



Professional Indemnity Insurance Policy Wording

Contract of Insurance and Insurance Agreement

This Policy forms part of Your contract of insurance. Your contract of insurance consists of:

1. This Policy document; and
2. The Schedule which details the cover applying to You and which may be updated from time to time. The Schedule will include any changes to the standard cover described in this Policy; and
3. Your proposal or application form including any written or oral statements or documents made or supplied by You; and
4. Any endorsements added either by way of Schedule or otherwise.

Under this contract of insurance You, as the Insured party, agree to pay the premium(s) stated in the Schedule and Western Pacific Insurance Limited (WPIL) agrees to provide the insurance cover set out in this Policy and according to this contract of insurance.

Some terms used in this Policy have specific meanings. Where words begin with an upper case letter the meaning of those words or terms are set out in the definitions section of this Policy document.

Defined words include any plurals or other derivatives of those words or terms as the context requires.

Headings are used for reference only and are not part of the Policy for interpretation purposes.

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What is covered by this Contract of Insurance

1. WPIL covers (to a maximum being the Limit of Indemnity as detailed in the Schedule in total in any one Period of Insurance) You for all claims for compensation (including costs and expenses of the opposing party) which You become Liable to pay as damages (and which claims are first made against You during the Period of Insurance as detailed in the Schedule and notified to WPIL during that period) and which arise due to a negligent act, error or omission on the part of those parties specified as The Insured in the Schedule or any person now or previously employed by You in Your Business or any other person, company or partnership or firm acting on Your behalf in the conduct of Your Business as detailed in the Schedule.
2. WPIL covers the costs and expenses incurred in such a claim for compensation where the costs or expenses are incurred with WPIL's prior written consent. By way of clarification the defence Costs and expenses shall be part of and not in addition to the Limit of Indemnity.

Where specified as covered in the Schedule (but not otherwise) then WPIL also covers:

1. **Defamation**
Claims alleging, arising from or involving defamation (and therefore the defamation exclusion does not apply) provided such claim arises from You conducting Your Business operation as specified in the Schedule.
2. **Loss of Documents**
Any legal liability or costs, charges and expenses (to a maximum being the Limit of Indemnity as detailed in the Schedule) incurred by You in relation to the destruction, damage or loss of Documents by You (and therefore the loss of documents exclusion shall not apply) but only where:
 - a. Written notice is given to WPIL within 7 days of the date of discovery of such destruction, damage or loss; and/or
 - b. WPIL's nominated person shall approve the cost and expense of such documents supported by invoices supplied by You; and/or
 - c. Except where specified in the Schedule, no cover shall be provided for loss arising or contributed to by the dishonesty of any of Your partners, principals, persons or employees; and/or
 - d. WPIL shall not cover any loss brought about by any gradual deterioration or wear and tear.
3. **Fidelity**
WPIL covers (to a maximum specified as the aggregate sub limit in the Schedule which forms part of and is not in addition to the Limit of Indemnity) loss of money or other property belonging to You which shall be discovered (during the Period of Insurance) as a loss sustained in consequence of a dishonest, fraudulent act or omission which amounts to a criminal offence of any person employed by You or Your specified predecessors in business as stated in the Schedule.

In order for WPIL to accept a claim under this provision, the police must be notified and a criminal action successfully concluded by conviction against the person responsible for the loss sustained. Any amount, by way of costs incurred by You to substantiate Your loss, is not covered by WPIL.

The Excess, as detailed in the Schedule, applies to each and every individual act of dishonesty or loss under this provision.
4. **Previous Liabilities**
WPIL covers past liabilities as if Clause 1 in the section headed 'What is covered by this Contract of Insurance' included the conduct of any business conducted by any of the persons named in the Schedule as requiring indemnity in their professional capacity before they joined Your Business operation and for outgoing persons the definition of The Insured will include any former partners, principals or persons as detailed in the application form, proposal or Schedule.
5. **Dishonesty**
WPIL covers (to a maximum being the aggregate sub limit as detailed in the Schedule which forms part of and not be in addition to the Limit of Indemnity) claims against You brought about or contributed to by dishonest, fraudulent, criminal or



malicious acts or omissions of any employee or such other specified persons detailed in the Schedule and the relevant exclusion shall therefore not apply to those persons specified.

In order for WPIL to accept a claim under this provision, the police must be notified and a criminal action successfully concluded by conviction against the person responsible for the loss sustained. Any amount, by way of costs incurred by You to substantiate Your loss, is not covered by WPIL.

