

Professional Indemnity Policy Wording

ABOUT WINSURE UNDERWRITING PTY LTD

Winsure Underwriting Pty Ltd (A.B.N. 68 169 336 252 and AFSL 459637) has established a professional insurance service specialising in meeting the insurance needs of your business. We provide easily understood cover and a range of extensions that are available to meet your requirements.

Winsure has been founded on the principles of simplicity, integrity, service and innovation, supported by experienced and knowledgeable staff. If you would like any further information about Winsure, please visit our website www.winsure.com.au or contact our friendly customer service staff by phoning (02) 9307 6600.

IMPORTANT INFORMATION

Important documents

This is your policy document and it consists of:

- a. this printed policy which sets out details of what is and what is not covered by your policy; and
- b. the Schedule we provide you with details of:
 - who is insured;
 - the cover(s) selected;
 - the Period of Insurance;
 - the sums limits of liability;
 - the underwriter;
 - Deductibles and other important information; and
- c. the proposal form you complete and other information you provide to us.

You should read these documents carefully and keep them in a safe place for future reference. If you have any questions regarding your policy or the Schedule, please contact your insurance broker.

Protection of your interests

Over the years, a number of legislative and industry reforms have been introduced that protect the rights of consumers and assist them in their dealings with insurance companies. An example of the more important reforms is contained in the:

- Insurance Contracts Act 1984
- Privacy Act 1988
- Terrorism Insurance Act 2003
- General Insurance Code of Practice

Your Responsibilities

The Insurance Contracts Act requires:

- you to make certain disclosures, and

- both you and the insurer to act with the Utmost Good Faith in relation to, or under, the contract of general insurance.

Duty of Disclosure

Before you enter into a contract of general insurance with an insurer, you have a duty, under the *Insurance Contracts Act 1984*, to disclose to the insurer every matter that you know, or could reasonably be expected to know, that is relevant to the insurer's decision whether to accept the risk of the insurance and, if so, on what terms. (The information you provide on the proposal form forms a part of such matter).

You have the same duty to disclose those matters to the insurer before you renew, extend, vary or reinstate a contract of general insurance.

Your duty however does not require disclosure of the matter:

- That diminishes the risk to be undertaken by the insurer;
- That is of common knowledge;
- That your insurer knows or, in the ordinary course of his business, ought to know;
- As to which compliance with your duty is waived by the insurer.

Non-disclosure

If you fail to comply with your duty of disclosure, the insurer may be entitled to reduce its liability under the contract in respect of a claim or may cancel the contract.

If your non-disclosure is fraudulent, the insurer may also have the option of avoiding the contract from its beginning.

Utmost Good Faith

The law obligates all parties to a contract of insurance to act towards each other in 'utmost good faith'.

The result is that all material facts within the knowledge of the parties must be disclosed, otherwise the party to whom disclosure should have been made may avoid the contract.

The main implications from the duty of utmost good faith for an insured include:

- Fulfil your duty of disclosure
- Make honest statements in the proposal form
- Fulfil the requests of the insurer

Winsure are obliged to:

- settle claims quickly
- have a genuine reason to refuse claims
- disclose restrictions in your policy.

Failure to act with the utmost good faith may prejudice any claim you have or the continuation of this contract of insurance.

General Insurance Code of Practice

The General Insurance Code of Practice exists to raise standards of practice and service in the general insurance industry.

The objectives of the Code are:

- to promote better, more informed relations between insurers and their customers;

- to improve consumer confidence in the general insurance industry;
- to provide better mechanisms for the resolution of complaints and disputes between insurers and their customers; and
- to commit insurers and the professionals they rely upon to higher standards of customer service.

Brochures on the Code are available from Winsure by request.

Winsure supports the General Insurance Code of Practice. If, as the Insured, you are not satisfied with:

- one of Winsure's products;
- service;
- the service of Winsure's authorised representatives, loss adjusters or investigators;
- a decision on your claim; or
- the way in which Winsure has dealt with you,

then contact us.

