

Contract Works Policy

FMG
Advice & Insurance

FMG has been protecting the property and livelihoods of people up and down the country since 1905. We're 100% New Zealand owned and operated and are proud to be the country's only rurally-based insurance company around today.

You don't get to be over 100 years old without learning a thing or two; because we've worked closely with New Zealand communities over the years we can help find what works for you.

And we're still listening to what you're saying which is why we continually strive to improve our products and services, and why we have something to offer all New Zealanders. It's also why we focus on partnering with you to plan for the risks and challenges you face, not just the insurance you need to deal with them.

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Introduction

Please take the time to read through these documents carefully because they form the insurance contract you have with us. Your policy certificate is particularly important because if there is any inconsistency between your FMG policy wording and what is on the certificate, it is the certificate that applies. Under this contract, we both have responsibilities to ensure everything runs smoothly. These are detailed as follows, and if there is anything that you don't understand, please contact us. The expiry date of your Policies is shown on the policy certificates. We will be in contact with you regarding renewal of your insurance around that time.

Your Responsibilities

This FMG Policy has been provided to you based on your disclosure to us.

If there is any material information which could relate to the cover provided under this Policy, you need to let us know. Please be aware that disclosure of material information will not necessarily affect your ability to obtain cover, but not informing us might result in you having no insurance at all. It is important that you:

- Please tell us all material information before the cover starts, even if we don't specifically ask about it.
- Please update us should anything about your circumstances change, both during the period of insurance and at renewal.

Cover under your Policy will not commence until you have paid, or have agreed to pay, the premium (including any Government charges) for the period of insurance. If your premiums are not paid on time, your insurance could be cancelled and you will not be insured.

It is essential that you:

- Tell us of any errors in your documentation.
- Contact us if there is anything you don't understand and would like explained more fully.
- Keep this Policy in a safe place along with your renewal notice(s).

This Policy contains some exclusions and these are detailed throughout the Policy. It is important that you read these and are aware of them.

This Policy also contains certain conditions and obligations that you must meet. If you don't, we may decline any claim you make. Any other person that is entitled to claim under this Policy must also meet these conditions and obligations.

Welcome to FMG

Our Responsibilities

We agree to provide the cover set out in the Policy below that is shown on your certificate. Throughout the Policy certain important words are in bold type; please refer to the Definitions section for the specific meaning of these words.

FMG is a member of the Insurance Council of New Zealand and, as such, we are bound by the Council's Fair Insurance Code. For a copy of the Code, please call us on 0800 366 466.

As you will be aware, the proposal you completed contains personal information relating to you and/or your business. We collect this information to enable us to fully evaluate your proposal and subsequently administer this Policy. We may require further information later on if you make a claim or wish to renew this Policy with us. The proposal you completed also authorises us to collect relevant information about you and/or your business from third parties, such as other insurers and insurance brokers.

However, we fully understand the importance of protecting your personal, commercial and financial information and therefore we will not share your information unless authorised to do so under the Privacy Act 1993.

Your information will be held securely by us, within our organisation, and you are entitled to access and correct the information you have provided, as set out in the Privacy Act 1993.

We are confident this Policy will be right for you. However, you may cancel this Policy within 30 days of the commencement date for any reason if you are not entirely happy. We will refund any premium you have paid provided you do not have a claim during this 30 day period.

Your Feedback

Your feedback enables us to identify opportunities to make our products and services even better. If you have any feedback – good or bad – we would like to hear from you.

If you have a concern about something that has happened, tell us and we will investigate the issue quickly and inform you of the outcome, either by phone, in writing or by visiting you at a convenient time.

Similarly, if you have received exceptional service, we need to know about it in order to congratulate our team - so please let us know.

How you can contact us

- Call us on **0800 366 466**
- Contact your local FMG manager
- Write to us at FMG, PO Box 1943
Palmerston North 4440
New Zealand
- Visit our website www.fmg.co.nz
- Email us at contact@fmg.co.nz
- Fax us on **0800 366 455**

We agree to provide you with the insurance set out in this Policy, if this Policy is shown on the **certificate**.

For the purposes of this Policy, the **Insurer** and **Insured** are as referred to on the **certificate**.

Subject to the payment of, or promise to pay the premium, the **Insurer** provides insurance cover to the **Insured** described in this Policy, including the **certificate** or optional memoranda.

In issuing this Policy, the **Insurer** relies upon the information contained in the Proposal and any statements made by the **Insured** or anyone acting on behalf of the **Insured**.

The limit of the **Insurer's** liability will be the **Total Sums Insured** as stated in the **certificate**, less any **Deductible(s)**.

