

Property Owners Insurance Policy



QBE

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1 Our agreement in general

1.1 This agreement

This **policy** is between **you** and **us** as declared in the **schedule**. The **statement of fact**, this document, its **schedule** and any attached endorsements is the **policy** which sets out this insurance. It is a legal contract so please read all of it carefully.

Other than in the headings, words in bold type face used in this **policy** document, such as **you** above, have specific meanings attached to them as set out in the 'General definitions and interpretation' **section** of this document.

1.2 Policy period and premium

1.2.1 **We** will, in consideration of the payment of the premium and for the **period of insurance**, provide insurance in accordance with the **sections** of the **policy** shown as 'operative' in the **schedule**, subject to the conditions, exceptions, limitations and endorsements of the **policy**.

1.2.2 If any instalment of premium is not paid and accepted by **us** on or before its due date, **we** can give written notice to **you** at the address shown on the **schedule** cancelling the **policy** with effect from the seventh (7th) day after the notice has been served, but that cancellation will be prevented from taking effect and the **policy** will continue if the late premium instalment and any other remaining premium instalments are paid and accepted before the cancellation takes effect. Without prejudice to other forms of service, notice of cancellation is deemed to be served on the third (3rd) day after being posted if sent by pre-paid letter post properly addressed.

1.2.3 The annual premium remains due in full if during the current **period of insurance**:

- a) a claim has been made for which **we** have made payment;
- b) a claim has been made which is still under consideration; and
- c) an incident has happened which is likely to lead to a claim but is yet to be reported to **us**.

1.2.4 Where the annual premium is not paid in full **we** will deduct any outstanding amounts from any claim payment.

1.3 Cancellation

This **policy** may be cancelled either by **you** or **us**. To cancel the policy, **you** must give **us** notice in writing using the details shown in the 'Claims procedure' clause of 'Our agreement in general'. **We** may at any time serve written notice on **you** cancelling the **policy**. **We** will send **our** cancellation letter to the last known address **we** have for **you** and will set out the reason for cancellation in **our** letter.

Cancellation will take effect from the fourteenth (14th) day after service of the notice by **you** or **us**.

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

If the **policy** is cancelled and **you** have paid the premium or any instalment premium, **we** will refund a proportion of **your** premium which relates to the remaining unexpired full months of cover not used provided that;

- a) **you** have not made a claim; and
- b) no claims have been made against **you**.

1.4 Your rights- including ‘cooling off’ period

You may cancel this **policy** in the first year of insurance during the fourteen (14) days from the start of the **period of insurance** by giving notice in writing to **your** insurance adviser at the address shown in their correspondence or to QBE Insurance (Europe) Ltd. This right does not apply at the first or any subsequent renewal of the **policy**. Provided that there have been:

- a) no claims made under the **policy** for which **we** have made a payment;
- b) no claims made under the **policy** which are still under consideration;
- c) no incident likely to give rise to a claim but is yet to be reported to us;

during this fourteen (14) day period **we** will give a refund for the proportionate part of the premium paid in respect of the unexpired term of this **policy**.

If a claim has been submitted or there has been any incident likely to give rise to a claim during the current **period of insurance** no refund for the unexpired portion of the premium will be given.

1.5 Claims procedure

In the event of an incident resulting in a claim or one that may result in a claim, please read the ‘Duties in the event of a claim or potential claim’ **section** to this **policy**.

We will be able to deal with **your** claim more effectively and speedily if **you** provide **your policy** number shown on **your schedule** on first contact

1.5.1 For all claims except the ‘Legal expenses’ **section** please either:

- a) contact **your** insurance broker; or
- b) send details by post to QBE Claims, Acclaim House, Central Park, New Lane, Leeds, LS11 5UF; and/or
- c) telephone **us** on **0800 328 9640**; or
- d) submit **your** claim by email to SMEnewclaims@uk.qbe.com

1.5.2 For claims under Legal expenses section please contact **DAS**:

DAS House, Quay Side, Temple Back, Bristol BS1 6NH

Telephone **us** on **0117 933 0618**

Email details to newclaims@das.co.uk or as set out in the Helpline **section** or the Claims notification section.

1.6 Privacy and the Data Protection Act 1998

1.6.1 All personal information (including sensitive personal data such as health details or criminal convictions) provided in connection with this **policy** will be processed in accordance with the Data Protection Act 1998. **You** consent to all personal information so provided being used for the purposes and being disclosed to the parties set out below.

1.6.2 Where personal information is provided about another person, **you** are required to inform that person of **our** identity, and why their personal information will be processed and disclosed. **You** are also required to obtain their written consent to the processing of their personal information in this way and provide **us** with such consent upon request.

1.6.3 Personal information is used:

- a) to administer the policy, including underwriting, renewal information, validation of claims history and claims handling;
- b) for research, analysis, statistic creation, and customer profiling;
- c) for fraud prevention and debt recovery.

1.6.4 Personal information may be disclosed to:


- a) other members of the QBE Insurance Group;
- b) other insurance entities interested in the risk written under this **policy**;
- c) agents and service providers appointed by **us** to carry out activities in connection with the **policy**;

- d) credit reference and fraud databases;
- e) law enforcement and other statutory bodies;
- f) potential purchasers of the whole or part of **our** business.

- 1.6.5 If false or inaccurate information is provided and fraud is suspected this fact will be recorded and the information will be available to other organisations that have access to the fraud databases.
- 1.6.6 Personal information may be transferred to third parties in countries outside the European Economic Area which may not have the same standards of protection for personal information as the United Kingdom. **We** will ensure that such transfers comply with the data protection law and the personal information is kept securely and protected from unauthorised access.
- 1.6.7 **We** maintain protections and procedures in the storage and disclosure of personal information to keep it secure and prevent unauthorised access to or loss of such information.
- 1.6.8 **We** may monitor and record all communications with **you** for compliance and training purposes.
- 1.6.9 Should **you** wish to see the information held, have any queries in relation to the way such information is used or discover any inaccuracies, **you** should write to the Data Protection Officer at QBE Insurance (Europe) Limited, Plantation Place, 30 Fenchurch Street, London EC3M 3BD.

1.7 Signature

In evidence of **our** intention to be bound by this insurance, **we** have printed the signature of our Chief Executive Officer.

A handwritten signature in black ink, appearing to be 'R. G. Jones', written in a cursive style.

2 Helplines

These services are provided by DAS Law Limited and are provided in conjunction with the Legal expenses **section**.

DAS Law Limited's head and registered office is DAS Law Limited, North Quay, Temple Back, Bristol, BS1 6FL. Registered in England and Wales, number 5417859. Website: www.daslaw.co.uk

DAS Law Limited is authorised and regulated by the Solicitors Regulation Authority (registered number 423113). **You** can contact the UK-based call centre 24 hours a day, seven days a week. However, **DAS** may need to arrange to call **you** back depending on the enquiry. To help **DAS** to check and improve service standards, **DAS** may record all inbound and outbound calls, except those to the counselling service. When phoning, please quote **your policy** number TS5/6914322 and the name of the insurance provider who sold **you** the **policy**.

DAS will not accept responsibility if the Helpline Services fail for reasons they cannot control. Please do not telephone to report a general insurance claim.

2.1.1 Legal advice service Call 0344 893 0859

DAS provide confidential legal advice over the phone on any commercial legal problem affecting **your business**, under the laws of any European Union member states, the Isle of Man, the Channel Islands, Switzerland and Norway. Whenever possible the Legal Advice helpline aims to provide immediate advice from a qualified legal advisor. However if this is not possible they will arrange a call back at a time to suit **you**.

DAS legal advisors provide advice on the laws of England and Wales 24 hours a day, 7 days a week, 365 days a year. Where advice is sought in an area of law beyond this jurisdiction or in respect of very specialist matters, **DAS** will refer **you** to one of their specialist advisors. This will include European law and certain areas of law for Scotland and Northern Ireland.

Specialist advice is provided 9am - 5pm, Monday to Friday, excluding public and bank holidays. If calls are made outside these times, DAS will call you back.

2.1.2 Tax advice service Call 0344 893 0859

DAS offer confidential advice over the phone on any tax matters affecting the **business**, under the laws of the **United Kingdom**.

Tax advice is provided by tax advisors 9am – 5pm, Monday to Friday, excluding public and bank holidays. If calls are made outside these times, DAS will call you back.

2.1.3 Counselling service Call 0344 893 9012

DAS will provide **your employees** (including any members of their immediate family who permanently live with them) with a confidential counselling service over the telephone if they are aged 18 or over including, where appropriate, onward referral to relevant voluntary and/or professional services. Any costs arising from the use of these referral services will not be paid by **DAS**.

The counselling service helpline is open 24 hours a day, seven days a week.

2.1.4 Employment manual

The **DAS** Employment Manual offers comprehensive, up to date guidance on rapidly changing employment law. To view it, please visit their website at www.das.co.uk. From the Home Page click on the Employment Manual icon. All the sections of this web-based document can be printed off for **your** own use. Contact **DAS** at employmentmanual@das.co.uk with **your** email address, quoting **your policy** number and they will contact **you** by email to inform **you** of future updates to the information.

2.1.5 DASbusinesslaw

Using www.dasbusinesslaw.co.uk **you** can create ready-to-sign contracts, agreements and letters in minutes. Developed by solicitors and tailored by **you** using **DAS'** smart document builders. **You** can also buy legal documents from the site, ranging from simple debt recovery letters to employment contracts.

The service also provides useful tools, articles and information on matters such as new legislation, employment issues, property law and taxation all regularly updated by legal experts to help **you** keep **your business** one step ahead.

To access DASbusinesslaw, **you** will need to register at **www.dasbusinesslaw.co.uk** using **your policy** number TS5/6914322. When registering, please enter the following code which will provide **you** with access to a range of free documents: DAS472301. If **you** experience any problems accessing the service, please email details of **your** problem to businesslaw@das.co.uk, with **your** policy number in the subject box.

3 Duties in the event of a claim or potential claim

3.1 Our rights

- 3.1.1 **Our** preferred intention is to investigate any potential claim and to undertake the conduct of any proceedings in connection with such claims on **your** behalf. It is one of the services offered and provided by this **policy**. However, there may be occasions, for example, in relation to potential proceedings in **North America**, when this is not appropriate.
- 3.1.2 Therefore, it is agreed that **we** have the right not to, and shall be under no obligation to, investigate any potential claims or to undertake the conduct of any proceedings in connection with such claims but will be free to leave the conduct of such proceedings wholly with **you**.
- 3.1.3 In such cases, **we** will transfer the conduct of proceedings to **you** and will clearly set out the conditions as regards the payment of costs and **your** freedom to commit **us** to any settlement by compromise or otherwise. Provided that any settlement or compromise is made within these conditions, this **policy** will provide an indemnity as otherwise stated.
- 3.1.4 Further, **we** may at any time pay the **limit of indemnity** (after deduction of any sums already paid) or such lesser sum for which the claim can be settled and will relinquish the conduct and control of the claim and be under no further liability except (where payable under the relevant **section**) for payment of **defence costs** incurred prior to the date of payment.

3.2 Claim notification

All sections except Legal expenses sections

- a) **You** will give notice in writing or by an agreed electronic medium to **us**:
- i) immediately on but in any event within three (3) business days from:
 - ii) receipt of notice of any impending inquest, fatal accident inquiry, prosecution or other legal proceedings that include alleged **personal injury**;
 - iii) coming into possession of actual knowledge that notice of an Industrial Tribunal hearing includes alleged **personal injury**;
 - iv) **your** actual knowledge of any death or **personal injury** to any person involving a stay in hospital in excess of three (3) business days;
- b) as soon as practical but in any event within thirty (30) days after any other accident, event or the coming into possession of actual knowledge of **personal injury** or **damage**, with full particulars thereof;
- which may be the subject of indemnity under this **policy**.

- 3.2.2 **You** will give notice to **us** immediately on but in any event within three (3) business days from, **your** actual knowledge of any **RIDDOR** incident involving any person.
- 3.2.3 **You** must give **us** notice in writing within seven (7) days of **damage** caused by riot.
- 3.2.4 In respect of **damage** caused by theft or malicious persons **you** will give immediate notice to the police authority, and take all practical steps to discover any guilty person or persons and recover the property lost.

Legal expenses section

- 3.2.5 If **your** issue cannot be dealt with through legal advice services and needs to be dealt with as a potential claim under this **policy**, phone **DAS** on 0344 893 0859 and **DAS** will give **you** a reference number. At this point **DAS** will not be able to tell **you** whether the claim is covered or not but **DAS** will pass the information **you** have given **DAS** to the **DAS** claims handling team and explain what to do next.
- Please do not ask for help from a lawyer, accountant or anyone else before **DAS** have agreed that **you** should do so. If **you** do, **DAS** will not pay the costs involved even if **DAS** accept the claim.

All sections

- 3.2.6 **You** must notify **us** in accordance with the claims notification clause in writing or by an agreed electronic format to the claims notification addresses specified in the 'Claim procedure' clause of 'Our agreement in general'.