Please contact Winsure if you have a complaint, the staff will help you in any way they can. If the staff are unable to satisfy your concerns, they will refer the matter to their supervisor or manager. If the manager cannot resolve the matter, the manager will escalate the matter to Winsure's Internal Dispute Resolution Department.

Privacy

Winsure uses personal information you have provided to administer your insurance. Winsure are committed to protecting your personal information in accordance with the National Privacy Principles. Winsure's privacy policy can be viewed at www.winsure.com.au or a copy can be obtained by phoning: (02) 9307 6600.

Winsure will not share any of your personal information unless:

The law requires

- Winsure consider that your adviser (if you have one) needs the information, or if
- Winsure or someone in a related company needs it to send you promotional material.
- Winsure will never sell your personal information.

If you do not want to receive information on any of Winsure's new products or services you can tell us on your proposal form. Alternatively just contact Winsure anytime and let us know that you do not want to receive information on any of our new products or services.

If you think Winsure's records are wrong or out of date, particularly your contact details, it is important that you contact us and we will correct them. You may reasonably access the personal information Winsure hold about you. If you would like to do so, please contact Winsure.

Who is insured under your policy

The parties that are covered by your policy are shown in the Schedule. In this policy, those persons or organisations are referred to as 'you' or 'your' or 'Named Insured'.

We may extend the policy to cover other persons or organisations you advise us require cover under this policy. If we extend cover to them, they will be shown in the Schedule.

Your cooling off rights

You can return your policy to us within fourteen days of the original commencement date or renewal of the Period of Insurance. This date is shown in your Schedule. If we receive your written request to cancel your policy within the fourteen day period we will give you a full refund (less any taxes or duties payable that we are unable to have refunded).

You cannot return your policy where, before the fourteen day period ends, you have exercised or at any stage exercise, any of your rights or powers under your policy (e.g. you have made a claim). After the cooling off period ends you continue to have cancellation rights under your policy.

Disputes

Underwriters at Lloyds proudly support the General Insurance Code of Practice. The purpose of the code is to raise standards of practice and service the general insurance industry. Any enquiry or complaint relating to this insurance should be referred to Winsure in the first instance. If this does not resolve the matter or you are not satisfied with the way the complaint has been dealt with, you should write to:

Lloyds Insurers General Representative in Australia
Suite 2 Level 21 Angel Place
123 Pitt Street, Sydney NSW 2000
Telephone: 02 9307 6600
Fax 02 9307 6699

If you dispute remains unresolved you may be referred to the Financial Ombudsman Service Limited under the terms of the General insurance Code of Practise. For other disputes you will be referred to other proceedings for resolution. Details are available from Lloyds Insurers General Representative in Australia at the address above.

The underwriters accepting this insurance agree that:

- a. if a dispute arises under this insurance, this insurance will be subject to Australian Law and practise and the Insurers will submit to the jurisdiction of any competent Courts in the Commonwealth of Australia;
- b. any summons notice or process to be server upon the underwriters may be served upon:
Lloyds Underwriters' General Representative in Australia
Suite 2 Level 21 Angel Place
123 Pitt Street, Sydney NSW 2000
who has authority to accept service and to appear on the underwriter's behalf;
- c. if a suit is brought against the underwriter, all participating in this insurance will abide by the final decision of such Court or any competent Appellate court.

In the event of a claim arising under this insurance immediate notice should be given to:

Winsure Underwriting Pty Ltd
PO Box A2016
Sydney South NSW 1235
Telephone 02 9307 6600
Fax 02 9307 6699

Contacting Us and Confirming Transactions

You can contact Winsure by:
Telephone: (02) 9307 6600

Fax. (02) 9307 6699
By Post: PO Box A2016 Sydney South NSW 1235

If you need confirmation of any of the Policy details please contact Winsure.

