



Public Liability 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

Part A. Public and Products Liability

1. Public and Products Liability

Western Pacific Insurance Limited (WPIL) covers (to a maximum, in connection with Products, of the Products Sum Insured in the Schedule in aggregate for a Twelve Month Period) all sums You become Liable to pay arising from Bodily Injury and/or Property Damage which happens during the Period of Insurance resulting from an Event anywhere in the world (except North America) in connection with Your Business and Products (and in North America provided that Your Liability arises out of the exporting of Products to North America and related incidental travel provided, however, that there is no cover under this provision for Liability in connection with the activity of Your sales agents, vendors or representatives that are domiciled overseas or if You are directly represented in North America or represented by any parent, subsidiary company or joint venture in North America).

The Sum Insured for Public and Products Liability includes Defence Costs in respect to Events in North America and Defence Costs are not in addition to the Sum Insured.

2. Defence Costs

WPIL covers You for all legal costs and expenses necessarily and reasonably incurred in defending any legal action against You arising out of Bodily Injury or Property Damage which, if such civil action is proven, would be covered by this Policy, even if the legal actions seems groundless but not for Defence Costs in relation to legal action in relation to Exemplary Damages in New Zealand.

For some categories of cover Defence Costs are included in the Sum Insured or maximum amount payable and are not in addition to it.

3. Bailee's Liability

WPIL covers (to a maximum of \$250,000.00 for all Events during any Twelve Month Period) all sums You become Liable to pay for Property Damage occurring in New Zealand (in connection with Your Business) during the Period of Insurance to property that is in Your possession or control and at premises owned or occupied by You but WPIL does not cover liability for Property Damage to land, buildings or for property that is owned, hired, leased or rented by You.

Unless a different amount is shown in the Schedule an Excess of \$1,000.00 shall apply to each Event under this Clause.

4. Motor Service Repair and Storage Liability

WPIL Covers (to a maximum of \$250,000.00, or other amount specified in the Schedule, for all Events during any Twelve Month Period) all sums You become Liable to pay arising from Bodily Injury and/or Property Damage resulting from an Event occurring in New Zealand (in connection with Your Business) during the Period of Insurance in connection with any motor vehicle, motor cycle, internal combustion engine or watercraft (not exceeding 8 metres in length and transportable by trailer) or any accessories or fitting of any of these items but only if the item is not owned, hired, leased or rented by you or if the Property Damage or Bodily Injury occurs as a result of repairs having been carried out by you.

By way of clarification WPIL does not cover the cost of repairing, replacing or rectifying errors or defects in your work or materials but does cover Liability arising from any resultant Property Damage from those errors or defects.

WPIL does not cover Liability arising while any motor vehicle, motor cycle or watercraft as described above is being driven by you and you:

- a. Are driving in a vehicle that is in an unsafe condition which causes or contributes to the Event and which you were, or should have been, aware of the unsafe condition of the vehicle; or
- b. Are not the holder of a drivers licence for the vehicle and its use or do not comply with the conditions of your licence; or
- c. Are driving, or any person with your consent is driving, with proportionate alcohol in their blood or breath exceeding the legal limit or is under the influence of any other intoxicating substance or drug; or
- d. Fail or refuse to provide a blood or breath sample required by New Zealand law; or
- e. Fail or refuse to stop or remain at the scene following any accident as New Zealand law may require; or
- f. Are driving or making use of the vehicle outside of the recommended specifications for that vehicle (including loading);



Unless a different amount is shown in the Schedule an Excess of \$1,000.00 shall apply to each Event under this Clause.

5. Defective Design Liability

WPIL covers (to a maximum of \$250,000.00 for all Events during any Twelve Month Period) all sums that You become Liable to pay arising from Bodily Injury and/or Property Damage resulting from an Event occurring in New Zealand (in connection with Your Business) during the Period of Insurance and in connection with any defective formula, pattern, design, plan or specification of Products prepared by You.

