

# winsure

## UNDERWRITING

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| <b>PEST MANAGERS PUBLIC AND PRODUCTS LIABILITY AND PROFESSIONAL INDEMNITY INSURANCE PACKAGE</b> |
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### SECTION 1 - PROFESSIONAL INDEMNITY INSURANCE

**THIS IS TO CERTIFY** that In accordance with the authorisation granted under the General Liability **Contract No.** SPRGL0800459 and Professional Indemnity **Contract No.** SPRGL0800468 to **WINSURE Underwriting Agency 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.

#### 1. INSURING CLAUSE

the **Insured** having made a **Proposal** and declaration and having paid or agreed to pay the **Premium**, the **Underwriters** 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 **Underwriters** 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; and the aggregate liability of the **Underwriters** for all **Claim(s)** under this Clause shall not exceed \$50,000
- 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 **Underwriters** with approval of the **Insured** and no liability shall attach hereto for any loss brought about by wear, tear and other gradually operating causes, and the aggregate liability of the **Underwriters** for all **Claim(s)** under this Clause shall not exceed \$20,000 .
- 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 and the aggregate liability of the **Underwriters** for all **Claim(s)** under this Clause shall not exceed \$20,000.

WINSURE Pest Wording July 2014

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- 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 THAT:
- 1.8 this extension of indemnity shall not include claims made under the penal or criminal provisions of those Acts or legislation;
- 1.9 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 **Underwriters** agrees to indemnify the **Insured** for **Defence Costs** in respect of any **Claim(s)** covered under clause 1 above.

2.1 **NEWLY CREATED OR ACQUIRED ENTITY OR SUBSIDIARY**

Subject to the terms and conditions of this Policy, the **Underwriters** 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 **Underwriters**) 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 (45) days to the **Underwriters** together with appropriate underwriting information as required by the **Underwriters** 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:

- 2.3 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
- 2.4 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.

3. **JOINT VENTURE**

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

4. **RUN-OFF OF DIVESTED ENTITIES**

Where a covered entity or subsidiary ceases to exist or to operate or is acquired by another, then the **Underwriters** agree 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 **Underwriters** in writing.

## 5. COSTS OF EXPENSES – OFFICIAL INQUIRIES

Subject to the terms and conditions of this **Policy**, the **Underwriters** agrees to indemnify the **Insured** for the costs incurred by the **Underwriters**, 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 THAT:

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

## 6. RETROACTIVE DATE

6.1 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:

- (i) the **Insured** having continuous insurance cover from this date to the inception of the current **Policy** and the **Underwriters** will only indemnify the **Insured** for an amount up to the **Limits of Indemnity** specified in prior **Policies** or the **Limit of Indemnity** under this **Policy** whichever is the lesser, and
- (ii) the **Insured** providing evidence of prior **Policies** to the satisfaction of the **Underwriters**.

6.2 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**.

6.3 If the **Claim** being made against the **Insured** is for **Business Activity** carried out prior to **RSA** accreditation, and providing the **Insured** has had continuous insurance during that period of time, and is made after the Retroactive Date as specified on the **Schedule**, then the **Excess** payable by the **Insured** shall be double the **Excess** specified on the **Schedule**.

## 7 DEFINITIONS AND INTERPRETATION

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

7.2 **Business Activity** means one or more of the following business activities: Urban Pest & Weed Control Work; Termite Work; and Timber Pest Work, which the **Insured** performs in the ordinary course of business for which the **Insured** is remunerated or other activities necessary to the conduct thereof

**Urban Pest & Weed Control Work** means pest and weed control work carried out in an urban environment. the term Urban Pest & Weed Control Work does not include agricultural pest & weed control work, termite work or timber pest work.

Any person carrying out **Urban Pest & Weed Control Work** must have an appropriate State Licence. All work must be carried out in strict accordance with all relevant Government legislation, laws and regulations and the current **RSA** "Pest Management Guidelines".

In addition, the use and disposal of any chemicals or other systems to treat or manage urban pests and weeds must be in strict accordance with the manufacturers written instructions. The use of any chemical or other system must fit the purpose for which it is intended by the manufacturer, and where applicable, be approved and currently endorsed for that purpose by the National Registration Authority for Agricultural Veterinary Chemicals (NRA) or the Agricultural Chemicals and Veterinary Medicines Authority (ACVMA).

**Termite Work** means the work of inspecting for and reporting on dry wood and subterranean termites. The term Termite Work also includes the treatment and management of subterranean termites, but does not include fumigation work or timber pest work.

Any person carrying out **Termite Work** must have an appropriate State Licence, where applicable. All work must be carried out in strict accordance with all relevant Government legislation, laws and regulations; all parts of the current Australian Standard "Termite Management" AS 3660, and the current **RSA** Handbook "Standard Termite Detection Reports, Uniform Inspection Guidelines for Termite Detection Consultants".