Financial Claims Scheme

This Policy is covered by insurance companies authorised under the Insurance Act 1973 (Insurance Act) to carry on any general insurance business in Australia by the Australian Prudential Regulation Authority (APRA). The insurance companies are subject to the prudential requirements of the Insurance Act. The Insurance Act contains prudential standards and practices designed to ensure that, under all reasonable circumstances, financial promises made by these insurers are met within a stable and efficient financial system.

Because of this, the protection provided under the Financial Claims Scheme legislation applies in relation to the insurance companies and the Policy. If the insurers were to fail and were unable to meet their obligations under the Policy, a person entitled to claim insurance cover under the Policy may be entitled to payment under the Financial Claims Scheme (access to the Scheme is subject to eligibility criteria). Information about the Financial Claims Scheme can be obtained from the APRA website at <http://www.apra.gov.au> and the APRA hotline on 1300 13 10 60.

Terrorism Insurance Act 2003

The Commonwealth Government established the Australian Reinsurance Pool Corporation (ARPC) in response to increasing concerns over terrorism. The ARPC is a statutory corporation established under the *Terrorism Insurance Act 2003* to offer reinsurance for terrorism risk in Australia.

The *Terrorism Act 2003* renders terrorism exclusion clauses in eligible insurance contracts ineffective in relation to loss or liabilities arising from a declared terrorist incident affecting eligible property located in Australia. If the loss is as a result of a terrorist act then the Treasurer will be responsible for paying your claim in accordance with the Policy terms and conditions.

The requirements of the Act are compulsory and under the present terms of the scheme insurers are required to submit to ARPC a percentage of the premium you pay.

If you require further information on the scheme please contact Winsure, your insurance adviser or the ARPC.

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THIS IS TO CERTIFY that in accordance with the authorisation granted under the Contact Number as shown in the schedule, to Winsure Underwriting Pty Ltd by certain Underwriters at Lloyd's whose definitive numbers and the proportions underwritten by them, which will be supplied upon application, can be ascertained by reference to the said Contracts which bear the Seal of Lloyd's policy Signing Office, and in consideration of the premium specified herein, the said Underwriters are hereby bound, severally and not jointly, each for his own part and not for one another, their Executors and Administrators, to insure in accordance with the terms and conditions contained herein or endorsed hereon.

1. INSURING CLAUSE

The Insured having made a Proposal and declaration and having paid or agreed to pay the Premium the Underwriter agrees (subject to all of the terms and conditions of the Policy) to indemnify the Insured against any Claim for which the Insured may become legally liable and which is first made against the Insured and notified to the Insurer during the Period of Insurance in respect of:

The professional conduct of the Insured's Business Activity within the Territorial Limits, where the Claim alleges:

- 1.1. negligence or breach of duty of care;
- 1.2. negligent misstatement or negligent misrepresentation;
- 1.3. infringement of intellectual property rights including copyright, patent, registered design right or breach or misuse of confidential information;
- 1.4. any unintentional libel, slander or defamation;
- 1.5. loss of Documents lodged with or entrusted to the Insured for the purpose of storage or safe keeping provided always that the amount of any claim for costs, charges and expenses as above shall be supported by bills and/or accounts which shall be subject to approval by some competent person to be nominated by the Underwriter with approval of the Insured and no liability shall attach hereto for any loss brought about by wear, tear and other gradually operating causes.
- 1.6. dishonesty of any employee, but excluding any Claim resulting from the dishonest, fraudulent, criminal or malicious acts or omissions committed after the Insured discovered, or could reasonably have discovered or suspected, improper conduct by the employee. No indemnity will be provided to any person committing or condoning any dishonest, fraudulent, malicious or criminal acts or omissions. This Extension excludes claims for loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes.
- 1.7. any Claim made against the Insured under the terms of the Trade Practices Act 1974 (Commonwealth), the Fair Trading Act 1987 (NSW) or similar legislation in other States, and which arise from misleading or deceptive conduct not being deliberate or fraudulent conduct provided always that:

- 1.7.1. this extension of indemnity shall not include claims made under the penal or criminal provisions of those Acts or legislation;
- 1.7.2. such conduct arises from actual or alleged breach of professional duty as defined in Insuring Clause above.