Defence costs are included in this maximum of \$250,000.00 and not in addition to it. Unless a different amount is shown in the Schedule an Excess of \$1,000.00 shall apply to each Event under this Clause.

6. Watercraft Repair and Storage Liability

WPIL covers (to a maximum of \$250,000.00, or such other amount as specified in the Schedule, for all Events during any Twelve Month Period) all sums that You become Liable to pay arising from Bodily Injury and/or Property Damage resulting from an Event occurring in New Zealand (in connection with Your Business) during the Period of Insurance and in connection with any watercraft up to 500 gross registered tonnes or any marine internal combustion engines used in such watercraft or any accessory or fitting of any such watercraft or engine, but only if the Bodily Injury and/or Property Damage arise as a result of Repairs undertaken by you or while such item is in Your possession or control.

By way of clarification WPIL does not cover the cost of repairing, replacing or rectifying errors or defects in Your work or materials but Liability arising for any resultant Property Damage arising from those errors or defects is covered by WPIL.

WPIL does not cover Liability if You are navigating or sailing the watercraft and are under the influence of any intoxicating substance or drug, are using the watercraft outside the recommended specifications or the watercraft is in an unsafe condition and that condition causes the Bodily Injury and/or Damage and You were aware or ought to have been aware of the unsafe condition.

Unless a different amount is shown in Schedule an Excess of \$1,000.00 shall apply to each Event under this Clause.

7. Forest and Rural Fires Act

WPIL covers (to a maximum of \$250,000.00, or such other amount as specified in the Schedule, for all Events during any Twelve Month Period) costs and levies imposed by a fire authority under Section 43(1) of the Forest and Rural Fires Act 1977 and costs or levies apportioned to You by a fire authority under Sections 46 and 46A of the Forest and Rural Fires Act 1977. WPIL will pay these costs or levies whether the Property Damage has occurred or not.

8. Removal of Support

WPIL covers (to a maximum of \$250,000.00, or such other amount as specified in the Schedule, for all Events during any Twelve Month Period) all sums You become Liable to pay arising from Bodily Injury and/or Property Damage resulting from an Event occurring in New Zealand (in connection with Your Business) during the Period of Insurance and in connection with the removal of, weakening of, vibration of or interference with the support of land or buildings.

Defence Costs are included in the maximum amount payable under this Clause and are not in addition to it.

Unless a different amount is shown in Schedule an Excess of \$5,000.00 shall apply to each Event under this Clause.

9. Tenants Liability

WPIL covers (to a maximum of the public and products liability sum insured or as detailed in your schedule) all sums You become Liable to pay arising from Bodily Injury and/or Property Damage which arises during the Period of Insurance resulting from an Event occurring in New Zealand to a premises which is not owned by You but is occupied by You.

10. Landlords Liability

WPIL covers (to a maximum of the public and products liability sum insured or as detailed in your schedule) all sums You become Liable to pay arising from Property Damage which happens during the Period of Insurance resulting from an Event anywhere in the world to a premises which is owned by You but not occupied by You.

11. Mobile Mechanical Plant

WPIL covers (to a maximum of the public and products liability sum insured or as detailed in your schedule) all sums that You become Liable to pay arising from Bodily Injury and/or Property Damage resulting from an Event occurring in New Zealand (in connection with Your Business) during the Period of Insurance involving the use of Mechanical Plant but only



if the Bodily Injury and/or Property Damage occurs at a time when the Mechanical Plant is being used to undertake its principal task and not being used as a motor vehicle.

12. Exemplary Damages in New Zealand

WPIL covers (to a maximum of the lesser of the Public and Products Liability Sum Insured or \$1,000,000.00) exemplary or punitive damages awarded against You by a Court in New Zealand which arise out of an Event attracting cover under this Policy provided there is no connection with a fraudulent or dishonest act or omission by You involved in the award of exemplary or punitive damages.

