



Natural Disaster Deductible Buy Down Policy wording



THE INSURED IS REQUESTED TO READ THE ENTIRE POLICY CAREFULLY AND INFORM THE UNDERWRITER'S REPRESENTATIVE NAMED BELOW IMMEDIATELY IF IT IS NOT CORRECT.

Unless the context requires otherwise, words denoting the singular shall include the plural and vice versa.

The titles of paragraphs, sections, provisions, or endorsements of or to this **Policy** are intended solely for convenience and reference, and are not deemed in any way to limit or expand the provisions to which they relate and are not part of this **Policy**.

INSURING AGREEMENT

Certain Underwriters at Lloyd's, London (hereinafter referred to as "the Underwriters") agree to indemnify the **Insured** named in the Policy Schedule in respect of direct physical loss of or damage to the property or interest described in the Policy Schedule, while located or contained at the location or territory described in the Policy Schedule, occurring during the **Policy Period** and caused by any of the Perils insured stated in the Policy Schedule, all as covered by and defined in the Overlying Policy/ies specified in the Policy Schedule (hereinafter referred to as the "Policy/ies of the Overlying Insurers").

Limit Of This Policy

This **Policy** shall pay the difference between the Deductible(s) of the Policy/ies of the Overlying Insurer(s) stated in the Policy Schedule, and the **Insured's Retention**, subject always to the Underwriters' Maximum Amount Payable under this **Policy** not exceeding the amount stated in the Policy Schedule.

For a loss to contribute to the limit of this **Policy** and the **Insured's Retention**, such loss must be a loss that would be an admitted loss under the Policy/ies of the Overlying Insurers except for the Deductible provisions contained in such Policy/ies of the Overlying Insurers.

However, this **Policy** shall not cover any loss adjustment expenses incurred in preparing or certifying details of a claim. Nothing contained in the foregoing shall be construed however to deny the Underwriters the right to appoint, or agree to share in the appointment of, any loss adjuster in the investigation of any loss under this **Policy**.

Several Liability

The subscribing underwriters' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing underwriters are not responsible for the subscription of any co-subscribing underwriter who for any reason does not satisfy all or part of its obligations.

Business Interruption Coverages Extension

This Insurance extends to cover Business Interruption coverages (as insured under the Policy/ies of the Overlying Insurer(s)) consequent upon the loss or damage to the Property insured.

The limit of this **Policy** and the **Insured's Retention** as stated in the Policy Schedule are inclusive of damage to Property and Business Interruption coverages.

DEFINITIONS

Whenever used in this **Policy**, the following terms are defined as follows, unless stated otherwise:

Insured

The word "**Insured**" means the entity stated in the Policy Schedule as the Insured.

Policy

The word "**Policy**" means the policy document comprising the Policy Schedule, its Insuring Agreement and Limit of this Policy, Definitions, Exclusions and Conditions, and any endorsement applicable thereto, issued by the Underwriters to the **Insured** for the Policy Period.

Policy Period

The word "Policy Period" means the date and time when the insurance under this Policy starts and ends, as shown in the Policy Schedule, unless this **Policy** is cancelled in accordance with the provisions of Condition 2 of this **Policy**.

Retention

The word "**Retention**" means the amount stated as the **Insured's Retention** in the Policy Schedule which the **Insured** shall retain and not be insured by this **Policy**.

Terrorism

The word “**Terrorism**” means an act, including but not limited to the actual or threatened use of force or violence, of any person or group of persons, whether acting alone or on behalf of or in connection with any organization or government, committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

EXCLUSIONS

This **Policy** incorporates by this reference, and is in all respects subject to, each of the Exclusions contained in the **Policy**/ies of the Overlying Insurers, and as may be added by Endorsement to this **Policy**.

