



# Construction Risks Insurance Policy Wording

## Contract of Insurance and Insurance Agreement

This Policy forms part of Your contract of insurance. Your contract of insurance consists of:

1. This Policy document; and
2. The Schedule which details the cover applying to You and which may be updated from time to time. The Schedule will include any changes to the standard cover described in this Policy; and
3. Your proposal or application form including any written or oral statements or documents made or supplied by You; and
4. Any endorsements added either by way of Schedule or otherwise.

Under this contract of insurance You, as the Insured party, agree to pay the premium(s) stated in the Schedule and Western Pacific Insurance Limited (WPIL) agrees to provide the insurance cover set out in this Policy and according to this contract of insurance.

Some terms used in this Policy have specific meanings. Where words begin with an upper case letter the meaning of those words or terms are set out in the definitions section of this Policy document.

Defined words include any plurals or other derivatives of those words or terms as the context requires.

Headings are used for reference only and are not part of the Policy for interpretation purposes.

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## What is covered by this Contract of Insurance

1. WPIL covers (to a maximum of the Sum Insured) Accidental Loss or damage to Insured Works in accordance with the terms of this Policy which occurs at the Location during the Period Of Insurance for which WPIL accepts a premium.
2. WPIL covers (to a maximum sum of \$25,000.00 for any one Event) goods and materials to be incorporated in the Insured Works whilst those goods and materials are in transit from suppliers or contract sites (including any temporary storage on premises other than at the Location), or in transit from the manufacturers premises within New Zealand to the Location but only where the Insured is responsible for the property in transit and, where applicable, the temporary storage of materials on the way to the Location does not exceed a period of 50 days.

## Claims and what will be paid

1. If You make a claim under this Policy, part of that claim must be paid by You (the "excess"). The excess is detailed in the Schedule, or may be detailed in the provisions of this Policy detailing specific types of cover, and will be deducted from any amount payable by WPIL under this Policy.
2. If anything happens or an Event occurs which may result in a claim being made on this Policy, then as soon as You know about that Event You must:
  - a. Do as much as You can to minimise any Loss or liability and prevent further damage, Loss or liability.
  - b. Report any burglary, theft, vandalism or intentional or malicious damage to the police.
  - c. Tell WPIL immediately.
  - d. Do as much as You can to obtain details of any other persons, property, vehicle or any other item involved and also any witnesses involved.
  - e. Tell WPIL immediately if any information or assistance is asked for or any communication or documentation is received by You.
3. Unless WPIL agrees You must not:
  - a. Incur any cost or expense in connection with the claim.
  - b. Dispose of any property which is part of the claim.
  - c. Start repairs or replace any item unless necessary to minimise the Loss or prevent further Loss as detailed above.
  - d. Negotiate or pay or settle or admit or deny any claim.
  - e. Start any legal proceedings.
  - f. Pass or abandoned any item of Insured Property to WPIL or any other party unless agreed to by WPIL.
  - g. Do anything which may prejudice WPIL's ability to defend a claim made against You or to recover any part of any Loss from any person responsible.
4. If WPIL so requires You must:
  - a. Authorise any other party to provide personal information about You in connection with Your claim to us.
  - b. Complete any claim form and return it to WPIL within any period requested.
  - c. Allow WPIL to inspect the property involved in any claim.
  - d. Provide a statutory declaration to confirm the Loss or liability claimed and submit to cross-examination under oath if WPIL so requires.
  - e. Provide any information or help as WPIL may reasonably require to support the claim.
5. If WPIL accepts a claim, WPIL is entitled to act in Your name and on Your behalf in relation to that claim at our cost. WPIL can also retain any property that WPIL have paid a claim for or dispose of it and be entitled to keep the proceeds of any sale. WPIL is also entitled to take over any legal rights You may have in relation to the recovery under this Policy for Your Loss and is able to exercise such rights for WPIL's benefit. Any such action or exercising of legal right will be at WPIL's cost including any amount payable to You but You must agree to assist if WPIL reasonably requires it and provide any information WPIL reasonably requests.



**6. Amount Payable**

Where loss or damage occurs to the Insured Works and for which indemnity is provided under this Policy the basis of settlement shall be:

- a. Where damage can be repaired, the cost of repairs necessary to restore the Insured Works to the condition they were in immediately before the occurrence of the Event, less any salvage; or
- b. In the case of total loss, the actual value of the Insured Works immediately before the Event, less any salvage;

but always only ever to the extent that the amounts claimed have been paid or incurred by the Insured and to the extent that they have been included in the Sum Insured detailed in the Schedule.