13. Pollution Liability

WPIL covers (to a maximum of the public and products liability sum insured or as detailed in your schedule) all sums You become Liable to pay arising from Bodily Injury and/or Property Damage resulting from an Event occurring anywhere in the world (except North America) in connection with Your Business during the Period of Insurance which arises directly or indirectly from Pollution but only if that Pollution is the result of a sudden, identifiable, unexpected and unintended Event that takes place in its entirety at a specific time and place and such cover includes the cost of nullifying, removing and/or cleaning up the Pollution.

14. Underground Services

WPIL covers (to a maximum of the public and products liability sum insured or as detailed in your schedule) all sums You become Liable to pay arising from Property Damage resulting from an Event occurring in New Zealand (in connection with Your Business) during the Period of Insurance involving any existing underground pipes, underground cables or other underground facilities but only if, before the commencement of the work which damaged the cables, pipes or other facilities, enquiries with relevant authorities about the exact position of such pipes, cables or other facilities have been made.

Unless a different amount is shown in the Schedule an Excess of \$1,000.00 shall apply to each Event under this Clause.

15. Burning Off/Welding/Gas Cutting

WPIL covers (to a maximum of the public and products liability sum insured or as detailed in your schedule) all sums You become Liable to pay arising from Bodily Injury and/or Property Damage resulting from an Event occurring in New Zealand (in connection with Your Business) during the Period of Insurance involving the burning off of any substance, welding or gas cutting provided such burning off, welding or gas cutting is undertaken by You in accordance with the current New Zealand standard appropriate to such work at the time.

Unless a different amount is shown in the Schedule an Excess of \$1,000.00 shall apply to each Event under this Clause.

Part B. Employers Liability

Where specified as covered in the schedule (but not otherwise) then:

1. WPIL covers (to the maximum payable for all claims being the Limit of Indemnity as detailed in the Schedule) all sums You become Liable to pay for Damages and Defence Costs as a result of any employee sustaining Bodily Injury in New Zealand arising out of or in the course of that employees employment and which is notified to WPIL during the Period of Insurance, or within 30 days of the expiry of the Period of Insurance, or (if applicable) during the Extended Notification Period but only if the Bodily Injury occurs on or after the effective date stated in the Schedule.
2. For the purposes of this Part B (Employers Liability) the following provisions shall also apply in addition to (and prevailing over in the case of any conflict) the other terms as stated in this contract of insurance, including the exclusions and general information:
 - a. An Extended Notification Period shall apply if WPIL terminates or refuses to renew this policy. The Extended Notification Period shall entitle You to an extension of the cover under this Part B for a further 12 months following that termination or non-renewal of the Policy but only in respect of Bodily Injury occurring before the date of termination or non-renewal and after the Effective Date as stated in the Schedule. If a right under this Extended Notification Period is exercised then the further period shall be part of the last Period of Insurance and not an additional period. If You wish to exercise the option of the Extended Notification Period You must give written notice to WPIL prior to the effective date of termination or within 30 days following the date of non-renewal of this Policy or this part of the Policy.
 - b. All claims under this Part B (Employers Liability) which arise out of Bodily Injury or a series of related Bodily Injuries shall be deemed to be one claim which is also deemed to have originated in the earliest Period of Insurance in which any of the Bodily Injuries are first notified to WPIL.

