried out in any enclosed area an additional employee of the Assured or an employee of the occupier shall be present at all times to guard against outbreak of fire.
 - v no work should be carried out unless specifically authorised by the occupier who should also be asked to approve the safety arrangements.
 - vi the following must be kept available for immediate use near the scene of operations:-
 - a suitable fire extinguishers and/or
 - b hoses connected up in readiness for immediate use and tested prior to the commencement of the work.
 - vii A thorough examination must be made in the vicinity of the work approximately one hour after the termination of each operation. In the event that it is not practicable for such examination to be carried out by the Assureds own employee then appropriate arrangements must be made with the occupier.
 - viii before "burning off" metal work built into or projecting through walls or partitions an examination should be made to confirm that the other end of the metal is not in a hazardous proximity to combustible material which may be ignited by the conduction of heat.

- 13.5.2 Furthermore, where You burn debris away from Your premises the following precautions shall be taken on each occasion:-
- i fires to be in a cleared area and at a distance of at least ten meters from any property.
 - ii fire not to be left unattended at any time.
 - iii A suitable fire extinguisher to be kept available for immediate use.
 - iv Fires to be extinguished at least one hour prior to leaving site at the end of each working day.

Subject otherwise to terms, exclusions and conditions of this insurance.