

SME Trade Credit Insurance Policy

QBE Insurance (International) Limited

Whole Turnover New Zealand



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Policy Wording

This Policy becomes effective when your Proposal has been accepted by Trade Credit Underwriting Agency NZ Ltd, as an agent for QBE Insurance (International) Limited, by issuing a Policy Schedule.

SME Trade Credit Insurance Policy

This Policy is underwritten by QBE Insurance (International) Limited, ABN 11 000 000 948, of 82 Pitt Street, Sydney NSW 2000.

Issued by Trade Credit Underwriting Agency NZ Ltd as an agent for QBE Insurance (International) Limited (ABN 11 000 000 948) (referred to as 'us', 'we', 'our', 'ours' or 'ourselves' throughout the Policy as the context so requires) to you the Insured named in section 1 of the Schedule to the Policy (referred to as 'you', 'your', 'yours' and 'yourselves' throughout the Policy as the context so requires).

Please note that some words and phrases have special meaning as given to them for the purposes of the Policy under the Definitions Section in this Policy. You are advised that some definitions may contain some operative provisions as well.

Duty of disclosure - What you must tell us

You are required before you enter into, renew, vary, extend or reinstate your Policy, to tell us everything you know and that a reasonable person in the circumstances could be expected to know, is a matter that is relevant to our decision whether to insure you, and anyone else to be insured under the Policy, and if so, on what terms.

- **You do not have to tell us about any matter**
 - that diminishes the risk,
 - that is of common knowledge,
 - that we know or should know in the ordinary course of our business as an insurer, or
 - which we indicate we do not want to know.
- **If you do not tell us**

If you do not comply with your duty of disclosure we may reduce or refuse to pay a claim or cancel your Policy. If your non-disclosure is fraudulent we may also have the option of avoiding the contract from its beginning.

Dispute resolution

We will do everything possible to provide a quality service to you. However, we recognise that occasionally there may be some aspect of our service or a decision we have made that you wish to query or draw to our attention.

We have a complaints and dispute resolution procedure which undertakes to provide an answer to your complaint within fifteen (15) working days.

If you would like to make a complaint or access our internal dispute resolution service please contact your nearest QBE office and ask to speak to a dispute resolution specialist.

New Zealand Ratings clause

QBE Insurance (International) Ltd (New Zealand Branch) has been given an "A+" Insurer Financial Strength Rating by Standard & Poor's (Australia) Pty Ltd (S&P).

The S&P Rating Scale is: AAA (Extremely Strong); AA (Very Strong); A (Strong); BBB (Good); BB (Marginal); B (Weak); CCC (Very Weak); CC (Extremely Weak); R (Regulatory Action).

Plus (+) or Minus (-); The ratings from "AA" to "CCC" may be modified by the addition of a plus or minus sign to show relative standing within major rating categories.

Credit ratings issued by Standard & Poor's Ratings Services are solely statements of opinion and not statements of fact or recommendations to purchase or discontinue any policy or contract or to buy, hold or sell any

security issued by QBE Insurance (International) Limited or make any other investment decisions. Credit ratings may be changed, withdrawn or suspended at any time. Latest ratings can be found at www.standardandpoors.com.

QBE Insurance (International) Limited ("QBE") has a policy of holding actual capital in excess of regulatory capital requirements. In the event that QBE is wound up the claims of New Zealand policyholders will be paid out of the assets of QBE in New Zealand, and possibly other countries, except for Australia. Australian Law requires that on a winding up of QBE the assets of the company in Australia are to be used to pay its liabilities in Australia before paying liabilities outside Australia.

Cover

You have applied to us by a Proposal (in writing) and we have agreed on the basis of the Proposal to issue you this Policy.

In consideration of the payment by you of all premiums and other charges when due and subject to the terms and conditions of this Policy, we agree to indemnify you, subject to the limits of the Threshold and the Maximum Sum Insured, up to the Insured Percentage of the Insured Loss, in the event of an Insured Buyer failing, due to the occurrence of a Claimable Event, to pay you an Insured Debt.

Conditions precedent to liability

Due observance of each of the terms and conditions of this Policy (including payment of all premiums and other charges) by you are conditions precedent to any liability being incurred by us under this Policy.

Declarations and acknowledgements

In completing the Proposal and entering into this Policy you;

- (a) declare that to the best of your knowledge and belief the statements made in the Proposal were true at the date of the Proposal and at the time you instructed us to issue this Policy, you had no knowledge of any matter, fact or circumstance, which had not been previously disclosed to us in writing, that could give rise to a loss under the Policy;
- (b) declare that you are aware of your duties to disclose to us every matter that you know, or could reasonably be expected to know, is relevant to our decision whether to accept the risk of this insurance and, if so, on what terms and to act with the utmost good faith at all times; and
- (c) acknowledge that the Proposal which you have completed, together with all other statements made in writing by you or anyone acting on your behalf for the purposes of this Policy, will be the basis for the issue of this Policy. In all cases information provided to us in support of your application for this Policy is held to be provided on your behalf.
- (d) acknowledge that you have an ongoing duty of disclosure throughout the Policy Period to disclose to us any material changes in your business operations, including any changes to your credit management procedures which were agreed at the commencement of the Policy, if any.