3.3 Your duties

All sections except Legal expenses section

- 3.3.1 On the happening of any event which may give rise to a claim **you** must:
- give all information and assistance **we** may require;
 - not make or allow to be made on **your** behalf any admission offer promise or payment of indemnity without **our** written consent;
 - take all practicable steps to recover property lost and otherwise minimise the claim;
 - within thirty (30) days or such further time as **we** may allow in writing deliver to **us** a written claim providing at **your** own expense all details proofs and information regarding the cause and amount of **damage** as **we** may reasonably require together with details of any other insurances on any property insured by this **policy** and (if demanded) a statutory declaration of the truth of the claim and or any related matters; and
 - as regards the Business interruption **section**, within thirty (30) days after the expiry of the **indemnity period** or within such further time as **we** may in writing allow at **your** own expense deliver to **us** a statement setting out particulars of the claim together with details of all other insurance covering any part of the **damage** or resulting loss of **rent**. You shall at **your** own expense also provide **us** with such books of account and other **business** books vouchers invoices balance sheets and other documents proofs information explanation and other evidence as may reasonably be required by **us** for the purpose of investigating or verifying such claim together with (if demanded) a statutory declaration of the truth of the claims and any related matter. No claim under the Business Interruption **section** shall be payable unless the terms of these conditions have been complied with and in the event of non compliance therewith in any respect any payment on account of the claim already made shall be repaid to **us** immediately.
- 3.3.2 In respect of any event which may give rise to a claim under the Employers' liability or Property owners' liability **section**, **you** must:
- immediately forward to **us** every letter claim writ summons and process immediately upon receipt without acknowledgement; and
 - advise **us** in writing immediately **you** have knowledge of any pending prosecution inquest fatal accident or ministry inquiry.

3.4 Disputed defence or appeal

If any dispute arises between **you** and **us** 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 of 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.

3.5 Subrogation

- 3.5.1 Except as expressly provided by any 'Waiver of subrogation' clause, for each and every claim, **you** and any person acting on **your** behalf must not waive any rights of recourse or recovery against any other person relating to an occurrence, loss or suit that may give rise to a claim under this insurance.
- 3.5.2 **You** 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 **us** 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 **us**.

- 3.5.3 In the event of any payment under this insurance, **we** will act in concert with all other interested persons (including **you**) concerned in the exercise of any rights of recovery.
- 3.5.4 The apportioning of any amounts which may be so recovered will follow the principle that any interested persons (including **you**) who will have paid an amount over and above any payment hereunder will first be reimbursed up to the amount paid by them; **we** are then to be reimbursed out of any balance then remaining up to the amount paid hereunder; lastly, the interested persons (including **you**) to whom this coverage is in excess shall be entitled to claim the residue, if any.
- 3.5.5 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.

4 General exclusions to Property, Business interruption, Failure of building services and Terrorism sections

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

The property, business interruption and failure of building services **sections** of this policy exclude and do not cover:

4.1 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.

4.2 Boiler explosion and failure

4.2.1 **damage**, or loss or interruption or interference caused by 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 **your** control;

4.2.2 **damage**, or loss or interruption or interference caused by 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 loss covered under the **section-** Business Interruption or the **section-**failure of building services if stated as being 'insured' in the **schedule**, and shall not exclude subsequent loss resulting from an ensuing cause which is not otherwise excluded.

4.3 Excess

the amount of the **excess** as applicable and stated in the **schedule**.

4.4 Disused, unoccupied or vacant buildings

damage, or loss or interruption or interference caused by:

- a) escaping water from any pipe, tank, water system or automatic sprinkler installation;
- b) riot, civil commotion, malicious **damage** or vandalism; or
- c) theft or theft damage;

in respect of any **building** which is **unoccupied**.

4.5 Electronic risks

damage, or loss or interruption or interference caused by or contributed to by, directly or indirectly, distortion, erasure, corruption, or alteration of **electronic data** from any cause whatsoever (including, but not limited to, **virus or similar mechanism, hacking or denial of service attack**) or loss of use, reduced functionality, cost, expense of whatsoever nature resulting therefrom regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

4.6 Defective design

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

4.7 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 not excluding any other **damage** resulting from such breakdown, failure or derangement;

but this exclusion will not apply to property expressly covered by **insured section-** Failure of building services if stated as being 'insured' in the **schedule**, and shall not exclude subsequent loss resulting from an ensuing cause which is not otherwise excluded.

4.8 Explosives

damage of or to explosives.

4.9 Fines or penalties

finer or damages for breach of contract or any penalties of whatsoever nature.

4.10 Frost

damage, or loss or interruption or interference caused by frost or freezing but this shall not exclude:

4.10.1 subsequent loss resulting from an ensuing cause which is not otherwise excluded; or

4.10.2 damage to the extent provided by the failure of building services **section**.

4.11 Gradual change

damage, or loss or interruption or interference caused by corrosion, gradual change or deterioration, change of temperature, 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.

4.12 Marine impact

damage, or loss or interruption or interference caused by impact with any **property insured** by any waterborne vessel or craft.

4.13 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.

4.14 Micro-organism

damage, or loss or interruption or interference caused by mold, mildew, fungus, spores or other micro-organism 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 provided by the Notifiable disease, murder or suicide, food or drink poisoning clause under **section-** Business Interruption.

This exclusion applies regardless whether there is any:

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

4.15 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.

4.16 Non-specific loss or damage

damage, or loss or interruption or interference:

- a) caused by or resulting from disappearance or which is not identifiable by **you** with a specific occurrence or which is unexplained and which has not been notified under the terms of the claims notification clause;

- b) revealed only during an inventory or stocktaking;
- c) caused by or arising from misfiling or misplacing of property, information or data.

4.17 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;
 - c) any sum which **you** become 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**.

4.18 Pollution

damage, or loss or interruption or interference caused by pollution or contamination but this exclusion shall not apply to **damage**, or loss or interruption or interference caused by:

- 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, windstorm, flood, escape of water or oil from any tank or pipe sprinkler leakage, theft or impact by any vehicle or animal provided that such defined perils are included under the **section- Property**.

4.19 Processing

damage, or loss or interruption or interference caused by the **property insured**:

- 4.19.1 undergoing any process including but not limited to, cleaning, repairing, restoring, renovating, testing, commissioning or packaging; or
 - 4.19.2 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.

4.20 Riot

damage or loss or interruption or interference caused by or happening through or in consequence directly or indirectly of riot or civil commotion occurring in Northern Ireland.

4.21 Subsidence or collapse

in respect of **buildings**:

- 4.21.1 subsidence or collapse caused by the bedding down of new structures, by settlement;
- 4.21.2 subsidence or collapse caused by coastal or river erosion;
- 4.21.3 subsidence or collapse of buildings or any part thereof whilst in the course of erection or undergoing demolition, structural alterations or structural repairs;
- 4.21.4 **damage** caused by subsidence or collapse which commenced and of which **you** were aware prior to the acceptance of this insurance by **us**; or
- 4.21.5 subsidence or collapse caused by the movement of reclaimed or made up ground or of any building erected on a mining site;
- 4.21.6 **damage** caused by the **buildings'** own collapse or cracking however **we** will indemnify **you** 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.

4.22 Theft and fraud

- 4.22.1 **damage**, or loss or interruption or interference caused by:
- a) theft or attempted theft by any person lawfully on the **premises** unless involving entry to or exit from buildings at the **premises** by forcible and violent means or by violence or threat of violence provided that this exclusion will not apply to **damage** to the **buildings**;
 - b) dishonesty of the **insured's employees**; or
 - c) any fraudulent or dishonest accessing, extraction, distortion, misappropriation or corruption of information or data contained in any computer or **electronic data** equipment or system.

4.23 War and terrorism

- 4.23.1 **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 **terrorism**, regardless of any other cause or event contributing concurrently or in any other sequence to the loss nor will **we** have any liability for loss, **damage**, costs and expenses directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with any action controlling, preventing, suppressing, retaliating against or responding to any act of **war** or **terrorism**.
- 4.23.2 In any action, suit or other proceedings where **we** allege 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 **you**. Except that this exclusion will not apply to **terrorism** as specifically covered by the **section – Terrorism** if this is stated as being 'insured' in the **schedule**.

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

4.25 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.

5 Section – Property

5.1 Property cover

5.1.1 **We** will indemnify **you** in accordance with the Basis of Settlement clause for accidental **damage** to the **property insured** provided that:

- a) **damage** occurs during the **period of insurance** and arises from an **insured peril**;
- b) the **property insured** is located at the **premises** within the **territorial limits**;
- c) **our** liability under this **section** will not exceed the **sum(s) insured** or any applicable **sub-limit**;
- d) unless expressly stated to the contrary cover granted by extension clauses to this section - Property do not increase the **sums insured**. Any **sub-limits** stated form part of and are not additional to the **sums insured**.

5.1.2 **Architects', surveyors', consulting engineers' and other fees**

In the event of **damage** that is insured by this **section** the **insurer** will indemnify the **insured** for an amount for legal and other fees of architects, surveyors and consulting engineers, for estimates, plans, specifications, quantities, tenders and supervision necessarily incurred in the **reinstatement** of loss in the event of **damage** by any **insured peril** except that the **insurer** will not be liable for such fees incurred in preparing any claim made under this **policy**.

Provided that **we** shall not incur any liability for such fees unless **you** have obtained **our** prior written consent to the appointment of such architects, surveyors and consulting engineers and the fees incurred.

5.1.3 **Arson, theft and criminal acts reward costs**

In the event of **damage** that is insured by this **section** **we** will, subject to its prior consent (such consent will not be unreasonably withheld), indemnify **you** for reasonable expenses that **you** incur 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** except that **our** liability for such expenses will not exceed £10,000 in respect of this clause.

5.1.4 **Bailors' goods**

This **section** is extended to cover **you** for **damage** to bailors' goods for which **you** are responsible in connection with the **business** provided that:

- a) **we** will only indemnify **you** in respect of **damage** where:
 - i) the goods are stored in a secure building anywhere within the **territorial limits**; and
 - ii) an inventory signed by **you** has been issued to the tenant as soon as the bailors' goods are taken into **your** custody; and
 - iii) the bailors' goods are inspected at least every seven (7) days;
- b) this insurance excludes and does not cover:
 - i) theft or attempted theft not involving entry into or exit from the **building**, where the bailors' goods are being stored, by forcible and violent means;
 - ii) payment under the **reinstatement** conditions herein;
 - iii) **damage** in respect of:
 - I) audio and visual equipment;
 - II) cigarettes, cigars, tobacco, **wines and spirits**;
 - iv) any payment by the terms of this clause in excess of the **sub-limit** of £ 2,500.

5.1.5 **Capital additions**

This **section** is extended to provide indemnity to **you** in respect of **damage** to:

- a) alterations, additions, extensions and/or improvements to the **buildings** insured (but not appreciation in value thereof);
- b) newly acquired and/or newly erected **buildings** provided they are not otherwise insured anywhere within the **territorial limits**;

provided that:

- a) **Our** liability under this clause will be in addition to the **sums insured** and **our** total liability under this capital additions clause will not exceed
 - i) £ 1,000,000 in respect of a) above; or
 - ii) £ 2,000,000 in respect of b) above;
- b) such property is not otherwise insured;
- c) **You** undertake to give particulars of such property as soon as possible and in any event every six (6) months and to retrospectively insure the newly acquired property to the date of the commencement of **our** liability; and
- d) **We** shall be entitled to charge an appropriate additional premium pro rata from the date of alterations, additions, extensions and/or improvements or acquisition of the newly acquired property and may vary the terms of this **policy**.

5.1.6 **Computer control systems –incompatibility of equipment or records**

In the event of **damage** that is covered by this **section we** will indemnify **you** for the costs of:

- a) modification of the **computer control systems**; or
- b) replacement of **computer records** together with **reinstatement** of programs and/or information thereon, whichever is the lesser amount to achieve compatibility in the event that the loss of **computer control systems** has resulted in undamaged **computer records** being incompatible with the replacement **computer control systems**;

arising out of the incompatibility of **computer records**, provided that:

- i) the replacement **computer control systems** is the nearest equivalent to that lost or **damaged**; and
- ii) **our** liability shall not exceed GBP 10,000 for any one (1) **period of insurance**.

5.1.7 **Contents**

If the **schedule** states that **contents** are insured by this **section, we** will indemnify **you** for an amount for:

- a) **damage to documents** up to a limit of £ 5,000 any one occurrence
- b) personal property of **your** principals, **employees**, partners or directors or visitors up to £ 500 any one (1) person any one occurrence, provided that this amount shall be within and not in addition to the limit for **contents**.

5.1.8 **Contractors interest**

Where **you** are required to effect insurance on **Building(s)** in the joint names of the contractor and **you** under the terms of a contract condition, then the interest of the contractor in the **Building(s)** as a joint insured is hereby noted subject to any single contract valued in excess of £100,000, or 10% (ten percent) of the **Sum Insured** on the **Building(s)**, whichever is the less, being advised to **us** and an additional premium being paid as appropriate.

5.1.9 **Contract works**

The insurance for **Building(s)** extends to include **contract works** to the extent to which you have contracted to arrange cover provided that:

- a) this Extension shall not apply to any contract where the original contract price or contract value on completion exceeds £250,000;
- b) this Extension shall only apply insofar as such **contract works** are not otherwise insured;
- c) **we** shall not be liable for the first £250 of each and every occurrence for **damage** to such **contract works** .