During repair of damage, if the cost of repairing the damage equals or exceeds the value of the Insured Works immediately before the Event then settlement shall be made on the basis provided for in Clause 6(a) above.

Following commencement of repair, if any part cannot be procured then WPIL's liability shall be discharged by making such repairs as may be possible and paying the Insured in respect of those parts that can not be procured the amount that would have been expended in purchasing parts of equivalent condition to those lost or damaged.

WPIL will cover the cost of provisional repairs if such repairs constitute part of the final repairs and do not increase the total repair cost.

The cost of subsequent alterations, improvements and additions subsequent to the loss or damage shall not be recoverable by the Insured under this Policy.

Expediting costs including charges for overtime wages, express delivery or airfreight shall only be payable where specified in the Schedule.

Where the actual replacement value of the Insured Works increases during the Period of Insurance then the Sum Insured for the Insured Works as stated in the Schedule shall be deemed to be increased by the amount of that increase in replacement value to a maximum of a 10% increase unless allowance for fluctuations or increases are detailed separately in the Schedule.

**7. Maximum Amount Payable**

The most WPIL will pay for any one Event is the specific Sum Insured shown in the Schedule for that during any Twelve Month Period unless a different amount is shown elsewhere in this Policy.

**8. Excess**

The excess detailed in the Schedule will be deducted from the amount of the Loss for each single Event except where a different excess figure (including a nil excess) is detailed elsewhere in this Policy.

**9. Sub Limits Applying**

The most WPIL will pay under this Policy is the amount specified in this Policy or the amount specified in the Schedule, whichever is the higher.

**10. Reinstatement of the Sum Insured**

Following WPIL paying on a claim under this Policy, WPIL will reinstate Your Sum Insured and WPIL can ask You to pay an additional premium.

**11. EQ Cover Contribution**

If Insured Works have insurance cover under EQCover (NZ EQC – Earthquake Commission) You must claim under EQCover insurance before any claim can be made under this Policy. Where loss is covered by the Earthquake Commission Act WPIL will only pay for any such part of that loss which is over and above the sum, if any, paid by the Earthquake Commission.

**12. Payment on Account**

WPIL will make interim payments on a claim if evidence can be produced to the satisfaction of WPIL that a claim is payable under this Policy.



## What is not covered by this Contract of Insurance

Under this contract of insurance WPIL does not cover Loss to Insured Property caused by:

1. Gradual damage.
2. Wear and tear, depreciation, corrosion, rust, rot, mildew, gradual deterioration/deformation/distortion, scratching, marring or warping.
3. Fault, defect, error or omission in design.
4. Subsidence, landslip, expansion or erosion of land or underground water pressure.
5. Normal settlement, shrinkage, or expansion of buildings, foundations, walls, pavements, roads and other structural improvements.
6. This Policy does not insure loss, liability, prosecution or expense of any type in connection with confiscation, nationalisation, requisition or destruction of, or damage to property by order of government, public or local authority (unless the order is given to control any Accidental Loss that is covered by this Policy).
7. Loss caused by shortages arising from accounting or clerical mistakes, unexplained disappearances, shortages revealed by an inventory being taken, theft or fraud by You or Your employees, any fraudulent undertaking or device or any false pretences by You or anyone else.
8. Insects, vermin, pests, micro-organisms, action of light or cleaning, repairing, maintaining or restoring the Insured Works.
9. Insured Works being exposed to weather conditions when that Insured Works are not designed for such exposure but cover will apply if all reasonable precautions have been taken to ensure such Loss does not come from such exposure.
10. The Insured Works being effected by mould, fungi, rot, mildew, decay, micro organisms, bacteria, gradual deterioration, protozoa or the like and which is caused either directly or indirectly by non-compliance with Legislation, defects in design or specifications, defective materials or faulty workmanship and when the Insured Works were originally constructed, manufactured, repaired, renovated or by way of maintenance. This exclusion includes not only Loss but any liability, expense or penalty by way of prosecution but specifically does not exclude Loss caused by or arising from leaking of external water systems, cisterns, or pipes.
11. WPIL does not cover loss or damage covered by the Earthquake Commission or which would have been covered except for the deduction of any excess or the Earthquake Commission exercising its power to decline a claim for loss or damage.
12. WPIL does not cover any kind of consequential loss including e.g. financial loss occurring following the loss of Insured Works or property including not covering loss suffered through loss of use of any property, delays, market loss or any penalties.
13. Fixing up faulty workmanship or any work formed to a faulty design plan or specification, repairing or replacing faulty materials used or any plant being altered or modified to incorporate the use of more environmentally friendly products or processes but not including any Loss to which cover applies under this Policy arising as a result of any of these matters which will be covered by WPIL.
14. Mechanical or electrical breakdown or failure of any Machinery, unless the Loss or damage originates completely outside of the Machine and which then results in the mechanical or electrical break down of the Machine (but excluding break down caused by any error in operating, programming or setting of the Machine or by foreign object including a part of the Machine being drawn into the Machine or incorrect service or maintenance of the Machine). WPIL will cover Accidental Loss caused by explosion or fire to separately identifiable parts or the Machine or to any other separate Insured Property which may result from the mechanical or electrical break down of the Machine.
15. Collapse, cracking, overheating, leaking, generation of fluid pressure or vacuum, explosion, rupture or bursting of a boiler or Pressure Vessel. WPIL will cover Accidental Loss caused by explosion or fire to separately identifiable parts of the boiler or Pressure Vessel or to any other separate Insured Property which may result from the mechanical or electrical break down of the boiler or Pressure Vessel.