This **Policy** does not apply to, and the Underwriters are not liable to make any payment for, any claims directly or indirectly arising from or related to the following risks, regardless of any other contributing or aggravating cause or event that contributed concurrently or in any sequence to such claims:

1. Biological And Chemical Materials

The actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence thereto;

2. Property Cyber And Data Exclusion

1. Notwithstanding any provision to the contrary within this **Policy** or any endorsement thereto this **Policy** excludes any:

1.1 Cyber Loss;

1.2 loss, damage, liability, claim, cost, expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any loss of use, reduction in functionality, repair, replacement, restoration or reproduction of any Data, including any amount pertaining to the value of such Data;

regardless of any other cause or event contributing concurrently or in any other sequence thereto.

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

3. This endorsement supersedes and, if in conflict with any other wording in the **Policy** or any endorsement thereto having a bearing on Cyber Loss or Data, replaces that wording.

3. Definitions

1. Cyber Loss means any loss, damage, liability, claim, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any Cyber Act or Cyber Incident including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any Cyber Act or Cyber Incident.

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

3. Cyber Incident means:

3.1 any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any Computer System; or

3.2 any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any Computer System.

4. Computer System means:

any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including

any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, owned or operated by the **Insured** or any other party.

5. Data means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a Computer System.

4. Pre-Existing Damage

Any property or interest insured in this **Policy** where

such property or interest has pre-existing damage, at the effective date of this **Policy**, and is considered by Underwriters to be exposed to conditions which would not have been exposed had the previous loss not occurred;

This Exclusion shall be removed upon:

- a the completion of all building repairs; and
- b written evidence signed by a licensed general contractor, stating that such building repairs have been completed;

5. Radioactive Contamination

Nuclear reaction, nuclear radiation or radioactive contamination, however such nuclear reaction, nuclear radiation or radioactive contamination may have been caused;

6. Terrorism

Any act of **Terrorism** or any action taken in controlling, preventing, suppressing or in any way relating to any act of **Terrorism**;

7. War, Confiscation

- a War, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military power;
- b Confiscation, requisition, or destruction by order of public or government authority, which deprives the **Insured** of the use or value of the property or interest described in the Policy Schedule, nor for loss or damage arising from acts of contraband or illegal transportation or illegal trade, unless the order is given for the purpose of controlling loss or damage covered by this **Policy**.
- c This **Policy** does not apply to, and the Underwriters are not liable to make any payment for, the following types of loss, damage, or injury, whether caused or contributed to, in whole or in part, directly or indirectly, by risks otherwise insured under this **Policy** or any of its Extensions:

8. Sanction Limitation And Exclusion Clause

This **Policy** shall not be deemed to provide cover and the Underwriter will not be liable to pay any claim or provide any benefit under this **Policy** to the extent that the provision of such cover, payment of

such claim or provision of such benefit would be in violation of any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom, United States of America or New Zealand

9. Communicable Disease

1. Notwithstanding any other provision of this **Policy** to the contrary, this **Policy** does not insure any loss, damage, claim, cost, expense or other sum, directly or indirectly arising out of, attributable to, or occurring concurrently or in any sequence with a Communicable Disease or the fear or threat (whether actual or perceived) of a Communicable Disease.
2. For the purposes of this exclusion, loss, damage, claim, cost, expense or other sum, includes, but is not limited to, any cost to clean-up, detoxify, remove, monitor or test:
 - 2.1 for a Communicable Disease, or
 - 2.2 any property insured hereunder that is affected by such Communicable Disease.
3. As used herein, a Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:
 - 3.1 the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not, and
 - 3.2 the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms, and
 - 3.3 the disease, substance or agent can cause or threaten damage to human health or human welfare or can cause or threaten damage to, deterioration of, loss of value of, marketability of or loss of use of property insured hereunder.

CONDITIONS

Failure to comply with any of these Conditions could adversely affect the insurance provided by this **Policy** or any claim the **Insured** may make.

1. Application Of Recoveries

All salvages, recoveries and payments recovered or received subsequent to a loss settlement under this **Policy** shall be applied as if recovered or received prior to the said settlement and all necessary adjustments shall be made by the parties hereto.

2. Cancellation

This **Policy** may be cancelled by the **Insured** at any time by written notice or by surrender of this **Policy**.