5.1.10 **Debris removal**

- a) In the event of **damage** that is insured by this **section, we** will, with **our** prior consent, indemnify **you** for the costs **you** necessarily incurred in:
 - i) 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;

- ii) cleaning or clearing the drains, the sewers and/or the gutters of the damaged business property site and the area within two hundred and fifty meters (250m) of the perimeter of the **damaged** property site;
- iii) removing extraneous materials from machinery, plant and/or equipment, whether or not such machinery, plant and/or equipment has been **damaged**;
- iv) removing the debris of property not belonging to **you** as a result of the **damage**;
- v) dismantling and/or demolishing of, or shoring up, propping and/or fencing the portion(s) of the **property insured** that has been damaged by an **insured peril**.

Provided that:

- I) if at the time of **damage** any **buildings** are awaiting demolition, our maximum liability in respect of such property shall not exceed the additional costs of removing debris which are incurred by you solely as a result of **damage**;
 - II) **our** maximum liability under this clause shall not exceed £15,000 any one occurrence.
- b) **We** will not be liable under this clause for any cost and expenses:
- i) arising from pollution or contamination of property not insured by this **policy**;
 - ii) of temporary boarding up of windows as part of a claim for breakage of glass if this insurance includes glass **damage**.

5.1.11 **Discharge of gas flooding systems**

The insurance provided by this **section** - Property is extended to include the cost of recharging gas cylinders installed solely for the protection of the **property insured** following accidental discharge. **We** shall not be liable for discharge arising:

- a) during repairs or alterations to the building in which the cylinders are situated;
- b) during installation, repair, removal, alteration, extension or testing of all or part of the gas flooding system;
- c) during the operation of the gas flooding system with the intention of preventing or extinguishing fire.

Subject to our maximum liability not exceeding £ 10,000 any one occurrence.

5.1.12 **European Union and public authorities**

In respect of **buildings** and **contents**, **we** will pay the additional cost of **reinstatement** of the **damaged property insured** as may be incurred solely by reason of the necessity to comply with building or other regulations under or framed in pursuance of any Act of Parliament or with bye-laws of any municipal or local authority or European Union directive, provided that:

- 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 inception of this **policy**;
 - ii) in respect of **damage** not insured by this **section**; or
 - iii) under which notice has been served upon **you** prior to the happening of the **damage**;
- b) the amount recoverable under this clause will not include 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;
- c) the amount recoverable under this clause will not include 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;
- d) if **our** liability 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 **our** liability under this clause in respect of any such **property insured** will be reduced in like proportion;

- e) **we** 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 **your** requirements subject to **our** liability not being thereby increased);
- f) 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 **we** would have been liable had the **building**, or **contents** item been totally destroyed;
- g) the indemnity provided by this clause shall be included within and not be in addition to the **sums insured** under each item of **property insured** shown in the **schedule**.

5.1.13 **Eviction of squatters**

We will, subject to **our** prior consent, indemnify **you** for reasonable expenses that **you** incur in paying the legal costs and expenses payable to a lawyer or other suitably qualified person who has been appointed to act for **you** in any civil action to evict anyone in **your premises** who does not have **your** permission to be there.

All legal proceedings will be subject to the law and jurisdiction of a court or other acceptable dispute resolution body, situate within that country or state in which the premises requiring eviction is situate.

Except that **we** will not pay costs and expenses:

- a) for any dispute where the cause of the action arises within ninety (90) days of the inception date of this policy;
- b) for any dispute where the cause of the action involves **your** tenant;
- c) for any dispute which is recoverable under the **section** - Property owners' liability or the **section** - Legal expenses **section** to this **policy** or otherwise more specifically insured elsewhere;
- d) in excess of £5,000 which shall be the **our** maximum liability during any one **period of insurance**.

5.1.14 **Failure of third party insurances**

This **section** extends to include **buildings** at the **premises** defined below for the amount of such **damage** to such **buildings** but only to the extent that the lessee or freeholder is unable to recover such an amount equivalent to that which could be payable under this **policy** if the lessee or freeholder were the insured as a result of:

- a) the lessee or freeholder having failed to arrange or maintain insurance to comply with the terms of the lease;
- b) the lessee or freeholder having failed to insure for an adequate amount whether the amount insured had been approved by **you** or not;

but excluding any payments:

- i) in respect of **damage** that **you** recover from any other party;
- ii) arising from the operation of any **excess** or **deductible** under any more specific insurance;
- iii) where the lessee or freeholder's policy fails due to the breach of any condition or warranty contained within the lessee or freeholder's policy as a result of **your** actions;
- iv) arising from the failure of the lessee or freeholder to make or pursue a legitimate insurance claim;
- v) arising from **your** failure to carry out a check at least annually of all properties owned by **you** or leased by **you** and for which **you** are responsible to ensure that effective insurance is in force for such properties;
- vi) unless **we** are the sole provider of loss of rent insurance in respect of all of **your** properties owned in connection with the **business** and where **you** have an obligation to arrange such insurance.

Provided that **our** liability under this clause will be in addition to the **sums insured**, but our liability under this clause will not exceed £ 250,000 any one occurrence and in all during the **period of insurance**.

For the purpose of this clause **premises** shall mean all **your** properties anywhere in the **territorial limits** which are leased to or by **you** but not specifically insured or referred to elsewhere under this **policy** and where the lessee or freeholder is responsible for arranging insurance under the terms of a lease with **you**.

5.1.15 Fire extinguishment expenses and emergency services damage

In the event of **damage** that is insured by this **section**, **we** will cover **you** for:

- a) extinguishment expenses necessarily incurred by **you** 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 **we** have accepted a claim under this **section**;
- d) fire brigade charges;
- e) costs and expenses reasonably incurred by **you** 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 **we** have accepted a claim under this **section**.

Except that **our** liability shall not exceed £50,000 in respect of any one occurrence.

5.1.16 Fly tipping

The insurance by this **section** extends to include the reasonable costs of clearing and removing any property illegally deposited in or around the **premises** provided that **our** maximum liability shall not exceed £5,000 any one occurrence, £15,000 in the aggregate annually.

5.1.17 Frustrated legal costs

The insurance by this **section** extends to include the legal costs and expenses for the prospective sale of any **property insured** and the amount payable shall be such sums as **you** shall be legally liable to pay and shall pay solely as a consequence of the cancellation of the sale as a result of **damage**, provided that **our** liability in respect of the cover granted by this clause shall not exceed £ 10,000 during the **period of insurance**.

5.1.18 Gardening equipment

In the event of **damage** that is insured by this **section**, **we** will indemnify the **you** for **damage** to gardening equipment, owned by **you** and used in connection with the **business** at the **premises** provided **our** liability in respect of this clause shall not exceed £ 25,000 any one occurrence.

5.1.19 Glass and glass surrounds

The insurance by this **section** extends to indemnify **you** for **your** costs incurred for:

- a) replacing **damaged** glass;
- b) boarding up where necessary before the replacement of **damaged** glass;
- c) the replacement or reinstatement of frames or glass supports which arises from the **damage**;
- d) the reinstatement of intruder alarm protection equipment if the **damage** includes breakage of the glass to which it is fixed;
- e) the contents of display windows and cabinets if the **damage** includes breakage of such display windows and cabinets;
- f) if not insured elsewhere, replacement or repair to lettering or other ornamental work; and
- g) the removal or replacement of fixtures and fittings in order to replace the glass as a result of the breakage.

Provided that in respect of each of items b) to f) above **our** liability shall not exceed £2,500 in respect of any one occurrence.

5.1.20 **Inadvertent omission to insure**

The insurance by this **section** extends to include **buildings** anywhere in the **territorial limits** where **you** have an obligation to insure whether the **buildings** are owned by or leased by **you** or in which **you** are interested as mortgagees but which have inadvertently been left uninsured provided always that:

- a) **our** liability under this clause will be in addition to the **sums insured**, but **our** total liability for such amount payable under this clause will not exceed £250,000;
- b) **you** will give notice in writing to **us** immediately **you** become aware of an omission to insure and will pay the appropriate premium from the date upon which the insurance of the property became **your** responsibility;
- c) **you** will carry out at least annually, a check of all properties owned by **you** or leased by **you** and for which **you** are responsible to ensure that effective insurance is in force for such properties;
- d) **we** are the sole provider of loss of rent insurance in respect of **your** properties owned in connection with the **business** and where **you** have an obligation to arrange such insurance.

5.1.21 **Insect nests removal**

The insurance by this **section** extends to include costs incurred by **you** as a result of removing the nests of wasps, bees or hornets and other insects harmful to humans from the **premises**. **We** will not pay:

- a) the costs of removing such nests that were already in the **building** prior to the inception of this **policy**;
- b) any amount in excess of £ 1,000 in respect of any one occurrence.

5.1.22 **Lock replacement**

The insurance by this **section** extends to indemnify **you** for the reasonable cost of replacing external locks or safe or strong room locks at the **premises** following theft of keys from the **premises**, the **insured person's** home, or following a hold-up while the keys are in **your** personal custody or that of any authorised employee, except that **we** will not be liable for any amount in excess of £5,000 any one occurrence.

5.1.23 **Metered water, gas, oil or electricity**

We will indemnify **you** for any charges for which **you** are legally responsible and unable to recover from any other party, in respect of loss of metered water, gas, oil or electricity provided that:

- a) loss of water, gas, oil or electricity is due to **damage** at the **premises** which is covered under this **section**;
- b) the lost water, gas, oil or electricity is measured by the utility meter;
- c) you maintain a record of readings from the utility meter at regular intervals of at least ninety (90) days;
- d) **our** liability in respect of any one (1) insured **premises** is limited to:
 - i) such excess water, electricity or gas charges demanded by the utility undertaking in consequence of **damage**; and
 - ii) the cost of replenishing oil lost as a consequence of the **damage** from your usual supplier; and
 - iii) will not exceed £25,000 in respect of any one occurrence;
- e) the insurance by this extension clause shall not apply to **unoccupied** buildings.

5.1.24 **Reinstatement to match**

The insurance by this **section** extends to include the cost of replacement or modification of undamaged parts of the **buildings** that form part of a suite, common design or function where the **damage** is restricted to a clearly identifiable area or to a specific part. Provided always that **our** liability will in no case exceed £ 10,000 or the amount that would have been payable had the suite, common design or function been wholly destroyed, whichever is the lesser in respect of any one occurrence.

5.1.25 **Rent for residential buildings**

In the event of **damage** to any **premises** occupied totally or partially for residential purposes that renders them unfit to live in or access to them is denied, **we** will indemnify **you** for any:

- a) loss of rent receivable; or
- b) **alternative accommodation expenses**

until the **premises** are fit again for habitation, provided that:

- a) no indemnity shall be paid in respect of any amount recoverable under the **Alternative accommodation expenses** clause contained in the Business Interruption **section**; and
- b) **our** liability under this clause shall not exceed an amount equal to fifteen percent (15%) of the **Buildings sum insured** at the **damaged premises** in respect of any one occurrence; and
- c) No amount shall be payable for indemnity beyond twelve (12) months following the date of the **damage**.

5.1.26 **Temporary protection and expediting expenses**

In the event of **damage** that is insured by this **section**, **we** will, with **our** prior consent, indemnify the **insured** for the reasonable and necessary costs incurred to:

- a) temporarily protect or preserve **property insured**, including the provision of temporary buildings, in order to avoid or prevent immediately impending **damage** covered under this **policy**; and
- b) expedite permanent or temporary repairs to or replacement of **property insured** following **damage** covered under this **policy**.

Temporary protection and expediting expenses excludes and does not cover:

- i) expense payable elsewhere in the **policy**; or
- ii) the cost of permanent repair or replacement;

Our liability under this clause and the **policy** shall not exceed £ 15,000 in respect of any one occurrence.

5.1.27 **Temporary removal (excluding documents)**

The insurance by this **section** extends to indemnify **you** for **damage** to **contents** whilst temporarily removed to any location within the **United Kingdom** that is not owned or occupied by **you** for storage, cleaning, renovation, repair or similar purpose. **We** will not be liable for:

- a) **damage** that is recoverable under any other insurance or in any other way;
- b) **damage** caused by theft or attempted theft, but this exclusion will not apply where the theft or attempted theft takes place from a building and the theft or attempted theft involves entry to or exit from the building by violent and forcible means or arises from robbery or attempted robbery;
- c) property of others held by **you** in trust;
- d) any **property insured** at exhibitions or trade fairs;
- e) **damage to documents**;
- f) **damage** that occurs when the **property** being temporarily removed is in due course of **transit**;
- g) any amount in excess of 25% of the sum insured on **contents**.

5.1.28 **Trace and access**

In the event of **damage** that is insured by this **section**, **we** will cover 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 **we** will not be liable for the cost of repairs to any fixed water services or heating installation.

Our liability under this clause shall not exceed £ 50,000 in respect of any one occurrence.

5.1.29 **Tree felling or lopping**

We will indemnify **you** for costs and expenses necessarily and reasonably incurred in felling, lopping and removing trees for which **you** are legally responsible and which are an immediate threat to the safety of life or property. Provided always that **we** will not be liable for:

- a) legal or local authority costs involved in removing trees;
- b) costs incurred solely to comply with a Preservation Order;
- c) costs incurred in respect of routine maintenance;
- d) any amount in excess of £2,500 in respect of any one occurrence.

5.1.30 **Tree removal**

We will indemnify **you** for costs and expenses necessarily and reasonably incurred in removing fallen trees and branches from the **premises** resulting from **damage** insured hereby. Provided always that **we** will not be liable for any amount in excess of £2,500 in respect of any one occurrence.

