

# Electrical, Ventilation, Air Conditioning and Refrigeration

## Insurance Policy





**Underwritten by QBE Europe SA/NV and/or QBE UK Limited**

This *policy* has been exclusively arranged by:

**SUTTON SPECIALIST RISKS LIMITED**

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**Authorised and regulated by the Financial Conduct Authority  
Registration Number 306946**

This *policy* has been issued through Sutton Specialist Risks Limited and any claims or underwriting queries should be forwarded to them at the above address.

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## The Agreement

### 1 Parties to this agreement

This **policy** is between **you** and **us** as declared in the **schedule**. This document, together with its **schedule** and any attached endorsements is the **policy** which sets out this insurance. It is a legal contract so please read all of it carefully. Please refer to the **schedule** for confirmation of the level of cover **you** have chosen. If no Section heading appears in the **schedule** or the phrase 'Not Insured' is shown against that heading **you** have no cover under that Section.

**We** have relied upon the information **you** have provided and/or information agreed between **you** and **us** by way of a **proposal form, statement of fact** or otherwise. This information has been used by **us** to assess the terms and premium for this contract of insurance.

It is very important that the information remains up to date and is correct – if it is not then **we** may not pay **your** claim, **we** may void **your policy** or impose additional conditions, charge an additional premium or reduce **your** claim proportionately (please read General Terms and Conditions - Duty of fair presentation – remedies for breach)

### 2 Words in bold Italics

Words in **bold italics** typeface used in this **policy** document, other than in the headings, have specific meanings attached to them as set out in the General Definitions and Section definitions.

### 3 Policy period and premium

- 3.1 The **policy** will provide insurance as described herein for the **period of insurance** provided indemnity under the **policy** is conditional upon the payment of the premium(s) and other charges being paid as and when they fall due to the **Insurer** as shown in the **schedule**. Taxes, levies and other relevant fiscal charges are payable in addition to the premium.
- 3.2 The premium is deemed paid and accepted on receipt by the **Insurer** or the coverholder as shown on the **schedule** holding authority to place this insurance with the **Insurer**.
- 3.3 If any premium (including a premium instalment) is not paid and accepted by the **Insurer**, the **Insurer** can give written notice to the **insured** at its address shown on the **schedule**, cancelling the **policy** with effect from the seventh (7th) day after the notice has been served. Cancellation will be prevented from taking effect and the **policy** will continue if the late premium instalment and any other remaining premium instalments are paid and accepted before the cancellation takes effect. Without prejudice to other forms of service, notice of cancellation is deemed to be served on the third (3rd) day after being posted if sent by pre-paid letter post properly addressed.

This **policy** has been signed on the date of issue stated in the original **schedule**.

## The Agreement

### Important Note

The Sections Professional Indemnity, Directors' and Officers' Liability and Legal Expenses are covered on a 'claims made basis'. This means that the claim must be made against **you** and reported during the **period of insurance**.

Further the territorial limitations will change from Section to Section. In general **you** are not covered on a worldwide basis. Please read each Section to ensure that the **territorial limits** and indeed all other cover restrictions are acceptable. If **you** have any questions please contact Sutton Specialist Risks Limited.

### General Definitions

Certain words and expressions in the **policy** have been defined in a particular way and have the same meaning wherever they appear. These General Definitions apply throughout the **policy** and definitions applicable only to certain Sections appear at the beginning of the Section to which they relate. The defined words and expressions are shown in **bold italics**.

Where the context so admits or requires, words importing the singular will include the plural and vice versa and words importing the masculine will import the feminine and the neuter. References to 'a person' will be construed so as to include any individual, company, partnership or any other legal entity. References to a statute, regulation, codes or practice or trade terms of contract will be construed to include all its amendments or replacements. All headings within the **policy** are included for convenience only and will not form part of this **policy**.

#### 1 Act of terrorism

Act of terrorism means acts of persons acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force or violence, of Her Majesty's government in the United Kingdom or any other government de jure or de facto.

#### 2 Airside

Airside means that part of any aerodrome, airfield, airport or military installation provided for:

- 2.1. the take-off and landing of aircraft and aerial devices or the movement of aircraft and aerial devices on the ground; and
- 2.2. aircraft parking, including any associated service roads, refuelling areas, ground equipment parking areas, aprons, maintenance areas and hangars.

#### 3 Bodily injury

- 3.1. Under all Sections apart from Property All Risks and Legal Expenses - bodily injury means death, disease, illness, physical and mental injury of or to an individual; but
- 3.2. Under Section Property All Risks solely for the purpose of Standard Clause – Personal accident assault - bodily injury means bodily injury whether fatal or otherwise caused by:
  - 3.2.1. accidental violent and external means;
  - 3.2.2. accidental drowning;
  - 3.2.3. accidental poisoning;
  - 3.2.4. accidental gassing;
  - 3.2.5. exposure.

#### 4 Breakdown

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Breakdown means mechanical or electrical breakdown, failure and/or derangement.

### 5 Business

- 5.1 For all Sections except Section – Legal Expenses, business means **your** activities as stated in the **schedule** and including:
- 5.1.1 provision and management of canteens, sports, social and welfare and medical organisations for the benefit of **your employees** and/or their pensioners, sponsorships, medical, dental, nursing, first aid, fire, rescue and ambulance services, principally in connection with but not limited to **your** operations;
  - 5.1.2 provision of security services for **your** benefit;
  - 5.1.3 provision of nursery, crèche or child care facilities where incidental to the **business**;
  - 5.1.4 provision of educational facilities for **your** benefit;
  - 5.1.5 property owners, lessors and lessees including repair refurbishment and maintenance of such property;
  - 5.1.6 organisation of and participation in exhibitions, trade fairs, conferences and the like;
  - 5.1.7 private work undertaken by any **employee** for any of **your** directors or partners or executives;
  - 5.1.8 employment of subcontractors for performance of work on **your** behalf;
  - 5.1.9 the organisation of charitable events or similar fund raising activities;
  - 5.1.10 sponsorship of events, organisations, entities and individuals;
  - 5.1.11 repair, maintenance and servicing of **your** own mechanically propelled vehicles;
  - 5.1.12 sale or disposal of **your** own property and goods, including mechanically propelled vehicles owned by **you**;
  - 5.1.13 provision of gifts and promotional material incidental to the **business**.
- 5.2 For Section – Legal Expenses only, business means the occupation, trade, profession or enterprise carried out by the entity shown in the schedule that attaches to this **policy**.

### 6 Circumstance(s)

Circumstance(s) means an incident, event, occurrence, dispute, fact, matter, act or omission that is likely to give rise to a **claim** or claim under this **policy**.

### 7 Claim

- 7.1. For Section - Professional Indemnity claim means:
- 7.1.1. the receipt by **you** of any written or verbal notice of demand for compensation made by a third party against **you**; or
  - 7.1.2. any writ, statement of claim, claim form, summons, application or other originating legal arbitral process or adjudication notice, whether civil or criminal, cross-claim, counterclaim or third or similar party notice served upon **you**; or

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7.1.3. any notice of intention, whether orally or in writing, to commence legal proceedings against **you**;

and all loss, liability, expenses, and costs resulting from:

- a) one and the same negligent act, negligent error or negligent omission; or
- b) a series of negligent acts, negligent errors or negligent omissions arising out of or attributable to the same originating cause, source, event or **circumstance**; or
- c) the negligent acts, negligent errors or negligent omissions of one person or persons acting together or in which such person or persons is/are concerned or implicated;

shall jointly constitute one claim under this **policy**, and only one **excess** shall be applicable in respect of such claim.

7.2. For Section - Directors' and Officers' liability claim means:

7.2.1. any legal, administrative or regulatory proceeding, whether civil or criminal, commenced against an **insured person** alleging that he has committed a **wrongful act**; or

7.2.2. any written or verbal communication received by an **insured person** or **company** alleging an **insured person** has committed a **wrongful act** indicating an intention to claim against such **insured person** or to complain about him in respect of such **wrongful act** to a legal, administrative or regulatory authority; or

7.2.3. any written notice served on an **insured person** requiring the **insured person** to attend an interview or provide documentation or otherwise co-operate in an administrative or regulatory investigation, where the investigation directly concerns the conduct of the **insured person** (acting in his capacity as an **insured person**) or of the affairs of the **company**; or

7.2.4. any **extradition proceedings**

## 8 Communicable disease

Communicable disease means any disease which can be transmitted by means of any substance or agent where:

- a) the substance or agent includes, but is not limited to, a virus, bacterium, parasite or other organism or any variation or mutation thereof, whether deemed living or not;
- b) the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms; and
- c) the disease, substance or agent can cause or threaten damage to human health or human welfare or can cause or threaten damage to, deterioration of, loss of value of, marketability of or loss of use of **property insured**;

regardless of the frequency or severity of an outbreak, or the size of the geographic area in which an outbreak is observed.



### 9 Computer systems

Computer systems means a computer or other equipment or component or system item which processes stores transmits or receives **data**.

### 10 Damage/damaged

Damage means:

- 10.1. loss of, destruction of or damage to tangible property; and/or
- 10.2. for Section – Public and Products (including Inefficacy) Liability loss of use of tangible property that has been lost, destroyed or damaged.

### 11 Data

Data means data of any sort whatever, including without limitation tangible or intangible data, and any programs or software, bandwidth, cryptographic keys, databases, documents, domain names or network addresses or anything similar, files, interfaces, metadata, platforms, processing capability, storage media, transaction gateways, user credentials, websites, or any information whatever.

### 12 Defence costs

For all sections except Section – Directors' and Officers', defence costs means:

- 12.1. costs (other than claimant costs recoverable from **you** or any **other insured party**) incurred at **your** request, with **our** prior written and continuing consent in the investigation, adjustment, appraisal, defence or settlement of a claim or an insured event or occurrence which is or may be the subject of an indemnity under the applicable insuring sections of the **policy** and which is not otherwise excluded from indemnity, including expert, legal, appeal and defence costs;
- 12.2. costs and expenses incurred by **you** with **our** prior written and continuing consent in pre-trial and case reviews;
- 12.3. pre-judgment interest awarded against **you** on that part of any judgment covered under this **policy** but where **we** offer to pay the limit of indemnity in settlement of a claim or suit, **we** will not pay any pre-judgment interest imposed or accruing after the date of such offer;
- 12.4. all interest accruing on that part of any judgment within the limit of indemnity after entry of the judgment and before **we** have paid, offered to pay or deposited in court that part of any judgment that is within the applicable limit of indemnity;
- 12.5. the cost of attendance in court as a witness at **our** request, payable at the following rates per day on which attendance is required:
  - 12.5.1. any of **your** directors or partners - GBP500;
  - 12.5.2. any **other insured party** - GBP250;

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12.6. costs incurred at **your** request, with **our** prior written and continuing consent of legal representation at any coroner's inquest or inquiry in respect of any death which may be the subject of indemnity under this **policy**.

But for Section – Directors and Officers, defence costs means:

12.7. all reasonable and necessary **legal costs**, charges, fees, expenses and advances in respect of the same (other than salaries, commissions, expenses or other benefits of **insured persons**) including costs directly attributable to witness attendance and any premiums paid for insurance instruments or for bonds which are required in order to defend proceedings, institute an appeal or be released on bail but without any obligation to furnish or procure such insurance instruments or bonds.

12.8. Defence costs do not include your own internal costs and expenses, management time or **employee** or any adjusters' fees for which we will not provide any indemnity.

### 13 Denial of service attack

Denial of service attack means any actions or instructions constructed or generated with the ability to damage, interfere with or otherwise affect the availability or performance of networks, network services, network connectivity or **computer systems**. Denial of service attacks include, but are not limited to, the generation of excess traffic into network addresses, the exploitation of system or network weaknesses, the generation of excess or non-genuine traffic between and amongst networks and the procurement of such actions or instructions by other **computer systems**.

### 14 Employee(s)

14.1. For all Sections except Professional Indemnity, Legal Expenses, Fidelity Guarantee and Cyber and Data Security employee means any person whilst:

14.1.1. engaged under a contract of service or apprenticeship with **you**;

14.1.2. acting in the capacity of **your** non-executive director;

14.1.3. not under a contract of service or apprenticeship who is, at **your** requirement, supplied to, hired or borrowed by **you** in the course of the **business** and under **your** control, including but not limited to:

- a) persons on secondment from another company that is not an insured party under this **policy**;
- b) labour masters or persons supplied by them;
- c) labour only sub-contractors;
- d) self-employed persons;
- e) drivers or operators of hired-in plant;
- f) persons engaged under work experience, training, study, exchange or similar schemes;
- g) any officer or member of the organisations or services stated in the **business**;
- h) voluntary workers, helpers and instructors;
- i) persons working under the Community Offenders Act 1978, the Community Offenders (Scotland) Act 1978 or similar legislation;
- j) employee(s) elected on any industry users committee;
- k) prospective employees who are being assessed by **you** as to their suitability for employment;

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- l) outworkers or home workers employed under contracts to personally execute any work in connection with the **business** whilst they are engaged in that work;
- m) any other person defined under Sections 32-(1), 35-(2) and 54-(3)-(b) of the National Minimum Wage Act 1998;
- n) any person a Court of Law in the **United Kingdom** deems to be an employee;

provided that **you** can always request that any such person is not treated as an employee.

- 14.2. For Section – Professional Indemnity only, employee(s) means any person including trainees and apprentices acting under a contract of service with **you** including **your** past and future directors.
- 14.3. For Section – Legal Expenses only, employee(s) means a worker who has or alleges they have entered into a contract of service with **you**.
- 14.4. For Section – Fidelity Guarantee only, employee(s) means any person including trainees and apprentices acting under a contract of service with **you**.
- 14.5. For Section – Contract Works only, employee(s) also means any person named as the **insured** in the **schedule** who are the sole trader in the **business** or are a partner in the **insured**.
- 14.6. For Section – Cyber and Data Security only, employee(s) means any person including trainees and freelance consultants acting under a contract of service with **you** in respect of the conduct of **business services** by **you**. **Employee** does not include **your** principal, shareholder, partner, director or member in their capacity as such.

## 15 Event

Event means a single loss or series of losses arising out of and directly occasioned by a single common cause. However, the duration and extent of any single event shall be limited to:

- 15.1. seventy-two (72) consecutive hours as regards earthquake, **flood**, or **storm**;
- 15.2. seventy-two (72) consecutive hours and within the limits of one (1) borough, city, town or village as regards riot, civil commotion, malicious damage and vandalism.

**You** may choose when any of the periods commence and if the common cause is of greater duration than the above periods, **you** may decide to divide that common cause into two (2) or more occurrences provided that no two (2) periods overlap.

Should any such seventy-two (72) consecutive hour period extend beyond the expiry or cancellation date, **we** shall be liable as if such period had fallen entirely within the **period of insurance** of the **policy**.

## 16 Excess

Excess means the first amount that **you** must pay of each and every occurrence, **circumstance** or **insured event** but for cover by Sections - Professional Indemnity, and Directors' and Officers' Liability excess means the first amount that **you** must pay of each and every **claim** including **defence costs**.

The excess does not erode any limit of indemnity, limit of liability or any **sub-limit**.

### 17 Flood

Flood shall mean the escape of water from its normal, natural or artificial confines (other than tanks, apparatus or pipes) or inundation from the sea, including rising water, surface water or waves; tidal waves or tidal water; overflow of streams, rivers lakes, ponds, or other bodies of water; spray from any of the foregoing; all whether driven by wind or not, but excluding earthquake and **storm**. But damage by fire, explosion or sprinkler leakage resulting from flood is not considered to be flood.

### 18 Hacking

Hacking means unauthorised access to any **computer system** whether **your** property or not.

### 19 Insured event

Insured event means an event that is not excluded in the Exclusions applying to Sections – Property All Risks; Business Interruption All Risks; Contract Works or Terrorism.

### 20 Insured person

20.1. For Section - Directors and Officers - Insured person means:

20.1.1. any natural person who is, was or during the **period of insurance** becomes a **director or officer** including **non-executive directors**;

20.1.2. the **director's or officer's** estate, heirs, legal representatives or assigns, in the event of his death or incompetence or bankruptcy, but only for a **wrongful act** or conduct performed by that **director or officer** in their capacity as such;

20.1.3. the lawful spouse of any **director or officer** provided that the **claim** is to enforce a judgment against that **director or officer** for a **wrongful act** or conduct performed in their capacity as such;

20.1.4. any **employee** of the **company**:

- a) whilst acting in a managerial or supervisory capacity;
- b) named as a co-defendant with a **director or officer** of a company in a **claim** in which the **employee** is alleged to have participated or assisted in the commission of a **wrongful act**;

20.1.5. any natural person acting as a shadow director of the **company** as defined in Section 741 of the Companies Act 1985.

20.2. For all other Sections insured person means the **insured** and **your** directors, partners, managers and **employees**.

### 21 Legal costs

Legal costs means legal costs, charges, fees, expenses and advances in respect of the same (other than salaries, commissions, expenses or other benefits of **insured persons**).

### 22 Locked Compound

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Locked compound means a secure site, fenced on all sides with a gate accessed by a key or code.

### 23 Money

Money means and includes:

#### 23.1. *Negotiable money*

Negotiable money means cash bank and currency notes, uncrossed cheques, giro cheques including pre-authenticated giro cheques, uncrossed warrants, uncrossed postal and money orders, current postage and revenue stamps, National Savings stamps and certificates holiday with pay stamps and gift tokens National Insurance stamps (whether affixed to cards or not), debit card sales, vouchers, trading stamps, luncheon vouchers, and bills of exchange, securities for money, travel warrants, and authenticated travel tickets, phonecards and mobile telephone vouchers for **your** use or the use of any partner director or any of **your employees** in connection with **your business**, consumer redemption vouchers, and company sales vouchers, and unexpired units in franking machines all belonging to **you** or for which **you** have accepted responsibility.

#### 23.2. *Non-negotiable money*

Non-negotiable money means crossed warrants, crossed cheques, crossed giro drafts, crossed postal and money orders, crossed bankers' drafts, crossed National Girobank, cash, cheques, premium bonds, savings bonds, stamped National Insurance cards, National Savings Certificates, VAT purchase invoices, and credit card sales vouchers all belonging to **you** or for which **you** have accepted responsibility.

### 24 North America

North America means the United States of America or Canada or any territory within their jurisdiction.

### 25 Nuclear installation

Nuclear installation means any installation of such class or description as may be prescribed by regulations made by the relevant Secretary of State from time to time by statutory instrument, being an installation designed or adapted for:

- 25.1. the production or use of atomic energy;
- 25.2. the carrying out of any process which is preparatory or ancillary to the production or use of atomic energy and which involves or is capable of causing the emission of ionising radiations; or
- 25.3. the storage, processing or disposal of nuclear fuel or of bulk quantities of other radioactive matter, being matter which has been produced or irradiated in the course of the production or use of nuclear fuel.

### 26 Nuclear reactor

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Nuclear reactor means any plant (including any machinery, equipment or appliance, whether affixed to land or not) designed or adapted for the production of atomic energy by a fission process in which a controlled chain reaction can be maintained without an additional source of neutrons.

### 27 Offshore

Offshore means:

- 27.1. work in or on any offshore rig or platform or support or accommodation vessel for any offshore rig or platform; and
- 27.2. transiting to, from or between any offshore rig or platform or support or accommodation vessel.

### 28 Other insured party

Other insured party means the any of the following:

- a) **your** directors, partners, **employees** or a former **employee**;
- b) officers, members' committee and/or **employees** and voluntary helpers of **your** welfare and social organisations;
- c) officers and members of **your** security and emergency services or medical organisations (other than any qualified medical practitioner working in their professional capacities);
- d) **your** directors or partners or executives in respect of private work undertaken by any **employee** for **your** directors, partners or executives; and
- e) officers or trustees of **your** pension scheme(s), in their respective capacities as such.
- f) Any principal or any other party to the extent required by contract

### 29 Panel firm

Panel firm means any law firm that is formally appointed to **our** claims panel.

### 30 Period of insurance

Period of insurance means the period shown as such on the **schedule** which time is taken as Greenwich Mean Time unless otherwise stated.

### 31 Phishing

Phishing means any access or attempted access to **data** or information made by means of misrepresentation or deception.

### 32 Policy

Policy means this document, the **schedule** (including any **schedules** issued in substitution) and any endorsements attaching to this document or the **schedule** that will be considered part of the

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legal contract and any word or expression in bold type face on any of these documents will bear the specific meaning stated in these definitions.

### 33 Premises

Premises means that part of the premises specified in the **schedule** which is occupied by **you** for the purposes of the **business**.

### 34 Property insured

Property insured means tangible property described in the **schedule** to this **policy** that includes a specific **sum insured** or **limit of liability** against each or all of them and which is more specifically defined.

### 35 Proposal

Proposal means any information supplied by or on **your** behalf, deemed to be a **statement of fact**, a completed proposal form; any other questionnaire or relevant information that **we** may require.

### 36 Public authority

Public authority means any national, regional, local or municipal government or any national or international organisation with the responsibility to promote and protect public health.

### 37 Retroactive date

Retroactive date means:

- 37.1. the date of the first day of this **period of insurance**; or
- 37.2. if earlier, the inception date of proven continuous unbroken insurance cover held and for the relative cover or extension; or
- 37.3. the retroactive date shown on the **schedule**.

### 38 Safety critical

Safety critical means a location where a safety critical system or life critical system is in place whose failure or malfunction may result in loss of life, significant property damage or damage to the environment.

### 39 Schedule

Schedule means the document titled schedule that includes the name and address of the **insured**, the premium and other variables to this **policy** (including endorsement clauses) and is incorporated in this **policy** and accepted by the **insured**. Schedules may be reissued from time to time where each successor overrides the earlier document.

### 40 Specified perils

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Specified perils means fire, explosion, flood, escape of water from any tank, apparatus or pipe (including any sprinkler system), impact of aircraft or any aerial devices or articles dropped from them, impact of any sea-going or water-going vessel or of any vehicle whatsoever or of any goods or cargo carried in or on such vessel or vehicle, destruction of, **damage** to or movement of buildings or structures, plant or machinery other than any **computer system, data** or **money**.

### 41 Statement of fact

Statement of fact means the document **we** send to **you** that records all the information supplied to **us** by or on **your** behalf for the assessment of **your** eligibility for this insurance and its terms including the premium applicable to this **policy**.

### 42 Storm

Storm shall mean storm, windstorm, hurricane, tornado, tempest, cyclone and typhoon including ensuing **damage** caused by water that backs up from a sewer or drain as a direct result thereof, but excluding **flood** and earthquake;

### 43 Sub-limit of liability/Sub-limit of indemnity/Sub-limit

Sub-limit of liability/Sub-limit of indemnity/Sub-limit means the maximum liability payable under a specified section, clause, endorsement or other part of this **policy** and is deemed to be part of and not in addition to the limit liability, limit of indemnity or **sum insured** unless expressly stated otherwise.

### 44 Sum(s) insured

Sum(s) insured means the sum specified as the sum insured in the **schedule** and is **our** maximum liability for losses relating to the listed item.

### 45 Territorial limits

45.1. Under Section - Legal Expenses only,

45.1.1 for Standard clauses 6 Legal defence and 12 Contract & debt recovery, the **United Kingdom**, Norway, Switzerland and countries in the European Union

45.1.2 for all other Standard clauses, the **United Kingdom**.

45.2. For all other Sections, territorial limits are as per the **schedule**.

### 46 Terrorism

46.1. For Sections - Property All Risks, Business Interruption All Risks, Contract Works and Terrorism, terrorism means **Act of terrorism**.

46.2. For Sections – Employers’ Liability, Public and Products (including Inefficacy) Liability, Professional Indemnity, Legal Expenses, Directors’ and Officers’ Liability, Fidelity Guarantee and Cyber and Data Security, terrorism means:



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an activity that involves a violent act or the unlawful use of force or an unlawful act dangerous to human life, tangible or intangible property or infrastructure, or a threat thereof and appears to be intended to:

46.2.1. intimidate or coerce a civilian population; or

46.2.2. disrupt any segment of the economy of a government de jure or de facto, state, or country; or

46.2.3. overthrow, influence, or affect the conduct or policy of any government de jure or de facto by intimidation or coercion; or

46.2.4. affect the conduct or policy of any government de jure or de facto by mass destruction, assassination, kidnapping or hostage-taking.

### 47 United Kingdom

United Kingdom means Great Britain, Northern Ireland, the Isle of Man and the Channel Islands.

### 48 Virus or similar mechanism

Virus or similar mechanism means program code, programming instruction or any set of instructions intentionally constructed with the purpose and ability, or purposely used, to damage, interfere with, adversely affect, infiltrate or monitor computer programs, **computer systems, data** or operations, whether involving self-replication or not. Virus or similar mechanism includes but is not limited to, trojan horses, worms and logic bombs and the exploitation of bugs or vulnerabilities in a computer program to damage, interfere with, adversely affect, infiltrate or monitor as above.

### 49 War

War means war, invasion, acts of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, mutiny, revolution, rebellion, insurrection, uprising, military or usurped power, nationalisation, requisition, sequestration or confiscation by order of any **public authority** or government de jure or de facto or martial law but not including **terrorism**.

### 50 We/us/our/QBE/Insurer

#### 50.1 For all Sections except for Section - Legal Expenses

We/us/our/QBE means the Insurer and registered address stated in the **schedule**

#### 50.2. For Section – Legal Expenses, We/us/our means

ARAG plc who is authorised under a binding authority agreement to administer this insurance on behalf of the insurer HDI Global Specialty SE.

### 51 You/your/the insured

#### 51.1. For all Sections except the Legal Expenses Section, Directors' and Officers' Liability Section and Cyber and Data Security Section, you/your/the insured means

51.1.1. the company or other organisation shown as the insured in the **schedule** ("the insured" within this definition) including **your subsidiary companies** which are in

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existence at the inception date of the **policy** and have been declared to **us** until such time as they may be sold or otherwise disposed of (but not excluding any liabilities incurred prior to disposal); and

51.1.2. the person or people shown as the insured in the **schedule** (also “the insured” within this definition);

51.1.3. including in either case the legal or personal representatives of the insured in respect of any claim under this **policy** on behalf of the insured.

51.2. **For Section - Professional Indemnity, the insured also includes:**

51.2.1. **your** partners and/or directors or members or **employees** during the **period of insurance** or thereafter;

51.2.2. former partners and/or former directors and/or former members and/or former **employees** of the insured;

51.2.3. any retired partner, director or member of the insured remaining as a consultant to the insured;

51.2.4. the estate, heirs and executors and/or legal/personal representatives of those parties mentioned above in the event of their death, incapacity, insolvency or bankruptcy for legal liabilities incurred due to any act, error or omission of such deceased, incompetent or bankrupt person.

51.3. **For Section - Legal Expenses:**

51.3.1 **You/your means** the individual, partnership or corporate body named in the schedule, including any subsidiary and/or associated companies declared to **us**.

51.3.2 **Insured means:**

a) **You, your** directors, partners, managers, officers and **employees of your business**.

b) A person declared to **us**, who is contracted to perform work for **you**, who in all other respects **you** have arranged to insure on the same basis as **your employees** and who performs work under **your** supervision.

51.4. **For Section – Directors’ and Officers’ insured means:**

51.4.1. the **company** and the **insured person**.

51.5. **For Section – Cyber and Data Security you/your/the insured means:**

51.5.1. The company or other organisation shown as **insured** in the **schedule** including any **subsidiary** or any company created or acquired by **you** as set out in the Acquisitions and Creations clause of the General Conditions **section** until such time as they may be sold or otherwise disposed of (but not excluding any liabilities incurred prior to disposal), and

51.5.2. **your** partners and/or **directors or officers** members or **employees** during the **period of insurance** or thereafter;

## General Definitions

- 51.5.3. **your** former partners and/or former directors and/or former members and/or former **employees**;
- 51.5.4. the estate, heirs and executors and/or legal personal representatives of those parties mentioned above in the event of their death, incapacity, insolvency or bankruptcy for legal liabilities incurred due to any act, error or omission of such deceased, incompetent or bankrupt person.

## **Employers' Liability Section**

### **Definitions**

#### **1 Limit of Indemnity**

Limit of Indemnity means the sum stated in the ***schedule*** that is the maximum amount payable by ***us*** in respect of:

- 1.1. any one claim against ***you*** or series of claims against ***you***; and
- 1.2. any claim or series of claims made by ***you*** under this Section of the ***policy***;

arising out of one occurrence.

The indemnity provided by the Standard Clauses or any other amendment to this Section shall not operate so as to increase the maximum amount payable in respect of claims arising out of one occurrence.

### Employers' Liability

#### 1 Cover

**We** agree to indemnify **you** for all sums that **you** will become legally liable to pay as damages, including claimant costs recoverable from **you**, arising out of **bodily injury** caused during the **period of insurance** and sustained by an **employee** in the course of employment by **you** in the **business**, except that where such employment is undertaken outside the **United Kingdom**:

- 1.1 the **employee** must be intending to return to the **United Kingdom** following completion of the temporary overseas employment; and
- 1.2 the temporary overseas employment outside the **United Kingdom** is not intended or planned to exceed twelve (12) months duration; and
- 1.3 any temporary overseas employment undertaken in **North America** applies only to clerical, promotional, sales conference attendance and other similar non-manual work.

#### 2 Defence costs

**We** will indemnify **you** for **defence costs** following any event which is or may be the subject of indemnity under this section or any extension to this section, whether or not **bodily injury** has occurred, subject to the following:

- 2.1 these **defence costs** form part of the **limit of indemnity**;
- 2.2 **our** prior written and continuing consent must be obtained prior to such costs being incurred;
- 2.3 where a non-**panel firm** is appointed, a **legal costs sub-limit** of GBP500,000 will apply;
- 2.4 where payment exceeding the **limit of indemnity** has to be made to dispose of a claim, **our** liability for **defence costs** shall be limited to such proportion of the said **defence costs** as the **limit of indemnity** is to the total amount paid to dispose of the claim.

### Standard Clauses

#### 1 Conflict of interest

In the event of a conflict of interest between **you** and any **employee** indemnified by this Section separate representation will be arranged for each party.

#### 2 Contractual liability

Where any contract or agreement entered into by **you** so requires **we** will indemnify **you** against liability arising in connection with and assumed by **you** by virtue of such contract or agreement but only so far as concerns liability as defined in this Section to **your employees** provided that the terms and conditions of this insurance will apply as far as may be practicable.

Further, **we** will waive **our** rights of subrogation against any specified party as required by the contract or agreement.

#### 3 Data protection

**We** will indemnify **you** and any **employee** in respect of their liability to pay:

- a) any valid compensation, including any associated **defence costs**, in respect of:
  - i. **damage** or distress under section 168 of Part VI of the Data Protection Act 2018 ('DPA'); or
  - ii. material or non-material **damage** under Article 82 of the General Data Protection Regulation ('GDPR'),

first occurring during the **period of insurance** and resulting in a claim or claims brought by any **employee** against **you** and notified to **us** during the **period of insurance**; and

- b) **defence costs** in relation to a prosecution commenced during the **period of insurance** under the DPA or GDPR and incurred with **our** prior written and continuing consent.

This extension shall not apply in respect of:

1. any cost or liability which is a result of a malicious act involving the use or operation of, or access to, any **computer system** or **data**.
2. the cost of replacing, reinstating, rectifying or erasing any personal data;
3. any cost relating to the investigation of a data breach, or any obligation to report a data breach to the Information Commissioner's Office or any other supervisory authority or other regulator or to data subjects;
4. liability caused by or arising from a deliberate act by or omission of any party entitled to indemnity under the **policy**, the effect of which would knowingly result in liability under the DPA or the GDPR;
5. claims which arise out of circumstances that are notified to any previous insurer or known to **you** at inception of the **policy**;

## Section Employers' Liability

6. liability for which indemnity is provided under any other insurance; or
7. claims or prosecutions brought against **you** outside the courts of the **United Kingdom**.

**Our** maximum liability during the **period of insurance** for all claims under this extension shall not exceed the total **limit of indemnity**.

### 4 Employees' business liability

If required this Section will indemnify any **employee** in respect of a claim made against that **employee**, which would have constituted a valid claim under this Section had the claim been made against **you**.

### 5 Employers' Liability (Compulsory Insurance) Act 1969

The indemnity granted by this Section is deemed to be in accordance with the provisions of the Employers' Liability (Compulsory Insurance) Act 1969 and the Employers' Liability (Compulsory Insurance) Regulations 1998 or any subsequent amendment or re-enactment or similar legislation applying to Northern Ireland, the Isle of Man or the Channel Islands.

However, **you** shall repay to **us** all sums paid by **us** which **we** would not have been liable to pay but for the provision of such legislation.

### 6 Indemnity to other parties

At **your** request, **we** will separately indemnify each **other insured party** provided that:

- a) **you** would have been entitled to indemnity by this **policy** had the claim or suit been made against the **insured**;
- b) **we** have the sole conduct and control of any claim as far as may be practical;
- c) the **other insured party** shall, as though they were the insured, observe, fulfil and be subject to the terms and conditions of this **policy** in so far as they can apply;
- d) **our** liability under this clause shall in no way operate to increase the **limit of indemnity** or any applicable **sub-limit of indemnity**.

### 7 Injuries to partners

In respect of **bodily injury** sustained by any partner named in the **schedule we** will, for the purpose of this **policy**, deem that person to be an **employee**, provided that **we** are only liable under this extension where:

- 7.1 the injuries are sustained whilst that person is working in connection with the **business**;
- 7.2 the injuries are caused by another partner or **employee** whilst working in the **business**;
- 7.3 the injured partner has a valid right of action in negligence against the partner or **employee** responsible for such injury.

### 8 Manslaughter defence costs

**We** will indemnify **you** and any **other insured party**, in respect of **defence costs** reasonably incurred with **our** prior written and continuing consent in defending allegations (whether under common law or statute) of manslaughter, corporate manslaughter or corporate homicide made against **you** or any **other insured party** provided that the prosecution or proceedings relate to:

- a) an offence alleged to have been committed during the **period of insurance** and in the course of business; and
- b) a potential insured claim for the manslaughter, corporate manslaughter or corporate homicide of an **employee** which may be the subject of an indemnity under this section.

**We** will also indemnify **you** or any **other insured party** for:

- a) **defence costs** incurred in relation to the appeal of any finding by a court in England and Wales, Scotland or Northern Ireland (including appeals against any Improvement Notices or Prohibition Notices); and
- b) prosecution costs awarded against **you**,

following any finding by a court in England and Wales, Scotland or Northern Ireland that **you** or any **other insured party** was in breach of a statutory duty which may be the subject of an indemnity under this section.

This extension excludes any amount:

- a) for which **you** or any **other insured party** is entitled to an indemnity by any other legal expenses, motor or employment protection policy; or
- b) claimed in respect of sums otherwise insured under this **policy**.

**Our** maximum liability during the **period of insurance** for all claims under this extension shall not exceed the **sub-limit of indemnity** stated in the **schedule**.

Where a non-**panel firm** is appointed, a **legal costs sub-limit** of GBP500,000 will apply;

### 9 Medical treatment

This Section extends to indemnify **you** and any medical doctor or dentist employed by **you** in respect of liability to any **person** under a contract of service or apprenticeship with **you** resulting from treatment given provided that:

- 9.1 any such doctor or dentist shall as though they were **you** be subject to the terms of this **policy** so far as they can apply; and
- 9.2 **we** will not provide an indemnity where any such doctor or dentist is indemnified under any other insurance or in any other way.

### 10 Public relations expenses

In the event of a claim for which **you** are entitled to indemnity under this Section **we** will, with **our** prior written and continuing consent indemnify **you** for the reasonable and necessary expenses incurred for publicity costs directly relating to the protection of **your** brand image as may be



impacted by the negative press coverage flowing from the insured event except that **our** liability under this clause shall not exceed the **sub-limit** shown in the **schedule**.

### 11 Statutory defence costs

**We** will indemnify **you** and any **other insured party**, in respect of **defence costs** reasonably incurred with **our** prior written and continuing consent in defending any alleged breach of statutory duty, provided that the allegations relate to:

- a) an offence alleged to have been committed during the **period of insurance** and in the course of **business**; and
- b) a potential insured claim for disease, illness, nervous shock, mental anguish or physical or mental injury of or to **employees** which may be the subject of an indemnity under this section.

**We** will also indemnify **you** or any **other insured party** for:

- a) **defence costs** incurred in relation to the appeal of any finding by a court in England and Wales, Scotland or Northern Ireland (including appeals against Improvement Notices and Prohibition Notices); and
- b) prosecution costs awarded against **you** or any **other insured party**,

following any finding by a court in England and Wales, Scotland or Northern Ireland that **you** or any **other insured party** was in breach of a statutory duty which may be the subject of an indemnity under this section.

This extension excludes any amount:

- a) for which **you** or any **other insured party** is entitled to an indemnity by any other legal expenses, motor or employment protection policy;
- b) claimed in respect of sums otherwise insured under this **policy**; or
- c) claimed in respect of allegations of manslaughter, corporate manslaughter or corporate homicide.

where a non-**panel firm** is appointed, a **legal costs sub-limit** of GBP500,000 will apply;

### 12 Tracing office database

Where **we** provide an indemnity under the Employers' Liability (Compulsory Insurance) Regulations 1998, **we** are required by regulation to maintain a database of all the companies and subsidiary companies covered by such insurance. **We** support and will add details of all company names to the Employers' Liability Tracing Office database.

Accordingly, it is a condition of this insurance that **you** undertake to supply full details (as required by the Employers' Liability Tracing Office) of the company and all subsidiary companies to **us** at inception of this **policy** and promptly thereafter following acquisition or disposal of any subsidiary company.

### 13 Unsatisfied court judgments

If an **employee** sustains **bodily injury** caused during the **period of insurance**, arising out of and in the course of employment by **you** for which a third party is legally liable and the **employee**:

13.1 is unable to enforce a judgement for damages against the third party, either in part or in whole within six (6) months of the date of the judgment, **we** will if required, indemnify the **employee** up to the amount of the adjudged damages and any awarded costs to the extent that they remain unsatisfied, provided that:

13.1.1 this extension only applies to judgments made in a Court of Law outside **North America**;

13.1.2 there is no appeal outstanding;

13.1.3 the **employee** in return for the payment assigns his judgment to **us**.

13.2 is unable to institute or serve proceedings for damages against the third party within a reasonable period of time, or at all, **we** will if required pay the **employee** an amount equivalent to the sum which would reasonably be expected to be recovered in proceedings for damages in a Court of Law outside **North America** provided that the **employee**:

13.2.1 assigns to **us** his legal rights granted from such proceedings or judgment;

13.2.2 provides all reasonable assistance that **we** may require should it become possible to pursue the action.

All costs reasonably incurred by the **employee** in compliance with this requirement will be reimbursed by **us**.

Any dispute arising out of this clause will be resolved by reference to an independent arbitrator acceptable to both the **employee** and **us**, who will be a practising solicitor experienced in personal injury claims and whose decision will be final.

### 14 Waiver of subrogation against subsidiaries

In the event of any **employee** sustaining **bodily injury** arising out of and in the course of employment with **you** due to the negligence of **your** subsidiary and at **your** request, **we** agree to waive rights of subrogation against **your** subsidiary company.

### 15 War and terrorism

The insurance under this Section is extended to cover liability to an **employee** arising from or caused by an act of **war** or **terrorism** provided that the **limit of indemnity** under this clause will not exceed the amount stated in the **schedule** in respect of:

15.1 any one claim against you or series of claims against **you**; and

15.2 any claim or series of claims made by **you** under this Section:

arising out of one occurrence.

### Exclusions

#### 1 Data protection liabilities

This Section excludes liability which arises under the Data Protection Act 1998 ('DPA'), any subsequent amending legislation or the General Data Protection Regulation ('GDPR') other than as provided for by the 'Data Protection' extension clause.

#### 2 Employment practices dispute

This Section excludes liability which arises out of employment practice disputes related to employment or prospective employment of any person or persons employed by **you** including but not limited to:

- 2.1 wrongful, unfair or constructive dismissal;
- 2.2 denial of natural justice, defamation, misleading representation or advertising;
- 2.3 refusal to employ a suitably qualified applicant or failure to promote; and
- 2.4 coercion, demotion, evaluation, relocation, punishment, slander, humiliation, harassment, bullying or discrimination.

This exclusion shall not apply in respect of compensatory damages for **bodily injury** required by the Employers' Liability (Compulsory insurance) Regulations 1998.

#### 3 Fees for intervention

This Section excludes and does not cover any payments raised under the Health and Safety (Fees) Regulations 2012 relating to 'fees for intervention'

#### 4 Fines and penalties

This Section excludes liability for payment of any fines or penalties imposed or ordered to be paid.

#### 5 Hazardous activities

This Section excludes liability directly or indirectly caused by or arising from work:

- 5.1 at height where the drop exceeds sixteen (16) metres, except that this exclusion shall not apply where using mobile elevated working platforms as an access method;
- 5.2 at a depth which exceeds three (3) metres below the ground;
- 5.3 undertaken by **you** or anyone else connected with the **business** on or at any premises or structures used in connection with the production, processing, transportation or storage of gas, oil, petrol or chemicals except that this exclusion shall not apply to retail garages, shops or offices or to work at perimeter fences and boundaries or in non **safety critical locations** at such establishments;
- 5.4 undertaken by **you** or anyone else connected with the **business**:

- 5.4.1 **offshore**;
- 5.4.2 on sites located **airside**;
- 5.4.3 on, alongside or within 5 metres of any railway tracks that are open and not separated from the work by an unbroken brick wall or metal fencing except that this exclusion shall not apply to work on public railway stations;
- 5.4.4 on the site of any **nuclear installation** or establishment except that this exclusion does not apply to work in offices or at perimeter fences and boundaries at a nuclear site.

### 6 North American jurisdiction

This Section excludes liability for payment of any judgment, award, payment or settlement made (or to any order made anywhere in the world to enforce such judgment, award, payment or settlement either in whole or in part) within countries which operate under the laws of **North America** to:

- 6.1 any party incorporated, domiciled or resident in **North America**;
- 6.2 pay any sum in excess of a **limit of indemnity** which sum shall be the maximum amount payable including any **defence costs** recoverable hereunder;
- 6.3 pay punitive, multiple or exemplary damages.

### 7 Nuclear risks

This section excludes liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:

- 7.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
- 7.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

### 8 Road traffic legislation

This Section excludes liability for **bodily injury** sustained by an **employee** when the **employee** is:

- 8.1 being carried in or upon a vehicle; or
- 8.2 entering or getting into or alighting from a vehicle;

in **circumstances** where insurance or security is required to be effected by **you** to comply with the Road Traffic Acts as amended by The Motor Vehicles (Compulsory Insurance) Regulations 1992 or any alteration to such Regulations or any similar legislation applying to Northern Ireland, the Isle of Man or the Channel Islands or to any other territory consequent on the Third Council Directive 90/232/EEC of 14/05/1990 or consequent on any other legislation relating to insurance against civil liability in respect of the use of motor vehicles.

### 9 Statutory defence costs and manslaughter defence costs

This section excludes liability for **defence costs** arising out of any alleged breach of statutory duty or any allegation of manslaughter, corporate manslaughter or corporate homicide. This exclusion shall not apply in respect of and to the extent of the indemnity provided by the Statutory defence costs and the Manslaughter defence costs clauses.

### 10 War and terrorism

This Section excludes liability for all actual or alleged losses, liabilities, damages, injuries, **defence costs** directly or indirectly arising out of, contributed to or by, caused by, resulting from or in connection with **war** or **terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

This exclusion also excludes from coverage all actual or alleged losses, liabilities, damages, injuries, **defence costs** or expense(s) directly arising out of, contributed to or by, caused by, resulting from, or in connection with any action taken in controlling, preventing, suppressing, retaliating against, or responding to **war** or **terrorism**.

Provided that this exclusion shall not apply in respect of and to the extent of the indemnity provided by Standard Clause – War and terrorism to this Section.

If **we** allege that by reason of this exclusion any actual or alleged losses, liabilities, damages, injuries, **defence costs** are not covered by this Section the burden of proving the contrary shall be upon **you**.

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

### 11 Workman's compensation or social security payment

This Section excludes liability for any claims arising out of **bodily injury** that are payable by reason of any workman's compensation scheme, social security scheme or similar insurance scheme arising in connection with, from or due to employment but this exclusion will not apply to payments required to be made to the Compensation Recovery Unit or its successor.

## **Public and Products (including Inefficacy) Liability Section**

### **Definitions**

#### **1 Advertising injury**

Advertising injury means:

- 1.1 oral, broadcast, telecast or written publication of material that slanders or libels a person or disparages a person's goods, products or services;
- 1.2 oral, broadcast, telecast or written publication of material that violates an individual's right of privacy;
- 1.3 misappropriation of advertising ideas or style of doing **business**;
- 1.4 infringement of copyrighted advertising materials, titles or slogans;

in the course of advertising **your** goods, **products** or services.

