

Contract Works Single Project Policy



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Welcome to QBE Insurance and thank you for trusting us with your insurance.

QBE has been committed to New Zealand and its commerce since 1888. We are Australasia's largest international insurance and reinsurance group and have specialist staff operating all over the globe, providing insurance to clients in over 140 countries. Our standing in the insurance marketplace has been achieved through consistent delivery of quality service to both our brokers and policyholders.

This is your Contract Works Single Project Policy document, which should be read in conjunction with your Policy Schedule. Together, they form your contract of insurance and tell you what you are, and are not, insured for.

We want your experience with QBE Insurance to be the best. To allow us to make your claims experience fast and easy, it is important that you provide us with all the information that could influence our decision about your insurance. You need to tell either QBE or your broker about facts known to you as well as those facts you become aware of, which you could have been reasonably expected to know about. If you are in any doubt as to whether or not a fact may be material to your insurance, you can discuss this with QBE or your broker who will guide you.

By not telling us something that it was your duty to tell us it may mean that your claim may not be accepted or an entitlement under the policy could be reduced.

If you need help understanding any aspect of your insurance cover, please contact your insurance broker.



Contract Works Single Project Policy

In consideration of the payment of the premium QBE Insurance (Australia) Limited ('QBE') agrees to indemnify the Insured in accordance with this Policy and the current Policy Schedule. This Policy is based upon the information provided in the proposal or declaration form which is incorporated into this contract.

Operative clause

1. During the construction period

QBE will indemnify the Insured against Loss to the Property Insured which occurs at the Contract Site during the Construction Period.

2. During the maintenance period

If a Maintenance Period is specified in the Schedule QBE will indemnify the Insured for their legal liability to rectify Loss to the Property Insured provided such Loss:

- (a) arises out of the Contract Works carried out by the Insured during the Construction Period at the Contract Site; or
- (b) arises out of the operations of the Insured whilst executing work under the requirements of the Maintenance Clause(s) of the Contract; or
- (c) occurs to property forming part of the Contract Works, but which was incomplete, not built, or upon which work is being carried out for the purpose of completion following issuance of the Practical Completion certificate.

Insured project

The Insured Project for which indemnity is provided under this Policy is the Insured Project described in the Schedule.

Limit of indemnity

QBE's liability will not exceed the Sum Insured and if more than one item is included in the Schedule, will not exceed in respect of each item the Sum Insured applicable to that item.

Automatic extensions

Subject to the Exclusions and the Conditions, this Policy is extended as described:

1. Transit

QBE will indemnify the Insured for sudden and accidental physical loss or damage to materials and components intended for incorporation in the Contract Works whilst in the course of transportation within New Zealand to or from the Contract Site specified in the Schedule, provided that such indemnity will begin with completion of loading in an undamaged condition and continue during transit:

- (a) by road;
- (b) by rail;
- (c) by sea by scheduled service between ports in New Zealand;
- (d) by air

including transshipment incidental thereto and end with the completion of unloading.

The liability of QBE shall not exceed NZD 50,000 unless otherwise specified in the Schedule.

This extension does not increase any Sum Insured.

2. Materials in storage - away from the contract site

QBE will indemnify the Insured against Loss to the Property Insured whilst in storage in New Zealand other than at the Contract Site during the Construction Period, provided that such indemnity shall be payable only in respect of materials and components belonging to or under the care, custody and control of the Insured.

The liability of QBE shall not exceed NZD 50,000 unless otherwise specified in the Schedule.

This extension does not increase any Sum Insured.

3. Expediting expenses

QBE will pay the costs of express delivery, overtime rates of wages, and the additional costs of resources should we agree it is necessary to urgently indemnify the Insured following Loss to any Property Insured. Express delivery shall include carriage by airfreight by any licensed airline operating a regular scheduled service. Expediting Expenses will not include aircraft or any other transportation chartered specifically for such carriage unless agreed in writing by QBE.

The maximum QBE will pay shall not exceed five per cent (5%) of the Sum Insured for Contract Works unless otherwise specified in the Schedule.

Expediting Expenses are payable in addition to the Sum Insured for Contract Works.

4. Removal of debris

QBE will pay the costs of:

- (a) the demolition and removal of damaged Property Insured from the Contract Site;
- (b) the removal of debris coming onto the Contract Site as a result of Loss;
- (c) the demolition and removal of undamaged Property Insured necessary to enable the Contract Works to be restored or replaced;
- (d) the shoring, propping up or supporting of undamaged Property Insured necessary to enable the Contract Works to be restored or replaced.