5.1.31 **Unauthorised use of electricity gas or water**

We will indemnify **you** for the cost of metered electricity, gas or water for which **you** are legally responsible arising from unauthorised use by persons taking possession of or occupying **premises** without **your** authority provided that:

- i) **you** take all reasonable steps to terminate such unauthorised use as soon as it is discovered; and
- ii) **we** will not be liable for any amount in excess of £25,000 in respect of any one occurrence.

5.1.32 **Undamaged tenants' improvements**

Where a lease is terminated as a direct result of **damage**, this **policy** is extended to include the cost of reimbursing **your** tenants for their undamaged improvements which are no longer available to such tenants, provided that **we** shall not be liable for any amount in excess of £10,000 in respect of any one occurrence .

5.2 **Limitations and exclusions applicable to this section**

In addition to the limitations and exclusions applicable to this **insured section** under Exclusions to **sections** Property, Business Interruption, Failure of building services and Terrorism, the following are excluded from and not covered by the insurance under this **section**:

5.2.1 **Consequential loss**

any form of indirect or consequential loss except as specifically included with this **section**.

5.2.2 **Excluded property**

- a) **damage**, or loss or interruption or interference caused by or in connection with 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**, jewellery, precious stones, precious metals, furs, curiosities, works of art, rare books;
 - v) china, earthenware, marble, statuary and other fragile or brittle objects;
 - vi) land, piers, jetties, bridges, culverts or excavations;
 - vii) property in the course of erection or installation, except as expressly provided for by this **policy**;

- b) **damage**, or loss or interruption or interference caused by or in connection with 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.
- c) **damage**, or loss or interruption or interference caused by or in connection with **damage** to electricity, gas, water or telecommunications transmission lines or pipes except that this exclusion shall not apply to such property for which **you** are responsible that is located on or over **your premises**.

5.2.3 **Property insured elsewhere**

damage to, or costs and expenses in respect of any **property insured** which is otherwise more specifically insured by or on **your** behalf or **your** tenants except to the extent provided by the Failure of third party insurances clause.

5.2.4 **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 and tobacco products, alcohol, music players, video equipment, audio, video or computer disks (whether blank or encoded with content) cameras, computer games equipment, televisions, or **documents**, manuscripts, computer systems records, **electronic data** or business books.

5.3 **Other terms and conditions applicable to this section**

5.3.1 **Buildings awaiting demolition**

Notwithstanding anything contained herein to the contrary, it is hereby understood and agreed that, if at the time of **damage** any **buildings** are awaiting demolition, **our** maximum liability shall not exceed the additional costs of removing debris, in accordance with the Debris removal clause, which are incurred by **you** solely as a result of **damage**.

5.3.2 **Basis of settlement**

In the event of **damage** to **property insured** under this **section** the basis of reinstatement shall be as follows:

- a) on **employees'**, directors' or visitors' property, the cost of repairing or replacing the item(s) as new, whichever is the lesser;
- b) on landscaped gardens the cost of seeding or replacement plantings, plus the labour incurred in restoration;
- c) 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.

5.3.3 **Basis of settlement conditions**

- a) If **you** elect and **we** agree not to repair or reinstate any **property insured**, then **our** liability shall be limited to the **actual value** of the **damaged property insured**, however settlement on this basis shall be at **our** sole discretion.
- b) If **we** elect or become bound to reinstate or replace any **property insured**, **you** will, at **your** own expense, produce and give to **us** all such plans, documents, books and information as **we** may require.
- c) **We** will not be bound to reinstate exactly or completely but only as circumstances permit, and in a reasonably sufficient manner, and will not in any case be 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 **your** behalf 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 dispatch, otherwise no payment will be made beyond the amount which would have been payable under this **section** if this condition had not been incorporated.
- f) **We** will have no liability to pay any amount beyond the amount that would have been payable under this **section** if this condition had not been incorporated until such time as the cost of **reinstatement** has actually been incurred.

5.3.4 **Buildings awaiting renovation, redevelopment or refurbishment**

It is hereby understood and agreed that, if at the time of **damage** any **buildings** are awaiting renovation, redevelopment or refurbishment, **we** shall not be liable for any costs, which would have been incurred by **you** in the absence of such **damage**.

5.3.5 **Claim discharge**

You or **your** personal representatives' receipt of the final adjusted claim settlement will discharge **us**.

5.3.6 **Contracting purchaser**

If at the time of **damage** to any **building** insured under this **section** **you** have contracted to sell **your** 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 **section** insofar as it relates to such **damage**, without prejudice to the rights and liabilities of **you** or **us** under this **section** up to the date of completion.

5.3.7 **Designation**

For the purpose of determining where necessary the heading under which any property is insured, it is agreed to accept the designation under which such property has been entered in **your** books.

5.3.8 **Involuntary betterment**

Where **property insured** is **damaged** and requires replacement and similar property is not obtainable, **we** agree:

- 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.

We shall not be liable to pay more than the amount sufficient to enable **you** to resume operations in substantially the same manner as before the **damage**.

5.3.9 **Loss of market value**

It is understood that:

- a) if **you** elect not to repair or rebuild the **buildings**, **we** will pay to **you** the reduction in the market value of the **buildings** immediately following the **damage** but not exceeding the amount which would have been payable had the **buildings** been repaired or rebuilt; or
- b) if as a result of **damage** insured hereby **you** are required to rebuild or reinstate the **buildings** in a manner different from that immediately before the **damage** solely to comply with the European union and public authorities clause and as a result there is reduction in market value thereof **we** agree to pay:
 - i) the cost of repairing or reinstating the **buildings**; and
 - ii) a cash settlement representing the reduction in market value;

provided that the total payment made:

- i) is no greater than the amount that would have been payable had the **buildings** been repaired or reinstated in an identical manner to their condition immediately before the **damage**, and;

- ii) does not exceed the **sum insured** under any individual item under this **insured section**.

5.3.10 **Mortgagees and lessors**

It is agreed that any increase in the risk of **damage** resulting from any act or neglect of any mortgagor, leaseholder, lessee or occupier of any **buildings** insured by this **policy** will not prejudice the interest of any mortgagee, freeholder or lessor provided such increase in risk is without their prior knowledge or authority and that **we** are notified immediately they become aware of such increase in risk and pay an appropriate additional premium if required.

5.3.11 **Non-invalidity**

If the risk of **damage** is increased by any inadvertent act or omission or by any change not otherwise subject to any policy exclusion that occurs without **your** knowledge, such material change will not invalidate this insurance, provided that **you** immediately on such act, omission or change coming to **your** knowledge, give notice thereof to **us** and pay such extra premium as **we** may require.

However, this provision shall not apply to set aside any exclusion which would but for this clause be applicable and it is agreed that any such **policy** exclusion shall prevail over this clause in the event of any conflict.

5.3.12 **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:

- a) **you** will immediately declare to **us** the names of such interested parties; and
- b) **we** 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.

5.3.13 **Reinstatement including day one (1) reinstatement**

If **property insured** is **damaged**, **our** liability to **you** is to be calculated on the basis of **reinstatement** of the property **damaged**, subject always to the exclusions and conditions set out, below:

a) Exclusions

i) Excluded property

The insurance by this clause excludes and does not cover **rent**, private dwellings, motor vehicles, motor chassis or employees', directors' or visitors' property but this exclusion does not apply to tools used on **your** behalf by **your** employees at the **premises**.

ii) Dual insurance under different conditions

If at the time of any **damage** to any **property insured**, such property is covered by any other insurance effected by or on **your** behalf but is not on the identical basis of **reinstatement** or day one (1) reinstatement, as applicable, 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 clause had not been incorporated.

b) Conditions

i) No unreasonable delay

The work of **reinstatement** must be commenced and carried out with reasonable dispatch, otherwise no payment will be made beyond the amount which would have been payable under this **section** if this clause had not been incorporated.

ii) Payment sub-limit - partial damage

When the **property insured** under this clause is **damaged** in part only, **our** liability will not exceed the sum representing the cost which **we** could have been called upon to pay for **reinstatement** if such **property insured** had been wholly destroyed.

iii) Claim payment terms

We will have no liability to pay any amount beyond the amount that would have been payable under this **section** if this clause had not been incorporated until such time as the cost of **reinstatement** has actually been incurred.

iv) Reinstatement day one (1) basis – non adjustable

For each item specified in the **schedule**, **we** agree to calculate the premium upon the **declared value** provided that, at inception of this **policy** and the commencement of each subsequent **period of insurance**, **you** notify **us** of the **declared value** of each such item (in the absence of such a notification, the last amount declared by **you** will be taken as the **declared value** for the ensuing **period of insurance**).

v) Underinsurance

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:

I) 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 breaking out of any fire or at the commencement of any **damage** to such property by any other cause hereby insured against, then **you** will be considered as being **your** own insurer for the difference between the **sum insured** and the sum representing the cost of reinstatement of the whole of the property and will bear a rateable proportion of the loss accordingly.

II) Day one (1) basis average

Except that where **property insured** is specified as insured on a day (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 **our** liability for any loss hereby insured will be limited to that proportion thereof which the **declared value** bears to the cost of **reinstatement**.

III) Standard underinsurance condition

Where **property insured** is not specified as insured on a **reinstatement** or day one (1) basis then each item of property is covered on a **sum insured** basis and is declared to be separately subject to the following condition of average:

'If at the breaking out of any fire or at the commencement of any **damage** by any **insured peril**, the value of **property insured** is collectively of greater value than the **sum insured**, then you will be considered as being your own insurer for the difference and will bear a rateable proportion of the loss accordingly.'

5.3.14 **Reinstatement of sum insured following loss**

In consideration of this insurance not being reduced by the amount of any loss under this **section** **you** will pay such additional premium to **us** as may be required.

5.3.15 **Seventy two (72) hours clause**

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.

You may choose when any of the periods commence and if the event or common cause is of greater duration than the above periods, **you** 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, **we** shall be liable as if such period had fallen entirely within the **period of insurance** of the **policy**.

5.3.16 **Subrogation waiver**

In the event of a claim arising under this **section**, **we** agree to waive any rights, remedies or relief to which **we** might become entitled by **subrogation** against:

- a) any company standing in the relation of parent to subsidiary (or subsidiary to parent) to **you** 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 **you** are 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;
- c) any tenant of the **premises** provided that:
 - i) the **damage** did not result from a criminal, fraudulent or malicious act of the tenant;
 - ii) the tenant contributes to the cost of insuring the **property insured** against the event which caused **damage** but excluding **damage** arising out of the tenant's or lessee's gross negligence.

5.3.17 **Unoccupied or vacant buildings**

- a) **You** will give notice to **us** forthwith if a **building** becomes **unoccupied** and if an **unoccupied building** or portion thereof is again occupied. **We** shall have the right to impose additional conditions, exclusions and charge a suitable additional premium as **we** may require in consideration for the continuance in force of this insurance.
- b) Further it is agreed as a condition of this insurance in respect of **buildings** that become **unoccupied** that:
 - i) the mains supply services are switched off and the water system is drained other than:
 - I) the circuit(s) of the electricity supply which is/are needed to maintain any fire detection system, closed circuit television system or intruder alarm system in operation;
 - II) mains services which are needed to maintain any sprinkler systems in full working order and in these circumstances heating must be maintained in the **building** at a minimum temperature of five (5) degrees centigrade;
 - ii) the **premises** are inspected thoroughly both internally and externally at least once every fourteen (14) consecutive days, unless otherwise notified in writing by **us**, by **you**, **your** employees, or **your** authorised representatives and:
 - I) a record is maintained of such inspections;
 - II) all defects in maintenance and security are rectified immediately;
 - III) accumulations of combustible materials, such as all loose combustible items, including furniture, pallets, waste, refuse, junk mail, flyers and gas bottles, in and around the **premises** are removed during inspection;
 - iii) all external doors are locked securely and all windows are closed and secured;
 - iv) all letter boxes are sealed to prevent insertion of any materials or liquids;
 - v) the perimeter fences, walls and gates are maintained in good repair;
 - vi) there is no refurbishment, renovation or alteration work carried out unless agreed by **us**;

throughout the **period of insurance** unless otherwise agreed by **us**.

- c) Notwithstanding compliance with the terms of sub clause a) and b) above, the insurance in respect of the **unoccupied buildings** remains subject to the Exclusions to **section** – Property, Business Interruption, Failure of building services and Terrorism and specifically to the exclusion of Disused, unoccupied or vacant buildings contained therein.

5.3.18 **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 **you** (including self supply value added tax where appropriate) which is not subsequently recoverable following **damage** to the **property insured** provided that:

- a) **your** liability for such tax arose solely as a result of the **reinstatement** and/or repair of the **property insured** following **damage**;
- b) **we** have paid and or have agreed to pay for such **damage**;

- c) if any payment made by **us** 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) **your** 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, **our** liability shall not exceed the amount of tax that would have been payable had the **premises** been rebuilt on its original site;
- f) **our** liability shall not include amounts payable by **you** 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 of residential buildings clause, **reinstatement** costs and **rent** shall be exclusive of **VAT**; and
 - ii) **our** liability 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**.

5.3.19 **Workmen**

Workmen may be employed to carry out new erections or alterations, repair, decoration, plant installation, general maintenance and the like at the **premises** without prejudice to the insurance hereby.

5.4 **Conditions precedent for property**

- 5.4.1 The duties imposed by the following clauses apply from the time **you** acquire knowledge of non-compliance and only to those areas of the **premises** that operate under **your** direct control.

