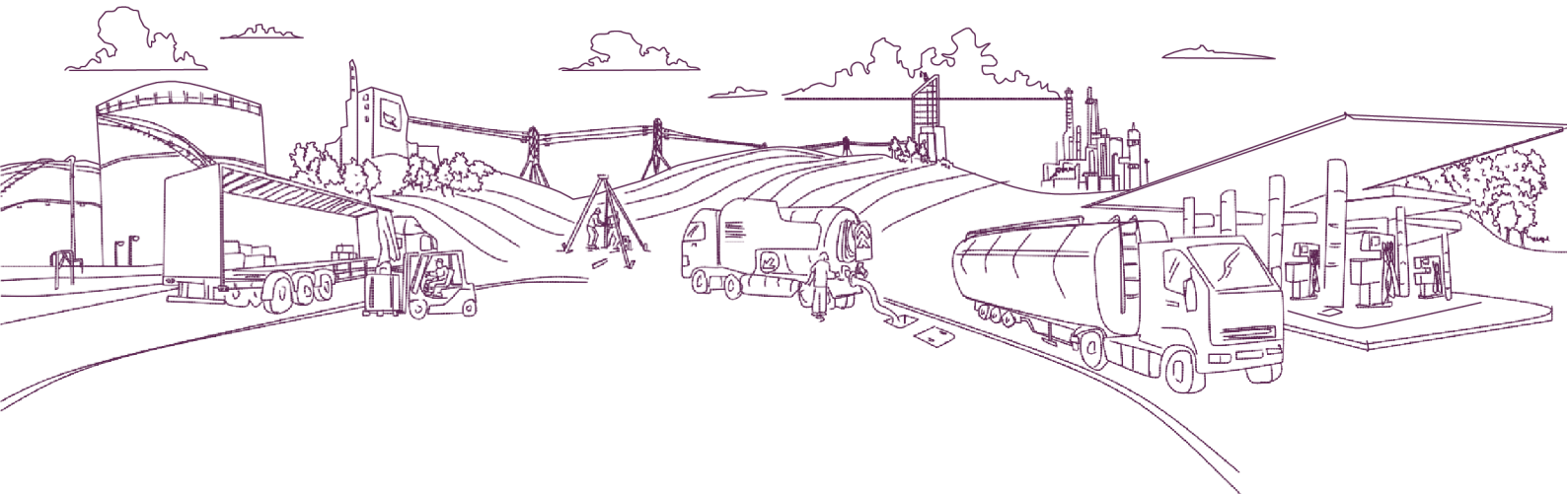




# POLICY DOCUMENT

## COMMERCIAL COMBINED (PETROCHEMICAL)



# CONTENTS

1. About Your Policy	01
– Complaints	02
– Compensation Scheme	02
– How To Make A Claim	02
– The Law That Governs This Policy	02
– Data Protection	02
2. Insured Section – Property	03
3. Insured Section – Business Interruption	14
4. Insured Section – Goods In Transit	22
5. Insured Section – Money	24
6. Insured Section – Terrorism	26
7. Exclusions To The Preceding Insured Sections	27
8. Insured Section – Personal Accident	31
9. Insured Section – Employers’ Liability	33
10. Insured Section – Public, Products And Pollution Liability	37
11. Insured Section Legal Expenses	47
12. Duties In The Event Of A Claim Or Potential Claim	53
13. General Terms And Conditions	56
14. Policy Definitions	60

# 1 ABOUT YOUR POLICY

Your Policy is made up of Sections prepared from a proposal form or declaration or statement of fact provided by You or from Your instructions or any information in connection with this insurance provided to Pen Underwriting or the Insurer or Your insurance adviser.

This Policy wording explains the insurance provided under this contract.

Each Section may include terms Definitions Conditions and Exclusions unique to the Section which should be read in conjunction with the Policy Definitions, Conditions and Exclusions.

An Endorsement forms an addition to the Section and varies the insurance provided by the Section.

The Schedule or Appendix and any Endorsement should be read together for precise details of Your insurance protection.

Please take care to review all documentation carefully to ensure that the information provided accurately reflects Your circumstances and that the cover provided suits Your requirements.

You should pay particular attention to any terms conditions limits and exclusions including endorsements which may require You to take action.

This Policy is a contract between You and the Insurer.

You must take care to provide complete and accurate answers to the questions We ask when You take out, make changes to, and renew Your Policy. Please tell Your broker within 14 days of becoming aware of any changes to the information You provided when applying for this insurance. Please contact Your broker if You require a copy of Your Quote Summary, declaration or Your schedule.

When We are notified of a change, We will tell You whether this affects Your Policy. For example whether We are able to accept the change and if so, whether the change will result in revised terms and/or a revised premium being applied to Your Policy. If We are not able to accept the change and it becomes necessary to cancel this insurance, We will do so as described within the cancellation conditions contained within the Policy. Any notified change will be subject to the Duty of Fair Presentation as specified in the Insurance Act.

**Please read the whole document carefully.** It is arranged in different sections. It is important that

- You are clear which sections You have requested and want to be included;
- You understand what each section covers and does not cover;
- You understand Your own duties under each section and under the insurance as a whole.

Please contact Your broker immediately if this Document is not correct or if You would like to ask any questions.

Authorised Signatory  
Jonathan Turner



## Complaints

At Pen Underwriting, it is always our intention to provide a first class standard of service. However, it is appreciated that occasionally things go wrong. In a majority of cases the agent who arranged the insurance will be able to resolve any concerns and You should contact them directly in the first instance.

Alternatively You can complain by contacting Pen Underwriting Limited (as per the contact details below) quoting Your Policy and/or Claim number. We will investigate Your concerns and provide a response as soon as possible.

Address:  
Pen Underwriting Limited Complaints  
7th Floor Spectrum Building  
55 Blythswood Street  
Glasgow  
G2 7AT  
Telephone: 0141 285 3539  
Email: [pencomplaints@penunderwriting.com](mailto:pencomplaints@penunderwriting.com)

You can also contact Your Insurer, through their Customer Relations Department by telephoning 020 7105 5988, email [customerrelations@uk.qbe.co.uk](mailto:customerrelations@uk.qbe.co.uk)

For the Legal expenses insured section only you can contact DAS' customer relations department by telephoning them on 0117 934 0066 or email DAS at [customerrelations@das.co.uk](mailto:customerrelations@das.co.uk)

Should You remain dissatisfied having received a Final Response to Your complaint and You fit the definition of an 'eligible complainant', You may then be able to refer Your complaint to the Financial Ombudsman Service (FOS). Please note that the FOS allow 6 months from the date of the Final Response to escalate Your complaint to them. Further details on eligibility and the referral process can be found on the FOS Website.

Address:  
The Financial Ombudsman Service  
Exchange Tower  
London  
E14 9SR  
Telephone: 0800 0234567 (for landline users)  
Telephone: 0300 1239123 (for mobile users)  
Email: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)  
Website: [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

## Compensation Scheme

The providers of this insurance as defined in this Policy are covered by the Financial Services Compensation Scheme (FSCS). If they cannot meet their obligations You may be entitled to compensation under this scheme depending on the type of insurance and the circumstances of the Claim

You are covered for 90 per cent of the Claim without any upper limit. However, for compulsory classes of insurance You are covered for 100 per cent of the Claim without any upper limit.

## How to make a Claim

At Pen Underwriting, we understand that claims form a critical component of our offering the moment the Policy becomes tangible and we are relied upon to deliver upon our commitment to You.

Pen Underwriting have assembled an experienced team who embody our three key principles of:

- 1) Partnership** – working together to achieve the optimum outcome to the Claim
- 2) Expertise** – we employ staff and engage service providers who are experts in their field
- 3) No-nonsense** – we apply a flexible and proactive approach to the claims process

For details on how to notify Your Claim, please refer to Your Schedule.

## The Law that governs this Policy

Unless the parties have agreed otherwise in writing any dispute concerning the interpretation of this Policy shall be governed and construed in accordance with English law and shall be resolved within the exclusive jurisdiction of the courts of England and Wales.

## Data Protection

Pen Underwriting Limited are the data controller of any personal information you provide to us or personal information that has been provided to us by a third party. We collect and process information about you in order to arrange insurance policies and to process claims. Your information is also used for business purposes such as fraud prevention and detection and financial management. This may involve sharing your information with third parties such as insurers, brokers, reinsurers, claims handlers, loss adjusters, credit reference agencies, service providers, professional advisors, our regulators, police and government agencies or fraud prevention agencies.

We may record telephone calls to help us monitor and improve the service we provide. For further information on how your information is used and your rights in relation to your information please see our Privacy Policy - <https://www.penunderwriting.co.uk/Privacy-and-Cookies>. If you are providing personal data of another individual to us, you must tell them you are providing their information to us and show them a copy of this notice.

## 2 INSURED SECTION – PROPERTY

### 2.1 Property cover

#### 2.1.1 Insuring clause

The Insurer will indemnify the Insured in accordance with the Basis of Settlement clause for Damage to the Property Insured provided that:

- a) Damage occurs during the Period of Insurance;
- b) the Property Insured is located within the Territorial Limits;
- c) the liability of the Insurer under this Insured Section will not exceed the Sum(s) Insured or any applicable Sub-Limit nor exceed, if stated in the Schedule, the Policy Limit of Liability;
- d) unless expressly stated to the contrary, the costs and expenses clauses and the extension clauses in this insured section-Property do not increase the Sum(s) Insured or the Policy Limit of Liability. Any Sub-Limits stated form part of and are not additional to the Sums Insured and the Policy Limit of Liability.

### 2.2 Additional costs and expenses indemnifiable by this Insured Section

This Insured Section shall provide indemnity to the Insured for the following costs and expenses that may be incurred following Damage.

Provided that the Insurer's liability shall not exceed the Sublimit applicable to each clause stated and unless expressly stated to the contrary, the costs and expenses clauses do not increase the Sum(s) Insured and any Sub-Limits stated form part of and are not additional to the Sums Insured.

#### 2.2.1 Architects', surveyors', consulting engineers' and other fees

The Insurer will indemnify the Insured for the fees of architects, surveyors consulting engineers and other fees incurred with the Insurer's prior written consent, for estimates, plans, specifications, quantities, tenders and supervision necessarily incurred in the reinstatement of loss in the event of Damage in accordance with the scales of their respective institutes except that the Insurer will not be liable for such fees incurred in preparing any claim made under this Policy.

#### 2.2.2 Criminal acts reward costs

The Insurer will indemnify the Insured for reasonable expenses that the Insured incurs in paying rewards for information leading to a successful conviction or for information where the police believe that such information will secure a conviction following Damage caused by arson, theft or other criminal acts.

### 2.2.3 Debris removal

The Insurer will indemnify the Insured for the costs necessarily incurred by the Insured in:

- a) removing debris from the damaged property site and the area within two hundred and fifty meters (250m) of the perimeter of the damaged property site;
- b) disposal of electronic Property Insured which has suffered Damage in accordance with the Waste Electrical and Electronic Equipment (Amendment) Regulations 2009;
- c) cleaning or clearing the drains, the sewers and/or the gutters of the damaged property site and the area within two hundred and fifty meters (250m) of the perimeter of the damaged property site;
- d) dismantling and/or demolishing of, or shoring up, propping and/or fencing the portion(s) of the Property Insured that has been Damaged;
- e) removing extraneous materials from plant and machinery, whether or not such plant and machinery has been damaged;
- f) removing stock debris;

Except that the Insurer will not provide indemnity for any cost and expenses:

- i. arising from Pollution or contamination not insured by this Policy other than sudden and accidental Pollution requiring the clean-up of the Insured's own land;
- ii. of temporary boarding up of windows as part of a claim for breakage of glass;
- iii. incurred in the re-erecting, fitting and fixing plant and machinery.

### 2.2.4 Energy performance and sustainable buildings

The Insurer will indemnify the Insured for the additional cost of Reinstatement incurred with the Insurer's prior written consent:

- a) 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), held by the Insured in respect of the Damaged Buildings;
- b) 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;

- c) 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 buildings (BREEAM) core standards.

Provided always that the Insurer will not be liable for:

- i. any undamaged portions of the Buildings
- ii. 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;
- iii. any costs incurred:
  - I. in respect of Damage occurring prior to inception of this Policy;
  - II. in respect of Damage not insured by this Insured Section;
- iv. if the liability of the Insurer 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 the liability of the Insurer under this clause in respect of such Buildings will be reduced in like proportion.

### 2.2.5 European Union and public authorities

The Insurer will indemnify the Insured for the additional cost of Reinstatement of the such Damaged Buildings and Other Machinery Plant and All Other Contents, which may be incurred solely 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:

- a) the amount recoverable under this clause will not include the cost incurred in complying with any such regulations, bye-laws or directive:
  - i. in respect of Damage occurring prior to the commencement of the Period of Insurance stated in the Schedule;
  - ii. in respect of Damage not insured by this Insured Section; or
  - iii. under which notice has been served upon the Insured prior to the happening of the Damage;

- b) the amount recoverable under this clause will not include:
  - i. 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;
  - ii. 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 Property Insured or by the owner thereof by reason of compliance with any of the aforesaid regulations, bye-laws or directives;
- c) if the liability of the Insurer in respect of any item of Property Insured apart from this clause is reduced by the application of any of the terms and conditions of this Policy or this clause, then the liability of the Insurer under this clause in respect of any such Property Insured will be reduced in like proportion;
- d) the Insurer will have no liability under this clause unless the work of Reinstatement is commenced and carried out with reasonable dispatch (which may be carried out upon another site and in any manner suitable to the requirements of the Insured subject to the liability of the Insurer not being thereby increased);
- e) the total amount recoverable under this clause in respect of undamaged portions of Property Insured other than foundations, will not exceed fifteen per cent (15%) of the total amount for which the Insurer would have been liable had the Building, or Other Machinery Plant and All Other Contents item been totally destroyed;

### 2.2.6 Fire extinguishment expenses and emergency services Damage

The Insurer will indemnify the Insured for:

- a) extinguishment expenses necessarily incurred by the Insured in order to minimise Damage;
- b) expenses incurred in recharging or repairing Damage to any gas or sprinkler fire extinguishment system;
- c) 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 the Insurer has accepted a claim under this Insured Section;
- d) fire brigade charges;

- e) costs and expenses reasonably incurred by the Insured to upgrade or improve any gas or sprinkler fire extinguishment rendered necessary to comply with any regulations introduced after the installation of the original system following an incident involving Damage for which the Insurer has accepted a claim under this Insured Section.

### 2.2.7 Flood resilience

The Insurer will indemnify the Insured for the costs incurred with their prior written consent in:

- a) utilisation of materials with improved water resilience in the repair or reinstatement of the Buildings; and
- b) the relocation within the same Building of replacement landlords' fixtures and fittings to an area of less exposed to damage by water arising from Flood and Storm, irrespective of whether such perils are insured by this Policy.

### 2.2.8 Machinery re-erection

The Insurer will indemnify the Insured for the 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.

Provided that:

- a) Such machinery is deemed to be undamaged and in working order prior to such dismantling, re-erecting and resetting;
- b) The Insurer shall not provide indemnity for any Damage to the machinery caused during such dismantling, re-erection and resetting;
- c) Such costs shall be in addition to the Sum(s) Insured but within the Policy Limit of Liability.

### 2.2.9 Rent payable

The Insurer will indemnify the Insured for either:

- a) 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
- b) the proportion of the rent applicable to the untenable or unusable part of the Building that would otherwise be occupied by the Insured should the Building be partially untenable or unusable;

provided that:

- a) Rent is specified as covered under Property Insured in the Schedule; and
- b) any Building which is leased or rented by the Insured becomes untenable or unusable following Damage; and

- c) the lease or rental agreement requires continuation of the Rent;
- d) the Insurer shall not be liable for Rent payable beyond the Maximum Indemnity Period stated in the Schedule from the date of the Damage to the Building.

### 2.2.10 Temporary protection and expediting expenses

The Insurer will indemnify the Insured for the reasonable and necessary costs incurred to:

- a) temporarily protect or preserve Property Insured in order to avoid or prevent immediately impending Damage covered under this Policy; and
- b) board up windows and doors following breakage of glass;
- c) expedite permanent or temporary repairs to or replacement of Property Insured following Damage covered under this Policy.

Temporary protection and expediting expenses do not include:

- i. expense payable elsewhere in the Policy; or
- ii. the cost of permanent repair or replacement.

### 2.2.11 Trace and access

The Insurer will indemnify the Insured for the costs necessarily and reasonably incurred in locating the source of any escape of water from any fixed water services, heating installation or fuel oil, including the repair to walls, floors or ceilings necessary as a direct result of the location work, except that the Insurer will not be liable for the cost of repairs to any fixed water services or heating installation.

## 2.3 Extensions applicable to this Insured Section

This Insured Section is extended to include the following additional coverages. Provided that the Insurer's liability shall not exceed the Sublimit applicable to each clause stated, and unless expressly stated to the contrary, these extensions do not increase the Sum(s) Insured and any Sub-Limits stated form part of and are not additional to the Sums Insured or the Policy Limit of Liability

### 2.3.1 Buildings in course of construction or alteration

This Insured Section is extended to include Damage to:

- a) materials in connection with such work from the time they are delivered to the site at the Premises;
- b) existing building or structure at the Premises specified in the contract as affected by the works;

where works carried out at the Premises are subject to clause 22(c) of the Joint Contracts Tribunal (JCT) or any similar contract conditions,



but only to the extent and for the perils for which the Insured has accepted responsibility under such contract provided that such perils are not excluded by this Policy.

The Insurer shall be entitled to charge an appropriate additional premium pro rata for the period of the contract and the Insured shall pay such additional premium on demand from the Insurer;

For the purposes of this clause, all parties named in the contract for works are deemed to be joint insureds.

### 2.3.2 Capital additions

This Insured Section is extended to include:

- a) any newly acquired property automatically upon acquisition (other than Stock and Materials in Trade) of a kind not excluded by this Policy at the Premises insofar as it is not otherwise insured; and
- b) any alterations, additions and improvements to Buildings;

during the Period of Insurance provided that:

- i. the Insurer's liability under this clause will be in addition to the Sums Insured and the Insurer's total liability for such amount payable under this capital additions clause will not exceed the Sub-Limit for this clause as shown in the Schedule;
- ii. the Insured undertakes to give particulars of such newly acquired property at the expiry date of the Period of Insurance or, if the period of insurance is greater than twelve (12) months, at each twelve (12) months anniversary of the commencement of the Period of Insurance and to retrospectively insure the newly acquired Property to the date of the commencement of the Insurer's liability;
- iii. the Insurer shall be entitled to charge an appropriate additional premium pro rata from the date of acquisition of the newly acquired Property and the Insured shall pay such additional premium on demand from the Insurer;
- iv. the Insurer may vary the terms of this Policy in respect of such newly acquired property;
- v. the Insurer shall not provide indemnity for any appreciation in value that may accrue to any Buildings following any alterations, additions and improvements;
- vi. in the event that the Insured acquires property of a value that exceeds the Sub-Limit shown in the Schedule for Capital Additions, then the Insured shall provide details to the Insurer in accordance with the material

changes during the policy period clause set out in the General Terms and Conditions.

### 2.3.3 Deterioration of stock

This Insured Section is extended to include Damage by deterioration or putrefaction to Stock and Materials in Trade, whilst contained within refrigerating units or any other temperature controlled environment caused by:

- a) Change of Temperature or
- b) contamination caused by sudden and unforeseen leakage of refrigerant or refrigerant fumes from the unit;

provided that:

- i. the event giving rise to such deterioration, putrefaction or contamination occurs during the Period of Insurance; and
- ii. the refrigerating machine or temperature control apparatus is less than ten (10) years old and there is in force a planned maintenance programme for the servicing of the refrigerating machine or temperature control apparatus at regular intervals by the manufacturer or a competent engineer; and
- iii. the Insurer shall not be liable for:
  - I. the failure of the electricity utility undertaking arising from the Insured's deliberate act, unless performed for the sole purpose of safeguarding life or protecting any part of the utility undertaking systems; or
  - II. the failure of the electricity utility undertaking arising from any scheme of rationing not necessitated solely by Damage to the utility undertaking's generating or supply equipment; or
  - III. wear and tear, deterioration or gradually developing flaws or defects in the unit or incorrect setting of thermostats and automatic controls; or
  - IV. the use of a refrigerating unit or temperature control systems over ten (10) years old unless specifically agreed by the Insurer in writing;
  - V. deterioration of stock due to failure of the electricity supply services which does not exceed the time Excess stated in the Schedule.

### 2.3.4 Leased Premises difference in conditions/ difference in limits (DIC/DIL)

This Insured Section is extended so that where Buildings leased or rented by or to the Insured and separate insurances are placed elsewhere in respect of such Buildings under lease agreements



or otherwise, the Insurer will indemnify the Insured in respect of:

- a) the difference between the amounts recoverable such other insurance and the amounts that (but for such amounts recoverable under the other insurance) would have been payable under this Policy;
- b) any difference in conditions between such other insurances and those contained within this Policy;

following Damage that is insured by this Insured Section, except that the Insurer will not be liable for any amount recoverable under the Insured's public or general liability policy.

### 2.3.5 Lock replacement

This Insured Section is extended to indemnify the Insured for the reasonable cost of:

- a) replacing external locks or safe or strong room locks at the Premises following Damage to the keys to the Premises:
  - i. from either:
    - I. the Premises, or
    - II. the Insured Person's home,
  - ii. or following a hold-up while the keys are in the Insured's personal custody or that of any authorised employee;
- b) reprogramming electronic locks following Damage to electronic swipe or pass cards.

### 2.3.6 Metered water or gas

This Insured Section is extended to indemnify the Insured for any charges for which the Insured is legally responsible for and unable to recover from any other Party, in respect of loss of metered water or gas, provided that:

- a) loss of water or gas is due to Damage at the Premises which is covered under this Insured Section; and
- b) the lost water or gas is measured by the utility meter; and
- c) the amount payable by the Insurer shall be ascertained by comparing the Trend Adjusted usage on the suppliers account for the ninety (90) days immediately after the Damage with the same ninety (90) day period in the previous year;
- d) the insurance provided by this extension shall not apply to Unoccupied Buildings; and
- e) the Insurer's liability in respect of any one (1) insured Premises is limited to such Excess water or gas charges demanded by the utility undertaking in consequence of Damage.

### 2.3.7

#### Property at Other locations

This Insured Section is extended to indemnify the Insured for Damage to Other Machinery Plant and All Other Contents or Stock and Materials in Trade while temporarily removed away from the Premises including the direct Transit thereto and therefrom, provided that:

- a) Cover for such items is included under this Insured Section while at the Premises;
- b) the Insurer shall not be liable for Damage:
  - i. that is recoverable under any other insurance (including the Insured section- Goods in Transit) or in any other way;
  - ii. caused by theft or attempted theft:
    - I. from a building unless the theft or attempt theft involves entry to or exit from the building by violent and forcible means or arises from robbery or attempted robbery; or
    - II. from an Unattended Vehicle unless such vehicle has all doors, windows and other means of entry closed and locked with all keys removed to a place of safety; or
    - III. from an Unattended Vehicle between the hours of 9pm and 6am unless parked in a securely locked building or garage or in a security compound that is permanently manned and protected by a controlled security barrier or the vehicle is fitted with a Thatcham II security system which is armed at the time of the Damage;
  - iii. to property of others held by the Insured in trust;
  - iv. to watches, tobacco, cigars, cigarettes, Wines and Spirits, audio equipment, radios, televisions, video equipment, laptop and tablet computers, telephones and smartphones, and pictures;
  - v. outside of the Territorial Limits.

### 2.3.8

#### Spontaneous combustion

This Insured Section is extended to indemnify the Insured for Damage to wood blocks, coal or coke by its own spontaneous combustion or self-heating.

### 2.3.9

#### Theft Damage to uninsured Buildings

This Insured Section is extended to indemnify the Insured for an amount in respect of Damage to Buildings by thieves where the Insured is responsible for the cost of Damage to Buildings that are not insured by this Policy

**2.3.10 Undamaged tenants' improvements**

This Insured Section is extended so that in the event of Damage that is insured by this Insured Section which directly results in a lease being terminated, the Insurer will indemnify the Insured for the cost of reimbursing the Insured's tenants for their undamaged improvements which are no longer available to such tenants following the Damage

**2.3.11 Valuables**

This Insured Section is extended to include gold, silver, jewellery, precious stones, works of art, rare books, sculptures, curios and collections within the Other Machinery, Plant and All Other Contents item.

**2.4 Limitations and exclusions applicable to this Insured Section**

In addition to the limitations and exclusions applicable to this Insured Section in the Exclusions applicable to the insured sections from property to terrorism (inclusive), the following are excluded from and not covered by the insurance under this Insured Section:

**2.4.1 Consequential loss**

any form of indirect or consequential loss except as specifically included with this Insured Section;

**2.4.2 Disused, Unoccupied or vacant Buildings**

Damage to Buildings which are or become Unoccupied, however this exclusion shall not apply if the Insured:

- a) has given notice to the Insurer that the Building is or will become Unoccupied; and
- b) pays any extra premium as the Insurer may require to provide cover in respect of such Unoccupied Buildings; and
- c) ensures that
  - i. all main services are turned off at the mains and water tanks drained and emptied in respect of Damage caused by escaping water from any pipe, tank, water system or automatic sprinkler installation; and
  - ii. all combustible materials not forming part of the landlord's fixtures and fittings are removed from inside and outside the buildings in respect of Damage by fire; and
  - iii. all ground floor windows and letterboxes are securely boarded over, and all reasonable precautions are taken to secure the Buildings against unauthorised entry in respect of theft. Notwithstanding the above, this Insured Section excludes and does not cover Damage caused (other than by fire and explosion) by riot, civil commotion, malicious damage or vandalism

to Buildings which are or become Unoccupied.

**2.4.3 Excluded Property**

- a) Damage to the following property unless specified to the contrary in the Schedule:
  - i. livestock, bloodstock, fishstock, growing crops or trees;
  - ii. watercraft or aircraft or other aerial or spatial devices;
  - iii. motor vehicles or their contents, accessories, caravans or trailers except for such vehicles that are not licensed for road use ;
  - iv. Money, bullion, foreign coins counterfeit or substitute Money, and v) land, piers, jetties, bridges, culverts or excavations;
  - v. property in the course of erection or installation;
  - vi. property in Transit except as specifically covered in the Property at other locations clause;
  - vii. explosives;
  - viii. gold, silver, jewellery, precious stones, works of art, rare books, sculptures, curios and collections except as specifically covered in the Valuables clause;
- b) moveable Property in the open, gates or fences, unless the Damage is caused by fire, lightning, aircraft, explosion, earthquake, riot, civil commotion, malicious persons or impact;

**2.4.4 Property Insured elsewhere**

Damage to any Property Insured, or costs and expenses in respect of such Damage which is otherwise more specifically insured under any other insurance, irrespective of whether or not a claim has been made under such insurance.