6. Automatic Reinstatement

If automatic reinstatement is detailed in the Schedule as applying, this Policy shall be deemed to be reinstated for any amount as ultimately paid by WPIL in respect of a claim under the Policy provided the reinstatement will always be subject to the terms of this Policy and also:

- a. If You have additional coverage in excess of this Policy then automatic reinstatement will only operate when such additional coverage is exhausted; and/or
- b. The Policy will only be reinstated to the extent and for the purpose of providing indemnity in respect of claims relating to negligent acts, errors or omissions which are not substantially the same acts, errors or omissions relating to previously notified claims; and/or
- c. The liability of WPIL under automatic reinstatement shall never in any event exceed twice the Limit of Indemnity; and/or
- d. WPIL covers the costs and expenses incurred in defending or settling any claim in terms of this Policy up to the Limit of Indemnity as reinstated provided that the payment of those costs and expenses will form part of and not be in addition to the Limit of Indemnity; and/or
- e. Automatic reinstatement shall not occur in relation to claims involving or concerning any employee whose negligent acts, errors or omissions have been referred to previously in claims notified under the fidelity and dishonesty extensions detailed in numbers 3 and 5 above.

Claims and what will be paid

1. If You make a claim under this Policy, part of that claim must be paid by You (the "Excess"). The Excess is detailed in the Schedule, or may be detailed in the provisions of this Policy detailing specific types of cover, and will be deducted from any amount payable by WPIL under this Policy. If a claim involves more than one negligent act, error or omission then the Excess shall apply to each act, error or omission separately.
2. If anything happens or an Event occurs or notice is received of an alleged negligent act, error or omission or if any circumstance arises which may result in a claim being made on this Policy, then as soon as You know You must:
 - a. Tell WPIL immediately even if the claim seems unjustified or if the amount involved would be within the Excess payable.
 - b. Do as much as You can to minimise any Loss or Liability and prevent further damage, Loss or Liability.
 - c. Do as much as You can to obtain details of any other persons, property, vehicle or any other item involved and also any witnesses involved.
 - d. Tell WPIL immediately if any information or assistance is asked for or any communication or documentation is received by You.
3. Unless WPIL agrees You must not:
 - a. Incur any cost or expense in connection with the claim.
 - b. Negotiate or pay or settle or admit liability or deny any claim.
 - c. Start any legal proceedings.
 - d. Do anything which may prejudice WPIL's ability to defend a claim made against You or to recover any part of any Loss from any person or party responsible.



4. If WPIL so requires You must:
 - a. Authorise any other party to provide personal information about You in connection with Your claim to us.
 - b. Complete any claim form and return it to WPIL within any period requested.
 - c. Provide a statutory declaration to confirm the Loss or Liability claimed and submit to cross-examination under oath if WPIL so requires.
 - d. Provide any information or help as WPIL may reasonably require to support the claim.
5. If WPIL accepts a claim, WPIL is entitled to act in Your name and on Your behalf in relation to that claim at our cost. WPIL can also retain any property that WPIL have paid a claim for or dispose of it and be entitled to keep the proceeds of any sale. WPIL is also entitled to take over any legal rights You may have in relation to the recovery under this Policy for Your Loss and is able to exercise such rights for WPIL's benefit. Any such action or exercising of legal right will be at WPIL's cost including any amount payable to You but You must agree to assist if WPIL reasonably requires it and provide any information WPIL reasonably requests.
6. If during any proceeding or negotiation WPIL recommends a settlement to You and You refuse to consent to the settlement and continue in any legal proceeding or negotiation then WPIL's liability under this Policy shall not exceed the amount for which that claim could have been settled, including Defence Costs incurred up to that time.
7. Where WPIL instructs a lawyer to investigate or defend a claim against You, You hereby authorise that lawyer to provide WPIL with any information, documents or advice in respect of that claim, including in relation to indemnity, and further You agree to waive any privilege as necessary in this regard.
8. The most WPIL pay for any one Event is the Total Sum Insured for Public and Products Liability shown in the Schedule unless a different amount is shown in a particular Clause in this Policy wording.
9. The Excess detailed in the Schedule will be deducted from the amount of the Loss for each single Event except where a different Excess figure (including a nil Excess) is detailed elsewhere in this Policy wording.

What is not covered by this Contract of Insurance

1. WPIL does not cover any Liability arising out of any negligent act, error or omission committed outside the territory as detailed in the Schedule.
2. WPIL does not cover any Liability under a specific contract which would not have existed in the absence of that contract or a claim brought about or contributed to by loss of or damage to Documents.
3. WPIL does not cover the possession or use on behalf of You or ownership by You of any land, buildings, aircraft, watercraft, vessel or mechanically propelled vehicle.
4. WPIL does not cover insolvency, bankruptcy or liquidation of the Insured or a claim arising from the death or bodily injury of The Insured.
5. Unless a joint venture partner is detailed in the Schedule as being included as part of The Insured then no claim is covered by WPIL arising out of any joint venture or partnership activity undertaken by You.
6. WPIL does not cover any breach of copyright, trademark design, confidential information or patent.
7. WPIL does not cover any litigation or potential litigation existing at the commencement of the Period of Insurance, any claim for defamation or a claim arising or contributed to by the dishonest, fraudulent, criminal or malicious act or omission of You or any director, principal or person involved in Your Business or their specified predecessor or any employee.
8. WPIL does not cover, in respect of any claim against You by any person, firm, organisational company named in this Policy as an Insured party or a company operated or controlled by an Insured party or any employee, nominee, trustee or such like and in which You or the Insured or the Insured's spouse or child has a direct or indirect financial interest.