#### **2 Denial of access**

Denial of access means nuisance, trespass or interference with any easement, right of air, light, water or way.

#### **3 Inefficacy**

Inefficacy means the failure of any **product** to perform the function for which it was manufactured, supplied, leased, installed, commissioned, erected, altered, tested, repaired, treated, or serviced by **you** or on **your** behalf in the normal course of **your business**.

#### **4 Key(s)**

Key(s) means customers' keys, electronic pass cards, key cards and similar security devices.

#### **5 Legionella**

Legionella means any discharge release or escape of legionella or other airborne pathogens from water tanks, water systems, air-conditioning plants, cooling towers and the like.

#### **6 Liability**

Liability means legal liability to pay damages including interest and claimant costs recoverable from **you** in respect of or as a result of:

- 6.1 accidental **bodily injury** to any person other than an **employee**;
- 6.2 accidental **damage** caused by **you** or **your employees** or sub-contractors to property other than property belonging to **you** or in **your** custody, possession or control;

## Section Public and Products (including Inefficacy) Liability

- 6.3 accidental **damage** or **bodily injury** caused by deliberate acts of **your employees** or sub-contractors that were not condoned and or sanctioned by **you** and or carried out with **your** knowledge or agreement or consent;
- 6.4 accidental personal injury;
- 6.5 accidental **advertising injury**;
- 6.6 accidental **denial of access**,
- 6.7 accidental **pollution**;
- 6.8 accidental **damage** or **bodily injury** caused by **products**

occurring during the **period of insurance** in connection with any occurrence which is or may be the subject of indemnity under this Section.

### 7 Limit of Indemnity

Limit of Indemnity means the limit of indemnity as stated in the **schedule**:

- 7.1 in total during any one **period of insurance** in respect of claims arising from **products** (whether or not involving pollution or contamination);
- 7.2 in total during any one **period of insurance** in respect of other claims arising from pollution or contamination of buildings or other structures or of water or land or the atmosphere and all **damage** or injury, directly or indirectly caused by such pollution or contamination;
- 7.3 any one occurrence (irrespective of the number of claims caused as a result) for all other claims.

The indemnity provided by the Standard Clauses or any other amendment to this Section shall not operate so as to increase the maximum payable above the **limit of indemnity** stated in the **schedule** plus additional **defence costs**.

### 8 Personal injury

Personal injury means harm other than **advertising injury** or **bodily injury** arising out of one or more of the following offences committed in the course of the **business**:

- 8.1 false arrest;
- 8.2 detention or imprisonment;
- 8.3 malicious prosecution;
- 8.4 wrongful entry into, or eviction of a person from a room, dwelling or premises that the person occupies;
- 8.5 invasion of right of privacy;
- 8.6 libel, slander, defamation or mis-statement.

### 9 Pollutant

Pollutant means any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapour, soot, dust, fumes, acids, alkalis, chemicals or waste. Waste is deemed to include materials to be recycled, reconditioned or reclaimed.

### 10 Pollution

10.1 Pollution means: false, actual, alleged or threatened discharge, seepage, migration, dispersal, release or escape of **pollutants** at any time other than any discharge, release or escape of legionella or other airborne or waterborne pathogens from water tanks, water systems, air conditioning plants, cooling towers and the like;

10.2 any cost, expense, claim or suit arising out of any request, demand or order arising from actual, alleged or threatened discharge, seepage, migration, dispersal, release or escape of **pollutants** at any time that the **insured** or any **other insured party** test for, monitor, clean up, remove, contain, treat, detoxify or neutralise or in any way respond to or assess the effects of **pollutants**.

### 11 Preventative costs

Preventative costs means sums that **you** are liable to pay for prevention of imminent threat of environmental damage as provided for in any **United Kingdom** law implementing The Environmental Damage (Prevention and Remediation) Regulations 2009 or any superseding or replacing legislation or regulation.

### 12 Products

Products means goods including containers and packaging sold, supplied, leased, installed, commissioned, erected, altered, tested, repaired, treated or serviced by **you** including any advice, design, plans, specifications, formulae, surveys, instructions or directions relating to such goods.

### 13 Server rooms and data centres

Server rooms and data centres means rooms used to store, power and operate computer servers and their associated components.



## **Public and Products (including Inefficacy) Liability**

### **1 Cover**

**We** will indemnify **you** up to the **limit of indemnity** against **liability** incurred by **you** during the **period of insurance** in respect of and in the course of the **business** within the **territorial limits**.

### **2 Defence costs**

**We** will indemnify **you** for **defence costs** following any event or occurrence which is or may be the subject of indemnity under this section or any extension to this section, subject to the following:

- 2.1 these **defence costs** are in addition to the **limit of indemnity**;
- 2.2 **our** prior written and continuing consent must be obtained prior to such costs being incurred;
- 2.3 where a non-**panel firm** is appointed, a **legal costs sub-limit** of GBP500,000 will apply
- 2.4 where payment exceeding the **limit of indemnity** has to be made to dispose of a claim, **our** liability for **defence costs** shall be limited to such proportion of the said **defence costs** as the **limit of indemnity** is to the total amount paid to dispose of the claim.

## Standard Clauses

The indemnity provided by this Section includes **liability** under the following clauses provided that where a party other than **you** is indemnified that party will, as though they were **you** observe, fulfil and be subject to the terms, exclusions and conditions insofar as they can apply.

### 1 Asbestos accidental discovery

Solely as regards the cover granted by this Asbestos accidental discovery clause the Exclusion - Asbestos is deleted and of no effect.

- 1.1 Section - Public and Products (including Inefficacy) Liability is extended to indemnify **you** against legal liability to pay damages or compensation including claimant's costs recoverable from **you** arising from any claim first made against **you** during the **period of insurance for bodily injury, personal injury, damage** or nuisance caused at any time after the **retroactive date** by the accidental discovery of asbestos and/or asbestos containing materials.
- 1.2 Further **we** agree that any **circumstance(s)** notified to **us** during the **period of insurance** which subsequently gives rise to a claim after expiry of the **period of insurance** shall be deemed to be a claim first made during the **period of insurance**.
- 1.3 The cover provided by this Asbestos accidental discovery clause excludes and does not cover:
  - 1.3.1 **bodily injury, personal injury, damage** or nuisance caused by the existence of or exposure to asbestos or asbestos containing materials which occurred on or before the **retroactive date**;
  - 1.3.2 any claims arising from the existence of or exposure to asbestos and/or asbestos containing materials where **you** were aware of the circumstance or event which gave rise to the claim before the inception date of this Section;
  - 1.3.3 liability arising from any subsequent activities carried out by qualified licensed sub-contractors which are related or connected to dealing with the discovered asbestos and/or asbestos containing materials;
  - 1.3.4 any liability in respect of the diminution in the value of property or loss of or potential loss of rental income or any other consequential losses (including business interruption) howsoever arising;
  - 1.3.5 liability to pay damages or compensation including claimants' costs recoverable from **you** and **defence costs** in excess of the **sub-limit of indemnity** shown in the **schedule** which sum shall be the maximum **we** will pay in the aggregate during any one period of insurance; and
  - 1.3.6 the **excess** shown in the **schedule** shall apply to each and every claimant.

### 2 Conflict of interest

In the event of a conflict of interest between **you** and any **employee** indemnified by this Section separate representation will be arranged for each party.

### 3 Contractual liability

**We** will indemnify **you** against **liability** arising in connection with any contract or agreement entered into by **you** in the course of the **business** provided that **we** are not liable for:

- 3.1 liquidated damages, fines or penalties;
- 3.2 **damage** to **your** contract works;
- 3.3 **damage** to materials, plant or equipment used in the performance of the contract by **you**, **your** principals or **your** sub-contractors;

Further **we** will waive **our** rights of subrogation against a specified party to the extent required by the contract or agreement.

### 4 Criminal acts

4.1 **We** will indemnify **you** for **your** liability to pay damages including interest and claimants' costs recoverable from **you** as a result of **bodily injury** or **damage** in respect of criminal acts of arson, theft, malicious damage, assault, fraud, dishonesty or embezzlement by **your employees** provided that the events **insured** by this clause:

- 4.1.1 were committed during the **period of insurance**; and
- 4.1.2 arose in connection with a contract with a customer, and
- 4.1.3 were not condoned or sanctioned by **you** and or carried out with **your** prior knowledge or agreement or consent.

4.2 General Terms and Conditions – Fraudulent claims shall not apply in respect of cover provided by this Standard Clause.

### 5 Cross liabilities

Where the **insured** comprises more than one party this Section will operate as though a separate policy had been issued to each such party provided that **our** total **liability** does not exceed the **limit of indemnity** plus additional **defence costs**.

For the purpose of this clause, members of **your** sports and social clubs and similar organisations, as specified in Standard Clause – Indemnity to other parties, engaged in activities described in the definition of the **business** will each be considered a separate **insured** party.

### 6 Customers' goods removed

This Section includes **your** legal liability for accidental **damage** to customers' goods but only whilst removed from customers' premises and in **your** custody, possession or control.

### 7 Customers' premises

The exclusion of property in **your** custody, possession or control stated in the definition of **liability** will not apply in respect of premises and their contents temporarily in **your** custody, possession or control for the purpose of undertaking work, provided that the extension of cover granted by this clause does not apply in respect of:

## Section Public and Products (including Inefficacy) Liability

- 7.1 premises and their contents belonging to **you** or occupied by **you** as tenants;
- 7.2 **damage** to that part of the premises or contents upon which **you** are or have been working, resulting directly from the work process.

### 8 Data protection

**We** will indemnify **you** and any director, partner or **employee** in respect of their liability to pay:

- a) any valid compensation, including any associated **defence costs**, in respect of:
- i. **damage** or distress under section 13 of Part II of the DPA; or
  - ii. material or non-material **damage** under Article 82 of the GDPR,

first occurring during the **period of insurance** and resulting in a claim or claims brought by any person not being a director, partner or **employee** and notified to **us** during the **period of insurance**; and

- b) **defence costs** in relation to a prosecution commenced during the **period of insurance** under the DPA or the GDPR and incurred with **our** prior written and continuing consent.

This extension excludes:

1. any cost or liability which is a result of a malicious act involving the use or operation of, or access to, any **computer system** or **data**;
2. the cost of replacing, reinstating, rectifying or erasing any personal data;
3. any cost relating to the investigation of a data breach, or any obligation to report a data breach to the Information Commissioner's Office or any other supervisory authority or other regulator or to data subjects;
4. liability caused by or arising from a deliberate act by or omission of any party entitled to indemnity under the **policy**, the effect of which would knowingly result in liability under the DPA or the GDPR;
5. claims which arise out of circumstances that are notified to any previous insurer or known to **you** at inception of the **policy**;
6. liability for which indemnity is provided under any other insurance; or
7. claims or prosecutions brought against **you** outside the courts of the **United Kingdom**.

**Our** maximum liability during the **period of insurance** for all claims under this extension shall not exceed the **sub-limit** shown in the **schedule**.

### 9 Defective Premises Act 1972

**We** will indemnify **you** for **your liability** incurred under Section 3 of the Defective Premises Act 1972 or Section 3 of the Defective Premises Measure (Northern Ireland) 1974 or any amendment thereto in connection with premises that have been disposed of by **you**, except that **we** will not be liable to provide an indemnity for the cost of remedying any defect or alleged defect in such premises.

### 10 Employees' liability overseas

We will indemnify **you** for **your liability** and if **you** so require such **liability** of any **employee** (including their family or persons normally resident with them) whilst abroad on **business** but excluding **liability** for which indemnity is provided under any other insurance or in any other way.

### 11 Employees' personal liability

If required by **you** this Section will indemnify any **employee** against **liability** arising from or caused by the engagement in temporary service, in a private capacity, of any fellow **employee**, excluding **liability** for which indemnity is provided under any other insurance or in any other way.

### 12 Environmental statutory liability

We will indemnify **you** for all sums, including statutory debts, that **you** are legally liable to pay or legally obliged to incur for remediation in respect of environmental damage where such liability arises under an environmental protection directive, statute or statutory instrument.

This extension shall only apply where:

- a) **liability** arises from **pollution** occurring during the course of **business**, within the **United Kingdom** and/or member state of the European Union; and
- b) **liability** is caused by a sudden, identifiable, unintended and unexpected incident that takes place in its entirety at a specific moment in time and place during the **period of insurance**.
- c) **preventative costs** are incurred with **our** prior written and continuing consent; and
- c) **liability** relates solely to stop or limit further **pollution** to third party property.

This extension shall not apply in respect of:

- a) compensatory remediation for **damage**; and
- b) costs of the removal of any significant risks of an adverse effect on human health, to or on **your** land, premises, watercourse or body of water whether owned, leased, hired, tenanted or otherwise in **your** care, custody or control; or
- c) costs of improving or altering the condition of the land, atmosphere, watercourse or body of water beyond that required under any applicable law or regulation at the time remediation commences.

**Our** maximum liability during the period of insurance for all claims under this extension shall not exceed the **sub-limit** stated in the **schedule**.

Where a non-**panel firm** is appointed, a **legal costs** sub-limit of GBP500,000 will apply.

### 13 Indemnity to other parties

At **your** request, **we** will separately indemnify each **other insured party** provided that:

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- a) **you** would have been entitled to indemnity by this **policy** had the claim or suit been made against the **insured**;
- b) **we** have the sole conduct and control of any claim as far as may be practical;
- c) the **other insured party** shall, as though they were the **insured**, observe, fulfil and be subject to the terms and conditions of this **policy** in so far as they can apply;
- d) **our** liability under this clause shall in no way operate to increase the **limit of indemnity** or any applicable **sub-limit of indemnity**.

### 14 Indemnity to principal

The **insurer** will indemnify any party including any principal whom under contract or agreement the **insured** has agreed to indemnify and/or insure but only to the extent required by such contract or agreement and only to the extent that liability arises solely out of the work performed for the principal by or on behalf of the **insured** and provided that:

- a) such party shall, as though they were the **insured**, observe, fulfil and be subject to the terms and conditions of this **policy** in so far as they can apply; and
- b) the **insurer's** liability under this clause shall in no way operate to increase the **limit of indemnity** or any applicable **sub-limit of indemnity**;

and, for the avoidance of doubt, to the extent only of the indemnity provided by this **insured section**.

### 15 Inefficacy (failure to perform)

**We** will indemnify **you** for **your liability** for **bodily injury** or **damage** caused by or arising from the failure of any **product** to fulfil its intended function or arising out of wrongful advice, design, plans, specifications, formulae, surveys, instructions or directions given by **you** directly in connection with such product.

**Our** liability under this clause shall not exceed the **sub-limit** shown in the **schedule**.

### 16 Leased premises

**We** will indemnify **you** for **your liability** for **damage** to premises including landlord's contents, fixtures and fittings not owned by **you** but leased or rented by **you** in the course of the **business** excluding:

- 16.1 **liability** for which indemnity is provided to **you** under any other insurance or in any other way
- 16.2 **liability** which attaches by way of any contract or agreement that would not have attached in the absence of that contract or agreement.

### 17 Legionella

Notwithstanding the Legionella Exclusion to this Section, **we** will indemnify **you** for all sums (including claimants' costs and expenses) which **you** become legally liable to pay in respect of any

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claims first made against **you** during the **period of insurance** resulting from **legionella** causing **bodily injury, personal injury, damage, denial of access or nuisance** except that **we** will not be liable for:

- 17.1 any amount in excess of the **sub-limit of indemnity** stated in the **schedule**;
- 17.2 any claims which arise out of circumstances notified to previous insurers or known to **you** at the inception of this **policy**;
- 17.3 any claims for **bodily injury** or **personal injury** arising from employment;
- 17.4 any claims made against **you** for **legionella** where the insured event giving rise to the claim happened prior to the **retroactive date**.

### 18 Local Democracy, Economic Development and Construction Act 2009

The **insurer** will indemnify the **insured** and any **other insured party** in respect of liability which the **insured** may incur in respect of any claim(s) first made against the **insured** during the **period of insurance** for claimants' costs and expenses arising from any decision by an adjudicator appointed to resolve a dispute in accordance with the Scheme for Construction Contracts as contained in the Local Democracy, Economic Development and Construction Act 2009 (formerly Housing Grants, Construction and Regeneration Act 1996) or an adjudication clause or rules contained in a contract. It is agreed as a condition precedent to **our liability** under this clause that **you** undertake to satisfy **us** that any **liability** incurred under an adjudicator's decision for which indemnity is being sought, is as a direct result of negligence by **you** in the conduct of **your business**;

### 19 Manslaughter defence costs

**We** will indemnify **you** and any **other insured party**, in respect of **defence costs** reasonably incurred with **our** prior written and continuing consent in investigating and defending allegations (whether under common law or statute) of manslaughter, corporate manslaughter or corporate homicide made against **you** or any **other insured party** provided that the prosecution or proceedings relate to:

- a) an offence alleged to have been committed during the **period of insurance** and in the course of **business**; and
- b) a potential insured claim for the manslaughter, corporate manslaughter or corporate homicide other than to an **employee** which may be the subject of an indemnity under this section.

**We** will also indemnify **you** or any **other insured party** for:

- a) **defence costs** incurred in relation to the appeal of any finding by a court in England and Wales, Scotland or Northern Ireland (including appeals against any Improvement Notices or Prohibition Notices); and
- b) prosecution costs awarded against **you**,

following any finding by a court in England and Wales, Scotland or Northern Ireland that **you** or any **other insured party** was in breach of a statutory duty which may be the subject of an indemnity under this section.

## Section Public and Products (including Inefficacy) Liability

This extension excludes any amount:

- a) for which **you** or any **other insured party** is entitled to an indemnity by any other legal expenses, motor or employment protection policy; or
- b) claimed in respect of sums otherwise insured under this **policy**.

**Our** maximum liability during the **period of insurance** for all claims under this extension shall not exceed the **sub-limit of indemnity** stated in the **schedule**.

Where a non-**panel firm** is appointed, a **legal costs sub-limit** of GBP500,000 will apply;

### 20 Motor cover

The Exclusion – Vehicles and vessels shall not apply to:

- 20.1 **your liability** arising from or caused by the use in connection with the **business**, of any mobile crane or excavator or other item of mobile plant as a tool of trade excluding liability for items which require separate insurance to comply with the Road Traffic Acts;
- 20.2 **your liability** arising from or caused by the use, in connection with the **business**, of any motor vehicle not belonging to **you** or provided by **you**, provided cover granted by this Standard Clause shall not apply to liability:
  - 20.2.1 for any **damage** to the motor vehicle or goods carried in or on the motor vehicle;
  - 20.2.2 more specifically insured under another policy;
  - 20.2.3 arising whilst the motor vehicle is being driven by **you**;
  - 20.2.4 arising whilst the motor vehicle is being driven by any **person** who to **your** knowledge does not hold a licence to drive the motor vehicle unless such person has held and is not disqualified from holding or obtaining such a licence;
  - 20.2.5 arising whilst the motor vehicle is being used elsewhere than in the **United Kingdom**.

### 21 Pay limit of indemnity

**We** may at any time pay **you** the amount of the **limit of indemnity** (less any sum already paid) or any lower amount for which any claims can be settled. **We** will then cease to conduct and control the negotiations, actions or proceedings and have no further liability in respect of such claims except for **defence costs** incurred prior to the date of such payment.

### 22 Personal effects

**We** will indemnify **you** for **your liability** for **damage** to directors', **employees'** or visitors' personal effects including vehicles and their contents excluding **liability** for which indemnity is provided under any other insurance or in any other way.



## **23 Property upon which you have been working**

The exclusion of property in **your** custody, possession or control stated in the definition of **liability** will not apply in respect of liability arising from or caused by **damage** resulting from the installation, modification, repair or servicing of an alarm or sprinkler, wet or dry risers systems, fire extinguishers and/or any other security devices or whilst temporarily securing premises following a theft or attempted theft.

This clause will not apply to loss of extinguishant from a fixed fire extinguisher where **you** are directly working on the fixed fire extinguisher system unless the Optional Extension – Loss of extinguishant in fixed fire extinguishers extension is purchased.

## **24 Public relations expenses**

In the event of a claim for which **you** are entitled to indemnity under this Section **we** will, with **our** prior written and continuing consent indemnify **you** for the reasonable and necessary expenses incurred for publicity costs directly relating to the protection of **your** brand image as may be impacted by the negative press coverage flowing from the **insured** event except that **our** liability under this clause shall not exceed the **sub-limit** shown in the **schedule**.

## **25 Service indemnity**

The words 'in **your** custody, possession or control' in the definition of **liability** shall not apply in respect of motor vehicles and their contents temporarily in **your** custody, possession or control, for the purpose of installation, repair or servicing relating to **your** activities as stated in the **schedule**, provided that:

- 25.1 the installation repair or servicing is carried out within the **United Kingdom** and/or a state of the European Community;
- 25.2 **liability** shall only attach during the course of the **business**;
- 25.3 **we** shall not be liable for:
  - 25.3.1 the cost of repairing, reinstating, replacing or rectifying the original installation, repair or servicing work to the motor vehicle;
  - 25.3.2 any amount in excess of the **sub-limit of indemnity** stated in the **schedule** in the aggregate during any one **period of insurance**;
  - 25.3.3 the **excess** shown in the **schedule**
  - 25.3.4 vehicles unattended or not being worked upon unless such vehicles have been locked and where fitted alarmed and immobilised and all **keys** have been removed and retained in safe custody during **your** normal daily working hours. Outside **your** normal daily working hours **keys** shall be locked in a safe, drawer or cabinet.

## **26 Statutory defence costs**

**We** will indemnify **you** and any **other insured party**, in respect of **defence costs** reasonably incurred with **our** prior written and continuing consent in investigating and defending any alleged breach of statutory duty, provided that the allegations, prosecution or proceedings relate to:

## Section Public and Products (including Inefficacy) Liability

- a) an offence alleged to have been committed during the **period of insurance** and in the course of the **business**; and
- b) a potential insured claim for **bodily injury** of or to other than an **employee** which may be the subject of an indemnity under this section.

We will also indemnify **you** or any **other insured party** for:

- a) **defence costs** incurred in relation to the appeal of any finding by a court in England and Wales, Scotland or Northern Ireland (including appeals against Improvement Notices and Prohibition Notices); and
- b) prosecution costs awarded against **you** or any **other insured party**,

following any finding by a court in England and Wales, Scotland or Northern Ireland that **you** or any **other insured party** were in breach of a statutory duty which may be the subject of an indemnity under this section.

This extension excludes any amount:

- a) for which **you** or any **other insured party** is entitled to an indemnity by any other legal expenses, motor or employment protection policy;
- b) claimed in respect of sums otherwise insured under this **policy**; or
- c) claimed in respect of allegations of manslaughter, corporate manslaughter or corporate homicide.

where a non-**panel firm** is appointed, a **legal costs sub-limit** of GBP500,000 will apply;

### 27 Sudden and accidental pollution

We will indemnify **you** for **your liability** in respect of:

27.1 seepage, pollution, contamination of buildings or other structures or of water, land or the atmosphere; and

27.2 **damage** or **bodily injury** directly or indirectly caused by such pollution or contamination;

caused by a sudden, identifiable, unintended and unexpected incident that takes place in its entirety at a specific moment in time and place during the **period of insurance**.

All pollution or contamination that arises out of one incident will be deemed to be one occurrence and to have occurred at the time the incident takes place.

### 28 Watercraft

The Exclusion – Vehicles and vessels shall not apply to **your liability** arising from or caused by the use, in the course of **business**, of:

28.1 motor barges not exceeding 75 ton capacity on inland waterways;

## Section Public and Products (including Inefficacy) Liability

- 28.2 motor launches not exceeding 15 metres in length and only when operated on inland waterways;
- 28.3 any watercraft not belonging to or chartered by **you** but used by **you** for **business** entertainment provided that:
- 28.3.1 such watercraft is primarily owned and operated as a river cruise vessel;
  - 28.3.2 such watercraft is insured by the owner or charterer under a marine insurance policy;
  - 28.3.3 **we** shall not indemnify **you** in respect of **liability** which attaches by way of any contract or agreement that would not have attached in the absence of such contract or agreement.

## Conditions precedent to liability

### 1 Construction Plant-hire Association Conditions of Contract / Scottish Plant Operators

It is a condition precedent to **our** liability to indemnify **you** under this insurance that **you** shall only hire out plant and equipment in accordance with the Construction Plant-hire Association Conditions of Contract or Scottish Plant Operators Association Conditions or equivalent.

### 2 Sub-contractors insurance check

When work is undertaken on **your** behalf in the course of the **business** by sub-contractors other than sub-contractors acting as **your employee**, **you** will establish and maintain an administrative procedure for obtaining evidence that sub-contractors have effected Public Liability Insurance that:

- 1.1 covers liability arising from or caused by the work for the full duration of the work to be undertaken on **your** behalf by the sub-contractor;
- 1.2 is subject to a limit of indemnity of not less than the amount stated in the **schedule**;
- 1.3 includes an 'indemnity to principals' clause;
- 1.4 is revalidated every twelve (12) months throughout the duration of their contract with **you**;
- 1.5 includes Products Liability Insurance where the whole of a service or a complete installation is sub-contracted;
- 1.6 includes Inefficacy Liability Insurance where the whole of a security and/or fire service or a complete security and/or fire installation is sub-contracted.

### Exclusions

#### 1 Advice, design, plans, specifications, formulae, surveys, instructions or directions whether or not provided for a fee

This section excludes liability arising from any advice, design, plans, specifications, formulae, surveys, instructions or directions:

- 1.1 given for a fee by **you** or on **your** behalf, unless relating to **products** for which indemnity is provided by this Section;
- 1.2 given without a fee and for which indemnity is provided by other insurance;

except that this exclusion shall not apply to liability for **bodily injury** or **damage** arising from any such advice, design, plans, specifications, formulae, surveys, instructions or directions.

#### 2 Aircraft

This section excludes liability arising from any product or part thereof which, with the **insured's** knowledge, is intended to be incorporated into the structure, machinery or controls of any aircraft or other aerial device or satellite; and is related to the flight safety of the aircraft.

#### 3 Asbestos

This section excludes liability for any loss, cost or expense directly or indirectly arising out of, resulting as a consequence of, or related to the manufacture of, mining of, processing of, use of, installation of, storage of, removal of, disposal of, distribution of, inspection of or testing of or exposure to asbestos, asbestos fibres, asbestos dust or asbestos containing materials but this exclusion will not apply to liability as described by Standard Clause – Asbestos accidental discovery and Optional Extension – Public and Products (including Inefficacy) Liability – Asbestos limited materials partial buyback including accidental discovery extension.

#### 4 Building work

This section excludes liability arising from or in connection with building work other than non-structural refurbishment, making good, redecoration and the like.

#### 5 Coronavirus, epidemic and/or pandemic

Regardless of any provision to the contrary, the **policy** excludes any **liability** directly or indirectly caused by or resulting from, arising out of or in connection with or attributable to:

- a) any coronavirus (or similar or equivalent virus in the future), including any mutation or variation of a coronavirus;
- b) any coronavirus disease (or similar or equivalent disease in the future);
- c) any epidemic or pandemic which poses a threat to human health or human welfare; or
- d) any fear or threat of a), b) or c) above

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where in connection with cleaning.

### 6 Data protection liabilities

This Section excludes liability which arises under the Data Protection Act 1998 ('DPA'), any subsequent amending legislation or the General Data Protection Regulation ('GDPR') other than as provided for by Standard Clause - Data Protection.

### 7 E-Commerce

This Section excludes liability:

- 7.1 arising from loss, alteration or impairment of, or damage to, information and/or **data** in electronic form;
  - 7.2 arising from malicious acts of any person carried out by electronic means;
  - 7.3 for defamation or harassment carried out by electronic means;
- but this Exclusion shall not apply in respect of **liability** for any:
- 7.3.1 ensuing accidental **bodily injury** (save for mental injury or mental disease); or
  - 7.3.2 ensuing accidental **damage**; or
  - 7.3.3 loss, alteration or impairment of, or damage to, information and/or **data** in electronic form arising solely from accidental extraneous physical **damage** to **electronic business equipment and computers**.

### 8 Employees working outside the United Kingdom

This Section excludes liability directly or indirectly arising from or caused by employment undertaken outside the **United Kingdom** provided that this Exclusion shall not apply:

- 8.1 where the **employee** intends to return to the **United Kingdom** following completion of the temporary overseas employment; and
- 8.2 where any single overseas work assignment is not intended or planned to exceed twelve (12) months duration;

provided always that **we** will not indemnify **you** or any other party in respect of liability for payment under any Workman's Compensation Scheme or similar social workplace compensation legislation.

### 9 Excess

In the absence of any other express amount specified in any clause to this **policy** **we** will not pay the first amount as stated in the **schedule** (irrespective of the number of claims occasioned thereby) arising from **damage** to property.

### 10 Fees for intervention

This Section excludes and does not cover any payments raised under the Health and Safety (Fees) Regulations 2012 relating to 'fees for intervention.'

### 11 Hazardous activities

This section excludes liability directly or indirectly caused by or arising from work:

- 11.1 at height where the drop exceeds sixteen (16) metres, except that this exclusion shall not apply where using mobile elevated working platforms as an access method;
- 11.2 at a depth which exceeds three (3) metres below the ground;
- 11.3 undertaken by **you** or anyone else connected with the **business** on or at any premises or structures used in connection with the production, processing, transportation or storage of gas, oil, petrol or chemicals except that this exclusion shall not apply to retail garages, shops or offices or to work at perimeter fences and boundaries or non **safety critical locations** at such establishments;
- 11.4 undertaken by **you** or anyone else connected with the **business**:
  - 11.4.1 **offshore**;
  - 11.4.2 on sites located **airside**;
  - 11.4.3 on, alongside or within 5 metres of any railway tracks that are open and not separated from the work by an unbroken brick wall or metal fencing except that this exclusion shall not apply to work on public railway stations;
  - 11.4.4 on the site of any **nuclear installation** or establishment except that this exclusion does not apply to work in offices or at perimeter fences and boundaries at a nuclear site.

### 12 Legionella

This section excludes **liability** arising out of, alleging or attributable to the existence of **legionella** except as stated in Standard Clause – Legionella.

### 13 Libel, slander or defamation

This section excludes liability arising from or caused by the publication or utterance by **you** or on **your** behalf of a libel, slander, defamation or mis-statement where:

- 13.1 claims arise out of **circumstances** notified to previous insurers or known to **you** at inception of this Section of the **policy**;
- 13.2 publications or utterances are made at the discretion of any party entitled to indemnity by this **policy** with knowledge of the libellous, slanderous or mis-statement effect thereof;
- 13.3 claims are brought outside the **United Kingdom**.

Further, in respect of each and every claim **we** shall not be liable for the **excess** stated in the **schedule**.

### 14 Loss of extinguishant in fixed fire extinguishers



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This section excludes liability for damage to and costs incurred as a result of the discharge of extinguishant in fixed fire extinguishers where specifically working on such systems.

### 15 Loss of keys and locks

This section excludes liability for the cost of replacing **keys**, locks operated by keys or digital key pads.

### 16 North America

The Section excludes and does not cover:

#### 16.1 North American jurisdiction

16.1.1 liability in respect of any judgment, award, payment, **defence costs** or settlement delivered, made or incurred within countries which operate under the laws of **North America** (or any order made anywhere in the world to enforce such judgment, award, payment, **defence costs** or settlement either in whole or in part) unless otherwise stipulated in the **schedule**

16.1.2 but this exclusion shall not apply to visits to **North America** in the course of the **business** to undertake non-manual work including but not limited to clerical work, sales and promotional activities and conference attendance providing that, in such circumstances:

- a) **we** will not be liable to indemnify any entity based in, operating in or domiciled in **North America**; and
- b) **we** will not be liable to indemnify for any liability that arises under any agreement or contract that would not arise in the absence of any agreement or contract;
- c) **we** will not be liable to indemnify for liability arising directly or indirectly from the ownership, maintenance, operation or use of any mechanically propelled vehicle or watercraft;
- d) **we** will not be liable to indemnify for liability arising directly or indirectly from pollution;
- e) **defence costs** are inclusive and form part of the **limit of indemnity**.

#### 16.2 North American territory

16.2.1 **liability** occurring within **North America** but this exclusion shall not apply to temporary non-manual visits to **North America** as specified in 'North American jurisdiction' above.

16.2.2 liability in respect of or arising from **pollution** occurring within **North America**.

### 17 Nuclear risks

This section excludes liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:

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- 17.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
- 17.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

### 18 Operations domiciled outside the United Kingdom

This Section excludes liability arising from, caused by or in connection with **your**

- 18.1 subsidiary companies;
- 18.2 branch offices;
- 18.3 representatives with power of attorney;
- domiciled outside of the **United Kingdom**.

### 19 Pollution

This Section excludes liability in respect of:

- 19.1 pollution or contamination of buildings or other structures or of water or of land or the atmosphere; and
- 19.2 **damage** or injury directly or indirectly caused by such pollution or contamination

other than **liability** for which an indemnity is provided by Standard Clause – Sudden and accidental pollution or Standard Clause – Environmental statutory liability.

### 20 Products and workmanship

This Section excludes liability for **damage** to and costs incurred as a result of recalling, replacing or making good **products** or workmanship performed by **you** or on **your** behalf other than **your liability** for **damage** to property caused by workmanship or **products** which are the subject of a separate contract.

### 21 Statutory defence costs and manslaughter defence costs

This section excludes liability for **defence costs** arising out of any alleged breach of statutory duty or any allegation of manslaughter, corporate manslaughter or corporate homicide. This exclusion shall not apply in respect of and to the extent of the indemnity provided by Standard Clauses - Statutory defence costs and Manslaughter defence costs.

### 22 Underground services

This Section excludes and does not cover loss of, destruction of or **damage** to cables, pipes or other services located underground

except that this exclusion shall not apply where you have:

- a. taken all reasonable measures to identify the location of such cables, pipes and services before any work is commenced which may involve a risk of **damage** thereto (reasonable

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measures include contacting the appropriate authorities where it is possible to identify if cables, pipes or services are located under the site);

- b. retained a written record of the measures which were taken to locate such cable, pipes or other services;
- c. conveyed the location of such cables, pipes and services to employees or others who are carrying out such work on your behalf;

In respect of each and every claim under this extension **we** shall not be liable for the **excess** stated in the **schedule**. **Our** maximum liability shall not exceed the **sub-limit** stated in the **schedule**.

### 23 Use of heat

This Section excludes liability arising from or caused by the use or application of heat away from **your premises** when using oxyacetylene, electric arc and similar welding and cutting equipment, blow lamps, torches and the like.

### 24 Vehicles and vessels

This Section excludes liability:

- 24.1 arising from or caused by the ownership, possession or use by **you**, or on **your** behalf of:
  - 24.1.1 any mechanically propelled water-borne vessel or hovercraft or any aircraft or airborne device;
  - 24.1.2 any mechanically propelled vehicle outside the **United Kingdom**;
  - 24.1.3 any mechanically propelled vehicle in circumstances where a Certificate of Insurance is required to meet the requirements of the Road Traffic Acts or any other compulsory Road Traffic legislation;
- 24.2 for which indemnity is provided under any other insurance in respect of any vehicle, vessel, hovercraft, aircraft or airborne device.

### 25 War

This section excludes liability for all actual or alleged losses, liabilities, damages, injuries, defence costs or expense(s) directly or indirectly arising out of, contributed to or by, caused by, resulting from or in connection with **war** regardless of any other cause or event contributing concurrently or in any other sequence of the loss.

This exclusion also excludes from coverage all actual or alleged losses, liabilities, damages, injuries, defence costs, costs or expenses directly or indirectly arising out of, contributed to or by, caused by, resulting from, or in connection with any action taken in controlling, preventing, suppressing, retaliating against, or responding to **war**.

If **we** allege that by reason of this Exclusion any actual or alleged losses, liabilities, damages, injuries, defence costs, costs or expenses are not covered by this section the burden of proving the contrary shall be upon **you**.

## **Section Public and Products (including Inefficacy) Liability**

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

## Optional Extensions - Public and Products (including Inefficacy) Liability

The following clauses only apply where shown under optional extensions on the *schedule*.

### 1 Asbestos limited materials partial buyback including accidental discovery extension

Solely as regards the cover granted by this Asbestos limited containing materials partial buyback including accidental discovery clause, the Exclusion - Asbestos is deleted and of no effect.

- 1.1 Section- Public and Products (including Inefficacy) Liability is extended to indemnify **you** against legal liability to pay damages or compensation including claimant's costs recoverable from **you** arising from any **claim** first made against **you** during the **period of insurance** for **bodily injury, personal injury, damage** or nuisance caused at any time after the **retroactive date** by the exposure to, existence or accidental discovery of asbestos and/or asbestos containing materials.
- 1.2 Further **we** agree that any **circumstance(s)** notified to **us** during the **period of insurance** which subsequently gives rise to a claim after expiry of the **period of insurance** shall be deemed to be a claim first made during the **period of insurance**.
- 1.3 **We** shall only provide an indemnity in accordance with the terms of this **policy** when **you** are engaged in work with asbestos:
  - 1.3.1 where a licence is not required; or
  - 1.3.2 in work with asbestos that is subject to the Notifiable Non-licenced Work requirements;

set out in the Control of Asbestos Regulations 2012, involving **regulation 3(2)(c)(ii) materials** or any liability arising from the clean up or removal thereof.

- 1.4 This Asbestos partial buyback clause excludes and does not cover:
  - 1.4.1 **bodily injury, personal injury, damage** or nuisance caused by the existence of or exposure to asbestos or asbestos containing materials which occurred on or before the **retroactive date**;
  - 1.4.2 any claims arising directly or indirectly from the existence of or exposure to asbestos and/or asbestos containing materials where **you** were aware of the **circumstance** or event which gave rise to the claim before the inception date of this Section;
  - 1.4.3 any building and/or structure that is subject to the clean up or removal of asbestos which is owned, leased or hired by or under hire purchase or on loan to **you**;
  - 1.4.4 any claims arising directly or indirectly out of any property owning activities;
  - 1.4.5 any work carried out by licenced contractors;
  - 1.4.6 liability arising from any subsequent activities carried out by qualified licensed sub-contractors which are related or connected to dealing with the discovered asbestos and/or asbestos containing materials;

## Section Public and Products (including Inefficacy) Liability

- 1.4.7 the **excess** shown on the **schedule** in respect of each and every claimant;
- 1.4.8 liability to pay damages or compensation including claimants' costs recoverable from **you** and **defence costs** in excess of the **sub-limit of indemnity** shown on the **schedule** which sum shall be the maximum **we** will pay in the aggregate during any one **period of insurance**;
- 1.4.9 any liability in respect of the diminution in the value of property or loss of or potential loss of rental income or any other consequential losses (including business interruption) howsoever arising; and
- 1.4.10 any claim arising directly or indirectly out of **your** failure to adopt or comply with the following risk management provisions in so far as they were applicable or could have applied at the time of exposure to asbestos, or asbestos or asbestos containing materials:
- a) that all work must be carried out in accordance with the Control of Asbestos Regulations 2012;
  - b) that all applicable provisions and recommendations in the Approved Code of Practice and guidance L127 entitled "The management of asbestos in non-domestic premises" and in the Approved Code of Practice and guidance L143 entitled "Work with materials containing asbestos" both issued by the Health and Safety Commission are followed;
  - c) that the guidance in "Asbestos: The licensed contractors' guide" HSG247 issued by the Health and Safety Commission be followed where applicable;
  - d) that only Respiratory Protective Equipment (RPE) that is marked with a CE symbol is used and that any Respirator not so marked is not used;
  - e) that the selection, use and maintenance of RPE follows both the manufacturer's recommendations and Health and Safety Executive Guidance Note HSG53 where applicable; or
  - f) that **you** will observe any other existing, replacing or subsequent legislation or guidance or Codes of Practice applicable to their activities involving asbestos and/or asbestos containing materials.
- 1.5 For the purpose of this clause the following definition is added to and included in the definitions to this Section:

### Regulation 3(2)(c)(ii) materials

Regulation 3(2)(c)(ii) materials means materials in which the asbestos fibres are firmly linked in a matrix as defined in Approved Code of Practice and guidance L143 entitled: "Work with materials containing asbestos" issued by the Health and Safety Commission.

## 2 Damage to that part worked upon – Customers' premises extension additional buyback

Standard Clause – Customers' premises is deleted and replaced by the undernoted:

## Section Public and Products (including Inefficacy) Liability

**We** will indemnify **you** for **your** liability arising from **damage** to premises and their contents temporarily in **your** custody, possession or control for the purpose of undertaking work, including when such **damage** occurs to that part of the premises or contents upon which **you** are or have been working, resulting directly from the work process being undertaken.

- 2.1 The extension of cover granted by this clause shall not apply in respect of premises and their contents belonging to **you** or occupied by **you** as tenants;
- 2.2 Cover under this extension is granted provided that:
  - 2.2.1 **We** shall not be liable to pay the **excess** stated in the **schedule**.
  - 2.2.2 The maximum amount payable under this extension for any one occurrence shall not exceed the **sub-limit of indemnity** stated in the **schedule**.

### 3 Fidelity bonding extension

Notwithstanding Standard Clause – Criminal acts **we** will on **your** written request indemnify **your** customers against **damage** to property and **money** for which **you** have no legal liability due to arson, malicious damage, theft, fraud, dishonesty or embezzlement by **your employees** committed during the **period of insurance** and discovered not later than:

- 3.1 three (3) months after either the termination of employment of said **employee**; or
- 3.2 **you** or **your** partner, director, officer or other senior manager becomes aware of the loss or aware of any fact(s) that give reasonable grounds to believe that a loss as **insured** by this clause has been or may be incurred even though the exact amount of the loss may not be known;

whichever shall occur first.

Provided always that:

- 3.3 **our** liability in respect of the acts of any one **employee** shall not exceed the **sub-limit of indemnity** stated in the **schedule** regardless of the period during which the acts were committed;
- 3.4 **our** liability in respect of any one loss or series of losses arising from one source or original cause, shall not exceed the **sub-limit of indemnity** stated in the **schedule**. Not more than one claim in respect of any one **employee** shall be payable under this extension;
- 3.5 the following special conditions shall apply in respect of this extension:
  - 3.5.1 reasonable care  
**you** must at all times take reasonable care to ensure that suitable and competent persons are employed.
  - 3.5.2 monies due to the **employee**  
any **money** of the **employee** held by **you** and any **money** which but for the acts of fraud or dishonesty would have been due to the **employee** from **you** shall be deducted from **your** customer's loss. **You** and **we** shall share any other recovery made on account of any loss in the proportion that the amount of the loss borne by each bears to the total amount of the loss;
- 3.6 **we** shall not be liable for the **excess** shown in the **schedule**

## Section Public and Products (including Inefficacy) Liability

- 3.7 the maximum payable under this extension in the aggregate during any one **period of insurance** shall not exceed the total **limit of indemnity** stated in the **schedule**;
- 3.8 this extension shall not apply to any **bodily injury** or **damage** directly or indirectly sustained by **you**.

### 4 Financial loss (including products) extension

Cover under this Section of this **policy** is extended to include **your** liability for financial loss incurred by others provided that:

- 4.1 a claim is first made against **you** during the **period of insurance**;
- 4.2 such liability arises from or is caused by:
- 4.2.1 accidental:
- a) escape or discharge of any substance or gas from any premises owned or occupied by **you**;
  - b) stoppage or interference with pedestrian, rail, air, vehicular or waterborne traffic;
  - c) obstruction, loss of amenities, trespass, nuisance or similar cause;
- 4.2.2 such other occurrence that is not a deliberate or intentional act by or omission of any party entitled to indemnity by this **policy** the effect of which will knowingly result in financial loss.
- 4.3 this extension shall not apply in respect of:
- 4.3.1 financial loss incurred in respect of or in consequence of **bodily injury** or **damage** to property;
  - 4.3.2 costs incurred in or in consequence of recalling, replacing or making good products or workmanship performed by **you** or on **your** behalf;
  - 4.3.3 fines, penalties or liquidated damages;
  - 4.3.4 liability which attaches by way of any contract or agreement that would not have been attached in the absence of such contract or agreement;
  - 4.3.5 liability resulting from conspiracy, conversion, deceit, inducement to breach of contract, injurious falsehood or infringement of patent, copyright, trademark or name;
  - 4.3.6 claims brought in **North America** arising out of any breach or alleged breach of anti-trust laws;
  - 4.3.7 claims which arise out of **circumstances** notified to previous insurers or known to **you** at inception of this Optional Extension;
  - 4.3.8 liability arising from advice, design, plans, specifications, formulae, surveys, instructions or directions:



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- a) given for a fee by **you** or on **your** behalf unless relating to any **products** for which indemnity is provided by this **policy**,
  - b) given without a fee and for which indemnity is provided by other insurance;
- 4.3.9 any amount exceeding a **sub-limit of indemnity** stated in the **schedule** for all claims in total during one **period of insurance**;
- 4.4 in respect of each and every claim under this extension **we** shall not be liable for the **excess** shown in the **schedule**.