A. Definitions and interpretation

Definitions

In this Policy (which includes all clauses, schedules, annexures and Official Limit Endorsements):

“Approved Countries” are the countries specified or referred to in section 6 of the Schedule to the Policy.

“Approved Sources” are the sources specified in section 5 of the Schedule to the Policy and are the means or basis on which trade under your Discretionary Limit may be justified.

“Claimable Event” in respect of Insured Buyers principally domiciled in:

- (a) the Approved Countries of Australia and New Zealand includes and means Insolvency and Protracted Default; and
- (b) all other Approved Countries, includes and means Insolvency only.

“Claimable Event Date” means the date on which the Claimable Event occurs and is as specified under the definitions of the respective Claimable Events namely, Insolvency and Protracted Default.

“Conversion Exchange Rate” is the rate of exchange between the Policy Currency and any foreign currency in which you may invoice an Insured Buyer and is determined in respect of an invoice by:

- (a) the Telegraphic Transfer buying rate of exchange for that foreign currency at your principal bank at the close of business on the date

that the relevant Dispatch of goods occurs and/or the relevant Services are Rendered; or

- (b) a forward exchange rate you may have contracted for in advance with your bank to be applied to the relevant Dispatch of goods and/or Services to be Rendered.

“Declaration Period” means the period specified in section 4 of the Schedule to the Policy, effective on and from the first day of the Policy Period.

“Description of Trade” is as expressed under section 1 of the Schedule to the Policy and defines the scope and nature of your business or trade that is to be covered under the Policy.

“Deposit Period” is the period specified in section 4 of the Schedule to the Policy.

“Deposit Premium” is the amount specified in section 3 of the Schedule to the Policy.

“Discretionary Limit” is the limit specified in section 5 of the Schedule to the Policy and is the maximum cumulative amount of credit you may at any time grant only to an Insured Buyer who or which is domiciled in your country (as opposed to in a foreign country) provided it is supported by the Approved Sources.

“Dispatch” and **“Dispatched”** when used in respect of this Policy will mean when the goods you have sold to:

- (a) an Insured Buyer who is located in your country, physically pass from you or your agent into the exclusive physical control of that Insured Buyer or the Insured Buyer's agent (which transaction must be completed within the Policy Period); or
- (b) an Insured Buyer who is located in an Approved Country other than your country, have been passed by you or your agent to the first independent carrier (which must be within the Policy Period) in the process of being carried to the place where that Insured Buyer or its agent is required to accept them.

Notwithstanding subparagraph (b) above, goods will not have been Dispatched in circumstances where it is both legally and practically possible for you, using reasonable means, to stop carriage of the goods before they leave your country or the country from which they are being exported.

For the avoidance of any doubt, when goods are to be dispatched in instalments or in stages, Dispatch will occur in respect of each instalment or stage that you satisfy the above provisions and are simultaneously entitled to invoice the relevant Insured Buyer for payment in respect of such instalment or stage.

“Dispute” of an Insured Buyer's indebtedness occurs or exists when any one or more invoices (or parts of such invoice(s)) comprising it, remain unpaid by an Insured Buyer who has refused or deferred payment of such indebtedness on the alleged grounds or in circumstances such as:

- (a) that one or more terms or conditions of the relevant contract or the general terms of trade between you and that Insured Buyer have not been complied with or have been breached, such as short certification or non-certification of building, construction or engineering work for qualitative or quantitative reasons, or that the goods Dispatched are not of merchantable quality or do not satisfy quality or content or other specifications, or were delivered late or any like reason; or
- (b) you have disallowed or failed to pay or credit an Insured Buyer any amounts earned by or due to that Insured Buyer through the dealings with you (such as commission, discounts or agency fees) and the relevant Insured Buyer alleges a counterclaim or set-off for an equivalent or other amount against its indebtedness; and
- (c) either situation as in (a) and/or (b) above, have not been voluntarily remedied or resolved in the appropriate forum, either through arbitration or other alternative dispute resolution process as may be specified in the relevant contract, or in the absence of such a specification, has not been resolved by an ultimate judgement in the relevant jurisdiction.

“Insolvency” of an Insured Buyer occurs when:

- (a) an Insured Buyer initiates or becomes the subject of any procedure or action or proceedings pursuant to local bankruptcy or insolvency legislation which is uncontested and results in the Insured Buyer being recognised at law as being subject to a moratorium or in a state of reorganisation, external administration or insolvency or winding up in insolvency; or
- (b) a court appoints a receiver, liquidator, trustee or other similar external administrator or official under local bankruptcy or insolvency legislation to administer all or substantially all the assets of an Insured Buyer; or
- (c) a composition by an Insured Buyer has been approved by a Court having jurisdiction or a compromise or arrangement has been made binding by the Court on that Insured Buyer and all that Insured Buyer's creditors; or
- (d) an Insured Buyer enters into an unofficial compromise or settlement, in full and final settlement of its debts, with a majority of its creditors and which you are a party to with our prior approval; or

such circumstances exist as in our opinion are equivalent to any one of the above.