5.4.2 **Automatic sprinkler installations**

In relation to **property insured** being protected by an automatic sprinkler installation in accordance with details declared to **us** at inception of each **period of insurance**, it is agreed as a condition precedent to **our** liability under this **section** that **you** will ensure that the following work is carried out:

- a) the said installation will be maintained in full working order during the currency of this insurance;
- b) 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;
- c) if required by **us**, 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;
- d) any defect whether revealed by such tests or otherwise will be remedied promptly;
- e) **you** will notify **us** immediately should the water supplies be turned off or the sprinkler installation be rendered inoperative from any cause.

Cover provided by this **section** will not be invalidated by any defect in the said systems due to circumstances beyond **our** control.

5.4.3 **Sprinkler leakage**

In respect of cover provided by this **section** in respect of **damage** caused by sprinkler leakage, it is agreed as a condition precedent to **our** liability under this **section** that the following additional conditions shall apply:

- a) **you** will at all times take reasonable steps to prevent frost and other **damage** to the automatic sprinkler installation in so far as **your** responsibility extends to maintaining the installation and will maintain the automatic external alarm signal in efficient working order;
- b) in the event of any discharge or leakage **you** will do and permit to be done all things practicable, whether by removal or otherwise, to save and protect the **property insured**;

- c) whenever it is the intention to make any changes, repairs or alterations to the installation, **you** will give written notice to **us** and obtain **our** permission in writing;
- d) **you** will arrange for **us** to have access to the **premises** at all reasonable times for the purposes of inspection and if **we** notify **you** of any defects in the condition of the installation, **we** may at **our** option suspend sprinkler leakage cover until the defects have been remedied and approved by **us**.

5.4.4 **Hot work permit**

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 **our** trade processes).

It is a condition precedent to **our** liability under this **section** 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 **your** 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**.

6 Section - Business interruption

- 6.1.1 **We** will indemnify **you** in accordance with each item of cover which is described below, for the amount of loss caused by the interruption or interference with the **business** resulting from **damage** to property used by **you** at the **premises** within the **United Kingdom** shown in the Property **section**, provided that:
- a) at the time the **damage** occurs there is in force either:
 - i) cover under the Property **section**, or
 - ii) an insurance policy covering **your** interest in the property at the **premises** against such **damage** and such property is of a type and kind not excluded by this **section**;
 - b) at the time the **damage** occurs **you** have claimed under the policy referred to in a) 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.
- 6.1.2 **Rent receivable**
Our liability in respect of **rent receivable** is limited to loss of **rent receivable** and additional expenditure and the amount payable under this **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 additional expenditure: the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the loss of **rent receivable** which but for that expenditure would have taken place during the **indemnity period** in consequence of the **damage**, but not exceeding the amount of the reduction in **rent receivable** thereby avoided;
 - 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), **our** liability will be proportionately reduced.
- 6.1.3 **Alternative accommodation expenses**
In the event of **damage** to any **premises** occupied totally or partially for residential purposes that renders them unfit to live in or access to them is denied, **we** will indemnify **you** for any:
- a) loss of rent receivable; or
 - b) **alternative accommodation expenses**
- until the **premises** are fit again for habitation, but not beyond the **indemnity period** stated in the **schedule**.
- provided that:
- a) no indemnity shall be paid in respect of any amount recoverable under the Rent for residential buildings clause contained in the Property **section**; and
 - c) **our** liability under this clause shall not exceed the **sum insured** stated in the **schedule**.
- 6.1.4 **Book debts**
We agree that if any records of accounts receivable used by **you** 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 **your** inability to trace or establish their **outstanding debit balances** then the **insurer** will indemnify **you** for the loss of income resulting from **your** inability to trace or establish their **outstanding debit balances** as a direct result of **damage** by any **insured peril** provided that:
- a) **our** liability under this **section** shall not exceed the **sum insured** for book debts stated in the **schedule**;
 - b) if at the time of any **damage** the **sum insured** for book debts is less than the actual balances, the amount payable by **us** will be proportionately reduced.

In addition, **we** will pay expenses incurred with **our** consent in tracing and establishing customers' debit balances after the **damage**.

After payment of any claim hereunder, all amounts recovered by **you** on accounts receivable for which you have been indemnified under this **section** will belong and be paid immediately to **us** by **you** up to the total amount of loss paid by **us**.

6.1.5 **Rent receivable (Capital Additions)**

This **section** is extended to include loss of **rent receivable**, which, but for the **damage** would have been derived from:

- a) alterations, additions, extensions and/or improvements to the **buildings** insured;
- b) newly acquired and/or newly erected **buildings** provided they are not otherwise **insured** anywhere within the **territorial limits**;

provided that:

- i) **you** shall advise **us**:
 - I) every six (6) months in respect of any such alterations, additions, extensions and improvements together with a forecast of the **rent receivable** derived from such alterations, additions, extensions and improvements;
 - II) as soon as practicable and in any event within six (6) months of any such newly acquired and/or newly erected property together with a forecast of the **rent receivable** derived from such newly acquired and/or newly erected property.
- ii) **our** liability under this clause will be in addition to the **sums insured**, but **our** liability under this clause at any one **premises** will not exceed 20% of the **sum insured** or £500,000 whichever is the lesser;
- iii) **you** will pay the appropriate additional premium required from inception of such additional cover and amounts so declared shall be added by endorsement to the **sum insured** by the relevant item;
- iv) no amount shall be paid beyond the **indemnity period** shown in the **schedule**.

6.1.6 **Contracting purchaser**

If at the time of any **damage** to the **buildings** insured by **section** – property **you** have contracted to sell **your** interest in the **buildings**, the purchaser will be entitled to the benefits of this **section** provided that:

- a) **damage** takes place during the period from exchange to completion; and
- b) the completion is finalised; and
- c) the purchaser's prospective rental income is not otherwise insured; and
- d) the amount of indemnity provided to the purchaser shall not exceed the amount that would have been paid to **you** had the contracted sale not been agreed.

6.1.7 **Cost of re-letting buildings**

We will indemnify **you** for costs incurred with our written consent in re-letting the **buildings** including legal fees in connection with the said re-letting solely as a result of **damage** provided that the sum of the amount payable under this extension and the amount otherwise payable under this **section** will in no case exceed the **sum insured** or exceed the **maximum indemnity period** in respect of **rent receivable**.

6.1.8 **Denial of access**

We will indemnify **you** for loss resulting from interruption of or interference with the **business** in consequence of **damage** by an **insured peril** covered under the property **section** to property of a type not excluded by this **policy** within two hundred and fifty meters (250m) of the **premises** which prevents or hinders the use of the **premises** or access thereto, whether the **premises** or **property insured** therein shall be **damaged** or not.

6.1.9 **Denial of access (non damage)**

We will indemnify **you** for loss of **rent receivable** in consequence of:

- a) action by the Police Authority following danger or disturbance within two hundred and fifty metres (250m) of the **premises** which shall prevent or hinder use of the **premises** or access thereto, unless:

- i) such danger or disturbance arises from any cause within the control of the **insured**;
- ii) the loss of **rent receivable** is a result of **damage** to property;
- iii) such denial of access is the direct result of repairs or maintenance being carried out to property as a result of inherent defect, or wear and tear or general upkeep;
- b) the said **premises** containing or being thought to contain a harmful device, provided that the police are informed immediately of the presence or suspected presence of a harmful device;

provided always that **we** will not be liable in respect of loss resulting from the first 24 hours each and every such interruption or interference.

6.1.10 **Failure of third party insurances**

We will indemnify **you** for loss of **rent receivable** at the premises (defined below) but only to the extent that the lessee or freeholder is unable to recover such an amount equivalent to that which could be payable under this **policy** if the lessee or freeholder were the **insured** as a result of:

- a) the lessee or freeholder having failed to arrange or maintain insurance to comply with the terms of the lease;
- b) the lessee or freeholder having failed to insure for an adequate amount whether the amount insured had been approved by **you** or not;

but excluding any loss:

- i) or payment in respect of loss of **rent receivable** that **you** recover from any other party;
- ii) or claim due to the operation of any **excess** or **deductible** under any more specific insurance;
- iii) or claim where the lessee or freeholder's policy fails due to the breach of any condition or warranty contained within the lessee or freeholder's policy as a result of the action of **you**;
- iv) as a result of the failure of the lessee or freeholder to make or pursue a legitimate insurance claim;
- v) or claim under this clause unless **you** carry out at not less than annual intervals a check of all properties owned by **you** or leased by **you** and for which **you** are responsible to ensure that effective insurance is in force for such properties;
- vi) unless **we** are the sole provider of loss of rent insurance in respect **your** properties owned in connection with the **business** and where **you** have an obligation to arrange such insurance;
- vii) in excess of the **maximum indemnity period** stated in the **schedule**.

Provided that the **insurer's** liability under this clause will be in addition to the **sums insured**, but **our** liability under this clause will not exceed £ 100,000 any one occurrence.

Premises

For the purpose of this clause **premises** shall mean all **your** properties anywhere in the **territorial limits** which are leased to or by **you** but not specifically insured or referred to elsewhere under this **policy** and where the lessee or freeholder is responsible for arranging insurance under the terms of a lease with the **you**.

6.1.11 **Inadvertent omission to Insure (rent receivable)**

The insurance by this **section** extends to include the loss of **rent receivable** from **buildings** anywhere in the **territorial limits** which have inadvertently been left uninsured provided always that:

- a) this clause shall only apply to **rent receivable** from **buildings** which **you** have an obligation to insure, irrespective of whether the **buildings** are owned by or on lease to them or in which they are interested as mortgagees;
- b) **our** liability under this clause will be in addition to the **sums insured**, but **our** liability under this clause will not exceed the **sub-limit** as shown in the **schedule**;
- c) **You** will give notice in writing to us immediately they become aware of an omission to insure and will pay the appropriate premium from the date upon which the insurance of the property became your responsibility;

- d) **You** will carry out at not less than annual intervals a check of all properties owned by them or leased by them and for which **you** are responsible to ensure that effective insurance is in force for such properties;
- e) **We** are the sole provider of loss of rent insurance in respect of your properties owned in connection with the **business** and where **you** have an obligation to arrange such insurance.

6.1.12 **Loss of attraction**

We will indemnify **you** for loss of **rent receivable** resulting from interruption of or interference with the **business** in consequence of diminution of attraction to the **premises** following **damage** to property by any **insured peril** covered under **section** - property occurring at any other premises within a two hundred and fifty metres (250m) radius of any one of the **premises**, provided that:

- a) **We** shall not be liable for an amount representing the first four hours of such denial in respect of any occurrence; and
- b) **our** liability under this clause in respect of any one occurrence shall not exceed £100,000.

6.1.13 **Loss of investment income on late payment of rent**

If as a result of **damage**, **we** indemnify **you** in respect of loss of **rent receivable** and the payment by **us** to **you** is made later than the date upon which **you** would normally have expected to receive such **rent receivable** from a lessee, **we** will pay a further sum representing the investment interest lost to **you** during the period of delay.

6.1.14 **Managing agents**

The insurance under this **section** extends to include interruption of or interference with the **business** in consequence of **damage** to property at the **premises** of any managing agents employed or engaged to collect **rent receivable**, provided that:

- a) such **rent receivable** is not received by **you** as a direct result of the **damage**;
- b) the **rent receivable** is not outstanding for one hundred and twenty (120) days in excess of its due date prior to the **damage** at the managing agents' premises;
- c) all reasonable steps to recover the **rent receivable** are taken;
- d) such **rent receivable** is not recoverable under any other policy;
- e) **Our** liability under this clause shall not exceed twenty percent (20%) of the **sum insured** on **rent receivable**.

6.1.15 **Notifiable disease, murder or suicide, food or drink or poisoning**

We will indemnify **you** for loss resulting from interruption of or interference with the **business** in consequence of any of the following events:

- a) any occurrence of a **notifiable disease** at the **premises** or attributable to food or drink supplied from the **premises**;
- b) any discovery of any organism at the **premises** likely to result in the occurrence of a **notifiable disease**;
- c) any occurrence of a **notifiable disease** within a radius of two hundred and fifty metres (250m) 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) any 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) any occurrence of murder or suicide at the **premises**;

provided that:

- i) **We** shall not be liable for any costs incurred in cleaning, repair, replacement, recall or checking of property;
- ii) **We** shall only be liable for loss arising at those **premises** which are directly subject to the incident;

- iii) **We** shall not be liable for any loss arising directly or indirectly from an occurrence of legionellosis or legionnaires' disease where **you** have failed to comply with
 - I) their statutory obligations in respect of the control of legionellosis or legionnaires' disease;
 - II) the Health and Safety Commissions Approved Code of Practice, 'The Prevention and Control of Legionellosis (including Legionnaires' Disease)' Ref ISBN-0-7176-1772-6 or any supplementary, replacement or amending Code of Practice;
- iv) **We** shall not be liable for any amounts beyond three (3) months of the interruption of or interference with the **business** as covered by this clause.

6.1.16 **Prevention of access by unauthorised persons**

In the event that access by tenants to **buildings** be hindered or prevented due to the **buildings** or property in the vicinity being:

- a) occupied by terrorists or persons thought to be terrorists;
- b) unlawfully occupied except in the course of a dispute between any employer and employee(s) or other group of workers;

then **we** will indemnify **you** for loss of **rent receivable** or, if **your** responsibility, the reasonable cost of comparable alternative accommodation incurred by **your** tenants provided always that:

- i) the police are immediately informed; and
- ii) the maximum amount payable under this clause will not exceed the lesser of:
 - I) 10% of the **sum insured** or £100,000 (whichever is the lesser), in respect of any one (1) occurrence; or
 - II) any amounts beyond three (3) months of the interruption of or interference with the **business** as covered by this clause.

