



Child and Aged Care Combined Liability Insurance

Form SAL WIN 0310 CC

Level 3, Suite 302
61 Lavender Street,
Milsons Point NSW
Australia 2061

Ph: +61 2 9409 5200
Fax: +61 2 9954 6944

ABN 29 059 310 904
AFS Lic. No 253106
ACN 059 310 904

Combined Liability Insurance

1. Operative Clause

The Underwriters will indemnify the Insured against their legal liability to pay damages (including claimants' costs, fees and expenses) in accordance with the law of any country stated in the Schedule as a third party jurisdiction covered by the Certificate.

This indemnity applies only to such legal liability as defined by each insured Section of this Certificate arising out of the Business, subject always to the terms, conditions and exclusions of such Section and of the Certificate as a whole.

2. Definitions

For the purpose of this Certificate:

2.1 Insured means:

2.1.1 the person, persons or corporate body named in the Schedule

2.1.2 subsidiary companies of the Insured notified to and accepted in writing by the Underwriters.

2.2 Business means the business stated in the Schedule conducted at or from premises of the Insured and shall include:

2.2.1 the ownership, repair and maintenance of the Insured's own property

2.2.2 provision and management of canteen, social, sports and welfare organisations for the benefit of any Person Employed and medical, firefighting, and security services

2.2.3 private work undertaken by any Person Employed for any director or partner of the Insured with the prior consent of the Insured.

2.3 Injury means death, bodily injury, illness or disease of or to any person.

2.4 Damage means loss of possession of or physical damage to tangible property.

2.5 Person Employed means any:

2.5.1 employee being a person under a contract of service or apprenticeship with the Insured

2.5.2 labour master and persons supplied by him

2.5.3 person employed by labour only sub-contractors

2.5.4 self employed person under the control of the Insured

2.5.5 person hired to or borrowed by the Insured

2.5.6 person undertaking study or work experience or youth training scheme with the Insured

2.5.7 working for the Insured in connection with the Business.

	<p>2.6 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.</p> <p>2.7 Pollution means pollution or contamination of the atmosphere or of any water, land, buildings or other tangible property.</p> <p>2.8 Defence Costs mean costs, fees and expenses incurred by the Insured with the written consent of the Underwriters in the defence or settlement of any claim, suit or proceedings which are or would, if successful, be covered under this Certificate, including legal expenses arising out of representation at any inquest or inquiry or arising out of the defence of any proceedings in a Court of Summary Jurisdiction in respect of matters which may form the subject of indemnity by this Certificate.</p>
<p>3. Indemnity to Others</p>	<p>The indemnity granted extends to:</p> <p>3.1 managerial or supervisory Persons Employed in their business capacity for legal liabilities arising out of the performance of the business and any director or partner of the Insured in respect of private work undertaken by any Person Employed for such director or partner with the prior consent of the Insured</p> <p>3.2 the officers, committees and members of the Insured's canteen, social, sports, medical, fire fighting, security services and welfare organisations for legal liabilities incurred in their respective capacity as such</p> <p>3.3 any person or firm for legal liabilities arising out of the performance of a contract with the Insured constituting the provision of labour only</p> <p>3.4 any principal for legal liabilities arising out of work carried out by the Insured under a contract or agreement in respect of which the Insured would have been entitled to indemnity under this Certificate if the claim had been made against the Insured</p> <p>3.5 the personal representatives of any person or party indemnified by reason of this Clause 3 in respect of legal liability incurred by such person or party.</p> <p>Provided always that all such persons or parties shall observe, fulfil and be subject to the terms, conditions and exclusions of this Certificate as though they were the Insured.</p>
<p>4. Cross Liabilities</p>	<p>Each person or party specified as the Insured in the Schedule is separately indemnified in respect of claims made against any of them by any other such person or party subject to the Underwriters' total liability not exceeding the stated Limits of Indemnity.</p>

5. Limits of Indemnity

SECTIONS A, B and C- The Underwriters' total liability to pay damages (including claimants' costs, fees and expenses) shall not exceed the sum stated in the Schedule in respect of any one occurrence or series of occurrences arising from one originating cause. Each Section shall be subject to its own Limit of Indemnity, provided always that should the same originating cause or occurrence give rise to indemnity under more than one Section, the total amount of Underwriters' liability for all claims arising out of one originating cause or occurrence under all such Sections combined shall not exceed the single greatest Limit of Indemnity available under the Sections providing indemnity

SECTIONS B and C separately - The Underwriters' total liability to pay damages (including claimants' costs, fees and expenses) shall not exceed the sum stated in the Schedule against each Section in respect of all occurrences s combined during the Period of Insurance.