The Claimable Event Date in respect of the above instances will be:

- (i) In the cases of a) above, the date on which the bankruptcy, insolvency, moratorium, or re-organisation is deemed to have occurred according to the relevant law or regulations.
- (ii) In the case of b) the date on which the relevant court order or decision was made.
- (iii) In the case of c) the date on which majority of creditors agreed to the compromise or settlement.
- (iv) In the case of d) such effective date as we may specify.

“Insured” is you as named, as well as any Joint Insureds who may be named in section 1 of the Schedule to the Policy.

“Insured Buyer” is any entity carrying on business with you in any of the Approved Countries and in respect of whom you have either obtained an Official Limit Endorsement from us or have established a Permitted Limit in accordance with your Discretionary Credit Limit under this Policy, but always excludes:

- (a) any entity which is a parent, affiliate, or other similarly related company of yours (or vice versa); and
- (b) any entity in which a relative of a director, officer or partner of yours, or a person who has a controlling interest in you, has a controlling interest; (or vice versa) and
- (c) a government, government department, public or statutory authority, or nationalised undertaking; and
- (d) any person or entity where the Permitted Limit is “nil”.

If, however, you intend trading with an entity bearing any of the relationships referred to under paragraph (a) or (b) above, it is open to you to make a full disclosure of all the relevant facts and seek approval from us for acceptance of such entity as an Insured Buyer; and we may, depending on the merits of each case, agree or not at our discretion. In such a case we will do so in writing, specifying any special conditions or restrictions that may apply.

In this definition, the following terms have the following meaning:

“controlling interest” an entity or person has a controlling interest in a second entity or person, if the first entity or person has the capacity to influence or determine the outcome of decisions about the second entity's or person's financial and operating policies.

“group” means an organisation or association of business entities where you and an Insured Buyer are ultimately under common controlling interest.

“related company” means a corporation or entity that has a director, or officer, or shareholder with a controlling interest who is also a director, or officer or shareholder with a controlling interest in you, or a corporation in the same group.

“relative” in relation to a person, means the spouse, parent or child, or brother or sister of the person.

“Insured Debt” means so much of the indebtedness arising out of trade falling within the Description of Trade that:

- (a) is owed to you by an Insured Buyer (which may include such amount as was owed to you and repaid by an Insured Buyer, but was subsequently successfully reclaimed from you under a Preference Claim); and
- (b) does not exceed the Permitted Limit for that Insured Buyer; and
- (c) is in respect of the invoice value of goods sold by you and Dispatched to that Insured Buyer; and/or the invoice value of Services that have been sold and Rendered to that Insured Buyer; all of which must have occurred within the Policy Period and pursuant to a contract of sale providing for repayment of the debt within the terms of payment specified or referred to under section 6 of the Schedule to the Policy; and
- (d) all values of goods and Services referred to under (c) above must have been invoiced by you within the Invoicing Period; and
- (e) for the avoidance of any doubt, losses resulting from any type of preference claims shall be assessed subject to the limitations specified in the definition of Preference Claim.

The indebtedness of an Insured Buyer to you shall not cease to be an Insured Debt under the Policy by reason only that it is factored or discounted with recourse to you, with a factor or other financial institution, provided always that if (in the event of a potential claim, we decide that either you or we should pursue your rights in relation to such indebtedness) we require you to regain title to such debt, you shall be able to, and do so, within three (3) business days of our requesting you to.

“Insured Loss” is the amount of an Insured Debt that is either:

- (a) admitted to rank against the insolvent estate of the Insured Buyer; or
- (b) in the case of Protracted Default only, so much of the Insured Debt as is confirmed to us by evidence of a judgement debt and is not in Dispute between you and the Insured Buyer, each after taking into account the whole of any Recoveries relating thereto as stipulated under Condition 9 of the Policy.

“Invoicing Period” is the fourteen (14) day period commencing from the date of Dispatch of goods or the date the Services were Rendered, as the case may be.

“Insured Percentage” is the percentage as referred to in section 4 of the Schedule to the Policy.

“Joint Insured” means an entity that you control or you are controlled by and which entity you have requested us to add to the Policy and we have agreed to, subject to compliance with the following conditions:

- (a) if the entity is to be a Joint Insured from inception of the Policy Period, the entity shall sign a Proposal Form jointly with you; or
- (b) if the entity is to become a Joint Insured during the Policy Period the entity must complete a Proposal Form together with a letter of subscription on their own letterhead (a specimen of a letter of subscription can be obtained from us); and
- (c) such entity must have a credit control arrangement in common with you, and must adhere to all the terms and conditions of the Policy; and
- (d) the rights of all Joint Insureds under the Policy shall be joint while their liabilities and responsibilities shall be joint and several; and
- (e) a Permitted Limit, whether endorsed or justified under the Discretionary Limit, applies to all entities collectively and shall never be available individually or independently to each Joint Insured, nor can you or any one or more entities claim that the Policy operates as a composite Policy.

