



WINSURE PROFESSIONAL INDEMNITY INSURANCE

POLICY WORDING

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IMPORTANT INFORMATION

Please read the following information.

For the purposes of the Important Information section all references to:

- 'you' or 'your' have the same meaning as the 'Insured' as defined in the Definitions section of the Policy;
- 'we', 'us' or 'our' have the same meaning as the 'Insurer' as defined in the Definitions section of the Policy.

ABOUT LLOYD'S

Lloyd's underwriters are authorised by the Australian Prudential Regulation Authority ('APRA') under the provisions of the *Insurance Act 1973* (Cth) to conduct insurance business in Australia.

Lloyd's syndicates have approximately \$1 billion placed in trust in Australia, purely to act as an additional layer of security to pay claims. Lloyd's is recognised by two leading independent international rating agencies, Standard & Poor's and AM Best who rate Lloyd's "A+" (Strong) and "A" (Excellent).

GENERAL INSURANCE CODE OF PRACTICE

We proudly support the General Insurance Code of Practice. The purpose of the Code is to raise the standards of practice and service in the general insurance industry.

For further information on the Code, please visit www.codeofpractice.com.au

ABOUT WINSURE

Winsure Underwriting Pty Ltd (ABN 68 169 336 252, AR No. 459637) ('Winsure') is an Authorised Representative of Miramar Underwriting Agency Pty Ltd (ABN 97 111 534 797, AFSL 314176) and acts under a binding authority given to it by us, to administer and issue policies, alterations and renewals. In all aspects of arranging this Policy, Winsure acts as an agent for us and not for you.

You can contact Winsure by:

Street address: Level 5, 97-99 Bathurst Street, Sydney NSW 2000

Postal address: PO Box A2016, Sydney South NSW 1235

Phone: +61 2 9307 6600

Fax: +61 2 9307 6699

Winsure is a company within the Steadfast Underwriting Agencies division of Steadfast Group Limited (ABN 98 073 659 677).

OUR CONTRACT WITH YOU

This Policy is a contract of insurance between you and us and contains all the details of the cover that we provide. The Policy consists of:

- this Policy wording which tells you what is covered, sets out the claims procedure, exclusions and other terms and conditions of cover;
- the Proposal, which is the information you provide to us when applying for insurance cover;
- your most current Schedule issued by us. The Schedule is a separate document unique to you, which shows the insurance details relevant to you. It includes any changes, exclusions, terms and conditions made to suit your individual circumstances and may amend the Policy;
- any endorsement;
- any other document we tell you forms part of the Policy which may vary or modify the above documents.

These documents should be read together as they jointly form the contract of insurance between you and us.

YOUR DUTY OF DISCLOSURE

Before you enter into an insurance contract, you have a duty to tell us anything that you know, or could reasonably be expected to know, may affect our decision to insure you and on what terms.

You have this duty until we agree to insure you.

You have the same duty before you renew, extend, vary or reinstate an insurance contract.

You do not need to tell us anything that:

- reduces the risk we insure you for; or
- is common knowledge; or
- we know or should know as an insurer; or
- we waive your duty to tell us about.

If you do not tell us something

If you do not tell us anything you are required to, we may cancel your contract or reduce the amount we will pay you if you make a claim, or both.

If your failure to tell us is fraudulent, we may refuse to pay a claim and treat the contract as if it never existed.

PRIVACY STATEMENT

In this Privacy Statement the use of 'we', 'us' and 'our' means the Insurer and Winsure unless specified otherwise.

We are committed to protecting your privacy. We are bound by the obligations of the *Privacy Act 1988* (Cth). This sets out basic standards relating to the collection, use, storage and disclosure of personal information.

We need to collect, use and disclose your personal information (which may include sensitive information) in order to consider your application for insurance and to provide the cover you have chosen, administer the insurance and assess any claim. You can choose not to provide us with some of the details or all of your personal information, but this may affect our ability to provide the cover, administer the insurance or assess a claim.