6.1.17 **Supply utilities**

- a) **We** will indemnify **you** for loss of **rent receivable** in consequence of:

- i) **damage** by an **insured peril** to property at 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;
 from which **you** obtain electricity, gas, water or telecommunication services.
- ii) accidental 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. For the avoidance of doubt, **damage** to any satellite or interruption in the supply of any telecommunication following **damage** to any satellite is excluded from and not insured by this **policy**;

- b) The maximum amount payable in respect of any one (1) occurrence under this clause will not exceed 15% of the **sum insured** or £250,000 whichever is the lesser;
- c) **We** will not be liable under this clause or elsewhere under this insurance for loss of **rent receivable** caused by **damage** resulting from:
 - i) 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) strikes or any labour or trade dispute;
 - iii) drought;
 - iv) any other atmospheric or weather conditions, but not excluding accidental failure due to damage to supply utility equipment caused by such conditions;

- d) **We** will not provide any indemnity for the first four (4) hours period of interruption or interference with electricity, gas, water or telecommunication services as covered under the under this clause.

6.2 Business Interruption limitations and exclusions

In addition to the limitations and exclusions applicable to this **insured section** under Exclusions to **sections** Property, Business Interruption, Failure of building services and Terrorism, the following are excluded from and not covered by the insurance under this **section**:

6.2.1 Limit of liability

Our liability under this **section** will not exceed the lesser of:

- a) the whole of the total **sums insured**;
- b) in respect of any item of settlement specification, its **sum insured** at the time of the **damage**;
- c) any other **limit of liability** stated in the **schedule** at the time of the **damage**;
- d) the **sum insured** (or **limit of liability**) remaining after deduction for any other interruption or interference consequent upon **damage** occurring during the same **period of insurance**, unless **we** have agreed to reinstate any such **sum insured** (or **limit of liability**).

6.2.2 Excluded property

indemnity for loss of **rent receivable** following any interruption or interruption with **your business** caused by or resulting from **damage**, to 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;
 - viii) explosives;
 - ix) gold, silver, jewellery, precious stones, works of art, rare books, sculptures, curios and collections;
- 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;
- c) electricity, gas, water or telecommunications transmission lines or pipes except that this exclusion shall not apply to such property for which **you** are responsible that is located on or over **your premises**.

6.3 Other Business Interruption terms and conditions

6.3.1 Automatic reinstatement

In consideration of the insurance hereby not being reduced by the amount of any loss under this **insured section**, **you** will pay such additional premium as may be required.

6.3.2 Basis of claims settlement

The amount payable shall be the actual amount of the reduction in **rent receivable** incurred during the **indemnity period** in consequence of the **damage**. Where under the terms of the lease or leases, rent reviews would have taken place during the **indemnity period** the basis of claims settlement shall take into account such rent reviews, provided that **our** total liability shall not exceed two hundred percent (200%) of the **sum insured** on loss of **rent receivable**.

6.3.3 Buildings awaiting sale

In respect of **buildings** forming part of the **property insured** by **section** - Property that **you** have contracted to sell or have accepted an offer in writing to purchase the interest in subject to contract, where that sale is cancelled or delayed solely due to **damage**, **we** will indemnify **you** in respect of:

- a) interest payable by **you** on capital borrowed which, but for the loss, destruction or damage, would be available, from the proceeds of the sale, for investment in the **business**;
- b) the additional interest payable by **you** on amounts borrowed;
- c) the investment interest lost by **you** on any proceeds of the sale (after the deduction of any capital borrowed as detailed in a) above);

Provided that:

- i) the insurance by this clause excludes all loss unless **you** have made all reasonable efforts to complete the sale as soon as possible following the **damage**;
- ii) **our** liability under this clause will not exceed 15% of the **sum insured** under this **section** or £250,000 whichever is the lesser, in respect of any one (1) occurrence;
- iii) the **indemnity period** will not exceed the period during which the **business** is affected due to the **damage**, beginning with the date on which, but for the **damage**, the **building** would have been sold and ending with the 'date of completion' or after six months, if earlier.

6.3.4 Cessation of Business

This **section** shall be avoided if the business is wound up or carried on by a liquidator, receiver or administrator or permanently discontinued unless continuance of cover is agreed in writing by **us**.

6.3.5 Payments on account

If **you** request, **we** will, subject to **our** prior consent which consent will not be unreasonably withheld, make payments to **you** 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) if the total adjusted loss under this **section** differs from the quantum of the payments made under this clause then **you** and **we** mutually agree to pay or return the difference accordingly.

6.3.6 Professional accountants

- a) Any particulars or details contained in **your** books of account or other **business** books or documents which may be required by **us** under the '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 **you** 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 **you**.
- b) **We** will indemnify **you** for the reasonable charges payable by **you** to **your** professional accountants for producing such particulars or details or any other proofs, information or evidence as may be required by **us** under the terms of the '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 **your** books of account or other **business** books or documents.

6.3.7 Subrogation waiver

In the event of a claim arising under this **section**, we agree to waive any rights, remedies or relief to which **we** might become entitled by **subrogation** against:

- a) any company standing in the relation of parent to subsidiary (or subsidiary to parent) to **you** 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 **you** are yourself 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**.
- c) any tenant of the **premises** provided that:
 - i) the **damage** did not result from a criminal, fraudulent or malicious act of the tenant;
 - ii) the tenant contributes to the cost of insuring the **property insured** against the event which caused **damage** but excluding **damage** arising out of the tenant's or lessee's gross negligence.

7 Section – Property owners' liability

7.1 Property owners' liability cover

7.1.1 **We** agree to indemnify **you** by the terms of this **section** against legal liability to pay damages or compensation, including claimant costs recoverable from **you**, arising from **personal injury, damage, denial of access** or nuisance that occurs during the **period of insurance** and:

- a) arises out of and in connection with the **business**;
- b) arising out of or from **pollution**, provided that such **pollution**:
 - i) arises solely out of the course of the **business**; and
 - ii) is the direct result of a sudden, specific and identifiable event occurring during the **period of insurance**.

provided that **we** shall not be liable for any liability arising from temporary work undertaken overseas and outside the **United Kingdom** or member states of the European Union other than clerical, promotional, sales conference attendance and other similar non-manual activities

7.1.2 North American jurisdiction

Where any clause or endorsement to this **policy** extends cover to apply to **North American jurisdiction**, **we** agree to indemnify **you** for **defence costs** but the said **defence costs** count towards and are not additional to the **limit of indemnity**.

7.1.3 All other jurisdictions

- a) For claims not involving **North American jurisdiction**, **we** agree to indemnify **you** 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.

7.1.4 Compensation for court attendance

In the event of any of the under-mentioned persons attending court as a witness at **our** request in connection with a claim in respect of which **you** are entitled to indemnity under this **section**, **we** shall provide compensation to **you** at the following rates per day for each day on which attendance is required for:

- a) any of **your** directors or partners £500
- b) any **employee** £250

7.1.5 Contractual liability

Subject always to the exclusions 'North American jurisdiction' and 'North American territory', where any contract or agreement entered into by **you** so requires **we** will indemnify **you** against liability arising from obligations undertaken by **you** by virtue of such contract or agreement but only to the extent of the indemnity defined in these **sections** provided that the terms and conditions of this insurance will apply as far as may be practicable.

7.1.6 Cross liabilities

If more than one entity is referred to as 'the insured' in the **schedule** this **section** shall apply to each one as if a separate **policy** had been issued to each provided that the total amount of indemnity payable to all parties in respect of damages shall not exceed the **limit of indemnity**.

7.1.7 Data Protection Act 1998

We will indemnify **you** and, if **you** so require, any of **your** directors, partners or **employees** 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 persons other than directors, partners or employees during the **period of insurance**, provided that:

- c) **you** have registered in accordance with the terms of the DPA;
- d) the claim arises from damage or distress occurring or prosecution commenced during the **period of insurance**;
- e) 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 **you** at inception of this **section**; and
 - iv) liability for which indemnity is provided under any other insurance.

7.1.8 **Defective Premises Act 1972**

The insurance provided by this **section** is extended to indemnify **you** against any liability incurred by you 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 **you**, except that **we** will not be liable to provide an indemnity for the cost of remedying any defect or alleged defect in such premises.

7.1.9 **Environmental statutory liability**

The insurance provided by this section is extended to indemnify you for all sums, including statutory debts, that you are legally liable to pay or legally obliged to incur for remediation in respect of environmental damage where such liability arises under an environmental protection directive, statute or statutory instrument, 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;
 - iii) the removal of any significant risk of an adverse effect on human health;

to or on **your** land, **premises**, watercourse or body of water whether owned, leased, hired, tenanted or otherwise in **your** care, custody or control;

- 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 **us** inclusive of all **defence costs** for any one occurrence or in the aggregate during any one **period of insurance** shall not exceed the £1,000,000;

and provided also that the exclusion in proviso b) i) above shall not apply to **preventative costs** that are incurred with **our** 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 we will indemnify you for **preventative costs** relating to your own land, **premises** or watercourse or body of water

7.1.10 **Right to examine**

Our representatives shall have the right to examine at all reasonable times any **building services equipment**.

7.1.11 **Indemnity to other parties**

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

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

7.1.12 **Local Democracy, Economic Development and Construction Act 2009**

We will indemnify **you** and any **other insured party** in respect of liability which **you** may incur in respect of any claim(s) first made against **you** during the **period of insurance** for claimants' costs and expenses arising from any decision by an adjudicator appointed to resolve a dispute in accordance with the Scheme for Construction Contracts as contained in the Local Democracy, Economic Development and Construction Act 2009 (formerly Housing Grants, Construction and Regeneration Act 1996) or an adjudication clause or rules contained in a contract.

7.1.13 **Managing agents clause**

It is agreed that in respect of liability arising in connection with any buildings owned but not occupied by **you**, if **you** so request, this **policy** will extend to indemnify the managing agents as declared to **us** in the same manner and to the same extent as if a separate policy had been issued to them, provided that:

- a) the managing agent shall, as if they were the insured, be subject to the terms and conditions of this **policy** in so far as they can apply;
- b) the total amount payable under this clause and this **section** shall not exceed the **limit of indemnity** stated in the **schedule** regardless of the number of persons claiming to be indemnified.

7.1.14 **Motor contingent liability**

Notwithstanding the exclusion 'Ownership or use of mechanically propelled vehicles', **we** agree to indemnify **you** 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 **you** which is used in the course of **business** provided that this clause excludes and **we** 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 **your** knowledge or the knowledge of any your directors, officers or managers, 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;

bodily injury or **damage** in respect of which **you** or any **other insured party** is entitled to indemnity under any other insurance.

7.1.15 **Motor liability**

Notwithstanding the exclusion 'Ownership or use of mechanically propelled vehicles', **we** agree to indemnify **you** 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 **you** or any **other insured party** on or under any **premises** occupied by **you**

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 **you** are responsible or on any **premises** occupied by **you** provided that:
 - i) such vehicle is not lent or hired to **you**;
 - 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 **your** employment provided that **you** shall have taken all reasonable precautions to ensure that **employees** are made aware of and comply with restrictions applicable to the use of the vehicle;
- f) **damage** to any bridge, weighbridge, road or anything beneath caused by the weight of any mechanically propelled vehicle or trailer or of the load carried thereon;

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

- g) for which indemnity is provided by any motor insurance or fleet insurance policy held in **your** name; or
- h) 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.

7.1.16 **Principals**

We will indemnify any party including any **principal** whom, under contract or agreement, **you** have 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 **your** behalf and provided that:

- a) such party shall, as though they were **you**, observe, fulfil and be subject to the terms and conditions of this **policy** in so far as they can apply; and
- b) **our** liability under this clause shall in no way operate to increase the **limit of indemnity**; and, for the avoidance of doubt, to the extent only of the indemnity provided by this **section**.

7.1.17 **Statutory defence costs including Health and Safety At Work, etc. Act 1974**

- a) **We** agree to indemnify **you** and at **your** request, any **other insured party**, in respect of **defence costs** incurred with **our** prior consent 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; and / or
- 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 **you** or any **other insured party**;

provided that the prosecution or proceedings relate to:

- iv) an offence alleged to have been committed during the **period of insurance** and in the course of **business**; and
 - v) **bodily injury** or potential insured claim for **bodily injury** to persons other than **employees** including their health, safety and welfare.
- b) **We** will also indemnify **you** for:
 - i) **defence costs** of appeal including appeal against improvement and prohibition notices incurred with **our** prior consent;
 - ii) prosecution costs awarded against **you**.
 - c) But 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 £1,000,000, 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 £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings;
 - iii) in respect of prosecution costs other than such costs relating to item ii) above (prosecution costs), in excess of £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings.
- d) 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:
 - i) Health and Safety at Work, etc. Act 1974, but only sections 2 to 8,
 - ii) Health and Safety at Work (Northern Ireland) Order 1978,
 - iii) The Trade Description Act 1968
 - iv) Part II of the Consumer Protection Act 1987
 - v) Part II of the Food Safety Act 1990.
 - vi) Corporate Manslaughter Act 2007.