**2.5 Other terms and conditions applicable to this Insured Section****2.5.1 Basis of settlement**

In the event of Damage to Property Insured under this Insured Section the Insurer's liability shall be calculated as follows:

- a) On Stock and Materials in Trade (excluding bulk stock) that is unsold, the cost of Production including raw materials and the labour expended to restore the stock to the position that as closely as possible existed prior to the Damage;
- b) On raw materials, supplies and other merchandise not manufactured by the Insured;

- i. if repaired or replaced, the actual expenditure incurred in repairing or replacing the damaged or destroyed property; or
  - ii. if not repaired or replaced, the Actual Value.
- c) On bulk stock, the cost of replacement of the same quantity of bulk stock at the time of the Damage, with due allowance for exchange rate fluctuation or variation in the raw material cost, provided that the Sum Insured on stock of bulk stock at the time of the Damage is not less than the replacement cost of the quantity of bulk stock insured at the time of Damage;
- d) On Documents, the value blank plus the cost of copying information from back-up or from originals of a previous generation. These costs will not include research, engineering or any costs of restoring or recreating lost information.
- e) On gold, silver, jewellery, precious stones, works of art, rare books, sculptures, curios and collections where insured by this Policy, the lesser of:
- i. the reasonable and necessary cost to repair or restore such property to the physical condition that existed on the date of loss; or
  - ii. the cost to replace the article;
  - iii. the value, if any, stated in the Schedule pertaining to the specific article.
- f) On Electronic Data the cost to repair, replace or restore the medium containing such Electronic Data to the condition that existed immediately prior to the Damage, including the cost of reproducing any Electronic Data contained thereon, providing such medium is repaired, replaced or restored. Such cost of reproduction shall include all reasonable and necessary amounts, incurred by the Insured in recreating, gathering and assembling such Electronic Data. If the medium is not repaired, replaced or restored the basis of valuation shall be the cost of the blank media.
- g) On employees', directors' or visitors' property, the cost of repairing or replacing the item(s) as new, whichever is the lesser.
- h) On Motor Vehicles or motor chassis the Actual Value.
- i) On Buildings awaiting demolition, the costs of removing debris which is incurred by the insured solely as a result of the Damage;
- j) On all other Property Insured:
- i. where the Property Insured 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;
  - ii. where the Property Insured is damaged, the repair of the damage and the restoration of the damaged portion of the property to a condition substantially the same as but not better or more extensive than its condition when new.

## 2.5.2

### Basis of settlement conditions

- a) If the Insured elects and the Insurer agrees not to repair or reinstate any Property Insured, then the Insurer's liability shall be limited to the Actual Value of the Damaged Property Insured, however settlement on this basis shall be at the sole discretion of the Insurer.
- b) If the Insurer elects or becomes bound to reinstate or replace any Property Insured, the Insured will, at its own expense, produce and give to the Insurer all such plans, documents, books and information as the Insurer may require.
- c) The Insurer 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 bound to expend in respect of any item of the Property Insured more than the Sum Insured or Sub-Limit thereon.
- d) If at the time of any Damage to any Property Insured, such property is covered by any other insurance effected by or on behalf of the Insured but is not on the identical basis of Reinstatement to the terms of this clause, then this Policy excludes and does not cover payment of any amount in Excess of the amount that would have been payable if this condition had not been incorporated.
- e) The work of Reinstatement must be commenced and carried out with reasonable despatch, otherwise no payment will be made beyond the amount which would have been payable under this Insured Section if this condition had not been incorporated.
- f) The Insurer will have no liability to pay any amount beyond the amount that would have been payable under this Insured Section if this condition had not been incorporated until such time as the cost of Reinstatement has actually been incurred.

## 2.5.3

### Day one (1) basis – non adjustable

- a) For each item of Property Insured specified as 'Day one (1) operative' in the Schedule, the Insurer agrees to calculate the premium upon

the Declared Value provided that, at inception of this Policy and the commencement of each subsequent Period of Insurance, the Insured notifies the Insurer of the Declared Value of each such item (in the absence of such a notification, the last amount declared by the Insured will be taken as the Declared Value for the ensuing Period of Insurance).

- b) Where by reason of any provision of the Basis of Settlement conditions no payment is to be made beyond the amount that would have been payable if these conditions had not been incorporated, the Sum(s) Insured will be deemed to be the total of the Declared Value(s).

#### 2.5.4 Under-insurance

Each item of Property Insured covered is, to the extent specified in the Schedule as being covered on a Sum Insured basis, subject to the following conditions of average:

- a) Eighty five percent (85%) average

If at the time of Reinstatement the sum representing eighty five per cent (85%) of the cost that would have been incurred in Reinstatement, if the whole of the item of Property Insured had been destroyed, exceeds the Sum Insured thereon at the commencement of any Damage to such Property Insured, then the Insured will be considered as being its own Insurer for the difference between the Sum Insured and the sum representing the cost of reinstatement of the whole of the Property Insured and will bear a rateable proportion of the loss accordingly.

- b) Day one (1) basis average

Where Property Insured is specified as insured on a day one (1) basis then if at the time of loss the Declared Value of the Property Insured is less than the cost of Reinstatement at inception of the Period of Insurance, then the Insurer's liability for any loss hereby insured will be limited to that proportion thereof which the Declared Value bears to the cost of Reinstatement.

- c) Standard underinsurance condition

For Stock and Materials in Trade (other than stock of fuel), Documents, Electronic Data, motor vehicles and chassis or any Property Insured that has the Actual Value applied, then each item of property is covered on a Sum Insured basis and is declared to be separately subject to average that is, if at the commencement of any Damage, the value of Property Insured is collectively of greater value than the Sum Insured, then the Insured will be considered as being its own Insurer for the difference and will bear a rateable proportion of the loss accordingly.

- d) Specific underinsurance conditions applicable to bulk stock

- i. Where the quantity of bulk stock at damaged site, is at the time of Damage is greater than the quantity insured at that site advised to the Insurer at the commencement of the Period of Insurance (or any revised quantity subsequently advised to the Insurer), then the Insured will be considered as being its own Insurer for the difference and will bear a rateable proportion of the loss accordingly;
- ii. Where at the time of Damage the Sum Insured in respect of bulk stock is less than eight five percent (85%) of the replacement cost of the same quantity bulk stock at the commencement of the Period of Insurance (or as may subsequently revised and agreed by the Insurer), the Insured will pay a rateable proportion of the loss otherwise insured after the application of the above.

#### 2.5.5 Claim discharge

The Insured's or the Insured's personal representatives' receipt of the final adjusted claim settlement will discharge the Insurer.

#### 2.5.6 Compromised settlements

If the Insured compromises with the Insurer any claim under this insurance, where more than one (1) Party has an interest in the Property Insured, the Benefit will represent the total amount payable in respect of that Property Insured for the interests of all parties covered by this Insured Section.

#### 2.5.7 Contract price

In respect of Goods sold, but not delivered, for which the Insured is responsible under a contract of sale, if the contract of sale is cancelled wholly or in part by reason of the Damage, the liability of the Insurer will be based on the contract price of the Goods and in the event of underinsurance the value of all Goods to which this clause would in the event of Damage be applicable will be ascertained on the same basis.

#### 2.5.8 Contracting purchaser

If at the time of Damage to any Building insured under this Insured Section the Insured has contracted to sell its interest in such Building and the purchase has not been but is thereafter completed, the purchaser will be entitled (on completion of the purchase, and then only so far as the property is not otherwise insured by or on behalf of the purchaser against such Damage) to the Benefit of this Insured Section insofar as it relates to such Damage, without prejudice to the rights and liabilities of the Insured or the Insurer under this Insured Section up to the date of completion.

#### 2.5.9 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 the Insured's books.

#### **2.5.10 Errors and omissions**

The Insured shall not be prejudiced by an unintentional and/or inadvertent omission, error or incorrect description of the Property Insured, provided that:

- a) notice is given to the Insurer as soon as practical upon discovery of any such error or omission, and
- b) the Insured pays any extra premium on all such property as from the inception of this policy or from the date of the Insured's interest in such property is acquired, if the property in question is erected or purchased after the inception of this Policy that the Insurer requires, and
- c) this clause shall not be construed to cover any Property Insured or cause that would otherwise be excluded by this Policy;
- d) the Insurer's liability shall not exceed the Sub-Limit shown in the Schedule in respect of this clause

#### **2.5.11 Involuntary betterment**

Where Property Insured is Damaged and requires replacement and similar property is not obtainable, the Insurer agrees:

- a) to accept, without deduction for betterment, replacement property which is as similar as possible and which is capable of performing the same function; and
- b) to pay the cost of purchasing and installing technologically current equipment which is necessitated by incompatibility between:
  - i. the equipment installed to replace Damaged equipment; and
  - ii. undamaged existing equipment at the same or interdependent location.

The Insurer shall not be liable to pay more than the amount sufficient to enable the Insured to resume operations in substantially the same manner as before the Damage.

#### **2.5.12 Other parties**

The interest of such other parties including, as the case may be, lessors, mortgagees, banks and hire purchase companies is noted in this insurance but only to the extent of their financial interest in the Property Insured.

In the event of any claim, the:

- a) Insured will immediately declare to the Insurer the names of such interested parties;
- and

- b) Insurer will consult with such declared interested parties as regards the manner and method of any indemnity so as to protect the direct financial interests of such parties.

#### **2.5.13 Pairs and set settlement basis**

This insurance shall include the resulting reduction in value of the remaining Undamaged components or parts of Products customarily sold as individual units or sold as pairs, sets or lots or ranges of sizes or colours.

#### **2.5.14 Reinstatement of Sum Insured following loss**

In consideration of this insurance not being reduced by the amount of any loss under this Insured Section the Insured will pay such additional premium to the Insurer as may be required.

#### **2.5.15 Stock declaration**

In respect of Stock and Materials in Trade and any item of stock more specifically insured hereby where the Stock declaration condition is stated as 'operative' in the Schedule, this insurance is subject to the following special provisions:

- a) the first and annual premiums are provisional and are subject to adjustment as described below;
- b) declarations of the value of such Stock and Materials in Trade on the last day of each quarter shall be made in writing by the Insured to the Insurer within thirty days of the close of the said period. If no declaration is given, the Insured will be deemed to have declared the maximum Sum Insured as the value;
- c) on the expiry of each Period of Insurance the actual premium payable will be calculated at the rate agreed upon the average Sum Insured, i.e. the total of the Sums Insured declared divided by the number of declarations. If the premium due is greater than the provisional premium, the Insured will pay the difference or if it is less, the difference will be repaid to the Insured;
- d) in consideration of the insurance not being reduced by the amount of any loss, the Insured will pay such extra premium as may be required.

#### **2.5.16 Subrogation waiver**

In the event of a claim arising under this Insured Section the Insurer agrees to waive any rights, remedies or relief to which it might become entitled by Subrogation, following Damage covered by this Insured Section, against:

- a) any company standing in the relation of parent to subsidiary (or subsidiary to parent) to the Insured as defined in the Companies Act 2006 or Companies (N.I.) Order 2006, as appropriate, current at the time of the loss; and

- b) any company that is a subsidiary of a parent company of which the Insured is itself a subsidiary, in each case within the meaning of the Companies Act 2006 or Companies (N.I.) Order 2006, as appropriate, current at the time of the loss.

### 2.5.17 VAT clause – United Kingdom only

In respect of Property Insured in the United Kingdom, this Policy is extended to include the cost of VAT paid by the Insured (including self-supply value added tax where appropriate) which is not subsequently recoverable following Damage to the Property Insured provided that:

- a) the Insured's liability for such tax arose solely as a result of the Reinstatement and/or repair of the Property Insured following Damage;
- b) the Insurer has paid and or has agreed to pay for such Damage;
- c) if any payment made by the Insurer in respect of the Reinstatement and/or repair of such Damage shall be less than the actual cost of the Reinstatement and/or repair, any payment under this clause resulting from the Damage shall be reduced in like proportion;
- d) the Insured's liability for such tax does not arise from the replacement premises having greater floor area than and/or being better and/or more extensive than the Damaged Premises;
- e) where an option to reinstate on another site is exercised, the Insurer's liability shall not exceed the amount of tax that would have been payable had the Premises been rebuilt on its original site;
- f) the Insurer's liability shall not include amounts payable by the Insured as penalties and/or interest for non-payment and/or late payment of tax; and
- g) terms to the contrary elsewhere in this Policy are over-ridden as follows in respect of those items to which this clause applies:
  - i. for the purposes of the Basis of settlement clause and the rent clause, Reinstatement costs and Rent shall be exclusive of VAT; and
  - ii. the liability of the Insurer may exceed the Sum Insured by an individual item on Buildings or Rent or in the whole the total Sum Insured where such Excess is solely in respect of VAT.

### 2.5.18 Workmen

Workmen may be employed to carry out alterations, repair, decoration, plant installation, general maintenance and the like at the Premises without prejudice to the insurance.

## 2.6

### Conditions precedent applicable to this Insured Section

Where the Insured has procured this insurance in the capacity of landlord but does not occupy or otherwise use the Premises, then the duties imposed by these Conditions precedent apply from the time the Insured or any agent of the Insured acquires knowledge of non-compliance.

## 2.6.1

### Automatic sprinkler installations

Where the Property Insured is protected by an automatic sprinkler installation in accordance with details declared to the Insurer at the commencement of each Period of Insurance, it is agreed as a condition precedent to the Insurer's liability under this Insured Section for fire or sprinkler leakage that:

- a) the installation is subject to maintenance agreements with the manufacturers or installers and is maintained in full working order during the currency of this insurance;
- b) the Insured will ensure that the following work is carried out:
  - i. a test will be made every week for the purpose of ascertaining that the alarm is in working order and that the stop valves controlling the water supplies of the installation are fully open;
  - ii. if required by the Insurer, quarterly or half yearly tests will be made for the purpose of ascertaining that each water supply is in order and the particulars of each test will be recorded;
  - iii. any defect whether revealed by such tests or otherwise will be remedied promptly;
- c) the Insured will notify the Insurer immediately should the water supplies be turned off or the sprinkler installation be rendered inoperative from any cause;
- d) the Insured will at all times take reasonable steps to prevent frost and other Damage to the automatic sprinkler installation in so far as their responsibility extends to maintaining the installation;
- e) whenever it is the intention to make any changes, repairs or alterations to the installation, the Insured will give written notice to the Insurer and obtain its permission in writing;
- f) in the event of any discharge or leakage the Insured will do and permit to be done all things practicable, whether by removal or otherwise, to save and protect the Property Insured;
- g) the Insured will allow the Insurer to have access to the Premises at all reasonable



times for the purposes of inspection and if the Insurer notifies the Insured of any defects in the condition of the installation, the Insurer may at its option suspend sprinkler leakage cover until the defects have been remedied and approved by the Insurer.

Cover provided by this Insured Section will not be invalidated by any defect in the said systems due to circumstances beyond the control of the Insured.

## 2.6.2 Hot work permit

It is a condition precedent to the Insurer's liability under this Insured Section for fire caused by hot works that:

- a) a hot work permit in the form set out in Loss Prevention Recommendation RC7 published by the Fire Protection Association (FPA) or the QBE Hot Work Permit or such similar permit or documentation, is completed jointly by the person responsible for carrying out the work and the Insured's safety officer (or nominated person) before any Hot Work commences; and
- b) the precautions and systems of work shown on the designated hot work permit are complied with at each stage of the Hot Work.

Hot work means work involving use of a naked flame or other heat source or oxyacetylene, electric arc or similar welding, cutting, grinding or other spark emitting equipment by any person (whether a third Party contractor, an employee or other) at the Premises (other than as an integral part of the Insured's trade processes).

## 2.6.3 Intruder and fire alarm

As regards Damage caused by, arising from or contributed to by fire, explosion, subterranean fire and theft it is agreed as a condition precedent to the Insurer's liability under this Insured Section that in relation to any intruder and/or fire alarm, the Insured will:

- a) ensure the alarm system is installed in accordance with the manufacturer's specification and any other specifications of the Insurer and no alteration or variation of the system or any structural alteration to the Premises which would affect the system will be made without the prior written consent of the Insurer, such consent not to be unreasonably withheld;
- b) ensure that the intruder and/or fire alarm is in full and efficient working order at all times and regularly serviced under the manufacturer's maintenance contract and in accordance with any other maintenance requirements of the Insurer;
- c) notify the Insurer forthwith of any defects that arise in such alarm systems, procure that such defects are remedied as soon

as is practicable and notify the Insurer forthwith once such defects are remedied;

- d) ensure that the intruder alarm is tested and fully set whenever the alarmed portion of the Premises is closed for Business or not attended by the Insured or any competent adult authorised by the Insured to be responsible for the security of the Premises;
- e) ensure that the fire alarm is tested at least weekly and continually set in active mode;
- f) notify the Insurer immediately of any disconnection or failure of or downgrading of police or fire brigade response to the system likely to leave any area unprotected;
- g) ensure that there are available key holders notified to all appropriate services.

The Insurer will not be liable for Damage caused by fire, explosion, subterranean fire and theft subsequent to the Insured receiving a written notification from an intruder and/or fire alarm company that the maintenance is suspended or from the relevant police authority or fire brigade that alarm signals from the Premises will no longer be answered.

Cover provided by this Insured Section will not be invalidated by any defect in the said systems due to circumstances beyond the control of the Insured arising after the systems have been properly set.

## 2.6.4 Maintenance of fire extinguishers

It is agreed as a condition precedent to the Insurer's liability under this Insured Section for Damage caused by fire or accidental discharge of fire extinguishers that the Insured will:

- a) inspect the appliances regularly for the purposes of ascertaining that they are maintained in proper working order and keep a written record thereof;
  - b) remedy any defect promptly, whether disclosed by any such inspection or otherwise;
  - c) establish and maintain a training programme for the operation of fire extinguishing appliances and retain a documented register of all such training for inspection by the Insurer on request;
- ensure that fire extinguishers are subject to maintenance agreements with the manufacturers or installers.

Cover provided by this Insured Section will not be invalidated by any defect in the said appliances due to circumstances beyond the control of the Insured.



## 3 INSURED SECTION – BUSINESS INTERRUPTION

### 3.1 Business interruption cover

#### 3.1.1 Insuring Clause

The Insurer will indemnify the Insured in accordance with each item of business interruption insurance which is described below and shown as operative in the Schedule, for loss caused by the interruption of or interference with the Business resulting directly from Damage to property used by the Insured at the Premises within the Territorial Limits, provided that:

- a) at the time the Damage occurs there is in force either:
  - i. cover under the Insured section-property of this policy, or
  - ii. an insurance policy covering the interest of the Insured in the property at the Premises against such Damage and such property is of a type and kind not excluded by this Insured Section;
- b) at the time the Damage occurs the Insured has claimed under the policy referred to in above and the relevant insurer has paid such 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; and
- c) the liability of the Insurer under this Insured Section shall not exceed:
  - i. the Sum(s) Insured for the items show as 'insured' in the Schedule; or
  - ii. any applicable Sub-Limit stated in the Schedule.

#### 3.1.2 Insurable Gross Profit/Estimated Insurable Gross Profit

The Insurer's liability in respect of Insurable Gross Profit/Estimated Insurable Gross Profit is limited to loss caused by a reduction in Turnover and/or an increase in cost of working. The Insurer's liability under this Insured Section in respect of Insurable Gross Profit/Estimated Insurable Gross Profit will be:

- a) in respect of reduction in Insurable Gross Profit: 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;
- b) in respect of increased cost of working:

the additional expenditure 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;

- c) minus, regardless of whether the calculation is based on the reduction of Turnover or increased 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 Insurable Gross Profit as may cease or be reduced in consequence of the Damage;

except that, in either case, if the Sum Insured in respect of Insurable 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), the Insurer's liability will be proportionately reduced.

If any Specified Working Expenses of the Business deducted in arriving at the Insurable Gross Profit are not insured under this Insured Section then in computing the amount recoverable as increased cost of working, the amount of additional expenditure that will be taken into account will be reduced by the proportion that the Insurable Gross Profit bears to the sum of the Insurable Gross Profit and the Specified Working Expenses.

#### 3.1.3 Gross Revenue/Estimated Gross Revenue

The Insurer's 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 and the Insurer's liability under this Insured Section in respect of Gross Revenue/Estimated Gross Revenue will be:

- a) 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;
- b) in respect of increased 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;
- c) minus, regardless of whether the calculation is based on, the reduction in Revenue or the

increased 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;

- d) except that, in either case, if the Sum Insured in respect of Gross Revenue is less than the Annual Gross Revenue (or a proportionately increased multiple thereof where the Maximum Indemnity Period exceeds twelve months), the Insurer's liability will be proportionately reduced.

### 3.1.4 Additional cost of working

The Insurer's liability in respect of the additional cost of working is limited to the additional expenditure necessarily and reasonably incurred by the Insured for the sole purpose of avoiding or diminishing the reduction in Turnover which but for that expenditure would have taken place during the Indemnity Period in consequence of the Damage.

### 3.1.5 Rent Receivable

The Insurer's liability in respect of Rent Receivable is limited to loss of Rent Receivable and additional expenditure and the amount payable under this Insured Section will be:

- a) 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;
- b) in respect of increased cost of working: 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 reduction reasonably anticipated at the time the expenditure was incurred;
- c) 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;

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 (12) months), the Insurer's liability will be proportionately reduced.

### 3.1.6 Research and development

The Insurer's liability in respect of research and development costs is limited to the additional expenditure incurred as a result of Damage to property at the Premises that interrupts the current research and development programme

of the Business except that cover will be limited to the additional expenditure necessary to reinstate research and development projects to the stage they were at immediately prior to the Damage.

### 3.1.7

#### Outstanding Debit Balances

The Insurer agrees that if any records of accounts receivable used by the Insured at the Premises for the purpose of the Business should sustain Damage during the Period of Insurance and in consequence income is lost resulting from the Insured's inability to trace or establish their Outstanding Debit Balances then the Insurer will indemnify the Insured for the loss of income resulting from the Insured's inability to trace or establish their Outstanding Debit Balances as a direct result of Damage provided that:

- a) the liability of the Insurer under this Insured Section shall not exceed the Sum Insured or Limit of Liability for Outstanding Debit Balances stated in the Schedule;
- b) if at the time of any Damage the Sum Insured for Outstanding Debit Balances is less than the actual balances, the amount payable by the Insurer will be proportionately reduced
- c) All paper records and books of accounts are in which customers' accounts are kept in fire resistance cabinet or safe when not in use;
- d) All electronic records are backed up at least weekly to disks which are stored off site or to a cloud based computer service;

In addition, the Insurer will pay expenses incurred with its consent in tracing and establishing customers' debit balances after the Damage.

After payment of any claim hereunder, all amounts recovered by the Insured on accounts receivable for which the Insured has been indemnified for outstanding debit balances will belong and be paid immediately to the Insurer by the Insured up to the total amount of loss paid by the Insurer.

### 3.2

#### Additional costs and expenses indemnifiable by this Insured Section

This Insured Section shall provide indemnity to the Insured for the following costs and expenses that may be incurred following Damage.

### 3.2.1

#### Professional accountants

- a) Any particulars or details contained in the Insured's books of account or other Business books or documents which may be required by the Insurer under 'Duties in the event of a claim or potential claim' clause to this Policy for the purpose of investigating or verifying any claim made under this Policy may be produced by professional accountants if at the time they are regularly acting as such for the Insured and their report will be

the basis for evidence of the particulars and details to which such report relates, unless any such contradictory circumstance or evidence is apparent in which case the onus to prove the loss shall be upon the Insured.

- b) The Insurer will indemnify the Insured for the reasonable charges payable by the Insured to their professional accountants for producing such particulars or details or any other proofs, information or evidence as may be required by the Insurer under the terms of 'Duties in the event of a claim or potential claim' clause to this Policy and reporting that such particulars or details are in accordance with the Insured's books of account or other Business books or documents.

### 3.3 Extensions applicable to this Insured Section

This Insured Section is extended to include the following additional coverages.

Provided that the Insurer's liability shall not exceed the Sublimit applicable to each clause stated, and unless expressly stated to the contrary, these extensions do not increase the Sum(s) Insured and any Sub-Limits stated form part of and are not additional to the Sums Insured.

#### 3.3.1 Additional increased cost of working

This Insured Section is extended to indemnify the Insured for the additional expenditure necessarily and reasonably incurred during the Indemnity Period in consequence of the Damage for:

- a) preventing or minimising a reduction in Turnover; and/or
- b) resuming or maintaining normal Business operations Provided that the amount payable as indemnity shall:
  - i be over and above the amount recoverable under the increased costs of working clauses included within the Insurable Gross Profit/estimated Insurable Gross Profit, Gross revenue/estimated gross revenue and Rent receivable items
  - ii not exceed the Sub-Limit on additional increased cost of working stated in the Schedule.

#### 3.3.2 Customers and suppliers Premises

This Insured Section is extended to cover the Insured for loss resulting from interruption of or interference with the Business as insured by this Insured Section resulting from Damage to property of a kind not excluded by this Insured Section at the premises of the Insured's direct customers and direct suppliers except that the Insurer will not provide cover under this clause for:

- a) Damage to the premises and/or transmission and distribution lines, pipes,

cables and masts of the Insured's electricity, gas, water or telecommunications services providers;

- b) Damage to :
  - i premises of unspecified customers and unspecified suppliers outside the United Kingdom;
  - ii premises of specified customers and specified suppliers outside the United Kingdom by any cause other than direct physical damage by fire, lightning, explosion or aircraft impact (or the impact of articles dropped from aircraft)
- c) any amount in Excess of the greater of either:
  - i the respective percentage of the Insurable Gross Profit or Gross Revenue (where stated) in respect of each customer and supplier in respect of any one (1) Occurrence; or
  - ii the appropriate Sub-Limit for any one (1) Occurrence shown in the Schedule in respect of any one customer or supplier;

#### 3.3.3 Damage to Property at contract sites

This Insured Section is extended to cover the Insured for loss resulting from interruption of or interference with the Business as covered by this Insured Section caused by Damage to property away from Premises (but within the Territorial Limits) where the Insured is carrying out work as part of the Business.

#### 3.3.4 Damage to Motor Vehicles

This Insured Section is extended to cover the additional expenditure necessarily and reasonably incurred by the Insured for the sole purpose of avoiding or diminishing the reduction in Turnover which but for that expenditure would have taken place during the Indemnity Period in consequence of Damage to Motor Vehicles and trailers that are specifically built to carry Goods which are subject to:

- a) The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009
- b) The Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations (Northern Ireland) 2010;
- c) The 'Approved List of Dangerous Substances' as published by the Health and Safety Executive;

or any re-enactment or replacement of such regulations with any other legislation of similar intent (including subsequent legislation) if applicable.