The primary purpose for our collection and use of your personal information is to enable us to provide insurance services to you.

Personal information will be obtained from individuals directly where possible and practicable to do so. Sometimes it may be collected indirectly (e.g. from your insurance intermediary or co-insureds). If you provide personal information for another person you represent to us that:

- you have the authority from them to do so and it is as if they provided it to us;
- you have made them aware that you will or may provide their personal information to us, the types of third parties we may provide it to, the relevant purposes we and the third parties we disclose it to will use it for, and how they can access it. If it is sensitive information we rely on you to have obtained their consent on these matters. If you have not done or will not do either of these things, you must tell us before you provide the relevant information.

We may disclose the personal information we collect to third parties who assist us in providing the above services, such as related entities, distributors, agents, insurers, reinsurers and service providers. Some of these third parties may be located outside of Australia. In all instances where personal information may be disclosed to third parties who may be located overseas, we will take reasonable measures to ensure that the overseas recipient holds and uses your personal information in accordance with the consent provided by you and in accordance with our obligations under the *Privacy Act 1988* (Cth).

In dealing with us, you consent to us using and disclosing your personal information as set out in this statement. This consent remains valid unless you alter or revoke it by giving written notice to Winsure's Privacy Officer. However, should you choose to withdraw your consent, we may not be able to provide insurance services to you.

Winsure's Privacy Policy which is available at www.winsure.com.au or by calling Winsure sets out how:

- Winsure protects your personal information;
- you may access your personal information;
- you may correct your personal information held by us;
- you may complain about a breach of the *Privacy Act 1988* (Cth) or Australian Privacy Principles and how Winsure will deal with such a complaint.

If you would like additional information about privacy or would like to obtain a copy of the Privacy Policy, please contact Winsure's Privacy Officer by:

Postal address: PO Box A2016, Sydney South NSW 1235

Phone: +61 2 9307 6656

Fax: +61 2 9307 6699

Email: privacyofficer@steadfastagencies.com.au

You can download a copy of Winsure's Privacy Policy by visiting www.winsure.com.au

DISPUTE RESOLUTION PROCESS

Any enquiry or complaint relating to this insurance should be referred to Winsure in the first instance.

Please contact Winsure by:

Postal address: PO Box A2016, Sydney South NSW 1235

Phone: +61 2 9307 6653

Fax: +61 2 9307 6699

Email: servicefeedback@steadfastagencies.com.au

If Winsure requires additional information, Winsure will contact you to discuss. If your complaint is not immediately resolved Winsure will respond within fifteen (15) business days of receipt of your complaint or agree a reasonable appropriate timeframe to respond.

If this does not resolve the matter or you are not satisfied with the way a complaint has been dealt with, you can contact Lloyd's Australia Limited:

Street address: Level 9, 1 O'Connell Street, Sydney NSW 2000

Phone: +61 2 8298 0783

Fax: +61 2 8298 0788

Email: ldraustralia@lloyds.com

who will refer your dispute to the Complaints Team at Lloyd's who will respond to your complaint within fifteen (15) business days, unless an alternative timetable has been agreed with you.

Complaints that cannot be resolved by the Complaints Team may be referred to the Financial Ombudsman Service (UK). Further details will be provided at the appropriate stage of the complaints process.

CLAIMS – MADE AND NOTIFIED INSURANCE

This Policy provides cover on a claims – made and notified basis. This means that the Policy only covers claims first made against you during the period the Policy is in force and notified to us as soon as practicable in writing while the Policy is in force. The Policy may not provide cover for any claims made against you if at any time prior to the commencement of the Policy you became aware of facts which might give rise to those claims being made against you.

Section 40(3) of the *Insurance Contracts Act 1984* (Cth) provides that where you gave notice in writing to us of facts that might give rise to a claim against you as soon as was reasonably practicable after you became aware of those facts while the Policy is in force, we cannot refuse to pay a claim which arises out of those facts, when made, because it was made after the expiry of the Policy.