The amounts required to be insured under this Policy shall be:

- (a) the full amounts as required by the Contract Conditions, or
- (b) the full costs involved to complete the **Contract Works**, whichever is greater.

What you are insured for

1. Construction Period

- (a) The **Insurer** will indemnify the **Insured** against sudden and accidental physical **loss** which is not excluded, to the **Property Insured** occurring at the **Contract Site** during the **Construction Period**.

2. Maintenance Period

- (a) The **Insurer** will indemnify the **Insured** against sudden and accidental physical **loss** which is not excluded, to the **Property Insured** provided such **loss** manifests itself during the **Maintenance Period** and which either:
 - (i) arises out of the **Contract Works** carried out by the **Insured** during the **Construction Period** at the **Contract Site**,
 - (ii) arises out of the operations of the **Insured** whilst executing work under the requirements of the Maintenance Clause(s) of the Contract, or
 - (iii) occurs to property forming part of the works, but which was incomplete, not built, or upon which work is being carried out for the purpose of completion following the issue of a practical completion **certificate**.

What we will pay

1. The liability of the **Insurer** under this Policy shall not exceed the **Sums Insured** stated in the **certificate** for each item, less any **Deductible(s)**.
2. The maximum liability of the **Insurer** under this Policy shall not exceed the **Total Sums Insured**, less any **Deductible(s)**.
3. Where no **Sums Insured** or no other limit is shown against any item in the **certificate**, no liability shall attach for that item.

What you are not insured for

1. The **Insurer** will not indemnify the **Insured** against **loss** in any way connected with:
 - (a) **confiscation**,
 - (b) **nuclear materials**,
 - (c) **war**, or
 - (d) **terrorism**.
2. Loss or damage directly or indirectly caused by earthquake, natural landslip, volcanic eruption, hydrothermal activity, tsunami or natural disaster fire (as defined by the Earthquake Commission Act 1993) and subterranean fire, unless natural disaster is specified on the **certificate**.
3. Loss or damage caused by faulty or defective materials or workmanship, provided that this exclusion only applies to the part of the **Contract Works** immediately affected, and not to subsequent **loss** of other parts of the **Contract Works** resulting from such fault or defect.
4. **Loss** caused by or arising out of fault, defect, error or omission in design, plan, specification, procedure or system.
5. **Loss** to **Property Insured** by its own electrical or mechanical breakdown failure or derangement or its own explosion.
6. **Loss** discovered only at the time a routine inventory is taken.
7. **Loss** to any structure or property already at the **Contract Site** before commencement of the **Contract Works**.
8. **Loss** to cash, bank-notes, treasury-notes, cheques, postal-orders, money-orders, stamps, deeds, bonds, bills of exchange, promissory-notes, securities, or computer software and data.
9. Consequential loss, **loss** of use, loss due to delay, penalties, fines, liquidated damages, or aggravated punitive or exemplary damages.

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10. **Loss** caused by wasting, wearing away, scratching, abrasion, discolouration, staining, corrosion, erosion, delamination, or gradual deterioration including that due to atmospheric conditions.
 11. The cost of normal upkeep or the routine making good of the **Property Insured**.
 12. **Loss** directly caused by cessation of work.
 13. **Loss** to aircraft, aerial devices, waterborne vessels and craft, including plant and materials carried by, stored in or mounted thereon.
 14. **Loss** to:
 - (a) hoists, cranes and other mobile or stationary construction plant, or
 - (b) vehicles of any kind.
 15. **Loss** to:
 - (a) all contractor's and sub-contractor's equipment and tools, hoardings, site offices, huts and encampments, scaffolding, falsework and reusable formwork, or
 - (b) **employees'** personal effects.
 16. **Loss** during transit not on the **Contract Site**.
 17. Extra charges for overtime, nightwork, work on public holidays, express delivery or airfreight, unless such charges are reasonable, and incurred solely for the purpose of limiting or minimising further **loss** to the **Contract Works** following an indemnifiable event.
 18. Information Technology Exclusion:
 - (a) This Policy does not insure:
 - (i) loss, corruption, destruction or unavailability of data, or
 - (ii) malfunction of software.
 - (b) This exclusion does not apply to loss or damage to other **Property Insured** that directly result from:
 - (i) loss, corruption, destruction or unavailability of data, or
 - (ii) malfunction of software.
- own expense:
- (a) take all reasonable precautions to prevent **loss**,
 - (b) have always available adequate first aid fire fighting equipment and extinguishing agents of sufficient capacity at the **Contract Site** and ready for immediate use. Also a sufficient number of workmen at the **Contract Site** must be fully trained in the use of such equipment and must be available for immediate action during working hours,
 - (c) where any deficiency, defect or danger is identified by the **Insurer**, comply with all reasonable directions of the **Insurer** to prevent **loss**,
 - (d) take all reasonable steps to comply with all statutory and bylaw requirements and manufacturers recommendations, and
 - (e) take all reasonable steps to comply with the contract conditions and specifications as they relate to methods, procedures, systems or sequences of work.