The maximum QBE will pay shall not exceed five per cent (5%) of the Sum Insured for Contract Works unless otherwise specified in the Schedule.

Removal of Debris costs are payable in addition to the Sum Insured for Contract Works.

5. Professional fees

QBE will pay for architects, surveyors, consulting engineers and other similar fees incurred by the Insured which are necessary for the reinstatement of the Contract Works consequent directly upon Loss to Property Insured (but excluding any fees for the preparation of a claim or estimate of fees).

The maximum QBE will pay shall not exceed five per cent (5%) of the Contract Works Sum Insured unless otherwise specified in the Schedule.

Professional Fees are payable in addition to the Sum Insured for Contract Works.

6. Increased costs during construction

QBE will pay Increased Costs During Construction, being the actual amount agreed by the Principal and the Contractor for variations and fluctuations in the contract price, and increases in the costs of labour and materials which arise during the Construction and Maintenance Periods.

The maximum QBE will pay shall not exceed five per cent (5%) of the Sum Insured for Contract Works unless otherwise specified in the Schedule.

Increased Costs During Construction are payable in addition to the Sum Insured for Contract Works.

7. Increased costs during reconstruction

QBE will pay Increased Costs During Reconstruction, being the actual amount by which the costs of reconstruction of the Property Insured following Loss exceeds the initial costs provided that reconstruction is completed without delay.

The maximum QBE will pay shall not exceed five per cent (5%) of the Sum Insured for Contract Works unless otherwise specified in the Schedule.

Increased Costs During Reconstruction are payable in addition to the Sum Insured for Contract Works.

8. Protection costs

QBE will pay for Protection Costs, being costs reasonably incurred by the Insured for the purpose of, and for damage directly resulting from, fighting or controlling any cause of Loss that involves or threatens to involve Property Insured.

The indemnity payable under this extension:

- (a) does not include any sums for which any indemnity is payable under any other part of the Policy
- (b) is limited to NZD 10,000 in respect of Protection Costs arising out of any one event
- (c) is subject to an Excess of NZD 1,000 any one event irrespective of any other Excess, or provision relating to Excess, applicable to the Loss.

Protection Costs are payable in addition to the Sum Insured for Contract Works.

9. Testing and commissioning of machinery

Notwithstanding Exclusion 3, QBE will indemnify the Insured for sudden and accidental physical loss or damage to Property Insured which is new, directly caused by its own electrical or electronic or mechanical breakdown or failure or derangement or its own explosion or implosion or collapse, arising during any test.

This extension expires:

- (a) at midnight on the twentieth (20th) day in which any test operation or test loading of the affected Property Insured has occurred;
- (b) at the time it is taken over or put to commercial use; or
- (c) when the Construction Period ends,

whichever occurs first.

QBE will not indemnify the Insured against loss or damage:

- (a) resulting from any test requiring the imposition of abnormal conditions; or
- (b) for which the manufacturer or supplier is responsible by contract or the law.

10. Temporary buildings

Notwithstanding Exclusion 13(a), QBE will indemnify the Insured for sudden and accidental physical loss or damage to hoardings, site offices, huts, encampments and portalos owned or hired by the Principal or the Contractor while at the Contract Site. This extension does not apply to Subcontractors. QBE's liability under this extension is limited to the Sum Insured for Temporary Buildings any one event.

For the purposes of this extension the basis of settlement shall be the same as provided for in the text of the Existing Property extension.

The Sum Insured for Temporary Buildings is payable in addition to the Sum Insured for Contract Works.

Definitions

1. 'Actual Value' means:

Replacement Value less depreciation for age and use.

2. 'Construction Period' means:

That period commencing on the earlier of the date of taking possession of each Contract Site by the Contractor or the commencement date of the Contract Works; or if it is later than either or both the possession and commencement dates, the Period of Insurance inception date stated in the Schedule and finishing:

- (a) thirty (30) days after the time of Practical Completion of the Contract Works;
 - (b) with respect to any portion of the Contract Works, thirty (30) days after the time it is taken over or taken into use (whichever is the earlier) by the purchaser or Principal or any person or corporation authorised by either of them;
 - (c) on the expiry date shown in the Period of Insurance specified in the Schedule; or
 - (d) on the issuing of a Code Compliance Certificate,
- whichever occurs first.