YOUR COOLING-OFF PERIOD

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.

SECTION 1 – INSURING CLAUSES

Subject to the information that the Insured provides in the Proposal and payment of the Premium, the Insurer agrees to provide indemnity to the Insured subject to the terms and conditions of the Policy.

1.1 INSURING CLAUSE

The Insurer agrees to indemnify the Insured up to the Limit of Indemnity against any Claim(s) 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:

- a. negligence or breach of duty of care;
- b. negligent misstatement or negligent misrepresentation;
- c. infringement of intellectual property rights including copyright, patent, registered design right or breach or misuse of confidential information;
- d. any unintentional libel, slander or defamation;
- e. 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 is supported by bills and/or accounts which is subject to approval by some competent person to be nominated by the Insurer with approval of the Insured and no indemnity is provided for any loss brought about by wear, tear and other gradually operating causes;
- f. 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. The Insurer will not indemnify the Insured for any Claims for loss of money, negotiable instruments, bearer bonds or coupons, stamps, bank or currency notes;
- g. any breach of the consumer protection provisions of the *Competition and Consumer Act 2010* (Cth) and corresponding consumer protection provisions of the Australian state and territories Fair Trading legislation provided always that:
 - i. this extension of indemnity shall not include Claims made under the penal or criminal provisions of those Acts or legislation;
 - ii. such conduct arises from actual or alleged breach of professional duty as defined in 1.1 Insuring Clause above.

1.2 INSURING CLAUSE

The Insurer agrees to indemnify the Insured for Defence Costs incurred by the Insured, with our written consent, in defence or settlement of any Claim(s) covered under 1.1 Insuring Clause above.

SECTION 2 – AUTOMATIC EXTENSIONS

The following Automatic Extensions are included automatically in this Policy for nil additional premium provided always that these Automatic Extensions are subject to the terms and conditions, Excess and Limit of Indemnity of this Policy. The inclusion of these Automatic Extensions does not increase the Limit of Indemnity of the Policy.

2.1 NEWLY CREATED OR ACQUIRED ENTITY OR SUBSIDIARY

The Insurer 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 Insurer) 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 Insurer together with appropriate underwriting information as required by the Insurer 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:

- a. 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
- b. 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.

2.2 JOINT VENTURE

The Insurer agrees to indemnify the Insured for their joint and several liability, including vicarious liabilities, arising from the operation or activities of any joint venture provided always that this cover will only apply to Claim(s) covered by 1.1 Insuring Clause arising from the joint ventures as named in the Schedule. If no joint ventures are named in the Schedule all liability under this Automatic Extension is limited to the Insured's proportion of liability as determined by final adjudication or ruling.

2.3 RUN-OFF OF DIVESTED ENTITIES

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

2.4 COSTS OR EXPENSES – OFFICIAL ENQUIRIES

The Insurer agrees to indemnify the Insured for the costs incurred by the Insurer, or the reasonable costs incurred by the Insured with the Insurer's 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 Insurer shall be entitled to nominate the legal representation;
- c. the Insured having notified the Insurer in writing within the Period of Insurance and within twenty-eight (28) days of having received notice of the inquiry; and
- d. the aggregate liability of the Insurer for all Claim(s) under this clause shall not exceed \$100,000.

SECTION 3 – OPTIONAL EXTENSIONS

The following Optional Extensions are not included in this Policy unless stated in the Schedule. Cover under these Optional Extensions is subject to the terms and conditions, Excess and Limit of Indemnity of this Policy. The inclusion of these Optional Extensions does not increase the Limit of Indemnity of the Policy.

3.1 REINSTATEMENT OF LIMIT OF INDEMNITY

The Insurer agrees to increase the Limit of Indemnity under this Policy by an amount equal to the Limit of Indemnity provided always that:

- a. indemnity under this Policy does not exceed the Limit of Indemnity as stated in the Schedule for any one Claim or series of Claims arising from the same acts, errors or omissions; and
- b. in the aggregate, indemnity does not exceed an amount equal to twice the Limit of Indemnity as stated in the Schedule.