In addition, the use and disposal of any chemicals or other systems to treat or manage subterranean termites must be in strict accordance with the manufacturers written instructions. The use of any chemical or other system must fit the purpose for which it is intended by the manufacturer, and where applicable, be approved and currently endorsed for that purpose by the National Registration Authority for Agricultural Veterinary Chemicals (NRA) or the Agricultural Chemicals and Veterinary Medicines Authority (ACVMA).

**Timber Pest Work** means the work of inspecting for and reporting on dry wood and subterranean termites, fungal decay, wood borers and chemical delignification.

Any person carrying out **Timber Pest Work** must have an appropriate State Licence, where applicable. All work must be carried out in strict accordance with the current **RSA** Handbook "Standard Timber Pest Detection Reports, the Uniform Inspection Guidelines for Timber Pest Detection Consultants" and the current Australian Standard "Inspection of Buildings. Part 3: Timber Pest Inspection Reports". AS4349.3.

- 7.3 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**.
- 7.4 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**.
- 7.5 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.
- 7.6 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**.

- 7.7 **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.
- 7.8 **Excess** means the amount stated in the **Schedule** which the **Insured** must bear in respect of each **Claim** inclusive of Defence Costs, before the **Underwriters** is liable to make any payment under this **Policy**.
- 7.9 **Inception Date** means the date on which the **Insured's** insurance cover with the **Underwriters** commences, as specified in the **Schedule**.
- 7.10 **Insured** means:
- (i) the person, persons, partnership, Underwriters, corporation, statutory authority or other entity specified in the **Schedule** as **Insured**;
  - (ii) any predecessor in business of any person or entity in (i);
  - (iii) any person who is, was, becomes or ceases to be a principal, partner, **Director, Officer, Partner** or employee of any person, persons, partnership, Underwriters, 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
  - (iv) any executor, administrator, heir or trustee of any person in (i), (ii) or (iii).
- 7.11 "The Underwriters" means the entity referred to as such in the Schedule.
- 7.12 **Limit of Indemnity** means the maximum amount payable by the **Underwriters** 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 **Insureds** claiming on the **Policy**.
- 7.13 **Period of Insurance** means from the **Inception Date** to the date on which insurance cover ceases, as stated in the **Schedule**.
- 7.14 **Policy** means this policy of insurance between the **Underwriters** and **Insured**, together with the **Schedule** and **Proposal**.
- 7.15 **Premium** means the amount payable by the **Insured** for this **Policy** as stated in the **Schedule**.
- 7.16 **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**.
- 7.17 **Proposal** means the **Proposal** for insurance provided under this **Policy** including any documentation or information submitted in support by the **Insured** to the **Underwriters**.
- 7.18 **RSA** means Report Systems Australia Pty Limited
- 7.19 **Schedule** means the **Schedule** of insurance issued by the **Underwriters** 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**.
- 7.20 **Territorial Limits** means Worldwide, excluding the United States of America or the Dominion of Canada.

- 7.21 **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.
- 7.22 This **Policy** and **Schedule** shall be read together.
- 7.23 the headings are for ease of reference only and do not affect its interpretation.
- 7.24 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.
- 7.25 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.

## 8 EXCLUSIONS

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

Where the **Business Activity** was NOT

- 8.1 in strict accordance with current industry standards including Australian Standards for Pest Control operators and in accordance with applicable **RSA** guidelines at the time of inspection / treatment and/or
- 8.2 subject to a written report issued in strict accordance with the applicable **RSA** guidelines in force at the time of the inspection / treatment; or
- 8.3 conducted by current **RSA** accredited members
- 8.4 involving Injury to any person or damage to property (except in so far as indemnified by the loss of **Documents** cover);
- 8.5 made against the **Insured** by or on behalf of any entity in which the **Insured** exercises a financial or managerial interest;
- 8.6 arising from the **Insured's** insolvency or impecuniosity or lack of financial resources;
- 8.7 arising from services undertaken prior to the **Insured's** incorporation;
- 8.8 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**;
- 8.9 arising from the recommendation or specification of any goods or **Products** where their use is not in accordance with the manufacturer's specification;
- 8.10 arising from the manufacture, installation, maintenance or servicing of any **Product** sold, supplied or distributed by the **Insured**;
- 8.11 arising from obscenity, blasphemy or pornographic material;



## 9 GENERAL EXCLUSIONS

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

- 9.1 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**.
- 9.2 first made before the **Inception Date**;
- 9.3 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**;
- 9.4 or potential **Claim** or circumstance which has, or ought to have, been notified under any other **Policy** of insurance prior to the **Inception Date**;
- 9.5 made against any **Insured** by any other **Insured** in any capacity whatsoever;
- 9.6 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**;
- 9.7 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;
- 9.8 or potential **Claim** or circumstance in any way connected with the United States of America or Canada or their territories or laws;
- 9.9 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;
- 9.10 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;
- 9.11 directly or indirectly caused by or contributed to by or arising from:
  - ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
  - the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
- 9.12 directly or indirectly arising from or in any way connected with asbestos.
- 9.13 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.