The construction period may be extended beyond the date it finishes, as set out above, provided that written advice of the reasons for the extension is provided to QBE and written agreement is obtained from QBE and the Insured agrees to any revised terms or conditions and to pay any additional premium required.

3. 'Contractor' means:

The same meaning as provided in the contract documents for the Insured Project.

4. 'Contract Site' means:

The location specified in the Schedule.

5. 'Excess' means:

The excesses specified in the Schedule payable by the Insured on each and every claim arising out of any one event under this Policy.

A series of events arising from or caused by flood, inundation, cyclone, storm, tempest or Natural Disaster, or any combination thereof, during any period of seventy-two (72) consecutive hours will be treated as one event for the purpose of applying the excess.

6. 'Insured' means:

The Insured specified in the Schedule; plus any Contractors or Subcontractors any Insured is required by contract to provide contract works insurance for but only to the extent and amount so required or if there is no other applicable Contract Works or Existing Property or Liability or Professional Indemnity insurance which provides such Contractors or Subcontractors with any indemnity; and provided that the Sum Insured includes the value of such Contractors and Subcontractors' Contract Works and Principal-Supplied Materials.

7. 'Insured Project' means:

The insured project specified in the Schedule.

8. 'Landslip' means:

The movement by way of falling, sliding or flowing, or by a combination thereof, of ground-forming materials composed of natural rock, soil, artificial fill, or a combination of such materials, which, before movement, formed an integral part of the ground but does not include the movement of ground due to below-ground subsidence, soil expansion, soil shrinkage, soil compaction or erosion.

9. 'Loss' means:

Sudden and accidental physical loss or damage which is not excluded by the Policy.

10. 'Maintenance Period' means:

That period commencing at the end of the Construction Period and continuing for the lesser of the maintenance or defects liability period specified in the contract documents for the Insured Project or the maintenance period specified in the Schedule.

11. 'Natural Disaster' means:

Any or all of earthquake, tsunami, volcanic activity, geothermal activity, hydrothermal activity or subterranean fire.

12. 'Period of Insurance' means:

The period of insurance specified in the Schedule.

13. 'Policy' means:

This document, together with any Schedule and endorsement issued by QBE attached or intended to be attached to it.

14. 'Practical Completion' means:

When all work in relation to the Insured Project has been completed except for:

- (a) minor omissions or minor defects that:
 - (i) do not prevent the Contract Works from being reasonably capable of being used for their intended purpose; or
 - (ii) do not prevent compliance with the New Zealand Building Code; or
- (b) work which the Principal and the Contractor have agreed to defer.

15. 'Principal' means:

The same meaning as provided in the contract documents for the Insured Project.

16. 'Property Insured' means:

All or any of the following:

- (a) Contract Works
Contract Works means the whole of the works undertaken by the Insured, whether permanent or temporary, including all materials incorporated or to be incorporated therein belonging to or in the care, custody or control of the Insured, whilst at the Contract Site, for the performance of the Insured Project. The sum specified in the Schedule for this item must be the Replacement Value of the Contract Works.
- (b) Principal-Supplied Materials
Principal-Supplied Materials means materials and items purchased or owned by the Principal, whilst at the Contract Site, not in their final position, for issue to the Contractor free of charge for inclusion in the Contract Works. The sum specified in the Schedule for this item must be the Replacement Value of all the materials and items supplied.
- (c) Transit
Materials and components covered by Automatic Extension 1
- (d) Materials in Storage Away from the Contract Site
Materials and components covered by Automatic Extension 2
- (e) Existing Property (only if the Policy is extended to include Existing Property)
Existing Property means existing property specified in the Schedule or in an endorsement signed by QBE.

17. 'Replacement Value' means:

A sum not less than a registered valuer would estimate at the inception date of the Period of Insurance for the cost of replacing the Property Insured with identical new property including all costs necessary to comply with all Acts of Parliament or regulations or by-law of any local authority.

18. 'Schedule' means:

The current schedule of insurance which has been numbered and issued by or on behalf of QBE.

19. 'Subcontractor' means:

The same meaning as provided in the contract documents for the Insured Project.

20. 'Subsidence' means:

A gradual sinking to a lower level of ground-forming materials composed of natural rock, soil, artificial fill or a combination of such materials, which form an integral part of the ground.