3.2 CONTRACTORS

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 Optional Extension does not alter the Definition of the Insured.

SECTION 4 – RETROACTIVE DATE

4.1 UNLIMITED RETROACTIVE DATE

“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 to 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 prior to or from the date the act(s), error(s) or omission(s) that gave rise to such Claim(s) occurred, to the inception of the current Policy; and
- b. the Insured providing evidence of prior policies to the satisfaction of the Insurer.

4.2 LIMITED RETROACTIVE DATE

“Limited Retroactive Date” – where a Retroactive Date is specified in the Schedule, then this Policy only provides indemnity in respect of Claim(s) committed or alleged to have been committed after the Retroactive Date.

SECTION 5 – DEFINITIONS

The words listed below have been given a specific meaning in this Policy and these specific meanings apply when the words begin with a capital letter.

5.1 BUSINESS ACTIVITY

Business Activity means the activities 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.

5.2 CLAIM

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.

5.3 CONTRACT

Contract means 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.

5.4 CONTRACTOR

Contractor means 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.

5.5 DEFENCE COSTS

Defence Costs means reasonable costs and expenses for which the Insured is legally liable and/or which are incurred by the Insured with the Insurer's consent and agreement in the investigation, settlement or defence of a Claim covered by this Policy.

5.6 DOCUMENT

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.

5.7 EXCESS

Excess means the amount stated in the Schedule which the Insured must bear in respect of each Claim inclusive of Defence Costs, before the Insurer is liable to make any payment under this Policy.

5.8 INCEPTION DATE

Inception Date means the date on which the Insured's insurance cover with the Insurer commences, as specified in the Schedule.

5.9 INSURED

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 a.;
- c. any person who is, was, becomes or ceases to be a principal, partner, director, officer 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 in a., b., or c.

5.10 INSURER

Insurer means Certain Underwriters at Lloyd's ('the Underwriters').

Note: The Insured can obtain further details of the Underwriters from Winsure upon request.

5.11 LIMIT OF INDEMNITY

Limit of Indemnity means the maximum amount payable by the Insurer under this Policy as stated in the Schedule, inclusive of claimants' costs, fees, expenses and Defence Costs, irrespective of the number, quantum or timing of Claims, or the number of Insureds claiming on the Policy.

5.12 PERIOD OF INSURANCE

Period of Insurance means from the Inception Date to the date on which insurance cover ceases, as stated in the Schedule.

5.13 POLICY

Policy means:

- a. this document (the Policy wording);
- b. the Schedule;
- c. any endorsement attaching to and forming part of this Policy either at inception or during the Period of Insurance; and
- d. the Proposal.

5.14 PREMIUM

Premium means the amount payable by the Insured for this Policy as stated in the Schedule.

5.15 PRODUCT

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.

5.16 PROPOSAL

Proposal means the Proposal for insurance provided under this Policy including any documentation or information submitted to the Insurer by the Insured.

5.17 SCHEDULE

Schedule means the schedule of insurance issued by the Insurer specifying inter alia the Policy number, Premium, the Insured's name, the Insured's Business Activity, the Limit of Indemnity, the Retroactive Date and the Period of Insurance.

5.18 TERRITORIAL LIMITS

Territorial Limits means Worldwide, excluding the United States of America or the Dominion of Canada.

5.19 TERRORISM

Terrorism means 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.