“Limit Administration Charge” is the amount specified in section 3 of the Schedule to the Policy.

“Maximum Extension Period” is the period referred to or specified in section 6 of the Schedule to the Policy and is the maximum period within which you may extend the original Terms of Payment. When you have allowed instalment payments within the maximum Terms of Payment, the Maximum Extension Period applies to each of those instalments.

“Maximum Sum Insured” is the maximum aggregate liability that we have under the Policy and is the amount specified under section 4 of the Schedule to the Policy. Once the aggregate value of claims paid to you reaches this figure, you are not entitled to lodge or receive payment of any further claims under the Policy.

“Minimum Premium” is the amount specified in section 3 of the Schedule to the Policy.

“Non Reportable Overdue Limit” is the amount specified in section 4 of the Schedule to the Policy and is equal to the amount of the Threshold.

“Notifiable Event” is any one or more of the events specified below:

- (a) At any time to your knowledge any circumstance arises which could in the reasonable opinion of a prudent uninsured company give grounds for the belief that an Insured Buyer may not (or may be unable to) perform or comply with its obligations under a contract of sale with you; or
- (b) an Insured Buyer is at any time to your knowledge unable to pay its debts as they fall due for payment; or
- (c) a cheque, bill of exchange, sight draft, promissory note, direct debit or other similar payment instrument or means of payment tendered or procured in respect of payment of any indebtedness of an Insured Buyer to you, is at any time dishonoured by the entity on which it is drawn, due to a lack of funds, whether or not subsequently re-presented and met; or
- (d) an event of Insolvency occurs in respect of an Insured Buyer, or an external administrator is appointed to the Insured Buyer; or
- (e) any part of an Insured Debt is not paid in cash or by cheque or bill of exchange available for immediate presentation by the last day of the Maximum Extension Period; or
- (f) there is any request by an Insured Buyer to extend the due date for payment beyond the Maximum Extension Period and you or we (or both) have declined it; or
- (g) there is the acknowledgement by an Insured Buyer of cash flow difficulties; or
- (h) events that occur in an Insured Buyer’s country which prevent, restrict or delay payment of the debt (or part of it) to you outside that country; or
- (i) an event occurs which is, according to your own approved credit management procedures, an adverse event requiring the withholding or suspending of further credit.

“Official Limit Endorsement” is a written document titled “Official Limit Endorsement” provided to you from time to time under the Policy and which specifies the Permitted Limit in respect of a person or entity named thereon as the Insured Buyer or specifies that the Permitted Limit is “Nil”. It may contain Special Conditions adding to or amending the existing terms and conditions of this Policy in relation to an Insured Buyer.

“Permitted Limit” in respect of any indebtedness of an Insured Buyer is:

- (a) the limit specified by us on the relevant Official Limit Endorsement form; or
- (b) where no Official Limit Endorsement has been issued, an amount not exceeding the Discretionary Limit as justified by the Approved Sources.

“Policy Currency” is the currency specified in section 3 of the Schedule to the Policy and means the currency you have requested the Policy to be issued in, having chosen between Australian Dollars or New Zealand Dollars, and which we have agreed to, at our discretion.

“Policy Period” is the period specified in section 2 of the Schedule to the Policy.

“Preference Claim” means, subject to the limitations below, a claim made against you pursuant to a law or regulation by a liquidator or official external administrator or similar official in respect of an Insured Buyer who is Insolvent, for the recovery of monies paid to you by or on behalf of that Insured Buyer, which monies are alleged to have given you a preference over the rest of the general body of creditors.

Any loss you suffer resulting from a Preference Claim made, is not by itself an Insured Debt or a Claimable Event in respect of the relevant Insured Buyer, but such a claim will be considered by us subject to the following conditions:

- (a) the debt which remains unpaid on an Insured Buyer’s account resulting from your making a repayment, pursuant to a Preference Claim, of monies you had received earlier and credited against it, must be a debt which originally arose from the Dispatch(es) of goods or the Rendering of Services to that Insured Buyer in accordance with the terms and conditions of the Policy; and
- (b) you have, in consultation with us, and through your solicitors vigorously defended the Preference Claim using all defences available to you at law and have paid the Preference Claim only after you have been compelled to by a judgement or court order, or we have concurred, in writing, with your solicitors written opinion that you have no alternative but to do so; and
- (c) Our liability under this clause for losses arising from a Preference Claim is, together with any other indebtedness, subject to the relevant Permitted Limit; and
- (d) the amount you pay pursuant to a Preference Claim must be included in the relevant confirmation or admission of debt in the Insolvency of the relevant Insured Buyer.