7.2 Property owners' liability limitations and exclusions

This **section** excludes and does not cover:

7.2.1 Advertising injury

liability arising out of **advertising injury**.

7.2.2 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 **you** or **other insured party** for a fee but this shall not exclude such liability arising in conjunction with **products** supplied.

7.2.3 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;
- c) watercraft not belonging to or chartered by **you** but used by **you** 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) **we** will not indemnify **you** in respect of liability which attaches by way of any contract or agreement that would not have attached in the absence of such contract or agreement.

7.2.4 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 fibers, asbestos dust or asbestos-containing materials.

7.2.5 Deliberate acts

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 **you** 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.

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 **you** or **other insured party**, if the result of such act or omission could reasonably have been expected to constitute an offence under any legislation.

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.

7.2.6 **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;
- 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.

7.2.7 **Employment practices dispute**

liability which is capable of being insured under a generally available Employment Practices Liability Insurance Policy and which arises out of:

- a) a dispute between an employer/prospective employer and **employee**/prospective **employee** referred or capable of being referred to an Employment Tribunal including such appeal courts or tribunals as are available from an Employment Tribunal as provided by the Employment Rights Act 1996; or
- b) a settlement or adjudication of or under the auspices of an Employment Tribunal or ACAS.

7.2.8 **Excess**

the amount of the excess stated in the **schedule**.

7.2.9 **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;

7.2.10 **Fees for intervention**

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

7.2.11 **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.

7.2.12 **Liability from employment**

bodily injury caused to or sustained by any **employee** arising out of or in the course of employment by **you** in the **business**.

7.2.13 **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 **you** 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.

- 7.2.14 **Limit of indemnity**
liability in excess of the **limit of indemnity** stated in the **schedule** except for payment of **defence costs**.
- 7.2.15 **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) **we** will not be liable to indemnify any entity based in, operating in or domiciled in **North America**; and
 - ii) **we** will not be liable to indemnify for any liability that arises under any agreement or contract that would not arise in the absence of any agreement or contract;
 - iii) **we** will not be liable to indemnify for liability arising directly or indirectly from the ownership, maintenance, operation or use of any mechanically propelled vehicle or watercraft;
 - iv) **we** will not be liable to indemnify for liability arising directly or indirectly from **pollution**;
 - v) **defence costs** are inclusive and form part of the **limit of indemnity**.
- 7.2.16 **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.
 - b) liability in respect of or arising from **pollution** occurring within **North America**.
- 7.2.17 **Nuclear risks**
- a) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom;
 - b) any legal liability of whatsoever nature;
 - c) any sum which **you** become 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**.
- 7.2.18 **Overseas domiciled operations**
your subsidiary companies, branch offices or representatives with power of attorney that are domiciled outside of the **United Kingdom**.
- 7.2.19 **Owned or previously owned premises**
solely in respect of liability arising out of **pollution**, 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 **you** or otherwise in **your** care, custody or control.
- 7.2.20 **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 **you** 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.
- 7.2.21 **Property in the insured's care, custody and control**
damage to property owned, leased, hired or held in trust by **you** or under hire, purchase or on loan to **you** or held otherwise in **your** 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.

7.2.22 **Underground services**

for loss of, destruction of or damage to cables, pipes or other services located underground unless **you** have:

- a) taken or caused to be taken all reasonable measures to identify the location of such cables, pipes and services before any work is commenced which may involve a risk of damage thereto (reasonable measures include contacting the appropriate authorities where it is possible cables, pipes or services are under the site);
- b) retained a written record of the measures which were taken to locate such cables, pipes or other services;
- c) conveyed the location of such cables, pipes and services to **employees** or others who are carrying out such work on **your** behalf;

7.2.23 **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 in the clause entitled 'Statutory defence costs including Health and Safety at Work, etc. Act 1974' clause within this **section**.

7.2.24 **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**.

7.2.25 **Work away**

loss or liability for **bodily injury** or **damage** arising from **work away**.

7.3 **Other property owners terms and conditions**

7.3.1 **Bona fide subcontractors insurance check**

It is a condition precedent to **our** liability under this insurance that whenever work is undertaken on **your** behalf by bona fide subcontractors, **you** will establish and maintain an administrative procedure for obtaining evidence that bona fide subcontractors effect public liability insurance that:

- a) covers the work to be undertaken by the bona fide subcontractor;
- b) is subject to a minimum of the **limit of indemnity** applying to this **section** or £5,000,000, whichever is the lesser;
- c) includes an 'indemnity to principals' clause,

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

8 Section - Employers' liability

8.1 Employers' liability cover

- 8.1.1 **We** agree to indemnify **you** for all sums that **you** will become legally liable to pay as damages or compensation, including claimant costs recoverable from **you**, arising out of **bodily injury** caused during the **period of insurance** to an **employee** who, at the time of the cause, was working in the course of employment by **you** 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; and
 - 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 applies outside the **United Kingdom** only to clerical, promotional, sales conference attendance and other similar non-manual work.
- 8.1.2 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**.

8.2 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 **we** agree to indemnify **you** 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**.

8.3 Employers' liability extensions

8.3.1 Compensation for court attendance

In the event of any of the under-mentioned persons attending court as a witness at **our** request in connection with a claim in respect of which **you** are entitled to indemnity under this **section**, **we** shall provide compensation to **you** at the following rates per day for each day on which attendance is required for:

- a) any of **your** directors or partners £500
- b) any **employee** £250

8.3.2 Contractual liability

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

8.3.3 Indemnity to other parties

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

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

8.3.4 Cross liabilities

If more than one entity is referred to as 'the insured' in the **schedule** this **section** shall apply to each one as if a separate **policy** had been issued to each provided that the total amount of indemnity payable to all parties in respect of damages shall not exceed the **limit of indemnity**.

8.3.5 Principals

We will indemnify any party including any **principal** whom, under contract or agreement, **you** have 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 **your** behalf and provided that:

- a) such party shall, as though they were **you**, observe, fulfil and be subject to the terms and conditions of this **policy** in so far as they can apply; and
- b) **our** liability under this clause shall in no way operate to increase the **limit of indemnity**; and, for the avoidance of doubt, to the extent only of the indemnity provided by this **section**.

8.3.6 Data Protection Act 1998

We will indemnify you and if **you** so require, 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) **you** have registered in accordance with the terms of the DPA;
- c) the claim arises from damage or distress occurring or prosecution commenced during the period of insurance;
- d) 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 **you** at inception of this **section**;
 - iv) liability for which indemnity is provided under any other insurance.

8.3.7 Statutory defence costs including Health and Safety At Work, etc. Act 1974

- a) **We** agree to indemnify **you** and at **your** request, any **other insured party**, in respect of **defence costs** reasonably incurred with **our** prior consent 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; and/or
- 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 **you** or any **other insured party**;

provided that the prosecution or proceedings relate to:

- iv) an offence alleged to have been committed during the **period of insurance** and in the course of **business**; and
 - v) **bodily injury** to or potential insured claim for **bodily injury** to **employees** including their health, safety and welfare.
- b) **We** will also indemnify **you** for:
 - i) **defence costs** of appeal including appeal against improvement and prohibition notices incurred with **our** prior consent
 - ii) prosecution costs awarded against **you**.
 - 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 £1,000,000,

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 £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings;
- iii) in respect of prosecution costs other than such costs relating to item ii) above (prosecution costs) in excess of £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings.

8.3.8 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 **you** in the **business**, against any person operating from premises in the European Economic Area; and
- 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 **your** request, **we** 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; and
- ii) the judgment relates to **bodily injury** which would otherwise be indemnified by this **section**; and
- iii) **we** will be entitled to take over and prosecute for **our** own benefit any claim against any other person and **you**, the **employee** or the personal representatives of the **employee** will give **us** all the information and assistance **we** may require.

8.3.9 Waiver of subrogation

In respect of contracts or agreements which impose upon **you** conditions waiving **your** rights to recover from any other party, **we** agree to the extent required by such contract or agreement to waive any rights of subrogation to which we might otherwise have been entitled in such circumstances in respect of any payments which **we** may make under this **policy**.

Further, where requested by **you**, **we** will waive all rights of **subrogation** against **your** subsidiary or from a subsidiary against the parent.

8.3.10 War and terrorism

The insurance by this **section** is extended to cover liability to an **employee** arising from or caused by an act of **war** or **terrorism** except that **we** shall not be liable to pay any amount in excess of £5,000,000 for **war** and **terrorism** in respect of:

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

8.4 Employers' liability limitations and exclusions

This **section** excludes and does not cover:

8.4.1 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 **you** 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.

8.4.2 Fees for intervention

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

8.4.3 Fines and penalties

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

8.4.4 Limit of indemnity

liability in excess of the **limit of indemnity** stated in the **schedule**.

8.4.5 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;
- c) pay punitive, multiple or exemplary damages.

8.4.6 Nuclear hazards

liability that attaches by or arising from the terms of any contract (other than contracts of employment between **you** and **your** employees) or agreement for **bodily injury** caused by **nuclear hazards**.

8.4.7 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.

8.4.8 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 you 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.

8.4.9 **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 in the clause entitled 'Statutory defence costs including Health and Safety at Work, etc. Act 1974' under the Employers' liability **section**.

8.4.10 **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' extension.

8.4.11 **Workman's compensation or social security payment**

any obligation for which **you** or **we** 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.

8.5 Other employers' liability terms and conditions

8.5.1 **Conflict of interest**

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

9 Section - Terrorism

9.1 Terrorism loss cover

We will indemnify **you** for **damage** to the **property insured** and loss of **rent receivable** resulting therefrom insofar as and to the extent that:

- 9.1.1 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
- 9.1.2 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
- 9.1.3 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 **we** allege that any **damage** or costs and expenses are not covered by this **section**, the burden of proving the contrary will be upon **you**.

9.2 Limitations and exclusions applicable to this section

- 9.2.1 In addition to the limitations and exclusions applicable to this **insured section** under Exclusions to **sections** Property, Business Interruption, Failure of building services and Terrorism, the following are excluded from and not covered by the insurance under this **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 **your** property 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**;
- 9.2.2 **Our** 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.

- 9.2.3 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.

9.3 Other terrorism terms and conditions

9.3.1 Event

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**, and the **insured** may choose the date and time when any such period of seventy two (72) hours shall commence provided that no two periods overlap and no period commences earlier than the date and time of the happening of the first recorded individual loss to the **insured** as a result of the **act of terrorism** in question; and an Event shall be taken to arise in the **period of insurance** in which such seventy two (72) hour period commences, notwithstanding that it may extend beyond the time limit of the expiry of the **period of insurance** concerned.

9.3.2 Restricted terms

The insurance by this **section** is subject otherwise to all the terms and conditions of this **policy** except that any:

- a) long term undertaking;
 - b) terms which provide for adjustments of premium based upon declarations on expiry or during the **period of insurance**;
 - c) coverage in respect of **premises** to locations outside England and Wales and Scotland;
- will not apply to losses covered under this **section**.

10 Section – Failure of building services

10.1 Failure of building services cover

We will indemnify **you** for loss caused by:

- a) the **electrical or mechanical failure** of any part of **building services equipment** whilst in ordinary use causing a stoppage of normal functions ;
- b) the failure or fluctuation of the supply of electricity to the **building services equipment**;
- c) breakdown caused by the error or omission of the operator(s) during the normal operation of the **building services equipment** other than in respect of failure to maintain or wilful negligence or a malicious act; or
- d) the fracturing of any part of the **building services equipment** by frost when such fracture renders that part of the **building services equipment** inoperative,

provided that:

- i) such **electrical or mechanical failure** occurs during the **period of insurance**; and
- ii) **our** liability under this **section** will not exceed the **limits** specified in the **schedule** or any **sub-limit** stated herein.

10.2 Failure of building services cover extensions

10.2.1 Additional building services equipment

Any additional **building services equipment** owned by or leased to **you** of a similar class, type, function and capacity to the **building services equipment** is deemed to be included in the cover provided by this **section** once installation is completed, the **building services equipment** is handed over to **you** and is ready to commence normal working at any **premises** covered by this **policy** provided that:

- a) such additional **building services equipment**:
 - i) is suitable for service, free from material defects and in sound working condition;
 - ii) shall not be worked until any relevant legal requirements for inspection and certification have been fulfilled; and
 - iii) shall be insured only to the same extent as similar items of **building services equipment**;
- b) **you** shall advise **us** as soon as practicable and in any event within six (6) months of any additional **building services equipment**;
- c) **you** will pay the appropriate additional premium required from inception of such additional cover and amounts so declared shall be added by endorsement to the **sum insured** by the relative item; and
- d) **our** liability under this clause shall not exceed £100,000 any one (1) occurrence.

10.2.2 Damage from fragmentation

The insurance granted by this **section** is extended to indemnify **you** against **damage** by impact to surrounding property that belongs to **you** or for which **you** are responsible, resulting from fragmentation of any part of the **building services equipment** other than:

- a) damage caused by:
 - i) liquid or gaseous fluid;
 - ii) fire, howsoever the fire may have been caused, and lightning;
 - iii) earthquakes;
 - iv) aircraft or missile or other aerial devices or articles dropped therefrom;
 - v) riot, civil commotion, strikers, locked out workers, labour disturbances or malicious persons;
 - vi) windstorm or flood;
 - vii) escape of water from any tank, apparatus or pipe and the like;
 - viii) theft or any attempted theft; or
 - ix) explosion (including **pressure explosion**);

- b) damage to the **building services equipment** itself or to the contents of the **building services equipment** or to the load handled by the **building services equipment**; or
- c) breakdown resulting from lack of heat, light, power, steam, refrigeration or air conditioning;

provided that **our** liability under this clause shall not exceed £ 1,000,000 any one (1) occurrence.