## 10 OBSERVANCE OF TERMS

- 10.1 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**.

- 10.2 The **Underwriters** 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 **Underwriters** is obliged to pay shall be encompassed within the **Limit of Indemnity**.

## 11 CLAIMS CONDITIONS

- 11.1 The **Insured** must notify the **Underwriters** 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 Agency Pty Ltd
- 11.2 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 **Underwriters**. The **Insured** shall do nothing which may prejudice the rights of the **Underwriters**, including but not limited to preserving all possible defences, and rights of contribution or indemnity, in respect of a **Claim**.
- 11.3 The **Insured** must, at its own expense, provide the **Underwriters** with all assistance and co-operation reasonably required by the **Underwriters** to enable the **Underwriters** to determine the **Insured's** entitlement to indemnity under the **Policy**, and in the investigation, settlement and/or defence of any **Claim**.
- 11.4 The **Underwriters** 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 **Underwriters** 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 **Underwriters** may require.
- 11.5 A **Claim** against the **Insured** will only be defended if in the opinion of the **Underwriters** there is a reasonable prospect of success and after taking account of the commercial considerations and economics of defending such **Claim**

## 12 GENERAL CONDITIONS

### 12.1 REASONABLE PRECAUTIONS

The **Insured** at its own expense shall:

- 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**;
- exercise care in the selection and supervision of employees;
- 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;
- comply with all statutory requirements and other safety regulations imposed by any authority.

### 12.2 ALTERATION

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

### 12.3 CANCELLATION



The **Underwriters** may cancel this **Policy** in accordance with the Insurance Contracts Act 1984 (Cth).

#### 12.4 DISCHARGE OF LIABILITY

the **Underwriters** 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.

#### 12.5 EXCESS

- The **Underwriters** 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**.
- The **Insured** shall not effect insurance in respect of the **Excess**.

#### 12.6 ADJUSTMENT OF PREMIUM

- 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 **Underwriters** for inspection.
- Within one month of the expiry of each **Period of Insurance** the **Insured** shall supply to the **Underwriters** 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**.
- Should the **Insured** fail to supply such a statement within one month of the expiry of the **Period of Insurance** the **Underwriters** shall be entitled if they so wish to charge an additional **Premium** in respect of that **Period of Insurance**.

#### 12.7 GOVERNING LAW AND JURISDICTION

This **Policy** shall be governed by the law of Australia and the State of New South Wales and the parties hereto agree to submit to the exclusive jurisdiction of the New South Wales Courts with respect to any dispute or difference arising hereunder

#### 12.8 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 **Underwriters** agrees to waive all rights of subrogation against any of these parties.

Provided that the total amount payable under this **Policy** does not exceed the **Limit of Indemnity**.

#### 12.9 SUBROGATION

The **Underwriters** 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 **Underwriters** 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. ASSIGNMENT

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

13.2 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**.

### 13.3. 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:

- failed to comply with the duty of disclosure under section 21 of the Insurance Contracts Act 1984;
- made a misrepresentation to Us before this **Policy** was entered into; or
- 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 THAT the other person or entity:
- was entirely innocent of and had no prior knowledge of the relevant conduct; and
- notifies the **Underwriters** 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

#### 1. AUTOMATIC REINSTATEMENT

It is agreed that upon notification to the **Underwriters** 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 **Underwriters** 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 **Underwriters** 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**.

#### 2. 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**.

## SECTION 2 –PUBLIC AND PRODUCT LIABILITY

This is a "claims made and notified" **Policy**. This insurance only covers Claims made on the **Insured** and reported to the **Underwriters** during the **Period of Insurance**.

### 1. INSURING CLAUSES

#### 1. INDEMNITY CLAUSE

the **Underwriters** will pay to or on behalf of the **Insured** up to the applicable **Limit of Liability** all sums which the **Insured** shall incur a civil liability to pay by way of **Compensatory Damages** by reason of any **Claim** for **Personal Injury** or **Property Damage** which is first made against the **Insured** during the **Period of Insurance**, where such **Personal Injury** or **Property Damage** is alleged to have been caused by an **Occurrence** in connection with the **Insured's Business Activity** and that **Occurrence** has first taken place after the **Retro-Active Date**.

#### 2. SUPPLEMENTARY PAYMENTS CLAUSE

In addition, with respect only to **Claims** falling within the indemnity provided by the Indemnity Clause, the **Underwriters** will also make **Supplementary Payments** as provided by this Supplementary Payments Clause.

Should the **Insured's** established or agreed liability for **Compensatory Damages** exceed the applicable **Limit of Liability** stated in the **Schedule**, the **Underwriters** will only pay that percentage of **Supplementary Payments** which that **Limit of Liability** bears to the amount of liability for **Compensatory Damages**.