3. Insurer's Right of Inspection

The **Insurer**, its employees or agents will at any reasonable time have the right to inspect and examine any part of the contract works and the **Insured** shall provide to the **Insurer**, its employees or agents all details and information which may be reasonably required.

4. Alteration of Risk

The **Insured** must notify the **Insurer** as soon as possible of any material change in the risk and confirm such notification as soon as practical 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 the **Insurer**. The scope of cover and premium may be adjusted by the **Insurer**. No material alteration will be made or allowed by the **Insured** whereby the risk is increased unless agreed to in writing by the **Insurer**.

5. Notice and Claims

- (a) Upon becoming aware of any event giving rise, or likely to give rise, to a claim under this Policy, the **Insured** must:
 - (i) take prompt steps to minimise the damage,
 - (ii) take reasonable steps to protect the property from further **loss**,

Conditions

1. Observance of Terms and Conditions

The due observance and fulfilment of the terms and conditions of this Policy by the **Insured** in so far as they relate to anything to be done 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 the **Insurer** to provide any indemnity under this Policy.

2. Precautions

The **Insured(s)** (and its employees and agents) shall at its

- (iii) immediately notify the **Insurer**,
 - (iv) if a criminal act is suspected, inform the Police,
 - (v) within 30 days or as soon as practicable thereafter, submit full particulars of the claim in writing to the **Insurer**, and
 - (vi) at the **Insured's** expense, provide the **Insurer** with any reasonably required proof and information in respect of the claim.
- (b) Upon notification of any **loss** being given to the **Insurer**, the **Insured** may carry out minor repairs or make good any minor damage, but in all other cases the **Insured** must give the **Insurer**, its employees or agents an opportunity to inspect the **loss** before any repairs or alterations are effected. If no inspection is carried out by, or on behalf of, the **Insurer** within a period of time which is reasonable having regard to the location of the risk, weather conditions and any other relevant factors, the **Insured** may proceed with repairs or replacement.
- (c) The **Insurer** will not pay for any additional damage to any item caused by the failure to repair that item properly and without delay.

6. Basis of Settlement

- (a) In the event of **loss** indemnifiable under this Policy the basis of any settlement will be:
- (i) 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, including any Items, up to the value(s) stated and included in the **certificate**, less any salvage, or
 - (ii) in the case of a total loss, the **Actual Value** of the **Property Insured** immediately before the occurrence of the loss, plus any Items, up to the value(s) stated and included in the **certificate**, 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 **Sums Insured**. All damage which can be repaired must be repaired, but if the cost of repairing any **loss** equals or exceeds the value of the items immediately before the occurrence of the **loss**, it will be considered a total loss and settlement will be made on the basis provided for in 2. above.
- (b) The **Insurer** will not be liable to make any payment under this Policy unless the **Insured** has produced

to the reasonable satisfaction of the **Insurer** 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.

The **Insurer** will not pay for:

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

The amount of the **Deductible** shown in the **certificate** shall be subtracted from the amount payable by the **Insurer** for each and every claim.

7. Subrogation

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

8. Interests of Other Parties

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

9. Other Insurance

In the event of any claim being made under this Policy, the **Insured** must notify the **Insurer** of any other insurance which may cover the same **loss**, 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.

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10. Reinstatement of Sums Insured

Following admission of liability for a claim under this Policy the **Insurer** will reinstate the **Sums Insured**, provided the **Insured** pays or agrees to pay any additional premium that may be required by the **Insurer**.

11. Increase in Contract Cost

If there is no amount entered for **Increased Costs During Construction** and if during the period of insurance the contract value increases, then the **Sums insured** for the **Contract Works** shall be deemed to be increased by the amount of such increase, but not exceeding 10% of the **Sums Insured**.

12. Stoppage of Work

In the event of stoppage of work by the **Insured** on the **Contract Site** from any cause for a period in excess of 30 consecutive days, cover under this Policy shall be suspended unless its continuance is agreed in writing by the **Insurer**.

13. Goods and Services Tax

The **Total Sums Insured** under this Policy are exclusive of GST. In the event of a claim the **Insurer** will pay the amount of such claim, subject to a maximum of the **Total Sums Insured**, plus where payable GST at the current rate.