21. 'Sum Insured' means:

The sum insured specified in the Schedule.

Where the sum insured is expressed as a percentage (%) the sum insured means that percentage of the sum insured for Contract Works unless otherwise specified in the Schedule.

Optional extension (applicable only if specified in the Schedule)

Existing property

This Policy is extended as specified in the Schedule to either:

- (a) include Loss to Existing Property, provided that such Loss arises directly or indirectly from the Contract Works; or
- (b) include Loss to Existing Property from any cause,

which occurs during the Construction Period.

The liability of QBE under this extension shall not exceed the Sum Insured for Existing Property.

The Sum Insured for Existing Property is payable in addition to the Sum Insured for Contract Works.

Definitions

In this extension, and unless the context requires otherwise:

1. **'Existing Property'** means:

Structures or services or utilities or other property or the contents of structures, any or all of which are listed in the Schedule and already at the Contract Site before the commencement of the Insured Project.

2. **'Reinstatement'** means:

- (a) where property is lost or Destroyed, its replacement by an Equivalent Building or by Equivalent Property as the case may require;
- (b) where property is damaged but not Destroyed, 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.

3. **'Equivalent Building'** means:

- (a) a building or structure which is as nearly as practicable the same as the building or structure lost or Destroyed, using currently equivalent materials and techniques and incorporating such alterations as are necessary to comply with any Regulations;
- (b) where, as a result of any special circumstances, no building or structure which falls within the scope of Existing Property Definition 2(a) above can be constructed; a building or structure which is designed to perform a purpose or function the same as or equivalent to (but not more extensive than) that performed by the building or structure lost or Destroyed; or
- (c) where, as a result of any special circumstances, no building or structure which falls within the scope of Existing Property Definition 2(a) above is suitable to the Insured's reasonable requirement, then, with the consent of QBE (which will not be unreasonably withheld), a building or structure which is designed to perform a purpose or function suitable to that requirement, but not more extensive than that performed by the building or structure lost or Destroyed.

4. **'Equivalent Property'** means:

Any Contract Works, plant or equipment or services or utilities or contents (property) as nearly as practicable the same as or equivalent to the property lost or Destroyed, having regard to the current state of technology, and having an equivalent capacity and quality to that of the lost or Destroyed property, but not greater unless property with an equivalent capacity and/or quality is not available and the replacement property is the nearest equivalent.

5. **'Destroyed'** means:

So damaged by Loss that the property, by reason only of that damage, cannot be repaired.

6. **'Regulations'** means:

Building or other regulations made under or framed in pursuance of any Act of Parliament or regulation or by-law of any local authority.

7. **'Replacement Value'** means:

A sum not less than a registered valuer would estimate at the start of the Period of Insurance for the cost of Reinstatement of the Existing Property including all costs necessary to comply with all Regulations.

Basis of settlement for existing property

In the event of any Existing Property to which this extension applies suffering Loss, the basis of settlement will be the cost of Reinstatement of that Existing Property, subject to the Special Provisions set out below.

Special provisions

1. Compliance with regulations

The amount payable under this extension will include the cost incurred in Reinstatement which is necessary to comply with any regulations, provided that the amount payable will not include any such cost:

- (a) to the extent to which the work had already been required of the Insured by notice served prior to the happening of the Loss; or
- (b) in respect of undamaged Existing Property or undamaged portions of Existing Property other than foundations (unless foundations are expressly excluded from insurance under this Policy). This will apply whether or not the undamaged Existing Property or portion comprises a separate building or structure or a separate item of property.

2. Site of existing reinstatement

Where Existing Property is Destroyed, the work of Reinstatement must be carried out on the same Contract Site, provided that the work may be carried out upon another Contract Site:

- (a) where Reinstatement on the same Contract Site is not permissible by reason of any Regulations; or
- (b) where Reinstatement on the same site is not suitable to the Insured's reasonable requirement, in which case, and with the consent of QBE (which will not be unreasonably withheld), Reinstatement may be carried out on any alternative site.