### 5 Loss of extinguishant in fixed fire extinguishers extension

Exclusion – Loss of extinguishant in fixed fire extinguishers does not apply in respect of the cover granted by the following clause:

The words 'in **your** custody, possession or control' in the definition of **liability** shall not apply in respect of sudden, identifiable, unintended and unexpected discharge of gas or foam in fixed fire extinguishers, provided that, in respect of this extension:

- 5.1 **we** shall not be liable for more than the **sub-limit of indemnity** stated in the **schedule** in respect of any one occurrence;
- 5.2 **we** shall not be liable for the **excess** shown in the **schedule**.

### 6 Loss of keys extension

Exclusion – Loss of keys and locks does not apply in respect of the cover granted by the following clause:

**We** will indemnify **you** in respect of amounts which become payable to indemnify **your** customers resulting from loss of **keys** whilst in **your** custody. Provided that:

- 6.1 amounts payable shall be restricted to:
  - 6.1.1 the reasonable cost of replacement or alteration of **keys** and/or locks operated by **keys** and/or reprogramming the associated security software;
  - 6.1.2 the consequential loss suffered by **your** customer following the loss of **keys** arising from either:
    - a) their inability to gain access to their premises; or
    - b) the misuse of **keys** by any **person** other than **your employee**;
  - 6.1.3 the additional temporary necessary protection to the premises of **your** client;
- 6.2 in respect of each and every incident under this extension **we** shall not be liable for the **excess** shown in the **schedule**;
- 6.3 the maximum amount payable under this extension in the aggregate during any one **period of insurance** shall not exceed the **sub-limit of indemnity** stated in the **schedule**.

## **7 Loss of metered water extension**

This insurance is extended to indemnify **you** for any costs arising from investigation of the cause of loss of metered water from **your** customer premises where **your** customer is responsible for charges for loss of metered water provided that:

- 7.1 loss of water is due to **damage** at the premises caused by **your** contracted business activities at the customer's premises;
- 7.2 in respect of each and every claim made against **you** under this extension **we** shall not be liable to pay the **excess** stated in the **schedule**; and
- 7.3 the maximum **we** will pay in respect of any one (1) customer and in the aggregate during any one **period of insurance** shall not exceed the **sub-limit of indemnity** shown in the **schedule**.

## **8 Misuse of telephones extension**

**We** will on **your** written request, indemnify **your** customers against loss of money for which **you** have no legal liability due to the unauthorised use of customers' telephones by **your employee(s)** committed during the **period of insurance** and discovered not later than:

- 8.1 three (3) months after either the termination of employment of said **employee**; or
- 8.2 **you** or **your** partner, director, officer or other senior manager becomes aware of the loss or aware of any fact(s) that give reasonable grounds to believe that a loss as insured by this clause has been or may be incurred even though the exact amount of the loss may not be known;

Provided that:

- 8.3 **our** liability in respect of the acts of any one **employee** shall not exceed the **sub-limit of indemnity** as stated in the **schedule** regardless of the period during which the acts were committed;
- 8.4 **our** liability in respect of any one loss or series of losses arising from any one source or original cause shall not exceed the **sub-limit of indemnity** as stated in the **schedule**. Not more than any one claim in respect of any one **employee** shall be payable under this extension;
- 8.5 the following special conditions shall apply in respect of this extension:
  - 8.5.1 reasonable care  
**you** must at all times take reasonable care to ensure that suitable and competent persons are employed.
  - 8.5.2 monies due to the **employee**  
any money of the **employee** held by **you** and any money that but for the acts of fraud or dishonesty would have been due to the **employee** from **you** shall be deducted from **your** customer's loss. **We** shall share with **you** any other recovery made on account of any loss in the proportion that the amount of the loss borne by each bears to the total amount of the loss.
- 8.6 this extension shall not apply to any loss of **money** sustained by **you**;

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8.7 in respect of each and every claim under this extension **we** shall not be liable for the **excess** shown in the **schedule**.

### 9 North America (products) extension

Notwithstanding the Exclusion – North America to this Section, the **territorial limits** to this Section of the **policy** shall include **North America** provided that:

9.1 **we** shall not indemnify any **insured**, subsidiary, party or company incorporated, domiciled, registered or resident in **North America**;

9.2 this extension shall not apply in respect of any amount exceeding a **sub-limit of indemnity** stated in the **schedule** including any **defence costs** recoverable hereunder;

9.3 this extension shall not apply in respect of:

9.3.1 **liability** which attaches by way of any contract or agreement that would not have attached in the absence of such contract or agreement;

9.3.2 fines, penalties, punitive, vindictive or exemplary damages;

9.3.3 **bodily injury** or **damage** to or loss of use of property or financial economic or consequential loss directly or indirectly caused by **pollution** or contamination including the cost of remaking, nullifying and cleaning up such **pollution** or contaminating substances;

9.4 this extension shall not apply in respect of visits to **North America** involving any manual or supervisory activities;

9.5 in respect of each and every occurrence giving rise to or causing **damage** to property (irrespective of the number of claims occasioned thereby) **we** shall not be liable to pay the **excess** shown in the **schedule** where the action for damages is brought in **North America**.

### 10 Products and workmanship extension

Notwithstanding the Exclusion - Products and Workmanship, this Section extends to include **your** legal liability for costs of rectifying defective work or defective products where such work or products have caused:

10.1 **bodily injury** to any **person** other than an **employee**; or

10.2 **damage** to property other than **products** which are the subject of the same contract

the maximum amount payable under this extension during any one **period of insurance** shall not exceed the **sub-limit of indemnity** stated in the **schedule**. **We** shall not be liable to pay the **excess** stated in the **schedule**.

### 11 Trace and access extension

This insurance is extended to include costs necessarily and reasonably incurred, with **our** prior written and continuing consent, in locating the source of any escape of water from any fixed water

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services, heating installation or fuel oil including the repair to walls, floors or ceilings necessary as a direct result of the location work, provided that:

11.1 the escape of water must appear, to any reasonable person, to originate from your installation work; and

11.2 **we** shall not be liable for:

11.2.1 the cost of repairs to **your** original installation;

11.2.2 for the **excess** stated in the **schedule**;

11.2.3 any amount exceeding the **sub-limit of indemnity** shown in the **schedule** in the aggregate during any one period of insurance.

## 12 Use of heat extension

The Exclusion - Use of Heat is deleted and the insurance by this Section is extended to cover use of heat provided that **you** comply with the following condition precedent:

12.1 It is a condition precedent to **our** liability to provide an indemnity under this insurance that, when using a naked flame or other heat source including but not limited to:

12.1.1 oxyacetylene;

12.1.2 electric arc or similar welding or cutting equipment;

12.1.3 blow lamps;

away from **your premises**, **you** and **your employees** shall take all reasonable precautions to prevent damage.

12.2 Where the use of heat away from **your premises** involves:

12.2.1 oxyacetylene;

12.2.2 electric arc or similar welding or cutting equipment;

12.2.3 blow lamps;

and the work is subcontracted; then **you** shall require the subcontractor to also take all reasonable precautions to prevent damage.

12.3 The term 'reasonable precautions' shall include but not be limited to the following:

12.3.1 Before Starting Work:

a) a person shall be made responsible for fire safety and for ensuring that reasonable precautions are taken;

b) all persons shall be made aware of the location of the site's fire alarms and firefighting equipment;

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- c) the responsible person shall examine all property within a radius of six (6) metres from where the heat is being applied and where possible, remove all combustible materials or otherwise cover and protect by overlapping sheets or screens of non-combustible material.

### 12.4 During the Process of Work

12.4.1 a person shall work alongside the operator of the equipment to look out for an outbreak of fire and there shall be available for immediate use:

- a) at least two buckets of dry sand or two fully charged fire extinguishers; or
- b) if available and appropriate approval has been obtained, a hose connected to the nearest hydrant with water turned on and controllable at the nozzle of the hose. If water is not available or unsuitable or provision of such a hose is not practical, then two (2) fully charged fire extinguishers must be available and if used during the process, the heat work must cease until two (2) fully charged and working fire extinguishers are made available;

12.4.2 the lighting of equipment shall be in accordance with manufacturer's instructions and no piece of lighted equipment shall be left unattended,

12.4.3 gas cylinders not required for immediate use shall be kept at least six (6) metres from where the heat is being applied.

### 12.5 After Ceasing Work

a continuous examination for one (1) hour shall be made of the area within a radius of six (6) metres from where the heat has been applied to ensure that there is no risk of fire.

12.6 Furthermore where **you** or persons acting on **your** behalf burn debris away from their premises, it is a condition precedent to **our** liability under this Optional Extension that the following precautions must be taken on each occasion:

12.6.1 fires to be in a cleared area and at a distance of at least ten (10) metres from any property;

12.6.2 fire not to be left unattended at any time;

12.6.3 a suitable fire extinguisher to be kept available for immediate use;

12.6.4 fires to be extinguished at least one (1) hour prior to leaving site at the end of each working day.

the maximum amount payable under this extension during any one **period of insurance** shall not exceed the **sub-limit of indemnity** stated in the **schedule**.

**We** shall not be liable to pay the **excess** stated in the **schedule**.

## Professional Indemnity Section

This Section of the *policy* is on a claims made basis. It applies only to claims first made against **you** and notified to **us** during the *period of insurance*, unless stated otherwise.

### Definitions

#### 1 Collateral warranty or duty of care agreement

Collateral warranty or duty of care agreement means any written agreement signed by the contracting parties that creates a duty of care by the **insured** to any party other than the **insured's** direct client.

#### 2 Limit of indemnity

Limit of indemnity means the limit of indemnity on the **schedule** which will be the maximum amount **we** will pay (including **defence costs**) in total for all **claims** notified to **us** during the *period of insurance*.

If more than one party makes a **claim** in respect of the same occurrence, **we** will not pay more than the **limit of indemnity** in respect of that occurrence.

#### 3 Pollutant

Pollutant means any solid, liquid, gaseous, biological, radiological or thermal irritant, toxic or hazardous substance or contaminant including, but not limited to, asbestos, lead, smoke, vapour, dust, fibres, mould, spores, fungi, germs, soot, fumes, acids, alkalis, chemicals and waste. Waste is deemed to include materials to be recycled, reconditioned or reclaimed.

#### 4 Pollution

Pollution means:

- 4.1 the actual alleged or threatened discharge, seepage, migration, dispersal, release or escape of **pollutants** at any time;
- 4.2 any cost, expense, claim or suit arising out of any request demand or order as a result of actual alleged or threatened discharge, seepage, migration, dispersal, release or escape of **pollutants** at any time that **you** or any **other insured party** test for, monitor, clean up, remove, contain, treat, detoxify or neutralise or in any way respond to or assess the effects of **pollutants**.

#### 5 Specified professional activities

Specified professional activities means the supply or performance by **you** as a professional of any:

- 5.1 design, plan or specification;
- 5.2 supervision of construction;

## Section Professional Indemnity

- 5.3 feasibility study;
- 5.4 technical information calculation;
- 5.5 surveying;
- 5.6 consultancy;
- 5.7 testing;
- 5.8 training;

undertaken only by or under the direction and direct control of a properly qualified **person**. A properly qualified **person** will mean personnel with appropriate professional qualifications or not less than five (5) years relevant experience for the specific professional activities in which they are engaged.

### Professional Indemnity

#### 1 Cover

**We** agree to pay on **your** behalf, amounts payable by way of compensatory damages including claimant's costs and **defence costs** for any **claim** for compensation first made against **you** during the **period of insurance** and notified to **us** in accordance with the terms of this Section, in respect of liability for:

- 1.1 breach of professional duty;
- 1.2 negligent act, negligent error or negligent omission;
- 1.3 negligent misstatement or negligent misrepresentation;
- 1.4 defamation or other tort related to disparagement of character, including libel or slander; or
- 1.5 other civil liability not included above;

incurred in connection with **your business** within the **territorial limits** incurred by **you** or **your** firm in the conduct and the carrying out of the **specified professional activities** or arising from any negligence committed or alleged to have been committed by any consultant, sub-contractor or agent for whose negligent acts, negligent errors or negligent omissions **you** are legally liable; up to the **limit of indemnity** shown on the **schedule**.

#### 2 Limit of indemnity

- 2.1 The amount stated in the **schedule** as the **limit of indemnity** is the maximum payable by **us** under this Section
- 2.2 Any **sub-limit of indemnity** stated shall be part of and not in addition to the **limit of indemnity**.
- 2.3 Where payment exceeding the **limit of indemnity** has to be made to dispose of a claim, **our** liability for **defence costs** shall be limited to such proportion of the said **defence costs** as the **limit of indemnity** is to the total amount paid to dispose of the claim.



## **Professional Indemnity Costs and Expenses**

### **1 Arbitration and adjudication**

The indemnity provided by the Cover clause includes liability which **you** may incur in respect of any **claim** (including claimants' **legal** costs and expenses) first made against **you** during the **period of insurance**, as a result of:

- a) any decision by an adjudicator appointed to resolve a dispute in accordance with the Scheme for Construction Contracts, as contained in the Local Democracy, Economic Development and Construction Act 2009 (formerly Housing Grants, Construction and Regeneration Act 1996) or an adjudication clause or rules contained in a contract; or
- b) any award by an arbitrator or tribunal of arbitrators (whether under the Surveyors and Valuers Arbitration Scheme 1998 or otherwise).

### **2 Compensation for court attendance**

**We** will pay compensation to **you**, with **our** prior written and continuing consent, in the event that the legal advisers acting on **your** behalf require **you**, **your employee** or any other relevant party (not including expert witnesses), to attend court or any arbitration or adjudication hearing as a witness of fact in connection with a **claim** made against **you** for which cover is afforded under this **policy** at the following rates for each day or part thereof on which attendance is required:

- |     |  |        |
|-----|--|--------|
| 2.1 | any of <b>your</b> directors or principal partners | GBP500 |
| 2.2 | any other <b>employee</b>                          | GBP250 |
| 2.3 | any other relevant party                           | GBP250 |

### **3 Costs prior to handover**

**We** agree to indemnify **you** subject to procedure set out in Section - Claim Conditions for costs and expenses reasonably incurred with **our** prior written and continuing consent in respect of rectifying prior to any practical completion, take-over certificate or defects period, any defect in the works constructed by **you** or by **your** sub-contractor.

Provided that **you** are able to demonstrate on a balance of probabilities that the need for such rectification is due to **your** negligence in the conduct of **your business** and is necessary to mitigate a **claim** or likely **claim** that would otherwise have been insured under this insured section.

### **4 Defence costs**

Following any event which is or may be the subject of indemnity under this insured section, **we** agree to indemnify **you** for **defence costs** of dealing with any claim, incurred with **our** prior written and continuing consent provided that if the **limit of indemnity** is exhausted by the payment or settlement of any **claim** or loss **our** liability to pay **defence costs** in respect of that **claim** or loss shall be limited to such proportion of those **defence costs** as the **limit of indemnity** available for payment or settlement of that **claim** or loss bears to the total payment (including where applicable claimants' costs) required to dispose of that **claim** or loss.

**5 Defence costs for criminal proceedings**

**We** agree to pay on behalf of **you**, **defence costs** incurred with **our** prior written and continuing consent:

- 5.1 in the defence or settlement of any **claim** for which indemnity is provided under this section;
- 5.2 in the defence of any criminal proceedings first brought against **you** during the **period of insurance** and notified to **us** in accordance with the terms of this **policy** in respect of the conduct of **your business** brought under a prevailing listed building, building regulation or health and safety legislation including the Construction (Design and Management) Regulations 2007, the Planning (Hazardous Substances) Act 1990, the Occupiers Liability Act 1957 and the Health and Safety at Work Act 1974 and any applicable statutory instruments, orders or regulations or any applicable codes of practice or procedures issued by the Health and Safety Executive or the Health and Safety Commission.

## Professional Indemnity Extensions

These Extensions do not increase the **limit of indemnity** or **our** maximum payment to **you** unless otherwise stated. The coverage provided under the Cover clause above is extended to provide cover for the following:

### 1 Awards by Ombudsman

Notwithstanding the 'Ombudsman' exclusion **we** will agree to indemnify **you** against any award made by an ombudsman in respect of any case accepted by the ombudsman for review in his position as ombudsman under any recognised scheme where the **claim**:

1.1 is first made against **you**; and/or

1.2 arises out of any **circumstance**, which **you** shall first notify, during the **period of insurance**.

Provided that:

1.3 the ombudsman has operated within any terms of reference or rules applicable to their appointment;

1.4 **our** liability shall not exceed GBP150,0000 for each **claim** and the aggregate for the **period of insurance**;

1.5 where an ombudsman makes an award which is rejected by the claimant who then pursues the matter through the courts, both the complaint to the ombudsman and all subsequent court proceedings shall be treated as a single **claim** made at the date of the first **claim** against **you**.

### 2 Collateral Warranties

**We** will indemnify the **insured** against any **claim** made against the **insured** within the **period of insurance** as a direct result of any breach of professional duty, negligent act, negligent error, negligent omission, negligent misstatement or negligent misrepresentation on the part of the **insured** or any **sub-contractor** in performing their obligations accepted under **collateral warranties or duty of care agreements** or similar agreements but only in so far as the benefits of such **collateral warranties or duty of care agreements** or similar agreements are not greater or longer lasting than those given to the party with whom the **insured** originally contracted.

### 3 Dishonesty of employees

**We** will indemnify the **insured** for legal liability to pay compensatory damages as a result of any claim against the **insured** during the **period of insurance** when alleged in conjunction with a **claim** covered under the Cover clause arising directly or indirectly from any dishonest, fraudulent, malicious or criminal act or omission of any of the insured's **employees** excluding partners, directors or principals, but the insurance by this **policy** excludes any indemnity to the insured's **employee** committing or colluding in the dishonest act, fraud, malicious or illegal act or omission.

### 4 Infringement of copyright, patent or registered design

**We** will pay the damages, claimants' costs or **defence costs** that **you** become legally responsible to pay at law as a result of any claim made against **you** during the **period of insurance** alleging infringement of copyright or breach of confidence committed in good faith by:

4.1 **you**, or

4.2 **your employee**

in connection with the **business** whilst carrying out any **specified professional activities**.

### 5 Joint ventures

**We** agree to indemnify **you** against any claim covered under the Cover clause brought during the **period of insurance** against **you** arising solely from the conduct of **your business** in any joint venture provided always that the relevant fees or turnover have been declared to **us** at the renewal immediately following the commencement of such work and all subsequent renewals. For the purpose of clarity this extension shall only apply to **your** acts arising solely from the conduct of **your business**.

### 6 Loss of documents

6.1 **We** will pay the damages, claimants' cost and/or **defence costs** that **you** become legally responsible to pay at law as a result of loss of any documents necessary for the carrying out of any **specified professional activities**, whether owned by **you** or entrusted to **you**, which are, or supposed or believed to be, in:

6.1.1 **your** possession; or

6.1.2 the possession of any other party with whom the documents have been entrusted, lodged or deposited by **you** within the **United Kingdom**;

that have been destroyed, damaged, lost or mislaid, and after diligent search cannot be found during the **period of insurance**.

6.2 **We** will also pay the expenses incurred by **you** with **our** prior written and continuing consent, in replacing or restoring the documents.

6.3 But cover by this Extension excludes and **we** will not indemnify **you**:

6.3.1 unless the claim for expenses is supported by bills or accounts approved by **us**;

6.3.2 if any claim is brought about by, or contributed to, by **your** dishonesty or that of a partner or **employee**;

6.3.3 unless **you**, after **our** payment of the claim, pass to **us** any rights of recovery that may exist;

6.3.4 any amount in **excess** of the sum stated in the **schedule** for all claims during one **period of insurance**;

6.3.5 the **excess** stated in the **schedule** in respect of each and every **claim** under this extension;

## Section Professional Indemnity

6.3.6 if any **claim** is covered by Section – Contract Works.

### 7 Mitigation of a loss

**We** will pay the expenses **you** necessarily incur in respect of any action taken to mitigate a loss or a potential loss that otherwise would result in a claim under this section.

However, it will be for **you** to prove a **claim** under this extension and **you** must give **us** written notice during the **period of insurance** of **your** intention to take action that will incur the expenses.

### 8 Pollution and contamination

Solely as regards the cover granted by this Pollution and contamination Extension the Exclusion - Pollution is deleted and of no effect.

8.1 Section - Professional indemnity liability is extended to indemnify **you**:

8.1.1 against legal liability to pay damages or compensation including claimants' costs recoverable from **you** for loss of or physical damage to or destruction of tangible property or loss of use of such property destroyed or damaged where:

- a) seepage, **pollution** or contamination is caused by a sudden, unintended and unexpected happening during the **period of insurance**; and
- b) the same is a direct result of **your** negligent structural design or specification or failure to report a structural defect in a property damaged or destroyed.

8.1.2 against legal liability to pay the cost of re-designing, re-specifying, remedying and/or rectifying the defective structure

arising from any **claim** first made against **you** during the **period of insurance**. For the purposes of this Extension only asbestos is deemed not to be a contaminant or a **pollutant**.

8.2 The insurance granted by this Extension excludes and does not cover that part of any **claim** which relates to the cost of remedying and/or rectifying any loss of or damage to the land and environment or any loss of value.

**Our** maximum liability including **defence costs** under this Extension in respect of any one **claim** and in the aggregate during the **period of insurance** shall not exceed the **sub-limit of indemnity** stated in the **schedule**.

### 9 Public relations and crisis management services

Following a claim under this insured section, **we** will pay all reasonable costs which **you** incur with **our** prior written and continuing consent for a public relations and/or crisis management consultant to avert or mitigate damage to any of **your** brands; provided that:

- a) **our** maximum liability shall not exceed the **sub-limit** stated in the **schedule**, which is the maximum payable in respect of any one claim and in the aggregate during the **period of insurance**;

## Section Professional Indemnity

- b) the public relations and/or crisis management consultants shall be chosen by **us** and **we** shall take into account the nature of the claim or loss and the cost and quality of the services that they can deliver, unless **you** have reasonable cause to request a different public relations consultancy and **we** and **you** mutually agree upon such a company.

## **Condition precedent to liability**

### **1 Sub-contractors insurance check**

Where professional work as defined by ***specified professional activities*** is undertaken on ***your*** behalf in the course of the ***business*** by sub-contractors or consultants ***you*** will have used ***your*** best endeavours to ensure that the party to whom responsibility is divested is suitably qualified to carry out such ***specified professional activities*** and that at the time of their engagement they have in force their own professional indemnity insurance cover that has a minimum limit of indemnity of not less than the amount stated in the ***schedule***.

### Exclusions

#### 1 Aircraft, watercraft, vehicles or buildings

This section excludes any **claim**, liability, loss or **defence costs** arising directly or indirectly from:

- 1.1 the ownership, possession or use by **you** or on **your** behalf of any aircraft, watercraft or mechanically propelled vehicle;
- 1.2 the ownership or possession by **you** or on **your** behalf of any buildings, structures, premises, land or property (mobile or immobile) or that part of any building leased, occupied or rented by **you**.

#### 2 Asbestos

This section excludes liability for any loss, cost or expense directly or indirectly arising out of, resulting as a consequence of, or related to the manufacture of, mining of, processing of, use of, installation of, storage of, removal of, disposal of, distribution of, inspection of or testing of or exposure to asbestos, asbestos fibres, asbestos dust or asbestos containing materials but this exclusion will not apply to liability as described by Optional Extensions - Asbestos accidental discovery extension and Asbestos limited materials partial buyback including accidental discovery extension.

#### 3 Associated company

This section excludes any **claim**, liability, loss or **defence costs** brought or maintained by or on behalf of:

- a) any **insured** or any parent of the **insured** or any subsidiary; or
- b) any firm, partnership or entity in which the **insured** or any director or partner of the **insured** has a financial or executive interest;
- c) any **person** who, at the time of the act, error or omission giving rise to the **claim**, is a family member unless such a person is acting without any prior or indirect solicitation or co-operation of any **insured** (family member means any spouse, domestic partner, parent, parent of a spouse or domestic partner, sibling or child);

provided that this exclusion shall not apply to such **claims** originating from an independent third party.

#### 4 Assumed duty or obligation

This section excludes any **claim**, liability, loss or **defence costs** directly or indirectly arising out of, or in any way involving any liability, duty or obligation incurred or assumed by **you** which is not incurred or assumed in the normal conduct of **your business**.

#### 5 Bodily injury and property damage

This insured section excludes any **claim**, liability, loss or **defence costs** directly or indirectly arising out of, or in any way involving **bodily injury** and/or **property damage**:



- a) to or of any **employee** whilst in the course of their employment for or on behalf of the **insured**; and
- b) to any person, other than an **employee**, or damage to or destruction of any property including loss of use thereof, provided that this exclusion shall not apply to claims arising from breach of professional duty, negligent act, negligent error, negligent omission, negligent misstatement or negligent misrepresentation in the conduct of **specified professional activities** in the course of **your business**.

### 6 Confidentiality

**We** will not pay any claim, alleged claim, liability, loss or **defence costs** if **you** disclose the terms, conditions, exclusions, or the **limit of indemnity** of this **policy** or the amount of the premium paid to any third party except to the extent that **you** are required by law or by contractual agreement or for contract tender purposes, or where **we** consent, in writing, to such disclosure.

### 7 Contractual liability

**We** will not pay any **claim**, loss, liability, expenses, costs or **defence costs** arising out of any breach of contract, including but not limited to breach of any express warranty or guarantee or fiduciary relationship (including **collateral warranties or duty of care agreements**, or any such similar agreements), except that this exclusion shall not apply to any liability which **you** would have incurred in the absence of such contract, warranty, guarantee or fiduciary relationship (including **collateral warranties or duty of care agreements** or any such similar agreements).

### 8 Dishonest, malicious, criminal or deliberate illegal acts

**We** will not pay any **claim**, alleged claim, liability, loss or **defence costs** directly or indirectly arising in connection with any dishonest, malicious, criminal or deliberate illegal acts **you** committed or illegal acts or omissions committed by others on **your** behalf except as provided for in Extension – Dishonesty of employees.

### 9 E-Commerce

**We** will not pay any **claim**, alleged **claim**, liability, loss or **defence costs**:

- 9.1 arising from loss, alteration or impairment of, or damage to, information and/or data in electronic form;
- 9.2 arising from malicious acts of any person carried out by electronic means;
- 9.3 for defamation or harassment carried out by electronic means.

### 10 Excess

**We** will not pay the **excess** stated in the **schedule**.

### 11 Hazardous activities

**We** will not pay any claim, alleged claim, liability, loss or **defence costs** of whatsoever nature directly or indirectly caused by or arising from work:

- 11.1 at height where the drop exceeds sixteen (16) metres, except that this exclusion shall not apply where using mobile elevated working platforms as an access method;
- 11.2 at a depth which exceeds three (3) metres below the ground;
- 11.3 undertaken by **you** or anyone else connected with the **business** on or at any premises or structures used in connection with the production, processing, transportation or storage of gas, oil, petrol or chemicals except that this exclusion shall not apply to retail garages, shops or offices or to work at perimeter fences and boundaries or in non **safety critical locations** at such establishments;
- 11.4 undertaken by **you** or anyone else connected with the **business**:
  - 11.4.1 **offshore**;
  - 11.4.2 on sites located **airside**;
  - 11.4.3 on, alongside or within 5 metres of any railway tracks that are open and not separated from the work by an unbroken brick wall or metal fencing except that this exclusion shall not apply to work on public railway stations;
  - 11.4.4 on the site of any **nuclear installation** or establishment except that this exclusion does not apply to work in offices or at perimeter fences and boundaries at a nuclear site.

### 12 Insolvency

**We** will not pay any claim, alleged **claim**, liability, loss or **defence costs** directly or indirectly arising from **your insolvency**.

### 13 Insurance, finance or financial advice

**We** will not pay any **claim**, alleged **claim**, liability, loss or **defence costs** directly or indirectly arising from **your** negligence in connection with:

- 13.1 the effecting or maintenance of insurance; or
- 13.2 the provision of finance or advice on financial matters.

### 14 Known circumstances

**We** will not pay any **claim**, alleged **claim**, liability, loss or **defence costs** in connection with any **claim** or loss:

- 14.1 made, threatened or intimated against **you** prior to the **period of insurance**;
- 14.2 directly or indirectly arising out of, or in any way involving any fact or **circumstance**:

- 14.2.1 of which notice has been given, or ought reasonably to have been given, under any previous policy (whether insured by **us** or not); or
- 14.2.2 of which **you** first became aware prior to the **period of insurance** and which **you** knew or ought reasonably to have known had the potential to give rise to a **claim** or loss.

### 15 Legislation and regulation

**We** will not pay any **claim**, alleged **claim**, liability, loss or **defence costs** directly or indirectly arising out of **your** breach of any taxation, competition, restraint of trade or anti-trust legislation or regulation including but not limited to:

- 15.1 the Employment Retirement Income Security Act 1974 and any amendment thereto, or any rules or regulations promulgated thereunder;
- 15.2 any actual or alleged violations of the Racketeer Influenced and Corrupt Organisation Act 18 USC Sections 1961 et seq. and any amendments thereto, or any rules or regulations promulgated thereunder;
- 15.3 any actual or alleged violation of any of the provisions of the Securities Act of 1933, the Securities Exchange Act 1934 or any similar Federal or State law or any common law relating thereto.

### 16 Liability arising out of employment

**We** will not pay any **claim**, alleged **claim**, liability, loss or **defence costs** directly or indirectly arising from liability to any **employee**, former **employee** or prospective **employee** in respect of employment-related libel, slander, humiliation or defamation, unfair or wrongful dismissal, repudiation or breach of any employment contract or arrangement, termination of a training contract or contract of apprenticeship, harassment, discrimination or like conduct.

### 17 Libel, slander or defamation

**We** will not pay any **claim**, liability, loss or **defence costs** directly or indirectly arising out of any libel, slander, defamation or mis-statement made recklessly or maliciously by **you**.

### 18 Management liability

**We** will not pay any **claim**, alleged **claim**, liability, loss or **defence costs** caused by or arising from any personal liability incurred by all or any one of **your** directors or officers when:

- 18.1 acting in that capacity or managing **your business**; or
- 18.2 in breach of their fiduciary duty, other than when performing a business activity for a client; or
- 18.3 making or issuing any statement, representation or information concerning **your business** contained in any accounts, reports or financial statements.

### 19 Negotiable Paper

We will not pay any **claim**, liability, loss or **defence costs** arising directly or indirectly from the loss, **damage** or destruction of any bearer bonds, coupons, share certificates, stamps, money or other negotiable paper.

### 20 North America

We will not pay any **claim**, alleged **claim** or **defence costs** in the form of any kind of legal (including arbitration) or regulatory proceedings brought in **North America** or outside of **North America** to seek enforcement or upholding of a judgement, award or order made in **North America**.

### 21 Nuclear risks

We will not pay any **claim**, alleged **claim**, liability, loss or **defence costs** of whatsoever nature directly or indirectly caused by or contributed to by or arising from:

- 21.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
- 21.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

### 22 Ombudsman

This Section excludes liability in respect of any ombudsman's award, except to the extent covered under Extension - Awards by ombudsman.

### 23 Other insurance

We will not pay any **claim**, loss, liability, expenses, costs or **defence costs** where **you** are entitled to indemnity under any other policy except in respect of any excess beyond the amount which would have been payable under such policy had this **policy** not been effected. Where any policy more specific to the matter for which indemnity is sought exists, this **policy** shall sit in excess of any such policy.

### 24 Patent or trade secret

We will not pay any **claim**, liability, loss or **defence costs** arising directly or indirectly out of the infringement of any patent or trade secret.

### 25 Plea or finding of guilt

We will not pay any **claim**, liability, loss or **defence costs** payable under Professional Indemnity Costs and Expenses - Defence costs for criminal proceedings 5.2 following a plea or finding of guilt on **your** part or in the event that a Queen's Counsel advises that there are no reasonable prospects of successfully defending the proceedings provided that this exclusion shall not apply to **defence costs** incurred solely for the purpose of making a plea in mitigation before sentencing or incurred in making an appeal if such Queen's Counsel shall advise that the prospects of a successful appeal following a finding of guilt are reasonable.

### 26 Pollution

**We** will not pay damages or **defence costs** or for any other loss, liability or expense for:

- 26.1 **bodily injury**, loss of or damage to, or loss of use of property directly or indirectly caused by seepage, **pollution** or contamination;
- 26.2 the cost of removing, nullifying, or cleaning-up, seeping, **polluting** or contaminating substances.

### 27 Retroactive date – negligence before the date

**We** will not pay any **claim**, liability, loss or **defence costs** arising from any act error or omission committed, or alleged to have been committed, prior to the **retroactive date**.

### 28 Specifications and estimates

**We** will not pay any **claim**, liability, loss or **defence costs** directly or indirectly arising out of, or in any way involving any:

- 28.1 incorrect or inadequate specification of materials or performance; or
- 28.2 incorrect or inadequate estimate of construction costs or cost advice but this exclusion shall not apply where such estimate of construction costs or cost advice is provided by a professionally independent qualified quantity surveyor; or
- 28.3 incorrect or inadequate programming or estimate of the period of construction;

unless in any such case arising out of any negligence in the conduct of **your business**;

Provided always that **you** shall establish to the satisfaction of the **insurer** that the error or omission was unintentionally negligent.

### 29 Takeover or merger

**We** will not pay any **claim**, loss, liability, expenses, costs or **defence costs** arising directly or indirectly by reason of acts, errors or omissions committed by **you** after the date of any take-over or merger unless otherwise agreed by **us**.

### 30 Trading loss and liabilities

**We** will not pay any **claim**, loss, liability, expenses, costs or **defence costs** arising directly or indirectly from:

- 30.1 **your** lost profit, mark-up or liability for VAT or its equivalent;
- 30.2 **your** trading loss or trading liability including those arising from the loss of any client, account or business;
- 30.3 **your** decision to notify individuals or procure credit monitoring services following any form of data breach.

### 31 War and Terrorism

**We** will not pay any **claim**, loss, liability, expenses, costs or **defence costs** of whatsoever nature directly or indirectly caused by, resulting from or in connection with **war** or **terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the claim.

This exclusion also excludes any **claim**, liability costs, **defence costs** 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 of the above.

### Optional Extensions – Professional Indemnity

The following clauses only apply where shown under optional extensions on the *schedule*.

#### 1 Asbestos accidental discovery extension

Solely as regards the cover granted by this Asbestos accidental discovery clause the Exclusion – Asbestos is deleted and of no effect.

- 1.1 Section – Professional Indemnity is extended to indemnify **you** against legal liability to pay damages or compensation including claimant's costs recoverable from **you** arising from any **claim** first made against **you** during the **period of insurance** for breach of professional duty, negligent act, error or omission occurring at any time after the **retroactive date** that causes accidental discovery of asbestos and/or asbestos containing materials.
- 1.2 Further **we** agree that any **circumstance(s)** notified to **us** during the **period of insurance** which subsequently gives rise to a **claim** after expiry of the **period of insurance** shall be deemed to be a claim first made during the period of insurance.
- 1.3 The cover provided by this Asbestos accidental discovery clause excludes and does not cover:
  - 1.3.1 breach of professional duty, negligent act, error or omission resulting in accidental discovery of asbestos or asbestos containing materials which occurred on or before the **retroactive date**;
  - 1.3.2 any **claims** arising from the existence of or exposure to asbestos and/or asbestos containing materials where **you** were aware of the **circumstance** or event which gave rise to the **claim** before the inception date of this Section;
  - 1.3.3 liability arising from any subsequent activities carried out by qualified licensed sub-contractors which are related or connected to dealing with the discovered asbestos and/or asbestos containing materials;
  - 1.3.4 any liability in respect of the diminution in the value of property or loss of or potential loss of rental income or any other consequential losses (including business interruption) howsoever arising;
  - 1.3.5 liability to pay damages or compensation including claimants' costs recoverable from **you** and **defence costs** in excess of the **sub-limit of indemnity** stated in the **schedule** which sum shall be the maximum **we** will pay in the aggregate during any one **period of insurance**; and
  - 1.3.6 the **excess** stated in the **schedule** for each and every claimant.

#### 2 Asbestos limited materials partial buyback including accidental discovery extension

Solely as regards the cover granted by this Asbestos limited containing materials partial buyback including accidental discovery clause, the Exclusion – Asbestos is deleted and of no effect.

## Section Professional Indemnity

- 2.1 Section – Professional Indemnity is extended to indemnify **you** against legal liability to pay damages or compensation including claimant's costs recoverable from **you** arising from any claim first made against **you** during the **period of insurance** for breach of professional duty, negligent act, error or omission occurring at any time after the **retroactive date** caused by the exposure to, existence or accidental discovery of asbestos and/or asbestos containing materials.
- 2.2 Further **we** agree that any **circumstance(s)** notified to **us** during the **period of insurance** which subsequently gives rise to a claim after expiry of the **period of insurance** shall be deemed to be a claim first made during the **period of insurance**.
- 2.3 **We** shall only provide an indemnity in accordance with the terms of this **policy** when **you** are engaged in work with asbestos:
- 2.3.1 where a licence is not required; or
- 2.3.2 in work with asbestos that is subject to the Notifiable Non-licenced Work requirements;

set out in the Control of Asbestos Regulations 2012, involving **regulation 3(2)(c)(ii) materials** or any liability arising from the clean up or removal thereof.

- 2.4 This Asbestos partial buyback clause excludes and does not cover:
- 2.4.1 breach of professional duty, negligent act, error or omission caused by the existence of or exposure to asbestos or asbestos containing materials which occurred on or before the **retroactive date**;
- 2.4.2 any claims arising directly or indirectly from the existence of or exposure to asbestos and/or asbestos containing materials where **you** were aware of the **circumstance** or event which gave rise to the claim before the inception date of this Section;
- 2.4.3 any building and/or structure that is subject to the clean up or removal is owned, leased or hired by or under hire purchase or on loan to the **you**;
- 2.4.4 any claims arising directly or indirectly out of any property owning activities;
- 2.4.5 any work carried out by licenced contractors;
- 2.4.6 liability arising from any subsequent activities carried out by qualified licensed sub-contractors which are related or connected to dealing with the discovered asbestos and/or asbestos containing materials;
- 2.4.7 the **excess** shown on the **schedule** shall apply to each and every claimant;
- 2.4.8 liability to pay damages or compensation including claimant's costs recoverable from **you** and **defence costs** in excess of the **sub-limit of indemnity** shown on the **schedule** which sum shall be the maximum **we** will pay in the aggregate during any one **period of insurance**;
- 2.4.9 any liability in respect of the diminution in the value of property or loss of or potential loss of rental income or any other consequential losses (including **business** interruption) howsoever arising; and



## Section Professional Indemnity

- 2.4.10 any claim arising directly or indirectly out of **your** failure to adopt or comply with the following risk management provisions in so far as they were applicable or could have applied at the time of exposure to asbestos or asbestos containing materials:
- a) that all work must be carried out in accordance with the Control of Asbestos Regulations 2012;
  - b) that all applicable provisions and recommendations in the Approved Code of Practice and guidance L127 entitled “The management of asbestos in non-domestic premises” and in the Approved Code of Practice and guidance L143 entitled “Work with materials containing asbestos” both issued by the Health and Safety Commission are followed;
  - c) that the guidance in “Asbestos: The licensed contractors’ guide” HSG247 issued by the Health and Safety Commission be followed where applicable;
  - d) that only Respiratory Protective Equipment (RPE) that is marked with a CE symbol is used and that any Respirator not so marked is not used;
  - e) that the selection use and maintenance of RPE follows both the manufacturer’s recommendations and Health and Safety Executive Guidance Note HSG53 where applicable; or
  - f) that **you** will observe any other existing replacing or subsequent legislation or guidance or Codes of Practice applicable to their activities involving asbestos and/or asbestos containing materials.
- 2.5 For the purpose of this clause the following definition is added to and included in the definitions to this Section.

### **Regulation 3(2)(c)(ii) materials**

Regulation 3(2)(c)(ii) materials means materials in which the asbestos fibres are firmly linked in a matrix as defined in Approved Code of Practice and guidance L143 entitled: “Work with materials containing asbestos” issued by the Health and Safety Commission.

### Directors' and Officers' Section

This Section of the *policy* is on a claims made basis. It applies only to claims first made against *you* and notified to *us* during the *period of insurance*, unless stated otherwise

#### Definitions

##### 1 Company

Company means the firm stated in the *schedule* and shall include all its *subsidiary companies*.

##### 2 Continuous cover date

Continuous cover date means the date stated as such in the *schedule*.

##### 3 Director or officer

Director or officer means a director or officer of the *company*.

##### 4 Employment practice

Employment practice means:

- 4.1 discrimination with respect to the terms or conditions of employment on the basis of an individual's race, colour, religion, age, sex, national origin, disability, pregnancy, sexual orientation or preference or other status protected under applicable law; or
- 4.2 sexual harassment, including unwelcome sexual advances, requests for sexual favours, and any unwelcome verbal, visual or physical contact of a sexual nature which:
  - 4.2.1 is explicitly or implicitly made a term or condition of employment;
  - 4.2.2 creates a hostile or offensive working environment;
  - 4.2.3 when rejected or opposed by a person becomes a basis for decisions regarding that person's employment; or
- 4.3 defamation relating to a person's job skill, job performance, qualifications for employment, professional reputation, disciplinary history, or termination of employment; or
- 4.4 unfair or wrongful termination of employment or refusal to hire; or
- 4.5 adverse change in the terms and conditions of a person's employment in retaliation for that person's exercise of his or her rights under law, or support of the rights of another.

### 5 Extradition proceedings

Extradition proceedings means a request for extradition of an **insured person**, a warrant for arrest in respect of an **insured person** or other proceedings under the provisions of the Extradition Act 2003 in the **United Kingdom** or similar legislation in any other jurisdiction.

### 6 Independent lawyer

Independent lawyer means:

- 6.1 where the **claim** is in England, a Queen's Counsel agreed upon by the **insured person** or the **company** and **us** or failing such agreement to be nominated by the chairman for the time being of the Bar Council of England and Wales; or
- 6.2 where the **claim** is in another jurisdiction, a lawyer of more than ten (10) years' experience agreed upon by the **insured person** or the **company** and **us** or failing such agreement to be nominated by the chairman of the local law society.

### 7 Non-executive director

Non-executive director means any natural person who serves as a non-executive **director or officer**.

### 8 Pollutant

Pollutant means any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapour, soot, fumes, acids, alkalis, chemicals or waste. Waste is deemed to include materials to be recycled, reconditioned or reclaimed. Legionella bacteria are deemed not to be pollutants for the purpose of this insurance.

### 9 Pollution

Pollution means:

- 9.1 the actual, alleged or threatened discharge, seepage, migration, dispersal, release or escape of **pollutants** at any time;
- 9.2 any cost, expense, claim or suit arising out of any request, demand or order as a result of actual, alleged or threatened discharge, seepage, migration, dispersal, release or escape of **pollutants** at any time that **you** test for, monitor, clean up, remove, contain, treat, detoxify, or neutralise or in any way respond to, or assess the effects of **pollutants**.

### 10 Stock offering

Stock offering means the public offer of any of the **company's** own securities (including but not limited to any bond, stock, note, debenture, share or other equity or debt security).

### 11 Subsidiary company

Subsidiary company means:

- 11.1 any company in respect of which the **company** (either directly or indirectly through one or more of its subsidiary companies):

## Section Directors' and Officers' Liability

- 11.1.1 controls the composition of the board of directors; or
- 11.1.2 controls more than half the voting power at a general meeting of shareholders; or
- 11.1.3 holds more than half of the issued share capital (regardless of class of share);
- 11.2 any company as defined above (other than any company part of whose issued share capital is offered to the public or otherwise traded on a recognised exchange in the United States of America) which is acquired or created on or subsequent to the inception date of this Section and of which the total assets do not exceed twenty per cent (20%) of the **company's** consolidated total assets as declared in their latest annual report and account;
- 11.3 any other company that **we** have given prior written and continuing consent to for its inclusion as a subsidiary company under this Section.

## 12 Take-over or merger

Take-over or merger means:

- 12.1 any sale of the majority of the issued share capital of the **company**; or
- 12.2 the **company's** merger with or acquisition by another entity such that the company is not the surviving entity and no longer:
  - 12.2.1 controls the composition of the board of directors; or
  - 12.2.2 controls more than half the voting power; or
  - 12.2.3 holds more than half of the issued share capital.

Except that this definition shall not apply if any sale of shares in the **company** solely alters the status of the **company** from that of a private company to that of a public company or vice versa.

## 13 Wrongful act

Wrongful act means any actual or alleged wrongful act or omission committed by the **insured person** solely in his capacity as an **insured person** including any:

- 13.1 misstatement;
- 13.2 misrepresentation;
- 13.3 breach of trust;
- 13.4 breach of duty;
- 13.5 breach of warranty of authority;
- 13.6 libel or slander;
- 13.7 **employment practice**.