- c. WPIL only provides cover under this Part B (Employers Liability) if notice is given by You to WPIL as soon as practicable of a claim made against You or notice is received from any person or party intending to hold you responsible for any Bodily Injury covered by this Policy or any circumstance which may give rise to a claim under this Policy and irrespective of whether or not the claim is considered justified.
- d. 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.
- e. 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.
- f. WPIL covers Defence Costs and penalties incurred under the Health and safety in Employment Act 1992 arising out of Bodily Injury in connection with Your business but only if this extension is confirmed as being included in the Schedule. If included, this extension does not cover any deliberate failure to comply with the Health and Safety in Employment Act 1992 or if you have cover under Part C (Statutory Liability Defence and Penalties Cover) with Western Pacific Insurance Limited or any other insurer in relation to that same Bodily Injury.
- g. WPIL does not cover any cost or compensation which is provided to You by the Injury Prevention, Rehabilitation and Compensation Act 2001 or any other New Zealand employee's compensation Legislation. Unless expressly noted in the Schedule as included, WPIL does not cover for any Bodily Injury resulting from a breach or contravention of the Health and Safety in Employment Act 1992 or any regulations under that Act.
- h. WPIL does not cover for any fine penalty imposed against You, for any personal grievance against You which should be brought in the Employment Court or Employment Tribunal, for any claim made, threatened or advised against You and not notified by You WPIL prior to the Period of Insurance or for any circumstances existing at the commencement of the Period of Insurance of which You are aware, or ought to have been aware, of and which may give rise to a claim against You.
- i. 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.

Part C. Statutory Liability Defence and Penalties

Where specified as covered in the schedule (but not otherwise) then:

1. WPIL covers You for all claims (being the Limit of Indemnity as detailed in the Schedule) any sums (New Zealand only) for which You are Liable to pay for your Defence Costs and Penalties, for Defence Costs and Penalties for which you grant indemnity to any Officer and for the Defence Costs and Penalties of any Officer for which the Officer does not received an indemnity which may be incurred out of an Event in connection with Your Business and which is notified to WPIL during the Period of Insurance, or within 30 days of the expiry of the Period of Insurance, or (if applicable) during the Extended Notification Period but only if the Event has occurred on or after the Effective Date stated in the Schedule.
2. For the purposes of this Part C (Statutory Liability Defence and Penalties) the following provisions shall also apply in addition to (and prevailing over in the case of any conflict) the other terms as stated in this contract of insurance, including the exclusions and general information.
 - a. An Extended Notification Period shall apply if WPIL terminates or refuses to renew this policy. The Extended Notification Period shall entitle You to an extension of the cover under this Part C for a further 12 months following that termination or non-renewal of the Policy but only in respect of an Event occurring before the date of termination or non-renewal and after the Effective Date as stated in the Schedule. If a right under this Extended Notification Period is exercised then the further period shall be part of the last Period of Insurance and not an additional period. If You wish to exercise the option of the Extended Notification Period You must give written notice to WPIL prior to the effective date of termination or within 30 days following the date of non-renewal of this Policy or this part of the Policy.
 - b. All claims under this Part C (Statutory Liability Defence and Penalties) which arise out of one Event or a series of related Events shall be deemed to be one claim which is also deemed to have originated in the earliest Period of Insurance in which any of the Events is first notified to WPIL.
 - c. If the total of the Defence Costs and Penalties exceed the maximum set out in the Schedule then, unless stated otherwise in the Schedule, the amount to be paid shall be paid:

- Firstly to You in respect of Your own Defence Costs and penalties.
 - Secondly to You in respect of Defence Costs and Penalties for which You grant an indemnity to any Officer.
 - Thirdly to Your Officers in respect of their own Defence Costs and Penalties.
- d) For the purposes of this Part C (Statutory Liabilities Defence and Penalties) the term “Penalties” means any fine or other cash penalty including Court costs payable by You upon conviction of an offence under an Act incurred in connection with an Event which includes prosecution, witness costs and expenses and prosecution solicitors costs but does not include the cost of an enforcement order or compliance order, any tax or interest such tax, any damages, restitution, compensation or reparation imposed by a Tribunal or Court (except for an offence under the Health and Safety in Employment Act 1992), the value of any property which is subject to confiscation or forfeiture for conviction or any other payment, penalty or fine for which WPIL is not lawfully permitted to indemnify you.
- e) WPIL does not cover sums arising out of a contractor being engaged by You to dispose of or handle any goods or materials unless you have taken all reasonable steps to ensure that such goods or materials will be disposed of or handled in a lawful manner.
- f) WPIL does not cover any sums arising out of the deliberate breach of any Act or failure to comply with any lawful order, requirement, requisition, demand notice or determination made by any legally established authority by way of enforcement under an Act.
- g) WPIL does not cover any Event in connection with the Commerce Act 1986 in relation to an indemnity granted to an Officer or Liability incurred by an Officer under the Commerce Act 1986 and for which You do not indemnify that Officer. WPIL does not cover any Liability for an application brought by the Commerce Commission under Sections 81, 84 and 87 of the Commerce Act 1986, nor for any other investigation or defence of any action, proceeding, enquiry, investigation or prosecution brought against You by other than the statutory authority or enforcement agency responsible for such matters under the relevant Act.
- h) WPIL does not cover an investigation or defence of any action, proceeding, enquiry, investigation or prosecution brought against you by the New Zealand Police (except for a Sale of Liquor Act matter) or the Inland Revenue Department.
- i) WPIL does not cover a contract of service or proposed contract of service with a current, former or prospective employee but does cover an investigation, enquiry or prosecution by the Department of Labour under the Health and Safety in Employment Act.
- j) WPIL does not cover any claim made, threatened or advise against You and not notified by You to WPIL prior to the Period of Insurance or for any circumstance or Event existing at the commencement of the Period of Insurance of which You are aware, or ought to have been aware, of and which may give result in an allegation of a breach of an Act.
- k) 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.
- l) WPIL only provides cover under this Part C (Statutory Liability Defence and Penalties) if notice is given by You to WPIL as soon as practicable of any allegation or notice in received in relation to an Event which may be covered by this Policy or any circumstance which may give rise to a claim under this Policy and irrespective of whether or not the claim is considered justified.
- m) If during any proceeding or negotiation WPIL recommends a guilty plea or 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.

Claims and what will be paid

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.



Claims Procedure

1. If anything happens or an Event occurs which may result in a claim being made on this Policy, then as soon as You know about that Event You must:

- a. Do as much as You can to minimise any Loss or liability and prevent further damage, Loss or liability.
- b. Report any burglary, arson, theft, vandalism or intentional or malicious damage to the police.
- c. Tell WPIL immediately.
- d. 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.
- e. Tell WPIL immediately if any information or assistance is asked for or any communication or documentation is received by You.

2. Unless WPIL agrees You must not:

- a. Incur any cost or expense in connection with the claim.
- b. Dispose of any property which is part of the claim.
- c. Start repairs or replace any item unless necessary to minimise the Loss or prevent further Loss as detailed above.
- d. Negotiate or pay or settle or admit or deny any claim.
- e. Start any legal proceedings.
- f. Pass or abandon any item of Insured Property to WPIL or any other party unless agreed to by WPIL.
- g. 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 responsible.

3. 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. Allow WPIL to inspect the property involved in any claim.
- d. Provide a statutory declaration to confirm the Loss or liability claimed and submit to cross-examination under oath if WPIL so requires.
- e. Provide any information or help as WPIL may reasonably require to support the claim.

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 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.

Maximum Amount Payable

The maximum 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 elsewhere in this Policy. Unless indicated in a particular Clause in this Policy wording, Defence Costs are payable in addition to the maximum amount payable detailed in this Clause.

Excess

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 insurance

A. Under this contract of insurance WPIL does not cover Loss as follows:

- 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.