3. Limitations on amount payable

- (a) Where the work of Reinstatement is carried out in terms of Existing Property Definition 3(b) or 3(c) above, or on any location other than the original location at the same Contract Site, QBE's liability in respect of the cost of Reinstatement will not exceed the cost which would have been incurred had Reinstatement been carried out in terms of Existing Property Definition 3(a) above on the original location.
- (b) Where the Existing Property is damaged but not Destroyed, QBE's liability will not exceed the amount we could have been called upon to pay for Reinstatement if the Existing Property had been Destroyed.
- (c) QBE's liability under this extension in respect of any item of Existing Property will not exceed the Sum Insured in respect of that item.

4. Circumstances where this basis of settlement shall not apply

No payment beyond this Actual Value will be made:

- (a) if the Insured elects not to proceed with reinstatement of the Existing Property;
- (b) if the work of Reinstatement is not commenced and carried out with reasonable despatch;
- (c) until the cost of Reinstatement has been actually incurred; or
- (d) where a building or structure is damaged, but not Destroyed, and the repair of the damage is not permissible by reason of any Regulations, or by reason of the undamaged portion of the Existing Property.

5. Replacement value of existing property to be advised to QBE

The Replacement Value of Existing Property, (as defined in this extension), must be advised to QBE in writing. The Sum Insured for Existing Property need not be the Replacement Value.

6. Rates, taxes and other charges

The amount payable under this extension will not include the amount of any rate, tax, duty, development charge, or any other charge or assessment arising out of capital appreciation, which may be payable in respect of the property by reason of compliance with any Regulations.

Exclusions (applying to the whole Policy)

QBE will not indemnify the Insured against:

1. Loss or damage directly or indirectly caused by or resulting from:
 - (a) war, invasion, act of foreign enemy, warlike operations (whether war be declared or not), civil war, mutiny, rebellion, revolution, insurrection, military or usurped power or conspiracy;
 - (b) confiscation, commandeering, requisition, or destruction of or damage to property by order of government or local authority;
 - (c) nuclear weapons material; or
 - (d) ionising radiations or contamination by radioactivity from any nuclear fuel or nuclear waste from the combustion of nuclear fuel. (For the purpose of this exclusion, combustion includes any self-sustaining process of nuclear fission.)
2. Loss or damage caused by or arising from fault, defect, error or omission in materials or workmanship in the Contract Works or its design, plan or specification, provided that this exclusion only applies to the part of the Contract Works immediately affected, and not to subsequent loss of or damage to other parts of the Contract Works resulting from such fault or defect. QBE will not pay for the cost which would have been incurred to repair, replace or rectify the fault or defect immediately prior to the loss or damage occurring.
3. Loss of, or damage to, Property Insured by its own electrical or electronic or mechanical breakdown or failure or derangement or its own explosion or implosion or collapse.
4. Loss or damage discovered only at the time an inventory is taken.
5. Loss of, or damage to, any structure or property already at the Contract Site before commencement of the Contract Works.
6. Loss of, or damage to, negotiable instruments, cash, banknotes, treasury-notes, cheques, postal orders, money orders, stamps, deeds, bonds, bills of exchange, promissory notes, securities, or computer software and data.
7. Consequential loss, loss of use, loss due to delay, penalties, fines, liquidated damages, or aggravated punitive or exemplary damages.

8. Loss or damage caused by wasting, wearing away, corrosion, erosion, delamination, mould or other gradual deterioration including that due to atmospheric conditions.
9. Loss or damage which arises from is consequent upon, or is in connection with:
 - (a) moisture or water, except where that moisture or water arises from:
 - (i) fire, lightning or explosion
 - (ii) impact by animals, vehicles, aircraft and other aerial or spatial devices and articles dropped therefrom
 - (iii) the rise in level of rivers, lakes, or the sea exceeding normal banks or boundaries
 - (iv) blocked or overflowing stormwater or wastewater drains
 - (v) broken or burst water pipes or overflowing water tanks or systems
 - (vi) storm, windstorm, rain, hail, snow, ice or frost which:
 - results in the penetration of external moisture or water into any Property Insured; and
 - that penetration is discovered within a seventy-two (72) hour period from its commencement; and
 - the indemnity or obligation owed to the Insured results directly from loss or damage to property which occurs within that seventy-two (72) hour period; and
 - the Insured notifies QBE of any such loss or damage in accordance with the terms and conditions of the Policy;
 - (b) action of micro-organisms, protozoa, mould, mildew, rot or fungus; or
 - (c) gradual deterioration,

Provided that where fire is the result of 9 (a), (b) or (c) above then the Policy will insure the loss or damage directly caused by fire, subject to the provisions of this Policy.