### Cover

#### 1 Directors' and Officers' liability

**We** agree, subject to the terms, conditions, limitations and exclusions of this Section, to pay on behalf of an **insured person** in respect of his liability for:

- 1.1 compensatory damages and costs awarded against such **insured person** by a court or tribunal empowered to do so; or
- 1.2 exemplary or aggravated damages for libel and slander awarded against such **insured person** by a court or tribunal empowered to do so; or
- 1.3 multiple, exemplary or punitive damages (provided these are in addition to compensatory damages and not a form of tax, fine or similar penalty) awarded by a court or tribunal, if indemnity for this is lawful under the laws of the territory of that court or tribunal; or
- 1.4 settlements comprising any actual or anticipated legal proceedings made with **our** prior written and continuing consent (such consent not to be unreasonably withheld);
- 1.5 **defence costs** incurred with **our** prior written and continuing consent (such consent not to be unreasonably withheld or denied);

arising solely from a **claim** first made during the **period of insurance**, except to the extent that the **company** has indemnified the **insured person** in respect of that **claim**.

#### 2 Company reimbursement

**We** agree, subject to the terms, conditions, limitations and exclusions of this Section, to indemnify the **company**, to the extent it has lawfully indemnified an **insured person** for a claim otherwise insured under the above Directors' and Officers' liability cover clause.

#### 3 Retention

- 3.1 Where a claim is made under this Section by the **company** under the Company reimbursement clause above, **we** shall only indemnify the **company** for payments in excess of the amount stated in the **schedule** as the **excess**. This **excess** shall be applied once to each and every **claim**.
- 3.2 Where a **claim** is made under this Section by an **insured person** under the Cover clause above and the **company** could have indemnified the **insured person** under the applicable general law, but does not do so, the **company** shall reimburse **us** for any indemnity **we** have paid up to the amount of the **excess** stated in the **schedule**. However, the **company** shall have no such obligation where its failure to indemnify the **insured person** is due solely to its insolvency.

### Standard Clauses

#### 1 Advancement of defence costs and expenses

In respect of any **claim** covered by this Section, **we** will advance **defence costs** prior to the final settlement of a **claim**. Such advance payments of **defence costs** shall be:

- 1.1 part of and not exceed the limit of indemnity; and
- 1.2 repayable to **us** by the **insured persons** or the **company** severally according to their respective interests in the event and to the extent that it is determined that they were not entitled under this Section to payment of such **defence costs**.

#### 2 Limit of indemnity

- 2.1 The amount stated in the **schedule** as the limit of indemnity is the maximum payable by **us** under this Section in respect of any one claim and in the aggregate during the **period of insurance** irrespective of the number of:
  - 2.1.1 **claims** made; or
  - 2.1.2 **insureds** entitled to indemnity; or
  - 2.1.3 **wrongful acts**; or
  - 2.1.4 Sections or covers within the Sections under which claims are made under this Section.
- 2.2 The limit of indemnity shall be inclusive of all **defence costs**.
- 2.3 Any **sub-limit of indemnity** stated in the **schedule** shall be part of and not in addition to the limit of indemnity.

#### 3 Manslaughter defence costs and expenses

**We** will, with **our** prior written and continuing consent which consent will not be unreasonably withheld, indemnify an **insured person** in respect of defence costs incurred in investigating and defending allegations (whether under common law or statute) of manslaughter, corporate manslaughter or corporate homicide made against such **insured person**; and provided that the claim is first made during the **period of insurance**.

#### 4 Multiple claims

- 4.1 All causally connected or interrelated **wrongful acts**, or conduct jointly constitute a single **wrongful act**, or conduct, under this Section.
- 4.2 Where a single **wrongful act**, or conduct, gives rise to more than one **claim**, all such **claims** jointly constitute one **claim** under this Section.

### 5 Notice

Notice given by or to one **insured** shall constitute notice by or to all **insured**.

### 6 Pollution

The insurance by this Section is extended to pay on behalf of an **insured person** in respect of his liability for:

6.1 any claim brought by the **company's** shareholders (without any procurement or instigation by any **insured person** or agent of the **company**) on the basis solely that **pollution** has caused a loss in the value of the share capital of the **company**; or

6.2 **defence costs** incurred in defending a **claim**;

providing that any claim is brought in the **United Kingdom** and/or member state of the European Union and that **our** liability under this Standard Clause does not exceed the amount stated in the **schedule**.

### 7 Severability

7.1 The proposal shall be construed as a separate application for insurance under this Section by each **insured person**. No statements in the proposal or knowledge possessed by an **insured person** shall be imputed to any other **insured person**.

7.2 For the purpose of determining the applicability of the exclusions and limitations in this Section, the act or knowledge of an **insured person** shall not be imputed to any other **insured person**.

### 8 Territory and legal actions

This Section applies to **claims** made, based upon acts occurring anywhere within the **territorial limits**.

### Exclusions

This Section does not cover and excludes claims:

#### 1 Bodily injury or property damage

for actual or alleged bodily or psychological injury, sickness, disease or death of any **person** or damage to or destruction of any tangible property, including loss of use thereof, except that this exclusion does not apply to emotional distress or mental anguish brought as part of a claim arising out of any **employment practice**;

#### 2 Dishonesty

directly or indirectly arising out of any actual dishonest, fraudulent, or malicious act of any **insured person** except that this exclusion only applies if it is established through a final adjudication or admission that the relevant conduct did in fact occur;

#### 3 Existing claims

- 3.1 notified or arising out of facts or any **circumstance** notified (or which ought to have been notified) under any previous policy;
- 3.2 made, threatened or intimated against the **insured** prior to the commencement of the **period of insurance**;
- 3.3 directly or indirectly arising out of facts or a **circumstance** of which the **insured** first became aware prior to the **period of insurance**, and which the **insured** knew or ought reasonably to have known had the potential to give rise to a **claim** under this **policy**;
- 3.4 arising out of a **circumstance** noted on the proposal form for the current **period of insurance** or on any previous proposal form.

#### 4 Insured vs. Insured

made by or on behalf of the **company** or by or on behalf of any **insured person** against any other **insured person** except that this exclusion does not apply to any claim against an **insured person**:

- 4.1 brought by or at the direction of any liquidator, provisional liquidator, administrator or receiver of the **company**;
- 4.2 made by a former **director or officer**;
- 4.3 for indemnity in respect of a **claim** made by an independent third party without the procurement or instigation of any **insured person** or agent of the **company**;
- 4.4 in the form of a derivative action; or
- 4.5 where the **insured person** is a former **director or officer**; or
- 4.6 in respect of **defence costs**;



### 5 Non-covered acts

directly or indirectly arising out of **wrongful acts** committed (or alleged to have been committed) or conduct:

5.1 after the date of commencement of the winding up of, or the appointment of a receiver, administrative receiver, liquidator or administrator to the **company**;

5.2 after the date of a **take-over or merger**; or

5.3 prior to the date of acquisition by the **company** of a **subsidiary company**;

but only as regards acts committed in the capacity as a **director or officer** of such **company** unless otherwise agreed by **us**.

### 6 North America

in the form of any kind of legal (including arbitration) or regulatory proceedings brought in **North America** or outside of **North America** to seek enforcement or upholding of a judgement, award or order made in **North America**.

### 7 Pension schemes

for any actual or alleged breach of duty by any **insured person** as a trustee of any pension or superannuation scheme, health and welfare plan, share option scheme or plan, or other **employee** benefit programme, social benefits system or trust programme established or maintained for the benefit of the **company's employees** including, for the avoidance of any doubt, any claims under the UK Pensions Act 1995, or similar legislative, common or civil law provisions in the same or other jurisdictions;

### 8 Personal profit

directly or indirectly arising out of any **insured person** gaining any actual profit or advantage or receiving any remuneration to which they are not legally entitled except that this exclusion only applies if it is established through a final adjudication or admission that the relevant conduct did in fact occur;

### 9 Pollution

directly or indirectly arising out of any **pollution** except as provided by Standard Clause - Pollution.

### 10 Prior / pending litigation

directly or indirectly arising out of the **circumstances** underlying any **claim** or any legal, administrative or regulatory proceedings against the **insured** first made or commenced prior to the **continuous cover date** shown in the **schedule**.

### 11 Professional services

for any actual or alleged breach of any professional services by any **insured person** except that this exclusion does not apply to any **claims** alleging a failure to supervise any **employee** of the **company**.

**12 Stock offerings during period of insurance**

- 12.1 directly or indirectly arising out of a **stock offering** during the **period of insurance** unless otherwise agreed by **us**; or
- 12.2 brought by or on behalf of any shareholder who owns directly or beneficially more than fifteen per cent (15%) of the issued share capital of the **company** except that this exclusion shall only apply to claims where such shareholder or shareholder's representative directly or indirectly has participated in or ratified the alleged **wrongful act** being the subject of the **claim**;

**13 Uninsurable matters**

directly or indirectly arising out of matters which are uninsurable under the laws of any territory within the jurisdiction of this **policy**.

### Legal Expenses Section

This Section of the *policy* is administered by ARAG plc.

ARAG plc is registered in England number 02585818. Registered address: 9 Whiteladies Road, Clifton, Bristol BS8 1NN. ARAG plc is authorised and regulated by the Financial Conduct Authority firm registration number 452369.

ARAG plc is authorised to administer this insurance on behalf of the *insurer* HDI Global Specialty SE. Registered address: Roderbruchstraße 26, 30655 Hannover, Germany. HDI Global Specialty SE is authorised and regulated by the Bundesanstalt für Finanzdienstleistungsaufsicht (BaFin). Authorised by the Prudential Regulation Authority. Subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority. Details about the extent of our regulation by the Prudential Regulation Authority are available from us on request. (FRN: 659331)

### Helplines and the Business legal services website

**We** record and monitor calls for training purposes, to improve the quality of **our** service, to help **us** deal with queries or complaints from **you** and to prevent and detect fraud and financial crime.

All helplines are subject to fair and reasonable use. The level of fair usage will depend on individual circumstances. However, if **our** advisors consider that **your** helpline usage is becoming excessive they will tell **you**. If following that warning, usage is not reduced to a more reasonable level, **we** can refuse to accept further calls.

#### Legal advice - 0330 303 1885

If **you** have a legal problem relating to **your** business, **we** recommend **you** call **our** confidential legal advice helpline. Legal advice is available 24 hours a day, 365 days of the year.

**We** give advice about business-related legal matters within UK, Isle of Man, Channel Islands and EU law. **Your** query will be dealt with by a qualified specialist who is experienced in handling legal matters.

Use of this service does not constitute reporting of a claim.

#### Tax advice - 0344 571 7978

Tax advice is available between 9am and 5pm on weekdays (except bank holidays). **We** give advice about business-related tax matters within the UK. **Your** query will be dealt with by a qualified specialist who is experienced in handling tax-related matters.

#### Redundancy assistance - 0330 303 1955

If **you** are planning redundancies and need extra legal support, **we** can arrange specialist consultancy assistance for **you**. Redundancy assistance will help **you** to implement a fair selection process and ensure that the redundancy notices are correctly served. The service offers document review and telephone or written advice and is subject to a charge. If **you** would like **us** to arrange Redundancy assistance please call **us** between 9am and 5pm on weekdays (except bank holidays).

#### Executive suite – Identity theft resolution - 0333 000 2083

This service is available to the principal, executive officers, directors and partners of the business between 9am and 5pm on weekdays (except bank holidays). **We** provide telephone advice to help executives keep their personal identity secure. Where identity theft is suspected, **our** specialist

caseworkers can help the victim to restore their credit rating and correspond with their card issuer, bank or other parties. Identity theft expenses are insured under Standard clause 11.3 Executive suite when **your** executives use this helpline.

### Crisis communication - 0344 571 7964

Following an event that has attracted negative publicity which could affect **your** business, **you** can access professional public relations support from **our** Crisis communication experts. This service is available 24 hours a day, 365 days of the year.

In advance of any actual adverse publicity, where possible, initial advice for **you** to act upon will be provided over the phone. If **your** circumstances require professional work to be carried out at that time, **we** can help on a consultancy basis and subject to **you** paying a fee.

Where an event has led to actual publicity online, in print or broadcast, that could damage **your** business, **you** are insured against the costs of Crisis communication services under Standard clause 13 Crisis communication when **you** use this helpline.

### Counselling assistance - 0333 000 2082

**Our** qualified counsellors will provide free confidential support and advice by phone to **your employees** or their family members who are suffering from emotional upset or feeling worried and anxious about a personal or work-related problem. This service is available 24 hours a day, 365 days of the year. Calls to the Counselling assistance service will not be recorded.

### Business legal services

[www.araglegal.co.uk](http://www.araglegal.co.uk)

Discover **our** law guides and create legal documents and letters to help with commercial legal matters.

**You** will need to enter voucher code **X1232KC79BB5** when **you** register to use the website. Once **you** have registered **you** can access the website at any time to create and securely store **your** legal documents.

#### More help?

If **you** have problems using the website, please contact **our** digital technical support team. Contact details can be found on the website. **Our** digital technical support team cannot give **you** legal or insurance advice.

## Definitions

The following words and terms will have the same meaning wherever they appear in this Section of the **policy**. The defined words and terms are shown in **bold italics**. If a word below is also defined in the General Definitions, the definition below replaces the General Definition for the purposes of this Section.

### 1 Appointed advisor

The

- 1.1 solicitor, accountant, or other advisor (who is not a mediator), appointed by **us** to act on behalf of the **insured**;

- 1.2 mediator appointed by **us** to provide impartial dispute resolution in relation to a claim accepted by us.

### 2 Collective conditional fee agreement

A legally enforceable agreement entered into on a common basis between the **appointed advisor** and **us** to pay their professional fees on the basis of either

- 2.1 100% “no-win no-fee” or  
2.2 where discounted, that a discounted fee is payable.

### 3 Conditional fee agreement

A legally enforceable agreement between **you** and the **appointed advisor** for paying their professional fees on the basis of either

- 3.1 100% “no-win no-fee” or  
3.2 where discounted, that a discounted fee is payable.

### 4 Insured

- 4.1 **You, your** directors, partners, managers, officers and **employees of your business**.  
4.2 A person who is contracted to perform work for **you**, who in all other respects **you** have arranged to insure on the same basis as **your employees** and who performs work under **your** supervision.

### 5 Insurer

HDI Global Specialty SE (commercial register number: HRB 211924), (FRN: 659331).

### 6 Legal costs & expenses

- 6.1 Reasonable legal costs and disbursements reasonably and proportionately incurred by the **appointed advisor** on the standard basis and agreed in advance by **us**. The term “standard basis” can be found within the Courts’ Civil Procedure Rules Part 44.2.  
6.2 In civil claims, other side’s costs, fees and disbursements where the **insured** has been ordered to pay them or pays them with **our** agreement.  
6.3 Reasonable accountancy fees reasonably incurred under Standard clause 4 Tax disputes by the **appointed advisor** and agreed by **us** in advance.  
6.4 Health and Safety Executive Fees for Intervention.  
6.5 **Your employee’s** basic wages or salary under Standard clause 9 Loss of earnings in the course of their employment with **you** while attending court or tribunal at the request of the **appointed advisor** or whilst on jury service where lost wages or salary cannot be claimed back from the court or tribunal.  
6.6 The reasonable cost of phone calls, postage (including special delivery), image scanning, photocopying or credit reports incurred under Standard clause 11.3 Executive suite where the **insured** has taken advice from **our** Identity theft advice and resolution service.  
6.7 The professional fees and expenses of an **appointed advisor** selected by **us** to reduce the actual adverse or negative publicity or media attention directed under Standard clauses 11.5 Executive suite and 13 Crisis communication.

### 7 Reasonable prospects of success

- 7.1 Other than as set out in 7.2 and 7.3 below, a greater than 50% chance of the **insured** successfully pursuing or defending the claim and, if the **insured** is seeking damages or compensation, a greater than 50% chance of enforcing any judgment that might be obtained. Under Standard clause 12 Contract & debt recovery, there must be a greater than 50% chance of successfully defending the claim in its entirety.
- 7.2 In criminal prosecution claims where the **insured**
- 7.2.1 pleads guilty, a greater than 50% chance of reducing any sentence or fine or
  - 7.2.2 pleads not guilty, a greater than 50% chance of that plea being accepted by the court.
- 7.3 In all claims involving an appeal, a greater than 50% chance of the **insured** being successful.

Where it has been determined that **reasonable prospects of success** do not exist, the **insured** shall be liable to pay any legal costs incurred should they pursue or defend their claim irrespective of the outcome.

### 8 We/us/our

ARAG plc who is authorised under a binding authority agreement to administer this insurance on behalf of the **insurer**.

### 9 You/your

The individual, partnership or corporate body named in the **schedule**, including and subsidiary and/or associated companies declared to **us**.

## How to make a claim

### Telling us about your claim

- 1 If an **insured** needs to make a claim, they must notify **us** as soon as possible.
- 2 If an **insured** instructs their own solicitor or accountant without telling **us**, they will be liable for costs that are not covered by this Section of the **policy**.
- 3 A claim can be made online at [www.arag.co.uk/newclaims](http://www.arag.co.uk/newclaims). Alternatively, an **insured** can obtain a claim form by downloading one at [www.arag.co.uk/newclaims](http://www.arag.co.uk/newclaims) or by calling **us** on **0330 303 1955** between 9am and 5pm weekdays (except bank holidays).
- 4 The completed application and supporting documentation can be submitted online or sent to **us** by email, or post. Further details are set out on **our** website.

### What happens next?

- 1 **We** will send the **insured** an acknowledgment by the end of the next working day after receiving their claim.
- 2 Within five working days of receiving all the information needed to assess the availability of cover under this Section of the **policy**, **we** will contact the **insured** either:
  - 2.1 confirming cover under the terms of this Section of the **policy** and advising the **insured** of the next steps to progress their claim; or

## Section Legal Expenses

- 2.2 if the claim is not covered, **we** will explain in full the reason why and advise whether **we** can assist in another way.
- 3 When a representative is appointed by **us**, they will try to resolve the **insured's** dispute without delay, arranging Alternative Dispute Resolution, such as mediation, whenever appropriate.
- 4 **We** will check on the progress of the **insured's** claim with the **appointed advisor** from time to time. Sometimes matters cannot be resolved quickly, particularly if the other side is slow to cooperate or a legal timetable is decided by the courts.

### Cover

Following a Standard clause, the **insurer** will pay **legal costs & expenses** including the cost of appeals (and compensation awards under Standard clause 2 Employment compensation awards), up to

- 1 GBP250,000
- 2 an aggregate limit of GBP1,000,000 for compensation awards under Standard clause 2 Employment compensation awards

subject to all the following requirements being met:

- 1 The **insured** keeps to the terms of this Section of the **policy** and cooperates fully with **us**.
- 2 Unless otherwise stated in this Section of the **policy**, the Standard clause arises in connection with **your business** and occurs within the **territorial limits**.
- 3 The claim
  - 3.1 always has **reasonable prospects of success** and
  - 3.2 is reported to **us**
    - 3.2.1 during the **period of insurance** and
    - 3.2.2 as soon as the **insured** first becomes aware of circumstances which could give rise to a claim.
- 4 Unless there is a conflict of interest, the **insured** always agrees to use the **appointed advisor** chosen by **us**
  - 4.1 in any claim to be heard by an Employment Tribunal and/or
  - 4.2 before proceedings have been or need to be issued.
- 5 Any dispute will be dealt with through mediation or by a court, tribunal, Advisory Conciliation and Arbitration Service or a relevant regulatory or licensing body within the **territorial limits**.

**We** consider that a claim has been reported to **us** when **we** have received the **insured's** fully completed claim form.

This Section of the **policy** will pay any otherwise covered claim involving the use of or inability to use a computer, including devices such as smart phones, tablets and wearable technology. This cover is subject to all other **policy** terms.

### Standard clauses

#### 1 Employment

A dispute between **you** and **your employee**, ex-**employee**, or a prospective **employee**, arising from a breach or an alleged breach of their:

- 1.1 contract of service with **you**; and/or
- 1.2 related legal rights.

**You** can claim under this Section of the **policy** as soon as all internal procedures as set out in the

- 1.1 ACAS Code of Practice for Disciplinary and Grievance Procedures; or
- 1.2 Labour Relations Agency Code of Practice on Disciplinary and Grievance Procedures in Northern Ireland

have been or ought to have been concluded.

#### Exclusions relating to 1 Employment

Any claim arising from or relating to:

- 1.1 the pursuit of an action by **you** other than an appeal against the decision of a court or tribunal
- 1.2 actual or alleged redundancy that is notified to **employees** within 180 days of the start of this Section of the **policy**, except where **you** have had equivalent cover in force up until the start of this Section of the **policy**
- 1.3 costs **you** incur to prepare for an internal disciplinary hearing, grievance or appeal
- 1.4 a pension scheme where actions are brought by ten or more **employees** or ex-**employees**.

#### 2 Employment compensation awards

Following a claim **we** have accepted under Standard clause 1 Employment, the **insurer** will pay any:

- 2.1 basic and compensatory award or
- 2.2 an amount agreed by **us** in settlement of a dispute.

Provided that compensation is:

- 2.1 agreed through mediation or conciliation or under a settlement approved by **us** in advance or
- 2.2 awarded by a tribunal judgement after full argument unless given by default.

#### Exclusions relating to 2 Employment compensation awards

- 2.1 Money due to an **employee** under a contract or a statutory provision relating thereto.
- 2.2 Compensation awards or settlements relating to:
  - 2.1.1 trade union membership, industrial or labour arbitration or collective bargaining agreements



- 2.1.2 civil claims or statutory rights relating to trustees of occupational pension schemes.

### 3 Employment restrictive covenants

- 3.1 A dispute with **your employee** or **ex-employee** which arises from their breach of a restrictive covenant where **you** are seeking financial remedy or damages.

Provided that the restrictive covenant:

- 3.1.1 is designed to protect **your** legitimate business interests, for a period not exceeding 12 months and
  - 3.1.2 is evidenced in writing and signed by **your employee** or **ex-employee** and
  - 3.1.3 extends no further than is reasonably necessary to protect the business interests.
- 3.2 A dispute with another party who alleges that **you** have breached their legal rights protected by a restrictive covenant.

### 4 Tax disputes

- 4.1 A formally notified enquiry into **your business** tax.
- 4.2 A dispute about **your** compliance with HMRC regulations relating to **your employees**, workers or payments to contractors.
- 4.3 An enquiry with HMRC about Value Added Tax.

Provided that:

- 4.1 **you** keep proper records in accordance with legal requirements and
- 4.2 in respect of any appealable matter **you** have requested an internal review from HMRC where available.

#### Exclusions relating to 4 Tax disputes

Any claim arising from or relating to:

- 4.1 tax returns which are submitted late or for any other reason, result in HMRC imposing a penalty, or which contain careless and/or deliberate misstatements or omissions
- 4.2 an investigation by the Fraud Investigations Service of HMRC
- 4.3 circumstances where the Disclosure of Tax Avoidance Scheme Regulations apply or should apply to **your** financial arrangements
- 4.4 any enquiry that concerns assets, monies or wealth outside of the United Kingdom
- 4.5 **your** failure to register for VAT.

### 5 Property

A dispute relating to material property which **you** own or is **your** responsibility

- 5.1 following an event which causes physical damage to **your** material property
- 5.2 following a public or private nuisance or trespass
- 5.3 which **you** wish to recover or repossess from an **employee** or **ex-employee**.

### Exclusions relating to 5 Property

Any claim arising from or relating to:

- 5.1 a contract between **you** and a third party except for a claim under 5.3 above
- 5.2 goods lent or hired out
- 5.3 compulsory purchase, demolition restrictions, controls or permissions placed on land or property by any government, local or public authority.

### 6 Legal defence

6.1 A criminal investigation and/or enquiry by:

- 6.1.1 the police or
- 6.1.2 other body with the power to prosecute,

where it is suspected that an offence may have been committed that could lead to the **insured** being prosecuted.

6.2 The charge for an offence or alleged offence which leads to the **insured** being prosecuted in a court of criminal jurisdiction.

### Exclusions relating to 6 Legal defence

Any claim relating to a parking offence.

### 7 Compliance & regulation

7.1 Receipt of a Statutory Notice that imposes terms against which **you** wish to appeal.

7.2 Notice of a formal investigation or disciplinary hearing by any professional or regulatory body.

7.3 A civil action alleging wrongful arrest arising from an allegation of theft.

7.4 A claim against **you** for compensation under the Data Protection Act 2018 provided that

7.4.1 **you** are registered with the Information Commissioner

7.4.2 **you** are able to evidence that **you** have in place a process to

- investigate complaints from data subjects regarding a breach of their privacy rights
- offer suitable redress where a breach has occurred and that **your** complaints process has been fully engaged.

7.5 A civil action alleging that an **insured** (or an ex-**employee** provided that they have **your** agreement to claim under this Section of the **policy**) has

7.5.1 committed an act of unlawful discrimination; or

7.5.2 failed to correctly exercise their fiduciary duty as a trustee of a pension fund set up for the benefit of **your employees**.

### Exclusions relating to 7 Compliance & regulation

Any claim arising from or relating to:

- 7.1 the pursuit of an action by **you** other than an appeal
- 7.2 a routine inspection by a regulatory authority
- 7.3 an enquiry, investigation or enforcement action by HMRC
- 7.4 a claim brought against **your business** where unlawful discrimination has been alleged.

### 8 Statutory licence appeals

An appeal against a formal written proposal by the relevant authority to alter, suspend, revoke or refuse to renew a licence or compulsory registration required to run **your** business.

### 9 Loss of earnings

The **insured's** absence from work to attend court, tribunal, arbitration, regulatory proceedings or a professional body's disciplinary hearing at the request of the **appointed advisor** or whilst on jury service which results in loss of earnings.

#### Exclusions relating to 9 Loss of earnings

Any sum which can be recovered from the court.

### 10 Personal injury

An event that causes bodily injury to, or the death of, an **insured**.

#### Exclusions relating to 10 Personal injury

Any claim arising from or relating to a condition, illness or disease which develops gradually over time.

### 11 Executive suite

This Standard clause applies only to the principal, executive officers, directors and partners of **your business**.

- 11.1 An HMRC enquiry into the executive's personal tax affairs.
- 11.2 A motoring prosecution that arises from driving for personal, social or domestic use, including commuting to or from **your business**.
- 11.3 A claim that arises from personal identity theft provided that the person claiming has sought and followed advice from the Executive suite identity theft resolution helpline.
- 11.4 A dispute that arises from the terms of **your business** partnership agreement that is to be referred to mediation.
- 11.5 Crisis communication as described in Standard clause 13 Crisis communication below shall be available to the principal, executive officers, directors and partners of the **business** for matters occurring in their private and personal capacity that cause significant adverse publicity or reputational damage.

#### Exclusions relating to 11 Executive suite

- 11.1 Any claim arising from or relating to:
  - 11.1.1 tax returns which are submitted late or for any other reason, result in HMRC imposing a penalty or which contain careless and/or deliberate misstatements or omissions

## Section Legal Expenses

- 11.1.2 an investigation by the Fraud Investigation Service of HMRC
  - 11.1.3 circumstances where the Disclosure of Tax Avoidance Scheme Regulations apply or should apply to the executive's financial arrangements
  - 11.1.4 any enquiry that concerns assets, monies or wealth outside of the United Kingdom
  - 11.1.5 a parking offence
  - 11.1.6 costs incurred in excess of GBP25,000 for a claim under Standard clause 11.4 and 11.5 above.
- 11.2 Crisis communication for a matter that has not actually resulted in adverse publicity appearing online, in print or broadcast.

## 12 Contract & debt recovery

A breach or alleged breach of an agreement or alleged agreement which has been entered into by **you** or on **your** behalf to buy, sell, hire, lease, goods or services or to rent **your business** premises, provided that if **you** are claiming for an undisputed debt **you** have exhausted **your** normal credit control procedures.

### Exclusions relating to Contract & debt recovery

Any claim arising from or relating to:

- 12.1 an amount which is less than GBP200
- 12.2 disputes with a tenant or leasee where **you** are the landlord or lessor
- 12.3 the sale or purchase of land or buildings
- 12.4 loans, mortgages, endowments, pensions or any other financial product
- 12.5 computer hardware, software, internet services or systems which
  - 12.5.1 have been supplied by **you** or
  - 12.5.2 have been tailored to **your** requirements
- 12.6 a breach or alleged breach of a professional duty by an **insured**
- 12.7 the settlement payable under an insurance policy
- 12.8 a dispute relating to an **employee** or ex-**employee**.

## 13 Crisis communication

Following an event which causes significant adverse publicity or reputational damage which is likely to have a widespread financial impact on **your business**, we will

- 13.1 liaise with **you** and **your** solicitor (whether the solicitor is an **appointed advisor** under this Section of the **policy**, or acts on **your** behalf under any other policy), to draft a media statement or press release
- 13.2 prepare communication for **your** staff/customers/suppliers and/or a telephone or website script or social media messaging
- 13.3 arrange, support and represent an **insured** at an event which media will be reporting
- 13.4 support the **insured** by taking phone calls/emails and managing interaction with media outlets

13.5 support and prepare the **insured** for media interviews provided that **you** have sought and followed advice from **our** crisis communication helpline.

### Exclusions relating to 13 Crisis communication

Any claim arising from or relating to:

- 13.1 matters that should be dealt with through **your** normal complaints procedures
- 13.2 a matter that has not actually resulted in adverse publicity appearing online, in print or broadcast
- 13.3 costs incurred in excess of GBP25,000.

### Exclusions relating to the whole Section

The **insured** is not covered for any claim arising from or relating to:

- 1 costs or compensation awards incurred without **our** consent
- 2 any actual or alleged act, omission or dispute happening before, or existing at the start of the insurance provided by this Section of the **policy**, and which the **insured** knew or ought reasonably to have known could lead to a claim
- 3 an allegation against the **insured** involving:
  - 3.1 assault, violence, malicious falsehood or defamation
  - 3.2 indecent or obscene materials
  - 3.3 the use of alcohol or its unauthorised or unregulated manufacture, unlicensed dealing in alcohol or dealing in or using illegal drugs
  - 3.4 illegal immigration
  - 3.5 money laundering or bribery offences, breaches of international sanctions, fraud, or any other financial crime activitiesexcept in relation to Standard clause 13 Crisis communication
- 4 defending a claim in respect of damages for personal injury (other than injury to feelings in relation to Standard clause 1 Employment), or defending a claim in respect of loss or damage that has been caused to **your** property
- 5 National Minimum Wage and/or National Living Wage Regulations
- 6 patents, copyright, passing-off, trade or service marks, registered designs and confidential information (except in relation to Standard clause 3 Employment restrictive covenants)
- 7 a dispute with any subsidiary, parent, associated or sister company or between shareholders or business partners (except in relation to mediation under Standard clause 11.4 Executive suite)
- 8
  - 8.1 a franchise agreement
  - 8.2 an agency agreement through which one party has the legal capacity to alter the legal relations of the other
- 9 a judicial review

## Section Legal Expenses

- 10 a dispute with **us**, the **insurer** or the party who arranged this cover not dealt with under Condition 6
- 11
  - 11.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
  - 11.2 radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof
  - 11.3 war, invasion, act of foreign enemy hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection or military or usurped power
  - 11.4 pressure waves from aircrafts or other aerial devices travelling at sonic or supersonic speed
  - 11.5 any terrorist action (regardless of any other cause or event contributing concurrently or in any other sequence to the liability) or any action taken in controlling, funding, preventing or suppressing terrorist action
  - 11.6 a dispute where providing cover, payment of any claim or the provision of any benefit would expose the **insurer** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America
- 12 the payment of fines, penalties or compensation awarded against the **insured** (except as covered under Standard clause 2 Employment compensation awards); or costs awarded against the **insured** by a court of criminal jurisdiction.

### Conditions relating to this Section

Where the **insurer's** risk is affected by the **insured's** failure to keep to these conditions the **insurer** can refuse a claim or withdraw from an ongoing claim. The **insurer** also reserves the right to claim back **legal costs & expenses** from the **insured** if this happens.

#### 1 The Insured's Responsibilities

An **insured** must:

- 1.1 tell **us** immediately of anything that may make it more costly or difficult for the **appointed advisor** to resolve the claim in the **insured's** favour
- 1.2 cooperate fully with **us**, give the **appointed advisor** any instructions **we** require, and keep them updated with progress of the claim and not hinder them
- 1.3 take reasonable steps to claim back **legal costs & expenses** and, where recovered, pay them to the **insurer**
- 1.4 allow the **insurer** at any time to take over and conduct in the **insured's** name, any claim.

#### 2 Freedom to choose an appointed advisor

- 2.1 In certain circumstances as set out in 2.2 below the **insured** may choose an **appointed advisor**. in all other cases no such right exists and **we** shall choose the **appointed advisor**.
- 2.2 If:
  - 2.2.1 a suitably qualified advisor considers that it has become necessary to issue proceedings or proceedings are issued against an **insured**, or

2.2.2 there is a conflict of interest

the **insured** may choose a qualified **appointed advisor** except, where the **insured's** claim is to be dealt with by the Employment Tribunal, **we** shall always choose the **appointed advisor**.

- 2.3 Where the **insured** wishes to exercise the right to choose, the **insured** must write to **us** with their preferred representative's contact details.
- 2.4 Where the **insured** chooses to use their preferred representative, the **insurer** will not pay more than **we** agree to pay a solicitor from **our** panel and will pay only the costs that the **insurer** would have been liable to pay. (**Our** panel solicitor firms are chosen with care and **we** agree special terms with them including rates which may be lower than those available from other firms.)
- 2.5 If the **insured** dismisses the **appointed advisor** without good reason, or withdraws from the claim without **our** written agreement, or if the **appointed advisor** refuses with good reason to continue acting for an **insured**, the **insurer's** liability in respect of that claim will end immediately.
- 2.6 In respect of pursuing a claim, **you** must enter into a **conditional fee agreement** (unless the **appointed advisor** has entered into a **collective conditional fee agreement**) where legally permitted.

### 3 Consent

- 3.1 The **insured** must agree to **us** having sight of the **appointed advisor's** file relating to the **insured's** claim. the **insured** is considered to have provided consent to **us** or **our** appointed agent to have sight of their file for auditing and quality and cost control purposes.
- 3.2 An **insured** must have **your** agreement to claim under this Section of the **policy**.

### 4 Settlement

- 4.1 The **insurer** can settle the claim by paying the reasonable value of the **insured's** claim.
- 4.2 The **insured** must not negotiate or settle the claim without **our** written agreement.
- 4.3 If the **insured** refuses to settle the claim following advice to do so from the **appointed advisor**, the **insurer** reserves the right to refuse to pay further costs.

### 5 Barrister's opinion

**We** may require the **insured** to obtain and pay for an opinion from a barrister if a dispute arises regarding the merits or value of the claim. If the opinion supports the **insured**, then the **insurer** will reimburse the reasonable costs of that opinion. If that opinion conflicts with advice obtained by **us**, then the **insurer** will pay for a final opinion which shall be binding on the **insured** and **us**. This does not affect the **insured's** right under Condition 6 below.

### 6 Arbitration

If any dispute between the **insured** and **us** arises from this Section of the **policy**, the **insured** can make a complaint to **us** as described under the Complaints Procedure on the final page of this **policy** and **we** will try to resolve the matter. If **we** are unable to satisfy the **insured's** concerns and the matter can be dealt with by the Financial Ombudsman Service, the **insured** can ask them to arbitrate over the complaint.

## Section Legal Expenses

If the dispute cannot be dealt with by the Financial Ombudsman Service, it can be referred for independent arbitration to a qualified person agreed upon by both parties. The loser of the dispute shall be liable to pay the costs incurred.

If **we** and the **insured** fail to agree on a suitable person to arbitrate the matter, **we** will ask the president of the relevant law society to nominate. The arbitration shall be subject to the arbitration acts and the arbitrator's decision shall be binding on the parties.

### 7 Other insurance

The **insurer** will not pay more than their fair share (rateable proportion) for any claim covered by another policy, or any claim that would have been covered by any other policy if this Section of the **policy** did not exist; even if the other insurer refuses the claim.

### 8 Fraudulent claims and claims tainted by dishonesty

8.1 If the **insured** makes any claim which is fraudulent or false, the policy may become void and all benefit under it may be lost.

8.2 An **insured** shall at all times be entirely truthful, accurate and open in any evidence, disclosure or statement they give and shall act with complete honesty and integrity throughout. Where, on the balance of probabilities and having considered carefully all the facts of the claim, it appears that the **insured** has breached this condition and that the breach has:

8.2.1 affected **our** assessment of **reasonable prospects of success**, and/or

8.2.2 prejudiced in any part the outcome of the **insured's** claim

the **insurer** shall have no liability for **legal costs & expenses** incurred from the date of the **insured's** breach.

### 9 Acts of Parliament, statutory instruments, civil procedure rules & jurisdiction

All legal instruments, bodies and rules referred to within this Section of the **policy** shall include the equivalent in Wales, Scotland, Northern Ireland, the Isle of Man and the Channel Islands and any subsequent amendment or replacement. This Section of the **policy** will be governed by English law.

### 10 Cancellation

In addition to the **Cancellation** conditions as set out under the **General Terms and Conditions**, the **insurer** may also cancel this Section of the **policy** and refund the premium for the remaining **period of insurance** if at any time **you**:

10.1 enter into a voluntary arrangement or a deed of arrangement or

10.2 become bankrupt, are placed into administration, receivership or liquidation or

10.3 have **your** affairs or property in the care or control of a receiver or administrator.

## ARAG Privacy statement

This is a summary of how **we** collect, use, share and store personal information. To view **our** full privacy statement, please see **our** website [www.arag.co.uk](http://www.arag.co.uk).

The **insurer's** full privacy notice may be found at the following link: <https://www.hdi-specialty.com/int/en/legals/privacy>.



## Section Legal Expenses

### Collecting personal information

ARAG may be required to collect certain personal or sensitive information which may include name, address, date of birth and if appropriate medical information. **We** will hold and process this information in accordance with all relevant data protection regulations and legislation. Should **we** ask for personal or sensitive information, **we** undertake that it shall only be used in accordance with **our** privacy statement.

**We** may also collect information for other parties such as suppliers **we** appoint to process the handling of a claim.

### Using personal or sensitive information

The reason **we** collect personal or sensitive information is to fulfil **our** contractual and regulatory obligations in providing this insurance product, for example to process premium or handle a claim. To fulfil these obligations, **we** may need to share personal or sensitive information with other organisations.

**We** will not disclose personal or sensitive information for any purpose other than the purpose for which it was collected. Please refer to **our** full privacy statement for full details.

### Keeping personal information

**We** shall not keep personal information for any longer than necessary.

### Your rights

Any person insured by this Section of the **policy** has a number of rights in relation to how **we** hold personal data including; the right to a copy of the personal data **we** hold; the right to object to the use of personal data or the withdrawal of previously given consent; the right to have personal data deleted.

## Property All Risks Section

### Definitions

#### 1 Building(s)

Buildings means buildings situated at the **premises** including:

- 1.1 landlords' fixtures and fittings including tenants' improvements;
  - 1.2 foundations;
  - 1.3 walls, gates and fences and the adjoining gangways, yards, roadways or pavements constructed of concrete or asphalt;
  - 1.4 drains, sewers and gutters;
  - 1.5 outbuildings, annexes, extensions and storage containers together with extensions and canopies adjoining to or communicating therewith;
  - 1.6 security lighting, security cameras and other security or fire protection devices, affixed signs, television, radio, satellite receiving aerials, communication aerials, their fittings and masts affixed to the buildings, walls, gates, fences, fixed poles or fixed pylons at the **premises**;
  - 1.7 telephone, gas, water and electricity meters, piping, ducting, trunking, cables, wires and associated control gear, instruments and accessories and the like, including such property for which **you** are responsible but which is in or under adjoining yards or roadways extending to the public mains and which partly or wholly serves to supply the **premises**;
  - 1.8 underground storage tanks;
  - 1.9 solar panels;
- but excluding property more specifically insured.

#### 2 Business hours

Business hours means **your** normal daily working hours but extended up to twenty-four (24) hours each day during which **you** or **your employees** are assigned call out duty and/or attendance at an emergency call out.

#### 3 Consignment

Consignment means all goods sent at one time in one load from one address to one destination.

#### 4 Electronic business equipment and computers

Electronic business equipment and computers means:

- 4.1 all computer hardware including manufacturer installed software, interconnecting wiring, fixed disks, and telecommunications equipment, used for the storage and communication of electronically processed **data** owned by or leased, hired, or rented to the **insured**; and

- 4.2 electronic office equipment located at **your premises** including but not limited to printers, photocopiers, facsimile machines, telecommunications systems, television screens and projectors, computer equipment, personal computers, word processing equipment, computer aided design equipment, keyboards, visual display units, desk top publishing equipment, graphic design equipment, and electronic imaging equipment.

but excluding property more specifically insured.

### 5 Floating contents

Floating contents means **property insured** belonging to **you** or for which **you** are responsible, used in connection with the **business** and kept at the **premises** as stated in the **schedule**.

### 6 Machinery, plant and all other contents

Machinery, plant and all other contents means:

- 6.1 machinery and plant, tenants' improvements and alterations, fixtures and fittings;
- 6.2 documents, deeds, manuscripts and business books, but only for the value of the materials as stationery, together with the cost of clerical labour expended in writing them up and not for the value of the information they may contain;
- 6.3 computer systems records, but only for the value of the materials together with the cost of clerical labour and computer time expended in reproducing the records and not for the value of the information they may contain, for an amount not exceeding GBP50,000 (excluding any expenses in connection with the production of information to be recorded) provided that you back-up at least weekly the latest updated data onto a disk and maintain this away from the premises;
- 6.4 patterns, models, moulds, plans and designs for an amount not exceeding the cost of the labour and materials expended in reinstatement; and
- 6.5 clothing and personal effects belonging to **you** or **your employees** for an amount not exceeding the **sub-limit** stated in the **schedule** in respect of the property of any one person.

but excluding property more specifically insured.

### 7 Non-ferrous metals

Non-ferrous metals means **stock** consisting of non-ferrous metals other than aluminium, but excluding property more specifically insured.

### 8 Permanent total disablement

Permanent total disablement means the **insured person** being totally disabled and prevented from attending to the whole of their **business** or occupation as a result of **bodily injury** (this does not apply to loss of limbs or sight as otherwise defined in Standard Clause - Personal accident assault and as shown on the **schedule**) with proof satisfactory to **us** that such disablement is permanent.

## **9 Portable electronic business equipment**

Portable electronic business equipment means portable electronic business equipment used in connection with the **business** including, but not limited to:

- 9.1 laptop computers, electronic note pads, portable modems, portable facsimile machines, mobile phones, smart phones, satellite navigation equipment, pagers, dictation machines, cameras, video cameras and calculators;

which belong to **you** or **your employees** or for which **you** or **your employees** are responsible, but excluding property more specifically insured.

## **10 Portable tools**

Portable tools means portable tools used in connection with the **business** which belong to **you** or **your employees**, but excluding property more specifically insured.

## **11 Rent**

Rent means the money **you** pay for rent and other charges and for services rendered in the course of the **business** at the **premises**.

## **12 Stock**

Stock means materials in trade including work in progress which are **your property** or held by **you** in **your** trust or on commission, and for which **you** are responsible, but excluding property more specifically insured.

## **13 Temporary total disablement**

Temporary total disablement means the **insured person** being totally disabled and prevented from attending to the whole of his **business** or occupation as a result of **bodily injury** (not being loss of limbs or sight as otherwise defined in Standard Clause - Personal accident assault and Scale of Benefits) but not **permanent total disablement** as defined above.

### Cover

**We** will indemnify **you** in accordance with the terms of Standard Clause - Basis of settlement for damage to the **property insured** by an **insured event** occurring at the **premises**. **Our** maximum liability shall not exceed the **sum insured** stated in the **schedule**.

The following Conditions must be complied with before **we** can confirm that **we** will deal with any claim under this Section. Breach of these conditions may entitle **us** to refuse to deal with the relevant claim.