SECTION 6 – EXCLUSIONS

6.1 THE FOLLOWING EXCLUSIONS APPLY TO THE ENTIRE POLICY

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

- a. 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);
- b. made against the Insured by or on behalf of any entity in which the Insured exercises a financial or managerial interest;
- c. arising from the Insured's insolvency or impecuniosity or lack of financial resources;
- d. arising from services undertaken prior to the Insured's incorporation;
- e. 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;
- f. arising from the recommendation or specification of any goods or Products where their use is not in accordance with the manufacturer's specification;
- g. arising from the manufacture, installation, maintenance or servicing of any Product sold, supplied or distributed by the Insured;
- h. arising from obscenity, blasphemy or pornographic material;
- i. 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;
- j. first made before the Inception Date;
- k. 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;
- l. or potential Claim or circumstance which has, or ought to have, been notified under any other insurance policy prior to the Inception Date;
- m. made against any Insured by any other Insured in any capacity whatsoever;
- n. in relation to any fines, penalties, aggravated, punitive or exemplary damages or other non compensatory damages, including but not limited to multiplications of compensatory awards or damages;
- o. or potential Claim or circumstance in any way connected with the United States of America or Canada or their territories or laws;
- p. 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;
- q. directly or indirectly occasioned by, happening through or in consequence of war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority;

- r. directly or indirectly caused by or contributed to by or arising from:
 - i. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
 - ii. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- s. directly or indirectly arising from or in any way connected with asbestos;
- t. 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;
- u. that would expose the Insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

SECTION 7 – CLAIMS CONDITIONS

7.1 CLAIMS CONDITIONS WHICH APPLY TO THE POLICY

If the Insured does not comply with the following Claims Conditions, the Insurer may refuse to pay a Claim in whole or in part.

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

SECTION 8 – GENERAL CONDITIONS

The following General Conditions apply to the Policy. If the Insured does not comply with the following General Conditions, the Insurer may refuse to pay a Claim in whole or in part or in some circumstances cancel the Policy.

8.1 REASONABLE PRECAUTIONS

The Insured at its own expense must:

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

8.2 ALTERATION

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

8.3 CANCELLATION

The Insured may cancel this Policy at any time during the Period of Insurance. The Insurer will allow a pro-rata refund of the Premium for the unexpired Period of Insurance less any non-refundable duties or charges and a 15% cancellation fee subject to a maximum refund of 75% of the annual Premium. We will not refund any Premium if any Claim has been notified during the Period of Insurance.

The Insurer may cancel this Policy in accordance with the provisions of the *Insurance Contracts Act 1984* (Cth) by giving written notice to the Insured. We will allow a pro-rata refund of the Premium for the unexpired Period of Insurance less any non-refundable duties or charges.

8.4 DISCHARGE OF LIABILITY

The Insurer 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.

8.5 EXCESS

The Insurer 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.

8.6 SERVICE OF SUIT

In accepting this insurance, the Insurer agrees that:

- a. if a dispute arises under this Policy, this Policy will be subject to Australian law and practice. The Insurer and 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 Australia Ltd
Level 9, 1 O'Connell Street, Sydney NSW 2000

who has authority to accept service and to appear on the Underwriters' behalf and who is directed at the request of the Insured to give a written undertaking to the Insured that it will enter an appearance on the Underwriters' behalf;

- c. if a suit is instituted against any one of the Underwriters, all Underwriters 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

Postal Address: PO Box A2016 Sydney South NSW 1235

Phone: +61 2 9307 6600

Fax: +61 2 9307 6699

8.7 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 Insurer had agreed to waive all rights of subrogation against any of these parties and provided always that the total amount payable under this Policy does not exceed the Limit of Indemnity.

8.8 SUBROGATION

The Insurer 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 Insurer in connection with any action which may be necessary to enforce any rights, remedies, relief or indemnity from other parties arising from the Insurer's rights of subrogation.

8.9 ASSIGNMENT

The Insured shall not be entitled to assign the benefit of this Policy without the Insurer's prior written consent. This Policy only provides indemnity to those persons or entities noted as Insureds in the Schedule or otherwise included under the terms and conditions of this Policy. No interest in this Policy may be changed, modified, assigned or transferred to any other party without our prior written consent.