Under no circumstances will the total of **Supplementary Payments** exceed an amount equal to 50% of the applicable **Limit of Liability**.

#### 3. LIMITS OF LIABILITY CLAUSE

The limit of the **Underwriters** liability in respect of all **Claims** directly or indirectly arising out of or in connection with any one **Occurrence** shall not exceed the **Limit of Liability** stated in the **Schedule**. All **Occurrences** directly or indirectly arising out of or in connection with one source or original cause shall be treated as one **Occurrence**, for all purposes relating to this **Policy**.

The limit of the **Underwriters** total aggregate liability in respect of all **Claims** made upon the **Insured** during the **Period of Insurance** and arising directly or indirectly out of or in connection with **Occurrences** involving the **Insured's Products**, shall not exceed the designated **Sub-Limits of Liability** stated in the **Schedule**.

### SECTION 2 DEFINITIONS

1. For all purposes of this **Policy**:

2. "the **Insured**" includes:

- the Named Insured stated in the **Schedule** together with all Related Entities as defined in the *Corporations Act 2001* (Cth);
- any Director, Officer or **Employee** of any entity described in clause 1(a) above, or their personal representative, but only while acting within the scope\of their duties in that capacity;

- any Principal of the Named Insured or a Related Entity, but only in respect of liabilities arising out of the performance by the **Insured** or Related Entity of work for such Principal, and then only to the extent required by the relevant contract.
3. **“Personal Injury”** means:
- bodily Injury, sickness, disease or disability, including resultant death;
  - false arrest or false imprisonment, wrongful detention or wrongful eviction, malicious prosecution or humiliation;
  - malicious falsehood, defamation or breach of the right to privacy; or
  - trespass to the person, assault or battery, not committed by or at the **Insured’s** direction unless for the purpose of preventing or eliminating imminent or present danger to persons or property.
4. the **Occurrence** out of which a **Claim** for **Personal Injury** involving a latent or gradual onset injury, sickness, disease or disability arises, shall be deemed to have first taken place on the date such injury, disease, sickness or disability, as the case may be, was first medically diagnosed.
5. **“Property Damage”** means physical injury to or destruction of tangible property, including the resultant loss of use of that damaged or destroyed property.
6. the **Occurrence** that gives rise to a **Claim** for **Property Damage** that consists of latent damage or gradual deterioration, shall be deemed to have first taken place on the date such latent damage or the person making the **Claim** first discovered deterioration.
7. **“Occurrence”** means an event, including continuous or repeated exposure to the same or similar conditions, which causes **Personal Injury** or **Property Damage** neither expected nor intended from the **Insured’s** standpoint.
8. **“Employee”** means any person employed under a contract of service, by any of the entities referred to in DEFINITIONS clause 1 (a) above, and includes persons deemed by Common Law, or by the operation of any Statute, ordinance or regulation, to have been so employed.
9. **“Medical Persons”** means:
- (i) registered nurses and first aid attendants, legally qualified as such in Australia; and
  - (ii) medical practitioners and dentists, not in the employ of the Insured, who are legally qualified as such in Australia.
10. **“Insured’s Products”** means anything, after it has ceased to be in the **Insured’s** possession or under the **Insured’s** control, which is manufactured, constructed, erected, installed, repaired, serviced, treated, sold, supplied or distributed by the **Insured** (including any container other than a **Vehicle**).
11. **“Vehicle”** means any form of mobile, mechanically powered conveyance that may be used for the transportation of goods or persons by land, sea, air or under the ground. It includes all such machines that are intended wholly or partially for recreational purposes, but does not include any plant or equipment while it is being used as such and is neither being used for haulage nor is in transit to or from or within any work site.

