



**DOMINION INSURANCE LIMITED**

SUVA BOX 14468 PH 3311055 FAX 3303475  
NADI BOX 2311 PH 6701451 FAX 6701221

**PUBLIC LIABILITY POLICY**

The Dominion will indemnify the Insured against liability arising from ACCIDENTS happening within Fiji and occurring in connection with the business during any Period of Insurance and subject to all Terms and Conditions of this Policy. The Dominions Liability shall not exceed the sum insured in respect of the any one claim or the aggregate of all claims during any one period of Insurance.

**LIMITS OF INDEMNITY**

- (a) All sums which the Insured shall become legally liable to pay in respect of
  - (1) Accidental death or bodily injury of any person.
  - (2) Accidental loss of or damage to property
 AND
- (b) In respect of a claim against the Insured to which the indemnity expressed in this Policy applies.
  - (1) All costs and expenses of litigation recovered by any claimant against the Insured
  - (2) All costs and expenses of litigation incurred with the written consent of the Dominion.

The liability of the Company under Clauses (a) and (b) above of this Policy for all sums payable to any claimant or any number of claimants in respect of or arising out of any occurrence or in respect of or arising out of all occurrences of a series consequent on or attributable to one source or original cause or in respect of the aggregate of all claims during any one period of insurance shall not exceed the limit of indemnity specified in the Schedule.

**POLICY INDEMNITY**

**ITEM 1: General Liability:**

The Dominion will indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay consequent upon Property Damage or Personal Injury occurring in Fiji during the period of Insurance and in connection with the business.

**ITEM 2: Tenant’s Liability:**

The Dominion will indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay consequent upon Property Damage or Personal Injury occurring in Fiji during the Period of Insurance to any premises occupied by, in the charge or under the control of, but not owned by, the Insured. Exclusion 3 (a) does not apply to this item.

**ITEM 3: Landlord’s Liability:**

The Dominion will Indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay consequent upon Property damage or Personal Injury occurring in Fiji during the Period of Insurance and arising from the legal ownership or occupation, but not physical occupation, of any premises.

**ITEM 4: Products Liability:**

The Dominion will indemnify the Insured in respect of all sums which the Insured shall become legally liable to pay consequent upon Property Damage or Personal Injury occurring anywhere in the World during the Period of Insurance and caused by, or in connection with, or arising from the Products.

PROVIDED THAT for this Item:

- 1 cover will not apply until the Products have left the control and actual physical custody of the insured, or any employee of the Insured;
- 2 the Insured shall take all reasonable precautions to prevent the sale, or supply, of Products which are not in good condition, or free from defect or contamination, or fit for the purpose required.

- 3 the Company will not indemnify the Insured for liability in respect of Property Damage or Personal Injury occurring in any country (other than Fiji) where the Insured, or the company controlling the Insured, is domiciled, or where the Insured is represented by a branch;
- 4 Exclusion 4 (e) is replaced by the following Products' Exclusions  
The Dominion will not indemnify the Insured for liability in respect of:-
  - (a) Property Damage or Personal injury caused by, or in connection with, or arising from:-
    - (i) faulty or defective design, formula, specification, plan or pattern of the products;
    - (ii) error or omission in advice or treatment, given, administered or prepared by the Insured, or any other person acting on behalf of the Insured.
    - (iii) Products manufactured specifically for, and installed, (or which the Insured knew would be so installed) in any aircraft, or other aerial device or thing, made or intended to travel through air or space;
    - (iv) Products in the United States of America or Canada or their territories or possessions;
    - (v) motor vehicles, internal combustion engines, watercraft, or the accessories or fittings of each, which have been repaired, altered, renovated, serviced or installed by the Insured;
  - (b) Property Damage to the Products themselves
  - (c) costs and damages arising from the recall, withdrawal, inspection, repair, replacement or loss of use, of Products, or of any property of which the Products form part, or making any refund of the price paid for Products, where the Products have known or suspected defects or deficiencies;
  - (d) any sum which the Insured would have been entitled to recover from any party but for an agreement between the Insured and that party;
  - (e) any fine or penalty imposed upon the Insured, or any punitive or exemplary damages awarded against the Insured.`