10. The cost of normal upkeep or the routine making good of the Property Insured.
11. Loss of, or damage to, aircraft, aerial devices, waterborne vessels and craft, including plant and materials carried by, stored in, being placed or once mounted thereon.
12. Loss, of or damage to:
 - (a) hoists, cranes and other mobile or stationary construction plant and equipment; or
 - (b) vehicles of any kind.
13. Loss of, or damage to:
 - (a) Contractors and Subcontractors' equipment and tools, hoardings, site offices, huts and encampments, scaffolding, false work and reusable formwork; or
 - (b) employees' personal effects.
14. Loss or damage directly or indirectly caused by, or resulting from:
 - (a) (i) total or partial destruction, distortion, erasure, corruption, alteration, misinterpretation or misappropriation of Electronic Data; or
 - (ii) error in creating, amending, entering, deleting or using Electronic Data; or
 - (iii) total or partial inability or failure to receive, send, access or use Electronic Data for any time or at all,

from any cause whatsoever, regardless of any other contributing cause or event whenever it may occur notwithstanding any provision to the contrary in the Policy or any endorsement thereto.

However, in the event that a peril listed below (being a peril insured by this Policy but for this exclusion) is caused by any of the matters described in 14 (a) above, this Policy, subject to all its provisions, will insure:

 - (b) (i) sudden and accidental physical loss of or damage or destruction to Property Insured directly caused by such listed peril; and
 - (ii) other costs and losses insured by this Policy.

Further, this exclusion does not apply in the event that a peril listed below (being a peril insured by this Policy but for this exclusion) causes any of the matters described in (a) above:

- fire; explosion; lightning; windstorm; hail; tornado; cyclone; hurricane; earthquake; volcano; tsunami; flood; freezing; weight of snow; impact by aircraft or other aerial objects dropped therefrom; impact by any road vehicle or animal; bursting, overflowing, discharging or leaking of water tanks, apparatus or pipes; or theft of Electronic Data solely where such theft is accompanied by theft of the computer hardware, firmware, medium, microchip, integrated circuit or similar device containing such Electronic Data.

For the purposes of the Basis of Settlement provision in this Policy, a computer system's records are Electronic Data as defined in this exclusion. Any terrorism exclusion in this Policy or any endorsement thereto prevails over this exclusion.

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

15. Loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any Act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss notwithstanding any provision to the contrary in the Policy or any endorsement thereto.

This exclusion also excludes loss, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any Act of Terrorism.

For the purposes of this exclusion an 'Act of Terrorism' means an act, including but not limited to the use of force or violence and/or threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s) which from its nature or context is undertaken for, or in connection with, political, religious, ideological, ethnic or similar purposes or reasons, including the intention to influence any government and/or to put the public, or any section of the public, in fear.

16. The cost of repairing any surface or frame damaged during cleaning of that surface or frame.
17. (a) additional dewatering expenses incurred because the quantities of water originally expected are exceeded;
(b) expenses incurred for additional installations and facilities for the discharge of run-off and/or groundwater;
(c) expenses incurred to remedy leakage into excavations and basements.
18. (a) replacing or rectifying piles or retaining wall elements:
(i) which have become misplaced or misaligned or jammed during their construction;
(ii) which are lost or abandoned or damaged during driving or extraction; or
(iii) which have become obstructed by jammed or damaged piling equipment or casings
(b) rectifying disconnected or declutched sheet piles;
(c) rectifying any leakage or infiltration of material of any kind into piles;
(d) replacing lost bentonite or any other drilling fluid once in the hole;
(e) any piles or foundation elements having failed to pass a load-bearing test or otherwise not having reached their designed load-bearing capacity;
(f) reinstating profiles or dimensions;
(g) filling voids,
except when the loss, damage or expense is as a direct or indirect result of Natural Disaster.
19. (a) loss of bentonite or any other drilling fluid once in the hole;
(b) loss or damage to the Property Insured due to unforeseen ground conditions, or objects in the path of the intended pipe route;
(c) the failure of the trenchless operation to follow its intended route or to reach the intended target/break-out point due to operator error; failure of guidance equipment; or any other cause which is not the result of an accidental external sudden and unforeseen cause;
(d) loss or damage to the Property Insured resulting from the mechanical and/or electrical breakdown, failure or derangement of the trenchless technology machinery/equipment;
(e) the costs incurred to locate the leading pipe and/or cutting head during any trenchless operation.