**3.3.5 Denial of Access**

This Insured Section is extended to cover loss resulting from interruption of or interference with the Business as covered by this Insured Section caused by Damage to property within two hundred and fifty (250) metres of the perimeter of the Premises which physically prevents or hinders the use of the Premises or access thereto, whether the Premises or Property Insured therein shall be Damaged or not.

**3.3.6 Inter-group dependency**

This Insured Section is extended to cover loss resulting from interruption of or interference with the Business as covered by this Insured Section resulting from Damage to property at any other Premises, or any premises of a Subsidiary Company, or holding company of the Insured (including those not insured hereunder) provided that the property is situated within the Territorial Limits.

**3.3.7 Interruption by electronic risks**

This Insured Section is extended to cover loss resulting from interruption of or interference with the Business as covered by this Insured Section for loss incurred during the Period of Indemnity directly as a result of the total or partial interruption, degradation in service or failure of the Insured's Computer Equipment caused by the failure by the Insured or a Service Provider to protect against unauthorised access to, unauthorised use of, a denial of service attack against, or transmission of a computer virus to the Insured's Computer Equipment that takes place during the Period of Insurance, provided that:

- a) the Insurer shall not be liable for:
  - i the first period stated in the Schedule as the time retention commencing from the time the damage to the Insured's Computer Equipment has a pecuniary effect on the Insured's Business;
  - ii any loss directly or indirectly arising from any computer virus which indiscriminately replicates itself and automatically disseminates on a global or national scale and/or was not specifically targeted at the Insured;
- b) the Insured will take all reasonable steps at its own expense to prevent loss arising or continuing and to minimise any claims which arise or may arise including but not limited to:
  - i having anti-virus software and anti-spyware operating on all Computer Equipment which is running, correctly configured and regularly or automatically updated;
  - ii having a fire wall or similar configured device to control access Computer

Equipment;

- iii encrypting and controlling the access of all Computer Equipment including but not limited to external devices and plug-in devices networked to Computer Equipment;
- iv controlling unauthorised access to computer equipment by correctly configuring its wireless network;
- v changing all passwords on Computer Equipment at least every sixty (60) days and cancel any username, password or other security protection after it knew or had reasonable grounds to suspect that it had been available to any unauthorised person;
- vi taking regular back-up copies of any data, file or programme;
- vii having an operational system for logging and monitoring user activity on Computer Equipment;
- viii updating Computer Equipment with new protection patches issued by the original system or software manufacturer or supplier;
- ix keeping up to date with and implementing all the latest requirements of data protection legislation or regulation.

**3.3.8 Loss of attraction**

This Insured Section is extended to cover loss as covered by this Insured Section in consequence of diminution of attraction to the Premises following Damage to property occurring at any other site within a one (1) mile radius of any of the Premises, provided that the Insurer shall not be liable for loss relating to the first number of hours specified in the Schedule as the Excess of each and every interruption or interference.

**3.3.9 Notifiable Disease, murder or suicide, food or drink or poisoning**

This Insured Section is extended to cover loss resulting from interruption of or interference with the Business as covered by this Insured Section 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) an occurrence of a Notifiable Disease within a radius of one (1) mile of the Premises;
- d) the discovery of vermin or pests at the Premises which causes restrictions on the use of the Premises on the order or advice of the competent local authority;

- e) an accident causing defects in the drains or other sanitary arrangements at the Premises which causes restrictions on the use of the Premises on the order or advice of the competent local authority;
- f) an occurrence of actual or suspected murder, suicide or actual or alleged sexual assault at the Premises; provided that :
  - i the Insurer shall only be liable for loss arising at those Premises which are directly subject to the incident;
  - ii the Insurer shall not be liable for any costs incurred in cleaning, repair, replacement, recall or checking of property except as stated above;
  - iii the Insurer's maximum liability under this clause in respect of any one Occurrence shall not exceed the Sub-Limit in respect of this clause which shall apply in the aggregate for the Period of Insurance.

### 3.3.10 Storage locations

This Insured Section is extended to cover the Insured for loss resulting from interruption of or interference with the Business as insured by this Insured Section resulting from Damage to property of a kind not excluded by this Insured Section at premises not owned or occupied by the Insured but used by the Insured for storage.

The Insurer will not provide cover under this clause for:

- a) Damage at storage locations outside the United Kingdom;
- b) Damage at the premises of the Insured's customers and suppliers;

### 3.3.11 Utilities supply

This Insured Section is extended to cover loss resulting from interruption of or interference with the Business as covered by this Insured Section caused by:

- a) Damage to any:
  - i generating station or sub-station of the electricity supply undertaking;
  - ii land-based premises of the gas supply undertaking or of any natural gas producer linked directly therewith;
  - iii water works or pumping station of the water supply undertaking; or iv) land-based premises of the telecommunications undertaking;
- b) from which the Insured obtains electricity, gas, water or telecommunication services. c)

- c) failure at the Premises of:
  - i the terminal ends of the electricity supply utility service feeders;
  - ii the supply of gas at the supply utility meters;
  - iii the supply of water at the supply utility main stopcock; or
  - iv the supply of telecommunication services at the incoming line terminal or receivers. Provided that:
- d) The Insurer will not be liable under this clause or elsewhere under this Policy for interruption or interference with the Business caused by Damage:
  - i resulting from the deliberate act of any supply utility undertaking or the exercise by any such utility undertaking of its power to withhold or restrict supply or services;
  - ii resulting from strikes or any labour or trade dispute;
  - iii resulting from drought;
  - iv resulting from any other atmospheric or weather conditions, but not excluding accidental failure due to damage to supply utility equipment caused by such conditions;
  - v to electricity, gas, water or telecommunications transmission lines or pipes except that this exclusion shall not apply to such property for which the Insured is responsible that is located on, under or over the Insured's Premises;
  - vi to any satellite or interruption in the supply of any telecommunication;
  - vii where the period of interruption or interference is less than the number of hours specified in the Schedule as the Excess.

## 3.4 Limitations and exclusions applicable to this Insured Section

In addition to the limitations and exclusions applicable to this Insured Section in the Exclusions applicable to the insured sections from property to terrorism (inclusive), the following are excluded from and not covered by the insurance under this Insured Section:

### 3.4.1 Disused, Unoccupied or vacant Buildings

Interruption or interference with the Business following Damage to Buildings which are or become Unoccupied, however this exclusion shall not apply if the Insured has given notice to

the Insurer that the Building is or will become Unoccupied and the Insured pays any extra premium as the Insurer may require to provide cover in respect of such cover and:

- a) all main services are turned off at the mains and water tanks drained and emptied in respect of Damage caused by escaping water from any pipe, tank, water system or automatic sprinkler installation;
- b) all combustible materials not forming part of the landlord's fixtures and fittings are removed from inside and outside the buildings in respect of Damage by fire;
- c) all ground floor windows and letterboxes are securely boarded over, and all reasonable precautions are taken to secure the Buildings against unauthorised entry in respect of theft.

Notwithstanding the above, this Insured Section excludes and does not cover Interruption or interference with the Business following Damage caused (other than by fire or explosion) by riot, civil commotion, malicious damage or vandalism to Buildings which are or become Unoccupied.

### 3.4.2 Excluded Property

interruption or interruption with the Insured's Business caused by or resulting from Damage to, or in connection with:

- a) the following property, unless specified to the contrary in the Schedule:
  - i livestock, bloodstock, fishstock, growing crops or trees;
  - ii watercraft or aircraft or other aerial devices or missiles or satellites;
  - iii motor vehicles or their contents, accessories, caravans or trailers except for such property that is not licensed for road use;
  - iv Money, bullion, foreign coins counterfeit or substitute Money; and
  - v land, piers, jetties, bridges, culverts or excavations;
  - vi property in the course of erection or installation;
  - vii property in Transit except as specified in the Property at other locations clause in the Insured section - Property;
  - viii explosives;
  - ix gold, silver, jewellery, precious stones, works of art, rare books, sculptures, curios and collections except as specifically covered in the Valuables clause to Insured section - Property;

- b) moveable Property in the Open, gates or fences, unless the Damage is caused by fire, lightning, aircraft, explosion, earthquake, riot, civil commotion, malicious persons or impact;

### 3.4.3 Other loss recoverable

Indemnity for any loss where payment has been made in respect of insured costs or expenses under any other Insured Section of this policy or another contract of insurance.

### 3.4.4 Off Premises Damage

Any loss caused by:

- a) acts of any civil, government or military authority caused by or following:
  - i conflagration; or
  - ii Storm; or
  - iii earthquake; or
  - iv explosion; or
  - v impact by aircraft or other ariel or spatial device; or
  - vi Flood; or
  - vii actual or suspected presence of any radioactive or toxic material (including "dirty bombs"); or
  - viii suspect packages;
- b) Damage to
  - i any property in the vicinity of the Insured's Premises or Property Insured;
  - ii the property of the Insured's electricity, gas, water or telecommunications supplier;
  - iii the property of any Party in the supply chain to the Insured;
  - iv the property of any Party in the distribution chain from the Insured.
  - v any location not owned or occupied by the Insured but where Property Insured is stored.

other than to the extent provided in the various extension clauses contained in this Insured Section or may be added by endorsement

### 3.5 Other terms and conditions applicable to this Insured Section

#### 3.5.1 Alternative trading

If during the Indemnity Period Goods are sold or services rendered elsewhere than at the Premises for the Benefit of the Business, either by the Insured or by others on the Insured's behalf,



the amount received by the Insured in respect of such sales or services will be brought into account in calculating the Turnover during the Indemnity Period.

### 3.5.2 Declaration linked condition

In respect of sums insured specified as 'declaration linked condition operative' in the

Schedule:

- a) The Insured will prior to each renewal furnish the Insurer with the Estimated Insurable Gross Profit or Estimated Gross Revenue to be insured. Such amounts are to be calculated on the basis of the respective amounts for the financial year most nearly concurrent with the ensuing Period of Insurance;
- b) The first and annual premiums in respect of Estimated Insurable Gross Profit or Estimated Gross Revenue as insured by this Insured Section are provisional and calculated on the basis of the Estimated Insurable Gross Profit or Estimated Gross Revenue;
- c) The Insured will furnish to the Insurer not later than six (6) months after the expiry of each Period of Insurance a declaration certified by the Insured's professional accountants of the Insurable Gross Profit or Gross Revenue earned during the financial year most nearly concurrent with the Period of Insurance;
- d) If at or prior to the date of the certified declaration furnished by the Insured, Damage has occurred giving rise to a claim for loss of Insurable Gross Profit or Gross Revenue the amount of Insurable Gross Profit or Gross Revenue certified in such declaration will be deemed by the Insurer for the purpose of premium calculation to have been increased by the amount by which the Insurable Gross Profit or Gross Revenue was reduced in consequence of the Damage during the financial year;
- e) If the amount of Insurable Gross Profit or Gross Revenue certified in the declaration (adjusted as provided above and proportionately increased where the Maximum Indemnity Period exceeds twelve months) is less than the Estimated Insurable Gross Profit or Estimated Gross Revenue as insured hereby for the relative Period of Insurance the Insurer will allow a pro rata return of the premium paid on the Estimated Insurable Gross Profit or Estimated Gross Revenue as insured, but not exceeding twenty five per cent (25%) of such premium; or
- f) If the amount of Insurable Gross Profit or Gross Revenue certified in the declaration (adjusted as provided above and proportionately increased where the Maximum Indemnity Period exceeds twelve

months) is greater than the Estimated Gross Profit or Estimated Gross Revenue as insured hereby for the relative Period of Insurance, the Insured will pay a pro rata extra premium on the Estimated Insurable Gross Profit or Estimated Gross Revenue as insured;

- g) Notwithstanding any other clause of this Policy, the liability of the Insurer:
  - i) in respect of Insurable Gross Profit or Gross Revenue will in no case exceed the percentage up lift shown in the Schedule applied to the Estimated Insurable Gross Profit or Estimated Insurable Gross Revenue; or in respect of each other item one hundred per cent (100%) of the sum stated in the Schedule; or
  - ii) for all items insured by this Insured Section the sum of the percentage up lift applied to each item of Estimated Insurable Gross Profit or Estimated Gross Revenue and one hundred per cent (100%) of the Sums Insured in respect of all other items specified;
- h) In the absence of written notice by the Insured or the Insurer to the contrary the Insurer's liability will not be reduced by the amount of any loss and the Insured will pay such extra premiums, as the Insurer requires for such automatic reinstatement of cover;
- i) The averaging provisions in the Insurable Gross Profit/Estimated Insurable Gross Profit and the gross revenue/Estimated gross Revenue clauses are deleted and of no effect.

### 3.5.3 Delayed loss

In adjusting any loss, the Insurer will take into account and make an equitable allowance if any reduction in Turnover due to the Damage is postponed by reason of the Turnover being temporarily maintained from accumulated stocks of finished Goods.

### 3.5.4 Departmental

If the Business is conducted in departments and the independent trading results of each department are ascertainable and can be distinguished from each other, the provisions of this Insured Section will apply separately to each department affected by the Damage except that, if the Sum Insured is less than the aggregate of the sums of the Insurable Gross Profit or Gross Revenue as stated in the Schedule for each department of the Business (whether affected by the Damage or not), the Insurer's liability will be reduced pro rata accordingly.

### 3.5.5 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 General Definitions and Interpretation will be adjusted to apply to the Gross Profit and outgoing during the period from commencement of the Business to the date of the Damage.

### 3.5.6 Payments on account

If the Insured so requests, the Insurer will, subject to its prior consent which consent will not be unreasonably withheld, make payments to the Insured monthly on account during the Indemnity Period, provided always that:

- a) the aggregate amount of such payments shall not exceed the Sum Insured under the item for which the claim is being paid hereunder, and
- b) that if the total adjusted loss under this Insured Section differs from the quantum of the payments made under this clause then the Insurer and the Insured mutually agree to pay or return the difference accordingly.

### 3.5.7 Refund of premium

Where the Schedule specifies 'Refund of premium Yes', then in the event of the Gross Profit or Gross Revenue during the financial year most nearly concurrent with any Period of Insurance being less than the Sum Insured a pro rata return of premium will be made in respect of the difference provided that the Gross Profit or Gross Revenue earned is certified by the Insured's professional accountants, proportionately increased if the Indemnity Period exceeds twelve (12) months. In any event, the return of premium will not exceed twenty five per cent (25%) of the premium paid on such Sum Insured for such Period of Insurance.

### 3.5.8 Reinstatement of Sum Insured following loss

In consideration of this insurance not being reduced by the amount of any loss under this Insured Section the Insured will pay such additional premium to the Insurer as may be required.

### 3.5.9 Salvage sale

If following Damage giving rise to a claim under this Insured Section, the Insured holds a salvage sale during the Indemnity Period, the reduction in turnover item of the Insurable Gross Profit/ Estimated Insurable Gross Profit Clause will for the purpose of such claim read as follows:

In respect of reduction in Turnover: the sum produced by applying the Rate of Insurable Gross Profit to the amount by which the Turnover during the Indemnity Period (less the Turnover for the period of the sale) in consequence of the Damage falls short of the Standard Turnover from which will be deducted the Insurable Gross Profit actually earned during the period of the salvage sale.'

### 3.5.10 Subrogation waiver

In the event of a claim arising under this Insured Section, the Insurer agrees to waive any rights,

remedies or relief to which it might become entitled by Subrogation against:

- a) any company standing in the relation of parent to subsidiary (or subsidiary to parent) to the Insured as defined in the Companies Act 2006; Companies (N.I.) Order 2006 or similar legislation in other countries defined in the Territorial Limits, as appropriate, current at the time of the Damage;
- b) any company which is a subsidiary of a parent company of which the Insured is itself a subsidiary, in each case within the meaning of the Companies Act 2006; Companies (N.I.) Order 2006 or similar legislation in other countries defined in the Territorial Limits, as appropriate, current at the time of the Damage. .

## 4 INSURED SECTION – GOODS IN TRANSIT

### 4.1 Goods in Transit cover

**4.1.1** The Insurer will indemnify the Insured in accordance with the Basis of Settlement clause for Damage to Goods in Transit provided that Damage occurs:

- a) during the Period of Insurance; and
- b) within the Territorial Limits.

The liability of the Insurer under this Insured Section will not exceed the Sums Insured stated in the Schedule.

### 4.2 Additional costs and expenses indemnifiable by this Insured Section

This Insured Section shall provide indemnity to the Insured for the following costs and expenses that may be incurred following Damage.

#### 4.2.1 Transfer expenses

The Insurer will indemnify the Insured for the costs and expenses reasonably and necessarily incurred by the Insured for the costs incurred for:

- a) transferring the Goods in Transit to another vehicle; or
- b) reloading onto the original vehicle for onward delivery or return to the point of origin; or
- c) the removal of debris of the Goods (but not the vehicle, the trailer or any part thereof); Should the vehicle carrying the Goods be involved in fire, explosion, collision or overturning, provided that the Insurer's liability under this clause will not exceed the Sub-Limit stated in the Schedule.

### 4.3 Extensions applicable to this Insured Section

This Insured Section and this Policy insofar as they apply, the insurance by this Insured Section is extended to include the following additional coverages.

#### 4.3.1 Employees' effects

The Insurer will indemnify the Insured for the Actual Value of employees' personal property if Damaged by fire, explosion, theft, collision or overturning of the carrying vehicle, when the employee is accompanying Goods in Transit provided that:

- a) there is no indemnity available under any other more specific insurance; and
- b) the Insurer's liability under this clause will not exceed the Sub-Limit stated in the Schedule.

### 4.3.2 Ropes/sheets

The insurance by this Insured Section is extended to include ropes, sheets, tarpaulins, trolleys and the like while in Transit, provided that the Insurer's liability under this clause will not exceed the Sub-Limit stated in the Schedule.

### 4.4 Limitations and exclusions applicable to this Insured Section

In addition to the limitations and exclusions applicable to this Insured Section in the Exclusions applicable to the insured sections from property to terrorism (inclusive), the following are excluded from and not covered by the insurance under this Insured Section:

#### 4.4.1 Animals

Damage to animals, bloodstock, livestock or fishstock;

#### 4.4.2 Food, change in temperature

deterioration of Goods conveyed in a refrigerated, frozen, chilled or insulated condition, which results from variation in temperature unless as a result of an accident to the conveying vehicle;

#### 4.4.3 Consequential loss

Damage other than the Damage expressly and specifically insured under this Insured Section;

#### 4.4.4 Dangerous Goods

Damage caused by or in respect of Goods that are subject to the Carriage of Dangerous Goods and Use of Transportable Pressure Equipment Regulations 2009;

#### 4.4.5 Fragile articles

breakage of clocks, scientific instruments, china, glass, marble, earthenware or other articles of value unless consequent upon and in which the carrying vehicle, vessel or aircraft is damaged;

#### 4.4.6 Inadequate packing

Damage caused by or attributable to defective or inadequate packing or stacking or protection against climatic conditions (other than by lightning) or incorrect and insufficient addressing of any parcel or package;

#### 4.4.7 Theft

theft or attempted theft:

- a) From an Unattended Vehicle under the control of the Insured unless:
  - i. While during the work day, shift period or during a break taken during the Transit:
    - I. all doors have been securely locked and all windows and other openings securely and adequately fastened;

- II. any immobiliser and any alarm fitted to the said vehicle is correctly set to operate; and
  - III. all keys are removed unless the vehicle is being operated as a tool of trade and such operation requires that the keys remain in the ignition so to provide power;
- b) after the last Business Transit of the work day or shift:
- i. all keys are removed until collected by the driver for the next business Transit; and
  - ii. the vehicle is housed in a securely locked building of substantial construction or a compound which has secure walls and/or fences and securely locked gates.
- c) Of Goods carried in or on open sided / curtained vehicles, or on any vehicle that cannot be secured.

#### 4.4.8 Open sided/curtained vehicles

malicious damage or vandalism of Goods carried in or on open sided / curtained vehicles, or on any vehicle that cannot be secured;

#### 4.4.9 Valuables and Business records

Damage of or to jewellery, clocks, watches, precious stones, bullion, furs or curiosities, precious metals, works of art or rare books, tobacco, cigarettes, alcohol, audio, video or computer disks (whether blank or encoded with content), digital music players, video equipment, mobile phones, tablet computers, cameras, computer games equipment, televisions, or Documents, manuscripts or Electronic Data.

### 4.5 Other terms and conditions applicable to this Insured Section

#### 4.5.1 Average (under-insurance)

If at the time of the commencement of any Damage the total value of the Goods in Transit in or upon any vehicle, vessel or aircraft exceeds the sum insured, then the Insurer's liability will be proportionately reduced.

#### 4.5.2 Basis of settlement

the Insurer may at its option repair, reinstate or replace the Goods in Transit or any part thereof on the same basis as the basis of settlement clause contained in the Insured section- Property, except that the following Average (under-insurance) clause will apply in respect of claims under this Insured Section.

If the Insured elects, and the Insurer agrees not to repair or reinstate any Goods in Transit, then the Insurer's liability shall be limited to the Actual Value of the Damaged Goods in Transit, however settlement on this basis shall be at the sole discretion of the Insurer.

#### 4.5.3 Reasonable precautions

The Insured will take all reasonable precautions in maintaining vehicles under its control in an efficient and roadworthy condition and ensure the suitability of the vehicles for the purpose used, employing competent and honest persons who can be entrusted with the Goods in Transit, and with packaging, labelling and addressing the Goods in Transit.

## 5 INSURED SECTION – MONEY

### 5.1 Money cover

#### 5.1.1 Money Damage

The Insurer will indemnify the Insured for the value of the Damaged Money provided that:

- a) the Damage occurs within the Territorial Limits;
- b) the Damage occurs during the Period of Insurance Period of Insurance;
- c) for each category of Damage the liability of the Insurer will not exceed the Sum Insured stated in the Schedule.

#### 5.1.2 Assault

If an Insured Person is Assaulted the Insurer will pay to the Insured the compensation Benefit for Assault provided that:

- a) the Assault occurs within the Territorial Limits;
- b) the Assault occurs during the Period of Insurance;
- c) for each category of Injury to the Insured Person, the liability of the Insurer will not exceed the amount of compensation stated in the table of Compensation Benefits in the Schedule;
- d) death, loss of limb, loss of eye, Permanent Total Disablement or Temporary Total Disablement must follow within twentyfour (24) months from the date of the assault;
- e) the amount of compensation payable will not exceed eighty per cent (80%) of the Insured Person's normal gross weekly remuneration.

In addition to the above, the Insurer will pay medical and surgical expenses, necessarily incurred with Insurer's consent as a result of assault for which Benefits have been provided under this clause, up to GBP 100 or fifteen percent (15%) of the amount paid in respect of weekly Benefits (whichever is the greater).

### 5.2 Additional costs and expenses indemnifiable by this Insured Section

This Insured Section shall provide indemnity to the Insured for the following costs and expenses that may be incurred following Damage.

#### 5.2.1 Clothing or Personal effects

The Insurer will indemnify an Insured Person in the event of Damage to clothing or personal effects of the Insured Person directly due to any theft or attempted theft of Money or Assault up to the Sub-Limit specified in the Schedule.

### 5.2.2 Damage to safes

The Insurer will indemnify the Insured for the reasonable cost of repairing or replacing any safe, strongroom, bag, case or waistcoat used for the carriage of Money or franking machine that is Damaged during the theft or attempted theft of Money.

### 5.3 Limitations and exclusions applicable to this Insured Section

In addition to the limitations and exclusions applicable to this Insured Section in the Exclusions applicable to the insured sections from property to terrorism (inclusive), the following are excluded from and not covered by the insurance under this Insured Section:

#### 5.3.1 Consequential loss

Loss or damage other than the Damage expressly and specifically insured under this Insured Section.

#### 5.3.2 Dishonesty

Loss or damage which is in any way caused or facilitated by, or in collusion with any director or partner of the Insured or any employee of the Insured but this exclusion does not apply where the dishonesty is reported to the Insurer within fourteen (14) days of the loss or damage;

#### 5.3.3 Unattended Vehicles

Loss or damage to Money contained in any Unattended Vehicle;

#### 5.3.4 Coin operated machines

Loss or damage to Money contained in coin operated gaming or vending devices/machines;

#### 5.3.5 Errors

Loss or damage to Money occasioned by errors or omissions;

#### 5.3.6 Non-specific loss or Damage

Loss or damage to Money except as specifically stated as being insured in this Insured Section or the Schedule;

#### 5.3.7 Security carrier

Loss or damage to Money recoverable from a specialist security carrier;

#### 5.3.8 Multiple Benefits from assault

payment of more than one item of Benefit under the table of Benefits to any one Insured Person.

### 5.4 Other terms and conditions applicable to this Insured Section

#### 5.4.1 Carryings

Where the value of negotiable Money in Transit as described in the Schedule exceeds GBP2,500 the Insured will arrange for the Money to be

accompanied as follows:

- a) over GBP 2,500 and up to GBP 5,000 - at least two (2) able bodied adults;
- b) over GBP 5,000 and up to GBP 10,000 - at least three (3) able bodied adults;
- c) over GBP 10,000 and up to GBP 15,000 - at least four (4) able bodied adults;
- d) over GBP 15,000 - by a professional security company.

#### 5.4.2 Protections

- a) The Insured shall ensure that:
  - i. Any alarm system that is installed for the protection of the Premises is:
    - I installed in accordance with the manufacturer's specification;
    - II not altered, varied or affected by any structural alteration to the premises without the prior written consent of the insurer;
    - III in full and efficient working order at all times;
    - IV regularly serviced either under the manufacturer's maintenance contract or an NSI or LPCB approved contractor and in accordance with the manufacturer's specifications and any other maintenance requirements of the insurer;
    - V tested and fully set whenever the alarmed portion of the premises is closed for business or not attended by the insured or any competent adult authorised by the insured to be responsible for the security of the premises;
  - ii. the Insurer is notified as soon as reasonably practicable:
    - I upon discovery of any defects that arise in the alarm system, that such defects are remedied as soon as is practicable and that the Insurer is advised in writing once alarm system is fully operational;
    - II of any withdrawal, disconnection or failure of or downgrading of any civil authority response to the alarm system likely to leave any area unprotected;
  - iii. has available key holders notified to all appropriate services;

- iv. any safe containing money is securely locked and all keys or combination numbers to that safe are kept in a secure place away from the Building or portion of the Building containing the safe;

Notwithstanding the provisions of (i) and (ii) above, cover provided by this Insured Section will not be invalidated by any defect in the said systems due to circumstances beyond the control of the Insured arising after the systems have been properly set.

- b) The Insurer will not be liable for Damage subsequent to the Insured receiving written notification from:
  - i. the maintenance contractors that the maintenance is suspended; or
  - ii. the relevant police service that alarm signals from the Premises will no longer be answered where such Premises is fitted with an approved intruder alarm equipped with a URN.