16. Loss of or damage caused by or associated to a Computer Virus to Electronic Information, and any liability arising from this and including not covering loss of use, reduction in functionality or any other associated Loss or expense in connection with the Electronic Information, but WPIL does cover resultant physical damage to other Insured Property, which is not otherwise excluded.
17. Loss of Insured Property that is in transit, (other than as expressly covered at Clause 2 in the section entitled 'What is covered by this Contract or Insurance', unless the Insured Works are at the Location.
18. Loss, liability, prosecution or expense of any type in connection with contamination, pollution or seepage.
19. Loss or damage to the Insured Works or any part of the Insured Works which has been taken into use or occupation by the Insured's client under the Insured Construction Contract, unless such loss or damage occurred during any Period of Maintenance as specified in the Schedule and which arose in the course of any operations carried out by the Insured solely for the purposes or complying with the obligations under the maintenance clauses of the Insured Construction Contract.
20. Loss or damage to any existing structures belonging to the Insured's client under the Insured Construction Contract unless that loss or damage occurred to that property as specified in the Schedule which forms part of the Insured Construction Contract and arose directly out of the performance of the Insured Construction Contract.
21. Loss or damage arising out of rectifying existing or aggravated defects which do not form part of the Insured Construction Contract.
22. The amount of any excess shown in the Schedule which will be deducted from every claim.
23. Loss caused by any act of terrorism, which means an act including but not limited to the use of force or violence or the threat of force or violence of any person or groups of persons whether acting alone or on behalf of or in connection with any organization or government which, by its nature or context, is done for or in connection with political, religious, ideological, ethnic or similar purposes or reasons, including with the intention to influence any government or to put fear into the public or any section of the public.
24. Loss, prosecution or expense of any type connected with earthquake, underground fire, tsunami, volcanic activity and hydrothermal or geothermal activity.
25. Loss arising from nuclear weapons, ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste which results from the combustion (including self-sustaining process of nuclear fission) of nuclear fuel.
26. War, invasion, act of foreign power, war-like operations, whether war has been declared or not.
27. Civil war, rebellion, revolution, insurrection, military or usurped power.
28. Confiscation, acquisition, loss or damage by order of any government, local body or authority.

**Under this contract of insurance WPIL does not cover Loss to the following types or status of Insured Property:**

1. Machinery or Plant during installation, construction, erection, demolition or subsequent testing.

## Other important information and terms

1. **Disclosure**  
When applying for insurance, You have a general legal duty of disclosure. You must tell WPIL everything that may be relevant to WPIL's decision to issue, renew or alter this contract of insurance. All statements and representations must be true and correct. All benefits under this Policy will be forfeited if any claim under this Policy is in any respect fraudulent.

If You are not sure whether to disclose a fact to WPIL, You should discuss the situation with WPIL or your broker.



**2. Breach of Terms**

No claim will be payable under this Policy if any person entitled to any benefit under the Policy breaches any of the terms and conditions set out in this contract of insurance.

**3. Change of Circumstances**

You must advise WPIL of any change of circumstances relevant to the Policy as soon as You are aware of the change of circumstances and any such information which may effect WPIL's decision whether or not to provide or renew insurance to You and on what terms.

A change of circumstance includes, but is not limited to, Yourself or any person entitled to a benefit under this Policy committing, being charged with or convicted of any criminal offence but not including traffic offences.