This **Policy** may also be cancelled by or on behalf of the Underwriters by providing notice to the **Insured's** broker or representative, or by providing written notice to the **Insured**, at the **Insured's** address as stated in the Policy Schedule, stating when, not less than sixty (60) days thereafter, except ten (10) days thereafter in respect of non-payment of premium, the cancellation shall be effective. The mailing of such notice as aforesaid shall be sufficient proof of notice and this **Policy** shall terminate at the date and hour specified in such notice.

If this **Policy** shall be cancelled by the **Insured**, the Underwriters shall retain the pro-rata proportion of the premium for the time during which this **Policy** has been in force, subject always to the amount stated in the Policy Schedule as Minimum Earned Premium being deemed fully earned at inception.

If this **Policy** shall be cancelled by or on behalf of the Underwriters, the Underwriters shall retain the pro-rata proportion of the premium for this **Policy**, except that if this **Policy** is subject to any premium adjustment the Underwriters shall receive the earned premium for this **Policy** or the pro-rata proportion of any minimum premium stipulated elsewhere within this **Policy** whichever is the greater.

Payment or tender of any unearned premium by the Underwriters shall not affect the effectiveness of cancellation but such payment shall be made as soon as practicable.

Notwithstanding anything contained in the foregoing to the contrary, if, during the **Policy Period**, there has been either a claim on the **Policy** or the Underwriters have been notified of an Occurrence

that it deems likely to result in a claim, no refund of premium shall be provided.

3. Conflict Of Statute / Laws

In the event that any provision of this **Policy** is found by a court of competent jurisdiction to be invalid or unenforceable, the other provisions of this **Policy** and the remainder of the provision in question shall not be affected thereby and shall remain in full force and effect.

4. Disclosure And Material Changes

By accepting this **Policy** and in setting the terms and premium, the Underwriters have relied on the information given to them by the **Insured**.

In the event the **Insured** becomes aware that information the **Insured** has given the Underwriters is inaccurate or has changed, the **Insured** must inform the Underwriters' Representative stated in the Policy Schedule as soon as practicable.

When the Underwriters are notified that information the **Insured** previously provided is inaccurate, or of any changes to that information, the Underwriters will tell the **Insured** if this affects the insurance under this **Policy**. For example, the Underwriters may amend the terms of this **Policy** or require the **Insured** to pay more for the insurance under this **Policy** or cancel the insurance under this **Policy** in accordance with Condition 2 of this **Policy**.

If the **Insured** fails to notify the Underwriters that information the **Insured** had provided is inaccurate, or the **Insured** fails to notify the Underwriters of any changes, the insurance under this **Policy** may become invalid and the Underwriters may not pay the **Insured's** claim, or any payment could be reduced.

5. False Or Fraudulent Claim

If the **Insured**, or anyone acting on their behalf, make a claim knowing it to be false or fraudulent in amount or in any other respect, or use any fraudulent devices in support of any claim, this **Policy** will become invalid. This means the Underwriters will not pay the false or fraudulent claim, or any subsequent claim.

6. Goods And Services Tax (Gst)

Provided that Goods and Services Tax (GST) is recoverable by the Underwriters or their agent, the

sums insured of this **Policy** are exclusive of GST. In the event of a claim, the Underwriters will pay a maximum of the sum insured plus additional GST to a maximum of the current rate of GST applied to that sum insured.

The **Insured's Retention** is inclusive of GST.

7. Maintenance Of Overlying Insurance

In respect of the Perils Insured as stated in the Policy Schedule, this **Policy** is subject to the same terms, definitions and conditions (except as regards the premium, the amount and limits of liability, any Deductible provision, and the renewal agreement, if any, and except as otherwise provided elsewhere in this **Policy**) as are contained in or as may be added to the Policy/ies of the Overlying Insurers prior to the happening of an Occurrence for which claim is made under this **Policy**.

It is a condition of this **Policy** that the Policy/ies of the Overlying Insurers shall be maintained in full effect during the currency of this **Policy**.