2. DEFENCE COSTS

Subject to the terms and conditions of this Policy, the Underwriter agrees to indemnify the Insured for Defence Costs in respect of any Claim(s) covered under clause 1 above.

3. NEWLY CREATED OR ACQUIRED ENTITY OR SUBSIDIARY

- 3.1. Subject to the terms and conditions of this Policy, the Underwriter agrees to indemnify any entity or Subsidiary undertaking the same or similar Business Activity which is acquired or created during the Period of Insurance for a period of up to forty-five (45) days (but never beyond the expiry date of the Period of Insurance) but only in respect of any negligence or breach of duty of care, negligent misstatement or negligent misrepresentation committed subsequent to the date of acquisition or creation (unless otherwise agreed in writing by the Underwriter) provided always that notification of any such acquisition or creation of the entity or Subsidiary after inception of this Policy shall be given in writing within forty-five days to the Underwriter together with appropriate underwriting information as required by the Underwriter who will be at liberty to charge an additional premium and impose special conditions in respect of such entity or Subsidiary.

For the purpose of this clause Subsidiary shall mean:

- 3.1.1. any entity which by virtue of any applicable legislation or law is deemed to be a subsidiary of the Insured specified in the Policy; or
- 3.1.2. any entity over which the Insured specified in the Policy is in a position to exercise effective direction or control through ownership or control of more than fifty percent (50%) of the issued voting shares of such entity.

4. JOINT VENTURE

Subject to the terms and conditions of this Policy, the Underwriter agrees to indemnify the Insured as a joint venturer or as a partner provided always that such cover does not extend to any co-joint venturer or co partner of the Insured in the Joint Venture in respect of any Claim(s) covered under Insuring Clause 1.

5. RUN-OFF OF DIVESTED ENTITIES

Where a covered entity or subsidiary ceases to exist or to operate or is acquired by another, then the Underwriter agrees that the coverage provided under this Policy with respect to that entity of the Insured will continue until the expiry date of the Period of Insurance, provided always that such coverage will only apply in respect of the Insured's liability arising out of any Business Activity happening prior to the effective date that such entity or subsidiary ceased to exist or to operate or was acquired by another entity, unless otherwise agreed by the Underwriter in writing.

6. COSTS OF EXPENSES – OFFICIAL INQUIRIES

Subject to the terms and conditions of this Policy, the Underwriter agrees to indemnify the Insured for the costs incurred by the Underwriter, or the reasonable costs incurred by the Insured with Underwriters written consent, of the Insured's legal representation at any inquiry (including any coronial inquiry or any inquiry under the disciplinary rules of a professional association of which the Insured is a member) or other similar processes relating to or connected with the Insured's Business Activity, which the Insured is legally compelled to attend provided always that:

- a. the process is ordered or commissioned during the Period of Insurance;
- b. The Underwriter shall be entitled to nominate the legal representation;
- c. the Insured having notified the Underwriter in writing within the Period of Insurance and within 28 days of having received notice of the inquiry; and
- d. the aggregate liability of the Underwriter for all Claim(s) under this Clause shall not exceed \$100,000.

7. DEFENCE COSTS

- 7.1 Unlimited Retroactive date – if no Retroactive Date is specified in the Schedule or if the Retroactive Date is specified in the Schedule as Unlimited, this Policy shall provide indemnity in respect of Claim(s) irrespective of when such Claim(s) were committed or were alleged to have been committed.

This is subject to:

- a. the Insured having continuous insurance cover from or prior to the date, when the act(s), error(s) or omission(s) giving rise to such Claim(s), to the inception of the current Policy, and
 - b. the Insured providing evidence of prior Policies to the satisfaction of the Underwriter.
- 7.2 Limited Retroactive Date – where a retroactive date is specified in the Schedule, then this Policy shall only provide indemnity in

respect of Claim(s) committed or alleged to have been committed after the Retroactive Date.