## EXCLUSIONS

The indemnity expressed in this Policy shall **not** apply to or include:-

- 1 Liability assumed by the Insured by agreement unless and insofar as such liability would have attached to the Insured notwithstanding such agreement.
- 2 Liability in respect of death or bodily injury including illness of any person arising out of and in the course of the employment of such person by the Insured or for compensation claimed from the Insured by an injured person or dependant under any Workers' Compensation Act or to any person who is a member of the Insured's family ordinarily residing with the Insured.
- 3 Liability in respect of loss or damage to property:-
  - (a) Belonging to or held under a hire purchase agreement, hired, leased, rented or lent to or in the charge or under the control of the Insured or any servant or agent of the Insured whilst in the course of his duties as such, or of any member of the Insured family ordinarily residing with the Insured.
  - (b) Being that part of any property, goods, land, building or structure on which the Insured or any servant or agent of the Insured is or has been working if such damage is caused directly by the process of treatment alteration repair or construction of the part of such property goods land building or structure.
- 4 Liability in respect of death or bodily injury including illness of any person or loss of or damage to property caused by or in connection with or arising from:
  - (a) The ownership or possession or use by or on behalf of the Insured of any vehicle required to be registered for road use provided that liability in respect of the loading and unloading or collection of goods to or from a vehicle (insofar as liability is not covered by any other insurance policy) is not excluded hereunder.
  - (b) The ownership or possession of or use arising from the ownership or possession of any watercraft aircraft or thing made or intended to float on or in or travel on or through water air or space.
  - (c) Work which is being undertaken or has been undertaken by the Insured to any watercraft aircraft or thing made or intended to float on or in or travel through water air or space.
  - (d) Earthquake
  - (e) Property goods food or drink or the containers thereof sold supplied or constructed or property or goods which have been repaired altered renovated serviced or installed or poisoning of any kind but this Exclusion shall not apply or extend to -
    - (i) property or goods before such have passed from the control and actual physical custody of the Insured or of any person in the direct service of the Insured.
    - (ii) property or goods sold or supplied at or from a canteen provided by the Insured primarily for the use of employees or visitors of the Insured.