### 1 Security

- 1.1 As regards **damage** to the **property insured** at the **premises** caused by or arising from or contributed to by the perils of theft or attempted theft, which occurs more than thirty (30) days after the inception of this **policy**, it is agreed as a condition precedent to **our** liability under this insurance that **you** will operate the minimum standard of security as detailed below. Any alternative methods of securing the premises must be agreed in writing by **us**.
- 1.2 **You** must make sure these measures are put into full and effective operation when the **premises** are closed for **business** or unattended and all keys removed to a secure place.
- 1.3 Any door or window designated as a fire exit by any person who is legally responsible for fire safety at the **premises** under current fire legislation is excluded from these requirements however any such doors or windows must be secured by a proprietary emergency escape mechanism.
  - 1.3.1 All hinged final exit doors are secured as follows;
    - a) Timber doors – by a mortice deadlock certified as meeting BS3621 and where the frame, or if a double door, the receiving door, has a boxed striking plate.
    - b) Aluminium or UPVC framed doors – by a cylinder operated multipoint mortice deadlock. For double doors, the first closing section must have integral or surface mounted bolts which shoot into the frame at the top and the floor at the bottom of the door. The final closing section must have a cylinder operated multipoint mortice deadlock.
    - c) Double leaf doors – by the first closing leaf having a multi-point security device operated by a central handle secured by a cylinder lock or, fitted at top and bottom of the leaf, flush or barrel bolts. The final closing leaf to be secured as a) or b) above. Alternatively each leaf to be fastened to the other by means of a centrally positioned hardened steel padlock bar secured by a closed shackle padlock.
  - 1.3.2 All other hinged external doors and internal doors leading to areas of the **premises** not occupied by **you**, common areas, or to other premises, are secured by;
    - a) The means set out in a) above; or
    - b) Secured internally by lockable bolts or key operated mortice rack bolts fitted at the top and bottom of the door
  - 1.3.3 All opening basement and ground floor windows or opening upper storey windows which can be reached by a person standing on adjacent or adjoining lower storey roofs or other structural features, are secured by a window lock or lockable fastening device or are screwed permanently shut from the inside or are protected by solid

steel bars weld mesh or expanded metal grilles securely fixed to brickwork surrounding the window.

- 1.3.4 Opening roof lights are to be secured using a proprietary fastening device.
- 1.3.5 Roller shutters – for electrically operated roller shutters, **you** must fit a key operated isolation switch to the electricity supply to the controls. Where this is not fitted then one of the measures for manually operated roller shutters must be installed. For manually operated roller shutters **you** must;
  - a) Fit key operated pinson or bullet locks; or
  - b) Secure the chain of the door to the wall bracket by a good quality open shackle padlock; or
  - c) Fit a bolt to the shutter door internally with the bolt engaging into the door runner and padlocked into position using a padlock conforming to BS EN 12320 Security Grade 4.
- 1.4 where **you** are required to maintain alternative security protections as stated in the **schedule** (or alternative protections agreed by **us**) and the security protections stated in the **schedule** require **you** to have alarmed monitoring **you** will advise **us** in the event of the Police or any alarm company or monitoring station advises **you** that the alarm signals from the **premises** will not be answered or have a reduced level of response.

## 2 Storage

**Stock** in any basement or cellar is raised at least 15cms above the floor.

## 3 Waste

- 3.1 all waste materials are swept up daily and kept in a proprietary waste container
- 3.2 all oily and greasy cleaning waste and wipes are kept in metal receptacles with metal lids are removed from the buildings at least once a week.

## Standard Clauses

### 1 Architects' and other professional fees

Cover is extended to include architects', engineers' and surveyors' fees necessarily incurred in the reinstatement of the **buildings** and **machinery, plant and all other contents** (not exceeding the scale of fees authorised by the relevant professional bodies and not including fees for preparing any claim) as a result of **damage** insured under this Section, provided that the total amount recoverable under any of the items insured does not exceed the total **sum insured**.

### 2 Automatic reinstatement of sum insured

The **sums insured** by this Section will be automatically reinstated by the amount of any claim provided that **you** pay such extra premium as may be required.

### 3 Basis of settlement

#### 3.1 Reinstatement

In the event of **damage** to **property insured** other than **stock** and personal effects the basis upon which the amount payable will be calculated is as follows:

3.1.1 on **electronic business equipment and computers** the cost of repairing or replacing of the **damaged electronic business equipment and computers** however if the **electronic business equipment and computers** so **damaged** be obsolete at the time of loss and beyond economic repair, **we** agree to the replacement of **damaged electronic business equipment and computers** with items that fulfils the same function and has the same cost as that **damaged** when new.

3.1.2 On all other **property insured**:

- a) where property is destroyed - the rebuilding of the property, if a building, or in the case of other property, its replacement by similar property, (in either case in a condition equal to, but not better or more extensive than its condition when new);
- b) where property is **damaged** - the repair of the **damage** and the restoration of the **damaged** portion of the property to a condition substantially the same, but not better or more extensive than its condition when new;

provided that:

3.2 any work of rebuilding or restoration (which may be carried out on another site and in any manner suitable to **your** requirements subject to **our** liability not being increased) is commenced and carried out with reasonable dispatch;

3.3 where **property insured** is **damaged** or destroyed in part only, **our** liability does not exceed the sum representing the cost which could have been paid if the property had been wholly destroyed;

3.4 no payments are made until rebuilding or restoration costs have actually been incurred;

3.5 if at the time of rebuilding, restoration or repair, the sum representing 85 per cent of the cost which would have been incurred in reinstatement if the whole of the **building** or **property insured** by any item had been destroyed, exceeds the **sum insured** by such item at the time of the **damage**, then the amount payable will be proportionally reduced.

3.6 Indemnity

In the event of **damage** to **stock** and personal effects the basis upon which the amount payable will be calculated will be as follows:

3.6.1 On **stock**:

- i) if repaired or replaced, the actual expenditure incurred in repairing or replacing the **damaged stock**; or
- ii) if not repaired or replaced, the amount it would cost to repair or replace the stock, on the date of the **event**, with **stock** of like kind and quality, less deduction for wear and tear;

3.6.2 on personal effects, the cost of repair or current replacement value less deduction for wear and tear.

Where for any reason a payment cannot be made in accordance with the above **our** liability will be arrived at as if this Basis of Settlement clause had not been incorporated and will be subject to the terms and conditions of the **policy** including condition of Average (see General Terms and Conditions).

#### 4 Breakdown of electronic business equipment and computers

Cover is extended to include damage to any item of **electronic business equipment and computers** as a result of its **breakdown** at the **premises**, provided that:

- 4.1 it has been installed and is being operated in accordance with the manufacturer's instructions;
- 4.2 such **breakdown** is not the subject of:
  - 4.2.1 a guarantee or warranty provided by the manufacturer or supplier; or
  - 4.2.2 a repair available under a maintenance contract;
- 4.3 such breakdown does not occur during dismantling, erection or installation of the **electronic business equipment and computers** unless such dismantling, erection or installation is a part of any process of adjusting, cleaning or repairing.
- 4.4 **Our** maximum liability shall not exceed any one claim nor in aggregate in any one period of insurance the **sub-limit** stated in the **schedule**.
- 4.5 It is a condition precedent to indemnity that **you** must effect and keep in force a maintenance contract in respect of all **electronic business equipment and computers** with the manufacturer of the items or a reputable electronic engineer to service the items at least once every twelve months.



### 5 Capital additions

Cover is extended to include alterations, additions and improvements (but not appreciation in value) in excess of the **sums insured** on **buildings** and **machinery, plant and all other contents** insured by this Section.

This is limited to an amount not exceeding ten (10) per cent of the relevant **sum insured**, provided that **you** advise **us** as soon as practicable of any alterations, additions and improvements and pay any additional premium that may be required.

### 6 Changing locks

This insurance includes the reasonable cost of replacing door locks, safe or strong room locks at the **premises** following the loss of keys up to a limit of GBP2,500 any one claim:

- 6.1 by accidental loss or theft from the **premises, your** home or **your** authorised **employees'** homes
- 6.2 theft following a hold-up whilst such keys are in **your** personal custody or that of any authorised **employee**.

### 7 Contract price

In respect of goods sold but not delivered for which **you** are responsible under the conditions of sale, where the sale contract is cancelled as a result of total, or to the extent of partial, **damage** covered by this Section, **we** will only be liable for an amount based on the contract price, which will be subject to Average.

### 8 Contracting purchaser

If **you** are selling any **buildings** insured by this Section, the purchaser will be entitled to the benefit of the insurance cover in respect of the **buildings**, up to the date the purchase contract is completed, unless they have arranged their own insurance.

### 9 Customers goods

**You** having intimated to **your** customers that **you** will accept responsibility for **damage** to goods the property of such customers or for which the said customers may be legally responsible (whether manufactured by **you** or not) upon which work is to be, is being or has been done on behalf of the customer by **you** or which may be left in **your** hands for storage or dispatch or otherwise temporarily in **your** custody, it is hereby declared that all such goods shall be held to be insured by the items of the **schedule** covering **stock** except in so far as they shall be more specifically otherwise insured.

### 10 Day one reinstatement basis (non-adjustable)

This clause is applicable to those items of **property insured** against which the sums are a percentage (%) in the **schedule**. **You** having stated in writing the **declared value** incorporated in each item of **property insured** to which this clause applies, the premium has been calculated accordingly.

- 10.1 Declared value shall mean **your** assessment of the cost of reinstatement of the **property insured** arrived at in accordance with the Basis of Settlement clause at the level of costs

## Section Property All Risks

applying at inception of the **period of insurance** (ignoring inflationary factors which may operate subsequently) together with, if insured hereby, due allowance for:

- 10.1.1 the additional costs of reinstatement to comply with **public authority** requirements;
  - 10.1.2 architects and surveyors' fees;
  - 10.1.3 debris removal costs.
- 10.2 At inception of each **period of insurance** you will notify **us** of the **declared value** of each item of **property insured** to which this clause applies. In the absence of such a declaration the last amount declared by **you** shall be taken as the **declared value** for the ensuing **period of insurance**.
- 10.3 Each item of **property insured** to which this clause applies is declared to be separately subject to the following Condition of Average:
- If at the time of damage the **declared value** of the **property insured** is less than the cost of reinstatement (to be assessed as stated above) at inception of the period of insurance then **our** liability for any loss hereby insured shall be limited to that proportion thereof which the **declared value** bears to the cost of reinstatement.
- 10.4 In the event of **damage our** liability in respect of **property insured** to which this clause applies shall not exceed the **sum insured** (being the **declared value** increased by the percentage uplift specified in the **schedule**).

## 11 Debris removal

Cover is extended to include expenses necessarily incurred in removing debris, cleaning of drains and sewers, dismantling or demolishing and shoring-up or propping or fencing of the items insured as a result of **damage** insured by this Section, provided that the total amount recoverable under any of the items insured does not exceed the **sum insured**.

**We** will not pay for any costs or expenses:

- 11.1 incurred in removing debris except from the site of such property **damaged** and the area immediately adjacent to such site;
- 11.2 arising from pollution or contamination of property not insured by this Section;
- 11.3 of temporary boarding up of windows as part of a claim for breakage of glass.

## 12 Designation

For the purpose of determining where necessary the heading under which any property is insured, it is agreed to accept the designation under which such property has been entered in **your** books.

## 13 Documents removal

Deeds, documents, manuscripts, and **business** books including computer software and records are covered whilst temporarily removed to any premises within the **United Kingdom** and/or European Union, not being occupied by **you**, or whilst in transit by road, rail or inland waterway, provided that **our** maximum liability shall not exceed ten (10) per cent of the total contents **sum insured** as shown in **your schedule**.

## 14 Electronic business equipment and computers

Where shown in *your schedule*, cover is extended to include **damage** to **electronic business equipment and computers** whilst at *your premises* provided that **our** maximum liability under this Standard Clause shall not exceed the **sub-limit** stated in the *schedule*.

## 15 Energy performance and sustainable buildings

In the event of **damage** that is insured by this Section to **buildings**, **we** will pay the additional cost of reinstatement incurred with **our** prior written and continuing consent:

- 15.1 to conform with the recommendation report contained in the current Energy Performance Certificate issued by an assessor accredited by the Department for Communities and Local Government (or any authority that may subsequently succeed or replace the said department), that **you** hold in respect of the **damaged buildings**;
- 15.2 to reinstate the **damaged buildings** to a standard above the minimum required under any Act of Parliament with bye-laws of any municipal or local authority or European Union directive where such standard would otherwise result in a recommendation for improvement to be made in a subsequent Energy Performance Certificate assessment;
- 15.3 arising from the use of alternative materials or sources of materials in accordance with the principles of the Building Research Establishment Environmental Assessment Method and rating system for Building Research Establishment Environmental Assessment Method core standards.

Provided always that:

15.3.1 **we** will not be liable for:

- a) any undamaged portions of the **buildings**;
- b) the amount of any rate, tax, duty, development or other charge or assessment arising out of capital appreciation which may be payable in respect of the buildings or by the owner thereof in respect of changes to the **buildings** by the application of this clause;
- c) the cost incurred in complying with any Act of Parliament or with bye-laws of any municipal or local authority or European Union directive:
  - i) in respect of **damage** occurring prior to inception of this **policy**;
  - ii) in respect of **damage** not insured by this Section; or
  - iii) under which notice has been served upon the **insured** prior to the happening of the **damage**;

15.3.2 if **our** liability in respect of any of **buildings** apart from this clause is reduced by the application of any of the terms and conditions of this **policy** or this clause, then **our** liability under this clause in respect of such **buildings** will be reduced in like proportion;

15.3.3 **our** liability under this clause in respect of any one **event** shall not exceed GBP25,000

## 16 European Union and public authorities

Cover in respect of **buildings** and **machinery, plant and all other contents** extends to include such additional cost of reinstatement of the **damaged** property as may be incurred solely by reason of the necessity to comply with building or other regulations under or framed in pursuance of any Act of Parliament or with bye-laws of any municipal or local authority or European Union directive provided that:

16.1 the amount recoverable under this clause shall not include:

16.1.1 the cost incurred in complying with any of the aforesaid regulations, bye-laws or directives;

- a) in respect of **damage** occurring prior to the granting of this clause;
- b) in respect of **damage** not insured by this Section;
- c) under which notice has been served upon **you** prior to the happening of the **damage**;
- d) in respect of undamaged property or undamaged portions of property other than foundations of that portion of the property **damaged**.

16.1.2 the additional cost that would have been required to make good the property **damaged** to a condition equal to its condition when new had the necessity to comply with any of the aforesaid regulations, bye-laws or directives not arisen;

16.1.3 the amount of any tax, rate, duty, development or other charge or assessment arising out of capital appreciation which may be payable in respect of the property or by the owner thereof by reason of compliance with any of the aforesaid regulations, bye-laws or directives referred to.

16.2 the work of reinstatement must be commenced and carried out with reasonable dispatch and in any case must be completed within twelve (12) months after the **damage** or within such further time as **we** may (during the said twelve months) in writing allow and may be carried out wholly or partially at another **premises** (if the aforesaid regulations, bye-laws or directives so necessitate) subject to **our** liability under this clause not being thereby increased.

16.3 if **our** liability under any item of **property insured** apart from this clause is reduced by the application of any of the terms and conditions of this Section, then **our** liability under this clause in respect of such item shall be reduced in like proportion.

16.4 the total amount recoverable under any item of the **schedule** shall not exceed the **sum insured** thereby.

16.5 all of the conditions of this Section and the **policy** except in so far as they may be hereby expressly varied, shall apply as if they had been incorporated herein.

## 17 Exhibition and trade fairs

Cover is extended to pay for **damage** to **property insured** while at exhibitions and trade fairs including transit anywhere in the **United Kingdom** and/or European Union (including air and sea transit within the **United Kingdom** and/or European Union territories on recognised passenger and freight carriage routes unless more specifically insured) provided that **we** shall not be liable for any amount in excess of the **sub-limit** stated in the **schedule** any one claim.

### Exclusions

The cover granted by this Standard Clause excludes and does not cover **damage**:

- 17.1 to watches, tobacco, cigarettes, alcoholic beverages, documents, and pictures caused by theft or pilferage by an **employee** either as a principal or accessory;
- 17.2 resulting directly from defective packing, faulty assembly or dismantling;
- 17.3 recoverable under any other insurance or in any other way;
- 17.4 by theft or attempted theft of the **property insured** while:
  - 17.4.1 in a building unless involving entry to or exit from the building by violent and forcible means or by robbery or attempted robbery;
  - 17.4.2 carried in a soft-top or open-top motor vehicle;
  - 17.4.3 carried in a hard covered motor vehicle belonging to or under **your** control left unattended between the hours of 9pm and 6am unless:
    - a) parked in a securely locked building or garage; or
    - b) in a security compound:
      - i) that is permanently manned and protected by a controlled security barrier; or
      - ii) where the vehicle is fitted with an immobiliser and brought into operation.
  - 17.4.4 carried in a hard covered motor vehicle belonging to or under **your** control left unattended between 6am and 9pm unless all doors windows and other means of entry are closed fastened locked and all keys have been removed to a place of safety;
  - 17.4.5 in a tent or marquee.

## 18 Fire extinguishment expenses and damage caused by emergency services

Cover is extended to include where not otherwise recoverable:

- 18.1 extinguishment expenses reasonably incurred by the **insured** in order to minimise **damage**;
- 18.2 expenses incurred in recharging or repairing **damage** to any gas or sprinkler fire extinguishment system;
- 18.3 damage to lawns, gardens, playing surfaces and landscaped areas, car parks, private roads, and pathways at the **premises** caused by emergency service vehicles while attending an incident involving **damage** for which **we** have accepted a claim under this Section;
- 18.4 costs and expenses reasonably incurred by the **insured** to upgrade or improve any gas or sprinkler fire extinguishment rendered necessary to comply with regulation introduced after the installation of the original system following an incident involving **damage** for which **we** have accepted a claim under this Section;

except that **our** liability for the said costs and expenses will not exceed GBP100,000 during any one period of insurance.

## 19 Fire protection and extinguishing appliances

In respect of all fire extinguishing and protection appliances at the **premises, you** undertake to:

- 19.1 ensure that the appliances are installed to scale;
- 19.2 ensure that the appliances are maintained in accordance with manufacturers' instructions;
- 19.3 remedy promptly any defect disclosed by routine inspection;

this Section shall not be invalidated by any defect in any of the said appliances due to any circumstances unknown to **you** or beyond **your** control.

## 20 Flood resilience

In the event of **damage** that is insured by this Section to **buildings, we** will pay the cost incurred with **our** prior written and continuing consent in:

- 20.1 utilisation of materials with improved water resilience in the repair or reinstatement of the **buildings**; and
- 20.2 the relocation within the same **building** of replacement landlords' fixtures and fittings to an area of less exposure to **damage** by water arising from **flood** and **storm**, irrespective of whether such perils are insured by this **policy**.

Except that the **Insurer's** liability shall not exceed GBP50,000 in respect of this clause.

## 21 Glass

Cover is extended to include:

- 21.1 breakage of all fixed glass and **damage** to window and door frames, together with the necessary cost of boarding up prior to replacement of damaged glass
  - 21.2 **damage** to fixed wash basins, lavatory bowls and cisterns owned by **you** or for which **you** are responsible at the **premises**
  - 21.3 **damage** to neon and illuminated signs and electric light fittings.
  - 21.4 **damage** by impact or falling glass to:
    - 21.4.1 the framework and fittings of the ground floor frontage
    - 21.4.2 goods on display in windows
- provided that **our** maximum liability shall not exceed the **sub-limit** stated in the **schedule** any one claim.

## 22 Goods in transit

Where shown in **your schedule**, cover is extended to include **damage** to:

- 22.1 **stock** and/or **non-ferrous metals** whilst in transit within the **territorial limits** shown on the **schedule**, including loading and unloading or whilst temporarily housed during transit whether on or off the vehicle provided that:

## Section Property All Risks

- 22.1.1 **our** maximum liability any one **consignment** shall not exceed the **sub-limit** stated in the **schedule**;
- 22.1.2 **we** may at **our** option indemnify, reinstate or replace the **stock** or **non-ferrous metals** or any part thereof;
- 22.2 sheets, ropes, chains, toggles, and packing materials;
- 22.3 **your** or **employees'** clothing and personal effects whilst in transit provided that **our** maximum liability in respect of any one claim does not exceed the **sub-limit** stated in the **schedule**.
- we** will also indemnify **you** against expenses reasonably incurred with **our** prior written and continuing consent in respect of:
- 22.4 the transfer of goods being carried to another vehicle, necessitated by **damage** and carriage to the original destination or place of collection;
- 22.5 reloading onto another vehicle any part of the goods being carried which have fallen from the original vehicle;
- 22.6 the removal of debris and site clearance following **damage** but excluding pollution and contamination not **insured** by this Section.

### 23 Hire agreements

In consequence of certain **property insured** under this Section being the subject of hire agreements, it is understood and agreed that the interest of the owners is deemed to be included in the protection afforded by this Section, it being understood that **you** will declare the name of any other interested party in the event of **damage**.

### 24 Machinery, plant and all other contents

Where shown in **your schedule**, cover is extended to include **damage** to **machinery, plant and all other contents** within the **territorial limits** shown on the **schedule**, provided that **our** maximum liability under this Standard Clause shall not exceed the **sub-limit** stated in the **schedule** in respect of any one occurrence

### 25 Machinery re-erection

- 25.1 In the event of **damage** to the **property insured**, **we** will provide indemnity to the **insured** for costs of dismantling, re-erecting and resetting machinery that has not sustained **damage**, but where such dismantling is necessary in order to gain access to and repair or reinstate damaged **property insured**.
- 25.2 Provided that:
- 25.2.1 such machinery is deemed to be undamaged and in working order prior to such dismantling, re-erecting and resetting;
- 25.2.2 **we** shall not provide indemnity for any **damage** to the machinery caused during such dismantling, re-erection and resetting;



25.2.3 such costs shall be in addition to the **sum(s) insured** but subject to the total **property insured sum insured** shown in the **schedule**.

### 26 Metered water or gas loss

Cover is extended to pay water or gas charges that **you** are unable to recover from any other party:

26.1 measured by the utility meter; and

26.2 levied against **you**;

as a result of the loss of water or gas due to **damage** at the **premises** provided that **we** shall not be liable for any amount in excess of the **sub-limit** stated in the **schedule** for any one claim.

### 27 Money

Cover is extended to include loss of **money** belonging to **you** for an amount not exceeding the **sub-limits** stated in the **schedule** for any one claim.

In addition **we** will indemnify **you** in respect of **damage** to:

27.1 any safe, cash box or security case, bag or waistcoat, stamp franking machine owned by or held in trust by **you** at the **premises**, arising from theft or any attempted theft, provided **our** liability does not exceed the cost of repair or where damaged beyond economic repair, the cost of replacement

27.2 clothing and personal effects belonging to **you** or any **employee**, arising from hold-up, theft or attempted theft of **money** belonging to **you**, away from the **premises** for an amount not exceeding the **sub-limit** stated in the **schedule**.

27.3 Provided that;

27.3.1 In respect of **your money** in transit, other than by a specialist security company, **you** must provide not less than one able bodied director, partner and /or **employee** between 18 and 70 years of age for each **sub-limit** amount stated in the **schedule** of **negotiable money** carried and the sum carried shall be divided between such persons.

27.3.2 Any **money** recovered after the settlement of any claim will be **our** property, up to the amount paid by **us**.

### 28 Mortgagees and other interests

The interest of the leaseholder(s), mortgagee(s) and tenant(s) in the individual portions of the **property insured** to which their interest applies is noted, such interest to be advised to **us** in the event of a claim. In addition, **your** interest or that of the mortgagee(s) in this insurance shall not be prejudiced by any act or neglect of the occupier (s) or mortgagor(s) of any **building** hereby insured whereby the risk of **damage** is increased without **your** authority or knowledge or that of the mortgagee(s) provided that **you** or the mortgagee(s) shall immediately on becoming aware thereof give notice in writing to **us** and on demand pay such reasonable additional premium as **we** may require.



**29 Non-ferrous metals**

Where shown in **your schedule**, cover is extended to include **damage** to **non-ferrous metals** (other than aluminium) whilst at the **premises** provided that **our** maximum liability under this Standard Clause shall not exceed in respect of any one claim the **sub-limit** stated in the **schedule**.

**30 Non-invalidation**

This insurance shall not be invalidated by any act or omission or by any alteration whereby the risk of **damage** is increased without **your** knowledge provided that **you** immediately advise **us** as soon as **you** become aware of same and pay such extra premium as may be required.

**31 Personal accident assault**

Cover is extended to pay **you** compensation for death or **bodily injury** sustained by any **insured person** due to assault (including robbery or hold-up) or any attempt thereof whilst in charge of **your money** for an amount as stated in the **sub-limits** in the **schedule** and the Scale of Benefits below

SCALE OF BENEFITS

Item No	Description	Limit
1	Temporary total disablement	GBP100 per week
2	Incurred medical expenses	GBP100 or 15% or the amount paid in respect of weekly benefits whichever is the greater

Provided that:

- 31.1 **our** liability under Death, Total loss of use of one or more limbs, Total loss of sight in one or both eyes, Permanent total disablement is subject to **bodily injury** occurring within twelve (12) calendar months from the date of the assault.
- 31.2 where compensation is payable under one or more of the Benefits other than Incurred medical expenses, the maximum sum payable in respect of any one **insured person** arising from any one occurrence or event will not exceed the amount stated in the **schedule**. This will not apply where Total loss of use of one or more limbs becomes payable in respect of an amputation which can also be claimed under Temporary total disablement but only in respect of disablement prior to the date of amputation and not exceeding six (6) weeks after that date.
- 31.3 in the event of compensation being paid in respect of Temporary total disablement, **we** will not be liable to make any payment in respect of the first two (2) weeks of disablement and the period for which compensation is payable will be limited to one hundred and four (104) weeks.

**32 Portable electronic business equipment**

Where shown in **your schedule**, cover is extended to include **damage** to **portable electronic business equipment** within the **territorial limits** shown on the **schedule**, provided that **our**

maximum liability under this Standard Clause shall not exceed the **sub-limit** stated in the **schedule** in respect of any one occurrence and shall not exceed GBP1,500 any one item.

### 33 Portable tools

Where shown in **your schedule**, cover is extended to include **damage to portable tools** within the **territorial limits** shown on the **schedule**, provided that **our** maximum liability under this Standard Clause shall not exceed the **sub-limit** stated in the **schedule** in respect of any one occurrence and GBP750 in respect of any one item for **portable tools**.

### 34 Rent

In the event of **damage** that is insured by this Section, if:

- 34.1 **rent** is specified as covered in the **schedule**; and
- 34.2 any **building** which is leased or rented by **you** becomes untenable or unusable following **damage**; and
- 34.3 the lease or rental agreement requires continuation of the **rent**;  
**we** will indemnify **you** for either:
  - 34.4 the actual **rent** payable for the unexpired term of the lease or until such time that the **building** is repaired to a condition fit for habitation should the **building** be wholly untenable or unusable; or
  - 34.5 the proportion of the **rent** applicable to the untenable or unusable part of the **building** that would otherwise be occupied by **you** should the **building** be partially untenable or unusable.

provided that **we** shall not be liable for any amount in excess of the **sum insured** in respect of **rent**.

### 35 Sprinkler installation

Where **property insured** at the **premises** is protected by a sprinkler installation **you** undertake to:

- 35.1 maintain the said installation in working order during the currency of this Section;
- 35.2 make a test every week for the purpose of ascertaining that the alarm gong is in working order and that the stop valves controlling the water supply and the installation are fully open;
- 35.3 make quarterly or half-yearly tests, if required by **us** to do so, for the purpose of ascertaining that such water supply is in order and record the particulars of each test;
- 35.4 remedy promptly any defect revealed by such tests.
- 35.5 immediately notify **us** should the water supplies be turned off or the sprinkler installation be rendered inoperative from any cause.

### 36 Stock

Where shown in **your schedule**, cover is extended to include **damage** to **stock** within the **territorial limits** shown on the **schedule**, provided that **our** maximum liability under this Standard Clause shall not exceed the **sub-limit** stated in the **schedule** in respect of any one occurrence.

### 37 Stock away from premises

Where shown in **your schedule**, cover is extended to include **damage** to **stock** within the **territorial limits** shown on the **schedule**, provided that **our** maximum liability under this Standard Clause shall not exceed the **sub-limit** stated in the **schedule** in respect of any one occurrence and GBP750 in respect of any one item for **stock**.

### 38 Subrogation waiver

In the event of a claim arising under this section, **we** agree to waive any rights, remedies or relief to which **we** might become entitled by subrogation against:

38.1 any Company standing in the relation of Parent to Subsidiary (Subsidiary to Parent) to **you**

38.2 any Company which is a Subsidiary of a Parent Company of which **you** are yourselves a Subsidiary,

in each case within the meaning as defined in the Companies Act or Companies (N.I.) Order, as appropriate, current at the time of the loss.

### 39 Temporary removal

**Machinery, plant and all other contents**, and **electronic business equipment and computers** are covered whilst temporarily removed for cleaning, renovation, repair or similar purpose anywhere in the world excluding **North America**, provided that **our** maximum liability shall not exceed fifteen (15) per cent of the total contents **sum insured** as shown in **your schedule**, but excluding:

39.1 motor vehicles and motor chassis licensed for normal road use

39.2 property more specifically insured;

### 40 Temporary repairs following damage

Cover is extended to pay the reasonable cost of:

40.1 boarding-up of fixed glass in windows, doors, fan lights and skylights that is necessary to make the **buildings** secure;

40.2 the installation of temporary doors made necessary for weather-proofing or securing the **buildings**;

40.3 weather-proofing **buildings**;

40.4 securing the site;

following **damage** at the **premises**.

### 41 Theft damage to buildings

Where **buildings** are not insured under this **policy** but **you** are responsible for the cost of **damage** to **buildings**, the insurance by this Section is extended to indemnify **you** in respect of **damage** to **buildings** (as defined) arising from theft or any attempt thereat.

### 42 Trace and access

Cover is extended to pay **you** costs necessarily and reasonably incurred with **our** prior written and continuing consent in locating the source of any escape of water from any fixed water services, heating installation or fuel oil used for domestic purpose only including the repair of walls, floors or ceilings necessary as a direct result of the location work provided that **we** shall not be liable:

42.1 to include the cost of repairs to any fixed domestic water services or heating installation;

42.2 for any amount in excess the **sub-limit** stated in the **schedule** during any one **period of insurance**.

### 43 Unauthorised use of electricity, gas or water

Cover is extended to pay the cost of metered electricity gas or water for which **you** are legally responsible arising from its unauthorised use by persons taking possession or keeping possession of or occupying the **premises** without **your** authority provided that:

43.1 all practicable steps are taken to terminate such unauthorised use as soon as it is discovered;

43.2 **we** shall not be liable for any amount in excess of the **sub-limit** stated in the **schedule** for any one claim.

### 44 Underground services

Where the **buildings** are insured by this Section or **you** are liable as tenants, this insurance covers **damage** to the underground water, drain, sewage and gas pipes and underground electricity and telephone cables extending from the **buildings** to the public mains.

### 45 Unoccupied buildings

If **your building** is or becomes unoccupied, vacant or disused for a period in excess of thirty (30) consecutive days:

45.1 **You** shall give notice to **us** as soon as possible; and

45.2 Cover shall only be provided if **we** give specific agreement in writing; and

45.3 **You** do all things reasonable to ensure that:

45.3.1 all main services are turned off at the mains and water tanks are drained and emptied; and

45.3.2 all combustible materials not forming part of the landlord's fixtures and fittings are removed from inside and outside the **buildings**; and

45.3.3 all ground floor windows and letterboxes are securely boarded over, and

45.3.4 all reasonable precautions are taken to secure the **buildings** against unauthorised entry.

#### **46 Workmen's extension**

Workmen may be employed for the purpose of making new erections or alterations, repair, decoration, plant installation, general maintenance and similar at **your premises** without prejudice to this insurance.

## Exclusions

### 1 Communicable disease

Regardless of any provision to the contrary, the **policy** excludes any amount for which the **insurer** would otherwise be liable directly or indirectly caused by, resulting from, arising out of, in connection with, attributable to, or occurring concurrently or in any sequence with:

- a) a **communicable disease**;
- b) the fear or threat (whether actual or perceived) of a **communicable disease**;
- c) the costs to clean-up, detoxify, remove, monitor or test for the actual, alleged, perceived or suspected presence of a **communicable disease**; or
- d) the **insured's** actual or alleged non-compliance with any advice, guidance, regulation, order, decree or law issued by a **public authority** in response to a **communicable disease**.

This exclusion shall not apply in respect of and to the extent of the indemnity provided by the 'Notifiable disease, murder or suicide, food or drink poisoning' extension of Section – Business Interruption All Risks.

### 2 Consequential loss

This Section excludes and does not cover **damage** caused by any form of indirect or consequential loss except as specifically included with this Section;

### 3 Damage caused by specific events

This Section excludes and does not cover **damage** caused by:

- 3.1 breakdown other than in respect of **electronic business equipment and computers**;
- 3.2 explosion, failure or collapse of a boiler (but not a boiler or economiser used for domestic purposes only) economiser or other vessel, machine, apparatus or pipe work at the **premises** in which internal pressure is due to steam only;
- 3.3 joint leakage failure of welds, cracking, fracturing, collapse or overheating of boilers, economisers, superheaters, pressure vessels of any range of steam, and feed piping in connection therewith;
- 3.4 the over-running, excessive pressure, short-circuiting or self-heating of any dynamo, motor or other portion of the electrical equipment;
- 3.5 the insured property undergoing any process including, but not limited to, cleaning, repairing, restoring, renovating, alteration, maintenance or testing;
- 3.6 defective or faulty design, materials or workmanship, latent defect or inherent vice;
- 3.7 gradual deterioration, putrefaction, corrosion, wear and tear, infestation, vermin, frost, marring or scratching;
- 3.8 change in temperature, dampness, dryness, wet or dry rot, chipping, marring or scratching, shrinkage, evaporation, loss of weight or change in colour, flavour or texture;
- 3.9 **virus** or **similar mechanism, hacking** or **denial of service attack**;

3.10 a change in water table level;

however this will not exclude any subsequent **damage** resulting from any ensuing **insured event**.

3.11 **damage** caused by theft or attempted theft unless involving entry to or exit from the **buildings** at the **premises** by forcible and violent means or by violence or threat of violence to **you** or **your employees** provided that this exclusion shall not apply to:

3.11.1 the **buildings**;

3.11.2 the following Standard Clauses:

- a) Changing Locks
- b) Money
- c) Goods in Transit
- d) Exhibition and Trade Fairs

For the purpose of this insurance forcible and violent entry to or exit from or through an internal door, office, cage, compartment or store within the **buildings** will not satisfy the rider to this theft exclusion unless the office, cage, compartment or store accessed by the internal door is the sole part of the **buildings** occupied by **you**.

3.12 **damage to property insured** by the Standard Clauses – Goods in transit, Portable electronic business equipment, Portable tools or Stock away from premises caused by theft or attempted theft, malicious **persons** or storm to any soft or open topped vehicle.

## 4 Excluded property

This Section excludes and does not cover **damage** to

4.1 livestock, growing crops, trees, watercraft, aircraft, jewellery, precious stones, furs or promissory notes (other than as insured as **money**) unless specifically mentioned in the **schedule**;

4.2 moveable property in the open or property in the course of erection or installation;

4.3 electricity, gas, water or telecommunications transmission lines or pipes other than electricity, gas, water or telecommunications transmission lines or pipes which are **your** responsibility and are within fifty (50) metres of **your premises**;

4.4 any motor vehicle or their contents whose use is not permanently confined to the **premises**, other than:

4.4.1 where such vehicle is insured by a specific insurance policy; and

4.4.2 only in respect of any amount over and above that paid under such specific insurance; and

4.4.3 that **our** maximum liability does not exceed GBP25,000 any one **insured event**;

4.5 explosives.

### 5 Excess

This Section excludes and does not cover the **excess** stated on the **schedule** but this exclusion does not apply where **damage** is caused to **money** or is in respect of loss of keys and/or **damage** to clothing or personal effects.

### 6 Fraud

This Section excludes and does not cover **damage** caused by any acts of:

6.1 fraud or dishonesty;

6.2 fraudulent, dishonest or deliberate accessing, extraction, distortion, erasure, corruption or misappropriation of information or **data** contained in any **electronic business equipment and computers** or other records, programs or software;

committed by **you** or **your employees**, whether alone or in collusion others.

### 7 Glass damage

This Section excludes and does not cover damage to glass;

7.1 caused by alterations to the framework or position of any of the glass or to neon and illuminated signs and electric light fittings or to sanitary earthenware;

7.2 caused by settlement or expansion or contraction of frames and fittings in **buildings** under construction and during a period of six (6) months after the date of completion of the **buildings**;

7.3 at an empty or unoccupied **premises** unless specifically agreed by **us**;

7.4 existing prior to the commencement of this **policy** and not subsequently replaced;

7.5 in respect of neon and illuminated signs and electric light fittings:

7.5.1 caused by or traceable to wear and tear or to gradual deterioration, mechanical or electrical breakdown or removal from the fixed position other than by theft or attempted theft;

7.5.2 of bulbs or tubes unless involving **damage** to signs or fittings;

7.6 and in addition:

7.6.1 glass which is bent, tinted, stained and fixed or incorporated in multiple glazed units;

7.6.2 decoration or protective film or alarm foil on glass unless to comply with the quality recommended in the current British Standard Code of Practice.

### 8 Goods in unattended vehicles

This Section excludes and does not cover **damage** to **property insured** by the Standard Clauses - Goods in transit, Portable electronic business equipment, Portable tools or Stock away from premises by:



- 8.1 theft or any attempted theft:
  - 8.1.1 from any soft or open topped vehicle
  - 8.1.2 from a hard-top motor vehicle
    - 8.1.2.1 during **business hours** unless
      - a) the motor vehicle is locked at all points of access and any immobiliser or alarm has been put into operation;
      - b) all keys have been removed;
    - 8.1.2.2 outside **business hours** unless
      - a) the motor vehicle is locked at all points of access and any immobiliser or alarm has been put into operation;
      - b) all keys have been removed;
      - c) the motor vehicle is parked in a securely **locked compound**, locked building or locked garage;

## 9 Money

This Section excludes and does not cover **damage** to **money** and other items insured by the Money Standard Clause:

- 9.1 due to error or omission
- 9.2 from unattended vehicles
- 9.3 belonging to **your** customers
- 9.4 contained in gaming or vending machines
- 9.5 which is recoverable from a security company or its insurers under an agreement between **you** and the security company, for the conveyance of money
- 9.6 from a safe opened by a key or a note of the combination being left at the **premises** when closed for **business** or unattended.
- 9.7 arising from or due to arson, malicious damage, theft, fraud or dishonesty by **your employees** unless discovered within fourteen (14) days after the incident or occurrence that may give rise to a claim.

## 10 Pollution or contamination

This Section excludes and does not cover **damage**, or loss or interruption or interference caused by pollution or contamination but this exclusion shall not apply to **damage**, or loss or interruption or interference caused by:

- 10.1 pollution or contamination which itself results from a defined peril;
- 10.2 a defined peril which itself results from pollution or contamination;

and for the purpose of this exclusion, defined peril means fire, lightning, explosion, earthquake, aircraft or other aerial device or satellite or missile or articles dropped therefrom, riot, civil commotion, strikers, locked-out workers, persons taking part in labour disturbances, malicious persons other than thieves, windstorm, **flood**, escape of water or oil from any tank or pipe, sprinkler leakage, theft or impact by any vehicle or animal provided that such defined perils are not excluded from this Section.

### 11 Subsidence of buildings

This Section excludes and does not cover **damage** to **buildings** caused by subsidence, ground heave or landslip, normal settlement, bedding down of new structures or collapse.

### 12 Unidentified loss

This Section excludes and does not cover **damage** which is:

- 12.1 not identifiable by **you** in relation to a specific occurrence that happens at a specific time and place;
- 12.2 revealed only during an inventory or stock-taking;
- 12.3 arising from misfiling or misplacing of property, information or data.

### 13 War and Terrorism

This Section excludes and does not cover **damage** resulting from or contributed to, by or in connection with, in whatever form, directly or indirectly, any act of **war** or **terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the loss, nor will **we** have any liability for loss, **damage**, costs and expenses directly or indirectly caused by, contributed to by, resulting from, or arising out of or in connection with any action controlling, preventing, suppressing, retaliating against or responding to any act of **war** or **terrorism**.

This exclusion does not apply to cover granted under any expression Section – Terrorism if such Section is render 'operative' and the appropriate Section premium has been paid.

## Optional Extensions – Property All Risks

The following clauses only apply where shown under optional extensions on the *schedule*.

### 1 Money belonging to your customers extension

- 1.1 The cover provided by Standard clause - Money to this Section is extended to include **negotiable money** and **non-negotiable money** both on the **premises** and whilst in transit, not belonging to **you** but for which **you** are responsible in the course of **your business**.
- 1.2 Further in respect of the cover granted by this Optional extension and solely in relation to **negotiable money**:
  - 1.2.1 whilst in transit, **you** must provide not less than one able bodied director, partner and/or **employee** between 18 and 70 years of age for each sub-limit as stated in the **schedule** of **money** carried and the sum carried shall be divided between such persons; and
  - 1.2.2 **our** maximum liability shall not exceed a **sub-limit** shown on the **schedule**; and
  - 1.2.3 exclusions relating to **damage** to **money** of customers and money recoverable from security companies shall not apply

### 2 Subsidence of buildings extension

Exclusion clause 'Subsidence of buildings' is deleted and replaced by the following:

#### **Subsidence of buildings**

This Section excludes and does not cover **damage** to **buildings** caused by

- 2.1 or happening through the bedding down of new structures, by settlement; or
- 2.2 coastal or river erosion; or
- 2.3 subsidence or collapse of **buildings** or any part thereof whilst in the course of erection or undergoing demolition, structural alterations or structural repairs; or
- 2.4 subsidence or collapse which commenced prior to the inception of the cover under this **policy**; or
- 2.5 **damage** attributable solely to change of water table level;

and **we** shall not be liable to indemnify **you** for the **excess** as stated in the **schedule** in respect of each and every **damage** caused by subsidence or collapse ascertained after the application of all other terms and conditions of this **policy**.

**Our** maximum liability shall not exceed the **sub-limit** stated in the **schedule**.

## Business Interruption All Risks Section

### Definitions

#### 1 Annual gross revenue

Annual gross revenue means the **gross revenue, trend adjusted**, during the twelve months immediately before the date of the **damage**.

#### 2 Annual turnover

Annual turnover means the **turnover** during the twelve months immediately before the date of the **damage**.

#### 3 Estimated gross profit

Estimated gross profit means the amount declared by **you** to **us** as representing not less than the **gross profit** which it is anticipated will be earned by the **business** during the year most nearly concurrent with the **period of insurance** (or a proportionately increased multiple thereof where the **indemnity period** exceeds twelve months).

#### 4 Estimated gross revenue

Estimated gross revenue means the amount declared by **you** to **us** as representing not less than the **gross revenue** which it is anticipated will be earned by the **business** during the financial year most nearly concurrent with the **period of insurance** (or a proportionately increased multiple thereof where the **maximum indemnity** period exceeds twelve months).

#### 5 Gross profit

Gross profit means the amount by which

- 5.1 the sum of the amount of the **turnover** and the amounts of the closing **stock** and work in progress exceeds
- 5.2 the sum of the amounts of the opening **stock** and work in progress and the amount of the **specified working expenses**.

N.B. The amounts of the opening and closing **stocks** (including work in progress) will be arrived at in accordance with **your** usual accounting methods, due provision being made for depreciation.

#### 6 Gross revenue

Gross revenue means the money paid or payable to **you** for services rendered in the course of the **business** at the **premises**.

### 7 Increased cost of working

Increased cost of working means the additional expenditure necessarily and reasonably incurred with **our** prior written and continuing consent.

### 8 Indemnity period

Indemnity period means the period beginning with the occurrence of the **damage** and ending not later than the **maximum indemnity period**, during which the results of the **business** are affected as a result of the **damage**.

### 9 Maximum indemnity period

As stated in the **schedule**.

### 10 Notifiable disease

Notifiable disease means any diseases sustained by a person notifiable under the Health Protection (Notification) Regulations 2010, but excluding:

- a) Avian Influenza and/or Influenza A (H5N1);
- b) Swine Influenza and/or Influenza A (H1N1);
- c) Severe Acute Respiratory Syndrome (SARS);
- d) any coronavirus (or similar or equivalent virus in the future), including any mutation or variation of a coronavirus;
- e) any coronavirus disease (or similar or equivalent disease in the future);
- f) any epidemic or pandemic which poses a threat to human health or human welfare whether officially declared an epidemic or pandemic or not; or
- g) any fear or threat of a) to f) above.

### 11 Outstanding debit balances

Outstanding debit balances means the money owed to **you** by **your** customers at the date of the **damage** taking into account:

- 11.1 bad debts
- 11.2 owed amounts not passed through the books during the period between the last record and the date of the **damage**
- 11.3 abnormal trading conditions affecting the **business**
- 11.4 **your** last record of amounts owed by customers.

### 12 Rate of gross profit

Rate of gross profit means the rate of **gross profit** earned on the **turnover** during the financial year immediately before the date of the **damage**.

### 13 Rent receivable

Rent receivable means the amount of the rent received or receivable from the letting of the property situated at the locations specified in the **schedule**.

### 14 Specified working expenses

Specified working expenses means:

14.1 purchases (less discounts received)

14.2 discounts allowed

14.3 carriage, packing and freight.

### 15 Standard gross revenue

Standard gross revenue means the **gross revenue, trend adjusted**, during that period in the twelve (12) months immediately before the date of the **damage** which corresponds with the **indemnity period**.