“Proposal” means the Proposal Form, the credit management procedures and supporting documents or representations that you or your agent provide to us in writing or through any electronic medium for the purpose of assessing whether and on what terms and conditions we may issue you a Policy. All such documents and information collectively, being the basis for the issue of the Policy, will form part of the terms and conditions of the Policy.

“Protracted Default” is a Claimable Event and occurs in respect of an Insured Buyer when:

- (a) the Insured Buyer fails to pay an Insured Debt to you within the Protracted Default Period; and
- (b) you have, within the Protracted Default Period, fully complied with all of your obligations in accordance with this Policy including, but not limited to, Condition 3 of the Policy.

“Protracted Default Period” is referred to in the definition of “Protracted Default” and is the period of three (3) months commencing on the original due date for payment of an Insured Debt under the relevant contract for the sale of goods and/or Services and, if that original due date is postponed, as from such postponed due date.

The Protracted Default Period will not commence or continue to run whilst an Insolvency of the Insured Buyer exists or whilst the Insured Buyer:

- (a) is entitled or obliged to refuse payment of an Insured Debt under any law or regulation or is obliged to refuse payment, by a person exercising powers of government; or
- (b) claims that it is entitled to withhold payment of any part of an Insured Debt and we are satisfied that a Dispute exists between you and the Insured Buyer which has not been resolved by the parties to the relevant contract or by arbitration, or by legal proceedings.

The Claimable Event Date in respect of Protracted Default will be the date of expiry of the Protracted Default Period.

“Rate for Calculation of Premium” is the amount specified in section 3 of the Schedule to the Policy.

“Recoveries” is the value of all goods recovered (whether under retention of title or otherwise), all monies (including dividends paid or payable out of an insolvent estate), securities, indemnities, guarantees, rights of action, counter claims, set-offs or other advantages held, received by or due to you

or otherwise available for the purpose of reducing the amount of any indebtedness of an Insured Buyer to you (whether in respect of the payment for goods or Services, or otherwise) which had not been paid as at the earliest Notifiable Event which remains unremedied, excluding always Specified Security Proceeds.

“Rendered” in relation to Services occurs when such Services have been performed by you or on your behalf in accordance with the relevant contract and at which stage you are entitled to payment and to invoice the relevant Insured Buyer for such Services. For the avoidance of any doubt, Services performed in stages or according to scheduled periods or dates agreed under the relevant contract, shall be deemed to be Rendered when each stage for which you are entitled to payment is completed.

“Schedule to the Policy” means that part of the Policy entitled “Schedule Referred to in and forming part of the Policy” which is signed for and on behalf of us and which provides your individual particulars and the conditions specifically applying in addition to or in amendment of the standard terms and conditions of the Policy.

“Services” means services that are performed by you or on your behalf for or on behalf of an Insured Buyer which falls within your Description of Trade and under a contract with that Insured Buyer, and includes such services that are Rendered at your premises or at or on the premises or work site of the Insured Buyer or any third party, and provided always:

- (a) such services are Rendered within the Policy Period; and
- (b) when such services consist of building construction or any other type of construction or engineering services which are subject to progress payments in accordance with specified measurements, inspections and certification, the contract, inclusive of such conditions (specifying progress payments, measurements and certification), must be expressed in writing; and
- (c) in the event of a Claimable Event occurring in respect of an Insured Buyer the value of any Services which have been Rendered but not invoiced, must be invoiced immediately so as to not prejudice you or us.

“Specified Security Proceeds” in relation to an Insured Buyer consists of monies or the monetary value of any items of tangible or intangible asset that you recover or realise from any security or security interest(s) or guarantee(s) which we had expressed as the subject of a special condition to the availability of cover under the relevant Official Limit Endorsement (in other words, any form of security or guarantee(s) without which cover would not be available but excludes the proceeds of any security or security interest or guarantee or indemnity not stipulated by us as a condition of cover and which you have obtained of your own accord or initiative).

“Threshold” is the amount specified under section 4 of the Schedule to the Policy and is the amount an Insured Loss must be in excess of at the Claimable Event Date, for us to be liable for payment of a claim in respect of an Insured Buyer. For the avoidance of any doubt, you shall not be entitled to lodge a claim if this amount is not exceeded.

“Turnover of Transactions” is the aggregate invoice value of goods sold and Dispatched and Services which were Rendered by you to Insured Buyers at any time during the Policy Period, but excluding the invoice value of the amount of any indebtedness which is excluded from this Policy under Condition 4 entitled “Exclusions”.

Interpretation

- (a) Reference to clauses, schedules, annexures and Official Limit Endorsements includes any replacement of them.
- (b) The singular includes the plural and vice versa.
- (c) Headings are inserted for convenience and do not affect the interpretation of this Policy.
- (d) A reference to any legislation or regulation shall include a reference to any amendment of, replacement of or substitution for that legislation or regulation.