- WPIL does not cover you for any sums You become Liable to pay in connection with any error or omission in advice given by you or medical treatment or medical advice provided by you or Products that are defective or faulty in specification, design, plan, formula or pattern (other than as expressly covered at Public Liability Clause A 5 in the section entitled 'What is covered by this contract of insurance').
- WPIL does not cover Loss, expense, Liability or prosecution of any type in connection with the inability to use or have access to a Computer at any time, any error in deleting, amending, creating or using Computers or the deletion, alteration, corruption or other use of Computers.
- WPIL does not cover Liability arising directly or indirectly from any seepage, pollution or contamination unless such damage occurs during the Period Of Insurance and is caused by a sudden, Accidental Event which occurs at a specific time and place during the same Period of Insurance. This exclusion includes any Liability for the cost of nullifying, removing and cleaning up such seepage, pollution or contamination.
- WPIL does not cover You for any sums that You become Liable to pay in connection with a defect or fault in any Product or work done to or involving products but WPIL does cover Liability for resultant damage to (other property as expressly covered at Public Liability Clauses A 4 and A 6 in the section entitled 'What is covered by this contract of insurance').
- WPIL does not cover Liability expressly agreed to by You unless Liability could still arise regardless of whether you agree to Liability or not by way of express agreement.
- WPIL does not cover you for any fine or penalty imposed on You or any punitive or exemplary damages awarded against you (other than as expressly covered at Public Liability Clause A 12 in the section entitled 'What is covered by this contract of insurance').
- WPIL does not cover you for any sums You become Liable to pay for Bodily Injury which arises out of, and in the course of, employment of a person injured by You or sustained by a member of your family ordinarily living with You.
- WPIL does not cover you for any sums You become Liable to pay in connection with the loss of use of tangible property which has not suffered physical damage or physical loss caused solely by your delay in performing under a contract or the failure of Products to meet a level of performance, fitness, quality or durability as expressly represented by You.
- WPIL does not cover you for any sums You become Liable to pay under the Forest and Rural Fires Act 1977 unless You would be otherwise Liable for any such sums (other than as expressly covered at Public Liability Clause A 7 in the section entitled 'What is covered by this contract of insurance').
- WPIL does not cover you for any sums You become Liable to pay in connection with any Pollution (other than as expressly covered at Public Liability Clause A 13 in the section entitled 'What is covered by this contract of insurance').
- WPIL does not cover you for any sums You become Liable to pay for damage to property owned by you or property in your control or possession but WPIL does cover Property Damage to a vehicle in a car park operated by you and also covers Losses expressly referred to in Public Liability Clauses A 3, A 4, A 6, A 9 and A 10 in the section entitled 'What is covered by this contract of insurance'.
- WPIL does not cover you for any sums You become Liable to pay in connection with the recall, repair, inspection, replacement or loss of Products or work completed by You on Products that are withdrawn from the market or from use because of a known or suspected deficiency or defect.
- WPIL does not cover you for any sums You become Liable to pay in connection with underground pipes, underground cables or (other underground facilities other than as expressly covered at Public Liability Clause A 14 in the section entitled 'What is covered by this contract of insurance').
- WPIL does not cover you for any sums You become Liable to pay in connection with the ownership, possession, repair, operation or use by you of any vehicle, aircraft, hovercraft, watercraft or Products in the construction of or installation in any vehicle, watercraft, aircraft or hovercraft (other than as expressly covered at Public Liability Clauses A 3, A 4, A 6 and A 11 in the section entitled 'What is covered by this contract of insurance').
- WPIL does not cover you for any sums You become Liable to pay in connection with the vibration of, the removal or weakening of or interference with the support of land or

buildings (other than as expressly covered at Public Liability Clause A 8 in the section entitled 'What is covered by this contract of insurance').

- WPIL does not cover you for any sums You become Liable to pay in connection with burning off any substance, gas cutting or welding undertaken by You (other than as expressly covered at Public Liability Clause A 15 in the section entitled 'What is covered by this contract of insurance').
- WPIL does not cover any kind of consequential Loss including e.g. financial Loss occurring following the Loss of Insured Property including not covering Loss suffered through Loss of use of any property, delays, market loss or any penalties.
- 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.
- WPIL does not cover Loss 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.
- 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.
- WPIL does not cover Loss arising from war, invasion, act of foreign power, war-like operations, whether war has been declared or not.
- WPIL does not cover Loss arising from civil war, rebellion, revolution, insurrection, military or usurped power.
- 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.