6. Defence Costs

The Underwriters will also pay Defence Costs provided that Underwriters' shall not be liable for any fines or penalties imposed as a consequence of any claim, suit or proceedings. Defence Costs will be payable in addition to or inclusive within the Limits of Indemnity as stated in the Schedule. Where Defence Costs are payable in addition to the Limit of Indemnity, if the amount required in settlement of the third party claim is greater than the Limit of Indemnity available under this Certificate in respect of such claim, then the Underwriters will not pay more than their corresponding proportional share of the associated Defence Costs.

Section A - Public Liability

7. Section A - Indemnity

The Insured is indemnified by this Section in accordance with the Operative Clause for and/or arising out of accidental Injury and/or Damage occurring during the Period of Insurance.

8. Section A - Exclusions

This Section does not apply to or include legal liability:

- 8.1 arising out of Pollution or arising out of any Product
- 8.2 arising out of the ownership, possession or use by or on behalf of the Insured or any person or party entitled to indemnity of any vehicle or trailer which is either registered or is required to be registered under law other than legal liability:
 - 8.2.1 caused by the use of any tool or plant forming part of or attached to or used in connection with any motor vehicle or trailer
 - 8.2.2 arising beyond the limits of any carriageway or thoroughfare caused by the loading or unloading of any motor vehicle or trailer
 - 8.2.3 arising out of any motor vehicle or trailer temporarily in the Insured's custody or control for the purpose of parking

Provided always that no indemnity is granted against liability for which compulsory insurance or security is required by legislation or for which the government or other authority has accepted responsibility

- 8.3 arising out of the ownership, possession or use by or on behalf of the Insured of any aircraft, spacecraft, hovercraft, offshore installation, rig, platform or watercraft (other than watercraft not exceeding 10 metres in length whilst on inland waterways)
- 8.4 for Damage to property owned, leased to, hired by, under hire purchase, on loan to, held in trust by or otherwise in the Insured's care, custody or control other than:
 - 8.4.1 clothing and personal effects of Persons Employed and visitors
 - 8.4.2 premises (including contents therein) temporarily occupied by the Insured for work therein or thereon but no indemnity shall be granted for Damage to that part of the property on which the Insured is or has been working and which arises out of such work
 - 8.4.3 premises tenanted by the Insured but always excluding liability arising out of
 - a) fire
 - b) explosion
 - c) any other perils which the tenancy agreement requires the Insured to insure against
 - d) any other perils which the tenancy agreement makes the Insured responsible for unless the Insured would have been liable in the absence of such an imposition

- 8.5 arising out of breach of professional duty or wrongful or inadequate advice given separately for a fee.

	Section B - Products Liability
9. Section B - Indemnity	The Insured is indemnified by this Section in accordance with the Operative Clause for and/or arising out of accidental Injury and/or Damage occurring during the Period of Insurance and arising out of or in connection with any Product.
10. Section B - Exclusions	<p>This Section does not apply to or include legal liability:</p> <p>10.1 arising out of Pollution</p> <p>10.2 for costs incurred in the repair, reconditioning or replacement of any Product or part thereof which is or is alleged to be defective</p> <p>10.3 arising out of the recall of any Product or part thereof</p> <p>10.4 arising out of any Product which with the Insured's knowledge is intended for incorporation into the structure, machinery or controls of any aircraft, other aerial device, hovercraft or waterborne craft</p> <p>10.5 arising by virtue of a contract or agreement but which would not have arisen in the absence of such contract or agreement unless otherwise agreed and stated in the schedule.</p> <p style="text-align: center;">Section C - Pollution Liability</p>
11. Section C - Indemnity	The Insured is indemnified by this Section in accordance with the Operative Clause for and/or arising out of accidental Injury and/or Damage occurring during the Period of Insurance and arising out of Pollution which was the direct result of a sudden, identifiable, unintended and unexpected event occurring in its entirety at a specific time and place during the Period of Insurance.
12. Section C - Exclusions	<p>This Section is subject to the Exclusions of Sections A and B other than 8.1 (as regards Pollution) and 10.1 and also does not apply to or include legal liability for:</p> <p>12.1 Damage to premises presently or at any time previously owned or tenanted by the Insured</p> <p>12.2 Damage to land or water within the boundaries of or below any land or premises presently or at any time previously owned or leased by the Insured or otherwise in the Insured's care, custody or control.</p> <p>12.3 Damage caused or contributed to by the Insured's failure to take reasonable precautions to prevent Pollution.</p>