Additional exclusions (applying during the Maintenance Period and up to thirty (30) days after the end of the Maintenance Period)

QBE will not indemnify the Insured for any claim in respect of or alleging:

1. Liability assumed by the Insured under any contract or agreement except to the extent that the Insured would have been liable even if there had been no contract in existence;
2. Liability arising for any taxes, fines, penalty, performance warranty or liquidated damages, punitive and/or exemplary damages;
3. Loss of use of Property Insured or Existing Property which has not been physically damaged or destroyed resulting from:
 - (a) a delay in or lack of performance by or on behalf of the Insured of any contract or agreement; or
 - (b) the failure of the Contract Works to meet the level of performance, quality, fitness or durability that has been warranted or represented expressly or impliedly by the Insured;
4. Personal injury or property damage, including costs and expenses incurred in the prevention, removing, nullifying or clean-up, arising out of the discharge, dispersal, release or escape of pollutants into or on Contract Works, temporary buildings, existing property, land, the atmosphere, or any watercourse or body of water;
5. Personal injury or property damage arising out of the ownership, possession, repair, operation, control, maintenance or use by or on behalf of the Insured of any mechanically propelled vehicle, other than property damage to Property Insured;

6. The insolvency, bankruptcy, receivership, statutory management or liquidation of the Insured;
7. Any dishonest, fraudulent or criminal act or omission of or on behalf of the Insured or of any person at any time employed by the Insured;
8. Any duties of any Insured as a director, trustee or legal officer of any company or entity;
9. Any breach of any obligation owed by the Insured as an employer;
10. The seeking of a refund of professional fees, by way of damages or otherwise.

Conditions

1. Alteration of risk

The Insured must notify QBE as soon as possible of any adverse material change of risk of Loss and confirm such notification as soon as practicable thereafter by providing full details in writing. In such event the Insured shall, at its own expense, take all reasonable precautions as reasonably necessary to minimise the risk of any claim arising under this Policy because of the alteration of risk and shall comply with any reasonable directions or requirements of QBE. The scope of cover and premium may be adjusted by QBE. No material alteration will be made or allowed by the Insured whereby the risk is increased unless agreed to in writing by QBE.

2. Basis of settlement

In the event of Loss the basis of any settlement will be:

- (a) in the case of damage which can be repaired, the cost of repairs necessary to restore the Property Insured to its condition immediately before the occurrence of the damage, less any salvage; or
- (b) in the case of a total loss, the Actual Value of the Property Insured immediately before the occurrence of the loss, less any salvage.

However, only to the extent to which the costs claimed had to be borne by the Insured and to the extent to which they are included in the Sum(s) Insured.

All damage which can be repaired must be repaired, but if the cost of repairing any damage equals or exceeds the value of the items immediately before the occurrence of the damage, it will be considered a total loss and settlement will be made on the basis provided for in 2 (b) above.

QBE will not be liable to make any payment under this Policy unless the Insured has produced to the reasonable satisfaction of QBE all accounts, invoices, receipts and other documentation supporting amounts expended, or indicating that repairs have been effected or replacement has taken place as the case may be.

QBE will not pay for:

- (a) the cost of any provisional repairs unless such repairs constitute part of the final repairs and do not increase the total repair cost; or
- (b) the cost of any alterations, additions or improvements.

The amount of the Excess specified in the Schedule and/or the Policy shall be subtracted from the amount payable by QBE for each and every claim.

3. Cancellation

Unless all of the premium and any applicable government levies and taxes are paid to QBE within one hundred (100) days of the end of the month in which the Period of Insurance commenced, or in the case of any additional premium and government levies and taxes, in which the associated amendments to the Policy were effective, QBE may cancel this Policy by sending fourteen (14) days' notice in writing to the Insured via the broker who arranged this Policy with QBE.

Cancellation shall take effect at 4pm fourteen (14) days after the date of such notice.

The premium, levies and taxes payable for the period from inception to date of cancellation, or any refund, shall be calculated on a pro-rata basis.

4. Goods and services tax

The Sum(s) Insured by this Policy are exclusive of Goods and Services Tax (GST). In the event of a claim QBE will pay the amount of such claim, subject to a maximum of the Sum Insured, plus (where payable) GST at the current rate.