8. Notification Of Claims

The **Insured** shall, upon knowledge of any Occurrence which may give rise to a claim under this **Policy**, give immediate written advice thereof to the Underwriters through the person or firm named for that purpose in the Policy Schedule.

9. Policy Modification

The **Insured** and the Underwriters may request changes to this **Policy**. This **Policy** can be changed only by endorsement issued by the Underwriters and made a part of this **Policy**.

Notice to any agent or the Underwriters' Representative stated in the Policy Schedule, or knowledge possessed by any agent or the Underwriters' Representative stated in the Policy Schedule, or by any other person shall not be held to effect a waiver or change in any part of this **Policy**.

10. Overseas Jurisdiction / Service Of Suit

It is hereby agreed that:

1. The insurance shall be governed by the law of New Zealand whose courts shall have jurisdiction in any dispute arising hereunder; and

2. Any summons, notices or process to be served upon the Underwriters for the purpose of instituting any legal proceedings against them in connection with this Insurance may be served upon

Scott Galloway
Lloyd's General Representative in New Zealand
Hazelton Law
Level 29, Plimmer Towers
2-6 Gilmer Terrace, PO Box 5639
Wellington New Zealand

who has the authority to accept service on their behalf.

11. Third Party Rights

A person who is not a party to this **Policy** shall not have any rights to enforce any term of this **Policy**. This does not affect any other rights or remedy of a third party which exist, or which may exist.

12. Valuation

The valuation of this **Policy** is Replacement Cost, as defined in the Policy/ies of the Overlying Insurers, except as may be provided in the Policy/ies of the Overlying Insurers.

13. Complaints

If the Insured has a complaint in respect of this **Policy**, including any claim made on this **Policy**, the complaint may be addressed to:

The Managing Director
Delta Insurance New Zealand Limited
Level 2, 204 Quay Street, Auckland, 1010
PO Box 106 276, Auckland 1143
+64 9 300 3079

E-mail: complaints@deltainsurance.co.nz

Delta Insurance New Zealand Limited will acknowledge the **Insured's** complaint within 3 working days, provide the **Insured** with the name and contact details of the person handling the complaint, have the matter fully investigated by a suitably experienced person not previously involved in the case, and inform the **Insured** of the progress or outcome of the matter within 10 working days.

Where further information, assessment or investigation is required Delta Insurance Limited New Zealand will agree reasonable time frames with the Insured for its completion. If reasonable time frames are not agreed the **Insured** may contact an independent external dispute resolution scheme, that Delta Insurance New Zealand Limited or the Underwriters are registered with, about those timeframes.

Delta Insurance New Zealand Limited will update the Insured at least once every 20 business days, or at another interval agreed with the **Insured**, until the complaint is resolved.

In the event Delta Insurance Limited New Zealand do not resolve the matter the **Insured** should contact the Lloyds general representative in New Zealand:

Scott Galloway

Lloyd's General Representative in New Zealand

Hazelton Law

Level 29, Plimmer Towers, 2-6 Gilmer Terrace

PO Box 5639, Wellington New Zealand

E-mail: scott.galloway@hazelton.co.nz

Telephone: +64 (04) 472 7570

Fax: +64 (04) 472 7571

Following Lloyd's consideration of the **Insured's** complaint, if the complaint is not resolved the **Insured** may be entitled to refer the matter to the Insurance and Financial Services Ombudsman Scheme. This is an independent service, free to the **Insured**.

See www.ifso.nz or call 0800 888 202 for information on the IFSO Scheme including how and when to make a complaint to it.

The IFSO Scheme will require a "deadlock" to be reached before considering a complaint. If the **Insured's** complaint is not resolved to the **Insured's** satisfaction within 2 months of notification to Delta Insurance New Zealand Limited, the **Insured** will be provided a "deadlock" letter explaining why the matter has not been resolved.

If the **Insured** feels human rights have been breached the **Insured** can contact the Human Rights Commission on 0800 496877 or through its website: www.hrc.co.nz