## 6 INSURED SECTION – TERRORISM

### 6.1 Terrorism loss cover

The Insurer will indemnify the Insured for Damage by way of an Act of Terrorism to the Property Insured under the Insured section - Property, and where shown such Insured Sections are shown as 'insured' in the Schedule, the Insured section - Money and the Insured section - Goods in Transit and consequential loss resulting therefrom insofar as and to the extent that:

- 6.1.1 it is insured 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); and
- 6.1.2 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
- 6.1.3 such act 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 the Insurer alleges that any Damage or costs and expenses are not covered by this Policy, the burden of proving the contrary will be upon the Insured.

### 6.2 Limitations and exclusions applicable to this Insured Section

- 6.2.1 In addition to the limitations and exclusions applicable to this Insured Section in the General Exclusions, the following are excluded from and not covered by the insurance under this Insured Section:

- a) 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.
- b) any land or building which is occupied as a private residence or any part thereof which is so occupied, unless:
  - i. 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
  - ii. not insured in the name of an individual.

For the purpose of this exclusion, a trustee or sole trader is not deemed to be an individual unless they occupy the premises or any part thereof as their own private residence;

- c) 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;
- d) any losses whatsoever directly or indirectly caused by contributed to by or arising from or occasioned by or resulting from:
  - i. the alteration, modification, distortion, corruption of or damage to any computer or other equipment or component or system or item which processes stores transmits or receives data or any part thereof whether tangible or intangible (including but without limitation any information or programs or software); or
  - ii. any alteration modification distortion erasure, corruption of data processed by any such computer or other equipment or component or system or item;

whether the property of the Insured or not, where such loss is directly or indirectly caused by or 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.

- 6.2.2 The Insurer's liability under this Insured Section in any one (1) Period of Insurance shall not exceed the Sum Insured stated in the Schedule in respect of all losses arising out of any one (1) occurrence and in the aggregate.

- 6.2.3 Where the Period of Insurance shown in the Schedule is for a period greater than twelve (12) months, the cover provided by this Insured Section shall only apply for a period of twelve (12) months and shall be subject to renewal at each annual anniversary.

### 6.3 Other terms and conditions applicable to this Insured Section

#### 6.3.1 Restricted terms

The insurance by this Insured 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 Insured Section.

## 7 EXCLUSIONS TO THE PRECEDING INSURED SECTIONS

Where expressly stated, the exclusions under shall not exclude any subsequent Damage resulting from any ensuing cause which is not otherwise excluded.

The Insured sections – Property through to Terrorism (inclusive) exclude and do not cover:

### 7.1 Aircraft travelling at supersonic speeds

Damage, or loss or interruption or interference caused by or consisting of, pressure waves caused by aircraft, other aerial or spatial device travelling at sonic or supersonic speeds but this shall not exclude subsequent loss resulting from an ensuing cause which is not otherwise excluded.

### 7.2 Boiler explosion and failure

Damage, or loss or interruption or interference caused by:

7.2.1 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 belonging to, or under the control of, the Insured;

7.2.2 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;

but this clause will not apply to any subsequent loss resulting from an ensuing cause which is not otherwise excluded.

### 7.3 Deductible or Excess

the amount of the Deductible or Excess as stated in the Schedule. If the Deductible or Excess is stated as a temporal period then the amount so deducted shall represent the monetary amount lost during the first period stated in the Schedule commencing from the time the Insured begins to incur pecuniary loss following the Damage or the event giving rise to the loss.

Where any amount is specified as the non-ranking Deductible or Excess then this sum is also excluded from this insurance as more fully described under the multiple Deductible or Excesses clause

### 7.4 Deliberate acts

7.4.1 Damage deliberately caused by the Insured but this exclusion does not apply to Damage resulting from the use of reasonable force to protect persons or property against a peril not

excluded by this Policy.

### 7.5 Electrical or mechanical breakdown

Damage, or loss or interruption or interference caused by electrical or mechanical breakdown or failure or derangement including but not limited to overrunning, overheating or short-circuiting, but this clause will not apply to any subsequent loss resulting from an ensuing cause which is not otherwise excluded.

### 7.6 Electronic risks

any losses whatsoever directly or indirectly caused by contributed to by or arising from or occasioned by or resulting from:

7.6.1 the alteration, modification, distortion, corruption of or damage to any Computer Equipment

or

7.6.2 any alteration modification distortion erasure, corruption of Electronic Data or Computer Records;

whether the property of the Insured or not, where such loss is directly or indirectly caused by or 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.

### 7.7 Faulty workmanship

Damage, or loss or interruption or interference caused by defective design, latent defect, the use of defective materials, the misapplication of tools, faulty workmanship or other inherent flaw but this shall not exclude subsequent loss resulting from an ensuing cause which is not otherwise excluded.

### 7.8 Fines or penalties

finer or damages for breach of contract for late or non-completion of orders or any penalties of whatsoever nature are excluded from and not covered by the insurance.

### 7.9 Frost

Damage, or loss or interruption or interference caused by frost or freezing but this shall not exclude subsequent loss resulting from an ensuing cause which is not otherwise excluded.

### 7.10 Gradual change

Damage, or loss or interruption or interference caused by corrosion, gradual change or deterioration, Change of Temperature (except as



provided by the Deterioration of Stock clause in the Insured section-Property), change of colour, texture or finish or inherent vice, rust, shrinkage, infestation, insects or vermin but this shall not exclude subsequent loss resulting from an ensuing cause which is not otherwise excluded.

### 7.11 Interest

interest on any claim payment or compensation Benefit for any reason whatsoever.

### 7.12 Ionising radiation

Damage, or loss or interruption or interference other than as covered by insured section-Terrorism (where included in this Policy), caused directly or indirectly by or contributed to by or in connection with nuclear hazards but this shall not exclude subsequent loss resulting from an ensuing cause which is not otherwise excluded.

### 7.13 Marine impact

Damage, or loss or interruption or interference caused by impact with any Property Insured by any waterborne vessel or craft.

### 7.14 Marine insurance cover

Damage, or loss or interruption or interference caused by Damage regarding import shipments until fully discharged or until marine insurance has ceased to cover, whichever last occurs.

### 7.15 Micro-organism

Damage, or loss or interruption or interference caused by mould, mildew, fungus, spores or other microorganism of any type, nature, or description, including but not limited to any substance whose presence poses an actual or potential threat to human health except that this exclusion does not apply in respect of the insurance provide by the Notifiable disease, murder or suicide, food or drink poisoning clause under Insured Section – Business interruption.

This exclusion applies regardless whether there is any:

- a) Damage to Property Insured whether or not contributing concurrently or in any sequence;
- b) loss of use, occupancy, or functionality; or
- c) action required, including but not limited to repair, replacement, removal, cleanup, abatement, disposal, relocation, or steps taken to address medical or legal concerns.

### 7.16 Molten metal or glass

Damage, or loss or interruption or interference caused by or consisting of the freezing, solidification or inadvertent escape of molten materials.

### 7.17 Non-specific loss or Damage

Damage, or loss or interruption or interference:

- 7.17.1 caused by or resulting from disappearance or which is not identifiable by the Insured with a specific occurrence or which is unexplained and which has not been notified under the terms of the claims notification clause;
- 7.17.2 revealed only during an inventory or stocktaking;
- 7.17.3 caused by or arising from misfiling or misplacing of property, information or data.

### 7.18 Pollution

Damage, or loss or interruption or interference caused by pollution or contamination (other than Cross Contamination) but this exclusion shall not apply to Damage, or loss or interruption or interference caused by:

- a) pollution or contamination which itself results from a defined peril;
- b) 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, Flood, Storm, escape of water from any tank or pipe sprinkler leakage, theft or impact by any vehicle or animal provided that such defined perils are included under the insured section- property.

### 7.19 Processing

Damage, or loss or interruption or interference caused by the Property Insured:

- 7.19.1 undergoing any process including but not limited to, cleaning, repairing, restoring, renovating, testing, commissioning or packaging;
- 7.19.2 itself undergoing any heating process or any process involving the application of heat;

but this shall not exclude subsequent loss resulting from an ensuing cause which is not otherwise excluded.

### 7.20 Riot

Damage, or loss or interruption or interference occurring in Northern Ireland caused by or happening through or in consequence directly or indirectly of riot or civil commotion or any unlawful association as defined by the Northern Ireland (Emergency Provisions) Act 1973.

**7.21 Subsidence or collapse**

in respect of Buildings:

**7.21.1** subsidence or collapse caused by:

- a) the bedding down of new structures, by settlement;
- b) coastal or river erosion;
- c) by the movement of reclaimed or made up ground or of any building erected on a mining site;

**7.21.2** Damage by subsidence or collapse to the building or any part thereof whilst in the course of erection or undergoing demolition, structural alterations or structural repairs;**7.21.3** Damage caused by subsidence or collapse which commenced and of which the Insured

was aware prior to the acceptance of this insurance by the Insurer ;

**7.21.4** Damage caused by the buildings' own collapse or cracking however the Insurer will indemnify the Insured in respect of such Damage if it results from a cause which is not otherwise excluded;

but this exclusion of subsidence and collapse shall not apply to subsidence caused by fire, explosion, earthquake or the escape of water from any tank, apparatus or pipe.

**7.22 Theft and fraud**

Damage, or loss or interruption or interference caused by:

**7.22.1** theft or attempted theft unless involving entry to or exit from buildings at the Premises by forcible and violent means or by violence or threat of violence to the Insured or any Employee of the Insured provided that this exclusion will not apply to:

- a) buildings;
- b) 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; and
- c) the lock replacement clause, where a Sub-Limit is shown for such cover in the Schedule;
- d) the Insured section –Money or the Insured section- Goods in Transit;
- e) Damage arising any ensuing cause which is not otherwise excluded;
- f) Bulk Storage Tanks and their contents;

**7.22.2** theft or attempted theft of Property in the open, unless contained within a securely locked and fenced compound and such Damage involves entry to or exit from the compound by forcible and violent means or by violence or threat of violence to the Insured or any Employee of the Insured;**7.22.3** dishonesty of the Insured's Employees, but this will not exclude theft or attempted theft as defined above;**7.22.4** any fraudulent or dishonest accessing, extraction, distortion, misappropriation or corruption of information or data, contained in any computer or Electronic Data equipment or system including phishing;

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 internal door, office, cage, compartment or store is the sole part of the buildings occupied by the Insured.

**7.23 Value of information**

Any amount pertaining to the value of information on Documents or Electronic Data to the Insured or any other Party, even if such data cannot be recreated, gathered or assembled.

**7.24 War and Terrorism****7.24.1** Damage, or loss or interruption or interference caused by or contributed to, by or in connection with, in whatever form, directly or indirectly, any act of War or Act of terrorism, regardless of any other cause or event contributing concurrently or in any other sequence to the loss nor will the Insurer 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 Act of Terrorism.**7.24.2** In any action, suit or other proceedings where the Insurer alleges that by reason of this exclusion any loss, destruction, Damage, cost, expense, consequential loss or injury is not covered by this Policy, the burden of proving that such loss is covered shall be upon the Insured.

Except that this exclusion will not apply to an Act of Terrorism as specifically covered by the insured section terrorism if this is stated as being 'insured' in the Schedule.

**7.25 Water table level**

Damage, or loss or interruption or interference caused by change in water table level but this shall not exclude subsequent loss resulting from an ensuing cause which is not otherwise excluded. For the purpose of this exclusion water table level means the vertical distance

## EXCLUSIONS TO THE PRECEDING INSURED SECTIONS

from the surface of the earth to underground water being the surface at which the soil or rocks are permanently saturated with water.

### **7.26 Wear and tear**

Damage, or loss or interruption or interference caused by wear and tear, marring or scratching but this shall not exclude subsequent loss resulting from an ensuing cause which is not otherwise excluded.

## 8 INSURED SECTION – PERSONAL ACCIDENT

### 8.1 Personal Accident cover

**8.1.1** The Insurer agrees to pay the Insured the Benefits listed in the schedule of compensation in the Schedule in the event the Insured Person:

- a) dies within twelve (12) months after and as a result of Injury;
- b) sustains Permanent Total Disablement or Permanent Disablement within twelve (12) months after and as a result of Injury; or

**8.1.2** provided that the Accident giving rise to the Injury occurs during the Period of Insurance

and within the operative time and Territorial Limits.

### 8.2 Limitations and exclusions applicable to this Insured Section

The following are excluded from and not covered by the insurance under this Insured Section:

#### 8.2.1 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;

#### 8.2.2 Accumulation Limit

any payment in Excess of the Accumulation Limit specified in the Schedule;

#### 8.2.3 Air Travel

death or Disablement directly or indirectly resulting from or consequent upon the Insured Person engaging in air travel, except as a passenger in a commercially licensed aircraft;

#### 8.2.4 Alcohol and drugs

death or Disablement, directly or indirectly resulting from or consequent upon the Insured Person:

- a) being over the legal limit for alcohol, as defined by the motor vehicle laws of the country or state of the Insured Person's normal domicile; or
- b) being under the influence of drugs or narcotics that are not lawfully available, unless prescribed for the Insured Person by a Healthcare Practitioner and such prescription is not for the treatment of drug addiction;

#### 8.2.5 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;

#### 8.2.6 Deferment period

the deferment period;

#### 8.2.7 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;

#### 8.2.8 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;

#### 8.2.9 Excluded activities

death or Disablement directly or indirectly resulting from or consequent upon the Insured Person engaging in or taking part in:

- a) naval, military or air force service or operations;
- b) 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, hang-gliding, paragliding, parasailing, horseback riding (other than in an enclosed arena),
- c) driving or riding in any kind of race, driving or riding on motor cycles or motor scooters other than mopeds; or
- d) any other activity, specifically excluded by endorsement attached to or incorporated in the Schedule;

#### 8.2.10 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;

#### 8.2.11 Nuclear risks

death or Disablement directly or indirectly resulting from or consequent upon Nuclear Hazards;

#### 8.2.12 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 Insurer, or any 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;

**8.2.13 Repetitive strain**

death or Disablement directly or indirectly resulting from or consequent upon repetitive strain Injury or syndrome or any other gradually operating cause;

**8.2.14 Suicide and self-inflicted Injury**

death or Disablement directly or indirectly resulting from or consequent upon suicide or attempted suicide, intentional self-inflicted Injury including self-inflicted Injury arising from mental illness or intentional Injury of the Insured Person by the Insured;

**8.2.15 Terrorism**

claims for Benefits or indemnity directly or indirectly resulting from or consequent upon death or Disablement caused by Terrorism; and

**8.2.16 War**

War in the Insured Person's country of domicile.

**8.3 Terms and conditions applicable to this Insured Section**

**8.3.1 Claim discharge**

The Insured's or the Insured's personal representatives' receipt of the final adjusted claim settlement will discharge the Insurer.

**8.3.2 Prior physical disability or condition**

If the consequences of an Injury are judged by any medical examiner appointed by the Insurer to be aggravated by any physical disability or condition of the Insured Person which existed before the Injury occurred, the amount of any Benefit payable under this Policy in respect of the consequences of the 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.

**8.3.3 Refund on recovery from permanent Disablement**

Prior to any claim payment under the Permanent Total Disablement section of the schedule of compensation the Insured Person will sign an undertaking that in the event the Insured Person subsequently recovers sufficiently to resume his regular occupation or a similar occupation, then the Insured Person will immediately refund any Permanent Total Disablement Benefits paid to them under this insurance.

**8.3.4 Schedule of compensation restrictions**

a) Claiming under more than one item of Benefit:

- i No Benefit shall be payable under more than one of the items of the schedule of compensation in respect of the consequences of one Accident. If it is possible to claim Benefit under

more than one item in the schedule of compensation, then the Insured may elect to claim the item of Benefit that offers the maximum amount of payment.

- ii If an Accident causes the death of an Insured Person prior to the settlement of compensation for Disablement, the Insurer will pay the Benefit for death. If death is not insured no Benefit will be payable under this insurance.

- b) Where the aggregate value of Benefit claimed in respect of all Insured Persons suffering death or Disablement from one Accident exceeds the Accumulation Limit, the amount claimed in respect of each Insured Person will be reduced in proportion to the ratio that the Accumulation Limit bears to the total amount claimed.

## 9 INSURED SECTION – EMPLOYERS’ LIABILITY

### 9.1 Employers’ liability cover

**9.1.1** The Insurer agrees to indemnify the Insured for all sums that the Insured will become legally liable to pay as damages or compensation, including claimant costs recoverable from the Insured, in respect of Bodily Injury caused during the Period of Insurance and sustained by an Employee arising out of and in the course of employment by the Insured in the Business except that where such employment is undertaken temporarily outside the United Kingdom:

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

**9.1.2** Unless expressly stated to the contrary, cover granted by any clause or any endorsement to this Policy does not increase the Limit of Indemnity. Any Sub-Limit of Indemnity stated forms part of and is not additional to the Limit of Indemnity.

### 9.2 Additional costs and expenses indemnifiable by this Insured Section

#### 9.2.1 Employers’ liability Defence Costs

Following any event which is or may be the subject of indemnity under the Employers’ liability cover clause above whether or not Bodily Injury has occurred the Insurer agrees to indemnify the Insured for Defence Costs but such Defence Costs form part of the Limit of Indemnity and do not increase the Limit of Indemnity or any Sub-Limit of Indemnity.

### 9.3 Extensions applicable to this Insured Section

#### 9.3.1 Contractual liability

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

#### 9.3.2 Cross liabilities

For each legal entity constituting the Insured, the Insurer will separately indemnify each Party as if a separate Policy had been issued to each. Where claims are made against any such Insured by any

other Insured, the Insurer’s total liability to all parties will not exceed the Limit of Indemnity or any applicable Sub-Limit of Indemnity.

#### 9.3.3 Data Protection Act 1998

The Insurer will indemnify the Insured and if the Insured so requires, any Employee in respect of their liability under the Data Protection Act 1998 ('DPA') to pay:

- a) compensation in respect of damage or distress under section 13 of Part II of the DPA including Defence Costs;
- b) Defence Costs in relation to a prosecution brought under section 21 of Part III of the DPA;

in relation to claims made by Employees during the Period of Insurance, provided that:

- a) the Insured has registered in accordance with the terms of the DPA;
- b) the claim arises from damage or distress occurring or prosecution commenced during the Period of Insurance;
- c) this extension will not apply in respect of:
  - i. the cost of replacing, reinstating, rectifying or erasing any personal data;
  - ii. liability caused by or arising from a deliberate or intentional act by or omission of any Party entitled to indemnity by this insurance the effect of which will knowingly result in liability under the DPA;
  - iii. claims which arise out of circumstances notified to any previous insurer or known to the Insured at inception of this Insured Section; or
  - iv. liability for which indemnity is provided under any other insurance.

#### 9.3.4 Indemnity to Other parties

At the request of the Insured, the Insurer will separately indemnify each Other Insured Party provided that the:

- a) Insured would have been entitled to indemnity by this Policy had the claim or suit been made against the Insured;
- b) Insurer has the sole conduct and control of any claim as far as may be practical;
- c) Other Insured Party shall, as though he were the Insured, observe, fulfil and be subject to the terms and conditions of this Policy in so far as they can apply; and

- d) Insurer's liability under this clause shall in no way operate to increase the Limit of Indemnity or any applicable Sub-Limit of Indemnity.

### 9.3.5 Medical treatment

This insurance extends to indemnify the Insured and any qualified medical practitioner or health care practitioner employed by the Insured in respect of liability to any person under a contract of service or apprenticeship with the Insured resulting from treatment given provided that:

- a) any such qualified medical practitioner or health care practitioner shall, as though they were the Insured, be subject to the terms of this Policy in so far as they can apply; and
- b) the indemnity granted by this clause shall not apply where there is any other valid or collectible insurance available to the Insured, the qualified medical practitioner or health care practitioner nor shall this insurance contribute to any other valid or collectible insurance.

### 9.3.6 Principals

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.

### 9.3.7 Statutory Defence Costs including Health and Safety At Work, etc. Act 1974

- a) The Insurer agrees to indemnify the Insured and at the request of the Insured, any Other Insured Party, in respect of Defence Costs reasonably incurred with the prior consent of the Insurer in defending:
  - i. any alleged breach of statutory duty (including any prosecution brought under sections 2 to 8 of the Health and Safety at Work, etc. Act 1974, Health and Safety at Work (Northern Ireland) Order 1978 or similar legislation in the Isle of Man or the Channel Islands) or criminal proceedings brought;

- ii. any alleged breach of statutory duty under the Protection from Harassment Act 1997; and/or
- iii. allegations (whether under common law or statute) of manslaughter, corporate manslaughter or corporate homicide made against the Insured or any Other Insured Party;

provided that the prosecution or proceedings relate to:

- i. an offence alleged to have been committed during the Period of Insurance Period of Insurance and in the course of Business; and
  - ii. Bodily Injury to or potential insured claim for Bodily Injury to Employees including their health, safety and welfare
- b) The Insurer will also indemnify the Insured for:
- i. Defence Costs of appeal including appeal against improvement and prohibition notices incurred with the prior consent of the Insurer; and
  - ii. prosecution costs awarded against the Insured.
- c) The indemnity by this clause excludes and does not cover any amount:
- i. in respect of allegations provided by this clause (Statutory Defence Costs) but not those relating to prosecution costs (clause iii) below) or manslaughter, corporate manslaughter or corporate homicide (clause ii) below), in Excess of a Sub-Limit/Limit of Indemnity stated in the Schedule, any one claim or series of claims arising out of the same prosecution or proceedings;
  - ii. in respect of allegations of manslaughter, corporate manslaughter or corporate homicide including prosecution costs relating to this item ii) (manslaughter Defence Costs), in Excess of a Sub-Limit/Limit of Indemnity stated in the Schedule, any one claim or series of claims arising out of the same prosecution or proceedings; or
  - iii. in respect of prosecution costs other than such costs relating to item ii) above (prosecution costs) in Excess of a Sub-Limit/Limit of Indemnity stated in the Schedule, any one claim or series of claims arising out of the same prosecution or proceedings.



**9.3.8 Unsatisfied Court judgments**

In the event of a judgment for damages being obtained during the Period of Insurance:

- a) by any Employee or the personal representatives of any Employee in respect of Bodily Injury to such Employee that arises out of and in the course of his employment by the Insured in the Business, against any person operating from premises in the European Economic Area;
- b) which remains unsatisfied in whole or in part six (6) months after the date of such judgment; and
- c) in any court of law except a court operating under the laws of North America;

then at the Insured's request, the Insurer will pay the amount of damages or costs awarded to the Employee or the personal representatives of the Employee to the extent that they remain unsatisfied provided that:

- i. there is no appeal outstanding;
- ii. the judgment relates to Bodily Injury which would otherwise be indemnified by this Insured Section; and
- iii. the Insurer will be entitled to take over and prosecute for its own Benefit any claim against any other person and the Insured, the Employee or the personal representatives of the Employee will give the Insurer all the information and assistance the Insurer may require.

**9.3.9 War and Terrorism**

The insurance by this Insured Section is extended to cover liability to an Employee arising from or caused by an act of War or Terrorism except that the Insurer shall not be liable to pay any amount in Excess of a Sub-Limit of Indemnity for War and Terrorism stated in the Schedule in respect of:

- a) any one claim against the Insured or series of claims against the Insured; and
- b) any claim or series of claims made by the Insured under this Insured section; arising out of one occurrence.

**9.3.10 Waiver of Subrogation**

In respect of contracts or agreements which impose upon the Insured conditions waiving the rights of the Insured to recover from any other Party, the Insurer agrees to the extent required by such contract or agreement to waive any rights of subrogation to which they might otherwise have been entitled in such circumstances in respect of any payments which they may make under this Policy.

Further, where requested by the Insured, the Insurer will waive all rights of subrogation against a subsidiary of the Insured or from a subsidiary

against the parent.

For the purpose of this clause, subrogation means the right of the Insurer who has granted indemnity to take over any recovery rights the Insured may have against third parties liable for the same loss.

**9.4 Limitations and exclusions applicable to this Insured Section**

The following are excluded from and not covered by the insurance under this Insured Section:

**9.4.1 Employment practices dispute**

liability which arises out of employment practice disputes directly or indirectly related to employment or prospective employment of any person or persons by the Insured including but not limited to:

- a) wrongful unfair or constructive dismissal;
- b) denial of natural justice, defamation, misleading representation or advertising;
- c) refusal to employ a suitably qualified applicant or failure to promote;
- d) coercion, demotion, evaluation, relocation, punishment, slander, humiliation, harassment, bullying or discrimination

but this exclusion shall not apply in respect of compensatory damages for Bodily Injury required by the Employers' Liability (Compulsory insurance) Regulations 1998.

**9.4.2 Fees for intervention**

any payments raised under the Health and Safety (Fees) Regulations 2012 relating to 'fees for intervention'.

**9.4.3 Fines and penalties**

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

**9.4.4 Limit of Indemnity**

liability in Excess of the Limit of Indemnity stated in the Schedule.

**9.4.5 North American jurisdiction**

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:

- a) any Party incorporated, domiciled or resident in North America;
- b) pay any sum in Excess of a Limit of Indemnity which sum shall be the maximum amount payable including any Defence Costs recoverable hereunder; and
- c) pay punitive, multiple or exemplary damages.

**9.4.6 Nuclear Hazards**

liability that attaches by or arising from the terms of any contract (other than contracts of employment between the Insured and its employees) or agreement for Bodily Injury caused by Nuclear Hazards.

**9.4.7 Offshore**

liability which arises directly or indirectly out of or caused by visits, work or activities undertaken Offshore except that this exclusion shall not apply in respect of and to the extent of the indemnity provided by the Offshore activities clause.

**9.4.8 Road traffic legislation**

liability for Bodily Injury sustained by an Employee when the Employee is

- a) being carried in or upon a vehicle; or
- b) entering or getting onto or alighting from a vehicle,

in circumstances where insurance or security is required to be effected by the Insured to comply with the Road Traffic Act 1988 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 compulsory insurance against civil liability in respect of the use of motor vehicles.

**9.4.9 Statutory Defence Costs**

liability for Defence Costs arising out of or in respect of any alleged breach of statutory duty or any allegation of manslaughter, corporate manslaughter or corporate homicide except as stated as insured in the clause entitled ‘Statutory Defence Costs including Health and Safety at Work, etc. Act 1974’ under the Employers’ liability insured section.

**9.4.10 War or Terrorism**

liability which arises directly or indirectly out of or caused by War or Terrorism except that this exclusion shall not apply in respect of and to the extent of the indemnity provided by the War and terrorism clause.

**9.4.11 Workman’s compensation or social security payment**

any obligation for which the Insured or Insurer may be held liable under any workers’ compensation law, legislation, regulation or policies or obligation to maintain healthcare, social security or similar funding but this exclusion will not apply to payments required to be made to the Compensation Recovery Unit or its successor.