14. Joint Insurance

If this Policy insures more than one party, they shall be jointly insured, unless expressly stated otherwise. A breach of this Policy by one or more of the parties shall be a joint breach by all the parties. The **Insurer** may, at its option, pay any claim to any named **Insured** in the Policy. Any such payment in full shall discharge the **Insurer's** obligations under the Policy.

15. Defined Words

To clarify the cover **you** have in this Policy, some words appear in bold. These words have a specific meaning, which is outlined in the Definitions section. Defined words specific to some sections are outlined within those sections.

Definitions

The following definitions apply to **your** Policy, unless the context requires otherwise.

Please note:

- References to the singular include the plural and vice versa.
- The definitions apply to any derivatives of the word used in this Policy.

Actual value shall be the new replacement value less depreciation for age and use.

Burglary means:

- (a) forcible and violent entry into a securely locked building (or part of a building) or **motor vehicle** with intent to commit crime,
- (b) forcible and violent exit from a securely locked building (or part of a building) or **motor vehicle** after having committed a crime, or
- (c) theft of insured property from a building or **motor vehicle** accompanied by:
 - (i) violence, or
 - (ii) threat of violence,to **you, your employees** or **your** customers where such violence or threat is used to:
 1. extort the stolen property, or
 2. prevent or overcome resistance to property being stolen.

Certificate means the latest version of **your** Policy certificate issued by **us** which contains details of **your** insurance cover under this Policy.

Confiscation means confiscation, requisition, nationalisation, or destruction of, or damage to property by order of Government, a local authority, a court, or any public authority but excludes such orders given for the purpose of controlling a peril covered by this Policy.

Construction Period means the period commencing on the date shown in the **certificate** and finishing:

- (a) at the time of practical completion of the Contract Works except for minor omissions and minor defects which do not prevent the Contract Works from being reasonably capable of being used for their intended purpose,
- (b) with respect to any portion of the Contract Works, at the time it is taken over or taken into use (whichever is the earlier) by the purchaser or principal,

- (c) in respect of any project where there is no agreement to purchase, at the time 95% of the contract price has been expended on the works or at 4.00 pm on the day the project is made available to be viewed,
- (d) on the due date shown in the **certificate**, or
- (e) on the issuing of a Code Compliance Certificate, whichever occurs soonest.

The Construction Period may be extended beyond the date shown in the **certificate** for the express purpose of completing the **Contract Works**, provided that written agreement is obtained from the **Insurer** before expiry and the **Insured** agrees to pay any additional premium required.

Contract Site is the location referred to in the contract documents at which the Works are to be completed.

Contract Works (if included in the **certificate**) means the whole of the works, 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 **Contract**, the subject of this Insurance, and described in the **certificate**.

Deductible(s) means the amount specified in the **certificate** which shall be deducted from the indemnifiable loss for each event. A series of events arising from or caused by subsidence, erosion, **flood**, inundation, landslip, cyclone, storm, tempest, or earthquake during any period of 72 consecutive hours will be treated as one event for the purpose of applying the **Deductible**.

Defined event means:

- (a) fire,
- (b) explosion,
- (c) lightning,
- (d) hail,
- (e) snow,
- (f) impact by a **motor vehicle** or an animal,
- (g) malicious acts,
- (h) vandalism excluding:
 - (i) vandalism to property in the course of construction or repair, or
 - (ii) vandalism caused by **you**, any member of **your** family or any of **your employees**,
- (i) **storm** or **flood**, excluding **storm** or **flood** damage to fences, unless **your farm fencing** is shown on **your certificate**, gates, retaining walls or glass (including glass houses), shade houses or tunnel houses,
- (j) **burglary**, other than by **you**, any member of **your** family or any of **your employees**,

- (k) impact by an aircraft or any other aerial or spatial devices or articles which drop from them, or
- (l) riot or labour disturbance.

Employee means:

- (a) any employee directly employed by **you** for domestic duties, or
- (b) any:
 - (i) employee directly employed by **you** in, or
 - (ii) principal or director (but only in their capacity as such) of **your**:
 1. **farming operations**,
 2. **horticulture operations**, or
 3. **homestay activities**.

Escalation During Reconstruction (if included in the **certificate**) means the actual amount by which the costs of reconstruction of the **Contract Works** exceeds the initial costs when such reconstruction is necessary solely as a result of an event indemnifiable under this Policy, provided that reconstruction is completed without delay.

Farm fencing means fencing or artificial wind breaks which are used solely for **your farming operations** and conforms with the standard farm fencing/wind break practices for **your** type of farm and/or **your** local area.