12. **"Pollution"** means the discharge, dispersal, release or escape of smoke, vapour, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases, waste materials or any other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water.
13. **"Policy"** means the contract of insurance between the **Named Insured** and the **Underwriters**, as embodied in the Proposal, the **Schedule**, this **Policy** text and all Endorsements and Memoranda attached to and agreed to form part of it, but does not include any Statutory Notices required to be provided in connection with it or any legislative provisions to which its operation may be subject.
14. **"Retro-Active Date"** means  
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:
- the **Insured** having continuous insurance cover from this date to the inception of the current **Policy** and the **Underwriters** will only indemnify the **Insured** for an amount up to the **Limits of Indemnity** specified in prior **Policies** or the **Limit of Indemnity** under this **Policy** whichever is the lesser, and
  - the **Insured** providing evidence of prior **Policies** to the satisfaction of the **Underwriters**.
  - 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**.
  - If the **Claim** being made against the **Insured** is for **Business Activity** carried out prior to **RSA** accreditation, and providing the **Insured** has had continuous insurance during that period of time, and is made after the Retroactive Date as specified on the **Schedule**, then the **Excess** payable by the **Insured** shall be double the **Excess** specified on the **Schedule**.
15. **"Business Activity"** shall mean one or more of the following business activities: **Urban Pest & Weed Control Work**; **Termite Work**; and **Timber Pest Work**.
16. **Urban Pest & Weed Control Work** means pest and weed control work carried out in an urban environment. The term **Urban Pest & Weed Control Work** does not include agricultural pest & weed control work, termite work or timber pest work.  
Any person carrying out **Urban Pest & Weed Control Work** must have an appropriate State Licence. All work must be carried out in strict accordance with all relevant Government legislation, laws and regulations and the current **RSA** "Pest Management Guidelines".  
In addition, the use and disposal of any chemicals or other systems to treat or manage urban pests and weeds must be in strict accordance with the manufacturers written instructions. The use of any chemical or other system must fit the purpose for which it is intended by the manufacturer, and where applicable, be approved and currently endorsed for that purpose by the National Registration Authority for Agricultural Veterinary Chemicals (NRA) or the Agricultural Chemicals and Veterinary Medicines Authority (ACVMA).
17. **Termite Work** means the work of inspecting for and reporting on dry wood and subterranean termites. The term **Termite Work** also includes the treatment and management of subterranean termites, but does not include fumigation work or timber pest work.

Any person carrying out **Termite Work** must have an appropriate State Licence, where applicable. All work must be carried out in strict accordance with all relevant Government legislation, laws and regulations; all parts of the current Australian Standard "Termite Management" AS 3660, and the current **RSA Handbook** "Standard Termite Detection Reports, Uniform Inspection Guidelines for Termite Detection Consultants".

In addition, the use and disposal of any chemicals or other systems to treat or manage subterranean termites must be in strict accordance with the manufacturers written instructions. The use of any chemical or other system must fit the purpose for which it is intended by the manufacturer, and where applicable, be approved and currently endorsed for that purpose by the National Registration Authority for Agricultural Veterinary Chemicals (NRA) or the Agricultural Chemicals and Veterinary Medicines Authority (ACVMA).

18. **Timber Pest Work** means the work of inspecting for and reporting on dry wood and subterranean termites, fungal decay, wood borers and chemical delignification. Any person carrying out **Timber Pest Work** must have an appropriate State Licence, where applicable. All work must be carried out in strict accordance with the current **RSA Handbook** "Standard Timber Pest Detection Reports, the Uniform Inspection Guidelines for Timber Pest Detection Consultants" and the current Australian Standard "Inspection of Buildings. Part 3: Timber Pest Inspection Reports". AS4349.3.
19. "**Claim**" means the positive assertion by another person or organisation of a legal entitlement to **Compensatory Damages** from an Insured, addressed in writing to the **Insured** and expressed in terms that indicate an intention to pursue it.
20. "**Limit of Liability**" and "**Sub-Limit of Liability**" means the amounts specified as such in the **Schedule**, where applicable.
21. "**Commencement Date**" means the date specified in the **Schedule** as the first calendar day of the **Period of Insurance**;
22. "**Expiry Date**" means the last calendar day of the **Period of Insurance**.
23. "**Period of Insurance**" means the period during which the cover provided by this **Policy** is in force, beginning on the **Commencement Date** and concluding at 4.00 pm on the **Expiry Date**.
24. "**Underwriters**" means the entities referred to as such in the **Schedule**.
25. "**Compensatory Damages**" means civil damages, other than punitive, exemplary or aggravated damages, fines or penalties, which an Insured may become liable to pay or may with the **Underwriters'** consent agree to pay, to a claimant in connection with a **Claim**, and includes all charges, expenses and legal costs of the claimant for which the **Insured** may also become liable or may so agree to pay.
26. "**Supplementary Payments**" means all charges, expenses and legal costs, incurred by the **Underwriters** or by the **Insured** with the written consent of the **Underwriters**, in connection with the investigation, defence or settlement of **Claims**.

### SECTION 3 EXCLUSIONS

This Insurance does not apply to:

1. Where the **Business Activity** was NOT
  - in strict accordance with current industry standards including Australian Standards for Pest Control operators and in accordance with applicable **RSA** guidelines at the time of inspection / treatment, and/or