**9.5 Other employers’ liability terms and conditions**

**9.5.1 Conflict of interest**

In the event of a conflict of interest between the Insured and any Other Insured Party indemnified by this insurance, separate representation will be arranged for each Party.

# 10 INSURED SECTION – PUBLIC, PRODUCTS AND POLLUTION LIABILITY

## 10.1 Liability cover clause

- 10.1.1** The Insurer agrees to indemnify the Insured by the terms of this Insured Section against legal liability to pay damages or compensation, including claimant costs recoverable from the Insured as a result of Personal Injury, Damage, Denial of Access or nuisance:
- 10.1.2** that happens during the Period of Insurance and arises out of and in connection with the Business (including arising out of or from or in connection with the Insured's Products) but excluding legal liability arising out of or from Pollution; and
- 10.1.3** commencing during the Period of Insurance arising out of or from Pollution, provided that such Pollution:
- a) arises solely out of the course of the Business; and
  - b) is the direct result of a sudden, specific and identifiable event occurring during the Period of Insurance.

## 10.2 Additional costs and expenses indemnifiable by this Insured Section

- 10.2.1 Defence Costs in respect of all jurisdictions Other than North American**
- a) For claims not involving North American jurisdiction, the Insurer agrees to indemnify the Insured for Defence Costs but the said Defence Costs are payable in addition to and do not count towards the Limit of Indemnity.
  - b) Where payment exceeding the Limit of Indemnity has to be made to dispose of a claim, the Insurer's liability for Defence Costs shall be limited to such proportion of the said Defence Costs as the Limit of Indemnity bears to the total amount paid to dispose of the claim.

## 10.2.2 Defence Costs in respect of North American jurisdiction

Where any clause or endorsement to this Insured Section extends cover to apply to North American jurisdiction, the Insurer agrees to indemnify the Insured for Defence Costs but the said Defence Costs count towards and are not additional to the Limit of Indemnity.

## 10.3 Extensions applicable to this Insured Section

### 10.3.1 Contractual liability

Subject always to the exclusions 'North American jurisdiction' and 'North American territory', where any contract or agreement entered into by the Insured so requires the Insurer will indemnify the

Insured against liability arising from obligations undertaken by the Insured by virtue of such contract or agreement but only to the extent of the indemnity defined in these Insured Sections provided that the terms and conditions of this insurance will apply as far as may be practicable.

### 10.3.2 Data Protection Act 1998

The Insurer will indemnify the Insured and, if the Insured so requires, any director, partner or Employee in respect of their liability under the Data Protection Act 1998 ('DPA') to pay:

- a) compensation in respect of damage or distress under section 13 of Part II of the DPA including Defence Costs; and
- b) Defence Costs in relation to a prosecution brought under section 21 of Part III of the DPA;

in relation to claims made by persons other than directors, partners or Employees during the Period of Insurance, provided that:

- a) the Insured has registered in accordance with the terms of the DPA;
- b) the claim arises from damage or distress occurring or prosecution commenced during the Period of Insurance; and
- c) this extension will not apply in respect of:
  - i. the cost of replacing, reinstating, rectifying or erasing any personal data;
  - ii. liability caused by or arising from a deliberate or intentional act by or omission of any Party entitled to indemnity by this insurance the effect of which will knowingly result in liability under the DPA;
  - iii. claims which arise out of circumstances notified to any previous insurer or known to the Insured at inception of this Insured Section; and
  - iv. liability for which indemnity is provided under any other insurance.

### 10.3.3 Cross liabilities

For each legal entity constituting the Insured, the Insurer will separately indemnify each Party as if a separate Policy had been issued to each. Where claims are made against any such Insured by any other Insured, the Insurer's total liability to all parties will not exceed the Limit of Indemnity or any applicable Sub-Limit of Indemnity.

**10.3.4 Defective Premises Act 1972**

The insurance provided by this Insured Section is extended to indemnify the Insured against any liability incurred by the insured by virtue of Section 3 of the Defective Premises Act, 1972 or Section 5 of the Defective Premises Act (Northern Ireland) Order 1975 or any amendment thereto in connection with premises that have been disposed of by the Insured, except that the Insurer will not be liable to provide an indemnity for the cost of remedying any defect or alleged defect in such premises.

**10.3.5 Environmental statutory liability**

The insurance provided by this Insured Section is extended to indemnify the Insured for all sums, including statutory debts, that the Insured is 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, provided that:

- a) liability arises from Pollution occurring during the course of Business, within a state of the European Union and 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;
  - b) the insurance by this extension excludes and does not cover any sum incurred in respect of:
    - i. Preventative Costs for prevention of imminent threat of environmental damage;
    - ii. primary, complementary or compensatory remediation for damage; or
    - iii. the removal of any significant risk of an adverse effect on human health;

to or on the Insured's land, premises, watercourse or body of water whether owned, leased, hired, tenanted or otherwise in the Insured's care, custody or control;
  - c) the insurance by this extension excludes and does not cover any sum incurred in achieving any improvement or alteration in the condition of the land, the atmosphere or any watercourse or body of water beyond that required under any relevant and applicable law or statutory enactment at the time remediation commences; and
  - d) the total amount payable by the Insurer inclusive of all Defence Costs for any one occurrence or in the aggregate during any one Period of Insurance shall not exceed the Sub-Limit of Indemnity as stated in the Schedule;
- and provided also that the exclusion in proviso b) i) above shall not apply to

Preventative Costs that are incurred with the Insurer's written consent that must be obtained prior to each claim, where a Pollution event is taking place or has occurred and such Preventative Costs relate solely to halt or limit further Pollution to third Party property except that nothing in this clause shall imply that the Insurer will indemnify the Insured for Preventative Costs relating to the Insured's own land, premises or watercourse or body of water.

**10.3.6 Financial loss (including Products)**

- a) The Exclusion – Financial loss – is deleted and of no effect as regards the indemnity granted by the following clause.
- b) The insurance by this Insured Section is extended to indemnify the Insured for its liability for financial loss provided that:
  - i. any claim is first made against the Insured and notified in writing to the Insurer during the Period of Insurance in accordance with the terms of the Policy; and
  - ii. such liability is for financial loss incurred by others and arises out of and in connection with the Business or the Insured's Products; and the act or omission creating the liability is not a deliberate or intentional act by or omission of any Party entitled to indemnity by this extension the effect of which will knowingly result in financial loss.
- c) The insurance by this extension excludes and does not cover:
  - i. liability which attaches by way of any contract or agreement that would not have attached in the absence of such contract or agreement;
  - ii. liability arising out of failure to meet a delivery deadline, non-completion of works or operations by or on behalf of the Insured, or misdirection of Products supplied, whether or not expressly promised in any contract;
  - iii. liability resulting from conspiracy, intimidation, unlawful interference with another's economic interests, conversion, deceit, inducement of breach of contract, injurious falsehood, breach of confidence, or infringement of patent, copyright, trademark, name or other intellectual property right;
  - iv. claims brought anywhere in the world arising out of any breach or alleged breach of any competition law or antitrust law or similar;

- v. liability for financial loss sustained by any Employee arising out of or in the course of his employment by the Insured; any Product for which indemnity is provided by this Insured Section;
- vi. liability arising from electronic data including:
  - I. any agreement for the storage or processing of computer data or use of computer facilities;
  - II. transmission or impact of any virus;
  - III. unauthorised access to a system;
  - IV. interruption of or interference of any electronic means of communication used in the conduct of the Business including but not limited to any diminution in the performance of any website or electronic means of communication;
  - V. failure of a system; or
  - VI. use of the Internet;
- vii. liability arising out of any circumstance which was:
  - I. notified to previous insurers prior to inception of this extension;
  - II. known to the Insured, or in the Insurer's reasonable opinion ought to have been known to the Insured prior to inception of this extension; or
  - III. disclosed or in Insurer's reasonable opinion ought to have been disclosed by the Insured when providing information to the insurer prior to inception of this extension;
- viii. liability arising out of or relating to property belonging to the Insured or in the custody or control of the Insured or any Employee;
- ix. liability arising out of fraud or dishonesty by the Insured or any Employee;
- x. liability arising out of War or any act of Terrorism;
- xi. liability arising out of or from or brought about by or contributed to by Pollution;
- xii. liability arising from any advice, instruction or design:
  - I. given for a fee by or on behalf of the Insured unless relating to
- II. given without a fee and for which indemnity is provided by other insurance;
- xiii. liability arising out of or in connection with any strikes or labour disturbances;
- xiv. diminution in value of real property;
- xv. financial default as a result of or in consequence of bankruptcy or insolvency;
- xvi. the cost of rectifying defective work done by or on behalf of the Insured;
- xvii. liability in respect of the cost or value of or refund for any Product or work done by or on behalf of the Insured; and
- xviii. liability where the event giving rise to financial loss occurs prior to the retroactive date being the inception date of continuous unbroken insurance cover for financial loss with the Insurer unless an earlier date is specified in the Schedule;
- d) The limit of indemnity under this extension shall be the Sub-Limit stated in the Schedule any one claim and in the aggregate during any one Period of Insurance which shall be the maximum amount payable by the Insurer including all Defence Costs.
- e) In respect of each and every claim under this extension, the Excess herein is deleted and replaced by the first ten per cent (10%) of the cost of the claim or GBP1,000 whichever amount is the greater.
- f) For the purpose of this extension clause financial loss means a pecuniary loss, cost or expense not occasioned by, consequent upon, or accompanied by Personal Injury, Damage, Denial of Access, nuisance or breach of the Data Protection Act 1998.

### 10.3.7 Indemnity to Other parties

At the request of the Insured, the Insurer will separately indemnify each Other Insured Party provided that the:

- a) Insured would have been entitled to indemnity by this policy had the claim or suit been made against the Insured;
- b) Insurer has the sole conduct and control of any claim;
- c) Other Insured Party shall as though he were the Insured observe, fulfil and be subject to the terms and conditions of this Policy in so far as they can apply;

- d) Insurer's liability under this clause shall in no way operate to increase the Limit of Indemnity or any applicable Sub-Limit of Indemnity

### 10.3.8 Leased Premises

The Insurer will indemnify the Insured for Damage to Premises including landlord's contents, fixtures and fittings not owned by the Insured but leased or rented by them in the course of the Business but excluding:

- a) Liability for which indemnity is provided under any other insurance or in any other way;
- b) the first GBP100 (or such larger sum that has been agreed overall) of any amount otherwise payable hereunder in respect of each claim other than as a result of fire or explosion;
- c) liability which attaches by way of any contract or agreement that would not have attached in the absence of such contract or agreement.

### 10.3.9 Motor liability

Notwithstanding the exclusion 'Ownership or use of mechanically propelled vehicles', the Insurer agrees to indemnify the Insured and any Other Insured Party in respect of liability arising out of or from:

- a) the use or movement of any mechanically propelled vehicle as a tool or plant;
- b) the loading or unloading of any mechanically propelled vehicle or trailer when carried out beyond the limits of any carriageway or thoroughfare but this extension shall not apply to Damage to any property being loaded or unloaded;
- c) the movement of any mechanically propelled vehicle not owned, hired or borrowed by or leased to the Insured or any Other Insured Party on or under any Premises occupied by the Insured where such vehicle is causing an obstruction and interfering with the performance of the Business
- d) Damage to visitors' or Employees' mechanically propelled vehicle (including contents and/or accessories) while parked within any car park for which the Insured is responsible or on any Premises occupied by the Insured provided that:
  - i. such vehicle is not lent or hired to the Insured;
  - ii. the Damage to an Employee's vehicle does not arise out of the maintenance, operation or use of a vehicle by that Employee;

- e) the unauthorised use of any mechanically propelled vehicle by any person in the employment of the Insured provided that the Insured shall have taken all reasonable precautions to ensure that its Employees are made aware of and comply with restrictions applicable to the use of the vehicle;

except always that the indemnity provided by this clause excludes liability:

- a) for which indemnity is provided by any motor insurance or fleet insurance policy held in the name of the Insured; or
- b) for which insurance is necessary to comply with the Road Traffic Act 1988 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 relating to insurance against civil liability in respect of the use of motor vehicles or similar legislation in any country outside the European Union.

### 10.3.10 Motor contingent liability

Notwithstanding the exclusion 'Ownership or use of mechanically propelled vehicles', the Insurer agrees to indemnify the Insured in respect of liability arising out of or from the operation or use of any mechanically propelled vehicle not owned, hired or borrowed by or leased to the Insured which is used in the course of Business provided that this clause excludes and the Insurer will not be liable for:

- a) Damage to such vehicle or to property conveyed therein or thereon,
- b) Bodily Injury or Damage arising while such vehicle is being driven by:
  - i. any Other Insured Party other than an Employee; or
  - ii. any person who to the Insured's knowledge or the knowledge of any director, officer or manager of the Insured, does not hold a licence to drive such vehicle;
- c) Bodily Injury or Damage caused or arising while such vehicle is:
  - i. engaged in racing, pace-making, reliability trials or speed testing;
  - ii. being used outside the European Union;
- d) Bodily Injury or Damage in respect of which the Insured or any Other Insured Party is entitled to indemnity under any other insurance.



**10.3.11 Principals**

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.

**10.3.12 Property in the Insured's care, custody and control**

Notwithstanding the exclusion 'Products and workmanship,' the insurer agrees to extend coverage under this Insured Section to indemnify the insured in respect of liability arising out of or from damage to Personal effects (including vehicles and their contents) of the insured's employees, directors, officials, visitors or guests.

**10.3.13 Run off cover for legionella claims made basis**

- a) In the event and to the extent that any policy of insurance in force immediately prior to this Policy expressly provided cover for legionella on the basis of an indemnity for claims made during the Period of Insurance (claims made basis); and
- b) In the event that a claim first made against the Insured during the Period of Insurance in respect of legionella (meaning any discharge, release or escape of legionella or other airborne pathogens from water tanks, water systems, air-conditioning plants, cooling towers and the like)

then the insurance by this Insured Section is extended to indemnify the Insured in respect of liability for Bodily Injury arising from legionella provided that:

- i. the discharge, release or escape of legionella occurred prior to the inception of this Policy but after the retroactive date stated in any prior policy or if no such date is stated then after 1st January 2010; and
- ii. the Insured will give notice in writing to the Insurer of any claim or any notice of an intention to make a claim as soon as reasonably practicable but in any event not later than twenty eight (28) days from receipt of the claim or notice.

**10.3.14 Statutory Defence Costs including Health and Safety at Work, etc. Act 1974**

The Insurer agrees to indemnify the Insured and at the request of the Insured, any Other Insured Party, in respect of Defence Costs incurred with the prior consent of the Insurer in defending:

- a) any alleged breach of statutory duty (including any prosecution brought under sections 2 to 8 of the Health and Safety at Work, etc. Act 1974, Health and Safety at Work (Northern Ireland) Order 1978 or similar legislation in the Isle of Man or the Channel Islands) or criminal proceedings brought; and / or
  - b) any alleged breach of statutory duty under the Protection from Harassment Act 1997;
- and/or
- c) allegations (whether under common law or statute) of manslaughter, corporate manslaughter or corporate homicide made against the Insured or any Other Insured Party;

provided that the prosecution or proceedings relate to:

- i. an offence alleged to have been committed during the Period of Insurance and in the course of Business; and
- ii. Bodily Injury or potential insured claim for Bodily Injury to persons other than Employees including their health, safety and welfare.

The Insurer will also indemnify the Insured for:

- d) Defence Costs of appeal including appeal against improvement and prohibition notices incurred with the prior consent of the Insurer;
- e) prosecution costs awarded against the Insured.

But the indemnity by this clause excludes and does not cover any amount:

- f) in respect of allegations provided by this clause (statutory Defence Costs) but not those relating to prosecution costs (clause c) below) or manslaughter, corporate manslaughter or corporate homicide (clause b) below), in Excess of a Sub-Limit of Indemnity stated in the Schedule, any one claim or series of claims arising out of the same prosecution or proceedings;
- g) in respect of allegations of manslaughter, corporate manslaughter or corporate homicide including prosecution costs relating to this item b) (manslaughter Defence Costs), in Excess of a Sub-Limit of Indemnity stated in the Schedule, any one claim or series of claims arising out of the same prosecution or proceedings;

- h) in respect of prosecution costs other than such costs relating to item b) above (prosecution costs), in Excess of a Sub-Limit of Indemnity stated in the Schedule, any one claim or series of claims arising out of the same prosecution or proceedings.

For the avoidance of doubt the following statutes, whilst not exhaustive, are included within the statutes or regulations contemplated for which Defence Costs are insured by this clause:

- a) Health and Safety at Work, etc. Act 1974, but only sections 2 to 8,
- b) Health and Safety at Work (Northern Ireland) Order 1978,
- c) The Trade Description Act 1968
- d) Part II of the Consumer Protection Act 1987
- e) Part II of the Food Safety Act 1990.
- f) Corporate Manslaughter Act 2007

### 10.3.15 Temporary Business trips overseas

At the request of the Insured, this Insured Section is extended to indemnify the Insured and any director, partner or Employee of the Insured (including their family or persons normally resident with them) against legal liability as described in Public liability cover above but incurred whilst outside their country of domicile provided that:

- a) legal liability is incurred in a personal capacity whilst undertaking a Business trip;
- b) such a temporary Business trip outside their country of domicile does not exceed twelve (12) months; and
- c) such liability does not arise out of the ownership or occupation of land or buildings.

If such director, partner or Employee has more than one domicile, "domicile" shall be interpreted as being the country where the person is liable to pay income tax and/or social security fund payments (or similar such tax/ payments).

### 10.3.16 Work upon third party property

The words "in the Insured's care, custody or control" in 'Property in the insured's care, custody and control' exclusion above will not apply in respect of premises and their contents temporarily in the Insured's custody possession or control for the purpose of undertaking work. This clause will not apply in respect of premises and their contents belonging to the Insured or occupied by them as tenants;

liability arising from or caused by Damage to that part of the premises or contents upon which the Insured are or have been working

resulting directly from the work process.

### 10.3.17 Waiver of Subrogation

In respect of contracts or agreements which impose upon the Insured conditions waiving the rights of the Insured to recover from any other Party, the Insurer agrees to the extent required by such contract or agreement to waive any rights of subrogation to which it might otherwise have been entitled in such circumstances in respect of any payments which it may make under this Policy.

Further, where requested by the Insured, the Insurer will waive all rights of subrogation against a subsidiary of the Insured or from a subsidiary against the parent.

For the purpose of this clause, subrogation means the right of the Insurer who has granted indemnity to take over any recovery rights the Insured may have against third parties liable for the same loss.

### 10.4 Limitations and exclusions applicable to this Insured Section

The following are excluded from and not covered by the insurance under this Insured Section:

#### 10.4.1 Advertising Injury

liability arising out of advertising Injury.

#### 10.4.2 Advice, design or plans provided for a fee

liability arising out of or from advice, design, plans, specifications, formulae, surveys or directions prepared or given by the Insured or Other Insured Party for a fee but this shall not exclude such liability arising in conjunction with Products supplied.

#### 10.4.3 Aircraft Products

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. This exclusion shall not apply to aviation fuel, lubricants or De-icer supplied by the Insured.

#### 10.4.4 Aircraft and watercraft

liability arising out of or from the ownership, possession or use of any aircraft or other aerial device or satellite, spacecraft or any watercraft other than:

- a) motor barges not exceeding seventy five (75) ton capacity on inland waterways;
- b) hand-propelled craft, sailing vessels and motor launches not exceeding fifteen (15) metres in length and only when operated in inland waterways; and
- c) watercraft not belonging to or chartered by the Insured but used by it for business entertainment provided that;

- i. such watercraft is primarily owned and operated as a river cruise vessel;
- ii. such watercraft is insured by the owner or charterer under a policy of marine insurance; and
- iii. the Insurer will not indemnify the Insured 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.

**10.4.5 Airside**

liability for Damage or Bodily Injury caused by or arising from airside activities.

**10.4.6 Asbestos**

liability arising from or caused by any work involving the manufacture, mining, processing, use, installation, storage, removal, stripping out, demolition, disposal, distribution, inspection or testing of or exposure to asbestos, asbestos fibres, asbestos dust or asbestos-containing materials.

**10.4.7 Costs of recall or guarantee**

expenditure, whether incurred by the Insured or others, for the withdrawal, recall, disposal, removal, repair, adjustment, alteration, reconditioning, replacement or reinstatement of any Product or part thereof (or any other Product or part thereof of which the Insured's Product forms, or is intended to form, a part or ingredient) and/or financial loss consequent upon the necessity for such withdrawal, recall, disposal, removal, repair, adjustment, alteration, reconditioning, replacement or reinstatement.

**10.4.8 Deliberate acts**

**10.4.9** damages or compensation, including claimant costs and any associated Defence Costs, which result from Personal Injury, Damage, Denial of Access or nuisance either expected or intended by the Insured or Other Insured Party but this exclusion does not apply to Personal Injury resulting from the use of reasonable force to protect persons or property.

**10.4.10** other Defence Costs incurred in proceedings other than in respect of manslaughter, corporate manslaughter or corporate homicide consequent upon any deliberate act or omission by or on behalf of the Insured or Other Insured Party, if the result of such act or omission could reasonably have been expected to constitute an offence under any legislation.

**10.4.11** however this exclusion shall not apply to any individual person or company if the Personal Injury, Damage, Denial of Access or nuisance is not expected or intended by that Party.

**10.4.12 Electronic Data**

liability arising from:

- a) loss, alteration or impairment of or damage to information and/or data in electronic form;
- b) malicious acts of any person carried out by electronic means; and
- c) defamation or harassment carried out by electronic means,

but this exclusion shall not apply in respect of liability for any ensuing accidental Bodily Injury (save for mental injury or mental disease) or accidental Damage which is not otherwise excluded.

**10.4.13 Employment practices dispute**

liability which arises out of employment practice disputes directly or indirectly related to employment or prospective employment of any person or persons by the Insured including but not limited to:

- a) wrongful unfair or constructive dismissal;
- b) denial of natural justice, defamation, misleading representation or advertising;
- c) refusal to employ a suitably qualified applicant or failure to promote; and
- d) coercion, demotion, evaluation, relocation, punishment, slander, humiliation, harassment or discrimination,

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

**10.4.14 Excess or Deductible**

the amount of the Excess or Deductible as applicable and stated in the Schedule.

**10.4.15 Fees for intervention**

any payments raised under the Health and Safety (Fees) Regulations 2012 relating to 'fees for intervention'.

**10.4.16 Financial loss**

liability for pure economic loss not consequent upon Bodily Injury or Damage, but this exclusion shall not apply to:

- a) Personal Injury;
- b) Denial of Access, nuisance; or
- c) cover as provided by Data Protection Act 1998 clause.

**10.4.17 Fines, penalties or multiplication of compensatory Damages**

any fines, penalties, punitive damages, exemplary damages, aggravated damages, treble damages or any other increase in damages resulting from the multiplication of compensatory damages.

**10.4.18 Liability from employment**

Bodily Injury caused to or sustained by any Employee arising out of or in the course of employment by the Insured in the Business.

**10.4.19 Limit of Indemnity**

liability in Excess of the Limit of Indemnity stated in the Schedule except for payment of Defence Costs as provided for by the Costs and expenses indemnifiable by this insured section.

**10.4.20 Liquidated Damages**

any loss arising out of or from any liquidated damages clauses or penalty clauses or performance warranties in any contract or agreement which the Insured or Other Insured Party has entered into unless it is proven that, and then only to the extent that, liability would have attached in the absence of such clauses or warranties.

**10.4.21 North American jurisdiction**

- a) 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;
- b) but this exclusion shall not apply to visits to North America in the course of 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:
  - i. the Insurer will not be liable to indemnify any entity based in, operating in or domiciled in North America;
  - ii. the Insurer 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;
  - iii. the Insurer 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;
  - iv. the Insurer will not be liable to indemnify for liability arising directly or indirectly from Pollution; and

- v. Defence Costs are inclusive and form part of the Limit of Indemnity.

**10.4.22 North American territory**

- a) liability in respect of Personal Injury, Damage, Denial of Access or nuisance 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; and
- b) liability in respect of or arising from Pollution occurring within North America.

**10.4.23 Nuclear risks**

- a) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss;
- b) any legal liability of whatsoever nature; and
- c) any sum which the Insured becomes legally liable to pay or any loss or expense;

directly or indirectly caused by or contributed to by or arising from or, in the case of item c) above, attributable to nuclear hazards.

**10.4.24 Offshore work**

loss or liability arising from work offshore;

**10.4.25 Overseas domiciled operations**

the Insured's subsidiary companies, branch offices or representatives with power of attorney that are domiciled outside of the United Kingdom.

**10.4.26 Owned or previously owned Premises**

liability for Damage, Denial of Access or nuisance to land or Premises (including land or water within or below the boundaries of such land or Premises) that are presently or were at any time previously owned, leased, hired or tenanted by the Insured or otherwise in the Insured's care, custody or control.

**10.4.27 Ownership or use of mechanically propelled vehicles**

Personal Injury, Damage, Denial of Access or nuisance arising out of or from the ownership, maintenance, operation or use of any mechanically propelled vehicle by or on behalf of the Insured or any Other Insured Party except that this exclusion shall not apply in respect of and to the extent of the indemnity provided by any expressly stated coverage extensions herein;

**10.4.28 polychlorinatedbyphenols**

liability arising from or caused by supplying, using or working with materials and Products containing levels of polychlorinatedbyphenols greater than 50 parts per million;

**10.4.29 Products and workmanship**

liability for Damage to and costs incurred in or in consequence of recalling, replacing or making good Products or workmanship performed by or

on behalf of the Insured arising from a defect or unsuitability thereof and pure financial loss arising therefrom;

#### **10.4.30 Property in the Insured's care, custody and control**

Damage to property owned, leased, hired or held in trust by the Insured or under hire, purchase or on loan to the Insured or held otherwise in the Insured's care, custody or control except that this exclusion shall not apply in respect of and to the extent of the indemnity provided by any expressly stated coverage extensions herein;

#### **10.4.31 Statutory Defence Costs**

liability for Defence Costs arising out of or in respect of any alleged breach of statutory duty or any allegation of manslaughter, corporate manslaughter or corporate homicide except as stated as insured in the clause entitled 'Statutory Defence Costs including Health and Safety at Work, etc. Act 1974' under the Coverage extensions to Public, Products and Pollution liability Insured Sections.

#### **10.4.32 Use or application of heat**

liability arising from or caused by the use or application of heat away from the Insured's Premises:

- a) when using oxyacetylene, electric arc and similar welding and cutting equipment, blow lamps, torches and the like;
- b) when using or applying heat in any other way unless the Insured takes all reasonable precautions to prevent Damage;

#### **10.4.33 War or Terrorism**

Personal Injury, Damage, Denial of Access or nuisance directly or indirectly caused by or contributed to by or arising from War or any act of Terrorism.