8. DEFINITIONS AND INTERPRETATIONS

8.1 In this Policy, unless the context otherwise requires, the following words and expressions shall bear the meaning set out below:

- 8.1.1 Business Activity means the activity(ies) shown in the Schedule, which the Insured performs in the ordinary course of business for which the Insured is remunerated or other activities necessary to the conduct thereof.
- 8.1.2 Claim means an assertion of a right to compensation or damages from the Insured, including by any civil proceeding or demand against the Insured. Where two, or a series of, Claims arise from a circumstance or occurrence or a series of circumstances or occurrences consequent upon or attributable to one source or original cause, they are deemed to be one Claim for the purpose of the Limit of Indemnity and the Excess applicable under the Policy.
- 8.1.3 Contract shall mean a written contract between the Insured and a Contractor in regards to the Insured's Business Activity and does not include any form of verbal agreement unless it is subsequently reduced to a formal written document and signed by the Insured and the Contractor.
- 8.1.4 Contractor shall mean a person or other entity contracted to the Insured and engaged in the Insured's Business Activity pursuant to a Contract between the Insured and that person or other entity.
- 8.1.5 Defence Costs means reasonable costs and expenses for which the Insured is legally liable and/or which are incurred by the Insured with the Underwriters consent and agreement in the investigation, settlement or defence of a Claim covered by this Policy.
- 8.1.6 Document means agreements, plans, records, deeds, books, letters, Policies, Documents or forms of any description whether written, printed or reproduced by any other method or means excluding bearer bonds or coupons, stamps, bank or currency notes or other negotiable instruments.
- 8.1.7 Excess means the amount stated in the Schedule which the Insured must bear in respect of each Claim inclusive of Defence Costs, before the Underwriter is liable to make any payment under this Policy.
- 8.1.8 Inception Date means the date on which the Insured's insurance cover with the Underwriter commences, as specified in the Schedule.

- 8.1.9 Insured means:
 - a. the person, persons, partnership, company, corporation, statutory authority or other entity specified in the Schedule as Insured;
 - b. any predecessor in business of any person or entity in (i);
 - c. any person who is, was, becomes or ceases to be a principal, partner, Director, Officer, Partner or employee of any person, persons, partnership, company, corporation, statutory authority or other entity specified in the Schedule as the Insured, but in each case solely in respect of a liability arising from activity for and on behalf of that entity; and
 - d. any executor, administrator, heir or trustee of any person in a., b. or c.
- 8.1.10 "The Underwriter" means the entity referred to as such in the Schedule
- 8.1.11 Limit of Indemnity means the maximum amount payable by the Underwriter under this Policy as stated in the Schedule, inclusive of claimants' costs fees and expenses and Defence Costs, irrespective of the number of Claims their quantum or timing, or the number of Insured's claiming on the Policy.
- 8.1.12 Period of Insurance means from the Inception Date to the date on which insurance cover ceases, as stated in the Schedule.
- 8.1.13 Policy means this policy of insurance between the Underwriter and Insured, together with the Schedule and Proposal.
- 8.1.14 Premium means the amount payable by the Insured for this Policy as stated in the Schedule.
- 8.1.15 Product means any tangible property after it has left the custody or control of the Insured which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by or on behalf of the Insured.
- 8.1.16 Proposal means the Proposal for insurance provided under this Policy including any documentation or information submitted in support by the Insured to the Underwriter.
- 8.1.17 Schedule means the Schedule of insurance issued by the Underwriter specifying inter alia the Policy number, Premium, the Insured's name, the Insured's Business Activity, the Limit of Indemnity and the Period of Insurance.
- 8.1.18 Territorial Limits means Worldwide, excluding the United States of America or the Dominion of Canada.
- 8.1.19 Terrorism means shall mean an act or acts (whether threatened or actual) of any person or persons involving the causing or occasioning of threatening of

harm of whatever nature and by whatever means made or claimed to be made in whole or in part for political, religious, ideological or similar purposes.