- (iii) liability in respect of accidental death or bodily injury including illness of any person by poisoning of any kind or by foreign or deleterious matter in food or drink not exceeding the aggregate total sum \$5000 in any one period of indemnity inclusive of all costs and expenses of litigation recovered by any claimant against the Insured.
- (f) Error or omission in design specification or advice remedial or other treatment given administered or prepared by the Insured or by any person acting on behalf of the Insured but the words advice remedial or other treatment shall have no application in respect of any employee of the Insured acting in the capacity of Industrial Nurse on behalf of the Insured.
- (g) Vibration or the removal or weakening of or interference with the support of land or buildings.
- 5 Liability for any consequences whether direct or indirect of war, invasion, act of foreign enemy, hostiles (whether war be declared or not) civil war, rebellion, revolution, insurrection or military or usurped power.
- 6 Liability in respect of:
  - (a) any accident or any loss or destruction of or any damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss or any legal liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel. Solely for the purpose of this exclusion, combustion shall include any self- sustaining process of nuclear fission.
  - (b) any accident, loss, destruction, damage or legal liability directly or indirectly caused by or contributed to by or arising from nuclear weapons material.
- 7 Liability in respect of the extent to which the Insured is or would but for the existence of this indemnity be indemnified under any other Policy of Insurance or the Insured or any employee or agent of the Insured is or should be indemnified under Statutory Insurance under the Traffic Act and its amendments or any Act or Acts in substitution therefore.
- 8 Liability arising whilst any motor vehicle is:
  - (a) being driven by any person who at the time of any event giving rise to a claim under this policy has a proportion of breath/alcohol concentration which exceeds the legal limit prescribed in Fiji.
  - (b) being driven by any person who following an event which gives rise to a claim under this policy fails or refuses to permit a specimen of blood or breath test to be taken after having been lawfully required to give such specimen.
  - (c) being driven by any person who arising out of circumstances giving rise to a claim under this policy is convicted of any alcohol or drug related breach of the law governing the use of motor vehicles or
  - (d) being driven by any person who is in any way under the influence of intoxicating liquor or drugs.
  - (e) being driven by any person who is not licensed to drive the type of vehicle being driven.
  - (f) Being driven in an unsafe condition which causes or contributes to the accident, and which the Insured, or any authorised driver, is aware of, or should have been aware of by the exercise of reasonable diligence
  - (g) being loaded, or has been loaded, in excess of manufacturers specifications.
- 9 Any liability arising from property damage or personal injury directly or indirectly caused by pollution or contamination, or for the cost of removing nullifying or cleaning up polluting or contaminating substances. However, the Company will indemnify the Insured for liability arising from Property Damage or Personal injury occurring in Fiji during the period of insurance and in connection with the business directly caused by pollution or contamination if the occurrence giving rise to the pollution or contamination is:
  - (a) sudden and accidental; and
  - (b) takes place during the Period of Insurance; and
  - (c) is discovered by the Insured or any employee of the Insured within 72 consecutive hours of it first happening; and
  - (d) all reasonable remedial action is immediately taken by the Insured upon discovery.
- 8 any liability arising directly or indirectly from:
  - (a) mining, processing, transporting, distributing or storing asbestos;
  - (b) manufacturing or processing materials containing asbestos;
  - (c) any process of decontamination, treatment or control of asbestos;
  - (d) the presence of asbestos in any building or structure;
  - (e) asbestos pollution or contamination;
- 9 Any liability in respect of any fine or penalty imposed upon the Insured, or any punitive or exemplary damages awarded against the insured.

## **ADDITIONAL CLAUSES AND EXTENSIONS**

### **1 Overseas Visits:**

The indemnity expressed in this policy extends (subject to its terms exceptions and conditions insofar as they can apply and are not inconsistent with anything herein contained) to include liability in respect of accidental death or bodily injury including illness of any person or accidental loss of or damage to property arising during and in connection with the performance of the

duties beyond Fiji during any period of indemnity but not prior to the date of this extension of any person (including the insured) employed in the business and who is normally resident or domiciled in Fiji.

**2 Deductible:**

The Insured shall bear the amount of the Deductible shown in the Schedule in respect of each Item of each claim. All occurrences of a series consequent on, or attributed to, one source or original cause, will be deemed to be a single occurrence and to constitute one claim for the purposes of this clause.

**3 Cross Liabilities:**

This insurance indemnifies each of the Insured's separately in the same manner and to a like extent as though separate policies had been issued in their separate names. In particular (but without limiting the generality of the foregoing) the Policy will indemnify each of the Insureds in respect of claims made by the other, or by employees or agents of the other. Each Insured shall be separately subject to the terms, exclusions and conditions of the Policy in the same manner and to a like extent as though separate policies had been issued. PROVIDED THAT the liability of the Dominion will not exceed Limit of Liability in respect of the aggregate of all sums for which all Insureds are liable.

**4 Liability By Agreement:**

Exclusion 1 does not apply to liability taken on by the Insured by agreement with:-

- (a) any company for the hire, lease, or rental of any property;
- (b) any oil or gas company in respect of any property hired or leased from them.

PROVIDED THAT this clause does not apply to :-

- (i) Property Damage to any of the property the subject of the agreement;
- (ii) Any provision in the agreement for the Insured to arrange insurance on the property.