If You are not sure whether to disclose a fact to Us, You should discuss the situation with Us 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 us 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 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 Us 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 WPIL or refunded to You following an actual calculation. If a refund is payable it will be limited to a maximum of 50% of the provisional premium calculated.

8. Other Insurance Policies

If any other insurance policy is arranged in relation to the Insured Property, 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 a security interest over the Insured Property (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 over Insured Property.

10. Notices

Any notice or disclosure to be given to WPIL by You under this Policy must be given in writing to either WPIL's 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 30 days notice which notice period shall start from the day WPIL delivers or posts 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 Us and any unused premium will be refunded to You on a pro-rata basis subject to any minimum premium be retained by WPIL.

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.

15. Inflation

The Sum Insured will be increased at each renewal of this Policy to reflect WPIL's estimated increase in The Insured's consumer costs and inflation may also be a factor in WPIL setting any premium payable by You for cover under this Policy and on any renewal.

Policy Definitions

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

"Accidental" means unintended and unexpected by The Insured.

"Act" means any Act of the New Zealand Parliament or an amendment or re-enactment of the same and includes any regulations or other subordinate legislation made under an Act.

"Bodily Injury" means:

- a. Accidental death of or accidental bodily injury to any person and includes sickness, disability, fright, shock, mental anguish; or Mental injury; or
- b. False imprisonment, false arrest, malicious prosecution and malicious humiliation; or
- c. Defamation or publication in violation of any individual's right to privacy except:
 - Defamation where You know the statement concerned is false; and
 - Defamation or publication which is made in the course of or relating to advertising, telecasting or broadcasting activities conducted by You or on Your behalf.
- d. Wrongful entry or eviction or any other invasion of the right of private occupancy.
- e. Battery or assault, but only if the battery or assault is not committed by You or is not committed under Your direction unless the assault or battery is committed to prevent or eliminate danger to persons or property.

"Business" means your business as described 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.

"Damages" means not only damages, judgements, settlements, interest, judgement costs and expenses, but also any amount legally obligated to be paid by You in relation to an investigation, administrative or regulatory proceeding, enquiry, examinations but does not include Defence Costs.

"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, settlement meeting and also the costs or apply to set aside or appeal a proceeding in relation to Bodily Injury and/or Property Damage or a conviction arising out of an Event.

"Extended Notification Period" means the period of 12 months immediately following termination or non-renewal of this Policy.

"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.

“Mechanical Plant” means a motorised vehicle that has either machinery or plant attached to it and which is primarily designed as mobile machinery or plant as opposed to being purely a motor vehicle.

“North America” means a territory under the jurisdiction of the laws of the United States of America or Canada.

“Officer” means a person who holds the position of Director, Officer, Trustee, Secretary, Manager or performs such duties under another title or holds any position as an employee of Yours but that person must hold the office or title or employment at the time of the alleged offence under the relevant Act.

“Penalties” means Court costs, prosecution witness costs and expenses, prosecution solicitor’s costs and any reparation order imposed by the Court upon You following conviction of an offence under the Health and Safety in Employment Act 1992 but does not include any fine or infringement fee.

“Pollution” means any solid, liquid, gas or thermal irritant or contaminant and includes, but is not limited to, vapour, smoke, soot, fumes, alkalis, acids, chemicals and waste which includes material to be recycled, reclaimed or reconditioned.

“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.

“Property Damage” means loss to property which would be covered as a claim under Your Material Damage Policy if the property was owned by You:

- a. Accidental physical loss or Accidental physical damage to any tangible property including subsequent loss of use; and/or
- b. Accidental loss of use of any tangible property that has not suffered physical loss or physical damage.

“Repair” means repair, alter, renovate, service or install.

“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.

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

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

“WPIL” means Western Pacific Insurance Limited.