- 8.2 This Policy and Schedule shall be read together.
- 8.3 The headings are for ease of reference only and do not affect its interpretation.
- 8.4 References to any statute, statutory provision, Order or Rule include a reference to that legislation or those Rules as amended, extended, consolidated or replaced from time to time (whether before, on or after the Inception Date of this Policy) and include any former legislation or Rules which it re-enacts, consolidates or replaces and any order, regulation, instrument or other subordinate legislation made under the relevant legislation or rules.
- 8.5 Unless the context otherwise requires, words denoting the singular shall include the plural and vice-versa, references to any gender shall include all other genders.

9. EXCLUSIONS

The Underwriter shall not indemnify the Insured in respect of any Claim:

- 9.1 involving Injury to any person or damage to property, unless it results directly from the Professional conduct of the Insured's Business Activity (except in so far as indemnified by the loss of Documents cover);
- 9.2 made against the Insured by or on behalf of any entity in which the Insured exercises a financial or managerial interest;
- 9.3 arising from the Insured's insolvency or impecuniosity or lack of financial resources;
- 9.4 arising from services undertaken prior to the Insured's incorporation;
- 9.5 in respect of any fees claimed back or withheld by a customer of the Insured arising from non-performance of the Insured's contractual obligations, unless such fees form part of a compromise settlement of a Claim;
- 9.6 arising from the recommendation or specification of any goods or Products where their use is not in accordance with the manufacturer's specification;
- 9.7 arising from the manufacture, installation, maintenance or servicing of any Product sold, supplied or distributed by the Insured;
- 9.8 arising from obscenity, blasphemy or pornographic material.

10. GENERAL EXCLUSIONS

The Underwriter shall not indemnify the Insured in respect of any Claim:

- 10.1 alleging any neglect, act, error or omission committed or alleged to have been committed occurring or alleged to have occurred prior to the Retroactive Date stated in the Schedule.
- 10.2 first made before the Inception Date;

- 10.3 arising from a potential Claim or circumstance known to the Insured and which the Insured knew or ought reasonably to have known, prior to inception of this Policy, might result in a Claim against the Insured;
- 10.4 or potential Claim or circumstance which has, or ought to have, been notified under any other Policy of insurance prior to the Inception Date;
- 10.5 made against any Insured by any other Insured in any capacity whatsoever;
- 10.6 in relation of any fines, penalties, aggravated, punitive or exemplary Damages or other non-compensatory Damages, including but not limited to multiplications of compensatory awards or Damages;
- 10.7 or potential Claim or circumstance in respect of which the Insured is, or would be but for the existence of this Policy, entitled to indemnity under any other Policy of insurance;
- 10.8 or potential Claim or circumstance in any way connected with the United States of America or Canada or their territories or laws;
- 10.9 based on or arising out of liquidated Damages clauses, penalty clauses or performance warranties, unless proven by the Insured that such liability would have attached in the absence of such clauses or warranties;
- 10.10 directly or indirectly occasioned by, happening through or in consequence of war, invasion, act of foreign enemy, hostilities (whether war be or declared or not), civil war, rebellion, revolution, insurrection or military or usurped power;
- 10.11 directly or indirectly caused by or contributed to by or arising from:
 - 10.11.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
 - 10.11.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
- 10.12 directly or indirectly arising from or in any way connected with asbestos.
- 10.13 directly or indirectly caused or occasioned by or happening through or in consequence of Terrorism or any action taken in controlling, preventing or suppressing any act or acts of Terrorism or in any way relating thereto.

11. OBSERVANCE OF TERMS

- 11.1 The Insured must observe and comply with the terms and conditions of this Policy. Any term or condition of this Policy insofar as it relates to anything to be done or complied with by the Insured shall be a condition precedent to the Underwriters liability to make any payment under this Policy.

- 11.2 The Underwriter shall only be liable to bear GST to the extent that GST is irrecoverable by the Insured. For the avoidance of doubt, any element of GST which the Underwriter is obliged to pay shall be encompassed within the Limit of Indemnity.