**5 Employees Vehicles:**

Exclusion 3(a) does not apply to Property Damage caused to any motor vehicle while on the Insured's Business premises (not being a motor vehicle owned by the Insured, or any member of the Insured's family ordinarily living with the Insured) and belonging to, or in the charge or under the control of, any employee or agent of the Insured in his private capacity.

**6 Carparks:**

Exclusion 3(a) does not apply to property in any car park operated by the Insured.

## CONDITIONS

**1 Alteration:**

If any material change occurs in the Business, or in any of the circumstances earlier conveyed to the Dominion other than:-

- (a) changes usual or incidental to the Business of the Insured;
- (b) structural alterations or repairs to the Insured's property;
- (c) the shutting down or ceasing of operations;
- (d) the vacancy of individual buildings

the Insured shall give written notice to the Dominion within a reasonable period of the Insured becoming aware of the change. The Dominion shall be entitled to adjust the premium to reflect the change.

**2 Fraud:**

The Dominion will not be liable under this Policy if any fraudulent means or devices are used by the Insured, or anyone acting on behalf of the Insured, when entering into this insurance, or to obtain any benefit under this Policy. Any benefits already paid will be recoverable by the Dominion.

**3 Claims:**

**A. The Insured shall;**

- 1. Take all reasonable steps to prevent further Property Damage or Personal Injury.
- 2. Immediately notify the Dominion of any occurrence and/or impending prosecution, or proceedings which may give rise to a claim.
- 3. Immediately send to the Dominion any legal process issued or commenced against the Insured, and give all assistance to enable the claim to be settled or resisted.
- 4. Within 30 days submit in writing full particulars of the occurrence and/or claim in such a form or manner as may be reasonably required by the Dominion so that any claim is not prejudiced.

**B. The Insured shall not without the written consent of the Dominion;**

- 1. Incur any expense of litigation.
- 2. repudiate liability, negotiate or make any admission, offer, promise or payment.

**C. In the event of any claim the Dominion shall be entitled;**

To take proceedings in the name of the insured to obtain relief from any third party and undertake the conduct, control or compromise of any such proceedings.

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, the Dominion shall be liable only for the amount of loss not covered by such other insurance.

**5 Cancellation and Variations:**

- (a) The Insured may cancel this policy at any time in which case the Dominion will refund 80% of the unused premium.
- (b) The Dominion may cancel this policy or amend the terms, exclusions and limitations after 4.00pm on the 30th day following dispatch or written notice to the Insured's last known address. The Insured shall be entitled to a return of premium proportionat to the unexpired period of the cancelled policy.

**6 Jurisdiction:**

Notwithstanding anything contained in this policy to the contrary the indemnity provided herein shall not be apply to:

- 1. Any matter where an action for damages is brought in a court of law outside Fiji and not subject to Fiji law or where an action is brought in Fiji to enforce a foreign judgment whether by way of reciprocal agreement or otherwise.
- 2. Costs and expenses of litigation which are not incurred within Fiji.

**7 Premium payment:**

Unless alternative premium payment terms have been agreed in writing this policy will become null and void 30 days after the original inception date or any subsequent renewal date unless the full annual premium has been paid to the Dominion.

**8 Inspection:**

The Company shall have the right and opportunity at all reasonable times to inspect the plant, works, machinery, and appliances used in the Insured's business.

**9 Precautions:**

The Insured shall :-

- (a) take all reasonable endeavours to see that only competent employees are employed;
- (b) exercise reasonable care to see that all buildings, ways, works, plant, machinery, furniture and fittings are substantial and sound and in proper order and fit for the purposes for which they are used;
- (c) take all reasonable precautions to observe and comply with all statutory obligations, regulations, by-laws and directions;
- (d) take all reasonable precautions to prevent Property Damage or Personal Injury.

**10 Observance:**

The requirements, Conditions, Claims Conditions and Clauses of this Policy relating to anything to be done or complied with by the Insured must be observed by the Insured and the statements and answers in the proposal and any other representations or statements made (whether by the Insured or not) must be true and correct before the Company has any liability under this Policy.