B. Conditions

1. Policy Period and Declarations

- (a) This Policy is issued for the Policy Period, subject to our specific rights under this Policy or at law to cancel or terminate this Policy or its obligations hereunder.
- (b) You shall declare in writing to us on the form provided by us, your Turnover of Transactions within fourteen (14) days after the end of each Declaration Period.

2. Premiums and Limit Administration Charge

- (a) On or before the first day of the Policy Period, you will pay to us the Limit Administration Charge.
- (b) The Deposit Premium for the Deposit Period will be paid by you within thirty (30) days of the commencement of the Deposit Period.
- (c) The total premium payable under this Policy for the Policy Period will be the greater of:
 - (i) an amount calculated by multiplying the Turnover of Transactions by the Rate for Calculation of Premium; and
 - (ii) the Minimum Premium.
- (d) At the expiry of the Policy Period we will calculate the total premium payable and notify you in writing of the amount due to or from you (after taking into account the total Deposit Premiums paid and the Minimum Premium). In each case payment is due within seven (7) days of our notification to you.
- (e) You shall pay or reimburse us on demand for all stamp duty, Goods and Services Tax (“GST”) and other statutory charges imposed by government on this Policy and all payments made hereunder.
- (f) In the event that you seek to cancel or terminate this Policy prior to the expiration of the Policy Period, you are still required to pay us the amount calculated in accordance with Condition 2(c) and you are not entitled to receive any refund in relation to the premium paid or due to be paid.
- (g) If the Premium or other charges due from and invoiced to you in respect of the Policy remains unpaid by you after ninety (90) days of the commencement of the Policy Period, we will be entitled to cancel the Policy from inception and may do so without prior notice to you.

3. Credit Management and Consultation

- (a) You shall at all times:
 - (i) exercise reasonable care and prudence in granting credit to and withholding credit from an Insured Buyer as if you were uninsured; and
 - (ii) take all necessary steps and use your best endeavours, in consultation with us, to avoid or minimise any Insured Loss; and
 - (iii) subject to Condition 3(b), not agree in advance, either in a contract of sale or otherwise, to extend Terms of Payment beyond that which you will be stipulating initially in respect of each sale, even if such Terms of Payment are of lesser duration than the Maximum Terms of Payment approved under the Policy.
- (b) If circumstances arise at or shortly before the original due date for payment of an Insured Debt requiring a postponement of the original due date (for reasons other than the occurrence of a Notifiable Event) you may grant a postponement within the Maximum Extension Period except when a Notifiable Event exists.
- (c) When a Notifiable Event occurs you shall:
 - (i) with the least possible delay, notify us in writing; and
 - (ii) continue to notify us in the format required by us on a regular monthly basis until Insolvency of the relevant Insured Buyer has occurred or until such Notifiable Event has been fully remedied, whichever occurs earlier; and
 - (iii) take all prudent and reasonable steps required by us in respect of any loss which you have incurred or may

be likely to incur, including the execution of such documents and the doing of such things as may be necessary to enable us to intervene directly in the proceedings or negotiations relating to an Insured Debt.

- (d) You shall not be obliged to notify us of an Insured Debt of which any part has not been paid by the last day of the Maximum Extension Period if that part of the Insured Debt is less than the Non Reportable Overdue Limit, provided:
 - (i) no other Notifiable Event exists; and
 - (ii) you must supply, if requested by us, a schedule of all Insured Buyers whose accounts remain unpaid by the last day of the Maximum Extension Period, giving details of each Insured Buyer's total indebtedness.

4. Exclusions

This Policy does not cover, and we will not be liable in respect of, any indebtedness:

- (a) resulting from any avoidance by an Insured Buyer of a contract concerning goods because such contract is void, illegal or unenforceable or because of a repudiation of such contract by the Insured Buyer;
- (b) which relates to sales tax, goods and services tax, retention monies, interest charges, penalties, government charges and taxes and any consequential damages or costs;
- (c) relating to or arising from the supply of goods which are held on a consignment stock basis by the Insured Buyer or their agent; unless we have beforehand agreed in writing, subject to certain conditions, including a written consignment stock agreement between you and that Insured Buyer, to provide cover only from the time of purchase and drawing out of those goods from consignment by that Insured Buyer
- (d) relating to or arising from any "pay when paid" contracts or any other agreements to sell to a person or entity who is not unconditionally and irrevocably bound to pay you a purchase price as agreed before hand (eg. goods delivered on a "sale or return basis" or goods delivered on a "commission basis" to a commission agent);
- (e) relating to goods Dispatched or Services that are Rendered to an Insured Buyer at a time when a Notifiable Event (other than a Notifiable Event arising solely as a result of the Insured Buyer withholding payment on the basis of a bona fide documented Dispute, including short-certification or non-certification of building, construction or engineering services) exists in respect of such Insured Buyer;
- (f) which is subject to any form of Dispute;
- (g) arising from any transactions which are governed by any consumer protection laws or regulations or are in the nature of personal or consumer transactions as opposed to business or commercial transactions;
- (h) resulting or arising from expropriation or confiscation or the destruction of the whole or any part of an Insured Buyer's assets (or the goods referable to the Insured Debt) under any law or regulation having the force of law in any foreign country or part of a foreign country by any person or persons exercising powers of government in such country or any part of such country.
- (i) which has been irrevocably paid by the due date of payment, into your account and to your full benefit in local currency at a bank in the (foreign) Approved Country the relevant Insured Buyer is domiciled in, but because of currency exchange transfer restrictions in that (foreign) Approved Country, such payment cannot be remitted or repatriated to you;
- (j) directly or indirectly caused by political risks such as war, invasion of, or acts by foreign enemies, hostilities, rebellion, revolution, confiscation, nationalisation, insurrection or military or usurped power, or due to the order of any government, public or local authority or by any restrictions on trade transfers;
- (k) directly or indirectly caused by risks from atomic energy risks, employing the process of nuclear fission or fusion or handling radioactive material including, but not limited to the use of