8.10 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. fails to comply with the duty of disclosure under section 21 of the *Insurance Contracts Act 1984* (Cth);
- b. made a misrepresentation to us before this Policy was entered into;
- c. fails to comply with a term of this Policy; or
- d. 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 Insurer 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.

8.11 SEVERAL LIABILITY NOTICE

The subscribing Underwriters' obligations under contracts of insurance to which they subscribe are several and not joint and are limited solely to the extent of their individual subscriptions. The subscribing Underwriters are not responsible for the subscription of any co-subscribing Underwriter who for any reason does not satisfy all or part of its obligations.

8.12 INTERPRETATION

The headings are for ease of reference only and do not affect its interpretation.

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.

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.

8.13 OTHER INSURANCE

If at the time any Claim arises under this Policy there is any other insurance in force covering the same liability, in part or in full, the Insured must promptly notify the Insurer of full details of such other insurance, including the identity of the insurer(s) and the policy number(s), and such further information as the Insurer may reasonably require.

Subject to the *Insurance Contracts Act 1984* (Cth), the Insurer reserves the right to seek a contribution or indemnity from the other insurer(s).

8.14 OBSERVANCE OF TERMS

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 Insurer's liability to make any payment under this Policy.

8.15 GST

The Premium is the amount the Insured pays the Insurer for this insurance and it includes stamp duty, Goods and Services Tax ("GST"), other government charges and any fire services levy that applies.

The Insured must tell the Insurer about the input tax credit ("ITC") the Insured is entitled to for the Premium and the Claim, each time the Insured makes a Claim. If the Insured does not give the Insurer this information or if the Insured tells the Insurer an incorrect ITC, the Insurer will not pay any GST liability the Insured incurs.

The Insurer will reduce the GST amount the Insurer pays for by the amount of any ITC to which the Insured is or would be entitled if the Insured made a relevant acquisition. In these circumstances, the ITC may be claimable through the Insured's Business Activity Statement ("BAS").

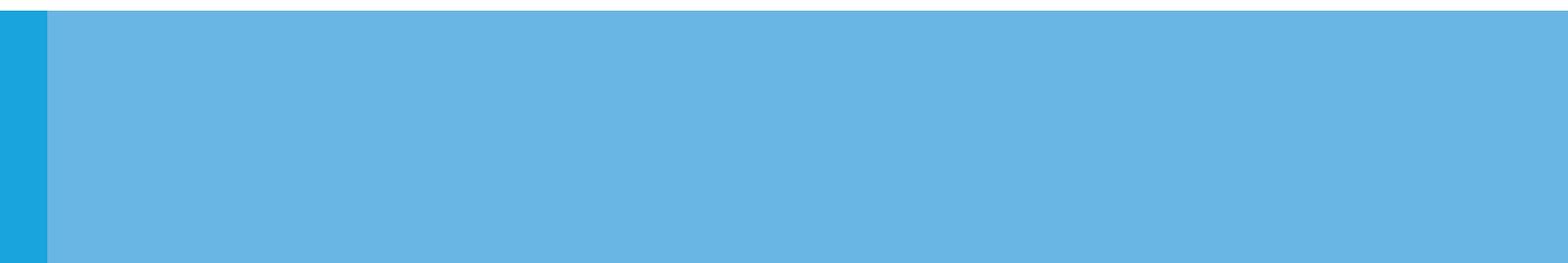
The Indemnity Limit and any sub-limits applicable to the Policy and any endorsement attaching to the Policy are exclusive of GST.

The Insured must advise the Insurer of its correct Australian Business Number & taxable percentage.

The above taxation information is only a guide. The Insured's individual circumstances will be important to and may affect the tax treatment of any premiums the Insured pays or the payment for Claims. The Insured should consult its tax adviser regarding its individual circumstances.

8.16 FAILURE TO PAY PREMIUM

The Insured must must pay the Premium. The Insurer may take steps to cancel the contract of insurance for non-payment of the insurance premium.

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