- subject to a written report issued in strict accordance with the applicable **RSA** guidelines in force at the time of the inspection / treatment; or
  - conducted by current **RSA** accredited members
2. Any liability which an Insured may incur, whether under the provisions of any Worker's Compensation legislation, industrial award, agreement or determination or otherwise, toward any **Employee** of that Insured for **Personal Injury** suffered by that **Employee**.
3. Liability for Property Damage to:
- property owned, leased or hired by the **Insured**, except for leased premises where the damage is caused by fire, explosion, water leakage or **Vehicle** impact;
  - property in the **Insured's** physical or legal control, except for property of the **Insured's Employees**, or **Vehicles** which are not used by or on the Insured's behalf but which are damaged whilst in the **Insured's** car park, provided that the **Insured's Business Activity** does not include ownership or operation of a car park for reward.
4. Liability for **Property Damage** to the **Insured's Products**, if such damage is attributable to any defect or deficiency in those **Products** or their harmful nature or unsuitability.
5. Any liability arising out of or in connection with the performance of the **Insured's** obligations under any contract, including an agreement to indemnify any other person or organisation against a loss or liability, or for damages for the Insured's failure to perform such an obligation. This includes but is not limited to contractual obligations toward others arising out of or involving injuries to the **Insured's Employees**. This Exclusion, however, shall not apply to statutory warranties or to any liability for **Personal Injury** or **Property Damage** which would nevertheless have been imposed upon the insured even in the absence of such a contractual obligation.
6. Any liability for the withdrawal, recall, inspection, repair, replacement or loss of use of the **Insured's Products**, or of any property of which such **Products** forms a part, if such **Products** or property are withdrawn from the market or from use because of any known or suspected defect or deficiency in them.
7. Any liability arising out of or in connection with the ownership, maintenance, operation or use by an Insured of any **Vehicle**.
8. Any liability arising out of or in connection with the provision of, failure to provide or any error or omission in connection with, professional advice or services, including but not limited to plans, designs, specifications, recommendations or instructions and irrespective of whether or not a fee is charged for the advice or service, on the part of any Insured. This Exclusion, however, shall not apply to:
- the rendering of or failure to render professional medical advice or assistance by medical persons employed by the **Insured** to provide first aid and/or other medical services on the Insured's premises;
  - commercial representations or recommendations, manuals, standard operating directions or instructions for use, made or issued in connection with the **Insured's Products**; or
  - errors in design, formulation, specification or preparation of the **Insured's Products**, before they have ceased to be in the **Insured's** possession or under the **Insured's** control.

9. Any liability, of whatever nature and however arising, directly or indirectly arising out of or in connection with **Pollution**, including but not limited to the prevention, clean up or containment of it, any **Personal Injury** or **Property Damage** caused by it and the remediation of any environment affected by it; provided, however, that this Exclusion shall not apply where the Insured has proved, on the balance of probabilities, that the discharge, dispersal, release or escape involved:
  - did not occur gradually over a period of time but suddenly, at an identifiable point in time; and
  - was entirely unexpected, unintended and fortuitous from the standpoint of the **Insured**.
10. Any liability established in legal proceedings against an **Insured** in any court of any jurisdiction within the United States of America or Canada, their territories, protectorates or other dominions, including proceedings brought in any jurisdiction to enforce any judgment obtained in such a court. However this Exclusion shall not apply to:
  - Sales and/or distribution offices located in the USA and Canada provided that all products that are sold and /or distributed therefrom are manufactured outside the USA and Canada, and are supplied to the sales and/or distribution offices by the Insured
  - Temporary work performed solely by the Insured's Employees and/or Directors resident outside the USA and Canada, who are temporarily visiting the USA and/or Canada.
11. Any liability arising out of or in connection with **Personal Injury** or **Property Damage** (including loss of use of property) directly or indirectly arising out of or in connection with:
  - the mining, processing, transportation, distribution, processing and/or storage of asbestos or asbestos-related products;
  - any process or procedure for the extraction, removal, disposal, treatment or control of asbestos, or for the decontamination or remediation of property affected by asbestos.
12. Any liability arising out of or in connection with any defamatory publication or utterance or malicious falsehood:
  - made prior to the commencement of the **Period of Insurance**; or
  - made at the **Insured's** direction with knowledge of its falsity or reckless disregard for its truth or falsity; or
  - made in connection with advertising, broadcasting, telecasting or publishing activities conducted by or on the **Insured's** behalf.
13. Any liability directly or indirectly arising out of or in connection with war, invasion, acts of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power. This includes expropriation, seizure, confiscation, nationalisation, damage or destruction of the **Insured's Products** or of any other Property, by or under the order of any de facto or de jure government or authority.
14. Liability directly or indirectly arising out of or in connection with ionising radiation or contamination by radio activity from any man made source.
15. Any liability arising out of the use of chemical and fumigation agents, other than where they are used/disposed of in accordance with the manufacturers instructions or recommendations and in accordance with all the relevant laws and regulations. Chemicals and fumigants falling under these criteria must be approved and endorsed by the National Registration Authority for Agricultural and Veterinary Chemicals (NRA).
16. Liability arising directly or indirectly from the existence of toxic mould.