General Exclusions

13. Exclusions applicable to all Sections of the Certificate

This Certificate does not apply to or include legal liability:

- 13.1 for or arising out of the deliberate, conscious or intentional disregard by the Insured's technical or administrative management of the need to take all reasonable steps to prevent Injury or Damage
- 13.2 for or arising out of Injury to a Person Employed where such Injury arises out of and in the course of employment by the Insured
- 13.3 for or arising out of liquidated damages clauses, penalty clauses or performance warranties unless it is proven that liability would have attached in the absence of such clauses or warranties
- 13.4 directly or indirectly occasioned by, happening through or in consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.
- 13.5 directly or indirectly caused by or contributed to by or arising out of:
 - 13.5.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
 - 13.5.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof
- 13.6 for any award of punitive or exemplary damages whether as fines, penalties, multiplication of compensatory awards or damages, or in any other form whatsoever
- 13.7 for the Excess stated in the Schedule in respect of the first amount of each occurrence
- 13.8 arising from circumstances known to the Insured prior to the inception date of this Certificate.
- 13.9 for any loss, cost or expense directly or indirectly arising out of, resulting as a consequence of, or related to the manufacture, mining, processing, distribution, testing, remediation, removal, storage, disposal, sale, use of or exposure to Asbestos or materials or products containing Asbestos whether or not there is another cause of loss which may have contributed concurrently or in any sequence to a loss

13.10 for loss, injury, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purpose of this exclusion, an act of terrorism means an act, including but not limited to the use of force or violence and/or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

This exclusion also applies to loss, injury, damage, cost or expense of whatsoever nature directly or indirectly caused by, resulting from or in connection with any action taken in controlling, preventing, suppressing or in any way relating to any act of terrorism.

If the Underwriters allege that by reason of this exclusion, any loss, injury, damage, cost or expense is not covered by this insurance the burden of proving the contrary shall be upon the Insured.

In the event any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

This exclusion shall take precedence over any other term of the Certificate, including any endorsement added at any time, which does not expressly override it.

- 13.11 (a) for claims made and actions instituted within the United States of America or Canada or any other territory coming within jurisdiction of the courts of the United States of America or Canada;
- (b) for claims and actions to which the laws of the United States of America or Canada apply;
- (c) for claims in respect of Personal Injury or Property Damage caused by or arising out of the Insured's Products exported to the United States of America or Canada;

provided that this Exclusion 13.11 does not apply to claims and actions arising from:

- (i) the presence of any travelling executives or salesmen who are normally resident in Australia or its territories whilst in the United States of America or Canada;
- (ii) the Limits of Indemnity in respect of coverage provided under Item (i) is inclusive of all Supplementary Payments.

Additional Exclusions applicable to all sections

TREATMENT RISK

This Certificate does not cover liability in respect of Bodily Injury arising directly or indirectly out of or caused by treatment prescribed or administered by You.

CHILD MOLESTATION EXCLUSION

We will not be liable for claims arising directly or indirectly out of or caused by, through, or in connection with:

(a) the administration or non-administration of medication or drugs of any kind by You or by anyone acting on Your behalf:

(b) the molestation of or interference with a minor or minors by You or by anyone performing voluntarily or unpaid service by You.

We will not defend any action, suit or proceeding against You which seeks compensation in respect of such molestation or interference.