9. WPIL does not cover any person, firm or organisational company advised or induced by You or Your employees to invest or loan money to any company referred to above or to any person, firm or organisational company named as an Insured under this Policy or the Insured's spouse or child.
10. WPIL does not cover any claim made, threatened or in any way intimated against You prior to the commencement to the Period of Insurance or in respect of the circumstance of which You are aware or ought reasonably to be aware at the inception of this insurance and which may give vice to a claim against You where the notified under any other insurance or not.
11. WPIL does not cover for any sum becoming payable directly, indirectly or connected at all with any Computer being affected by Year 2000 issues, as defined in the Standards New Zealand document SNZ MP77:1998.
12. WPIL does not cover you for any sums You become Liable to pay in connection with pollution or contamination by asbestos, manufacture or processing of materials that contain asbestos, any process involving the decontamination or control of asbestos, the presence of asbestos or the transporting, storing, distributing, processing or mining of asbestos.
13. WPIL does not cover the amount of any Excess shown in the Schedule or elsewhere in this Policy which will be deducted from every claim. If a claim involves more than one negligent act, error or omission then the Excess as detailed in the Schedule shall apply to each such act, error or omission separately and defence costs in respect of such act, error or omission up to the amount of the Excess shall be born by You where the Excess as detailed is shown as including costs and expenses.
14. WPIL does not cover Loss or damage to any property whatsoever, any consequential loss or any legal liability caused by any act of terrorism, which means an act including but not limited to the use of force or violence or the threat of force or violence of any person or groups of persons whether acting alone or on behalf of or in connection with any organization or government which, by its nature or context, is done for or in connection with political, religious, ideological, ethnic or similar purposes or reasons, including with the intention to influence any government or to put fear into the public or any section of the public.
15. WPIL does not cover Loss arising from nuclear weapons, ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste which results from the combustion (including self-sustaining process of nuclear fission) of nuclear fuel or the use or handling of radioactive material including the use of nuclear reactors, particles accelerators or generators, the transportation of radioactive material or any other use handling or transportation of any weapon or expose of device that employs nuclear fission or fusion.
16. WPIL does not cover Loss arising from war, invasion, act of foreign power, war-like operations, whether war has been declared or not.
17. WPIL does not cover Loss arising from civil war, rebellion, revolution, insurrection, military or usurped power.
18. WPIL does not cover Loss arising from any confiscation, acquisition, Loss or damage by order of any government, local body or authority.

Other important information and terms

1. Disclosure

When applying for insurance, You have a general legal duty of disclosure. You must tell WPIL everything that may be relevant to WPIL's decision to issue, renew or alter this contract of insurance. All statements and representations must be true and correct. All benefits under this Policy will be forfeited if any claim under this Policy is in any respect fraudulent, or if fraudulent means or devices are used by You or anyone on your behalf to obtain a benefit under this Policy.

If You are not sure whether to disclose a fact to WPIL, You should discuss the situation with WPIL or Your broker.

2. Breach of Terms

No claim will be payable under this Policy if any person entitled to any benefit under the Policy breaches any of the terms and conditions set out in this contract of insurance.



3. Change of Circumstances

You must advise WPIL of any change of circumstances relevant to the Policy as soon as You are aware of the change of circumstances and any such information which may effect WPIL's decision whether or not to provide or renew insurance to You and on what terms.

A change of circumstance includes, but is not limited to, Yourself or any person entitled to a benefit under this Policy committing, being charged with or convicted of any criminal offence but not including traffic offences, any registration of an insured person be suspended, cancelled or terminated or any other matter which may increase the risk insured by this Policy or alter the risk insured by this Policy.

4. Reasonable Care

You must ensure that You take all reasonable steps to prevent Loss and avoid circumstances which may result in a claim.

5. Governing Law

This Policy and the contract of insurance are governed by the laws of New Zealand. Any dispute in relation to the contract of insurance can only be determined by the courts of New Zealand.

The terms and conditions of this Policy are always subject to the provisions of the Insurance Law Reform Act 1977 and the Insurance Law Reform Act 1985 including Your rights contained in those two Acts.