**SECTION 4 CONDITIONS**

1. the **Insured** must give written notice, the **Underwriters**, of every **Claim** or **Occurrence** out of which a **Claim** might reasonably be expected to arise, as soon as reasonably possible after the **Insured** itself becomes aware of that **Claim** or **Occurrence**.
2. the **Insured** shall not without the **Underwriters'** consent in writing make any admission, offer, promise, payment or settlement in connection with any **Occurrence** or **Claim** and the **Underwriters**, if they so desire, shall be entitled to take over and conduct on behalf of the **Insured** and in its name the investigation, defence, negotiation or settlement of any **Claim**, in such manner and upon such terms as they may consider appropriate.
3. the **Insured** shall use their best endeavours to preserve any property, Products, equipment or other evidence which might prove relevant, necessary or useful in connection with the investigation of any **Occurrence** or the negotiation, defence or settlement of any **Claim** and, so far as may be reasonably practicable, no alternation, disposal or repair shall be effected without the **Underwriters'** consent, until the **Underwriters** has had full opportunity to inspect and preserve any evidence.
4. the **Underwriters** shall be subrogated to and shall be entitled to prosecute in the **Insured's** name, at their own expense and for their own benefit, any cause of action (including a **Claim** for contribution or indemnity) which the **Insured** may have against any other person or organisation, arising out of an **Occurrence** which has given rise to a **Claim** in respect of which indemnity for **Compensatory Damages** or a Supplementary Payment has been provided by the **Underwriters** under this **Policy**. It is not a requirement of the pursuit of subrogation, under this Condition, that actual payment first be made by the **Underwriters**.
5. The **Insured** shall do nothing to restrict, compromise, prejudice or limit the **Underwriters'** rights of subrogation after an **Occurrence**. If the **Insured** does anything of the sort, including entering into any compromise or release of liability with any other party, the **Underwriters** may adjust the indemnity for **Compensatory Damages** and any **Supplementary Payments** provided under this **Policy** by the monetary equivalent of the prejudice caused to them.
6. The **Underwriters** shall have first right to the proceeds of any such recovery action but shall account to the **Insured** for any amount which they may recover, in excess of the total amount of indemnity for **Compensatory Damages** and **Supplementary Payments** paid under this **Policy**, after deduction of the **Underwriters'** costs of recovery.
7. The **Underwriters** shall have full discretion in the conduct of the investigation, defence, negotiation or settlement of any legal proceedings, in connection with any **Claim** or any subrogation recovery, and the **Insured** shall provide all necessary information, cooperation and assistance as the **Underwriters** may reasonably require in connection with any **Claim** or recovery. This shall be at the **Insured's** own expense, except that the **Underwriters** shall promptly reimburse the **Insured** for any out of pocket expenses, other than remuneration, lost profits or opportunity costs, incurred in the provision of such information, cooperation or assistance.
8. In the event of an **Occurrence**, the **Insured** shall promptly take at its own expense all reasonable steps to prevent or to mitigate **Personal Injury** or **Property Damage**, arising from that **Occurrence** or similar **Occurrences**, and to reduce the likelihood of **Claims**. Under no circumstance shall the expense of complying with this condition be recoverable under this **Policy**.
9. In respect of all **Claims** directly or indirectly arising out of one source or original cause, the

**Underwriters** may at any time tender to the **Insured** the balance of the **Limit of Liability** in respect of those **Claims**, or such lesser amount as the persons making the **Claims** are willing to accept, at that time, in full and final settlement. The **Underwriters** shall then be under no further liability under this **Policy** in respect of those **Claims**, except for:

- charges, expenses and legal costs which may subsequently be recoverable from the **Insured** only in respect of the period prior to the date on which the **Limit of Liability** was tendered; and
- Charges, expenses and legal costs incurred by the **Insured**, with the **Underwriters'** written consent, prior to that date.

10. The **Insured** shall take all reasonable precautions to prevent **Personal Injury** and **Property Damage** from arising out of or in connection with its Business, and shall comply with and ensure that its **Employees**, contractors, agents and other representatives comply with all statutory obligations, Codes, bylaws or regulations which may be applicable to the Business from time to time. In particular, and without limiting the generality of the foregoing, the **Insured** shall at its own expense take all reasonable steps to trace, recall and/or modify any of its Products which it knows or has reason to suspect may contain any defect or deficiency which may render them injurious to persons or property, and shall comply promptly with all statutory obligations which may be imposed upon it in this regard.
11. Each of the persons or entities comprising the **Insured** shall be treated, for the purposes of this **Policy**, separately and distinctly from all of the others and the word "Insured" shall be applied to them in the same manner as if a separate **Policy** had been issued to each, however under no circumstances shall this Condition operate in such a manner as to increase the **Underwriters' Limit of Liability** or any Sub-Limits, beyond those which would apply if there were only a single Insured.
12. This **Policy** also insures the liability of any Principal of the **Insured**, arising out of the performance by the **Insured** of any work for such Principal, but only to the extent required under the relevant contract and subject always to the Limits of Liability and to the other terms, Conditions and Exclusions of the **Policy**. In the case of any conflict between the terms of the relevant contract and this **Policy**, this **Policy** shall prevail.
13. The **Insured** must ensure payment of the premium specified in the **Schedule** to the **Underwriters** within sixty days of the commencement of the **Period of Insurance**.
14. The **Insured** must provide the **Underwriters**, as soon as reasonably practicable, with written notice of every change which materially varies or alters any of the facts or circumstances, relating to any of the parties falling within the definition of the **Insured** or to the **Insured's Business**, as they were disclosed in the Proposal or known to the **Underwriters** at the **Commencement Date** of this **Policy**.