nuclear reactors; the use or handling or transportation of radioactive materials; or the use, handling or transportation of any weapon of war or explosive device employing nuclear fission or fusion.

- (l) which represents or may be construed as cover or a benefit or liability for payment of a claim hereunder, which does not comply with, or is in breach of, any sanction, prohibition or restriction under any United Nations resolutions or the trade or economic sanctions, laws or regulations of Australia, the European Union, United Kingdom or United States of America or any other jurisdiction where this Policy applies.

5. Co-insurance

- (a) You shall retain for your own account:
 - (i) so much of the Insured Loss as exceeds the Insured Percentage; and
 - (ii) so much of any indebtedness of an Insured Buyer to you as exceeds the Permitted Limit; and
 - (iii) any amount equal or below the Threshold; and
 - (iv) any losses that exceed the Maximum Sum Insured.
- (b) You must not, without our written consent:
 - (i) enter into any trade credit insurance policy, including any top-up insurance, that indemnifies you in relation to items (i) - (iv) of paragraph (a) above; or
 - (ii) obtain a charge, mortgage, security, indemnity or guarantee of any type that secures items (i) - (iv) of paragraph (a) above, but does not secure the Insured Percentage of the Insured Loss.

6. Assignment

- (a) You shall not in any way assign the proceeds of any rights or benefits under this Policy unless our prior written consent to the assignee and the form of assignment has been obtained.
- (b) If any assignment of proceeds is made with our consent, all claims proceeds that become payable under or by virtue of the Policy will be paid to the assignee (unless otherwise advised in writing by the assignee) whose receipt shall be a valid discharge of our liability to you.

7. Reduction or Cancellation of Cover

- (a) We may at any time and at our sole discretion give notice in writing to you reducing or terminating any Permitted Limit or cancelling or varying the cover granted by this Policy in respect of any particular Insured Buyer or Approved Country.
- (b) Any reduction, termination or cancellation issued by us will apply to all Dispatches of goods made and Services that are Rendered at all times after the notice is given to you.

8. Claims

- (a) When a Claimable Event occurs you may submit a claim under this Policy by completing a claim form supplied by us with all relevant details in respect of the Insured Loss within six (6) months after the relevant Claimable Event Date.
- (b) If you make any claim knowing it to be false or fraudulent in any way, we may refuse payment of the claim and may cancel or terminate this Policy.
- (c) Subject always to paragraph (d) and to Conditions 9, 10 and 11 of this Policy, and after taking into account any interim payment and Recoveries and the Threshold and any other deduction we may be entitled to make, we shall pay you the Insured Percentage of the Insured Loss:
 - (i) in the case of the Claimable Event of Insolvency, within thirty (30) days after we have received appropriate confirmation that the Insured Debt has been admitted to rank for distribution against the insolvent estate in your favour.
 - (ii) in the case of the Claimable Event of Protracted Default, within thirty (30) days after we are provided with evidence of and to the extent that the relevant Insured Debt becoming a judgment debt in your favour.
- (d) As a condition precedent to the payment of:

- (i) any claim by us under this Policy, you must co-operate fully with us and must sign all relevant documents considered necessary by us to protect our interests in any potential Recoveries;
- (ii) any claim as a result of a Protracted Default, we must be satisfied that you have exhausted all reasonable means (including the pursuit of legal action) to recover the Insured Loss, albeit without success.