### 16 Standard rent receivable

Standard rent receivable means the **rent receivable, trend adjusted** during the period corresponding with the **indemnity period** in the twelve months immediately before the date of **damage**.

### 17 Standard turnover

Standard turnover means the **turnover, trend adjusted** during that period in the twelve months immediately before the date of the **damage** which corresponds with the **indemnity period**.

### 18 Trend adjusted

Trend adjusted means adjustments will be made to figures as may be necessary to provide for the trend of the **business** and for variations in or circumstances affecting the **business** either before or after the **insured event** or which would have affected the **business** had the **damage** not occurred, so that the figures thus adjusted will represent as nearly as may be reasonably practicable the results which but for the **insured event** would have been obtained during the relative period after the **insured event**.

### 19 Turnover

Turnover means the money paid or payable by **you** for goods sold and delivered and for services rendered in the course of the **business** at the **premises**.

**NB1** The words and expressions used in these definitions will have the meaning usually attached to them in **your** books and accounts. Any adjustments implemented in current cost accounting will be disregarded.

**NB2** To the extent that **you** are accountable to the tax authorities for Value Added Tax all terms in this Section shall be exclusive of such Tax.

### Cover

- 1 In the event that any **building** or other **property insured** used by **you** at the **premises** for the purpose of the **business** is **damaged** by an **insured event** during the **period of insurance** and in consequence the **business** carried on by **you** at the **premises** is interrupted or interfered with then **we** will pay in respect of each item of Business Interruption insurance stated in the **schedule** the amount of loss resulting from such interruption or interference provided that the time the **damage** occurs:
  - 1.1 there is in force either:
    - a) cover under the Property All Risks Section of this **policy**; or
    - b) an insurance policy covering **your** interest in the property at the premises against such **damage** and such property is of a type and kind not excluded by this Section;
  - 1.2 **you** have claimed under the insurance policy referred to above, and the relevant **insurer** has paid such a claim in full or admitted liability for such claim, or would have done so but for the operation of a proviso in such insurance policy excluding liability for losses below a specified amount.
  - 1.3 Further, **we** agree that if any records of accounts receivable used by **you** at the **premises** for the purpose of the **business** are **damaged** by an **insured event** during the **period of insurance** and in consequence income is lost resulting from **your** inability to trace or establish **your outstanding debit balances** then **we** will pay:
    - 1.3.1 The expenses incurred with **our** prior written and continuing consent in tracing and establishing customers' debit balances after the **damage**;
    - 1.3.2 the loss of income resulting from **your** inability to trace or establish **your outstanding debit balances** as a direct result of **damage** by any **insured event** provided that:
      - a) **our** liability under this section shall not exceed the **limit of liability** or **sum insured** stated in the Business Interruption All Risks Section of the **schedule**;
      - b) all books of account or other **business** books or records in which customers' accounts are shown are kept in a fire resisting cabinet or safe when not in use;
      - c) all data contained in any **electronic business equipment and computers** in respect of **your** customers' accounts is backed-up at least weekly onto a disk and maintained away from the **premises**.

### 2 Limit of liability

**Our** liability under this section will not exceed the lesser of:

- 2.1 The **sum insured** at the time of the **damage**; or
- 2.2 the **sum insured** (or limit of liability) remaining after deduction for any other interruption or interference consequent upon **damage** occurring during the same **period of insurance**, unless **we** have agreed to reinstate any such **sum insured** (or limit of liability).

## Standard Clauses

### 1 Additional increased cost of working

*Our* liability in respect of **additional increased cost of working** is limited to **additional increased cost of working** and the amount payable under this clause will be the additional expenditure necessarily and reasonably incurred during the **indemnity period** in consequence of the **damage** for the sole purpose of preventing or minimising a reduction in turnover and resuming or maintaining normal **business** operations for an amount not exceeding the **sum insured** by this item.

### 2 Gross profit / estimated gross profit

*Our* liability in respect of **gross profit/estimated gross profit** is limited to loss of **gross profit** caused by a reduction in **turnover** or an increase in cost of working. *Our* liability under this clause will be:

- 2.1 in respect of reduction in **turnover**: the sum produced by applying the **rate of gross profit** to the amount by which the **turnover** during the **indemnity period** will, in consequence of the **damage**, fall short of the **standard turnover**;
- 2.2 in respect of increase in cost of working: the additional expenditure (subject to the provisions of the uninsured standing charges clause) incurred for the sole purpose of avoiding or diminishing the reduction in **turnover** that would otherwise have occurred during the **indemnity period** in consequence of the **damage**, but not exceeding the sum produced by applying the **rate of gross profit** to the amount of reduction reasonably anticipated at the time the expenditure was incurred;
- 2.3 minus, regardless of whether the calculation is based on the reduction of **turnover** or increase in cost of working, any sum saved during the **indemnity period** in respect of such of the charges and expenses of the **business** payable out of **gross profit** as may cease or be reduced in consequence of the **damage**;
- 2.4 except that, in either case, if the **sum insured** in respect of **gross profit/estimated gross profit** is less than the sum produced by applying the **rate of gross profit** to the **annual turnover** (or to a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months) *our* liability will be proportionately reduced.

### 3 Gross revenue / estimated gross revenue

*Our* liability in respect of **gross revenue/estimated gross revenue** is limited to loss of **gross revenue/estimated gross revenue** and increase in cost of working. *Our* liability under this will be:

- 3.1 in respect of the reduction in gross revenue: the amount by which the **gross revenue** during the indemnity period will, in consequence of the **damage**, fall short of the **standard gross revenue**;
- 3.2 in respect of an increase in cost of working: the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in **gross revenue** which but for that expenditure would have taken place during the **indemnity period** in consequence of the **damage**, but not exceeding the amount of the reduction thereby avoided;



- 3.3 minus, regardless of whether the calculation is based on, the reduction in gross revenue or the increase in cost of working any sum saved during the **indemnity period** in respect of such of the charges and expenses of the **business** payable out of **gross revenue** as may cease or be reduced in consequence of the **damage**;
- 3.4 except that, in either case, if the **sum insured** in respect of **gross revenue/estimated gross revenue** is less than the **annual gross revenue** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months), **our** liability will be proportionately reduced.

#### 4 Increased cost of working

**Our** liability in respect of **increased cost of working** is limited to the increase in cost of working and the amount payable under this clause in respect of **increased cost of working** will be the additional expenditure necessarily and reasonably incurred by **you** in consequence of the **damage** for the sole purpose of preventing or minimising the interruption of the **business** during the **indemnity period**.

#### 5 Outstanding debit balances

The insurance provided by outstanding **debit balances** is limited to the **sum insured** as stated in the **schedule**.

#### 6 Rent receivable

**Our** liability in respect of **rent receivable** is limited to loss of **rent receivable** and additional expenditure and the amount payable under this clause will be:

- 6.1 in respect of loss of **rent receivable**: the amount by which in consequence of the **damage**, the **rent receivable** during the **indemnity period**, falls short of the **standard rent receivable**;
- 6.2 in respect of additional expenditure: the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the loss of **rent receivable** which but for that expenditure would have taken place during the **indemnity period** in consequence of the **damage**, but not exceeding the amount of the reduction in **rent receivable** thereby avoided;
- 6.3 minus any sum saved during the **indemnity period** in respect of such of the expenses and charges payable out of **rent receivable** as may cease or be reduced in consequence of the **damage**;
- 6.4 except that if the **sum insured** in respect of **rent receivable** is less than the annual **rent receivable** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months) **our** liability will be proportionately reduced.

### Standard cover extensions

Cover provided by this Section is extended to include loss of **gross profit, gross revenue** and/or **increased cost of working** arising from:

#### 1 Alternative trading

If during the **indemnity period** goods shall be sold or services shall be rendered elsewhere than at the **premises** for the benefit of the **business** either by **you** or by others on **your** behalf the money paid or payable in respect of such sales or services shall be brought into account in arriving at the **turnover** during the **indemnity period**.

#### 2 Contract sites

**Damage** is extended to include **damage** by an **insured event** to property at any contract site in the **United Kingdom** not occupied by **you** where **you** are carrying out a contract provided that **our** maximum liability shall not exceed the **sub-limit** shown in the **schedule**.

#### 3 Customers

**Damage** is extended to include **damage** by any **insured event** to property at the premises of any of **your** direct customers in the **United Kingdom** with whom at the time of the **damage you** have agreed under contract or trading relationship to supply goods or services, provided that **our** maximum liability shall not exceed the **limit of liability** shown in the **schedule**.

#### 4 Declaration linked

4.1 In respect of **sums insured** marked "Declaration linked condition - Yes" in the **schedule you** shall prior to each renewal furnish **us** with the **estimate of gross profit / gross revenue** as insured hereby for the financial year most nearly concurrent with the ensuing year of insurance.

4.2 The first and annual premiums in respect of **gross profit / gross revenue** as insured hereby are provisional and are based on **estimated gross profit / estimated gross revenue**.

4.3 **You** shall furnish **us** not later than six (6) months after the expiry of each **period of insurance** a declaration certified by **your** professional accountants of **gross profit / gross revenue** during the financial year most nearly concurrent with the **period of insurance**. If any **damage** shall have occurred giving rise to a claim for loss of **gross profit / gross revenue** the above mentioned declaration shall be increased by **us** for the purpose of premium adjustment by the amount by which the **gross profit / gross revenue** was reduced during the financial year solely in consequence of the **damage**.

4.4 If the declaration (adjusted as provided above and proportionately increased where the **maximum indemnity period** exceeds twelve months)

4.4.1 is less than the **estimated gross profit / estimated gross revenue** as insured hereby for the relative **period of insurance we** will allow a pro rata return of the premium paid on the **estimated gross profit / estimated gross revenue** as insured hereby but not exceeding fifty (50) per cent of such premium

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4.4.2 is greater than the **estimated gross profit / estimated gross revenue** as insured hereby for the relative **period of insurance you** shall pay a pro rata extra premium on **estimated gross profit / gross revenue** as insured hereby.

4.5 In respect of **sums insured** marked "Declaration linked condition - Yes" in the **schedule** the clause Limit of liability is modified as follows. **Our** liability shall in no case exceed, in respect of **gross profit / gross revenue** one hundred and thirty-three and a third per cent (133%) of **gross profit / gross revenue** stated herein, in respect of each other item one hundred per cent of the **sum insured** stated herein, nor in the whole the sum of one hundred and thirty-three and a third per cent (133%) of **estimated gross profit / gross revenue** as insured hereby and one hundred per cent (100%) of the **sums insured** by other items or such other amounts as may be substituted therefore by memorandum signed by or on **our** behalf.

4.6 In the absence of written notice by **you** or **us** to the contrary **our** liability shall not stand reduced by the amount of any loss, **your** undertaking to pay the appropriate extra premium for such automatic reinstatement of cover.

### 5 Delayed loss

In adjusting any claim, account shall be taken and an equitable allowance made if any reduction in **gross profit / gross revenue** due to the **damage** is postponed by reason of the **gross profit / gross revenue** being temporarily maintained from accumulated stocks of finished goods.

### 6 Departmental

If the **business** is conducted in departments the independent trading results of which are ascertainable, the provisions of **gross profit** or **gross revenue** will apply separately to each department affected by the **damage** except that, if the insurance is not on a declaration linked basis, if the **sum insured** by the said item is less than the aggregate of the sums produced by applying the **rate of gross profit** or **gross revenue** for each department of the **business** (whether affected by the damage or not) to its relative **annual turnover** (or to a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve (12) months) the amount payable will be proportionately reduced.

### 7 Exhibition sites

**Damage** is extended to include damage by any **insured event** under Section – Property All Risk to property at any site in the **United Kingdom** where **you** are exhibiting **your** goods for sale provided that **our** maximum liability shall not exceed the **sub-limit of liability** stated in the **schedule** any one occurrence.

### 8 First year of trading

In the event of any claim arising from **damage** occurring before the completion of the first year's trading of the **business** at the **premises** the terms expressed in the "Definitions", shall be adjusted to apply to the **gross profit / gross revenue** and outgoing during the period from commencement of the **business** to the date of the **damage**.

### 9 Notifiable disease, murder or suicide, food or drinking poisoning

Loss resulting from interruption of or interference with the **business** in consequence of any of the following events:

- a) an **occurrence** of a **notifiable disease**:  
at the **premises**; or  
attributable to food or drink supplied from the **premises**;
- b) the discovery of any organism at the **premises** likely to result in the **occurrence** of a **notifiable disease**;
- c) the discovery of vermin or pests at the **premises**;
- d) an accident causing defects in the drains or other sanitary arrangements at the **premises**;  
and
- e) an **occurrence** of murder or suicide at the **premises**;

provided that:

- a) the **insurer** will only be liable for loss arising at those **premises** which are directly subject to the events;
- b) the **insurer** will only be liable for loss where the event causes restrictions on the use of the **premises** on the order or advice of a Local or Government Authority;
- c) the **insurer** will not be liable for any costs incurred in cleaning, repair, replacement, recall or checking of property except as stated above; and
- d) the **insurer's** liability will not exceed the **sub-limit** shown in the schedule.

This extension shall not cover loss resulting from forty eight hours of each and every such interruption or interference at the **premises**.

### 10 Payments on account

If **you** request and **we** agree, **we** will make payments to **you** monthly on account during the **indemnity period**, provided always that:

- 10.1 the aggregate amount of such payments shall not exceed the **sum insured** under the item for which the claim is being paid hereunder, and
- 10.2 that if the total adjusted loss under this section differs from the total of the payments made under this clause then **we** and **you** mutually agree to pay or return the difference accordingly.

### 11 Prevention of access

Damage to property in the vicinity of the **premises** by any **insured event** which prevents or hinders use of or access to the **premises** provided that **our** maximum liability shall not exceed the **sub-limit of liability** stated in the **schedule** any one occurrence.

### 12 Professional accountants

Any particulars or details contained in **your** books of account or other **business** books or documents which may be required by **us** under Claims Conditions to this **policy** for the purpose of investigating or verifying any claim hereunder may be produced by professional accountants if at the time they are acting as such for **you** and their report shall be prima facie evidence of the particulars and details to which such report relates. **We** will pay to **you** the reasonable charges

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payable by **you** to **your** professional accountants for producing such particulars or details or any other proofs, information or evidence as may be required by **us** under the terms of Claim Conditions to this **policy** and reporting that such particulars or details are in accordance with **your** books of account or other **business** books or documents.

### 13 Public utilities

**Damage** is extended to include **damage** resulting from interruption or interference with the **business** in consequence of **damage** by an **insured event** to property at any:

- 13.1 generating station or sub-station of public electricity supply undertaking;
- 13.2 land based premises of the public gas supply undertaking or of any natural gas producer linked directly therewith;
- 13.3 water works or pumping station of the public water supply undertaking;
- 13.4 land based premises of the public telecommunication undertaking;

from which **you** obtain electricity, gas, water or telecommunication services provided that **our** maximum liability shall not exceed the **sub-limit of liability** stated in the **schedule** any one occurrence.

### 14 Reinstatement of loss

In the event of loss under this Section and in the absence of written notice by **us** or **you** to the contrary, the amount of such loss is to be automatically reinstated from the date thereof, **your** undertaking to pay such necessary premium as may be required for reinstatement for the remainder of the **period of insurance**.

### 15 Salvage sale

If following **damage** giving rise to a claim under this Section **you** hold a salvage sale during the **indemnity period**, the second paragraph to Standard Clause – Gross Profit / estimated gross profit for the purposes of such claim will read as follows:

“in respect of the reduction in **turnover** the sum produced by applying the **rate of gross profit** to the amount by which the **turnover** during the **indemnity period** (less the **turnover** from the period of the salvage sale) in consequence of the **damage** falls short of the **standard turnover** from which sum the **gross profit** actually earned during the period of the salvage sale will be deducted.”

### 16 Subrogation waiver

In the event of a claim arising under this Section, **we** agree to waive any rights, remedies or relief to which **we** might become entitled by subrogation against:

- 16.1 any Company standing in the relation of Parent to Subsidiary (Subsidiary to Parent) to **you**;
- 16.2 any Company which is a Subsidiary of a Parent Company of which **you** are yourselves a Subsidiary;

in each case within the meaning as defined in the Companies Act or Companies (N.I.) Order, as appropriate, current at the time of the loss.

## **17 Suppliers and storage sites**

17.1 **Damage** is extended to include **damage** by an **insured event** to property at:

17.1.1 the premises of any of **your** direct suppliers; or

17.1.2 premises not occupied by **you** where **your** property is stored,

17.2 provided that:

17.2.1 no indemnity shall be provided under this clause for damage to the property of any suppliers of electricity, gas, water or telecommunication services;

17.2.2 no indemnity shall be provided under this clause for any damage to property at any premises outside of the United Kingdom;

17.2.3 **our** maximum liability shall not exceed the **sub-limit of liability** shown in the **schedule**.

## **18 Uninsured standing charges**

If any standing charges of the **business** are not insured by this Section (having been deducted in arriving at the **gross profit**) then in computing the amount recoverable hereunder as **increased cost of working** that proportion only of any additional expenditure shall be brought into account which the **gross profit** bears to the sum of the **gross profit** and the uninsured standing charges.

### Exclusions

#### 1 Communicable disease

Regardless of any provision to the contrary, the **policy** excludes any amount for which the **insurer** would otherwise be liable directly or indirectly caused by, resulting from, arising out of, in connection with, attributable to, or occurring concurrently or in any sequence with:

- a) a **communicable disease**;
- b) the fear or threat (whether actual or perceived) of a **communicable disease**;
- c) the costs to clean-up, detoxify, remove, monitor or test for the actual, alleged, perceived or suspected presence of a **communicable disease**; or
- d) the **insured's** actual or alleged non-compliance with any advice, guidance, regulation, order, decree or law issued by a **public authority** in response to a **communicable disease**.

This exclusion shall not apply in respect of and to the extent of the indemnity provided by the 'Notifiable disease, murder or suicide, food or drink poisoning' extension of Section – Business Interruption All Risks.

#### 2 Fines and damages

**We** will not be liable for any loss due to fines or damages for breach of contract, for late or non-completion of orders or for any penalties of whatever nature.

#### 3 Property All Risks section exclusions

The Exclusions contained within the Property All Risks Section apply equally to the insurance by this Section except that consequential loss exclusion therein shall not apply to the losses expressly covered by this Section.

## Contract Works Section

### Definitions

#### 1 Business hours

Business hours means **your** normal daily working hours but extended up to twenty-four (24) hours each day during which **you** or **your employees** are assigned call out duty and/or attendance at an emergency call out.

#### 2 Claim

Claim means all **damage** and other losses against which an indemnity is provided by this section arising out of any one event or series of events arising from one cause.

#### 3 Contract

Contract means the contract or agreement that **you** enter into to perform work in accordance with **your business**.

#### 4 Contract works

Contract works means:

- 4.1 property forming part of the permanent or temporary works completed or in the course of completion in the performance of **your contract** with **your principal**; and
- 4.2 materials or other goods supplied for incorporation into the permanent or temporary works but not including property more specifically insured;
- 4.3 whilst:
  - 4.3.1 on or adjacent to the contract site within the **territorial limits** shown in the **schedule**; or
  - 4.3.2 in transit by road, rail or inland waterway to or from the **contract** site; or
  - 4.3.3 temporarily stored away from the **contract** site, including storage at **your** premises,
- 4.4 but only if:
  - 4.4.1 consigned for use in a specific **contract**, and
  - 4.4.2 **you** are responsible under **contract** conditions for the **damage**.

#### 5 Hired-in plant and equipment

Hired-in plant and equipment means:

- 5.1 temporary buildings and caravans; and



5.2 constructional plant, tools and equipment;

supplied to **you** and for which **you** are responsible under the terms of a hiring agreement while anywhere within the **territorial limits** shown in the **schedule** including while in transit by road, rail or inland waterway (transit includes plant driven under its own power) but this will not include insurance of any item of constructional plant having a replacement value in excess of the **limit of liability** stated in the **schedule**.

### 6 Limit of liability

Limit of liability means the amount stated in the **schedule** which shall be **our** maximum liability under any one category of **property insured** in respect of any one (1) **event** regardless of the number of persons claiming. The indemnity provided by the Standard Clauses or any other amendment to this Section shall not operate so as to increase the maximum amount payable.

### 7 Non-ferrous metals

Non-ferrous metals means stock and materials in trade consisting of non-ferrous metals other than aluminium.

### 8 Period of maintenance

The period of maintenance means the maintenance period as specified in the contract but not exceeding twelve (12) months.

### 9 Personal effects and tools

Personal effects and tools means the personal effects and tools belonging to the **employee**, or for which the **employee** is responsible, within the **territorial limits** shown in the **schedule**, provided that **our** maximum liability shall not exceed the **limit of liability** stated in the **schedule**, and **our** liability in respect of personal effects and tools for any one **employee** shall not exceed the **sub-limit** stated in the **schedule**.

### 10 Principal

Principal means any company, partnership, **public authority** or individual for whom **you** have agreed to carry out work under the terms of a **contract**.

### 11 Reinstatement

11.1 In respect of **Contract Works** and **Personal effects and tools** reinstatement means the replacement by similar property, repair or restoration in a condition equal to but not better or more extensive than its condition when new.

11.2 In respect of **Temporary buildings, plant and other property** reinstatement means:

11.2.1 Where property up to twenty four (24) months old is lost, destroyed or damaged, its replacement by similar property, repair or restoration in a condition equal to but not better or more expensive than its condition when new.

- 11.2.2 Where property over twenty four (24) months old is lost, destroyed or damaged, its replacement by similar property, repair or restoration will not exceed the market value of the property at the time of the loss.

## **12 Temporary buildings, plant and other property**

Temporary buildings, plant and other property means:

12.1 temporary buildings, caravans and their contents; and

12.2 constructional plant, tools and equipment;

while anywhere within the **territorial limits** shown in the **schedule** including while in transit by road, rail or inland waterway (transit includes plant driven under its own power) but this will not include:

12.2.1 insurance of any item of constructional plant having a replacement value in excess of the **limit of liability** stated in the **schedule** unless the replacement value of such an item is specified in the **schedule**;

12.2.2 property supplied to **you** under the terms of a hiring agreement.

### Contract Works cover

#### 1 Cover clause

**We** will pay for rectifying **damage** to the **property insured** that occurs during the **period of insurance** and at **our** option **we** will pay:

- 1.1 the costs of repair; or
  - 1.2 the costs of **reinstatement**; or
  - 1.3 a cash sum to **you** instead of the above;
- in respect of the **damage**.

#### 2 Limit of liability

**Our** maximum payment will be:

- 2.1 the **limit of liability** set against each item on the **schedule**; or
- 2.2 the amount specified in any Standard Clause or extension to this Section.

### Standard clauses

The Section and **policy** Exclusions and Conditions apply to the Standard Clauses. The Standard Clauses do not increase the **limit of liability** or **our** maximum payment to **you** unless otherwise stated.

#### 1 Additional interests in the contract works

**We** will note the insurable interest of the following parties in the **contract works**:

- 1.1 **your** principal, jointly insured with **you** to the extent required by the terms of **your contract**;
- 1.2 other parties but **you** must declare to **us** the names of these parties immediately following a claim for **damage**.

#### 2 Architects', surveyors' and other fees in reinstatement

2.1 This Section extends to cover:

- 2.1.1 architects, surveyors' and consulting engineers' fees; and
- 2.1.2 other fees,  
necessarily incurred in the **reinstatement** following **damage** to the **property insured**.

2.2 Exclusions

In addition to the Exclusions to the Contract Works Section, **we** will not pay:

- 2.2.1 amounts that exceed the scale of fees authorised by the relevant professional bodies;
- 2.2.2 fees for preparing a **claim** under this section;
- 2.2.3 any amount that exceeds the **limit of liability** shown on the **schedule**.

#### 3 Continuing plant hire charges

3.1 This Section extends to cover **your** legal obligation to pay continuing hire charges while plant hired-in is out of commission following:

- 3.1.1 **damage** to the plant hired-in but only if:
  - a) **you** have made a claim under this Section for the **damage**; and
  - b) **we** have accepted the **claim**, or would have but for the amount of the **excess**;
- 3.1.2 **breakdown** of the plant hired-in because of **your** neglect or misuse.

3.2 Exclusions

In addition to the Exclusions to the Contract Works Section **we** will not pay:

- 3.2.1 hire charges for the first two (2) full working days the plant is out of use, or the amount of the **excess** shown in the **schedule** whichever is the greater;

- 3.2.2 continuing hire charges exceeding a period of ninety (90) days (after the expiry of the first two (2) working days);
- 3.2.3 continuing hire charges for tower cranes;
- 3.2.4 any amount exceeding the sum of **limit of liability** stated in the **schedule**.

#### 4 Debris removal

4.1 This Section extends to cover expenses which are necessary for:

- 4.1.1 removing debris;
- 4.1.2 cleaning or repairing of drains or sewers;
- 4.1.3 dismantling or demolishing;
- 4.1.4 shoring up, propping or fencing;

of any portion of the **property insured** which has suffered **damage**.

4.2 Exclusions

In addition to the Exclusions to the Contract Works Section **we** will not pay any cost or expense:

- 4.2.1 incurred in removing debris except from the site of the **property insured** which has suffered **damage** insured by this Section and the area immediately adjacent;
- 4.2.2 arising from pollution or contamination of property not insured by this Section;
- 4.2.3 exceeding the **limit of liability** applying to the category of **property insured** relating to the property **damage**.

#### 5 Escalation in contract price

The **limit of liability** for the relevant **contract works** is automatically increased by the amount of a price increase of a **contract** during the **period of insurance** but the amount of the increase will be limited to twenty-five (25) per cent of the **limit of liability**.

#### 6 Free issue materials

- 6.1 The **contract works** include all free issue materials for which **you** are responsible, supplied by or on behalf of **your principal** named in **your contract**.
- 6.2 However, for this extension to apply, the value of the materials must be included within the **limit of liability** of the **contract works** and also the figures **you** supply for the adjustment of premium condition.

### 7 Heart break payment

In the event of a total loss to the **property insured** by this Section, within an anticipated four weeks of completion of the works **we** will pay to **you** a sum of GBP250.

### 8 Immobilised plant

If constructional plant or equipment becomes unintentionally immobilised on the **contract** site, then **we** will pay the costs necessarily incurred in its recovery or withdrawal but **we** will not pay costs if the recovery or withdrawal is necessary solely because of electrical or mechanical breakdown, failure or derangement but this shall not exclude breakdown due to negligence by **you** or **your employee**.

### 9 Increased cost of working

9.1 **We** extend this insurance to include increased cost in working by way of overtime and special deliveries necessarily and reasonably incurred to

9.1.1 minimise or prevent further **damage**, or

9.1.2 to reinstate **damage**,

so as to avoid penalty providing **we**

9.1.3 have accepted a claim under this Section - Contract Works or would but for the application of the **excess**; and

9.1.4 shall not be liable to pay any amount in excess of fifty (50) per cent of the **claim** for the **damage** before deducting the **excess**.

9.2 Exclusion – Consequential loss shall not apply to the cover by this Standard Clause.

### 10 Local authority reinstatement requirements

10.1 This Section extends to cover the additional costs of **reinstatement**:

10.1.1 of **damaged** buildings,

10.1.2 in respect of undamaged portions of **damaged** buildings

incurred solely to comply with building or other regulations as required by legislation or EU Directive(s) or bye-laws of any municipal or local authority provided that the work of **reinstatement** commences within twelve (12) months of the **damage** and is finished within a reasonable time.

10.2 Where **reinstatement** is required by legislation, directive(s) or bye-laws in whole or in part on another site, the insurance by this Standard Clause will cover the cost of reinstatement up to an amount not exceeding the cost that would have been incurred had **reinstatement** been carried out on the site where **damage** occurred.

10.3 Exclusions

In addition to the Exclusions to this Contract Works Section **we** will not pay:

- 10.3.1 any cost or expense incurred in respect of **damage** not insured by this Section;
- 10.3.2 additional costs incurred solely to comply with building or other regulations if relevant notice had been served upon **you** before the **damage** occurred;
- 10.3.3 any rate, tax, duty, development or other charge or assessment arising out of capital appreciation which may be payable in respect of the property or by the property owner under the legislation, directive(s) or bye-laws;
- 10.3.4 any amount that exceeds the **limit of liability** shown on the **schedule**.

### 11 Location of source of the escape of water

- 11.1 **We** will pay the costs necessarily and reasonably incurred with **our** prior written and continuing consent:
  - 11.1.1 in locating the source of any escape of water from any fixed water services that has caused **damage** to **property insured** by this section;
  - 11.1.2 in completing repairs to the parts of a building **insured** by this section and damaged as a direct result of the location work.
- 11.2 Exclusions
  - In addition to the Exclusions to the Contract Works Section **we** will not pay:
    - 11.2.1 the cost of repairs to any fixed water services;
    - 11.2.2 any amount in excess of the **limit of liability** shown in the **schedule** during any one **period of insurance**;
    - 11.2.3 the excess shown in the **schedule**.

### 12 Negligent breakdown for hired-in plant

This Section extends to cover **damage** to **hired-in plant and equipment** for which **you** are responsible under **your** plant hire conditions arising from any breakdown of the **hired-in plant and equipment** due to negligence by **you** or **your employee**.

### 13 Plans, drawings, specifications and documents

This Section extends to cover **damage** to plans, drawings, specifications and documents within the **territorial limits** shown in the **schedule** (except on the site of a contract not insured by this Section) but any claim is limited to:

- 13.1 the value of the materials as stationery and the cost of clerical labour involved in their reproduction and not the value to **you** of the information they contain; and
- 13.2 The **sub-limit** stated in the **schedule**.

### 14 Reinstatement of the limit of liability

- 14.1 The **limit of liability** is reduced by the value of the **claim** each time a **claim** is made. **We** will reinstate the **limit of liability**, but **you** must:
- 14.1.1 agree to pay any reasonable additional premium; and
  - 14.1.2 take immediate steps to carry out any changes to the protection of the **property insured** that **we** require.
- 14.2 **Our** agreement to reinstate the **limit of liability** may be cancelled by **you** or **us** on written notice.

### 15 Replacement of locks for constructional plant

- 15.1 This Section extends to cover the reasonable cost of replacing the locks of constructional plant following the loss of keys:
- 15.1.1 from a locked cabinet or locked safe at **your** premises, **your** home or the home of **your** authorised **employee**;
  - 15.1.2 by theft following a hold-up while the keys are in **your** personal custody or that of **your** authorised **employee**.
- 15.2 **Our** maximum payment will not exceed GBP500 for any one claim.

### 16 Waiver of recovery rights under the JCT Standard Form of Building Contract

- 16.1 If **you** are awarded a **contract** under the JCT Standard Form of Building Contract incorporating the 1986 Amendments to Insurance and Related Liability Provisions or their equivalent conditions, or superseding JCT contracts, then **we** agree that if **damage** occurs to the **contract works** by any of the specified perils defined in the **contract**, then as far as required by the **contract**, **we** will not pursue any rights of recovery **we** may acquire against sub-contractors.
- 16.2 But, for this extension to apply, the sub-contractor must abide by the terms, conditions and restrictions of this Section and **policy**.



## Exclusions

### 1 Change in water table level

**We** will not pay for damage caused by changes in the water table level. However, **we** will pay for subsequent **damage** from any cause which is not otherwise excluded.

### 2 Communicable disease

Regardless of any provision to the contrary, the **policy** excludes any amount for which the **insurer** would otherwise be liable directly or indirectly caused by, resulting from, arising out of, in connection with, attributable to, or occurring concurrently or in any sequence with:

- a) a **communicable disease**;
- b) the fear or threat (whether actual or perceived) of a **communicable disease**;
- c) the costs to clean-up, detoxify, remove, monitor or test for the actual, alleged, perceived or suspected presence of a **communicable disease**; or
- d) the **insured's** actual or alleged non-compliance with any advice, guidance, regulation, order, decree or law issued by a **public authority** in response to a **communicable disease**.

### 3 Completion or occupancy of the contract works

**We** will not pay for **damage** to the **contract works**:

- 3.1 for which a certificate of completion has been issued,
- 3.2 which occurs after completion and handover to **your principal**,
- 3.3 which occurs while the **contract works** are being used or occupied by **your principal**  
but this restriction shall not exclude **damage** to the **contract works** which is not otherwise excluded that:
  - 3.4 which occurs during the **period of maintenance** but was caused before the start of the **period of maintenance**
  - 3.5 **you** caused in the course of fulfilling **your** obligations under **your contract** conditions during the **period of maintenance**
  - 3.6 occurs within 14 days after the issue of a certificate of completion but only to the extent that **you** may be responsible under the **contract** conditions.

### 4 Consequential loss

**We** will not pay for :

- 4.1 liquidated damages, fines or penalties for delay or detention in connection with any guarantees of performance or efficiency; or
- 4.2 any other consequential loss;

except as specifically provided under any Standard Clause or **schedule** clause to this Section.

### 5 Deliberate acts

**We** will not pay for **damage** arising from or caused by **your** deliberate act or deliberate neglect.

### 6 Design and workmanship

**We** will not pay for the costs of replacing, repairing or rectifying **damage** arising from or caused by defective or faulty:

- 6.1 designs, plans or specifications,
- 6.2 workmanship,
- 6.3 materials or other property.

but this restriction will not apply to **damage** which occurs as a direct result to the rest of the **property insured** which is free of the defective condition.

### 7 Disappearance of property

**We** will not pay for **damage** that is revealed only during stocktaking or when an inventory is made unless **damage** can be traced to a specific event that has been notified under the terms of Claims Conditions - Claim notification and Claims procedure.

### 8 Excess

**We** will not pay the excess stated in the **schedule**.

### 9 Excluded property

**We** will not pay for **damage** to:

- 9.1 aircraft, hovercraft or watercraft (except hand-propelled watercraft);
- 9.2 buildings, other structures, their contents or other property existing at the start of **your contract** but this will not apply to property covered under Standard Clause - Free issue materials;
- 9.3 plant, machinery, tools or equipment due to its own explosion, electrical or mechanical breakdown or failure or derangement including but not limited to overrunning, overheating or short circuiting;
- 9.4 any mechanically propelled motor vehicle, or its attached trailer which is:
  - 9.4.1 licensed for road use or for which insurance or security is required under Road Traffic law;
  - 9.4.2 more specifically insured under any other policy of insurance;
- 9.5 **money**;

9.6 deeds, manuscripts or documents of any kind:

9.6.1 property for which the **insured** are relieved of responsibility by the conditions of the **contract**;

9.6.2 to property more specifically insured under any other policy of insurance or under the Property All Risks section to this **policy**.

### 10 Normal upkeep

**We** will not pay for the costs relating to normal upkeep and normal making good.

### 11 Pollution or contamination damage

**We** will not pay for pollution or contamination except damage to **property insured** caused by:

11.1 pollution or contamination which itself results from a defined peril;

11.2 a defined peril which itself results from pollution or contamination;

and for the purpose of this exclusion, defined peril means fire, lightning, explosion, earthquake, aircraft or other aerial device or satellite or missile or articles dropped therefrom, riot, civil commotion, strikers, locked-out workers, persons taking part in labour disturbances, malicious persons other than thieves, windstorm, **flood**, escape of water or oil from any tank or pipe sprinkler leakage, theft or impact by any vehicle or animal provided that such defined perils are not excluded from this Section.

### 12 Unattended property

**We** will not pay for **damage** caused by theft or any attempted theft to the following unattended property:

12.1 non-ferrous metals unless within a locked building, or a locked container, or locked portacabin or similar;

12.2 construction plant unless locked at all points of access and immobilised or sited within a locked building or **locked compound**, and all keys are removed;

12.3 other property while on the **contract** site after work has ceased for the day unless within a locked building or **locked compound**.

12.4 other property within a motor vehicle unless the motor vehicle is locked at all points of access and any immobiliser or alarm has been put into operation;

12.5 **personal effects** and tools away from the **contract** site:

12.5.1 involving **damage** caused by theft or attempted theft from an open-top or soft-top motor vehicle;

12.5.2 involving **damage** caused by theft or attempted theft from a hard-top motor vehicle

12.5.2.1 during **business hours** unless

- a) the motor vehicle is locked at all points of access and any immobiliser or alarm has been put into operation;
- b) all keys have been removed;

12.5.2.2 outside **business hours** unless

- a) the motor vehicle is locked at all points of access and any immobiliser or alarm has been put into operation;
- b) all keys have been removed;
- c) the motor vehicle is parked in a securely **locked compound**, locked building or locked garage;

12.6 recoverable under any other insurance or in any other way

12.7 for any amount exceeding the **limit of liability** stated in the **schedule**.

### 13 War and Terrorism

**Damage** resulting from or contributed to, by or in connection with, in whatever form, directly or indirectly, any act of **war or terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the loss, nor will **we** have any liability for loss, **damage**, costs and expenses directly or indirectly caused by, contributed to by, resulting from, or arising out of or in connection with any action controlling, preventing, suppressing, retaliating against or responding to any act of **war or terrorism**.

This exclusion does not apply to cover granted under any expression Section – Terrorism if such Section is render 'operative' and the appropriate Section premium has been paid.

### 14 Wear and tear etc.

**We** will not pay for damage arising from or caused by:

- 14.1 wear and tear, wet or dry rot, mildew, dryness or dampness, rust, corrosion, insect, vermin, erosion, depreciation, gradual deterioration or obsolescence;
- 14.2 scratching or chipping of surfaces,
- 14.3 hardening or setting of materials due to delay in their use or application unless the delay unavoidably results from **damage** otherwise insured by this Section;
- 14.4 materials not being stored in accordance with conditions recommended by the manufacturer.

## Fidelity Guarantee Section

### Definitions

#### 1 Theft

For the purpose of this Fidelity Guarantee Section only, theft shall mean and be deemed to include any act of fraud or dishonesty by any **employee** committed with the clear intent of obtaining an improper financial gain for themselves or for any other person or organisation intended by the **employee** to receive such gain other than salaries, fees, commission or other **employee** benefit earned in the course of employment.

## **Fidelity Guarantee Cover**

**We** will indemnify **you** for:

### **1 Loss of money or goods**

loss of **money** or goods belonging to **you** or for which **you** are legally responsible caused by an act of theft committed during the **period of insurance** by an **employee** normally resident within the **United Kingdom** and discovered not later than three (3) months after the termination of:

- 1.1 this insurance;
- 1.2 the insurance in respect of an **employee** specified by name or position;
- 1.3 the employment of any **employee**;

whichever occurs first.

### **2 Auditors fees**

auditors fees incurred with **our** prior written and continuing consent solely to substantiate the amount of the claim.

### **3 Costs of rectifying systems**

the reasonable cost of re-writing or amending the software programmes or systems where such re-writing or amending is necessary to correct the programmes or amend the security codes following the fraudulent use of computer hardware or software programmes or computer systems the subject of a claim for which liability is admitted under this Section.

### Fidelity Guarantee exclusions and limitations

#### 1 Limit of liability

*Our* liability under this Section will not exceed:

- 1.1 in respect of the acts of any one **employee** the **limit of liability** specified in the **schedule** regardless of the period in which the acts were committed;
- 1.2 in respect of any one loss or series of losses arising from one source or original cause the **limit of liability** specified in the **schedule**;
- 1.3 the aggregate **limit of liability** specified in the **schedule** for any one **period of insurance**.

#### 2 Exclusions

The insurance by this Section excludes and does not cover:

- 2.1 more than one claim in respect of any one **employee**;
- 2.2 loss of interest or consequential loss of any kind;
- 2.3 the **excess** shown in the **schedule** in respect of each and every claim.

### Other terms to Fidelity Guarantee Section

#### 1 Discovery

Immediately following the discovery by **you** of any act of **theft** by an **employee** all indemnity for further acts of **theft** by that **employee** shall cease.

#### 2 Employee monies

Any money of the **employee** in **your** hands upon discovery of any loss and any money which but for the **employee's theft** would have been due to the **employee** from **you** shall be deducted from the amount of the loss before a claim is made under this insurance.

#### 3 Recoveries

Any further **monies** which are recovered less any costs incurred in recovery shall accrue:

- 3.1 in the event that **your** claim has exceeded the **limit of liability** firstly to **your** benefit to reduce or extinguish the amount of **your** loss (but not the **excess**); then
- 3.2 to **our** benefit to the extent of the claim paid or payable, and finally;
- 3.3 to **your** benefit where the **excess** has been deducted from the claim.

## Conditions Precedent to Fidelity Guarantee Section

### Minimum Standards

**You** shall operate or bring into force the minimum standards listed below and shall not make any change to these unless **we** are advised and written approval is obtained. Compliance with the minimum standards listed below shall be a condition precedent to any liability on **us** and if not observed by **you** and **your employees you** forfeit all rights to indemnity under this Section.

#### 1 Auditors

- 1.1 **Your** accounts including the accounts of all of **your** subsidiary companies shall be examined by external auditors every twelve (12) months.
- 1.2 All recommendations or alternative action acceptable to the auditors shall be implemented without delay.

#### 2 Cash and petty cash

Cash in hand and petty cash must be checked independently of **employees** responsible at least monthly and without warning every six (6) months.

#### 3 Cash receipts

**Employees** receiving cash and cheques in the course of their duties shall be required to remit all monies received and/or bank in full on the day of receipt or next banking day unless otherwise agreed by **us**.

#### 4 Cheque signing

All cheques or other bank instruments drawn for more than GBP10,000 shall require two (2) manually applied signatures to be added after the amount has been inserted. **You** shall advise **your** bankers accordingly.

#### 5 Computer security

- 5.1 Security checks will be built into all computer functions with reconciliations made as necessary.
- 5.2 Responsibilities for authorisation of transactions, processing of transactions and handling of output to be exercised by different **employees**.

#### 6 Ordering goods

Different **employees** acting independently shall be responsible for the ordering of stock and materials, the recording of receipt of such, and the authorisation of payment for them.



### 7 Payroll

- 7.1 The cast of the payroll will be subject to an independent check before payment to ensure that the total amount drawn is correct.
- 7.2 At least quarterly and independently of persons responsible the payroll will be checked to minimise the possibility that fictitious names and enhanced payments have been included.

### 8 Reconciliation

Independently of **employees** responsible, bank statements, receipts, counterfoils and supporting documents shall be checked at least monthly against the cash book entries and the balance tested with cash and unpresented cheques.

### 9 References

- 9.1 **You** shall obtain satisfactory references to confirm the honesty of each **employee** who will be responsible for **money**, goods, accounts, computer operations, or computer programming engaged after commencement of this **policy**.
- 9.2 Such references shall be obtained directly from former employers for the three (3) years immediately preceding engagement and before the **employee** is entrusted without supervision.
- 9.3 References need not be obtained in respect of **employees** who have satisfactorily and continuously served **you** for at least one (1) year in another capacity before being entrusted with responsibility for money, goods, accounts, computer operation, or computer programming
- 9.4 In respect of **employees** joining directly from school or government sponsored youth training schemes one (1) character reference shall be obtained.
- 9.5 A written record of any verbal reference shall be made at the time it is obtained.
- 9.6 The original copy of each written reference and the record of any verbal reference shall be obtained by **you** and made available for inspection by **us** on request.

### 10 Statements of account

- 10.1 Statements of account for all amounts due will be issued at least monthly and direct to customers independently of **employees** receiving or collecting monies.
- 10.2 Action shall be taken by management if an account becomes three (3) months overdue.

### 11 Stocktaking

There will be a physical check on all stock and materials held against verified stock records independent of **employees** responsible at intervals of not more than twelve (12) months.

# Terrorism Section

## Definitions

### 1 Occurrence

In respect of insured section Terrorism, occurrence means a single loss or series of losses arising out of and directly occasioned by a single event or a single original cause. However, the duration and extent of any single occurrence shall be limited to all individual losses arising in respect of a continuous period of seventy two (72) hours of which the proximate cause is the same **act of terrorism**.

**You** may choose the date and time when any such period of seventy two (72) hours shall commence provided that no two periods overlap and no period commences earlier than the date and time of the happening of the first recorded individual loss to you as a result of the **act of terrorism**.

Should any such seventy two (72) consecutive hour period extend beyond the expiry or cancellation date, **we** shall be liable as if such period had fallen entirely within the **period of insurance** of the **policy**.

### 2 Specified Losses

Specified losses means:

- 2.1. the cost of reinstatement, replacement or repair in respect of damage to or destruction of **property insured** by **you**; or
- 2.2. the amount of business interruption loss suffered directly by **you** by way of loss of or reduction in profits, revenue or turnover or increased cost of working as a direct result of either damage to or destruction of **property insured** as a direct result of denial, prevention or hindrance of access to or use of the **property insured** by reason of an **act of terrorism** causing damage to other property within one mile of the **property insured** by **you** to which access is affected.