6. Payment of Premium

Unless specifically agreed by WPIL in the Schedule, it is acknowledged by You that no cover shall be provided under this contract of insurance until any premium is paid by You to WPIL or an agent nominated by WPIL.

7. Premium Adjustments

Where a premium for this policy has been calculated using estimated figures, then that premium is a provisional premium only for the applicable Twelve Month Period.

Within 3 months of the expiry of the applicable Twelve Month Period, You must tell WPIL what the actual figures are. WPIL will re-calculate the actual premium based on those actual figures.

Any difference between the actual and the provisional premiums will either be payable to us or refunded to You following an actual calculation. If a refund is payable it will be limited to a maximum of 25% of the provisional premium calculated.

8. Other Insurance Policies

If any other insurance policy is arranged in relation to any of the risks covered by this Policy, then You must advise WPIL immediately and if there is any such other policy applicable, then WPIL will only pay out on this policy over and above the amount payable by the relevant insurance company under any other policy.

9. Secured Parties

No security holder is covered by this policy unless WPIL acknowledges this in writing or as detailed in the Schedule to this Policy.

Payment by WPIL to a party holding any security interest (as advised in writing by You) will meet all of WPIL's obligations under this Policy for the Loss.

WPIL is authorised to disclose Your personal information to any holder of a financial security.

10. Notices

Any notice or disclosure to be given to WPIL by You under this policy must be given in writing to either our head office or our approved agent.

Notice by WPIL to You under this policy will be given by delivery in person or posted to the last postal address advised to WPIL by You.

11. Joint Insured Parties

If You or The Insured as detailed in the Schedule is more than one individual then You are each jointly insured and any breach by one individual of those joint persons shall be taken as being a breach by all of them.



Payment under this contract of insurance to any party named in the Schedule shall constitute settlement of all of our obligations under this contract of insurance for any such claim.

12. Cancellation

WPIL can cancel this Policy by giving You 14 days notice which notice period shall start from the day WPIL deliver or post the notice. Any unused premium, on cancellation, will be paid to You on a pro-rata basis.

This contract of insurance can be cancelled by You by giving notice to WPIL and any unused premium will be refunded to You on a pro-rata basis subject to WPIL retaining any minimum premium applicable.

13. Amendment

WPIL can amend this contract of insurance by giving You 30 days notice which notice period shall start from the day WPIL deliver or post the notice.

Any amendment to this contract of insurance proposed by You will only take effect if agreed to in writing by WPIL.

14. GST

Any amount to be paid under a claim shall exclude GST only if WPIL can recover the GST amount. Otherwise any other amount mentioned in this Policy shall include GST.

Policy Definitions

The words defined below are used throughout this policy. Any other definitions are shown in the section to which they apply.

“Business” means Your Business as detailed in the Schedule.

“Computer” means any data, operating system, computer hardware, computer network, equipment, websites, servers, internet, intranet, extranet, software, applications, computer chip including a microprocessor chip, encoded instructions and also any new technology, product or service which replaces existing computer equipment.

“Defence Costs” means the costs and expenses including witness costs and expenses and expert costs and expenses incurred by You in being represented at any hearing, enquiry, prosecution, proceeding, investigation or settlement meeting.

“Documents” means wills, deeds, agreements, maps, plans, books, records, certificates, letters, forms and other documents of any nature with a written, printed or reproduced but not including currency notes, unpaid or un-presented cheques or negotiable instruments and shall also include magnetic tape or other means of recording information within any computerised recording system.

“Event” means a single event or a series of events arising from one original cause or source.

“Liable” means legally liable according to the applicable law of the country concerned and “Liability” should have the equivalent associated meaning.

“Limit of Indemnity” means the limit of WPIL’s indemnity for all claims under this Policy as detailed in the Schedule.

“Period of Insurance” means the period detailed in the Schedule and any renewal further agreed to by WPIL and for which You pay the applicable premium.

“Policy” means this policy wording forming part of the contract of insurance between The Insured and WPIL.

“Schedule” is the most recent and current policy Schedule including any expiry notice or insurance renewal issued to You.

“Sum Insured” means the amount shown in the Schedule as being the maximum amount payable by WPIL under this contract of insurance, either in relation to a Sum Insured specifically for a particular item or category or cover, or as a total Sum Insured as the context requires.



“Twelve Month Period” means the Period Of Insurance unless Your premium is paid quarterly or monthly or if the Period Of Insurance is more than twelve months then the Twelve Month Period is any Twelve Month Period commencing from the date this policy commenced and each Twelve Month Period thereafter.

“WPIL, Us, Our and/or We” means Western Pacific Insurance Limited (WPIL).

“You, Your and/or The Insured” means the insured person(s) or party named in the Schedule.