12. CLAIMS CONDITIONS

- 12.1 The Insured must notify the Underwriter in writing as soon as possible of a Claim. Such notification must be made during the Period of Insurance and shall be sent to Winsure Underwriting Pty Ltd.
- 12.2 The Insured shall not admit liability for or negotiate the settlement of any Claim, or incur any Defence Costs, without the written consent of the Underwriter. The Insured shall do nothing which may prejudice the rights of the Underwriter, including but not limited to preserving all possible defences, and rights of contribution or indemnity, in respect of a Claim.
- 12.3 The Insured must, at its own expense, provide the Underwriter with all assistance and cooperation reasonably required by the Underwriter to enable the Underwriter to determine the Insured's entitlement to indemnity under the Policy, and in the investigation, settlement and/or defence of any Claim.
- 12.4 The Underwriter reserves the right, but does not have an obligation, to take control of and conduct in the Insured's name the investigation, settlement or defence of any Claim. The Underwriter shall be entitled to prosecute for its own benefit any Claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any such Claim and the Insured shall give all such information and assistance as the Underwriter may require.
- 12.5 A Claim against the Insured will only be defended if in the opinion of the Underwriter there is a reasonable prospect of success and after taking account of the commercial considerations and economics of defending such Claim

13. GENERAL CONDITIONS

- 13.1 Reasonable Precautions
The Insured at its own expense shall:
 - 13.1.1 take all reasonable precautions to prevent Injury, loss of or damage to property and cease any activity which may give rise to liability under this Policy;
 - 13.1.2 exercise care in the selection and supervision of employees;
 - 13.1.3 as soon as possible after discovery cause any defect or danger to be made good or remedied and in the meantime shall cause such additional precautions to be taken as the circumstances require;
 - 13.1.4 comply with all statutory requirements and other safety regulations imposed by any authority.
- 13.2 Alteration

The Insured shall give notice to the Underwriter as soon as possible of any alteration which materially affects the risk.

- 13.3 Cancellation
The Underwriter may cancel this Policy in accordance with the Insurance Contracts Act 1984 (Cth).
- 13.4 Discharge of Liability
The Underwriter may at any time pay the Limit of Indemnity (after the deduction of any sum already paid) or any lesser amount for which a Claim can be settled and shall be under no further liability except for the payment of Defence Costs incurred to the date of payment provided that the Limit of Indemnity so allows.
- 13.5 Excess
 - 13.5.1 The Underwriter shall not be liable for the amount of the Excess stated in the Schedule in respect of the first amount of each and every Claim including Defence Costs.
 - 13.5.2 The Insured shall not affect insurance in respect of the Excess.
- 13.6 Adjustment of Premium
 - 13.6.1 If the Premium has been calculated on estimates given by the Insured the Insured shall keep an accurate record containing all relevant particulars which shall be available to the Underwriter for inspection.
 - 13.6.2 Within one month of the expiry of each Period of Insurance the Insured shall supply to the Underwriter an accurate statement in the form required so that the Premium for that period can be calculated and the difference paid by or allowed to the Insured.
 - 13.6.3 Should the Insured fail to supply such a statement within one month of the expiry of the Period of Insurance the Underwriter shall be entitled if they so wish to charge an additional Premium in respect of that Period of Insurance.
- 13.7 Governing Law and Jurisdiction
This Policy shall, at all times and in all respects, be governed by and subject to the laws of the Commonwealth of Australia, including but not limited to the Insurance Contracts Act 1984 and the Insured and the Underwriter agree to submit to the jurisdiction of competent Australian Courts in relation to all matters arising under or in connection with it. This Condition shall not preclude the parties from agreeing to submit any dispute to Arbitration, or to any other form of Alternative Dispute Resolution, after it has arisen.
- 13.8 The Underwriter hereon agrees that:-

In the event of a dispute arising under this policy, the Underwriter at the request of the Insured will submit to the jurisdiction of any competent Court in the Commonwealth of Australia. Such dispute shall be determined in accordance with the law and practice applicable in such Court.