**4. Reasonable Care and Repair**

You must ensure that You take all reasonable steps to prevent Loss or damage to The Insured Works and keep The Insured Works in good repair.

**5. Governing Law**

This Policy and the contract of insurance are governed by the laws of New Zealand. Any dispute in relation to the contract of insurance can only be determined by the courts of New Zealand.

The terms and conditions of this Policy are always subject to the provisions of the Insurance Law Reform Act 1977 and the Insurance Law Reform Act 1985 including Your rights contained in those two Acts.

**6. Payment of Premium**

Unless specifically agreed by WPIL in the Schedule, it is acknowledged by You that no cover shall be provided under this contract of insurance until any premium is paid by You to WPIL or an agent nominated by WPIL.

**7. Premium Adjustments**

Where a premium for this Policy has been calculated using estimated figures, then that premium is a provisional premium only for the applicable Twelve Month Period.

Within 3 months of the expiry of the applicable Twelve Month Period, You must tell WPIL what the actual figures are. WPIL will re-calculate the actual premium based on those actual figures.

Any difference between the actual and the provisional premiums will either be payable to WPIL or refunded to You following an actual calculation. If a refund is payable it will be limited to a maximum of 50% of the provisional premium calculated.

**8. Other Insurance Policies**

If any other insurance policy is arranged in relation to the Insured Works, then You must advise WPIL immediately and if there is any such other policy applicable, then WPIL will only pay out on this Policy over and above the amount payable by the relevant insurance company under any other policy.

**9. Secured Parties**

No security holder is covered by this Policy unless WPIL acknowledges this in writing or as detailed in the Schedule to this Policy.

Payment by WPIL to a party holding a security interest over the Insured Property (as advised in writing by You) will meet all of WPIL's obligations under this Policy for the Loss.

WPIL is authorised to disclose Your personal information to any holder of a financial security over Insured Property.

**10. Notices**

Any notice or disclosure to be given to WPIL by You under this Policy must be given in writing to either WPIL's head office or our approved agent.

Notice by WPIL to You under this Policy will be given by delivery in person or posted to the last postal address advised to WPIL by You.



**11. Joint Insured Parties**

If You or The Insured as detailed in the Schedule is more than one individual then You are each jointly insured and any breach by one individual of those joint persons shall be taken as being a breach by all of them.

Payment under this contract of insurance to any party named in the Schedule shall constitute settlement of all of our obligations under this contract of insurance for any such claim.

**12. Cancellation**

WPIL can cancel this Policy by giving You 30 days notice which notice period shall start from the day WPIL delivers or posts the notice. Any unused premium, on cancellation, will be paid to You on a pro-rata basis.

This contract of insurance can be cancelled by You by giving notice to WPIL and any unused premium will be refunded to You on a pro-rata basis.

**13. Amendment**

WPIL can amend this contract of insurance by giving You 30 days notice which notice period shall start from the day WPIL deliver or post the notice.

Any amendment to this contract of insurance proposed by You will only take effect if agreed to in writing by WPIL.

**14. GST**

Any amount to be paid under a claim shall exclude GST only if WPIL can recover the GST amount. Otherwise any other amount mentioned in this policy shall include GST.

**15. Inflation**

The Sum Insured will be increased at each renewal of this Policy to reflect WPIL's estimated increase in The Insured's consumer costs and inflation may also be a factor in WPIL setting any premium payable by You for cover under this Policy and on any renewal.

## Policy Definitions

The words defined below are used throughout this policy. Any other definitions are shown in the section to which they apply.

**"Accidental"** means unintended and unexpected by The Insured.

**"Architect's Fees"** means fees of architects, surveyors and consulting engineers up to the Sum Insured as specified in the Schedule which have been necessarily incurred as part of the reinstatement of the Insured Works following directly upon loss of or damage to the Insured Works and for which indemnity is provided but does not include any fees associated in preparing a claim.

**"Computer Virus"** means unauthorised instructions or code of a harmful, corrupting or other nature and including maliciously introduced unauthorised code and/or instructions (whether programmatic or otherwise) and which infiltrate or propagate themselves through a system or network of computers of any nature and includes but is not limited to Worms, Trojan Horses, and Time of Logic Bombs.

**"Debris Removal"** if included in the Schedule, means the costs and expenses up to the Sum Insured specified in the Schedule which have been necessarily incurred as a consequence of an Event resulting in physical loss or damage to the Insured Works, such costs being in:

- a. Demolishing undamaged portions of the property to enable the Insured Works to continue;
- b. Removing debris of the portion of the property which has sustained physical loss or damage;
- c. Propping up or supporting or shoring up undamaged portions of the property to enable the Insured Works to continue; and
- d. Any other measures necessary including temporary repairs to protect the property from further damage or to allow the Insured Works to continue.