#### **10.5 Conditions applicable to this Insured Section**

The due observance and fulfilment of the provision of the following terms is a condition to the Insurer's liability for any claim under this Policy.

##### **10.5.1 Bona fide subcontractors insurance check**

It is a condition precedent to the Insurer's liability under this insurance that whenever work is undertaken on behalf of the Insured by bona fide subcontractors, the Insured will establish and maintain an administrative procedure for obtaining evidence that bona fide subcontractors effect public liability insurance that:

covers the work to be undertaken by the bonafide subcontractor;

is subject to a Limit of Indemnity of not less than GBP5,000,000; and

includes an 'indemnity to principals' clause, and

such evidence is revalidated every twelve (12) months throughout the duration of their contract with the Insured.

##### **10.5.2 Fork lift truck conditions**

It is a condition precedent to the Insurer's liability under this insurance that:

- a) all drivers must be at least eighteen (18) years of age;
- b) all drivers must:
  - i. complete a training course in the safe use of fork lift trucks through an Accredited Training Provider belonging to one of the accrediting bodies as recognised by the Health & Safety Executive; and
  - ii. complete a refresher course within five (5) years of the initial training programme, and the Insured must retain appropriate documentation verifying completion thereof;
- c) whenever a fork lift truck is unattended:
  - i. the ignition keys must be removed; or
  - ii. the vehicle otherwise immobilised,

to prevent unauthorised use. For the purpose of this clause, unattended means that the fork lift truck is out of sight of the driver and / or more than one (1) minute's walking distance from the driver to prevent unauthorised use;

the carriage of passengers, unauthorised use or application as a tool in Excess of the design capabilities of the vehicle is prohibited at all times; and all drivers must engage all operational safety systems in accordance with the manufacturers' recommendations.

##### **10.5.3 Reasonable precautions**

It is a condition precedent to the Insurer's liability under this insurance that the Insured's risk manager or senior management shall take all reasonable precautions to prevent an insured event or loss arising or continuing and will act in a manner so as not to promote a loss arising or of or continuing from the deliberate, conscious or intentional disregard by the Insured of the need to take reasonable care.

##### **10.5.4 Skip hire conditions**

It is a condition precedent to the Insurer's liability under this insurance that:

- a) in connection with the use, ownership or hiring out of skips, the Insured must at all times observe and comply with the requirements of the Roads (Scotland) Act 1984 or the Highways Act 1980 or any other statutes, regulations or local bye-laws and must ensure that:

- i. each skip is marked with fluorescent markings which must be kept clean;
  - ii. each skip deposited on a highway is equipped to be properly lit during the hours of darkness; and
  - iii. no skip is left at or outside any customer's premises or on any working site without delivery being accepted by or on behalf of the customer; and
- b) skips must be hired out under the conditions of hire as advised to the Insurer and a copy of these conditions must be given to the customer and the contents thereof drawn to the customer's attention prior to or at the time of delivery of the skip.



# 11 INSURED SECTION – LEGAL EXPENSES

## 11.1 Legal expenses cover

### 11.1.1 Insuring clause

This Insured Section will cover the Person Insured in respect of any Insured Incident arising in connection with the Business shown in the schedule provided that:

- a) reasonable prospects exist for the duration of the claim;
- b) the date of Occurrence of the insured incident is during the Period of Insurance;
- c) any legal proceedings will be dealt with by a court, or other body which we agree to, within the Territorial Limits; and
- d) the Insured Incident happens within the Territorial Limits.

### 11.1.2 What the Insurer will pay

The Insurer will pay an appointed representative, on behalf of the Insured, Legal Expenses Costs incurred following an Insured Incident, and any compensation awards that we have agreed to, provided that:

- a) the most the Insurer will pay for all claims resulting from one or more event arising at the same time or from the same originating cause is shown as the limit of indemnity in the schedule;
- b) the most the Insurer will pay in legal expenses costs is no more than the amount the Insurer would have paid to a preferred law firm or tax consultancy;
- c) in respect of an appeal or the defence of an appeal, the Insured must tell the Insurer within the time limits allowed that the Insured wants to appeal. Before the Insurer pays the Legal Expenses Costs for appeals, the insurer must agree that reasonable prospects exist;
- d) for an enforcement of judgment to recover money and interest due to the Insured after a successful claim under this policy, the Insurer must agree that reasonable prospects exist; and
- e) where an award of damages is the only legal remedy to a dispute and the cost of pursuing legal action is likely to be more than any award of Damages, the most the Insurer will pay in legal expenses costs is the value of the likely award;
- f) in respect of insured incident – Legal defence the maximum the insurer will pay is the person insured's net salary or wages for the time that the person insured is absent from work less any amount the court pays.

### 11.1.3 What the Insurer will not pay

- a) In the event of a claim, if the Insured decides not to use the services of a Preferred Law Firm or Tax Consultancy, the Insured will be responsible for any costs that fall outside the DAS Standard Terms of Appointment and these will not be paid by the Insurer;
- b) The total of the compensation awards payable by us shall not exceed GBP 1,000,000 in any one Period of Insurance.

## 11.2 Employment disputes and compensation awards

### 11.2.1 Employment disputes

The Insurer will defend the Insured's legal rights:

- a) prior to the issue of legal proceedings in a court or tribunal following the dismissal of an Employee; or
- b) in the resolution of unfair dismissal disputes under the ACAS Arbitration Scheme; or
- c) in legal proceedings in respect of any dispute relating to:
  - i. a contract of employment with the Insured; or
  - ii. an alleged breach of the statutory rights of an Employee, prospective Employee or ex-Employee under employment legislation.

### 11.2.2 Compensation awards

The Insurer will pay:

- a) any basic and compensatory award; and/or
- b) an order for compensation following a breach of the Insured's statutory duties under employment legislation;

in respect of a claim the Insurer has accepted under the Employment Disputes clause, provided that:

- a) in cases relating to performance and/or conduct, the Insured has throughout the employment dispute either:
  - i. followed the ACAS Code of Disciplinary and Grievance Procedures; or
  - ii. followed equivalent codes of practice issued by the labour relations agency in Northern Ireland; or
  - iii. sought and followed advice from the Insurer's legal advice service.
- b) for an order of compensation following the

Insured's breach of statutory duty under employment legislation the Insured has at all times sought and followed advice from the Insurer's legal advice service since the date when the Insured should have known about the employment dispute.

- c) for any compensation award for redundancy or alleged redundancy or unfair selection for redundancy, the Insured has sought and followed advice from the Insurer's claims department prior to serving notice of redundancy.
- d) the compensation is awarded by a tribunal or through the ACAS Arbitration Scheme, under a judgment made after full argument and otherwise than by consent or default, or is payable under settlement approved in writing in advance by the Insurer.
- e) the total of the compensation awards payable by the Insurer shall not exceed £1,000,000 in any one Period of Insurance.

### 11.2.3 Employee civil legal defence

The Insurer will defend the Person Insured's (other than the Insured) legal rights if:

- a) an event arising from their work as an Employee leads to civil action being taken against them under legislation for unlawful discrimination; or
- b) civil action is taken against them as a trustee of a pension fund set up for the Benefit of Your Employees.

*Please note that We will only provide cover for a Person Insured (other than the Insured) at the Insured's request.*

### 11.2.4 Service Occupancy

The Insurer will negotiate for the Insured's legal rights against an Employee or ex- Employee to recover possession of premises owned by, or for which the Insured is responsible.

## 11.3 Legal defence

At the request of the Insured:

### 11.3.1 The Insurer will defend the Person Insured's legal rights:

- a) prior to the issue of legal proceedings when dealing with the:
  - i. police;
  - ii. health and safety executive and/or local authority health and safety officer;
  - iii. where it is alleged that the Person Insured has or may have a criminal offence; or
- b) following an event which leads to the Person

Insured being prosecuted in a court of criminal jurisdiction (please note the Insurer will only cover criminal investigations and/or prosecutions which arise in direct connection with the activities of the Business shown in the Schedule); or

- c) if civil action is taken against the Person Insured for compensation under section 13 of the Data Protection Act 1998. The Insurer will also pay any compensation award made against the Person Insured under section 13 of the Data Protection Act 1998; or
- d) in an appeal against the refusal of the Information Commissioner to register your application for registration.

**11.3.2** The Insurer will defend the Insured's legal rights following civil action taken against the Insured for wrongful arrest in respect of an accusation of theft alleged to have been carried out during the Period of Insurance.

**11.3.3** The Insurer will represent the Person Insured in appealing against the imposition or terms of any statutory notice issued under legislation affecting the Insured's Business except for any claim in connection with the Insured's license, mandatory registration or British Standard Certificate of Registration, or a Statutory Notice issued by a Person Insured's regulatory or governing body.

**11.3.4** The Insurer will pay for a Person Insured's absence from work:

- a) to perform jury service
- b) to attend any court or tribunal at the request of the Appointed Representative.

The maximum the Insurer will pay is the Person Insured's net salary or wages for the time that they are absent from work less any amount the Insured, the court or tribunal, has paid them.

Provided that:

- i. in so far as proceedings under the Health and Safety at Work etc Act 1974 are concerned, in respect of clauses a) and b) above the territorial limit shall be any place where the act applies;
- ii. in respect of clause c) above, at the time of the insured incident the insured has registered with the information commissioner

## 11.4 Statutory licence appeal

The Insurer will represent the Insured in appealing to the relevant statutory or regulatory authority, court or tribunal following a decision by a licensing or regulatory authority to suspend, or alter the terms of, or refuse to renew, or cancel the Insured's licence, mandatory registration or British standard certificate of registration.

**11.5 Property protection and Bodily Injury****11.5.1 Property protection**

The Insurer will negotiate for the Insured's legal rights in any civil action relating to material property which is owned by the Insured, or is the Insured's responsibility, following:

- a) any event which causes physical damage to such material property; or
- b) a legal nuisance (meaning any unlawful interference with the Insured's use or enjoyment of the Insured's land, or some right over, or in connection with it); or
- c) a trespass.

*Please note that the Insured must have established the legal ownership or right to the land that is the subject of the dispute.*

**11.5.2 Bodily Injury**

At the request of the Insured, the Insurer will negotiate for a Person Insured's and their family members' legal rights following a specific or sudden accident that causes the death of, or bodily injury to them.

**11.6 Tax protection**

**11.6.1** A Full Enquiry or aspect enquiry.

**11.6.2** A cross-tax enquiry.

**11.6.3** An employer compliance dispute.

**11.6.4** A VAT dispute.

Provided that:

- a) The Insured has taken reasonable care to ensure that all returns are complete and correct and are submitted within the statutory time limits allowed; and
- b) The Insurer will not pay more than £2,000 for claims in respect of aspect enquiries.

*Please note the Insurer will only cover tax claims which arise in direct connection with the activities of the Business shown in the Schedule.*

**11.7 Contract disputes**

The Insurer will negotiate for the Insured's legal rights in a contractual dispute arising from that agreement or that alleged agreement which has been entered into by you or on your behalf for the purchase, hire, sale or provision of Goods or of services provided that:

- a) the amount in dispute exceeds £500 (including VAT). If the amount in dispute exceeds £5,000, the Insured will be responsible for the first £500 of legal costs in each and every dispute.

- b) if the amount in dispute is payable in instalments, the instalments due and payable at the time of making the claim exceed £500.

- c) if the dispute relates to money owed to the Insured, a claim under this Insured Section is made within ninety (90) days of the money becoming due and payable.

**11.8 Specific Legal expenses limitations and exclusions**

This Insured Section excludes and does not cover:

**11.8.1 Employment disputes and compensation awards**

- a) Employment disputes:
  - i A dispute where the cause of action arises within the first ninety (90) days of the start of the cover provided by this Insured Section.
  - ii A dispute with an Employee under a written or oral warning (formal or informal) within one hundred and eighty (180) days immediately before the start of the cover provided by this Insured Section if the date of Occurrence was within the first one hundred and eighty (180) days of the start of the cover provided by this Insured Section.
  - iii Any redundancy or alleged redundancy or unfair selection for redundancy arising within the first one hundred and eighty (180) days of the start of the cover provided by this Insured Section.
  - iv Any claim in respect of damages for personal injury or loss of or damage to property.
  - v Any claim arising from or relating to the Transfer of Undertakings (Protection of Employment) Regulations 2006 or the Transfer of Employment (Pension Protection) Regulations 2005.
- b) Compensation awards:
  - i Any compensation award relating to the following:
    - I trade union activities, trade union membership or non-membership;
    - II pregnancy or maternity rights, paternity, parental or adoption rights;
    - III health and safety related dismissals brought under section 44 of the Employment Rights Act 1996;

- IV. statutory rights in relation to trustees of occupational pension schemes;
- i. Non-payment of money due under the relevant contract of employment or statutory provision relating thereto.
- ii. Any award ordered because the Insured has failed to provide relevant records to Employees under the National Minimum Wage laws.
- iv. Any compensation award or increase in compensation award ordered by the tribunal for failure to comply with a current or previous recommendation it has made.
- c) Service occupancy
- d) Any claim relating to defending the Insured's legal rights other than defending a counter-claim.

### 11.9 Legal defence

- a) Any claim which leads to the Person Insured being prosecuted for infringement of road traffic laws or regulations in connection with the ownership, driving or use of a motor vehicle.
- b) the cost of fines imposed by the Information Commissioner.

### 11.10 Statutory licence appeal

- a) Assistance with the application process either in relation to an original application or application for renewal of a statutory licence, mandatory registration or British standard certificate of registration.
- b) Any licence appeal relating to the ownership, driving or use of a motor vehicle.

### 11.11 Property protection and Bodily Injury

#### 11111 Property Protection

Any claim relating to the following:

- i. a contract entered into by the Insured;
- ii. Goods in Transit or Goods lent or hired out;
- iii. Goods at premises other than those occupied by the Insured unless the Goods are at such premises for the purpose of installations or use in work to be carried out by the Insured;
- iv. mining subsidence;
- v. defending the Insured's legal rights other than in defending a counter-claim;

- vi. a motor vehicle owned or used by, or hired or leased to a Person Insured other than damage to motor vehicles where the Insured are engaged in the business of selling motor vehicles.
- vii. the enforcement of a covenant by or against the Insured.
  - a) Bodily injury

Any claim relating to the following:

- i. any illness or bodily injury which develops gradually or is not caused by a specific or sudden accident; or
- ii. defending a Person Insured's or their family members' legal rights other than in defending a counter-claim; or
- iii. clinical negligence
- iv. psychological injury or mental illness unless the condition follows a specific or sudden accident that has caused physical bodily injury.

#### 11112 Tax protection

- a) The Insurer will not pay the first £200 of Legal Expenses Costs of each and every claim in respect of aspect enquiries.
- b) Any tax avoidance schemes.
- c) Any failure to register for Value Added Tax or Pay as You Earn.
- d) Any investigation or enquiries by, with or on behalf of HM Revenue & Customs Special Investigations Section, Special Civil Investigations, Criminal Investigations Unit, Criminal Taxes Unit, under Public Notice 160 or by the Revenue & Customs Prosecution Office.
- e) Any claim relating to import or excise duties and import VAT.
- f) Any investigation or enquiry by HM Revenue & Customs into alleged dishonesty or alleged criminal offences.

#### 11113 Contract disputes

- a) a dispute arising from an agreement entered into prior to the start of the Policy if the Date of Occurrence is within the first ninety (90) days of the cover provided by the Policy.
- b) the settlement payable under an insurance policy (the Insurer will cover a dispute if the Insured's insurer refuses a claim, but not for a dispute over the amount of the claim).
- c) the sale, purchase, terms of a lease, licence, or tenancy of land or buildings. However,

the Insurer will cover a dispute with a professional adviser in connection with these matters

- d) a loan, mortgage, pension, guarantee or any other financial Product and choses in action.
- e) a motor vehicle owned by, or hired or leased to the Insured other than agreements relating to the sale of motor vehicles where the Insured is engaged in the business of selling motor vehicles.
- f) a dispute with an Employee or ex-Employee which arises out of, or relates to, a contract of employment with the Insured.
- g) a dispute which arises out of the:
  - i. sale or provision of computer hardware,
  - ii. software, systems or services; or
  - iii. the purchase or hire of computer hardware, software, systems or services tailored by a supplier to your own specification.
- h) a dispute arising from a breach or alleged breach of professional duty by an Insured Person.
- i) the recovery of money and interest due from another Party, other than disputes where the other Party indicates that a defence exists.

## 11.12 Legal expenses other terms and conditions

11.12.1 On receiving a claim, if representation is necessary, the Insurer will appoint a Preferred Law Firm, Tax Consultancy or in-house lawyer as the Insured's Appointed Representative to deal with the Insured's claim. They will try to settle the Insured's claim by negotiation without having to go to court.

- a) If the appointed Preferred Law Firm, Tax Consultancy or the Insurer's in-house lawyer cannot negotiate settlement of the Insured's claim and it is necessary to go to court and legal proceedings are issued or there is a conflict of interest, then the Insured may choose a law firm or tax expert to act as the Appointed Representative. The Insurer will choose the Appointed Representative to represent the Insured in any proceedings where the Insurer is liable to pay a compensation award.
- b) If the Insured chooses a law firm as its Appointed Representative who is not a Preferred Law Firm or Tax Consultancy, the Insurer will give the Insured's choice of law firm the opportunity to act on the same terms as a Preferred Law Firm or Tax

Consultancy. However if they refuse to act on this basis, the most the Insurer will pay is the amount the Insurer would have paid if they had agreed to the DAS Standard Terms of Appointment.

- c) The Appointed Representative must co-operate with the Insurer at all times and must keep the Insurer up to date with the progress of the claim.

### 11.12.2 A Person Insured must:

- a) co-operate fully with the Insurer and the Appointed Representative; and
- b) give the Appointed Representative any instructions that the Insurer asks the Insured to.

11.12.3 A Person Insured must tell the Insurer if anyone offers to settle a claim and must not negotiate or agree to any settlement without Our written consent.

- a) If a Person Insured does not accept a reasonable offer to settle a claim, the Insurer may refuse to pay further Legal Expenses Costs.
- b) the Insurer may decide to pay a Person Insured the reasonable value of the claim that the Person Insured is claiming or is being claimed against them instead of starting or continuing legal action. In these circumstances a Person Insured must allow the Insurer to take over and pursue or settle a claim in their name. A Person Insured must allow the Insurer to pursue at its own expense and for their Benefit, any claim for compensation against any other person and Person Insured must give the Insurer all the information and help the Insurer needs to do so.
- c) Where a settlement is made on a without-costs basis the Insurer will decide what proportion of that settlement will be regarded as Legal Expenses Costs and payable to the Insurer.

### 11.12.4 A Person Insured must:

- a) instruct the Appointed Representative to have Legal Expenses Costs taxed, assessed or audited if the Insurer asks for this; and
- b) must take every step to recover Legal Expenses Costs and court attendance and jury service expenses that the Insurer has to pay and must pay the Insurer any amounts that are recovered.

11.12.5 If the Appointed Representative refuses to continue acting for a Person Insured with good reason or if a Person Insured dismisses the Appointed Representative without good reason, the cover the Insurer provides will end at once, unless the Insurer agrees to appoint another Appointed Representative.

- 11.12.6 If a Person Insured settles a claim or withdraws their claim without the Insurer's agreement, or does not give suitable instructions to the Appointed Representative, the Insurer can withdraw cover and will be entitled to reclaim any Legal Expenses Costs the Insurer has paid.
- 11.12.7 The Insurer may require the Insured to get, at the Insured's own expense, an opinion from an expert, that the Insurer considers appropriate, on the merits of the claim or proceedings, or on a legal principle. The expert must be approved in advance by the Insurer and the cost agreed in writing between the Insurer and the Insured. Subject to this the Insurer will pay the cost of getting the opinion if the expert's opinion indicates that it is more likely than not that the Insured will recover damages (or obtain any other legal remedy that the Insurer has agreed to) or make a successful defence.
- 11.12.8 If there is a disagreement between the Insured and the Insurer about the handling of a claim and it is not resolved through the Insurer's internal complaints procedure and the Insured is a small business, the Insured can contact the Financial Ombudsman Service for help. Details available from [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk). Alternatively there is a separate arbitration process (this applies to all sizes of business). The arbitrator will be a barrister chosen jointly by the Insured and the Insurer. If there is a disagreement over the choice of arbitrator, the Insurer will ask the Chartered Institute of Arbitrators to decide.
- 11.12.9 A Person Insured must:**
- a) keep to the terms and conditions of this Insured Section
  - b) take reasonable steps to avoid and prevent claims
  - c) take reasonable steps to avoid incurring unnecessary costs
  - d) send everything the Insurer asks for in writing, and
  - e) report to the Insurer full and factual details of any claim as soon as possible and give the Insurer any information the Insurer needs.
- 11.12.10 The Insured will not pay the claim if a claim the Person Insured has made to obtain Benefit under this Insured Section is fraudulent or intentionally exaggerated, or a false declaration or statement is made in support of a claim.
- 11.12.11 Apart from the Insurer, the Insured is the only person who may enforce all or any part of this policy and the rights and interests arising from or connected with it. This means that the Contracts (Rights of Third Parties) Act 1999 does not apply to this Insured Section in relation to any third-Party rights or interest.
- 11.12.12 If any claim covered under this Insured Section
- is also covered by another policy, or would have been covered if this Insured Section did not exist, the Insurer will only pay its share of the claim even if the other insurer refuses the claim.
- 11.12.13 This Insured Section is governed by the law that applies in the part of the United Kingdom, Channel Islands or Isle of Man where the Insured's Business is registered. Otherwise the law of England and Wales applies. All Acts of Parliament mentioned in this Insured Section include equivalent laws in Scotland, Northern Ireland, the Isle of Man and the Channel Islands as appropriate.



## 12 DUTIES IN THE EVENT OF A CLAIM OR POTENTIAL CLAIM

The following Conditions must be complied with after an incident that may give rise to a claim under the Policy. Breach of these conditions will entitle the Insurer to refuse to deal with the relevant claim.

### 12.1 Claim notification

The Insured must give notice to the Insurer in writing or by an agreed electronic format to the claim notification address specified in the Schedule:

12.1.1 immediately but in any event, within seven (7) working days of receipt of any:

- a) notice of adjudication, referral notice or any adjudication notice pursuant to contract;
- b) notice of referral to any tribunal;
- c) a dispute under the Local Democracy, Economic Development and Contracts Act 2009;
- d) receipt of notice of any impending inquest, fatal accident inquiry or other legal proceedings;
- e) impending prosecution, inquest or inquiry in connection with any accident or disease, which may be the subject of claim;

12.1.2 but in respect of any claim under Insured section - Personal Accident:

- a) as soon as reasonably practicable or at least within ninety (90) days from the date of Bodily Injury of the Insured Person that causes or may cause death or Disablement;
- b) in the event of Disablement, claims other than first notice must be presented for settlement within twelve (12) months of the date of the original Bodily Injury giving rise to such claim under this Insured Section;
- c) if an Accident involves the death of the Insured Person claims must be presented within twelve (12) months of the date of the original Bodily Injury giving rise to such claim under this Insured Section;

and give us any further information and assistance we may require.

### 12.2 Claims notification Legal expenses Section

12.2.1 To make a claim under this Insured Section please telephone DAS on 0117 9330618. DAS will ask the Insured about the legal dispute and if

necessary call the Insured back at an agreed time to give the Insured legal advice. If the Insured's dispute needs to be dealt with as a claim under this Insured Section, DAS will provide the Insured with a claim reference number. At this point DAS will not be able to confirm that You are covered but they will pass the information the Insured has given to the claims handling teams and explain what to do next.

Claims are usually handled by a representative appointed by DAS, but sometimes DAS deal with them themselves. Claims outside the United Kingdom may be dealt with by other DAS offices elsewhere in Europe.

Please do not ask for help from a solicitor or accountant before DAS have agreed. If the Insured does, DAS will not pay the costs involved.

### 12.3 Claim notification – Insured Section Personal Accident only

12.3.1 The Insured will give notice in writing to the Insurer as soon as reasonably practicable and at least within:

- a) fourteen (14) days from the date of the Accident of the Insured Person that causes or may cause Temporary Total Disablement insured by this Policy;
- b) ninety (90) days from the date of Accident of the Insured Person that causes or may cause death or permanent Disablement insured by this Policy.

12.3.2 The Insured shall ensure that:

- a) the Insured Person submits to examination to any medical examiner of the Insurer's choosing as and when the Insurer shall reasonably require; the fees for such examination to be paid by the Insurer;
- b) in the event of the accidental death of an Insured Person, that the Insurer is permitted to arrange, at its own expense, an independent autopsy of the Insured Person;

12.3.3 In the event of permanent Disablement claims must be presented to the Insurer for settlement within twelve (12) months of the date of the original Accident giving rise to such claim under this Policy, unless otherwise agreed by the Insurer.

12.3.4 In the event of the Insured Person's death or other incapacity that prevents the Insured Person from submitting notice, the Insured Person's executors or administrators will give notice in

writing, within ninety (90) days from the date of Injury of the Insured Person to the Insurer and otherwise act in place of the Insured Person.

12.3.5 If an Accident involves the death of the Insured Person claims must be presented to the Insurer within twelve (12) months of the date of the original Accident giving rise to such claim under this insurance, unless otherwise agreed by Insurer.

12.3.6 Notice to the Insurer must be given to the claims notification addresses specified in the Schedule.

## 12.4 Insured's duties

12.4.1 For each and every claim the Insured and any person acting on behalf of the Insured must:

- a) not admit responsibility, liability, make an offer or promise, nor offer payment or indemnity without the written consent of the Insurer;
- b) not incur any expense without the consent of the Insurer except at the Insured's own cost;
- c) always act honestly;
- d) give all such information, assistance and forward all documents to enable the Insurer to investigate, settle or resist any claim as the Insurer may require;
- e) provide such proofs and information with respect to the claim as may reasonably be required together with (if demanded) a statutory declaration of the truth of the claim and any matters connected therewith;
- f) on the happening of any Damage in consequence of which a claim is or may be made under Insured section – Business interruption, with due diligence do and concur in doing and permit to be done all things which may be reasonably practicable to minimise or check any interruption of or interference with the Business or to avoid or diminish the loss;
- g) not destroy evidence or supporting information or documentation without the Insurer's prior consent; nor destroy any plant or other property relating to an occurrence, loss or suit that may give rise to a claim under this Policy.