This includes the entry by an Insured, after the commencement of the **Policy**, into any contract, arrangement or understanding, which may limit its legal rights against any other party, to which the **Underwriters** might otherwise be subrogated.

In the event of such a material change, the **Underwriters** reserve the right to cancel or to amend the terms of this **Policy**, as they may consider appropriate, or to charge such additional premium as may be reasonable in the circumstances. If the **Insured** does not provide notice of a material change sufficiently before the happening of an **Occurrence** as to give the **Underwriters** adequate opportunity to exercise their rights under this Condition, the **Underwriters** may refuse coverage, in whole or in part, in respect of any **Claim** arising out of

that **Occurrence**.

15. In the event of any **Claim** for which the **Insured** is entitled to coverage under this **Policy** and also under any other **Policy** or policies, then in the event that the **Insured** elects to pursue its rights under this **Policy** the **Insured** must inform the **Underwriters** of the full details of all such other insurances, and must provide all reasonable assistance to the **Underwriters** in enforcing their rights to rateable contribution.
16. The Named Insured may cancel this **Policy**, on behalf of all other persons or entities falling within the definition of Insured or otherwise entitled to the benefit of the insurance, at any time by giving immediate written notice to Winsure Underwriting Agency Pty Ltd, which shall receive it on behalf of the **Underwriters**. the **Underwriters** may cancel this **Policy** by giving three business days' notice in writing to the Named Insured, in any of the circumstances permitted by Section 60 of the *Insurance Contracts Act 1984* (Cth).

In the event of cancellation by either party, the **Underwriters** may retain pro-rata premium for the time on risk. In the event of cancellation by the **Insured**, a penalty loading of 20% of the full-adjusted annual premium will also apply. When the premium is subject to adjustment, cancellation by either party will not effect the **Insured's** obligation to supply such information as the **Underwriters** may reasonably require for the adjustment of the premium. Neither will cancellation effect the **Insured's** obligations to pay the amount of the adjustment, as applied to the pro-rata premium.

17. The **Underwriters** shall be permitted but not obliged to inspect the **Insured's Business** and operations at any time. Neither the **Underwriters'** right to make inspections nor the making of any inspection nor any report of an inspection shall constitute any form of undertaking, acknowledgement or representation regarding the safety or appropriateness of the **Insured's Business** or the manner in which it is being carried on, or a waiver of any of the **Underwriters'** other rights. the **Underwriters** may examine and audit the **Insured's** books and records at any time during the **Period of Insurance**, including any renewals or extensions of it, and within three years after the final renewal has concluded, in so far as they may relate to the subject matter of the insurance.
18. Should the premium for this **Policy** or any renewal have been calculated on estimates furnished by the **Insured**, and subject to adjustment at the end of the **Period of Insurance**, then the **Insured** must keep accurate records and all necessary evidence of all particulars required to enable the adjustment to be promptly and efficiently calculated, and must permit the **Underwriters** to inspect this evidence at such times and in such manner as they may reasonably require. Within thirty days of the expiry of each **Period of Insurance** the premium for which is subject to adjustment, the Named Insured shall furnish to Winsure Underwriting Agency Pty Ltd, which shall receive it on behalf of the **Underwriters**, a statement containing full particulars and supporting information required to calculate the adjustment. The premium for the expired **Period of Insurance** shall then be adjusted accordingly and any extra premium or return premium required shall be paid by or credited to the Named Insured, as the case may be, within thirty days. Nothing in this Condition precludes the retention, by the **Underwriters**, of any minimum premium applicable to the relevant **Period of Insurance**.
19. 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* (Cth), and the **Insured** and the **Underwriters** agrees 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.

20. The Underwriters hereon agree that:-

- a. In the event of a dispute arising under this policy, Underwriters 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.
- b. Any summons notice or process to be served upon the Underwriters 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,  
Australia

Who has authority to accept service and to enter an appearance on Underwriters' behalf, and who is directed at the request of the insured to give a written undertaking to the insured that he will enter an appearance on Underwriters' behalf.

- (iii) 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.

21.

**THIS IS TO CERTIFY** that In accordance with the authorisation granted under the General Liability **Contract No.** SPRGL0800459 and Professional Indemnity **Contract No.** SPRGL0800468 to **WINSURE Underwriting Agency 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**



Simon Lightbody

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**Chief Operating Officer  
Steadfast Underwriting Agencies**