5. Hot work

When any Hot Work is carried out on any Property Insured the following procedures must be complied with:

- (a) the area where the Hot Work is to be undertaken is cleared of flammable material and flammable materials and other items which cannot be removed are covered with a flame-resistant blanket or similar protective material;
- (b) a fire extinguisher or hose reel is to be in close proximity to where the Hot Work is undertaken; and
- (c) the area where the Hot Work was undertaken is to be examined one (1) hour after work has finished.

For the purposes of this condition, 'Hot Work' means:

- grinding, cutting or welding operations;
- use of blow lamps and torches;
- application of hot bitumen;

or any other heat-producing operation.

6. Inspection

QBE will, at any reasonable time, have the right to inspect and examine any part of the Contract Works and the Insured shall provide to QBE all details and information which may be reasonably required.

7. Interests of other parties

QBE will not be required to recognise the interest of any third party for an indemnifiable event under this Policy unless such interest is noted in the Schedule to this Policy. Such interest does not amount to insurance under this Policy.

8. New Zealand jurisdiction

All disputes arising out of or under this Policy shall be subject to determination by any court of competent jurisdiction within New Zealand.

9. Notice and claims

Upon becoming aware of any event giving rise, or likely to give rise, to a claim under this Policy, the Insured must:

- (a) take prompt steps to minimise the damage;
- (b) take reasonable steps to protect the property from further loss or damage;
- (c) notify QBE as soon as practicable;
- (d) if a criminal act is known or suspected, inform the police;
- (e) within thirty (30) days, or as soon as practicable thereafter, forward to QBE a completed claim form and supply all such particulars and proofs of claim as may be required by QBE; and
- (f) assist QBE in all measures which we consider necessary to minimise the loss and enable us to investigate or settle the claim.

Upon notification of any loss or damage being given to QBE, the Insured may carry out minor repairs or make good any minor damage, to a maximum value of NZD 5,000 but in all other cases the Insured must give QBE an opportunity to inspect the loss or damage before any repairs or alterations are effected.

10. Observance of terms and conditions

The due observance and fulfilment of the terms and conditions of this Policy by the Insured to the extent that they relate to anything to be undertaken or complied with by the Insured, and the truth of statements made in writing (by, or on behalf of, the Insured), are conditions precedent to any liability of QBE to provide any indemnity under this Policy.

11. Other insurance

In the event of any claim being made under this Policy, the Insured must notify QBE of any other insurance which may cover the same loss or damage, whether the insurances have been arranged by the Insured or another party.

If, at the time of any claim arising under this Policy, there is any other valid and collectable insurance covering all or part of the same loss, this Policy will apply only to the amount of any loss in excess of that recoverable under the other insurance.

12. Pipelines

The following procedures must be complied with:

- (a) as soon as practicable after laying, pipes and conduit must be closed to prevent water, silt or the like from penetrating;
- (b) the trenches of tested pipe sections must be backfilled as soon as practicable upon completion of the pressure test.

13. Precautions

The Insured shall, at its own expense:

- (a) take all reasonable precautions to prevent Loss;
- (b) where any deficiency, defect or danger is identified by QBE, comply with all reasonable directions of QBE to prevent loss or damage;
- (c) take all reasonable steps to comply with all statutory and by-law requirements and manufacturers' recommendations; and
- (d) take all reasonable steps to comply with the contract conditions and specifications as they relate to methods, procedures, systems or sequences of work.

14. Reinstatement of sum(s) insured

Following payment of a claim under this Policy, QBE will reinstate the Sum(s) Insured, provided the Insured pays or agrees to pay any additional premium that may be required by QBE.

15. Replacement value

The Insured must insure Contract Works and, if insured, Principal-Supplied Materials for their Replacement Value.

16. Stoppage of work

If work at the Contract Site effectively ceases for a period of sixty (60) consecutive days, all indemnity under this Policy shall cease at 4pm on that sixtieth (60th) day and the indemnity shall only be reinstated if the cessation of work is disclosed to QBE and only from the date and to the extent which we subsequently advise in writing.

17. Subrogation

Upon accepting liability for a claim under this Policy, QBE is entitled to become subrogated to the Insured's right of recovery or indemnity from any other person or organisation. The Insured must, at QBE's expense, do and concur in doing and permit to be done anything reasonably required by QBE for the purpose of enforcing that right. The Insured must comply with this condition when required, whether before or after having been indemnified by QBE.