## 12.5 Insured's additional duties – Insured Section Personal Accident

12.5.1 In addition to the above, for each and every claim it is agreed that:

- a) the Insured must arrange for the Insured Person to place himself/herself as early as possible under the care of a Health Care Practitioner;

b) the Insured must fully co-operate with and assist the Insurer in the investigation and evaluation of the incident or claim including:

- i. in the event of death by Accident, obtaining a copy of the death certificate and any other records deemed necessary by the Insurer;
- ii. obtaining any other records the Insurer deems necessary to evaluate the incident or claim;
- iii. procuring the full co-operation and assistance of the Insured Person as required by the Insurer.

## 12.6 Claim procedure

Unless stated 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. For each and every claim, the Insured and any person acting on behalf of the Insured must:

12.6.1 upon receiving any request, demand, order, notice, summons, legal paper and all documents relating thereto in connection with an insured event immediately and in any event within three (3) business days provide copies of these to the Insurer. In addition where reasonably practical the Insured must co-operate with the Insurer or their appointed agents to allow them to comply with such relevant practice directions and pre-action protocols as may be issued and approved from time to time by the head of civil justice;

12.6.2 authorise the Insurer to obtain medical records or other pertinent information upon request but only where legally permitted to do so in the event of an insured event involving Bodily Injury;

12.6.3 for property claims, within thirty (30) days after Damage (or expiry of the Indemnity Period in the case of Business interruption) or such further time as the Insurer may in writing allow, at the Insured's own expense, deliver to the Insurer a claim in writing, containing as particular an account as may be reasonably practical of the several articles or portions of property Damaged and the amount of the Damage thereto respectively, having regard to their value at the time of the Damage, together with any details of any other insurance on any Property Insured and provide such proofs and information with respect to the claim as may reasonably be required together with (if demanded) a statutory declaration of the truth of the claim and any matters connected therewith;

12.6.4 prove, if it is alleged that by reason of an exclusion of riot, civil commotion, War or an act of Terrorism, an event is not covered by this insurance, that the exclusion does not apply, it being understood and agreed that if the Insured does so prove, this will not in any way render the

remainder of the exclusions invalid, inapplicable or unenforceable.

from the Insured and incurred in connection with such insured event.

## **12.7 Insurer's rights**

1271 The Insurer shall have control of any valid claim or valid potential claim and shall have full discretion as to the conduct of any defence or settlement of any such claim or potential claim.

1272 If the Insurer pays the Limit of Indemnity or such lesser sum for which the Insurer in its discretion determines the claim can be settled, the Insurer shall immediately relinquish control of the claim and shall have no further liability except for the payment of any Defence Costs (where payable in addition to the Limit of Indemnity) which are incurred prior to the date of payment of the Limit of Indemnity.

1273 The Insurer may by notice to the Insured require the Insured to reimburse the Insurer for payments made by the Insurer under the Policy to the extent that such payments are made within the Excess.

## **12.8 Disputed defence or appeal**

If any dispute arises between the Insured and the Insurer as to whether a prosecution should be defended or an appeal made, such dispute will be referred to a Queen's Counsel (or Solicitor with at least 20 years' experience in the field of insurance law) to be mutually agreed between the parties (or in default of agreement to be nominated by the President of the Law Society) whose decision will be final. In the event of conflict between any Other Insured Party separate representation will be arranged for each Party.

## **12.9 Multiple Deductibles or Excesses**

1291 Where any Deductible or Excess is described as 'non ranking' then this amount is excluded from and forms no part of the indemnity provided by this insurance

1292 If the insured event forms the subject of indemnity under more than one of:

- a) of the Insured sections - Property through to Terrorism; or
- b) of the Insured sections - Public liability through to Pollution liability, then the Insured's maximum liability for the Deductible or Excess will be the highest applicable Deductible or Excess for either of the groups of Insured Sections.

1293 If settlement of an insured event investigated or defended by the Insurer under the Insured Sections relating to Public liability, Products liability and Pollution liability, does not exceed the amount of the applicable Deductible or Excess, the Insured will pay, or reimburse the Insurer for, as applicable, any Defence Costs and paid damages including claimant costs recoverable

## **12.10 Subrogation**

12101 Except as expressly provided by any 'Waiver of subrogation' clause, for each and every claim, the Insured and any person acting on behalf of the Insured 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 under this insurance.

12102 The Insured or any other Party insured by this Policy will, at the request and expense of the Insurer, do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the Insurer for the purpose of enforcing any rights and remedies, whether such acts and things will be or become necessary or required before or after their indemnification by the Insurer.

12103 In the event of any payment under this insurance, the Insurer will act in concert with all other interested persons (including the Insured) concerned in the exercise of any rights of recovery.

12104 The apportioning of any amounts which may be so recovered will follow the principle that any interested persons (including the Insured) who will have paid an amount over and above any payment hereunder will first be reimbursed up to the amount paid by them; the Insurer is then to be reimbursed out of any balance then remaining up to the amount paid hereunder; lastly, the interested persons (including the Insured) to whom this coverage is in Excess shall be entitled to claim the residue, if any.

12105 Expenses necessary to the recovery of any such amounts will be apportioned between the interested parties concerned in the ratio of their respective recoveries as finally settled.

# 13 GENERAL TERMS AND CONDITIONS

## 13.1 Assignment

Assignment of interest under this Policy will not bind the Insurer unless and until the Insurer's written consent is endorsed hereon.

## 13.2 Basis of contract

Any reference to 'basis of the contract' in this Policy or in the proposal form (if any) is of no effect.

## 13.3 Cancellation

The Insurer may at any time during the Period of Insurance serve written notice on the Insured at the address shown on the Schedule cancelling the policy with effect from the thirtieth (30th) day after service of the notice.

Such cancellation shall not affect the coverage or premium attributable under this insurance to the period prior to cancellation. Upon demand and subject to no claims having been notified under this Policy, the Insurer will return to the Insured a part of any premium paid in excess of that proportionate to the pre-cancelled portion of the Policy.

Without prejudice to any other forms of service, the 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.

## 13.4 Compliance with Policy terms

- 13.4.1 The Insured and anyone acting on its behalf must each comply with every applicable provision of the Policy.
- 13.4.2 To the extent this insurance provides a Benefit to any other Party, the Insured shall arrange for each insured Party to comply with every applicable provision of this Policy.
- 13.4.3 If the Insured or anyone acting on its behalf breaches any provision of the Policy, the Insurer may, without prejudice to any of the Insurer's other rights, reject or reduce sums payable to the extent that the Insurer's liability under the Policy has been incurred or increased by reason of the breach.
- 13.4.4 If the Insurer has paid any sums to the Insured or anyone acting on its behalf for which the Insurer was not liable (whether by reason of breach of any provision of the Policy by the Insured or anyone acting on its behalf or for any other reason) the Insured shall promptly repay such sums to the Insurer.
- 13.4.5 To the extent the Insurer waives all or some of its rights in relation to any obligation on the Insured, this shall not prevent the Insurer from relying

on any provisions in the future and any delay in reliance or any partial reliance by the Insurer shall not prevent the Insurer from relying on any such provisions, in whole or in part, in the future.

## 13.5 Confidentiality

The Insured 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 they are required to do so by law, for contractual purposes, or the Insurer consents in writing to such disclosure.

## 13.6 Contract (Rights of Third Parties) Act 1999

This insurance 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 both the Insurer and Insured may amend, cancel or lapse this insurance 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.

## 13.7 Contribution

If at the time of any claim under Insured Sections Property, Loss of rent receivable, Failure of building services and Terrorism there will be any other insurance covering the same risk or any part thereof the Insurer will not be liable for more than its rateable proportion. Nothing herein will be construed to make the insurance by this section subject to the terms, limitations, conditions and definitions of any other insurance except that if any other insurance will be subject to any condition of average, then the insurance provided by any Insured Section if not already subject to a condition of average will be subject to average in like manner.

## 13.8 Dispute resolution

All matters in dispute between the Insured, any other Party covered by this insurance and the Insurer arising out of or in connection with the construction or formation of this insurance will be referred to a mediator to be agreed by the parties within fourteen (14) working days of a written notice served on one Party by the other requesting such an agreement. If a mediator is not agreed, then either Party may apply to the Centre for Effective Dispute Resolution ('CEDR') for the appointment of a mediator. The parties shall share equally the costs of CEDR and of the mediator and the reference, conduct and any settlement of the dispute at mediation will be conducted in confidence.

The parties shall continue to perform their

respective continuing obligations under this insurance, if any, while the dispute is resolved unless the nature of the dispute prevents such continued performance of those obligations.

If any such dispute is not resolved by mediation or the parties cannot agree upon the appointment of a mediator or the form that the mediation will take, the dispute will be referred by either Party to courts, subject to the law and jurisdiction set down in the Applicable law clause above.

### 13.9 Duty of fair presentation

The Insured 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.

#### 13.10 Duty of fair presentation – remedies for breach – proposing for this insurance

If the Insured or anyone acting on its behalf breaches the Insured's duty of fair presentation then the Insurer's remedies shall be as follows:

- a) if such breach is deliberate or reckless, the Insurer may:
  - i. treat this Policy as having been terminated from its inception; and
  - ii. the premium;
- b) if such breach is not deliberate or reckless and the Insurer would not have entered into this Policy but for the breach, the Insurer may by notice to the Insured treat this Policy as having been terminated from its inception in which case the Insurer shall return the premium; and
- c) in all other cases if, but for the said breach, the Insurer would have entered into this Policy but:
  - i. on different terms (other than terms relating to the premium), the Insurer may require that this Policy is treated as if it had been entered into on those different terms from the outset; or
  - ii. would have charged a higher premium, the Insurer may reduce proportionately the amount to be paid on a claim (and, if applicable, the amount already paid on prior claims). In those circumstances, the Insurer shall pay only X% of what it would otherwise have been required to pay, where  $X = (\text{premium actually charged/higher premium}) \times 100$ .

#### 13.11 Duty of fair presentation – remedies for breach - variation

If the Insured or anyone acting on its behalf breaches the Insured's duty of fair presentation in relation to a variation of this Policy, the Insurer's

remedies shall be as follows:

- a) if such breach is deliberate or reckless, the Insurer may:
  - i. by notice to the Insured treat this Policy as having been terminated from the time when the variation was concluded; and
  - ii. retain the premium;
- b) if such breach is not deliberate or reckless, and the Insurer would not have entered into the variation but for the breach, the Insurer may treat this Policy as having been terminated from the time when the variation was concluded, in which case the Insurer shall return the relevant premium; and
- c) in all other cases if, but for the said breach, the Insurer would have entered into the variation but:
  - i. on different terms (other than terms relating to the premium), the Insurer may require that the variation is treated as if it had been entered into on those different terms from the outset;
  - ii. would have increased the premium by more than it did or at all, the Insurer may reduce proportionately the amount to be paid on a claim arising out of events after the variation. In those circumstances, the Insurer shall pay only X% of what it would otherwise have been required to pay, where  $X = (\text{premium actually charged/higher premium}) \times 100$ ; or
  - iii. would not have reduced the premium by as much as it did or at all, the Insurer may reduce proportionately the amount to be paid on a claim arising out of events after the variation. In those circumstances, the Insurer shall pay only X% of what it would otherwise have been required to pay, where  $X = (\text{premium actually charged/reduced total premium}) \times 100$ .

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

The indemnity granted by the Insured section - Employers' liability 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 in Northern Ireland, the Isle of Man and the Channel Islands. Where any condition precedent, exclusion, term or condition of this Policy is deemed prohibited by the act or regulations, then the Insurer will provide an indemnity to the Employee under the

terms of the Insured section - Employers' liability but the Insured will repay to the Insurer that part of the Insurer's indemnity for which it would not otherwise have been liable under this Policy by reason of any such breach of condition precedent, term, condition or exclusion.

### 13.13 Exchange rate

In the event of a payment being made under this Policy in any other currency than pounds sterling (GBP), the exchange rate applicable will be the rate of exchange published in the Financial Times at the date that settlement is agreed.

### 13.14 Fraudulent claims

13.14.1 If You make a fraudulent claim under this Policy the Insurers shall not be liable to pay You any sums in respect of the fraudulent claim. The Insurers may recover from You any sums that the Insurers have already paid to You in respect of the fraudulent claim. The Insurers may by notice to You treat this Policy as terminated with effect from the date of Your fraudulent act.

13.14.2 These remedies shall not be available against any other entity insured under this Policy that was not implicated in the fraud.

### 13.15 Inspection and audit

The Insurer, or such representative as the Insurer may designate, will be permitted but not obligated to inspect the Insured's property and operations at any time given reasonable notice. Neither the Insurer's right to make inspections nor the making thereof nor any report thereon will constitute an undertaking on behalf of or for the Benefit of the Insured or others to determine or warrant that such property or operations are safe.

### 13.16 Material changes during the Policy period

13.16.1 The Insured must notify the Insurer within thirty (30) days of any material change to the Insured, its Business or the risks insured if indemnity under this insurance is sought in relation to any such change.

13.16.2 The Insurer shall not indemnify the Insured for any liability arising out of a material change for which indemnity would otherwise have been available under this insurance unless the Insurer has provided valid confirmation of cover, whether by an express term of this Policy, endorsement, written confirmation or otherwise.

### 13.17 Minimisation of risk

13.17.1 The Insured will take all reasonable steps at its own expense to prevent an insured event arising or continuing.

13.17.2 Upon the happening of an insured event and at all times thereafter, the Insured 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 the Insured to take such steps shall reduce or extinguish the Insurer's liability to indemnify the Insured under the Policy to the extent that such failure has increased the claim under the Policy.

### 13.18 Non contribution

If at the time of any claim under Insured section – Public, Products and Pollution liability there is any other valid and collectible insurance available to the Insured or any other Party covered by this Insured Section, other than insurance that is specifically stated to be in Excess of this Policy and names the Insured or any other Party covered by this insurance for the insurance, then the insurance afforded by this Insured Section will be in Excess of and will not contribute with such other insurance.

### 13.19 Premium adjustment

Where the premium in whole or part is provisionally based on estimates provided by the Insured, the Insured will keep accurate records and declare such information as the Insurer requires within three (3) months of the expiry of the Period of Insurance. The premium will then be adjusted and any difference paid by or allowed to the insured as the case may be but subject to any minimum premium that may apply. The Insurer reserves the right to request that the Insured supplies an auditor's certificate with such calculations as are subject to adjustment attesting the accuracy thereof.

### 13.20 Records

The Insurer 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.

### 13.21 Recovery of Benefits

In the event that the Insured's liability in damages is reduced because Benefits and/or charges included in the damages are to be paid under statute to the Compensation Recovery Unit or its successor, the Insured's liability in damages for the purposes of this insurance will be deemed to include such Benefits and charges.

### 13.22 Representation

Where more than one entity is designated as 'insured' the first named Insured will act on behalf of all insureds and other parties covered under this Policy with respect to the giving and receiving of any notices from the Insurer or their representatives including any notice of cancellation. The payment to the first named Insured of any return premium that may be



payable under this Policy will satisfy the Insurer's obligations to return premium to any other Party covered by this insurance.

### **13.23 Sanction limitation and exclusion**

The Insurer 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 the Insurer or any member of the Insurer's group to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of any country.

### **13.24 Severability**

13.24.1 The proposal shall be construed as a separate application for insurance under this Policy by each Insured. No statements in the proposal or knowledge possessed by any one (1) Insured shall be imputed to any other Insured.

13.24.2 For the purpose of determining the applicability of the Policy exclusions and limitations, the act or knowledge of any one Insured shall not be imputed to any other Insured.

### **13.25 Subscribing Insurer**

The Insurer's obligations under this Policy are severable and not joint and are limited solely to the extent of their individual subscriptions. The Insurers are not responsible for the subscription of any co-subscribing Insurer who for any reason does not satisfy all or part of its obligations.

### **13.26 Tracing office database**

Where the Insurer provides an indemnity under the Employers' Liability (Compulsory Insurance) Regulations 1998, the Insurer is required by regulation to maintain a database of all the companies and subsidiary companies covered by such insurance. The Insurer supports and will add details of all company names to the Employers' Liability Tracing Office database.

Accordingly, it is a condition of this insurance that the Insured undertakes to supply full details (as required by the Employers' Liability Tracing Office) of the company and all subsidiary companies to the Insurer at inception of this Policy and promptly thereafter following acquisition or disposal of any subsidiary company

# 14 POLICY DEFINITIONS

These Definitions apply to Your entire Policy wherever these words or phrases appear starting with an upper case letter except where otherwise stated

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 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.

For the Insured section - Business interruption -the words and expressions used in the Insured's books and accounts will have the meaning attached to them herein. Any adjustments implemented in current cost accounting will be disregarded. Further to the extent that the Insured is accountable to the tax authorities for value added tax, all terms in the Business Interruption Insured section - Business interruption will be exclusive of such tax.

## 14.1 Act of Terrorism

### 14.1.1 For all territories Other than England, Wales and Scotland

Act of terrorism means any act, or preparation in respect of action, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological or similar purposes to intimidate the public or a section of the public of any nation by any person or group (s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and which:

- a) endangers life other than that of the person committing the action; or
- b) involves violence against one or more persons; or
- c) involves damage to property; or
- d) creates a risk to health or safety of the public or a section of the public; or e) is designed to interfere with or to disrupt an electronic system.

### 14.1.2 For England, Wales and Scotland

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.

## 14.2 Accumulation Limit

Accumulation limit means the maximum amount of Benefits payable by the Insurer irrespective of the number of Insureds and/or Insured Persons claiming where a single Accident, or series of Accidents in a twenty kilometres radius originating from the same cause occurs and where:

- 14.2.1 within twenty-four (24) consecutive hours of the event; or
- 14.2.2 within twenty-four (24) consecutive hours of the first event in the series of events causes death, Injury and/or Sickness (where insured) to more than one Insured Person.

## 14.3 Actual Value

means the amount it would cost to repair or replace Property Insured, on the date of loss, with material of like kind and quality, with deduction for obsolescence and physical depreciation.

## 14.4 Advertising Injury

means

- 14.4.1 misappropriation of advertising ideas or style of doing business;
- 14.4.2 infringement of copyrighted advertising materials, titles or slogans; in the course of advertising the Insured's Goods, Products or services.

## 14.5 Airside

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

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

## 14.6 Annual Gross Revenue

means the Gross Revenue, Trend Adjusted, during the twelve months immediately before the date of the Damage.

## 14.7 Annual Rent Receivable

means the Rent Receivable, Trend Adjusted, during the twelve months immediately before the date of the Damage.

<b>14.8 Annual Turnover</b>		14.16.2	landlord's fixtures and fittings therein and thereon;
means the Turnover excluding VAT, Trend Adjusted, during the twelve months immediately before the date of the Damage.		14.16.3	outbuildings and annexes together with extensions and canopies adjoining thereto or communicating therewith, walls, gates fences and signage;
<b>14.9 Aspect enquiry</b>		14.16.4	foundations hardstandings and interceptors;
means an examination by HM Revenue & Customs which considers one or more specific aspects of the Insured's self-assessment and/or corporation tax return.		14.16.5	adjoining gangways, bridges, yards, roadways or pavements, car parks, barriers, forecourts, artificial surfaces constructed of concrete or asphalt around and pertaining thereto, drains, sewers and gutters;
<b>14.10 Assault/assaulted</b>		14.16.6	soft and hard landscaping;
means Injury occurring to an Insured Person directly due to theft or attempted theft of Money.		14.16.7	ponds, water features, lakes, canals, reservoirs and swimming pools;
<b>14.11 Associated companies</b>		14.16.8	solar panels;
means any company not being a Subsidiary Company as declared to and accepted by the Insurer.		14.16.9	cleaning cradles;
<b>14.12 Benefits</b>		14.16.10	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, fixed poles or fixed pylons at the Premises;
means the sums stated in the schedule of compensation in the Schedule being the maximum amount payable by the Insurer.		14.16.11	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 the Insured is responsible but which is in or under adjoining yards or roadways extending to either: <ul style="list-style-type: none"> <li>a) the public mains and which partly or wholly serves to supply the Premises; or</li> <li>b) fifty (50) metres beyond the perimeter of the Premises</li> </ul> whichever is the lesser.
<b>14.13 Biological</b>		14.16.12	underground storage tanks;
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.		14.16.13	washroom and sanitary fittings;
<b>14.14 Bodily Injury</b>		14.16.14	wind turbines used by the Insured for the generation of electricity;
means death, disease, illness, physical and mental injury of or to an individual.			but excluding property more specifically insured.
<b>14.15 Bodily Injury</b>		<b>14.17 Bulk Storage Tanks</b>	
For all Sections except the Legal expenses Insured Section bodily injury means death, disease, illness, physical and mental injury of or to an individual.			means bulk storage tanks, bund walls, gantry, hardstandings/interceptors, piping and equipment pertaining thereto at the Premises, the property of the Insured or held by them in trust for which they are responsible.
For the Legal expenses Insured Section, bodily injury means death or injury caused by a specific or sudden accident.		<b>14.18 Business</b>	
<b>14.16 Buildings</b>			means the activities of the Insured as stated in the
means the fixed permanent structures at the Premises within the boundaries of the Premises belonging to/for which the Insured is responsible or for which the Insured has accepted responsibility including:			
14.16.1 Glass in windows and doors, or any other glass that is fitted in or on the buildings, including frames, mountings and fixtures and fittings used for the supporting and retaining of glass;			

- Schedule and including
- 14.18.1 provision and management of canteens, sports, social and welfare and medical organisations for the Benefit of Employees and/or the Insured's pensioners, sponsorships, medical, dental, nursing, first aid, fire, rescue and ambulance services, principally in connection with but not limited to the operations of the Insured;
  - 14.18.2 provision of security services for the Benefit of the Insured;
  - 14.18.3 provision of nursery, crèche or child care facilities where incidental to the business;
  - 14.18.4 provision of educational facilities;
  - 14.18.5 property owners, lessors and lessees including repair, refurbishment and maintenance of such property;
  - 14.18.6 organisation of and participation in exhibitions, trade fairs, conferences and the like,
  - 14.18.7 private work undertaken by any Employee for any fellow principal Employee, director or partner or executive of the Insured;
  - 14.18.8 employment of subcontractors for performance of work on behalf of the Insured;
  - 14.18.9 the organisation of charitable events or similar fund raising activities;
  - 14.18.10 sponsorship of events, organisations, entities and individuals;
  - 14.18.11 repair, maintenance and servicing of own mechanically propelled vehicles sale or disposal of own property and Goods, including owned mechanically propelled vehicles;
  - 14.18.12 provision of gifts and promotional material incidental to the Business.
- 14.19 Change of Temperature**
- means the rise or fall in temperatures as a result of:
- 14.19.1 the breaking, distortion or burning out of any part of the unit (excluding its own wiring termination including the plug and fuse) arising from mechanical or electrical defects in the unit occurring while the unit is being used under normal working conditions;
  - 14.19.2 non-operation of the thermostatic or automatic controlling devices forming part of the unit;
  - 14.19.3 accidental failure of the public electricity supply not occasioned by the deliberate act of any utility undertaking.

**14.20 Chemical**

means any compound which, when suitably disseminated, produces incapacitating, damaging or lethal effects on people, animals, plants or material property.

**14.21 Child or children**

means any person under eighteen (18) years of age or under twenty three (23) years of age if in full-time education.

**14.22 Circumstance**

means an incident, occurrence, dispute, fact, matter, act or omission that is likely to give rise to a claim.

**14.23 Claim payment**

means the amount the Insurer agrees to pay to the Insured for any one claim.

**14.24 Computer Equipment**

means all computer equipment including manufacturer installed software, interconnecting wiring, fixed disks, telecommunications equipment and used for the storage and communication of electronically processed data owned by or leased, hired or rented to the Insured.

**14.25 Computer records**

means all current and backup computer records (excluding fixed disks and paper records of any description) incorporating stored programs and/or information stored thereon.

**14.26 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, GBH, rape or criminal damage; entry to 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.

**14.27 Cross-tax enquiry**

means a Full Enquiry which includes a review of VAT and/or Employer Compliance.

**14.28 Cross contamination**

means contamination of Stock and Materials in trade (by any employee) caused by a sudden identifiable, unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance.

**14.29 Damage/Damaged**

14.29.1 For Property, Business Interruption, Money, Goods in Transit and Terrorism Insured Sections, loss of, destruction of or damage to tangible property.

14.29.2 For all other Insured Sections– loss of, destruction of or damage to tangible property and/or loss of use of tangible property that has been lost, destroyed or damaged but not pure economic loss.

### 14.30 DAS

means DAS Legal Expenses Insurance Company Limited.

### 14.31 DAS Standard Terms of Appointment

means the terms and conditions (including the amount DAS will pay to an Appointed Representative) that apply to the relevant type of claim, which could include a conditional fee agreement (no-win, no-fee).

### 14.32 Date of Occurrence

means:

14.32.1 for civil cases (other than under Insured Incident – Tax protection), the date of the event that leads to a claim. If there is more than one event arising at different times from the same originating event, the date of Occurrence is the date of the first of these events. (This is the date the event happened, which may be before the date the Insured or a Person Insured first became aware of it);

14.32.2 for criminal cases, the date the Person Insured began, or is alleged to have begun, to break the law;

14.32.3 for Insured Incident – Statutory licence appeal, the date when the Insured first became aware of the proposal by the relevant licensing or regulatory authority to suspend, alter the terms of, refuse to renew or cancel the Insured's licence or British Standard Certificate of Registration;

14.32.4 for Insured Incident – Tax protection, the date when HM Revenue & Customs, or the relevant authority, first notifies You of its intention to carry out an enquiry. For VAT disputes or employer compliance disputes, the date the dispute arises during the Period of Insurance;

14.32.5 for Insured Incident – Legal defence – Statutory notice appeals, the date when the Person Insured is issued with the relevant notice and has the right to appeal.

### 14.33 Declared Value

means the Insured's assessment of the cost of reinstatement of the Property Insured at the level of costs applying at the commencement of the Period of Insurance (ignoring inflationary factors which may operate subsequently) together with due allowance for the additional costs of

reinstatement to comply with public authority requirements, professional fees and debris removal costs.

### 14.34 Deductible

For all Insured sections except Public, Products and Pollution liability the Deductible forms part of the Sum Insured, Limit of Liability or any Sub-Limit as applicable, and Deductible means the first amount to be borne by the Insured, or the first period of time that is uninsured, in respect of each and every claim or any one occurrence (as stated in the Schedule), potential claim or potential occurrence as ascertained after the application of all other terms and conditions of this insurance.

For Insured section Public, Products and Pollution liability the Deductible forms part of the Limit of Indemnity or any Sub-Limit as applicable and Deductible means the first amount payable by the Insured in respect of each and every claim or any one occurrence (as stated in the Schedule), potential claim or potential occurrence and/or Defence Costs (but not adjusters' fees), as ascertained after the application of all other terms and conditions of this insurance.

Where more than one Deductible could be applied to one claim or occurrence, only the one Deductible, the highest Deductible, will be applied.