9. Appropriation of Recoveries and Specified Security Proceeds

Recoveries

- (a) Any Recoveries received by you or us shall be held on trust by you or us for your and our respective interests as specified in paragraph (b) below.
- (b) subject to paragraph (e) below
 - (i) all Recoveries occurring up to the time of payment of a claim shall firstly be applied effectively against any part of the indebtedness of an Insured Buyer that is in excess of the Permitted Limit and thereafter against the Insured Debt.
 - (ii) all Recoveries made after payment of a claim shall be for our benefit until we have recovered the relevant claim payment in full.
- (c) You shall notify us in writing immediately you receive or make any Recoveries and if you have already received payment of a claim you must also remit to us such Recoveries as due to us within ten (10) days of receipt.
- (d) We shall at any time be entitled to make any claim or take any legal action in your name against; (i) an Insured Buyer; or (ii) any third party that you are entitled to take action against, in respect of any Recoveries.
- (e) In the event that we elect to take legal action against an Insured Buyer or any third party that the you are entitled to take action against, we shall be entitled to deduct from any Recoveries all of the costs, disbursements and expenses incurred by us, prior to applying the Recoveries as otherwise set out in paragraph (b) above.

Specified Security Proceeds

All but sub-paragraphs (b)(i) & (ii) of the above provisions in relation to Recoveries shall apply to Specified Security Proceeds. Given that the relevant security or guarantee was a special precondition to the granting of the Permitted Limit, the basis of appropriation of the Specified Security Proceeds shall be as follows, whether it occurs before or after submission of a claim:

Any Specified Security Proceeds, despite any request or instruction to the contrary from the relevant Insured Buyer or guarantor or any party holding the security for your benefit, shall first be applied wholly in reduction of the Insured Debt (as opposed to total indebtedness), and only thereafter, shall any remaining Specified Security Proceeds be available to your benefit.

10. Disclosure

- (a) You must disclose in writing to us all material facts and information concerning or relating to this Policy, the Insured Buyers and your dealings with Insured Buyers and any likely claim under this Policy.
- (b) We may request that you provide and we may at any time examine or take copies of any letters, accounts or other documents in your possession or control relating to or connected with this Policy, or your obligations or any transactions between you and an Insured Buyer.
- (c) You shall, at our request, supply us with any information in your possession or take any reasonable steps to obtain for us any information or the sight of any documents in the possession of any third party relating to or connected with this Policy or any transaction between you and the Insured Buyer.

11. Currency - Declarations, Claims and Recoveries

- (a) This Policy is issued in the Policy Currency.
- (b) The Permitted Limits under the Policy, any other limits or Threshold, premiums, Limit Administration Charges and any other charges are expressed in the Policy Currency, and such amounts shall not vary according to changes in the exchange rate between the Policy Currency and any other currency, unless specifically agreed by us.
- (c) If your Policy Currency is New Zealand Dollars and any part or whole of an Insured Debt has been originally invoiced in Australian Dollars ("the AUD Insured Debt"), you are entitled to payment of a claim in Australian Dollars in respect of the AUD Insured Debt. The rate of exchange applicable in determining and declaring Turnover of Transactions and in all aspects applicable in calculation of liability in respect of the AUD Insured Debt, shall be the Conversion Exchange Rate which applied to the relevant Dispatch of goods or the Rendering of Services. Conversely, if your Policy Currency is Australian Dollars, you would be entitled to a claim payment in New Zealand Dollars in respect of that part or whole of an Insured Debt invoiced in New Zealand Dollars, subject to the same aforementioned conditions (save that a reference to the New Zealand Dollar is substituted by the Australian Dollar and vice versa).
- (d) If you invoice an Insured Buyer in any currency other than the Policy Currency, the value of each invoice must be converted into the Policy Currency for declaration of Turnover of Transactions purposes at the relevant Conversion Exchange Rate (you must record all such Conversion Exchange Rates in writing at or about the time of Dispatch of the goods or the Services that were Rendered relating to every invoice, and such records must be provided to us in the event of a claim).
- (e) Subject to Condition 8 of the Policy, for the purpose of calculating our liability in the event of a claim arising any part of an Insured Buyer's indebtedness invoiced in a currency other than the Policy Currency will be converted into the Policy Currency in accordance with the Conversion Exchange Rate and the resultant liability shall be paid in the Policy Currency;
- (f) For the purpose of calculating Recoveries in the event Recoveries are received in a currency other than the Policy Currency the exchange rate to be applied shall be the Telegraphic Transfer Buying Rate of Exchange (between such currency and the Policy Currency) of your bank at close of business on the day of receipt, whether or not such currency is actually converted into the Policy Currency on receipt. Such Recoveries accruing after payment of a claim shall be paid to us in the Policy Currency until our claim payment is recovered in full.

12. In case of your Insolvency

- (a) In the event of your Insolvency the relevant administrator must adopt this Policy and all your obligations under this Policy within thirty (30) days for us to have any liability under this Policy.
- (b) We shall be entitled to retain all premiums and other monies paid and to receive and retain all premiums and other monies due and payable to us up to and including the effective date of such Insolvency.
- (c) For the purpose of this Condition the definition of "Insolvency" shall be as defined with respect to an Insured Buyer under this Policy.

13. Governing Law

This Policy shall be governed by the laws applicable in New Zealand.

QBE Insurance (International) Limited

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This Policy is underwritten by QBE Insurance (International) Limited ABN 11 000 000 948.