For the purposes of this Exclusion, 'molestation' is defined as an action deemed to be offence under provisions of any sexual offences act's, criminal law act or protection of children act's, both State and Federal

PROFESSIONAL INDEMNITY EXCLUSION

Exclusion 8.5 is deleted and replaced by the following:

8.5 PROFESSIONAL INDEMNITY

8.5. (a) The rendering of or failure to render professional advice or service by You or any error or omission connected therewith.

(b) Personal Injury arising directly or indirectly out of or caused by Your error, omission or act in the treatment or nursing of a patient or in the use of medical apparatus or equipment or in the provision of drugs, food or drink for any of Your patient

Optional Extension (when noted in the Certificate Schedule and additional premium paid)

PHYSICAL ABUSE

Retroactive Date: inception of the Certificate of Insurance with Winsure Insurance Group Pty Limited.

It is hereby noted and agreed that this Certificate will not indemnify the INSURED for their legal liability arising directly or indirectly out of or in connection with physical, emotional or sexual abuse.

Notwithstanding the above, Underwriters will extend this Certificate to indemnify the Insured for their legal liability arising directly or indirectly out of or in connection with physical, emotional or sexual

abuse, but only in respect of any claim(s) made during the Period of Insurance and providing the physical, emotional and sexual abuse occurred after the retroactive date of this Insurance contract.

The indemnity limit for this cover is limited in the aggregate to \$1,000,000 during the Period of Insurance including all costs and expenses.

The Insured will be responsible for the first \$10,000 of each and every claim including costs and expenses.

For the avoidance of doubt, Underwriters will not provide an indemnity to any individual convicted of any criminal act in respect of any civil suit or action or claim arising in connection with such criminal act.

Subject otherwise to the terms, limits, conditions and exceptions of this Certificate as a whole.

For the purposes of this exclusion, 'sexual abuse' is defined as an action deemed to be offence under provisions of any sexual offences act's, criminal law act or protection of children act's, both State and Federal

General Conditions

14. General Conditions applicable to all Sections of the Certificate

14.1 The Insured shall give immediate notice in writing to the Underwriters of any occurrence that may give rise to a claim under this Certificate and shall give all such additional information as the Underwriters may require. Every claim, writ, summons, notice of adjudication, referral notice or process and all documents relating thereto shall be forwarded to the Underwriters immediately they are received.

14.2 No admission, offer, promise or payment shall be made or given by or on behalf of the Insured without the written consent of the Underwriters, who shall be entitled to take over and conduct in the name of the Insured the defence or settlement of any claim or to prosecute in the name of the Insured for their own benefit any claim for indemnity or damages or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any claim and the Insured shall give all such information and assistance as the Underwriters may reasonably require.

14.3 The Underwriters may at any time pay to the Insured in connection with any claim or series of claims under this Certificate to which a Limit of Indemnity applies the amount of such Limit (after deduction of any sums already paid) or any lesser amount for which such claims can be settled and upon such payment being made the Underwriters shall relinquish the conduct and control of and be under no further liability in connection with such claims except for the payment of Defence Costs incurred prior to the date of such payment.

This clause does not apply where and to the extent Defence Costs are inclusive within the Limit of Indemnity.

Provided that if the Underwriters exercise the above option and the amount required to dispose of any claim or series of claims exceeds the Limit of Indemnity and such excess amount is insured either in whole or in part, with Defence Costs payable in addition to the Limit of Indemnity under this Certificate then the Underwriters will also contribute their proportion of subsequent Defence Costs incurred with their prior written consent as the Limit of Indemnity bears to the amount paid to dispose of a claim.

14.4 The Insured shall give notice to the Underwriters of any alteration or circumstance which materially affects the risks insured under this Certificate and until the Underwriters are advised of such alteration or circumstance and shall have expressly agreed in writing to accept liability for such altered risk and the Insured has paid or agreed to pay the additional premium, if any, the Underwriters shall not be liable in respect of any claim or claims due wholly or partially to any such alteration or circumstance.