- a. Any summons notice or process to be served upon the Underwriter may be served upon.

Lloyd's General Representative in Australia
Lloyd's Australia Limited
Suite 2, Level 21 Angel Place,
123 Pitt Street, Sydney NSW 2000

Who has authority to accept service and to enter an appearance on the Underwriters behalf.

- b. If a suit is instituted against any one of the Underwriters all Underwriters hereon will abide by the final decision of such court or any competent Appellate court.

13.9 Cross Liabilities

Where there is more than one party named as the Insured in the Schedule, this Policy will apply separately to each such Insured in the same manner and to the same extent as if a separate Policy had been issued to each Insured and the Underwriter agrees to waive all rights of subrogation against any of these parties. Provided always that the total amount payable under this Policy does not exceed the Limit of Indemnity.

13.10 Subrogation

The Underwriter shall be subrogated to the Insured's rights of recovery in relation to any Claim or loss paid or payable under this Policy. The Insured shall co-operate fully with the Underwriter in connection with any action which may be necessary to enforce any rights, remedies, relief or indemnity from other parties arising from the Underwriters rights of subrogation.

13.11 Assignment

13.11.1 The Insured shall not be entitled to assign the benefit of this Policy without the Underwriters prior written consent.

13.11.2 This Policy shall be for the exclusive benefit of the Insured and that in no event shall anyone other than the Insured have any right of action under this Policy.

13.12 Severability and Non-Imputation

Where the Insured is comprised of more than one person or entity and one or more of those persons or entities:

- a. failed to comply with the duty of disclosure under section 21 of the Insurance Contracts Act 1984;
- b. made a misrepresentation to us before this Policy was entered into; or
- c. failed to comply with a term of this Policy the right of another person or entity to cover under this Policy shall not be prejudiced as a result provided always that the other person or entity:
 - i. was entirely innocent of and had no prior knowledge of the relevant conduct; and
 - ii. notifies the Underwriter in writing of all the facts known to the person or entity as soon as is reasonably practicable upon becoming aware of the relevant conduct.

OPTIONAL EXTENSIONS

These extensions are not included in the insurance unless indicated in the schedule

A. AUTOMATIC REINSTATEMENT

It is agreed that upon notification to the Underwriter during the Period of Insurance of any Claim made against the Insured, this Policy shall be deemed to be reinstated for such amount, if any as may be ultimately paid by the Underwriter in respect of such Claim, so as to remain in force during the Period of Insurance for the Limit of Indemnity stated in the Schedule of this Policy, provided always that the aggregate of the amounts so reinstated shall not exceed an amount equal to the said Limit of Indemnity.

It is the intention of this Policy and this extension that the sums thus reinstated shall provide cover in respect of subsequent claims or losses in the same Period of Insurance, which are totally unrelated to the claim(s) already notified.

Under no circumstances will the Underwriter be liable under this Policy to pay more than twice the Limit of Indemnity for all Claims made during any one Period of Insurance including all costs and expenses incurred in the defence or settlement of such Claims.

B. CONTRACTOR

This Policy is extended to indemnify the Insured in respect to claims arising from any negligence or breach of duty of care, negligent misstatement or negligent misrepresentation of a Contractor in the professional conduct of the Insured's Business Activity within the Territorial Limits. This extension does not alter the definition of the Insured.

THIS IS TO CERTIFY that in accordance with the authorisation granted under the Contact No. SPRGL0800468 to Winsure Underwriting Pty Ltd by certain Underwriters at Lloyd's whose definitive numbers and the proportions underwritten by them, which will be supplied upon application, can be ascertained by reference to the said Contracts which bear the Seal of Lloyd's policy Signing Office, and in consideration of the premium specified herein, the said Underwriters are hereby bound, severally and not jointly, each for his own part and not for one another, their Executors and Administrators, to insure in accordance with the terms and conditions contained herein or endorsed heron.

In witness whereof this insurance has been signed in Sydney, on the date shown in the Schedule.

This section has been left intentionally blank.