### Cover

#### 1 Terrorism loss cover

**We** will indemnify **you** in accordance with the terms of this Section for **damage** to the **property insured** under the insured sections Property All Risks, Business Interruption All Risks and Contract Works where shown as insured in the **schedule** caused by an **act of terrorism** provided that the **act or terrorism**:

- 1.1 occurs in Great Britain (meaning England, Wales and Scotland, but not the territorial seas adjacent thereto, as defined by the Territorial Sea Act 1987, nor Northern Ireland nor the Isle of Man nor the Channel Islands) during the **period of insurance**; and
- 1.2 it is occasioned by or happening through or in consequence of any act of any person acting on behalf of or in connection with any organisation with activities directed towards the overthrowing or influencing of any government de jure or de facto by force or violence; and
- 1.3 is certified by HM Treasury or a competent tribunal from time to time as an act of terrorism;

provided that in any action, suit or other proceedings where **we** allege that any damage or costs and expenses are not covered by this **policy**, the burden of proving the contrary will be upon **you**. However, the burden of proving that an **act of terrorism** is proximately caused by an organisation controlled by, acting on behalf of or part of any de jure or de facto government of any nation, country or state will be on **us**.

### Standard Clauses

- 1 **Our** liability under this Section in any one (1) **period of insurance** shall not exceed the **sum insured** stated in the **schedule** for the applicable Section shown as insured in the **schedule** in respect of all losses arising out of any one (1) **occurrence** and in the aggregate.
- 2 Where the **period of insurance** shown in the **schedule** is for a period greater than twelve (12) months, the cover provided by this Section shall only apply for a period of twelve (12) months and shall be subject to renewal at each annual anniversary.

### 3 Restricted terms

The insurance by this Section is subject otherwise to all the terms and conditions of this **policy** except that any:

- a) long term undertaking;
  - b) terms which provide for adjustments of premium based upon declarations on expiry or during the **period of insurance**;
  - c) coverage in respect of **premises** to locations outside England and Wales and Scotland;
- will not apply to losses covered under this Section.

### Exclusions

The following are excluded from the insurance under this Section:

#### 1 Virus or similar mechanism, hacking, phishing or denial of service

Any losses whatsoever directly or indirectly caused by, contributed to by, or arising from or occasioned by or resulting from **virus or similar mechanism** or **hacking** or **phishing** or **denial of service attack** which caused:

- a) damage to or the destruction of any **computer system**;
- b) alteration, modification, distortion, erasure, corruption of **data**; or
- c) loss of any **money**, currency, electronic cryptographic or virtual currency including Bitcoin or anything similar, negotiable or non-negotiable instruments, financial securities or any other financial instrument of any sort whatever;

whether **your** property or not.

This exclusion shall not apply to:

- a) losses which are not proximately caused by an act of terrorism in relation to which the relevant organisation or any persons acting on behalf of or in connection with that organisation are controlled by, acting on behalf of or part of any de jure or de facto government of any nation, country or state; and
- b) cost or business interruption losses resulting directly from damage to or destruction of **property insured** if any alteration, modification, distortion, erasure or corruption of **data** causes, directly or indirectly, any of the **specified perils** which then indirectly result in **specified losses**.

Electronic risks exclusion or any other electronic, digital or cyber liability exclusion in this **policy** shall not apply to the extent of loss or liability covered by the Terrorism Section.

#### 2 Mixed residential and commercial usage

Any land or building which is wholly or partially occupied as a private residence, unless:

- a) insured under the same contract of direct insurance as the remainder of the building which is not a private residence and the commercial element of the building occupies more than twenty percent (20%) of the building; or
- b) not insured in the name of an individual.

For the purpose of this exclusion, a trustee, beneficiary, executor of a will or sole trader is not deemed to be an individual unless they occupy the premises or any part thereof as their own private residence.

#### 3 Nuclear installation or nuclear reactor

Any **nuclear installation** or **nuclear reactor** and all fixtures and fittings situated thereon and attached thereto and all pipes wires cables drains or other conduits or service media of any description which are affixed or connected to or in any way serve such **nuclear installation** or **nuclear reactor**.

### 4 War

Any losses whatsoever occasioned by riot, civil commotion, war, invasion, act of foreign enemy, hostilities (whether war be declared or not) civil war, rebellion, revolution, insurrection or military or usurped power.

## **Personal Accident Section**

### **Definitions**

#### **1 Accident**

Accident will mean a single, sudden and unexpected event, which occurs at an identifiable time and place.

#### **2 Accumulation limit**

Accumulation limit means the maximum amount of **benefits** payable irrespective of the number of **insured's** and/or **insured persons** claiming where a single event, or series of events in a twenty (20) kilometres radius originating from the same proximate cause, occurs and where:

2.1 within twenty-four (24) consecutive hours of the event; or

2.2 within twenty-four (24) consecutive hours of the first event in the series of events causes death or bodily injury to more than one (1) **insured person**.

#### **3 Beneficiary**

Beneficiary means the insured person or their legal representative who will be entitled to payment of **benefits** covered under this Section.

#### **4 Benefits**

Benefits means the sums stated in the schedule of compensation being **our** maximum liability for each item under the schedule of compensation.

#### **5 Biological**

Biological means any pathogenic (disease producing) micro-organism(s) and/or biologically produced toxin(s) (including genetically modified organisms and chemically synthesised toxins) which cause illness and/or death in humans, animals or plants.

#### **6 Chemical**

Chemical means any compound which, when suitably disseminated, produces incapacitating, damaging or lethal effects on people, animals, plants or material property.

#### **7 Criminal act**

Criminal act means committing a burglary armed with a weapon; threat or perception of unlawful force; assault or battery; causing actual bodily harm; application of unlawful force; demand with menaces; entry to building as trespasser with intent to commit theft, grievous bodily harm, rape or criminal damage; entry to a building as trespasser and attempting to steal; unlawfully destroying / damaging another's property and/or endangering life; causing death by careless driving while unfit through drink or drugs; causing death by dangerous driving; deception; receiving / handling /

disposing of stolen goods for the benefit of another; murder, manslaughter or causing recklessly the death of a human being; making off without payment for goods or services; inflicting grievous bodily harm or wounding; dishonestly appropriating property belong to another.

### 8 Disablement

Disablement means **permanent total disablement, paraplegia, quadriplegia, total loss of sight, total loss of speech, total loss of hearing, total loss of one foot and total loss of one hand.**

### 9 Healthcare practitioner

Healthcare practitioner means a qualified licensed member of the medical profession as approved by the governing medical association of the country in which the healthcare practitioner resides who is not an **insured person**, a member of the **insured person's** family or **your employee**.

### 10 Paraplegia

Paraplegia means the permanent and total paralysis of the two lower limbs, bladder and rectum.

### 11 Policy operative time

**Policy operative time** shall mean whilst the **insured person** is undertaking the usual occupational duties on **your** behalf.

### 12 Pre-existing condition

Pre-existing condition will mean illness, malady, disease, physical impairment, defect, degenerative process or infirmity of the **insured person** existing prior to the **policy** inception date. For the purpose of this definition an illness, malady, disease, physical impairment, defect, degenerative process or infirmity exists prior to the **policy** inception date if it has been diagnosed by a **health care practitioner** prior to the **policy** inception date, or in the event that it has not been so diagnosed then in the opinion of a **health care practitioner** the **insured person** could reasonably have been expected to be aware of its existence on the **policy** inception date.

### 13 Quadriplegia

Quadriplegia means permanent and total loss of and/or total and irrecoverable loss of use of the four limbs of the body which lasts twelve (12) calendar months and at the expiry of that period being beyond hope of improvement.

### 14 Total loss of hearing

Total loss of hearing shall mean **bodily injury** causing permanent and total loss of hearing which lasts twelve (12) calendar months from the date of accident or loss of hearing and at the expiry of that period being beyond hope of improvement.



**15 Total loss of one foot**

Total loss of one foot shall mean ***bodily injury*** causing loss by physical severance at or above the ankle or permanent and total loss of use of an entire foot.

**16 Total loss of one hand**

Total loss of one hand shall mean ***bodily injury*** causing loss by physical severance of the entire four fingers through or above the meta-carpo phalangeal joints or permanent total loss of use of an entire hand.

**17 Total loss of sight**

Total loss of sight shall mean ***bodily injury*** causing either:

17.1 permanent and total loss of sight in both eyes where an ***insured person***'s name has been added to the Register of Blind Persons on the authority of a qualified ophthalmic specialist; or

17.2 permanent and total loss of sight in one eye, if the degree of sight remaining after correction is 3/60 or less of the Snellen Scale (seeing at three (3) feet that an ***insured person*** should see at sixty (60) feet, which lasts twelve (12) calendar months from the date of accident or loss of sight (if later) and at the expiry of that period being beyond hope of improvement.

**18 Total loss of speech**

Total loss of speech shall mean ***bodily injury*** causing permanent and total loss of speech which lasts twelve (12) calendar months from the date of ***accident*** or loss of speech (if later) and at the expiry of that period being beyond hope of improvement.

## Personal Accident Section

### Cover

#### 1 Cover clause

**We** agree to pay the **beneficiary** the **benefits** listed in the schedule of compensation in the **schedule** in the event the **insured person**:

- 1.1 dies within twelve (12) months as a result of **bodily injury**;
  - 1.2 sustains **disablement** within twelve (12) months as a result of **bodily injury**;
- provided that the **accident** giving rise to the **bodily injury** occurs:
- 1.3 during the **period of insurance**; and
  - 1.4 during the **policy operative time**; and
  - 1.5 within the **territorial limits**.

#### 2 Important note

Please read Other personal accident terms and conditions that set out additional restrictions on the payment of **benefits**.

## **Personal accident limitations and exclusions**

This Section excludes and does not cover:

### **1 Accumulated injury**

death or **disablement** directly or indirectly resulting from or consequent upon injury arising due to the accumulation of a series of **accidents** and/or traumas;

### **2 Accumulation limit**

any payment in excess of the **accumulation limit** specified in the **schedule**;

### **3 Air travel**

death or **disablement** directly or indirectly resulting from or consequent upon the **insured person** engaging in air travel, except as a fare paying passenger in a commercially licensed aircraft;

### **4 Alcohol and drugs**

death or **disablement**, directly or indirectly resulting from or consequent upon the **insured person**:

- 4.1 being over the legal limit for alcohol, as defined by the motor vehicle laws of the state in which this **policy** was delivered or issued for delivery;
- 4.2 being under the influence of drugs or narcotics that are not lawfully available, unless prescribed for the **insured person** by a **healthcare practitioner**;
- 4.3 using performance enhancing substances, including but not limited to anabolic steroids, stimulants and corticosteroids, regardless of whether or not prescribed by a **healthcare practitioner**.

### **5 Arthritis**

death or **disablement** directly or indirectly resulting from or consequent upon osteoarthritis, arthritis or any other degenerative process of the joints, bones, muscles, tendons or ligaments;

### **6 Children**

death or **disablement** to any child being a **person** under the age of sixteen (16).

### **7 Deliberate exposure**

death or **disablement**, directly or indirectly resulting from or consequent upon deliberate or reckless exposure to danger (except in an attempt to save human life), or the **insured person's** own **criminal act**.

### 8 Epilepsy and emotional disorders

death or **disablement** directly or indirectly resulting from or consequent upon stress (work related or otherwise), neuroses, psychoneuroses, psychopathies, psychoses, post traumatic stress disorder or mental or emotional diseases or disorders of any type, or epilepsy.

### 9 Excluded activities

death or **disablement** directly or indirectly resulting from or consequent upon the **insured person** engaging in or taking part in:

- 9.1 naval, military or air force service or operations, winter sports (other than on piste skiing, on piste snowboarding, skating and curling), skin diving involving the aid of breathing apparatus, snorkelling, rock climbing or mountaineering normally involving the use of ropes or guides, potholing, parachuting, hunting on horseback, or driving or riding in any kind of race, driving or riding on motor cycles or motor scooters other than mopeds, hang-gliding, paragliding and parasailing;
- 9.2 any other activity, specifically excluded by endorsement attached to or incorporated in the **schedule** to this insurance;

### 10 Natural causes

death or **disablement** directly or indirectly resulting from or consequent upon, or attributable to sickness or natural causes, including any venereal disease and Hepatitis B, Human Immunodeficiency Virus (HIV), Acquired Immune Deficiency Syndrome (AIDS) or AIDS Related Complex (ARC) or their sequelae howsoever the aforementioned conditions have been acquired or may be named.

### 11 Nuclear risks

death or disablement directly or indirectly resulting from or consequent upon **nuclear hazards**.

### 12 Pre-existing condition

death or **disablement** directly or indirectly resulting from or consequent upon any **pre-existing condition** not declared to and accepted in writing by **us**, or any **bodily injury** contributed to or aggravated by any specifically excluded or **pre-existing condition**, and any condition or body part specifically excluded by endorsement attached to or incorporated in the **schedule** to this insurance.

### 13 Repetitive strain

death or **disablement** directly or indirectly resulting from or consequent upon repetitive strain injury or syndrome or any other gradually operating cause.

### 14 Suicide and self-inflicted injury

death or **disablement** directly or indirectly resulting from or consequent upon suicide or attempted suicide, intentional self-inflicted **bodily injury** including self-inflicted **bodily injury** arising from mental illness or intentional **bodily injury** of the **insured person** by the **insured**.

### 15 War and terrorism

death or **disablement** directly or indirectly resulting from or consequent upon **war** and/or **terrorism**.

## Other personal accident terms and conditions

### 1 Change of circumstances

#### 1.1 Change of material facts

At inception of this insurance certain material information was disclosed. Notwithstanding Material changes during the **policy** period clause, It is a condition of this Section that there shall be no material change in, or addition to, that information, either before or during the **period of insurance**, except that if **you** or **your** agent informs **us** immediately of any such material change or addition **we** may agree to continue the **policy** on such terms and conditions as it may determine.

#### 1.2 Change of occupation

If the **insured person** will engage in any occupation or activity in which greater risk may be incurred than in the occupation declared in the **schedule** without first notifying **us** and obtaining **our** written agreement to the amendment of the **policy** (subject to the payment of such reasonable additional premiums as **we** may require as the consideration for such agreement), then no claim will be payable in respect of any **accident** arising out of or in the course of such occupation or activity.

### 2 Claim discharge

The **beneficiary's** receipt will discharge the **Insurer**.

### 3 Compromised settlements

If **you** compromise any claim under this insurance with **us**, where more than one (1) party has an interest in the **insured person** the benefit will represent the total amount payable in respect of that person for all interests covered by this Section.

### 4 Conditions on payment

Payment may be made under this Section only after the **beneficiary** has submitted, through the intermediary as stated in the **schedule**, the completed claim form, a general medical release signed by the **insured person**, any other materials that **we** request, and only after **we** have completed an investigation of such incident or claim and agreed that the claim is covered under the terms and conditions of this **policy**.

### 5 Medical examination

After initial notice or submission of an incident or claim, any medical examiner appointed by **us** will be allowed, so often as may be deemed necessary to conduct an examination of the **insured person**; and in the event of **accidental** death of the **insured person** to conduct an autopsy if legally permitted.

### 6 Prior physical disability or condition

If the consequences of a **bodily injury** are judged by any medical examiner appointed by **us** to be aggravated by any physical disability or condition of the **insured person** which existed before the bodily injury occurred, the amount of any benefit payable under this **policy** in respect of the consequences of the **bodily injury** will be reduced by the amount which it is reasonably considered would be attributable to the effect of the prior physical disability or condition of the **insured person** in the course of the claim.

### 7 Refund by beneficiary

Prior to any claim payment under the **permanent total disablement** section of the schedule of compensation the beneficiary will sign an undertaking that in the event the **insured person** subsequently recovers sufficiently to resume his occupation, then the **beneficiary** will immediately refund any **permanent total disablement** benefits paid to them under this insurance.

### 8 Schedule of compensation restrictions

8.1 Claiming under more than one (1) item of **benefit**:

8.1.1 If it is possible to claim **benefit** under more than one (1) item of compensation in the schedule of compensation, then **you** may elect to claim under any one (1) item of **benefit** that offers the maximum amount of payment except always that **we** are only liable to pay **benefit** under a single item of benefit under the schedule of compensation.

8.1.2 If an **accident** involves the death of the **insured person** prior to the definite settlement of compensation for **disablement**, **we** will pay the **beneficiary** the **benefit** for death as a result of **accidental bodily injury** in the schedule of compensation. If death is not insured no benefit will be payable under this insurance.

8.2 Interest

No **benefit** payable under this insurance will carry interest.

8.3 **Benefits** exceeding the **accumulation limit**

Where the aggregate value of benefit claimed in respect of all **insured persons** suffering death or **disablement** for the one (1) event exceeds the accumulation limit, the amount claimed by each **beneficiary** will be reduced in proportion to the ratio that the **accumulation limit** bears to the total amount claimed.

9 Third party rights

The **insured person** or the **insured person's** personal representatives will have no right to claim from or sue **us** in respect of any **benefit** payable under this Section.

### Conditions precedent for personal accident

#### 1 Co-existing accident insurance

It is a condition precedent to **our** liability under this Section that **you** have no other accident insurance with respect to the **insured person** except as specifically declared to **us** at inception or agreed by **us** during the **period of insurance**.

## Cyber and Data Security Section

### Definitions

The following words and terms will have the same meaning wherever they appear in this Section of the *policy*. The defined words and terms are shown in ***bold italics***. If a word below is also defined in the General Definitions, the definition below replaces the General Definition for the purposes of this Section.

#### 1 Breach of Data Protection Law

Failure by ***you*** or ***service provider*** to comply with ***data protection law***.

#### 2 Breach of Network Security

2.1 Breach of the security of ***computer systems*** through:

- 2.1.1 failure to protect against or prevent the transmission of a computer virus;
- 2.1.2 the unauthorised access of ***computer systems***

2.2 a denial-of-service attack on ***computer systems***.

2.3 the prevention of access to ***computer systems*** caused by a malicious electronic act.

2.4 unauthorised use, alteration or deletion of data on ***computer systems***.

#### 3 Breach of Privacy

A breach of confidentiality in relation to ***personally identifiable information*** or a third party's corporate confidential information by ***you*** in breach of duty owed by ***you***.

#### 4 Business Income

4.1 The amount of ***your*** net profit if any before taxes which would have been earned by ***you*** adjusted to take account of:

4.1.1 the trend of the business, reasonable business variations, seasonal influences, prevailing economic conditions and other variations or circumstances that have an influence upon the business;

4.1.2 the increased cost of working incurred by ***you*** for the sole purpose of avoiding or diminishing the loss of net profit; and

4.1.3 any costs savings which ***you*** can reasonably achieve.

4.2 The calculation of ***your*** loss of ***business income*** shall be based on an analysis of the revenues and costs generated during each of the twelve months prior to the loss occurring (as recorded in ***your*** accounts) and will also take into account a projection of future profitability as close as practical had no loss occurred.



- 4.3 Requests made by **you** for indemnity by **us** shall be accompanied by a computation of the loss of **business income**. This shall set out in detail how the loss of **business income** has been calculated and what assumptions have been made.
- 4.4 Any payment for loss of **business income** will, where applicable, be reduced by the extent to which **you** could have used or did use:
- 4.4.1 damaged or undamaged **computer systems**
  - 4.4.2 available stock, merchandise or data; or
  - 4.4.3 substitute facilities, equipment or personnel

### 5 Business Services

**Your** business as specified in the **schedule**.

### 6 Claim

- 6.1 The receipt by **you** of any written notice of demand for compensation made against **you**;
- 6.2 any notice of intention in writing to commence legal proceedings against **you**.

Where the word claim is used as an undefined term (i.e. not in bold) it refers to a claim by **you** under the **policy**, unless the context otherwise requires.

### 7 Computer Systems

**Your** computer and telecommunication system software and hardware, including but not limited to **you** email system, encrypted electronic signature, encrypted electronic certificate, website, intranet, network, internet- connected telephone system, program or any other data held electronically, interconnecting wiring, fixed disks, telecommunications equipment and all components thereof used for storage, processing or communication of electronically processed data, including where provided by a **service provider**.

### 8 Cyber and Data Security Representative

A claim service provider as identified in the **schedule**.

### 9 Cyber Extortion Expenses

Reasonable and necessary expenses incurred by **you** including the value of any **ransom** paid by **you** for the purpose of terminating a **cyber extortion threat**.

### 10 Cyber Extortion Threat

A threat from a **hacker** to bring about a **breach of network security** or **breach of privacy** against **your computer systems**.

### 11 Cyber Operation

The use of **computer systems** by, at the direction, or under the control of a sovereign state to disrupt, deny, degrade, manipulate or destroy information in **computer systems** of or in another sovereign state.

### 12 Cyber Risk

**12.1 Breach of network security;**

**12.2 breach of privacy**

### 13 Data Breach Notification Costs

13.1 Reasonable and necessary expenses incurred by **you** or which **you** become legally obliged to pay for the provision of notifications to comply with **data protection law** or voluntary notification if recommended by a law firm chosen by the **cyber and data security representative** following a **breach of privacy** limited to:

13.1.1 the legal fees incurred to identify notification communication obligations and draft notification communications;

13.1.2 the costs to draft, send and administer notification communications;

13.1.3 the costs of call centre services to respond to enquiries following a notification communication.

### 14 Data Protection Law

All applicable data protection and privacy legislation, regulations and guidance in any country, province, state, territory or jurisdiction which govern the use, confidentiality, security and protection of **personally identifiable information** and any guidance or codes of practice issued by any applicable **data protection regulator** or governmental entity from time to time including Regulation (EU) 2016/679 (the "**General Data Protection Regulation**" or the "**GDPR**") and Data Protection Act 2018 (or, in the event that the UK leaves the European Union, all legislation enacted in the UK in respect of the protection of personal data) and the Privacy and Electronic Communications (EC Directive) Regulations 2003; and any guidance or codes of practice issued by any **data protection regulator** from time to time (all as amended, updated or re-enacted from time to time).

### 15 Data Protection Regulator

The Information Commissioner's Office, the Article 29 Working Party and the European Data Protection Board and any other supervisory authority with jurisdiction over **you**, and in each case any successor body from time to time

### 16 Defence Costs

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- 16.1 Costs incurred at **your** request with **our** prior consent in the investigation, adjustment, appraisal, defence or settlement of an insured event, including expert, legal, appeal and defence costs;
- 16.2 costs and expenses incurred by **you** in pre-trial and case reviews;
- 16.3 the cost of attendance in court as a witness at **our** request, payable at the following rates per day on which attendance is required:
- 16.3.1 **your director or officer**, partner or member – GBP500;
- 16.3.2 any **employee** – GBP250
- 16.3.3 any other relevant party – GBP200 (subject to **our** prior agreement); or
- 16.4 claimants costs recoverable from **you** arising out of a **claim** insured by this **policy**.

**Defence costs** do not include **your** own internal costs and expenses, the salary or expenses of **your employee, director or officer**, partner or member or any adjuster's fees.

### 17 Director or Officer

Any natural person who is, was or during the **policy period** becomes **your** director or officer (as determined by the applicable law of the jurisdiction in which **you** are domiciled) including the functional equivalents such as members of the executive or supervisory board of directors.

### 18 Documents

Deeds, wills, written agreements, maps, plans, books, letters, policies, certificates, forms and documents of any nature whatsoever, whether written, printed or reproduced by any method, including electronic data, but shall not include bearer bonds or coupons, stamps, bank or currency notes or any other negotiable instrument.

### 19 Essential Service

A service that is essential for the maintenance of vital functions of a sovereign state including but not limited to financial institutions and associated financial market infrastructure, health services or utility services.

### 20 Excess

The amount specified in the **schedule**.

### 21 Hacker

A third party who gains unauthorised access to, or makes unauthorised use of, **computer systems** by circumventing electronically or otherwise **your** security system in place to protect against such unauthorised access for **ransom**.

### 22 Impacted State

- 22.1 A sovereign state where a **cyber operation** has had a major detrimental impact on:
- 22.1.1 the functioning of that sovereign state due to disruption to the availability, integrity or delivery of an **essential service** in that sovereign state; and/or
  - 22.1.2 the security or defence of that sovereign state.

### 23 Insolvency Event

- 23.1 An application being made for an administration order or the purported appointment of, or the filing at court or issue of any notice of intention to appoint, an administrator in relation to **you** or any **subsidiary**;
- 23.2 a petition being presented, a meeting being convened or an effective resolution being passed otherwise than with **our** prior written consent as part of a solvent reconstruction or amalgamation for the winding up of **you** or any **subsidiary**;
- 23.3 possession being taken of, or a receiver, sequestrator or similar officer being appointed in respect of, the whole or any part of the assets or undertaking of **you** or any **subsidiary**;
- 23.4 **you** or any **subsidiary** suspending or threatening to suspend payment of its debts as they fall due or being, or unlikely to become, unable to pay its debts, whether within the meaning of Section 123 Insolvency Act 1986 or otherwise;
- 23.5 **your directors or officers**, partners or members or of any **subsidiary** making a proposal that it enter into a voluntary arrangement (within the meaning of Section 1 Insolvency Act 1986) or taking any steps to obtain a moratorium under Section 1A of that Act or its taking or being subject to any proceedings under the law for the readjustment, rescheduling or deferment of all or any of its debts, or proposing or entering into any general assignment or composition with or for the benefit of its creditors;
- 23.6 **you** or any **subsidiary** ceasing or threatening to cease to carry on all or a substantial part of its business or operations, or selling, transferring or otherwise disposing of the whole or a substantial part of its undertaking or assets, either by a single transaction or by a number of transactions; or

the occurrence in respect of **you** or any **subsidiary** of any event in any jurisdiction to which it is subject having an effect similar to that of any of the events referred to in paragraphs (i) to (vi) above.

### 24 Limit of Indemnity/Sub-Limit

The limit of indemnity or sub-limit of indemnity identified in the **schedule**

### 25 Media Claim

A **claim** against **you** for defamation, breach of copyright, invasion of privacy or misappropriation of ideas which arises from **your media content**.

### 26 Media Content

Content on your website, intranet or social media pages. Media content does not include any product packaging or labelling, design or ideas in relation to tangible products or property.

### 27 North American Jurisdiction

Any judgment, award, payment, **defence costs** or settlement delivered, made or incurred within countries which form part of **North America**, or which operates under or applies the laws of such countries or any states, provinces or territories forming part of them, including arbitration or regulatory proceedings, and any order made anywhere in the world to enforce such judgment, award, payment, **defence costs** or settlement either in whole or in part.

### 28 Payment Card Entity

American Express, Discover, JCB, Mastercard, Visa or any entity that is the subject of a duty to enforce the obligations of the **insured** in respect of **PCI DSS**.

### 29 PCI DSS

Payment Card Industry Data Security Standard.

### 30 PCI Forensic Consultant

A forensic consultant who is approved by PCI Security Standards Council.

### 31 Period of Reinstatement

The period after the **waiting period** commencing on the total or partial interruption, degradation in service, or failure of **computer systems**, and ending on either:

31.1 the date on which the **business income** loss ends (or could have been, had **you** acted reasonably expeditiously to restore the business), up to a maximum of 30 days after from the time when **we** are satisfied that **computer systems** are repaired, restored and/or replaced (or could have been) to the same equivalent standard, condition, functionality, level of service and/or with the same content, or as near as reasonably possible as immediately before the total or partial interruption, material degradation in service, or failure of **computer systems** began; or

31.2 one hundred and twenty (120) days;

whichever is sooner.

### 32 Personally Identifiable Information

Any information from which an individual may be uniquely and reliably, either directly or indirectly, identified or contacted and to the extent more broadly defined, has the meaning given to 'Personal Data' under **data protection law**.

### 33 Policy

This document, its **schedule** and any endorsements amending either or both which together set out this insurance.

### 34 Pollution

Discharge, seepage, migration, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapour, soot, dust, fumes, acids, alkalis, chemicals or waste. Waste is deemed to include materials to be recycled, reconditioned or reclaimed.

### 35 Professional Services

Services performed by or on behalf of the **Insured**.

### 36 Ransom

**Your** money, products, goods, services or property.

### 37 Regulatory Compensatory Award

A sum of money which **you** are legally obliged to pay as an award or fund for the those affected following a **data protection regulator's** investigation of a **breach of data protection law**. This does not include any criminal penalty or fine.

### 38 Section

A section of this policy.

### 39 Service Provider

A business you do not own, operate, or control, but that you hire for a fee under contract to perform information technology or payment processing services for or on your behalf.

### 40 Social Engineering Fraud Communication

A communication designed to mislead an **employee** into transferring **your** money, property, products, goods, services or other financial benefit to an incorrect recipient from which **you** cannot recover such money, property, products, goods, services or other financial benefit.

### 41 Subsidiary

Any entity during any time in which you, directly or through one or more subsidiary(ies):

- 41.1 owns more than fifty percent (50%) of the issued and outstanding share capital,
- 41.2 controls more than fifty percent (50%) of the voting rights, or

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41.3 controls the right to vote for the election or removal of such entity's directors.

Any such entity shall only be covered by this policy for that part of the period of insurance when it was a subsidiary.

### 42 Terrorism

An activity that involves a violent act or the unlawful use of force or an unlawful act dangerous to human life, tangible or intangible property or infrastructure or a threat thereof and appears to be intended to:

- (i) intimidate or coerce a civilian population;
- (ii) disrupt any segment of the economy of a government de jure or de facto, state or country;
- (iii) overthrow, influence, or affect the conduct or policy of any government de jure or de facto by intimidation or coercion; or

affect the conduct or policy of any government de jure or de facto by mass destruction assassination, kidnapping or hostage-taking.

### 43 Waiting Period

The period as specified in the *schedule*.

### 44 War

The use of physical force by a sovereign state against another sovereign state, or as part of a civil war, rebellion, revolution, insurrection, or military or usurped power, whether war be declared or not.

## 1 Cover

Subject to the provisions of the *policy*, including any applicable *excess* or *waiting period* and any applicable *limit of indemnity/sub-limit*, we will:

### Cyber, Data Security and Multimedia Cover

### 1.1 Cyber and Data Security Insuring Clause

indemnify **you** for any **claim** and **defence costs** first made against **you** during the **period of insurance** which arises out of any actual or alleged **cyber risk** of which **you** first become aware during the **period of insurance**.

### 1.2 Multimedia Insuring Clause

indemnify **you** for any **media claim** and **defence costs** first made against **you** during the **period of insurance** of which **you** first become aware during the **period of insurance**.

## Cyber, Data Security and Multimedia Cover - Extensions

### 1.3 Financial Transfer Indemnification

indemnify **you** for any theft of **your** money or property of which **you** first become aware during the **period of insurance** directly caused by a **breach of network security**.

**Our** liability under this clause shall not exceed the **sub-limit** as stated in the **schedule**, such **sub-limit** being part of and not in addition to the **limit of indemnity**.

### 1.4 Loss of or Damage to Documents

indemnify **you** for costs and expenses reasonably incurred in replacing or restoring **documents you** discover during the **period of insurance** to be lost, damaged or destroyed and which, after diligent search, cannot be found provided that:

1.4.1 the loss, damage or destruction was a result of a **breach of privacy**;

1.4.2 **we** will only indemnify **you** for costs, charges and expenses of whatsoever nature incurred by **you** in replacing and/or restoring such **documents** which are supported by bills and/or accounts and which shall be subject to prior written approval by a competent person nominated by **us** with **your** consent; and

1.4.3 **we** will only indemnify **you** for the loss of any **documents** which were in **your** physical custody or control or that of any other person to whom **you** entrusted, lodged or deposited such documents in the ordinary course of your **business services**.

**Our** liability under this clause shall not exceed the **sub-limit** as stated in the **schedule**, such **sub-limit** being part of and not in addition to the **limit of indemnity**.

### 1.5 Withdrawal of Content

indemnify **you** against all costs and expenses, which **you** shall become legally liable to pay for and as a result of the withdrawal or alteration of any **media content** by order of a court as a result of or in mitigation of a **media claim** covered by this **section** including as a result of a complaint made to the Advertising Standards Authority (ASA), the Office of Communications (OFCOM), Trading Standards Officers or any other official regulatory or



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self-regulatory body within the **territorial limit**, but only to the extent that such costs and expenses cannot be avoided or curtailed and providing that in the first instance **you**:

- 1.5.1 obtain **our** approval before incurring any costs or expenses; and
- 1.5.2 satisfy **us** that such **media content** would, if not rectified, result in damages equal to or in excess of the proposed indemnified costs and expenses; and
- 1.5.3 satisfy **us** that the costs and expenses incurred are necessary to successfully avoid (or reduce the loss in respect of) a **media claim**.

Not indemnify **you** for any:

- 1.5.4 payment recovered from others; or
- 1.5.5 element of profit or savings for **you** in any payment or fees; or
- 1.5.6 salaries, wages, overhead or any expenses of or associated with **you** incurred for the withdrawal of the content.

**Our** liability under this clause shall not exceed the **sub-limit** as stated in the **schedule** such **sub-limit** being part of and not in addition to the **limit of indemnity**.

### 1.6 Voice / Telephony

indemnify **you** during the **period of insurance** against your financial loss as a direct result of **you** or any **service provider** failing to protect against a **breach of network security** which results in **your** telephone systems incurring unintended or unauthorised call charges or bandwidth charges during the **period of insurance**.

**Our** liability under this clause shall not exceed the **sub-limit** as stated in the **schedule**, such **sub-limit** being part of and not in addition to the **limit of indemnity**.

## Data Breach Notification Costs Cover

### 1.7 Data Breach Notification Costs

subject to **you** obtaining **our** prior written consent, pay on **your** behalf for an actual or suspected **cyber risk** of which **you** first become aware during the **period of insurance**:

- 1.7.1 legal expenses incurred by the **cyber and data security representative** to assess whether **you** are in breach of **data protection law**; and
- 1.7.2 **data breach notification costs**.

**Our** liability under this clause shall not exceed the **sub-limit** as stated in the **schedule**, such **sub-limit** being part of and not in addition to the **limit of indemnity**.

## Information and Communication Asset Rectification Costs Cover

### 1.8 Information and Communication Asset Rectification Costs

indemnify **you** for costs and expenses, incurred in:

repairing, replacing or restoring **computer systems** discovered by **you** to be lost, damaged or destroyed when:

- 1.8.1 the loss, damage or destruction was a result of a **breach of network security**; and
- 1.8.2 the discovery of such loss, damage or destruction occurred during the **period of insurance**.

Such indemnity shall be limited to the costs and expenses of whatsoever nature incurred by **you** with **our** prior written consent in relation to the replacement and/or restoration of such electronic data. Any claim for such costs and expenses shall be supported by invoices.

**Our** liability under this clause shall not exceed the **sub-limit** as stated in the **schedule**, such **sub-limit** being part of and not in addition to the **limit of indemnity**.

## Regulatory Defence and Penalty Costs

### 1.9 Regulatory Defence and Penalty Costs

subject to **you** obtaining **our** prior written consent, and to the extent insurable by law, pay on **your** behalf those amounts which **you** are legally obliged to pay as a result of a **breach of data protection law** directly arising from a **breach of privacy** of which **you** first become aware during the **period of insurance** for any legal and investigation costs, as a result of a civil regulatory action, **regulatory compensatory award**, civil penalty or fines imposed by a **data protection regulator** against **you**.

**Our** liability under this clause shall not exceed the **sub-limit** as stated in the **schedule**, such **sub-limit** being part of and not in addition to the **limit of indemnity**.

## Public Relations Costs Cover

### 1.10 Public Relations Costs

subject to **you** obtaining **our** prior written consent, pay reasonable costs **you** incur for the **cyber and data security representative** to avert or mitigate any significant damage to any of **your** brands and business operations resulting from a **cyber risk** of which **you** first become aware during the **period of insurance**.

**Our** liability under this clause shall not exceed the **sub-limit** as stated in the **schedule**, such **sub-limit** being part of and not in addition to the **limit of indemnity**.

## Forensic Costs Cover

### 1.11 Forensic Costs

subject to **you** obtaining **our** prior written consent, pay forensic costs incurred by the **cyber and data security representative** as a result of a **cyber risk** or a **cyber extortion threat** of which **you** first become aware during the **period of insurance** to:

- 1.11.1 establish the cause and extent of the **cyber risk** or **cyber extortion threat**;
- 1.11.2 assess **your** network security and recommend security improvement; and
- 1.11.3 temporarily store **your** electronic data at a third-party host location when **your computer systems** remain vulnerable to damage, destruction, alteration, corruption, copying, stealing or misuse.

**Our** liability under this clause shall not exceed the **sub-limit** as stated in the **schedule**, such **sub-limit** being part of and not in addition to the **limit of indemnity**.

### Credit Monitoring Costs Cover

#### 1.12 Credit Monitoring Costs

subject to **you** obtaining **our** prior written consent, pay the costs of offering credit monitoring or identify theft services **you** incur for a maximum period of twelve (12) months to those affected by a **breach of privacy** of which **you** first become aware during the **period of insurance**.

**Our** liability under this clause shall not exceed the **sub-limit** as stated in the **schedule**, such **sub-limit** being part of and not in addition to the **limit of indemnity**.

### Cyber Extortion Cover

#### 1.13 Cyber Extortion

indemnify **you** to the extent insurable by law for **cyber extortion expenses** arising from a **cyber extortion threat** during the **period of insurance** when:

- 1.13.1 **you** can demonstrate to **our** satisfaction that **you** have taken all reasonable efforts to determine that the **cyber extortion threat** is genuine and not a hoax;
- 1.13.2 if a **ransom** is demanded by a **hacker**, at least one of **your** director has agreed to the payment of the **ransom**; and
- 1.13.3 **you** can demonstrate to **our** reasonable satisfaction that the payment of such **ransom** is reasonable and necessary.

**Our** liability under this clause shall not exceed the **sub-limit** as stated in the **schedule**, such **sub-limit** being part of and not in addition to the **limit of indemnity**.

### Cyber Business Interruption

#### 1.14 Cyber Business Interruption

indemnify **you** for loss of **business income** incurred by **you** during the **period of reinstatement** directly as a result of a failure by **you** or the **service provider** to protect against a **breach of network security**.

**We** will not provide an indemnity for any losses incurred during the **waiting period** commencing when the total or partial interruption, material degradation in service, or failure of **computer systems** began.

**Our** liability under this clause will not exceed the lesser of:

- 1.14.1 the amount of **business income you** would have earned during the **period of reinstatement** but for the total or partial interruption, material degradation in service, or failure of **computer systems**; or
- 1.14.2 the **sub-limit** as stated in the **schedule**, such **sub-limit** being part of and not in addition to the **limit of indemnity**.

### Social Engineering Fraud Cover

#### 1.15 Social Engineering Fraud

indemnify **you** during the **period of insurance** against the theft of **your** money, property, products, goods, services or other financial benefit, where such theft is as a direct result of a **social engineering fraud communication** during the **period of insurance** designed to impersonate **your** partners and/or **directors**, officers or **employees**, or those of any of **your** suppliers or any other third parties.

**Our** liability under this clause shall not exceed the **sub-limit** as stated in the **schedule**, such **sub-limit** being part of and not in addition to the **limit of indemnity**.

### PCI DSS Costs Cover

#### 1.16 PCI DSS Costs

subject to **you** obtaining **our** prior written consent, and to the extent insurable by law pay costs **you** incur for a **claim** and **defence costs** first made against **you** by a **Payment Card Entity**, or a party to whom **you** are liable for the **claim** arising from a **breach of privacy** during the **period of insurance** for:

- 1.16.1 a **PCI forensic consultant** to investigate any suspected or actual non-compliance with the **PCI DSS** if required by a **Payment Card Entity**;
- 1.16.2 the costs of **PCI DSS** recertification;
- 1.16.3 any liability to a **Payment Card Entity** for its costs of re-issuing credit, debit or pre-funded cards due to your breach of **PCI DSS**;
- 1.16.4 any costs or penalties imposed by the **Payment Card Entity** on you.

**Our** liability under this clause shall not exceed the **sub-limit** as stated in the **schedule**, such **sub-limit** being part of and not in addition to the **limit of indemnity**.

## 2 Exclusions

**We** shall have no liability to make payments under this **policy** directly or indirectly attributable to any:

### 2.1 Betterment

costs in repairing, replacing or restoring **your computer systems** to a level beyond that which existed prior to any claim or loss.

### 2.2 Bodily Injury or Property Damage

2.2.1 **bodily injury** unless arising from any **claim** seeking compensatory damages for mental anguish or distress where such damages arise from **claims** covered under this **policy**;

2.2.2 physical loss, destruction or damage of tangible property (including the loss of use) unless expressly provided to the contrary.

### 2.3 Breach of Legislation/Anti-Trust

actual or alleged breach of taxation, competition, restraint of trade, anti-trust or unsolicited communications legislation or regulation including but not limited to

2.3.1 the Employment Retirement Income Security Act 1974 and any amendment thereto, or any rules or regulations promulgated thereunder;

2.3.2 any actual or alleged violations of the Racketeer Influenced and Corrupt Organisation Act 18 USC Sections 1961 et seq and any amendments thereto, or any rules or regulations promulgated thereunder;

2.3.3 any actual or alleged violation of any of the provisions of the Securities Act of 1933, the Securities Exchange Act 1934 or any similar Federal or State law or any common law relating thereto;

2.3.4 the CAN-SPAM Act of 2003 or any subsequent amendments to that Act;

2.3.5 the Telephone Consumer Protection Act 1991 or any subsequent amendments to that Act;

2.3.6 any other law, regulation or statute relating to unsolicited communications, distributions, sending or transmitting of any communication via telephone or any other electronic or telecommunications device; or

2.3.7 any law, regulation or statute relating to the wrongful collection, wrongful storage or wrongful use of biometric data.

### 2.4 Claim by an Insured

**claim** brought directly or indirectly by or on behalf of:

2.4.1 any **insured** or **your** parent or subsidiary (as defined in the Companies Act 2006); or

2.4.2 any entity in which **you** or **your** partner or member has an executive interest or responsibility or has a shareholding or other financial interest representing more than 15% of the issued share capital

provided that this exclusion shall not apply to such **claims** by **employees** for **breach of privacy**.

### 2.5 Conduct

dishonest, fraudulent, deliberate or reckless act or omission of **you**. This exclusion shall not apply in respect of wilful misconduct of an **employee**.

### 2.6 Contractual Liability

liability arising under a contract except to the extent that such liability would have attached in the absence of such contract provided that this exclusion shall not apply in respect of **PCIDSS**.

### 2.7 Existing Claims or Circumstances

occurrence:

- 2.7.1 prior to the **retroactive date**; or
- 2.7.2 notified to any other insurer(s) covering the same subject matter as this insurance for a preceding period or insurance.
- 2.7.3 known to **you** prior to inception of this **policy** that may reasonably have been expected to result in a loss under this **policy**.

### 2.8 False Advertising

false advertising or deceptive trade practices arising from **media content**.

### 2.9 Fines and Penalties

- 2.9.1 fines, penalties, liquidated damages or contractual penalties other than those that are covered under Regulatory Defence and Penalty Costs or PCI DSS costs; or
- 2.9.2 punitive, multiple or exemplary damages awarded by a court or tribunal or reflected in a settlement.

### 2.10 Franchisee

franchise or franchisee of the **insured** unless noted in the **schedule**. In addition, a **claim** originating from a franchise or franchisee of the **insured** shall not be covered under this **policy**.

### 2.11 Gaming, Gambling or Lotteries

use or provision of any gaming, gambling or lottery except when such services are identified as **business services**.

### 2.12 Government Intervention

any government, regulatory, licensing or commission action or investigation. However this exclusion shall not apply to insuring clause 1.9 Regulatory Defence and Penalty Costs.

### 2.13 Inaccurate Pricing

inaccurate, inadequate or incomplete description or pricing of goods, products or services.

### 2.14 Insolvency of the Insured

*insolvency event.*

### 2.15 Institute radioactive contamination, chemical, biological, bio-chemical and electromagnetic weapons

- 2.15.1 ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
- 2.15.2 the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof;
- 2.15.3 any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter;
- 2.15.4 the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes;
- 2.15.5 any chemical, biological, bio-chemical, or electromagnetic weapon.

### 2.16 Liability Arising Out of Employment

violation relating to any individual's actual or prospective employment by **you**. This exclusion will not apply to the extent that **you** would be liable to such **employees** other than in their capacity as **employees** or a **breach of privacy** or **breach of data protection law** directly affecting **employees**.

### 2.17 Management Liability

personal liability incurred by **you** in the role of the **director or officer** when:

- 2.17.1 acting in that capacity; or
- 2.17.2 in breach of their fiduciary duty, or
- 2.17.3 making or issuing any statement, representation or information concerning **you** and the **business services** contained in any accounts, reports or financial statements.

### 2.18 Natural Perils

physical cause or natural peril, including but not limited to fire, storm, wind, water, flood, subsidence, or earthquake, that results in physical damage to property including to **computer systems**.

### 2.19 North American Jurisdiction

any **North American jurisdiction**, unless jurisdiction is stated in the **schedule** to be worldwide.

### 2.20 Nuclear Risk and Ionising Radiation

- 2.20.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- 2.20.2 the radiation, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

### 2.21 Ordinary Payroll Costs

ordinary salary costs incurred within **your** normal working hours. However, this exclusion shall not apply to insuring clause 1.14 Cyber Business Interruption.