- 14.5 Where the premium is provisionally based on the Insured's estimates, the Insured shall keep accurate records and within 90 days of expiry of the Period of Insurance declare such particulars as the Underwriters require. The premium shall then be adjusted and any difference paid or allowed to the Insured as the case may be subject to any minimum premium that may apply. Failure to declare such particulars to the Underwriters shall entitle the Underwriters to estimate if they so wish such particulars and to assess the further premium payment due calculated on such estimated particulars.
- 14.6 Any written proposal and/or declaration made by the Insured shall form the basis of this contract of insurance and is deemed to be incorporated herein.
- 14.7 If any claim under this Certificate is in any respect fraudulent all benefit in respect of such claim shall be forfeited.
- 14.8 The Underwriters may cancel this Certificate for any of the reasons allowed by the Insurance Contracts Act 1984 (as amended) by giving 3 working days notice in writing of such cancellation to the Insured's last known address.
- 14.9 This Certificate and the Schedule will be interpreted in accordance with the law of Australia. The Certificate and the Schedule shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Certificate or the Schedule shall bear such specific meaning wherever it may appear.
- 14.10 All disputes concerning the interpretation of this Certificate are understood and agreed by both the Insured and the Underwriters to be subject to Australian Law. Each party agrees to submit to the jurisdiction of any court of competent jurisdiction within Australia and to comply with all requirements necessary to give such court jurisdiction. All matters arising hereunder shall be determined in accordance with the law and practice of such court.
- 14.11 The Insured shall advise the Underwriters at the time of any claim under this Certificate of the details of all other liability insurance from which the Insured may benefit, regardless of whether such claim is in the Insured's opinion recoverable from such other insurance, in order for the Underwriters to establish rights of contribution which they may have.

		Endorsement attaching to and forming part of Combined Liability Certificate number
Service of Suit Clause NMA1854		<p>The Underwriters accepting this insurance agree that:</p> <p>(i) if a dispute arises under this insurance, this insurance will be subject to Australian law and practice and the Underwriters will submit to the jurisdiction of any competent Court in the Commonwealth of Australia;</p> <p>(ii) any summons notice or process to be served upon the Underwriters may be served upon:</p> <p><i>Lloyd's Underwriters' General Representative in Australia Suite 2, Level 21 Angel Place 123 Pitt Street Sydney NSW 2000</i></p> <p>who has authority to accept service and to appear on the Underwriters' behalf;</p> <p>(iii) if a suit is instituted against any of the Underwriters, all Underwriters participating in this insurance will abide by the final decision of such Court or any competent Appellate Court.</p>

		Endorsement attaching to and forming part of Combined Liability Certificate number
Care Custody and Control Extension		<p>This extension modifies exclusion 8.4. All the other terms, conditions and exclusions of the Certificate still apply.</p> <p>Exclusion 8.4 shall not apply to the first AUD \$100,000 of each and every occurrence in excess of the Excess stated in the Schedule. Provided always that the Underwriters shall not be liable for</p> <ul style="list-style-type: none"> a) Damage to vehicles in the Insured's care, custody or control for the purpose of parking in respect of which a fee is charged b) Damage to that part of any property on which the Insured is or has been working and which arises out of such work

		Endorsement attaching to and forming part of Combined Liability Certificate number
<p>Australia Terrorism Insurance Act 2003 Notice</p>		<p>The Underwriters have treated this Insurance (or part of it) as an Insurance to which the Australia Terrorism Insurance Act 2003 (ATIA) applies.</p> <p>ATIA and the supporting regulations made under the Act deem cover into certain policies and provide that the Terrorism exclusion to which this Insurance is subject shall not apply to any “eligible terrorism loss” as defined in ATIA.</p> <p>Any coverage established by ATIA is only in respect of any “eligible terrorism loss” resulting from a “terrorist act” which is a “declared terrorist incident” as defined in ATIA. The Terrorism exclusion to which this Insurance is subject applies in full force and effect to any other loss and any act or event that is not a “declared terrorist incident”.</p> <p>All other terms, conditions, insured coverage and exclusions of this Insurance including applicable limits and deductibles remain unchanged.</p> <p>If any or all of the Underwriters have reinsured this Insurance with the Australian Reinsurance Pool Corporation, then any such Underwriters will not be liable for any amounts for which they are not responsible under the terms of ATIA due to the application of a “reduction percentage” as defined in ATIA which results in a cap on the Underwriter’s liability for payment for “eligible terrorism losses”.</p>