Farming operations means **your** normal regular farming activities including:

- (a) Exhibitions and competitions at shows.
- (b) Using **your** property for horse or hunt club activities, except horse racing organised by a racing or trotting (or similar) organisation.
- (c) Distributing farm material from aircraft, except for 1080, 1081, herbicides, fungicides, pesticides or similar poisons or substances.
- (d) Artificial Insemination Technician activities.
- (e) Farm contracting, provided it does not involve the use of:
 - (i) explosives,
 - (ii) herbicides and/or fungicides and/or pesticides.
- (f) **Horticulture operations**.

Flood means the inundation of normally dry land by water overflowing the normal confines of any natural or artificial water course, lake, reservoir, canal, dam or river, or the ponding of a normally dry paddock.

Your Contract Works Policy

Horticulture operations means **your** normal regular horticultural activities associated with the growing of **your** plants.

Increased Costs During Construction (if included in the **certificate**) means the allowance stated in the contract documents to allow for variations, fluctuations (as defined in the contract documents) in the Contract Price, and/or increases in the cost of labour and materials likely to arise during the **Construction Period**.

Insured means the person(s) or entity named on the **certificate** as the 'Insured':

- (a) but only in their capacity as principal or main contractor, and
- (b) only in their capacity as sub-contractor where shown on the **certificate**,

for their respective rights and interests.

We may also use the word '**you**' to describe the **Insured**.

Insurer means FMG Insurance Limited as shown on the **certificate**. The word '**we**' may also be used to describe the **Insurer**.

Loss means loss or damage.

Maintenance Period means the period commencing at the end of the **Construction Period** and continuing for, but not exceeding, the period shown in the **certificate**.

Motor vehicle means any type of machine on wheels or tracks that is propelled by its own power. This includes anything that can be towed by the machine and any accessories attached to the machine.

Nuclear materials means:

- (a) ionising radiation or contamination by radioactivity from:
 - (i) any nuclear fuel,
 - (ii) any nuclear waste,
 - (iii) the combustion or fission of nuclear fuel, or
- (b) nuclear weapons material.

Principal's supplied materials (if included in the **certificate**) means the materials and items supplied by the Principal, not in their final position, to the contractor free of charge for inclusion in the **Contract Works**. The cover incepted once the principal passes the care, custody and control of the property to the Contractor. The value shown in the **certificate** for this item shall be the New Replacement Value of all the materials and items supplied.

Professional Fees (if included in the **certificate**) means the architects, surveyors, consulting engineers and other fees incurred by the **Insured** which are necessary for the reinstatement of the **Contract Works** consequent directly upon indemnifiable **loss** to **Contract Works** (but excluding any fees for the preparation of a claim or estimate of fees).

Property Insured means the property insured under this Policy.

Removal of Debris (if included in the **certificate**) means:

- (a) the demolition and removal of damaged **Contract Works** from the **Contract Site**,
- (b) the removal of debris coming onto the **Contract Site** as a result of **loss** indemnifiable under this Policy,
- (c) the demolition and removal of undamaged **Contract Works** necessary to enable the **Contract Works** to be restored or replaced, and
- (d) the shoring propping up or supporting of undamaged **Contract Works** necessary to enable the **Contract Works** to be restored or replaced.

Sums Insured means the sum(s) insured stated in the **certificate** for each item under this Policy.

Storm means violent winds sometimes combined with thunder, heavy falls of rain, hail or snow. Bad weather or heavy or persistent rain by itself does not constitute a storm.

Terrorism means:

- (a) the use, threatened use, or preparation for the use, of:
 - (i) force or violence towards any person or group(s) of people,
 - (ii) property damage,
 - (iii) conduct that creates a risk to health and safety, or
 - (iv) interference or disruption with an electronic system,
- (b) by a person or group(s) of people whether acting alone, or on behalf of, or in connection with, any organisation or government:
 - (i) designed to influence, coerce or retaliate against, a government or group of people,
 - (ii) bring about change that aligns with their particular political, religious, ideological, ethnic, economic agenda, and
- (c) extends to conduct connected with controlling, preventing, suppressing, retaliating against, or responding to such conduct.

Total Sums Insured means the total sum(s) insured stated in the **certificate** for all items under this Policy.

War means conflict, invasion, act of foreign enemy, hostilities or warlike operations (whether declared or not), civil, mutiny, civil commotion assuming the proportions of or amounting to an uprising, insurrection, rebellion, revolution, military or usurped power, and extends to activity connected with controlling, preventing or suppressing such conduct.

Your Contract Works Policy

We're easy to contact

Call us on
0800 366 466

Write to us at
PO Box 1943
Palmerston North 4440

Email us
contact@fmg.co.nz

Visit our website
www.fmg.co.nz

FMG
Advice & Insurance