### 14.35 Defence Costs

Defence Costs means

14.35.1 costs (other than claimant costs recoverable from the Insured or any Other Insured Party) incurred at the request of the Insured, with the prior consent of the Insurer in the investigation, adjustment, appraisal, defence or settlement of an insured event, including expert, legal, appeal and Defence Costs;

14.35.2 costs and expenses incurred by the Insured in pre-trial and case reviews;

14.35.3 pre-judgment interest awarded against the Insured on that part of any judgment covered under this Policy but where the Insurer offers to pay the Limit of Indemnity in settlement of a claim or suit, the Insurer will not pay any pre-judgment interest imposed or accruing after the date of such offer;

14.35.4 all interest accruing on that part of any judgment within the Limit of Indemnity after entry of the judgment and before Insurer has paid, offered to pay or deposited in court that part of any judgment that is within the applicable Limit of Indemnity;

14.35.5 the cost of attendance in court as a witness at the Insurer's request, payable at the following rates per day on which attendance is required:

a) any principal director or partner of the Insured

- GBP500;

- b) any Other Insured Party - GBP250;
- c) any other relevant Party – GBP200 (subject to the prior agreement of the Insurer);

14.35.6 costs incurred at the request of the Insured, with the prior consent of the Insurer 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.

14.35.7 but Defence Costs do not include and there is no indemnity for the Insured's own costs and expenses.

#### 14.36 Deferment period

means the number of consecutive days as stated in the Schedule from the date the Insured Person suffers Temporary Total Disablement during which no Benefits are payable. The sum of money represented by such periods shall not contribute towards any claim for Benefits or other indemnification under this insurance.

#### 14.37 Denial of Access

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

#### 14.38 Denial of service attack

means any actions or instructions constructed or generated with the ability to damage, interfere with or otherwise affect the availability of networks, network services, network connectivity or information 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 and the generation of Excess or non-genuine traffic between and amongst networks.

#### 14.39 Disablement

means Permanent Total Disablement, Permanent Disablement and Temporary Total Disablement.

#### 14.40 Documents

means 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 computer records and electronic data material, but shall not include bearer bonds or coupons, stamps, bank or currency notes or any other negotiable instrument.

#### 14.41 Electronic Data

means facts, concepts and information converted to a form usable for communication, display, distribution, interpretation or processing by electronic and electromechanical processing

or electronically controlled equipment, including programmes, software and other coded instructions for such equipment.

#### 14.42 Employee

14.42.1 For all Insured Sections except Legal expenses, employee means any person whilst:

- a) engaged under a contract of service or apprenticeship with the Insured;
- b) acting in the capacity of non-executive director of the Insured;
- c) not under a contract of service or apprenticeship who is, at the requirement of the Insured, supplied to, hired or borrowed by the Insured in the course of Business and under the control of the Insured including but not limited to:
  - i persons on secondment from another company that is not an insured under this Policy;
  - ii labour masters or persons supplied by them;
  - iii labour-only subcontractors;
- iv self-employed persons;
- v drivers or operators of hired-in plant;
- vi persons engaged under work experience, training, study, exchange or similar schemes;
- vii any officer, member or voluntary helper of the organisations or services stated in the Business;
- viii voluntary workers, helpers and instructors;
- ix persons working under the Community Offenders Act 1978, the Community Offenders (Scotland) Act 1978 or similar legislation;
- x employee(s) elected on any industry users' committee;
- xi outworkers or homeworkers employed under contracts to personally execute any work in connection with business while they are engaged in that work;
- xii any other person defined under Sections 32.-(1), 35.-(2) and 54.-(3)(b) of the National Minimum Wage Act 1998;
- xiii prospective employees who are being assessed by the Insured as to their suitability for employment;
- xiv any person a Court of Law in the United Kingdom deems to be an employee;



provided that the Insured can always request that any such person is not treated as an employee.

14.42.2 For Insured section - Legal Expenses employee means any person including trainees and apprentices under a contract of service with the Insured.

**14.43 Employer compliance dispute**

means a dispute with HM Revenue & Customs concerning Your compliance with Pay As You Earn, Social Security, Construction Industry or IR35 legislation and regulations.

**14.44 Estimated Insurable Gross Profit**

means the amount declared by the Insured to the Insurer as representing not less than the Gross Profit 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).

**14.45 Estimated Gross Revenue**

means the amount declared by the Insured to the Insurer 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).

**14.46 Excess**

For all Insured Sections except Public, Products and Pollution liability the Sum Insured, Limit of Liability or any Sub-Limit as applicable, is additional to the Excess and Excess means the first amount to be borne by the Insured, or the first period of time that is uninsured, in respect of each and every claim or any one occurrence (as stated in the Schedule), potential claim or potential occurrence as ascertained after the application of all other terms and conditions of this insurance.

For Insured Section Public, Products and Pollution liability the Limit of Indemnity or any Sub-Limit as applicable is additional to the Excess and Excess means the first amount payable by the Insured in respect of each and every claim or any one occurrence, potential claim or potential occurrence and/or Defence Costs (but not adjusters' fees), as ascertained after the application of all other terms and conditions of this insurance.

Where more than one Excess could be applied to one claim or occurrence, only the one Excess, the highest Excess, will be applied.

**14.47 Excess (Damage only)**

The Limit of Indemnity is additional to the Excess (damage only) and Excess (damage only) means the first amount payable by the Insured in respect of each and every Damage claim or occurrence (as

stated in the Schedule), potential Damage claim, potential occurrence and/or related Defence Costs (but not adjusters' fees), or any one occurrence as ascertained after the application of all other terms and conditions of this insurance.

Where more than one Excess could be applied to any one claim or occurrence only the one Excess, the highest Excess, will be applied.

#### **14.48 Flood**

means 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 Storm and earthquake.

#### **14.49 Full Enquiry**

means an extensive examination by HM Revenue & Customs which considers all aspects of Your tax affairs and includes a request to examine all Your books and records. Excludes an examination which is limited to one or more specific aspects of Your self-assessment and/or corporation tax return.

#### **14.50 Goods**

means Stock and Materials in Trade, Other Machinery Plant and All Other Contents and any other property specified in the Schedule, belonging to the Insured or for which the Insured is responsible or has accepted responsibility and connected with the Business.

#### **14.51 Gross Revenue**

means the Money paid or payable to the Insured for services rendered in the course of the Business at the Premises.

#### **14.52 Hacking**

means unauthorised access to any computer or other equipment or component or system or item which processes stores or retrieves data, whether the property of the Insured or not.

#### **14.53 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 an Employee of the Insured.

#### **14.54 Income**

means the money paid or payable to the Insured in respect of food, drink, entertainment, accommodation and services less the cost of food and drink.

#### **14.55 Independent lawyer**

means:

14.55.1 where the claim is in England, a Queen's Counsel agreed upon by both You 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

14.55.2 where the claim is in another jurisdiction, a lawyer of more than ten (10) years experience agreed upon by both You and Us or failing such agreement to be nominated by the chairman of the local law society

#### **14.56 Indemnity Period**

For Insured section – Business interruption, Indemnity period means the period beginning with the occurrence of the Damage or the period beginning after the expiry of any time Excess following the Damage and ending not later than the Maximum Indemnity Period thereafter during which the results of the Business will be affected in consequence of the Damage.

#### **14.57 Injury**

means a specific injury which:

14.57.1 is sustained by the Insured Person during the Period of Insurance and is caused by an Accident; and

14.57.2 solely and independently of any other cause, causes death or Disablement of the Insured Person that entirely prevents them from pursuing their normal occupation.

#### **14.58 Insurable Gross Profit**

means the amount by which the sum of the amount of the Turnover and the amounts of the closing stock and work in progress will exceed the sum of the amounts of the opening stock and work in progress and the amount of the Specified Working Expenses.

#### **14.59 Insured Incident**

means the indemnity provided by:

- a) Employment disputes and compensation awards
- b) Legal defence
- c) Statutory licence appeal
- d) Property protection and bodily injury e) Tax protection
- e) Contract disputes

Clauses in the Insured Section Legal Expenses

#### **14.60 Insured/Insured's/insureds**

means:

- 14.60.1 the company or other organisation shown as insured in the Schedule including any Subsidiary Companies of the insured that are in existence at the inception date of the insurance and have been declared to the Insurer until such time as they may be sold or otherwise disposed of (but not excluding any liabilities incurred prior to disposal), and
- 14.60.2 the person or people shown as insured in the Schedule;
- 14.60.3 including in either case the legal or personal representatives of the Insured in respect of any claim under this Policy incurred on behalf of the Insured.

#### **14.61 Insured Person**

- 14.61.1 For Insured sections – Property and Money insured person means:
- a) the Insured or any principal, director, partner or employee of the Insured; or
  - b) any person acting on behalf of the Insured, other than an employee of a security company or organisation, not being over seventy-five (75) years of age nor being under sixteen (16) years of age;
- 14.61.2 For Insured section – Personal accident, insured person means the individual(s) and/or category of person(s) stated in the Schedule.

#### **14.62 Insured Section**

means a section of this Policy that forms part of the insurance contract but only if stated as 'insured' in the Policy Schedule.

#### **14.63 Insurer/ Our/ Us/ We**

means the party specified as the Insurer whose identity is stated within the IDENTITY OF INSURERS included within the Schedule

For the Legal expenses Insured section, Insurer means DAS Legal Expenses Insurance Company Limited, whose

Head office and registered address is:

DAS House, Quay Side, Temple Back, Bristol BS1 6NH. tel: 0117 934 2000 fax: 0117 934 2109

Home State - United Kingdom. Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Registration Number 202106.

#### **14.64 Legal Expenses Costs**

means:

- a) all reasonable and necessary costs chargeable by the Appointed Representative and agreed by us in accordance with the DAS Standard Terms of Appointment; and
- b) the costs incurred by opponents in civil cases if the Person Insured has been ordered to pay them, or the Person Insured pays them with Our agreement.

#### **14.65 Limit of Indemnity**

means:

- 14.65.1 the amount stated in the Schedule which is the maximum amount of the Insurer's liability arising out of one occurrence or series of occurrences arising out of one (1) originating cause regardless of the number of:
- a) Other Insured Parties; or
  - b) persons or organisations bringing claims or suits; or
  - c) claims against the Insured or series of claims against the Insured, or claims or series of claims made by the Insured;
- 14.65.2 any Sub-Limit of Indemnity stated in the Schedule applies as if it were the limit of indemnity for the claims specified in the Schedule for that Sub-Limit of Indemnity and is deemed to be part of and not in addition to the limit of indemnity specified in the Schedule unless expressly stated otherwise;
- 14.65.3 where a limit of indemnity is stated in the Schedule as in the aggregate, that aggregate is the maximum the Insurer will pay for all insured events during the Period of Insurance and for the avoidance of doubt unless expressly stated otherwise:
- a) claims arising from or in respect of Products or Pollution are deemed to be in the aggregate; but
  - b) this aggregate will be applied separately to the indemnity for Products and Pollution.

#### **14.66 Other Machinery, Plant and All Other Contents**

means:

- a) machinery and plant (including unlicensed mechanical plant);
- b) tenants' improvements and alterations, structural alterations and additions, decorations, fixtures and fittings, above ground storage tanks; and
- c) Documents except that cover on Documents shall not exceed the Sub-Limit stated in the

Schedule;

- d) patterns, models, moulds, plans and designs;
- e) office equipment, telephone, telex, facsimile and Computer Equipment;
- f) and all other contents; and
- g) so far as the same are not otherwise insured, personal property of principals, Employees, partners or directors of the Insured or visitors except that cover on such property shall not exceed the Sub-Limit stated in the Schedule;

at the Premises which are the property of the Insured or held by it on trust, or for which it is responsible, or on free loan or hire or for which it has otherwise accepted responsibility but excluding;

- i. landlord's fixtures and fittings therein and thereon;
- ii. Stock and Materials in Trade;
- iii. Money;
- iv. property more specifically insured.

#### **14.67 Manifest**

means the date when a Sickness is reasonably capable of diagnosis by a Health Care Practitioner.

#### **14.68 Maximum Indemnity Period**

means the period stated in the Schedule.

#### **14.69 Money**

means both Negotiable Money and Non-Negotiable Money.

#### **14.70 Motor Vehicle(s)**

means any mechanically propelled vehicle, trailer or agricultural implement which belongs to the Insured or for which the Insured is legally responsible (including the accessories to the vehicle and parts which are temporarily removed for safekeeping or whilst the vehicle is being altered, repaired, inspected or treated) but not including steam-driven vehicles.

#### **14.71 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 phone vouchers for use by the Insured or any partner, director or employee of the Insured in connection with the Insured's Business, stock of lottery scratch cards, pre-loaded travel cards (including Oyster cards or similar), consumer redemption vouchers and company sales vouchers and unexpired units in franking machines, all belonging to the Insured or for which the Insured has accepted responsibility.

#### **14.72 Non-ferrous metals**

means Stock and Materials in Trade consisting of non-ferrous metals other than aluminium.

#### **14.73 Non-negotiable Money**

means crossed warrants, crossed cheques, crossed giro drafts, crossed postal and money orders, crossed bankers' drafts, crossed National Girobank cheques, premium bonds, savings bonds, stamped National Insurance cards, National Savings Certificates, VAT purchase invoices and credit card sales vouchers, all belonging to the Insured or for which the Insured has accepted responsibility.

#### **14.74 North America**

means the United States of America or its territories or possessions or Canada.

#### **14.75 North American jurisdiction**

means any judgment, award, payment, Defence Costs or settlement delivered, made or incurred within countries which form part of North America or which operate under the laws of such countries or any states, provinces or territories forming part of them (or to any order made anywhere in the world to enforce such judgment, award, payment, Defence Costs or settlement either in whole or in part) then following any event which is or may be the subject of indemnity under the laws of North America.

#### **14.76 Notifiable Disease**

means illness sustained by any person resulting from any diseases notifiable under the Health Protection (Notification) Regulations 2010.

#### **14.77 Nuclear Hazards**

means:

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

**14.78 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:

- 14.78.1 the Production or use of atomic energy;
- 14.78.2 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
- 14.78.3 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.

**14.79 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.

**14.80 Occurrence**

In respect of insured sections, Property, Business Interruption, Computer breakdown, Machinery Breakdown, Money, Goods in Transit and Terrorism, the word occurrence shall mean any one (1) loss or series of losses arising out of and directly occasioned by one (1) event or one (1) original cause. However, the duration and extent of any one (1) occurrence shall be limited to:

- a) seventy-two (72) consecutive hours as regards earthquake, flood, or windstorm;
- b) 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;
- c) 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 as regards terrorism;

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

Should any such period extend beyond the expiry or cancellation date, the Insurer shall be liable as if such period had fallen entirely within the Period of Insurance of the Policy.

**14.81 Offshore**

means:

- 14811 work in or on any offshore rig or platform or support or accommodation vessel for any offshore rig or platform;
- 14812 in Transit to and from or between any offshore rig or platform or support or accommodation vessel from the time of embarkation onto a conveyance at the point of final departure to an offshore rig or platform until disembarkation from the conveyance onto land upon return from an offshore rig or platform.

**14.82 Other Insured Party**

means any of the following parties:

- 14821 any director, partner, Employee or a former Employee of the Insured;
- 14822 any officers, members' committee and/or Employee and voluntary helpers of the Insured's canteen and welfare organisations, nursery, crèche or child care facilities, sports and social organisations, in their respective capacities as such;
- 14823 any officers and members of the Insured's security, rescue, first aid or fire and ambulance services or medical organisation other than any qualified medical practitioner while working in a professional capacity in their respective capacities as such;
- 14824 any director or partner or executive of the Insured in respect of private work undertaken by any Employee for a director, partner or executive of the Insured;
- 14825 any officers or trustees of the Insured's pension scheme(s).

**14.83 Outstanding Debit Balances**

means the Money owed to the Insured by its customers at the date of the Damage but adjusted to take account of

- 14.83.1 bad debts;
- 14.83.2 amounts debited (or invoiced but not debited) and credited (including credit notes and cash not passed through the books at the time of the damage) to customers' accounts in the period between the date to which said last statement relates and the date of the damage; and
- 14.83.3 any abnormal conditions of trade which had or could have had a material effect on the business;

so that the figure thus adjusted shall represent as nearly as reasonably practicable those which would have obtained at the date of the Damage had the Damage not occurred.

**14.84 Paraplegia**

means the permanent and total paralysis of the two lower limbs, bladder and rectum.

**14.85 Period of Insurance**

means the period shown as such on the Schedule, which times are taken as Greenwich Mean Time unless otherwise stated.

**14.86 Permanent Disablement**

means permanent and irrecoverable disablement as listed on the schedule of compensation in the Schedule.

**14.87 Permanent Total Disablement**

means irrecoverable disablement arising from Injury which permanently and totally incapacitates the Insured Person for a continuous period of twelve (12) months and as a result of the Injury, the Insured Person is medically determined to the Insurer's satisfaction to have no likelihood of improvement sufficient to enable him to participate in his occupation ever again.

**14.88 Person Insured**

means the Insured and the directors, partners, managers and Employees of the Insured

**14.89 Personal Injury**

means Bodily Injury and/or harm arising out of one or more of the following offences committed in the course of the Business:

14.89.1 false arrest;

14.89.2 detention or imprisonment;

14.89.3 malicious prosecution;

14.89.4 wrongful entry into or eviction of a person from a room, dwelling or premises that the person occupies;

14.89.5 invasion of the right of privacy;

14.89.6 libel, slander and defamation.

**14.90 Preferred law firm or tax consultancy**

means a law firm, barristers' chambers or tax expert DAS chooses to provide legal or other services. These specialists are chosen as they have the proven expertise to deal with the Person Insured's claim and must comply with DAS' agreed service standard levels, which DAS audit regularly. They are appointed according to the DAS Standard Terms of Appointment.

**14.91 Phishing**

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

**14.92 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 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.

**14.93 Policy Limit of Liability**

means the amount stated in the Schedule which is the maximum amount of the Insurer's liability under any one and all Insured sections – Property to Terrorism inclusive for any one Period of Insurance.

**14.94 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.

**14.95 Pollution**

means:

14.95.1 the 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;

14.95.2 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.

**14.96 Pre-existing condition**

means Sickness, physical impairment, defect, degenerative process or infirmity of the Insured Person existing prior to the Policy inception date. For the purpose of this definition Sickness, 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 commencement of the Period of Insurance.

**14.97 Premises**

means the buildings or land that are owned, leased, hired or tenanted by or on loan to



the Insured for the purpose of the Business and in respect of Insured sections - Property, Business interruption, Money, Goods in Transit and Terrorism at the address(es) specified in the Schedule.

#### **14.98 Preventative Costs**

means sums that the Insured is liable to pay for prevention of imminent threat of environmental damage as provided for in any United Kingdom law implementing the EU Environmental Liability Directive.

#### **14.99 Product**

means any property (including integral software, packaging, containers, labels and instructions for use) after it has left the custody or control of the Insured which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by or on behalf of the Insured.

#### **14.100 Property Insured**

means tangible property described in the Schedule to this Policy that includes a specific Sum Insured against each or all of them and which is more specifically defined therein.

#### **14.101 Property in the open**

means Other Machinery Plant and All Other Contents and Stock and Materials in Trade which are the property of the insured or held by them in trust for which they are responsible not contained in a locked building or Bulk Storage Tanks at the Premises, but excluding:

14.101.1 valuables as described in the valuables clause contained in the Extensions applicable to Insured Section – Property.

14.101.2 portable hand tools.

#### **14.102 Proposal**

means any information supplied by or on behalf of the Insured in written or electronic format, deemed to be a completed proposal form, application form, medical questionnaire including in each case attachments thereto and other relevant information that the Insurer may require.

#### **14.103 Rate of gross profit**

means the rate of gross profit earned, Trend Adjusted, on the Turnover during the financial year immediately before the date of the Damage.

#### **14.104 Reasonable prospects**

14.104.1 means, for civil cases, that the prospects the Person Insured will recover losses or damages or a reduction in tax or National Insurance liabilities (or obtain any other legal remedy that DAS have

agreed to, including an enforcement of judgment), make a successful defence or make a successful appeal or defence of an appeal, must be at least 51%. DAS, or a Preferred Law Firm or Tax Consultancy on their behalf, will assess whether there are Reasonable Prospects.

14.104.2 For criminal cases there is no requirement for there to be prospects of a successful outcome, however for appeals the prospects must be at least 51%.

#### **Rent**

means the Money paid by Insured for rent and other charges and for services rendered in the course of the Business at the Premises.

#### **Rent Receivable**

means the money which is contractually payable to the Insured for rent and other charges and for services rendered in relation to the occupation or tenancy of buildings at the Premises.

#### **Retroactive date**

means the date (if any) stated in the Schedule.

Unlimited retroactive cover – where no retroactive date is specified in the Schedule, coverage under this Policy shall be in respect of acts, errors or omissions committed or alleged to have been committed irrespective of when such acts, errors or omissions were committed or alleged to have been committed;

Limited retroactive cover – where a retroactive date is specified in the Schedule, then coverage under this Policy shall only be in respect of acts, errors or omissions first committed or alleged to have been first committed after the retroactive date.

#### **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 re- issued from time to time where each successor overrides the earlier document.

#### **Service provider**

means a business the Insured does not own, operate, or control, but that the Insured hires for a fee under contract to perform Business Services on behalf of the Insured.

#### **Specified Working Expenses**

means those expenses listed in the Schedule.

### 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.

### Standard Rent Receivable

means the Rent Receivable, Trend Adjusted, during the period in the twelve (12) months immediately before the date of the Damage which corresponds with the Indemnity Period.

### Standard Turnover

means the Turnover excluding VAT, Trend Adjusted, during that period in the twelve (12) months immediately before the date of the Damage which corresponds with the Indemnity Period.

### Statutory licence

means a licence or certificate of registration issued under statute, statutory instrument or by a Government or local authority to the insured provided that such licence or certificate is necessary to engage in the Business of the Insured.

### Stock and Materials in Trade

means stock and materials in trade including work in progress and contents of storage tanks at the Premises which are the property of the Insured or held by it in trust or on commission and for which it is responsible, excluding property more specifically insured.

### Storm

means rainstorm, 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;

### Sub-contractors

means a business the Insured does not own, operate, or control, but that the Insured hires for a fee under a written contract to perform Business services on behalf of the Insured.

### 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.

### Subrogation

means the right of the Insurer who has granted indemnity to take over any recovery rights the

Insured may have against third parties liable for the same loss.

### Sum Insured

means the sum specified as the sum insured in the Schedule and is the Insurer's maximum liability for losses relating to the listed item.

### 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 Permanent Total Disablement, loss of limbs or sight, as otherwise defined in the scale of compensation or table of Benefits, as applicable.

### Territorial Limits

As described in the Schedule.

Territorial Limits – applicable to the Insured Section-legal expenses

means:

For the 'Legal defence,' 'Absence from work' and 'Bodily injury' insuring clauses of the Legal expenses Insured Section only:

the European Union, the Isle of Man, the Channel Islands, Albania, Andorra, Bosnia Herzegovina, Croatia, Gibraltar, Iceland, Liechtenstein, Macedonia, Monaco, Montenegro, Norway, San Marino, Serbia, Switzerland and Turkey.

For all other clauses and Sections, the United Kingdom unless otherwise stated by endorsement to this policy.

## 14.124 Terrorism

For Insured sections – Property to Terrorism (inclusive), terrorism means an Act of Terrorism

For Insured section – Personal accident, terrorism means: An act including but not limited to:

- a) nuclear, Chemical or Biological terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss; and/or
- b) the use of force or violence and / or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

For other Insured Sections, terrorism means:

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

- a) intimidate or coerce a civilian population; or
- b) disrupt any segment of the economy of a government de jure or de facto, state, or country; or
- c) overthrow, influence, or affect the conduct or policy of any government de jure or de facto by intimidation or coercion; or
- d) affect the conduct or policy of any government de jure or de facto by mass destruction, assassination, kidnapping or hostage-taking.

### **Total loss of hearing**

means an Injury causing permanent and total loss of hearing which last 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.

### **Total loss of sight**

means an Injury causing either:

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

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 what 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.

### **Total loss of speech**

means an 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.

### **Transit**

means being carried within the Territorial Limits to a destination, but outside the Premises, by any vehicle, including trailers and containers, and whether or not the Insured's vehicle, or by road haulage, post, or parcel post or rail, including:

- a) conveyance by canal craft on inland waterways
- b) conveyance of the vehicle on sea going vessels where such conveyance does not exceed twelve (12) hours;

- c) loading and unloading; and
- d) while temporarily housed in the course of being carried to its destination.

### **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 Damage 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 Damage would have been obtained during the relative period after the Damage.

### **Turnover**

means the money paid or payable to the Insured for Goods sold and delivered and for services rendered in the course of the Business at the Premises.

### **United Kingdom**

means Great Britain, Northern Ireland, the Channel Islands or the Isle of Man.

### **Unoccupied**

means any Building that is owned or used by the Insured in the course of the Business and has become vacant, disused or unfurnished and empty for a period in Excess of thirty (30) days.

### **VAT**

means Value Added Tax under the Value Added Tax Act 2008.

### **Virus or Similar Mechanism**

means program code, programming instruction or any set of instructions intentionally constructed with the ability to damage, interfere with or otherwise adversely affect computer programs, data files or operations, whether involving self-replication or not. The definition of Virus or Similar Mechanism includes but is not limited to, trojan horses worms and logic bombs.

### **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.

### **Wines and Spirits**

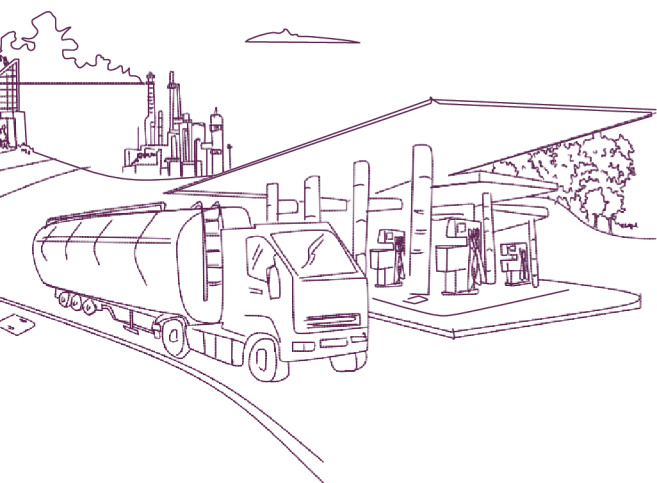
means wines, spirits, beer and other alcoholic liquids.

**Work away**

means work, operations, installation or services performed by or on behalf of the Insured but not on its Premises.

**You/ Your/ Yours/ Yourselves**

means the person, people (either acting in partnership or on behalf of an unincorporated organisation) or the company stated in the schedule as the insured



**Pen**  
underwriting