### 2.22 Patents/Trade Secrets

the infringement of any patent or unauthorised use of trade secrets.

### 2.23 Pensions

**insured** acting as a trustee, fiduciary or administrator of the **insured's** own pension, profit sharing or employee benefits programme, including any actual or alleged breach or violation of the Employee Retirement Income Security Act of 1974 (ERISA) (USA) the Pensions Acts of 1994 and 1995 (UK) or any successor, amending or subordinate legislation of either, or any similar or equivalent law or regulation in any other jurisdiction.

### 2.24 Pollution, Asbestos or Electromagnetic Fields

claim:

- 2.24.1 for **bodily injury**, sickness, disease, death or physical loss, destruction or damage of tangible property (including the loss of use) directly or indirectly caused by **pollution**;
- 2.24.2 for removing nullifying or cleaning-up seeping, polluting or contaminating substances;
- 2.24.3 directly or indirectly arising out of, resulting from, in consequence of or in any way involving asbestos or any materials containing asbestos in whatever form or quantity;
- 2.24.4 directly or indirectly arising out of electromagnetic fields, electromagnetic radiation or electromagnetism.

### 2.25 Products Liability

goods or products (being tangible property or merchandise) sold, supplied, repaired, altered, treated, manufactured, installed or maintained by **you** or on **your** behalf.

### 2.26 Professional Services

claim or loss arising out of or in connection with any act, error or omission, or any breach of contract in rendering or failure to render **professional services**

### 2.27 Return of Fees or Commissions

return, restitution or offset of fees, commissions, expenses or costs either by service level



credits or by any other means.

### 2.28 Sanction Limitation

claim or any benefit hereunder to the extent that the provision of such cover, payment of such **claim** or provision of such benefit would expose **QBE** or any member of the **QBE** group of companies to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of any country.

### 2.29 Terrorism

**bodily injury**, damage, claim, loss, liability, expenses, costs or **defence costs** of whatsoever nature caused by **terrorism**. Any unlawful act of a third party resulting in a **breach of network security** shall not be regarded as act of **terrorism**.

### 2.30 Theft

claim or loss sustained by **you** or a third party by the transfer of money or securities (or equivalent thereof) other than where coverage is provided under Section 1.3 Financial Transfer Indemnification of this **policy**.

### 2.31 Trading Loss and Liabilities

2.31.1 **your** lost profit, mark-up or tax liability or your equivalent; or

2.31.2 **your** trading loss or trading liability including those arising from the loss of any client, account or business

other than covered under the Cyber Business Interruption.

### 2.32 Unlicensed Software

use by **you** of software in breach of any intellectual property rights of another party, beyond the terms permitted by a licence granted to **you**, or in breach of applicable legislation or regulation.

### 2.33 Unsupported Systems

claim or loss caused by a **cyber risk** to software which is no longer supported by the producer of the software or/and where security updates are no longer being provided.

### 2.34 Utility Service Provider

Failure, disturbance, interruption or outage of: internet access or telecommunications services, including Domain Name System (DNS), Top-Level Domain or DNS Root Zone Service, telecommunications infrastructure or internet infrastructure, electricity, satellite or utilities. This exclusion will not apply if such services are under **your** direct operational control.

### 2.35 War and Cyber Operation

## Section Cyber and Data Security

2.35.1 Notwithstanding any provision to the contrary in this insurance, this insurance does not cover that part of any loss, damage, liability, cost or expense of any kind (together "loss") resulting:

2.35.1.1 directly or indirectly from **war**;

2.35.1.2 from a **cyber operation** that is carried out as part of a **war**, or

2.35.1.3 from a **cyber operation** that causes a sovereign state to become an **impacted state**.

Provided, however, clause 2.33.1.3 shall not apply to the direct or indirect effect of a **cyber operation** on **computer systems** used by the insured or its third party service providers that is not physically located in an **impacted state** but is affected by a **cyber operation**.

2.35.2 In determining attribution of a **cyber operation**, the insured and insurer shall have regard to whether the government of the **impacted state** formally or officially attributes the **cyber operation** to another sovereign state or those acting at its direction or under its control.

In the absence of attribution by the **impacted state**, the insurer may rely upon a reasonable inference as to attribution of the **cyber operation** to another sovereign state or those acting at its direction or under its control having regard to such evidence as is available to the insurer.

In the event that the government of the **impacted state** either takes an unreasonable length of time to, or does not, or is unable to attribute the **cyber operation** to another sovereign state or those acting at its direction or under its control, it shall be for the insurer to prove attribution by reference to such other evidence as is available.

### 3 Notification and Claims

#### 3.1 Cyber Risk – Immediate Steps to Be Taken

Immediately upon discovery of an actual or alleged **cyber risk**, **you** should give notice to the **cyber and data security representative** as noted on the **schedule**.

The **cyber and data security representative** can provide advice and assist you in the investigation of the actual or alleged **cyber risk**. If the actual or alleged **cyber risk** which you notify to the **cyber and data security representative** is following investigation determined to be covered by any **section** of this **policy**, we shall indemnify you for any reasonable costs you incur instructing the **cyber and data security representative**. If the actual or alleged **cyber risk** which you notify is **not** covered by any **section** of this **policy**, we shall **not** indemnify you for the costs you incur instructing the **cyber and data security representative** and you will have to bear those costs.

For the avoidance of doubt, notification to the **cyber and data security representative** does not satisfy your separate obligation under clause 3.2 below to notify **us** of any potential claim under this **policy**.

### 3.2 Notification of a Claim

It is a condition precedent to **our** liability that notice shall be given to **us** after discovery by **you** of any **claim** or **circumstance** or occurrence which may give rise to a claim under this **policy** as soon as practicable within the **period of insurance** or, if applicable, the extended reporting period. Such notice should be made via email to [QBEcyberclaimsUK@uk.qbe.com](mailto:QBEcyberclaimsUK@uk.qbe.com).

**We** will be able to deal with **your** claim more effectively and speedily if **you** provide **your policy** number on first contact.

In relation to any cover provided by this **policy**, if:

- 3.2.1 **you** notify **us** of **circumstances** during the **period of insurance** in accordance with the requirements of this **section**; and
- 3.2.2 such notification includes all relevant facts which may give rise to a **claim**, to the extent known or reasonably accessible to **you**; and
- 3.2.3 **we** are satisfied that a claim may arise from the **circumstances** notified;

**we** will treat any **claim** subsequently arising directly from such **circumstances** as though the **claim** had been notified during the **period of insurance**.

### 3.3 Your Duties

**You** must before and after any notification under this **policy**:

- 3.3.1 not admit responsibility, liability, make an offer or promise, nor offer payment or indemnity without **our** written consent;
- 3.3.2 not incur any expense without **our** written consent except at **your** own cost, unless expressly provided to the contrary;
- 3.3.3 give all such information, co-operation and assistance, and forward all documents and information as requested to enable **us** to investigate, settle or resist any claim, as **we** may reasonably require;
- 3.3.4 not destroy evidence or supporting information or documents without **our** prior written consent; nor destroy property relating to an occurrence, loss or suit that may give rise to a claim under this **policy**.

### 3.4 Duty to Defend

It shall be **your** duty to defend any **claim**. **We** shall have the right and be given the opportunity to participate with **you** in the defence and settlement of any **claim** that appears likely to involve **us**.

### 3.5 Claiming Under More Than One Insuring Clause

If it is possible for **you** to bring a claim under more than one insuring clause of this

section of the **policy** then **you** may elect to submit a claim against the insuring clause which offers the maximum amount of payment subject to any applicable **sub-limit**.

**You** are not permitted to submit a claim under more than one insuring clause of this section of the **policy** which seeks the same indemnification in respect of the same cause of loss or costs associated with that loss in any one **period of insurance**.

### 3.6 Interrelated Claims

Two or more claims under this section of the **policy** arising from the same originating cause shall be deemed to constitute a single claim notwithstanding that they might involve different claimants, insureds and causes of action. Only one excess and any applicable limit of indemnity/sub-limit shall apply to that single claim. All such claims shall be deemed to have been first made when the first of them was notified to us.

## 4 General Conditions

### 4.1 Acquisitions and Creations

4.1.1 Where **you** create or acquire during the **policy period** a company and the declared turnover relating to all such created or acquired companies does not exceed ten percent (10%) of the declared turnover of the companies covered under this **policy** at inception (less the turnover for any company which ceases to be an **insured**, by reason of sale or otherwise, during the **period of insurance**), then this **policy** shall include as an **insured** any such company from the date of creation or acquisition without additional premium provided that:

- 4.1.1.1 the **business services** carried out by such company are similar to that of **you**;
- 4.1.1.2 any acquired company did not pay or reserve any **claims** in the five years prior to acquisition of a kind which would fall within the scope of cover comparable to that provided by this **policy** and the total paid or reserved amount was greater than the **excess** under this **policy**;
- 4.1.1.3 any acquired company has less than 100,000 **Personally Identifiable Information**;
- 4.1.1.4 any acquired company has multi-factor authentication on all remote connections and administrative accounts; and
- 4.1.1.5 all software of any acquired company is still supported by the producer of the software and/or security updates are still being provided; and
- 4.1.1.6 the **retroactive date** applicable to the **business services** of the acquired company is deemed to be the date of the acquisition; and
- 4.1.1.7 **you**:
  - 4.1.1.7.1 control the composition of the board of directors; or

- 4.1.1.7.2 control more than half the voting power at a general meeting of shareholders; or
- 4.1.1.7.3 hold more than half of the issued share capital (regardless of class of share); and
- 4.1.1.8 such company is not, and does not own or control, an incorporated entity in a different country to **you**.
- 4.1.1.9 Where **you** create or acquire a company subsequent to inception of this **policy** and the turnover relating to all such created or acquired company exceeds ten percent (10%) of the declared turnover of the companies covered under this **policy** at inception (less the declared turnover for any company which ceases to be an **insured** by reason of sale or otherwise, during the **period of insurance**), then this **policy** shall include as an **insured** any such company from the date of creation or acquisition provided that:
  - 4.1.1.9.1 the terms applicable to acquisitions and creations in paragraphs 4.1.1 above also apply to such companies:
  - 4.1.1.9.2 **you** notify **us** as soon as is reasonably practicable of the creation or acquisition;
  - 4.1.1.9.3 **you** accept the revised premium and terms applying to each and every such creation or acquisition; and
  - 4.1.1.9.4 all insurance in respect of such creation or acquisition will terminate thirty (30) days following creation or acquisition if terms cannot be agreed between **you** and **us**.

## 4.2 Confidentiality

**We** shall treat as confidential all information provided to it by you in connection with this **policy** and will not, without **your** prior consent, disclose any such information to any third party but **we** shall, without **your** consent, be entitled to disclose any confidential information to:

- 4.2.1 any director, officer, employee, agent, reinsurer or adviser of **QBE** or its group companies in connection with this **policy**;
- 4.2.2 any person in order to comply with any legal or regulatory requirement; and
- 4.2.3 as required by any court, mediator or arbitrator.

**We** will not be required to treat as confidential any information provided to it by **you** if that information:

- 4.2.4 is in the public domain, other than by means of **us** having disclosed it; or
- 4.2.5 was in **our** possession prior to it being provided by **you**.

**You** will not disclose the terms, conditions, exclusions, or the **limit of indemnity** of this **policy** or the amount of the premium paid to any third party except to the extent that **you** are required to do so by law or by contractual agreement or for contract tender purposes, or **we** consent in writing to such disclosure.

### 4.3 Limit of Liability and Excess

The **limit of indemnity** specified in the **schedule** shall be **our** maximum aggregate **limit of indemnity** under this **policy**.

For the purposes of this section of the **policy**, any and all liability of **QBE** under this section of this **policy** associated with a loss or **claim**, whether **defence costs**, costs and expenses or any other sums whatsoever shall be treated as part of the loss or **claim**.

- 4.3.1 **Our** liability shall not exceed any applicable **limit of indemnity, sub-limit**;
- 4.3.2 Where a **limit of indemnity** or **sub-limit** is stated in the **schedule** to be in the aggregate, that is the maximum **we** will pay for any and all cover whatsoever to which that limit applies in any one **period of insurance**;
- 4.3.3 Any **sub-limit** for a specified cover identified in the schedule applies as the **limit of indemnity** for that cover and is deemed to be part of and not in addition to the applicable **limit of indemnity** unless expressly stated otherwise;
- 4.3.4 Any additional cover, extension or endorsement is deemed to be part of and not in addition to the applicable **limit of indemnity** unless expressly stated otherwise;
- 4.3.5 The **limit of indemnity** and **sub-limit**, as applicable, is additional to the **excess**;
- 4.3.6 The **limit of indemnity** and any **sub-limit** is inclusive of any cover for **defence costs** unless expressly stated otherwise;
- 4.3.7 If applicable, an extended reporting period does not reinstate or otherwise affect the **limit of indemnity**.

**You** shall pay the **excess** or reimburse **us** to the extent that **we** have paid up to a maximum of the **excess**.

### 4.4 Other Insurance

- 4.4.1 If at the time of any claim made under this Section there is any other valid and collectible insurance available to the **insured** or any other party covered by this Section, other than insurance that is purchased as and stated specifically to be operating in excess of this Section and which names the **insured** or the other party covered by this section, then the insurance afforded by this Section will be in excess of and will not contribute with such other insurance.

# Exclusions to Property All Risks, Business Interruption All Risks, Contract Works and Terrorism

## Exclusions only applicable to Property All Risks, Business Interruption All Risks, Contract Works and Terrorism Sections

This *policy* does not cover:

### 1 Supersonic pressure waves

**damage** occasioned by pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds.

### 2 Nuclear damage

**damage** of or to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss of whatsoever nature directly or indirectly caused by or contributed to or by or arising from:

- 2.1 the radioactive, toxic, explosive or other hazardous properties of any **nuclear installation**, **nuclear reactor** or other nuclear assembly or nuclear component thereof;
- 2.2 ionising radiation from or contamination by radioactivity from any nuclear fuel or from nuclear waste or from the combustion of any radioactive material;
- 2.3 any weapon of war employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter.

### 3 E-commerce

loss of **gross profit**, or loss of **gross revenue** and/or **increased cost of working** and/or **additional increased cost of working** arising directly or indirectly, out of:

- 3.1 loss of, alteration of or **damage** to, or
- 3.2 a reduction in the functionality, availability or operation of

a computer system, hardware, program, software, **data**, information repository, microchip, integrated circuit or similar device in computer equipment or non-computer equipment, whether **your** property or not, unless **damage** arises from fire, lightning, explosion of domestic boilers, aircraft, riot, civil commotion, strikers, locked-out workers or persons taking part in labour disturbances or malicious persons, **storm**, **flood**, escape of water, earthquake, impact, collapse or theft by violent or forcible means.

### 4 Civil commotion

**damage** or loss or interruption or interference caused by or happening through or in consequence directly or indirectly of riot or civil commotion occurring in Northern Ireland.

## Exclusions applicable to all Sections other than Legal Expenses and Cyber and Data Security

### Exclusions applicable to all Sections other than Legal Expenses and Cyber and Data Security

#### 1 Limited cyber risk exclusion

##### 1.1 Definitions

Definitions shall have the meaning ascribed to them in the **policy**, save as expressly stated below:

- 1.1.1 **computer system** means **electronic business equipment and computers, portable electronic business equipment**, and any computer, hardware, information technology, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, owned or operated by the **insured** or any other party;
- 1.1.2 **cyber act** means an unauthorised, malicious, or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax of such acts, involving access to, processing of, use of or operation of any **computer system**;
- 1.1.3 **cyber event** means any programming or operator error whether by the **insured** or any other person or persons or any unintentional or unplanned whole or partial outage of the **insured's computer system** not directly caused by physical loss or damage; affecting access to, processing of, use of or operation of any **computer system**.

For the purposes of this exclusion, where a **cyber event** is caused by, contributed to by, resulting from, arising out of or in connection with a **cyber act** including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any **cyber act**, the **cyber event** will be considered to be a **cyber act**.

##### 1.1.4 **cyber loss** means:

- 1.1.4.1 an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax of such acts, involving access to, processing of, use of or operation of any **computer system**;
- 1.1.4.2 any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **computer system** or any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **computer system**.
- 1.1.5 **data** means information, facts, concepts, code and any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a **computer system**;
- 1.1.6 **data processing media** means computer or other equipment or component or system item, insured by the **policy**, which processes and stores **electronic data**;



## Exclusions applicable to all Sections other than Legal Expenses and Cyber and Data Security

- 1.1.7 **electronic data** means facts, concepts, and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment
- 1.2 Regardless of any provision to the contrary, this **policy** excludes any amount for which the **insurer** would otherwise be liable directly or indirectly caused by, resulting from, arising out of, in connection with, attributable to, or occurring concurrently or in any sequence with:
- 1.2.1 **cyber loss** unless subject to the provisions of paragraph 1.3;
- 1.2.2 loss, damage, liability, claim, cost, expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any loss of use, reduction in functionality, repair, replacement, restoration, or reproduction of any **data**, including any amount pertaining to the value of such **data** unless subject to paragraph 1.4.
- 1.3 Paragraph 1.2 shall not apply to:
- 1.3.1 any physical loss or physical damage to **property insured** and resulting business interruption under this **policy** caused by any fire or explosion directly and solely occasioned by a **cyber event**;
- 1.3.2 an act of terrorism to your **property insured**, for which cover is expressly provided elsewhere in the **policy** and shown as insured in the **schedule**;
- 1.3.3 any claim, loss or damage which would otherwise be indemnified by the insured section 'Breakdown of electronic business equipment and computers' in the **policy** where this is shown as insured and a **sub limit of liability** is shown in the **schedule**, except that the insured section:
- 1.3.3.1 shall not cover any claim, loss or damage directly or indirectly caused by a **cyber act**;
- 1.3.3.2 shall exclude the value of the **data** to the **insured** or any other party;
- 1.3.3.3 shall include the costs of reproducing **electronic data** from back up or from originals of a previous generation only.
- 1.4 Subject to all the terms, conditions, limitations and exclusions of this **policy** or any endorsement thereto, should **data processing media** owned or operated by the **insured** suffer physical loss or physical damage insured by this **policy**, then this **policy** will cover the cost to repair or replace the **data processing media** itself plus the costs of copying the **electronic data** from back-up or from originals of a previous generation. These costs will not include research and engineering nor any costs or recreating, gathering or assembling the **electronic data**. If such media is not repaired, replaced or restored the basis of valuation shall be the cost of the blank **data processing media**. However, this **policy** excludes any amount pertaining to the value of **electronic data**, to the **insured** or any other party, even if such **electronic data** cannot be recreated, gathered or assembled.
- 1.5 The operation of paragraphs 1.3 and 1.4 shall not increase the maximum liability of the **insurer** under this **policy** as stated in the **schedule**.

**Exclusions applicable to all Sections other than Legal Expenses and Cyber and Data Security**

### Claim Conditions

#### What to do in the event of a claim

Except for the 'Employers' Liability' section, it is a condition precedent to **our** liability that **you** comply with the 'Claim notification' and 'Claim procedure' clauses below. Clause 6 'Compliance with policy terms' contained in Section – General Terms and Conditions sets out the consequences of a failure to comply with **policy** provisions.

#### 1 Claim notification (not applicable to Section – Cyber and Data Security)

It is a condition precedent to **us** providing an indemnity under the **policy** that **you** or any other party insured by **your policy** must inform Sutton Specialist Risks Ltd and subsequently give notice in writing:

- 1.1 immediately but in any event, within three (3) working days of receipt of any:
  - 1.1.1 notice of adjudication, referral notice or any adjudication notice pursuant to contract;
  - 1.1.2 notice of referral to any tribunal;
  - 1.1.3 receipt of any notice of any impending inquest, fatal accident inquiry, regulatory proceedings or procedure or other legal proceedings;
  - 1.1.4 impending prosecution, inquest or inquiry in connection with any accident or disease, which may be the subject of a claim;
- 1.2 but in respect of any **claim** arising from a dispute under the Local Democracy, Economic Development and Contracts Act 2009, it is a condition precedent to **our liability** under this clause that **you** undertake:
  - 1.2.1 to immediately notify **us** within 2 business days of receipt of any "notice of intention to adjudicate" or of the service by **you** of any "notice of intention to adjudicate" in **circumstances** which will lead to or are likely to lead to a claim against **you** being dealt with as part of the adjudication;
  - 1.2.2 to promptly supply **us** with all details relating to any reference to adjudication, including copies of all documentation made available to **you**, or subsequently by **you** to the adjudicator;
- 1.3 but in respect of any **claim** under Professional Indemnity and Directors' and Officers' of this insurance:
  - 1.3.1 as soon as reasonably practicable but in any event not later than thirty (30) days from receipt of any **claim** or any notice of an intention to make a **claim**, and for the avoidance of doubt within the **period of insurance** or within seven (7) days after the expiry of the **period of insurance**;
  - 1.3.2 as soon as reasonably practical of any **circumstance**, but in any event before expiry of the **period of insurance**;

## Claim Conditions

- 1.3.3 as soon as reasonably practicable after becoming aware that a case directly affecting **you** is being reviewed by any ombudsman;
- 1.3.4 as soon as reasonably practicable of any other loss or suspicion of loss that is or may be insured.
- 1.4 as soon as practical but in any event within thirty (30) days of the date of receipt of any claim or intimation to **you** of a possible claim against **you** or upon **your** becoming aware of any other **damage, bodily injury, personal injury**, incident, accident, **insured event**, occurrence or series of occurrences which might give rise to a claim under **your policy** or as soon as sufficient information and/or particulars about the likelihood of a claim were received by **you** so as to make it both possible and reasonably practical to give such notice within the time frame above.

and give **us** any further information and assistance **we** may require.

This clause does not apply to the 'Cyber and Data Security' section of this **policy**.

## 2 Claims procedure (not applicable to Section – Cyber and Data Security)

- 2.1 Unless stated or agreed otherwise, all claims will be handled and overseen by the **insurer** but day to day handling may be managed by a third party claim management company or loss adjuster and investigations of claims and conduct of litigation will be conducted by a **panel firm**. For each and every claim, the **insured** and any person acting on behalf of the **insured** must:
  - 2.1.1 take all practical steps to minimise **damage**, prevent further **bodily injury** or **personal injury** or **damage** and recover property damaged;
  - 2.1.2 inform the police immediately of any malicious damage, theft or loss of money or other property;
  - 2.1.3 send **us** a claim in writing giving full details as soon as practical but in any event within thirty (30) days after any other accident, event or the coming into possession of actual knowledge of **personal injury** or **damage**, with full particulars thereof;
  - 2.1.4 give **us** any help **we** require;
  - 2.1.5 send **us** any documents that will enable **us** to settle, investigate or resist any claim as **we** think fit;
  - 2.1.6 not incur any expense, legal costs, **defence costs** (civil or criminal) or admit responsibility or promise any payment without **our** prior written and continuing consent in the investigation, preparing a response to and defending any claim;
  - 2.1.7 not respond to any letter, writ or summons or other document sent to **you** in connection with any accident, incident or occurrence that may relate to any claim under **your policy** or which may give rise to a claim under any Section of **your policy**. **You** must immediately send them to Sutton Specialist Risks Ltd unanswered by return of post, or to **us** or **our** legal representatives as may otherwise be advised by **us**;

## Claim Conditions

- 2.1.8 permit **us** to take any action **we** require in order to enforce any rights or remedies; or to obtain any relief or recovery to which **we** may become entitled, whether this action is taken before or after **we** pay any claim under **your policy**.
- 2.2 But for any claim under Section – Directors’ and Officers’ Liability, the following additional duties and conditions shall apply:
- 2.2.1 the **insured persons** may appoint lawyers to represent them in defending any **claim** subject to **our** prior written and continuing consent. Where the same or a similar **claim** is made against more than one **insured person** or against the **company** and any **insured person**, the same lawyers shall be appointed to defend all of them unless there is a conflict of interest between them;
- 2.2.2 **we** shall not require the **insured persons** to contest any **claim** unless the legal opinion of an **independent lawyer**, to be paid for by **us**, advises that such **claim** should be contested having given full consideration as to:
- the financial implications, damages and costs likely to be recovered by the claimant;
  - the likely **defence costs**;
  - the prospects of the **insured persons** successfully defending the **claim**; and
  - in respect of a criminal or regulatory **claim**, the reputation of the **insured person**.
- 2.3 If a **claim** is made against a party entitled to cover under Section – Directors and Officers’ Liability in respect of loss covered by this Section together with other loss that is not covered by this **policy** or a **claim** is made against both a party entitled to cover and a party who is not so entitled, the following sub-paragraphs will apply:
- 2.3.1 **we** shall pay only such amount as is just and equitable having regard to the relative legal and financial exposures of the loss covered by this Section compared to the other loss which is not covered by this Section and of the party entitled to cover compared with the party not so entitled;
- 2.3.2 the **insured persons**, or where applicable, the **company** and **us**, shall use their best efforts to agree this amount; and
- 2.3.3 in default of an agreement, this amount shall be determined by an **independent lawyer** in accordance with the principles set out above.
- 2.4 Please refer to Section – Legal Expenses for details of how to make a legal expenses claim.
- 2.5 But in respect of any **claim** arising from a dispute under the Local Democracy, Economic Development and Contracts Act 2009, the following additional duties and conditions shall apply:
- 2.5.1 to allow **us** to appoint advisers and to have conduct of the adjudication as they deem appropriate and to co-operate with **us** in the conduct of the adjudication. Any appointments made by **us** shall be at **our** expense but subject always to the application of the uninsured excess;
- 2.5.2 to meet any request, direction or timetable of the adjudicator;

## Claim Conditions

- 2.5.3 to satisfy **us** that any liability incurred under an adjudicator's decision for which indemnity is being sought, is as a direct result of negligence by **you** in the conduct of **your** professional activities;
- 2.5.4 not to disclose to anyone the existence of this **policy** without **our** prior written consent;
- 2.5.5 to institute legal proceedings or arbitration in accordance with the terms of the original contract to challenge or reopen or stay the enforcement of such adjudicator's decision if reasonably requested to do so by **us** and to allow **us** to appoint appropriate advisers as they may deem necessary to have conduct of such proceedings if appropriate. Any such steps made by **us** shall be at **our** expense, but subject always to the application of the uninsured excess;
- 2.5.6 not to agree to accept the decision of the adjudicator as finally determining the dispute without **our** prior consent in writing;
- 2.5.7 to ensure that the adjudication provisions in the contract shall:
  - 2.5.7.1 provide that the adjudicator must be independent of the parties to the dispute;
  - 2.5.7.2 not allow for the adjudicator's decision to finally determine the dispute;
  - 2.5.7.3 not allow the adjudicator to disregard the legal entitlements of the parties in order to reach a decision based on commercial considerations;
- 2.5.8 to ensure that the contract must not place any conditions upon the timing of commencement of legal or arbitration proceedings (for the sake of clarity this does not apply to adjudication proceedings).

This clause does not apply to the 'Cyber and Data Security' section of this **policy**.

### 3 Additional interests

- 3.1 The interest of other parties in this insurance is noted and **you** undertake to declare the names of such interested parties immediately following any claim.
- 3.2 This condition only applies to Sections:
  - 3.2.1 Property All Risks
  - 3.2.2 Business Interruption All Risks
  - 3.2.3 Contract Works
  - 3.2.4 Terrorism
  - 3.2.5 Fidelity Guarantee.

### 4 Contribution

- 4.1 Solely in relation to Sections - Property All Risks; Business Interruption All Risks; Contract Works;
- 4.1.1 if at the time of any claim under these Sections there is any other insurance covering the same risk or any part of the risk **we** will not be liable for more than **our** rateable portion.
- 4.1.2 if the other insurance is subject to any condition of Average, these Sections, if not already subject to any condition of Average, will be subject to Average in the same manner.
- 4.2 In relation to all Sections other than as specified above if at the time of any claim under these Sections there is any other valid and collectible insurance available to **you** or any other party covered by this insurance, other than insurance that is specifically stated to be in excess of this **policy** and names **you** or any other party covered by this insurance for the insurance, then the insurance afforded by these Sections will be in excess of and will not contribute with such other insurance.

### 5 Our rights (not applicable to Section – Cyber and Data Security)

- 5.1 **Claims** will be handled and administered by **us** or such parties as **we** in **our** absolute discretion may determine.
- 5.2 Notwithstanding clause 5.1 above **we** will be under no obligation to investigate any circumstance, occurrence or that which may give rise to any potential **claims** or to undertake the conduct of any proceedings in connection with such **claims** and will be at liberty in all cases to leave the conduct of such proceedings wholly to **you**, upon such conditions as regards the payment of costs and with such liberty to bind **us** by compromise as **we** may in **our** absolute discretion determine.
- 5.3 **We** may at any time pay the **limit of indemnity** (after deduction of any sums already paid) or such lesser sum for which the **claim** can be settled and will relinquish the conduct and control of the claim and be under no further liability, except (where payable under the relevant **insured** section) for payment of **defence costs** incurred prior to the date of payment.
- 5.4 **We** may at any time apply to **you** for reimbursement for payments made under the Cover clause or extensions thereto but which do not exceed the **excess**.

Under all sections of this **policy**, **we** will be entitled to:

- 5.5 use **your** name in legal proceedings,
- 5.6 take over and conduct the investigation, defence or settlement of any claim in **your** name,
- 5.7 prosecute in **your** name for **our** own benefit at **our** own expense any other person,
- 5.8 instruct solicitors of **our** choice to act for **you** in any civil or criminal proceedings.
- 5.9 The following conditions only apply to Sections:
- 5.9.1 Property All Risks

## Claim Conditions

- 5.9.2 Business Interruption All Risks
- 5.9.3 Contract Works
- 5.9.4 Terrorism
- 5.9.5 Fidelity Guarantee.

as a result of any **damage** for which a claim is or may be made under this **policy** **we** and every person authorised by **us** may, without incurring any liability and without diminishing **our** right to rely upon any conditions of the **policy**:

- a) enter, take or keep possession of the **buildings**, or **premises** where the **damage** has happened,
- b) take possession of or require to be delivered to **us** any of the items insured,
- c) keep possession of and deal with the property for all reasonable purposes and in any reasonable manner.
- d) **you** will not in any case be entitled to abandon any property to **us** whether taken possession of by **us** or not.
- e) This condition will be evidence of **your** permission and licence for **us** to do so. If **you** or anyone acting on **your** behalf does not comply with **our** requirements, hinders or obstructs **us** in carrying out any of these acts, then all benefits under this **policy** will be forfeited.

This clause does not apply to the 'Cyber and Data Security' section of this **policy**.

## 6 Reinstatement of property

- 6.1 If **we** elect or become bound to reinstate or replace any property **you** must at **your** own expense, produce and give **us** any plans, documents, books and information that **we** may require. **We** will not be bound to reinstate exactly or completely, but only as circumstances permit and in a reasonably sufficient manner, and will not in any case be liable in respect of any one of the items insured for more than the **sum insured** or limit of indemnity of that item.
- 6.2 This condition only applies to Sections:
  - 6.2.1 Property All Risks
  - 6.2.2 Business Interruption All Risks
  - 6.2.3 Contract Works
  - 6.2.4 Terrorism
  - 6.2.5 Fidelity Guarantee.

## 7 Related coverage contribution

In the event a claim can be brought under more than one Section of this **policy** by way of more than one Section providing for the same indemnity from a loss, then **you** must elect at **your** discretion which Section such indemnity is to be pursued under. Upon such election, a claim for



## Claim Conditions

that indemnity may not be brought under any other Section of the **policy** where such other Section would provide an indemnity for the same loss, regardless of whether **you** are successful in recovering for loss from the dual indemnity under its original election of Section which **you** choose to pursue. However, this condition shall not apply to any claim, indemnity or loss across more than one Section where **you** can demonstrate that materially different indemnities would be provided by **us** under each Section.

### 8 Subrogation (not applicable to Section – Directors’ and Officers’ Liability)

- 8.1 Except expressly provided otherwise elsewhere in the **policy**, **you** and any other person acting on **your** behalf must not waive any rights of recourse or recovery against any other person relating to an **occurrence**, loss or suit that may give rise to a **claim**.
- 8.2 **You** or any other party insured by the **policy** shall, at **our** request and expense undertake such acts as may be required for the purpose of enforcing any rights and remedies regardless as to whether **we** have indemnified **you**.

## General Terms and Conditions applicable to the whole policy

### 1 Assignment

Assignment of interest under this **policy** will not bind the **insurer** unless and until the **insurer's** prior written and continuing consent is endorsed hereon.

### 2 Authorisation

The **insured** named in the **schedule** shall act on behalf of all **insureds** with respect to the giving and receiving of notice under this **policy**, including the giving of notice of any **claim** or loss, the payment of premiums, the receipt and acceptance of any endorsements attaching to and forming part of this **policy**.

### 3 Average

If the **buildings**, contents, plant and other **property insured** or loss of income covered by this **policy** at the commencement of any **damage** or loss are of greater value than the **sum insured**, **you** will be considered as **your** own Insurer for the difference and bear a rateable proportion of the loss accordingly.

This condition only applies to Sections:

- 3.1 Property All Risks
- 3.2 Business Interruption All Risks but not when subject to the terms of the Declaration linked clause
- 3.3 Contract Works
- 3.4 Terrorism

### 4 Basis of contract

Any reference to 'basis of the contract' in this **policy** or in the proposal form (if any) is of no effect.

### 5 Cancellation

**We** may at any time during the **period of insurance** cancel this **policy** by giving thirty (30) days written notice by recorded delivery to **you** at the address shown on the **schedule** but without prejudice to obligations incurred prior to the expiry of such notice. **We** will return to **you** a proportionate part of the premium paid.

No premium refund will be allowed in the event that **you** cancel this **policy**.

### 6 Compliance with policy terms

- 6.1 **You** and anyone acting on **your** behalf must each comply with every applicable provision of the **policy**.
- 6.2 To the extent this insurance provides a benefit to any other party, **you** shall arrange for each insured party to comply with every applicable provision of the **policy**.

## General Terms and Conditions

- 6.3 If **you** or anyone acting on **your** behalf breaches any provision of the **policy**, **we** may, without prejudice to any of **our** other rights, reject or reduce sums payable to the extent that **our** liability under the **policy** has been incurred or increased by reason of the breach.
- 6.4 If **we** have paid any sums to **you** or anyone acting on **your** behalf for which **we** were not liable (whether by reason of breach of any provision of the **policy** by **you** or anyone acting on **your** behalf or for any other reason) **you** shall promptly repay such sums to **us**.
- 6.5 To the extent **we** waive all or some of **our** rights in relation to any obligation on **you**, this shall not prevent **us** from relying on any provisions in the future and any delay in reliance or any partial reliance by **us** shall not prevent **us** from relying on any such provisions, in whole or in part, in the future.

**You** must observe and fulfil the terms and conditions of this **policy** as they relate to anything to be done or complied with by **you**.

## 7 Contracts (Rights of Third Parties) Act 1999

This **policy** does not confer or create any right enforceable under the Contracts (Rights of Third Parties) Act 1999 or any amending or subsequent legislation, by any person who is not named as the **insured**; and

- 7.1 both **we** and **you** may amend or lapse **this policy** without giving notice to, or requiring the consent of, any other third party,
- 7.2 **we** may cancel this **policy** without giving notice to, or requiring the consent of, any other third party.

However, this will not preclude rights enforceable under the Third Parties (Rights against Insurers) Act 2010.

## 8 Data privacy notice

Any personal data provided to **us** will be processed in compliance with all applicable laws and regulations and in accordance with the privacy notice which can be found at <https://qbeeurope.com/privacy-policy/>. Alternatively **you** may contact **our** Data Protection Officer to request a copy of the full privacy notice by email: [dpo@uk.qbe.com](mailto:dpo@uk.qbe.com) or by writing to the: Data Protection Officer, QBE European Operations, 30 Fenchurch Street, London EC3M 3BD.

## 9 Declaration Adjustment

Where **your schedule** shows **Section subject to declaration adjustment**:

- 9.1 The premiums for Sections - Employers' Liability; Public and Products (including inefficacy) Liability; Business Interruption All Risks; and Contract Works are calculated by a rate on estimated wages and/or turnover and an accurate record containing all relevant particulars must be kept by **you**.
- 9.2 **You** shall at all times allow **us** to inspect such records and shall supply such particulars and information as **we** may require within one month from the expiry of each **period of insurance** to enable **us** to adjust the premium. Such adjustment will be subject to:
- 9.2.1 any Section minimum premium chargeable for the risk being retained by **us**;  
and

## General Terms and Conditions

- 9.2.2 a maximum return premium of twenty five (25) per cent of the adjustable portion of the premium for each Section with the exception of Business Interruption All Risks which allows up to fifty (50) per cent return premium on adjustment in respect of sums insured marked "Declaration linked condition - Yes" in the **schedule**.
- 9.2.3 provided that there shall be no refund of premium on adjustment following cancellation of this insurance under the terms of General Condition - Cancellation.

### 10 Duty of fair presentation

**You** must make a fair presentation of the risk (as set out in the Insurance Act 2015 or successor or amending legislation) in proposing for, or proposing to vary, this insurance.

### 11 Duty of fair presentation – remedies for breach - proposing for this insurance

If **you** or anyone acting on **your** behalf breaches **your** duty of fair presentation then **our** remedies shall be as follows

- 11.1 if such breach is deliberate or reckless, **we** may:
- 11.1.1 treat this **policy** as having been terminated from its inception; and
  - 11.1.2 retain the premium;
- 11.2 if such breach is not deliberate or reckless and **we** would not have entered into this **policy** but for the breach, **we** may by notice to **you** treat this **policy** as having been terminated from its inception in which case **we** shall return the premium; and
- 11.3 in all other cases if, but for the said breach, **we** would have entered into this **policy** but:
- 11.3.1 on different terms (other than terms relating to the premium), **we** may require that this **policy** is treated as if it had been entered into on those different terms from the outset; or
  - 11.3.2 would have charged a higher premium, **we** may reduce proportionately the amount to be paid on a claim (and, if applicable, the amount already paid on prior claims). In those circumstances, **we** shall pay only X% of what **we** would otherwise have been required to pay, where  $X = (\text{premium actually charged/higher premium}) \times 100$ .

### 12 Duty of fair presentation– remedies for breach - variation

If **you** or anyone acting on **your** behalf breaches **your** duty of fair presentation in relation to a variation of this **policy**, **our** remedies shall be as follows:

- 12.1 if such breach is deliberate or reckless, **we** may:
- 12.1.1 by notice to **you** treat this **policy** as having been terminated from the time when the variation was concluded; and
  - 12.1.2 retain the premium;

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- 12.2 if such breach is not deliberate or reckless, and **we** would not have entered into the variation but for the breach, **we** may treat this **policy** as if the variation was never made, in which case **we** shall return any additional premium relating to the variation; and
- 12.3 in all other cases if, but for the said breach, **we** would have entered into the variation but:
- 12.3.1 on different terms (other than terms relating to the premium), **we** may require that the variation is treated as if it had been entered into on those different terms;
- 12.3.2 would have increased the premium by more than it did or at all, **we** may reduce proportionately the amount to be paid on a claim arising out of events after the variation. In those circumstances, **we** shall pay only X% of what **we** would otherwise have been required to pay, where  $X = (\text{premium actually charged/higher premium}) \times 100$ ; or
- 12.3.3 would not have reduced the premium by as much as it did or at all, **we** may reduce proportionately the amount to be paid on a claim arising out of events after the variation. In those circumstances, **we** shall pay only X% of what **we** would otherwise have been required to pay, where  $X = (\text{premium actually charged/reduced total premium}) \times 100$ .

### 13 Electronic documents clause

It is understood and agreed that **we** may hold documents relating to this insurance and any claims under it in electronic form and may destroy the originals. An electronic copy of any such document will be admissible in evidence to the same extent as, and carry the same weight as, the original.

### 14 Fraudulent claims

- 14.1 If **you** or anyone acting on **your** behalf makes a fraudulent claim under this **policy**, **we**:
- 14.1.1 are not liable to pay the claim;
- 14.1.2 may recover any part of the claim already paid from the relevant **insured**; and
- 14.1.3 may by notice to **you** treat this **policy** as having been terminated with effect from the time of the first fraudulent act, in which case **we** are not liable to that **insured** in respect of a relevant event occurring after that time and may retain any premium.
- 14.2 These remedies shall not be available against any other entity insured under this **policy** that was not implicated in the fraud.

### 15 Index-linking

#### 15.1 Renewal

Where it is stated in the **schedule** that index-linking applies, the amounts insured will for renewal purposes be adjusted to take into account the latest published movements in the

## General Terms and Conditions

appropriate index shown below, unless **you** advise **us** that **you** do not require index-linking to be applied.

### 15.2 Buildings

The General Building Cost Index issued by the Building Cost Information Service of **The Royal Institute of Chartered Surveyors**.

### 15.3 Other Items

The Producer Price Index for home sales of manufactured products issued by the Office for National Statistics.

### 15.4 Claims

For claims settlement purposes (except Business Interruption) the adjustments authorised above will continue during the:

15.4.1 **period of insurance**

15.4.2 period of repair, replacement or reinstatement provided that such work is carried out and completed without undue delay.

NOTE: In the event of either or both of the above indices not being available **we** may select alternative measures at **our** discretion.

## 16 Inspection and audit

**We**, or **our** representative that **we** may designate, will be permitted but not obligated to inspect **your** property and operations at any time given reasonable notice. Neither **our** right to make inspections nor the making thereof nor any report thereon will constitute an undertaking on **your** behalf of or for **your** benefit to determine or warrant that such property or operations are safe.

## 17 Late payment of claims

**We** shall, pursuant to section 13A of the Insurance Act 2015, pay any sum due in respect of a valid claim within a reasonable time (which includes a reasonable time to investigate and assess the claim).

## 18 Applicable law and jurisdiction

The law applying to the **policy** is the law as stated in the **schedule**.

Any dispute or legal proceedings between the **insured** and the **insurer** in connection with the **policy** will be subject to the exclusive jurisdiction of the courts of that part of the **United Kingdom** where the head office of the **insured** is located as stated in the **schedule**.

## 19 Material changes during the policy period

19.1 **You** must notify **us** within thirty (30) days of any material change to the **insured, your business** or the risks insured if indemnity under this insurance is sought in relation to any such change.

19.2 **We** shall not indemnify **you** for any liability arising out of a material change for which indemnity would otherwise have been available under this insurance unless **we** have

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provided valid confirmation of cover, whether by an express term of this **policy**, endorsement, written confirmation or otherwise.

### 20 Minimisation of risk

- 20.1 **You** will take all reasonable steps at **your** own expense to prevent an insured event arising or continuing.
- 20.2 Upon the happening of an insured event and at all times thereafter, **you** shall act as a prudent uninsured and take all reasonable measures as are appropriate to avoid or minimise any claims which arise or may arise from that **insured** event. Any failure by **you** to take such steps shall reduce or extinguish **our** indemnity to **you** under the **policy** to the extent that such failure has increased the **claim** under the **policy**.

### 21 Sanction limitation and exclusion

**We** shall not provide cover nor be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose **us** or any member of **our** group to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of any country.

### Complaints Procedure

#### How you can complain

In respect of the Legal Expenses Section of the **policy** only, please contact ARAG plc's Customer Relations Department at:

**Post:** ARAG plc, Customer Relations Department, 9 Whiteladies Road, Clifton, Bristol, BS8 1NN.

**Telephone:** 0117 917 1561 (hours of operation are 9am-5pm, Mondays to Fridays excluding bank holidays. For our mutual protection and training purposes, calls may be recorded.)

**Email:** [customerrelations@arag.co.uk](mailto:customerrelations@arag.co.uk)

In respect of all other Sections of the **policy**, **you** can complain about this **policy** by first contacting your broker.

If **you** wish to contact **us** directly **you** can write to Customer Relations, QBE European Operations, 30 Fenchurch Street, London EC3M 3BD; email: [CustomerRelations@uk.qbe.com](mailto:CustomerRelations@uk.qbe.com), telephone 020 7105 5988.

#### The UK Financial Ombudsman Service (UK FOS)

If **you** feel that **your** complaint has not been satisfactorily resolved, **you** may be eligible to contact the UK FOS to review the complaint.

Information about the eligibility criteria is available on the UK FOS website: <https://www.financial-ombudsman.org.uk/consumers>

If eligible, **you** can contact the FOS via its website: <https://www.financial-ombudsman.org.uk/contact-us>, or write to Exchange Tower, London E14 9SR, or telephone 0800 023 4567.

#### Financial Services Compensation Scheme (FSCS)

You may be entitled to compensation from the FSCS if **we** are unable to meet **our** obligations under the **policy**.

Further information is available from [www.fscs.org.uk](http://www.fscs.org.uk), or **you** can write to the Financial Services Compensation Scheme, PO Box 300, Mitcheldean, GL17 1DY.



## **QBE European Operations**

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