**"Electronic Information"** means information concepts or facts transformed or converted to a form that can be communicated, interpreted or processed by electromechanical data processing or other electronic equipment and includes instructions for



processing, software, programs and other instructions used to process, manipulate or amend information, data or such electronic equipment.

**“Event”** means a single event or a series of events arising from one original cause or source.

**“Immediately Preceded”** means that Event occurring sequentially immediately prior to the Loss whether a single Event or, if a chain of Events, then the last Event prior to the Loss.

**“Insured Construction Contract”** means the contract for Insured Works as described in the Schedule.

**“Insured Works”** means all temporary and permanent works in performing under the Insured Construction Contract and all incorporated materials being the property of the Insured or being the responsibility of the Insured, but only while at the Location. The Sum Insured for the Insured Works shall not be less than the estimated replacement value of the Insured Works on completion of the Insured Works. The replacement value will include all materials, wages, freight and duties including all materials or additional items supplied by the Insured’s client under the Insured Construction Contract. Sub-contractors works may be included as long as this has been provided for within the Sum Insured in the Schedule.

**“Legislation”** means any building Legislation, any other legislation, legislation or bylaws promulgated by any Act of the New Zealand Parliament or by any local or regional authority.

**“Location”** means the site where the Insured Works are to be undertaken as detailed in the Schedule.

**“Loss”** means physical damage or physical loss, which occurs during the Period Of Insurance.

**“Machine” and or “Machinery”** means any product or device which directs or converts movement or energy or performs an electronic process and includes an ancillary protective part or component of such a product or device.

**“Natural Damage”** means damage resulting directly from a natural disaster such as earthquake, subterranean fire, volcanic eruption, tsunami, geothermal activity, hydrothermal activity, or fire caused by any of these and measures taken under proper authority following any of these to reduce the impact of them or prevent damage spreading.

**“Period Of Insurance”** means the period detailed in the Schedule and commences on that date or the date possession of the Location is taken (if later) and continues until expiry or completion of the Insured works under the Insured Construction Contract.

The Period of insurance shall include any renewal further agreed to by WPIL or any Period of Maintenance detailed in the Schedule and agreed to by WPIL and for which You pay the applicable premium.

**“Period of Maintenance”** (only where insurance on the Insured Works is kept in force until the Insured Construction Contract is completed) shall mean the number of days shown as the Period of Maintenance in the Schedule and the Period of Insurance shall be deemed to be extended (only where the Insured Works are completed) by the Period of Maintenance as long as the Period of Maintenance does not exceed the maintenance or any defects liability period specified in the Insured Construction Contract. In that case WPIL will indemnify the Insured for the legal liability to rectify physical loss or damage to the Insured Works in accordance with the conditions of the Insured Construction Contract which arise during the Period of Maintenance specified but only if the physical loss or damage is the sole responsibility of the Insured and originates from either:

- a. A cause not otherwise excluded which occurs and arises out of the actions of the Insured while performing work under the requirements of a maintenance clause or defects liability clause in the Insured Construction Contract; or
- b. A cause not otherwise excluded which occurs and arises out of the performance of the Insured Constructions Contract during the Period of Insurance.

**“Policy”** means this policy wording forming part of the contract of insurance between The Insured and WPIL.

**“Pressure Vessel”** means those parts of any Insured Property including all controls, systems (but not part of a Building) and integral parts that are subjected to intentionally generated fluid pressure or vacuum.

**“Schedule”** is the most recent and current policy Schedule including any expiry notice or insurance renewal issued to You.



**“Sum Insured”** means the amount shown in the Schedule as being the maximum amount payable by WPIL under this contract of insurance, either in relation to a Sum Insured specifically for a particular item or category or cover, or as a total Sum Insured as the context requires.

**“Twelve Month Period”** means the Period Of Insurance unless Your premium is paid quarterly or monthly or if the Period Of Insurance is more than twelve months then the Twelve Month Period is any Twelve Month Period commencing from the date this policy commenced and each Twelve Month Period thereafter.

**“Undamaged”** means, in relation to an Event that would normally be covered by this policy, not directly physically damaged.

**“WPIL, Us, Our and/or We”** means Western Pacific Insurance Limited (WPIL).

**“You, Your and/or The Insured”** means the insured person(s) or party named in the Schedule.