10.2.3 **Debris removal**

In the event of **electrical or mechanical failure** or **damage** that is insured by this **section**, **we** will indemnify **you** for costs incurred with **our** prior consent, such consent not to be unreasonably withheld, in the removal of **building services equipment** consequent upon **damage** for which cover is provided by this **section**.

We shall also provide indemnity for the additional costs and expenses incurred by **you** beyond the amount of loss sustained in repairing or replacing **building services equipment** because of contamination by a **hazardous substance**, including the clean up or disposal of such contaminated **building services equipment**. However this cover shall only apply to additional costs and expenses incurred in repairing and replacing the **building services equipment** directly affected by the **hazardous substance**, and no indemnity shall be provided for any other pollution or contamination.

Provided that **our** liability under this clause shall not exceed £ 25,000 any one occurrence.

10.2.4 **Loss mitigation**

The insurance granted by this **section** is extended to indemnify **you** against additional expenditure necessarily and reasonably incurred by **you** for the sole purpose of:

- a) preventing or minimising impending **damage** that would result in the loss of functions normally carried out by or on the **building services equipment** and for which cover is provided under this clause;
- b) recompiling or restoring data or software or replacing third party proprietary software in direct consequence of **damage** to the **building services equipment**,

provided that:

- i) the **damage** would be reasonably expected in the absence of such measures;
- ii) **we** are satisfied that the **damage** has been avoided or reduced in consequence of the measures taken;
- iii) this clause shall not be construed to cover any costs incurred for the regular, scheduled servicing or maintenance of the **building services equipment**; and
- iv) **our** liability under this clause does not extend beyond three (3) months **indemnity period** and shall not exceed £5,000 any one occurrence.

10.2.5 **Discharge of Gas Flooding Systems**

The insurance provided by this **section** is extended to include the cost of recharging gas cylinders installed solely for the protection of the **building services equipment** following accidental discharge. **We** shall not be liable for discharge arising:

- a) during repairs or alterations to the building in which the cylinders are situated;
- b) during installation, repair, removal, alteration, extension or testing of all or part of the gas flooding system; or
- c) during the operation of the gas flooding system with the intention of preventing or extinguishing fire;

Subject to **our** maximum liability under this clause not exceeding £ 5,000.

10.2.6 Replacement equipment - rental or hire costs

The insurance granted by this **section** is extended to indemnify **you** for:

- a) the cost of hiring charges **you** incur for the necessary hire of substitute **building services equipment** of a similar type and capacity until repair or replacement of the **building services equipment**; and/or
- b) the additional rental arising out of the replacement of a lease/hire agreement in respect of the **building services equipment** by a new contract for a similar equipment consequent upon **damage** insured by this **section**,

provided that:

- i) liability is admitted under this **section**; and
- ii) **Our** liability under this clause shall not exceed £ 5,000 any one occurrence.

10.2.7 Temporary repairs or expediting costs

In the event of **damage** that is insured by this **section**, **we** will indemnify **you** for the reasonable costs (if previously approved by **us**) of effecting temporary repair and of expediting permanent repair of the **damage** provided that **our** liability under this clause shall not exceed £20,000 in respect of any one occurrence.

10.2.8 Storage tanks and contents

a) This **section** is extended to indemnify **you** for:

- i) the cost of repairing or replacing **damaged** oil or water storage tanks (other than sprinkler system tanks) and their connected pipework where such **damage** is caused by the **electrical or mechanical failure** of **building services equipment**;
 - ii) the cost of replenishing the storage tanks following:
 - I) the escape of oil or water therefrom; or
 - II) contamination of the contents of such tanks caused by the **electrical or mechanical failure** of **building services equipment**;
 - iii) the cost of clean-up directly following the escape of oil or water therefrom
- b) The insurance provided by this extension excludes and does not cover any :
- i) **damage** caused by fire howsoever the fire may have arisen;
 - ii) **damage** resulting from rust, corrosion, erosion, wasting or any other gradually operating cause;
 - iii) contamination of the oil or water caused by:
 - I) the natural settling, separation or accumulation of fluids or materials constituting the normal contents;
 - II) the deliberate use of fluids or materials for cleaning, flushing or other similar purposes;
 - iv) **damage** to the storage tanks or connected pipework that occurred whilst the said items are in transit;
 - v) indemnity for liability, costs and expenses relating to **damage** to or contamination of property not owned **you**.

Provided that **our** liability under this extension shall not exceed £7,500 in respect of any one (1) occurrence.

10.3 Failure of building services limitations and exclusions

In addition to the limitations and exclusions applicable to this **section** under Exclusions to **sections** - Property, Business interruption, Failure of building services and Terrorism, the following are excluded from and not covered by the insurance under this **section**:

- 10.3.1 **damage** caused by any of the **insured perils** insured under **section** - Property;
- 10.3.2 **electrical or mechanical failure** or **damage** for which any manufacturer, supplier, agent or maintenance undertaking is responsible under the terms of a guarantee or maintenance agreement;
- 10.3.3 **electrical or mechanical failure** or **damage** for which **you** are relieved of responsibility under any rental hire or lease agreement;
- 10.3.4 the cost of maintenance work;
- 10.3.5 **electrical or mechanical failure** or **damage** caused by a deliberate act of a supply undertaking in withholding the supply of electricity or telecommunication services unless for the sole purpose of safeguarding human life;
- 10.3.6 **electrical or mechanical failure** or **damage** caused by the inability of the supply undertaking to maintain the supply system due to industrial action by its employees;
- 10.3.7 **electrical or mechanical failure** or **damage** caused by the use of telecommunications equipment which is not approved by the telecommunications regulatory authority;
- 10.3.8 **electrical or mechanical failure** or **damage** caused by it undergoing any process of production, packaging, treatment, testing, commissioning, servicing or repair;
- 10.3.9 **electrical or mechanical failure** or **damage** caused by the use of unproven software which has not been finalised or which has not passed all the testing procedures or which has not been successfully proven;
- 10.3.10 **electrical or mechanical failure** or **damage** to **electronic data** or to electronic systems which process, store, transmit or retrieve data or any part thereof, whether tangible or intangible (including without limitation **computer records**, any information or programs or software), directly or indirectly caused by, occasioned by or arising from programming or operator error, **virus or similar mechanism** or **hacking**;
- 10.3.11 any amount pertaining to the value of **electronic data** to **you** or any other party, even if such **electronic data** cannot be recreated, gathered or assembled;
- 10.3.12 **damage** caused by or arising from the conditions of any test, experiment or conditions, routine inspection or the imposition of abnormal working conditions, including intentional overloading unless occurring without **your** knowledge or consent;
- 10.3.13 the cost of complying with building regulations or local authority or statutory requirements:
 - a) relating to undamaged **building services equipment** or undamaged portions of **building services equipment**; or
 - b) under which notice has been served prior to damage;
- 10.3.14 any rate, tax, duty, development or other charge or assessment arising out of capital appreciation as a result of complying with building regulations or local authority or statutory requirements;
- 10.3.15 liquidated damages, penalties for delay or detention or guarantees of performance or efficiency, delay, loss of use, loss of market, including pure economic loss or loss of revenue or any consequential loss of any kind whatsoever, except as specifically provided for herein;
- 10.3.16 breakdown, distortion or failure consisting of or caused by any form of corrosion or erosion, howsoever the same may arise but this exclusion shall not apply to breakdown, distortion or failure to any other part of the **building services equipment** free from such corrosion or erosion;
- 10.3.17 the **excess** shown in the **schedule** in respect of each and every event of **damage**;

- 10.3.18 **electrical or mechanical failure** caused to or in respect of any experimental or prototype **building services equipment**;
- 10.3.19 **electrical or mechanical failure** or **damage** caused by:
 - a) inherent vice or latent defect;
 - b) its own faulty or defective design or materials;
 - c) faulty or defective workmanship by **you** or any of **your employees**; or
 - d) programming errors or design defects in software.
- 10.3.20 breakdown distortion or failure to any safety or protective device caused by its operation;
- 10.3.21 **damage** to cutters, bits, tools, moulds, dies, heating elements, driving belts, chains and similar items that require periodic replacement;
- 10.3.22 scratching of painted or polished surfaces;
- 10.3.23 **damage** caused by transit
- 10.3.24 **electrical or mechanical failure** consisting of or caused by gradually occurring wear and tear, deterioration or deterioration due to atmospheric or climatic conditions which is both predictable and inevitable from the normal usage of the **building services equipment** but this exclusion shall not apply to breakdown to any other part of the property free from such condition.

10.4 Failure of building services other terms and conditions

10.4.1 Basis of settlement- Building services equipment

If the **building services equipment** is damaged, **our** liability to **you** shall be:

- a) the repair of the breakdown and the restoration of the portion of **building services equipment** suffering breakdown to a working condition substantially the same as but not better or more extensive than its condition when new;
- b) if the **building services equipment** suffers breakdown to the extent that it cannot be economically repaired, the replacement by new **building services equipment** of equal performance and/or capacity or if such be impossible replacement by new **building services equipment** having the nearest overall performance and/or capacity to the **building services equipment** which has suffered damage; or
- c) if **You** elect not to repair or replace the damaged **building services equipment** **Our** liability shall not exceed the **actual value** of the **building services equipment** immediately prior to the occurrence of the damage.

The amount so payable under this clause shall include any additional cost as may be incurred in complying with building regulations or local authority or statutory requirements.

10.4.2 Basis of settlement – general terms

- a) The work of reinstatement must be commenced and carried out with reasonable dispatch, otherwise no payment will be made beyond the amount which would have been payable under this **section** if the Basis of settlement clauses had not been incorporated.
- b) **We** will have no liability to pay any amount beyond the amount that would have been payable under this **section** if the Basis of settlement clauses had not been incorporated until such time as the cost of **reinstatement** has actually been incurred.
- c) If the **building services equipment** is covered by any other insurance effected by **you** or on **your** behalf but is not on the identical Basis of settlement 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 the Basis of settlement clauses had not been incorporated.
- d) Where this **policy** provides cover for **pressure explosion**, should any other surrounding plant and machinery at the time of its **damage** be insured by any other insurance effected by **you** or on **your** behalf which is not on the identical basis of settlement 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 the Basis of settlement clauses had not been incorporated.

10.4.3 **Payments on account**

If **you** request, **we** will, subject to **our** prior consent which consent will not be unreasonably withheld, make payments to **you** monthly on account in respect of the cover under this **section**, 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) if the total adjusted loss under this **section** differs from the quantum of the payments made under this clause then **you** and **we** mutually agree to pay or return the difference accordingly.

10.4.4 **Reinstatement of sum insured following loss**

In consideration of this insurance not being reduced by the amount of any loss under this **section** **you** will pay such additional premium to **us** as may be required.

10.5 **Conditions precedent for failure of building services**

10.5.1 **Maintenance**

It is a condition precedent to **our** liability under this **section** that all **building services equipment** shall be maintained in accordance with manufacturer's recommendations.

10.5.2 **Similar defects**

It is a condition precedent to **our** liability under this **insured section** that if a development or discovery of a defect in any of the **building services equipment** shall indicate or suggest that a similar defect exists in other parts of the **building services equipment**, **you** investigate as soon as possible and if necessary, rectify the defect in such other parts at **your** own expense or alternatively bear all losses arising out of the said defect.

10.5.3 **Prevention of further loss**

It is a condition precedent to **our** liability under this **section** that, on the happening of any occurrence which might result in a claim under this **section**, **you** shall:

- a) immediately notify and send written confirmation to **us**;
- b) discontinue the use of any **damaged building services equipment** (unless **we** authorise such use otherwise) until such **building services equipment** shall have been repaired to the **our** satisfaction;
- c) keep for **our** inspection any damaged parts which are replaced.

10.5.4 **Waiver of subrogation**

In respect of contracts or agreements which impose upon **you** conditions waiving **your** rights to recover from any other party, **we** agree to the extent required by such contract or agreement to waive any rights of **subrogation** to which **we** might otherwise have been entitled in such circumstances in respect of any payments which **we** may make under this **policy**.

Further, where requested by **you**, **we** will waive all rights of **subrogation** against a subsidiary of **you** or from a subsidiary against the parent.

10.5.5 **Statutory inspections**

It is a condition precedent to **our** liability under this **section** that where any **building services equipment** is subject to statutory inspection inspections are carried out in accordance with the relevant regulation, statute or order.

11 Section - Legal expenses

11.1 Legal expenses cover

DAS Legal Expenses Insurance Company Limited ('**DAS**') is the underwriter and provides the legal protection insurance under **your policy**. The legal advice service is provided by DAS Law Limited and/or a **preferred law firm** on behalf of **DAS**. **DAS** agree to provide the insurance described in this **section** for **you** (or where specified, the **person insured**) in respect of any insured incident arising in connection with the **business** shown in the schedule, in return for payment of the premium and subject to the terms, conditions, exclusions and limitations set out in this **policy**, provided that:

- 11.1.1 **reasonable prospects** exist for the duration of the claim;
- 11.1.2 the **date of occurrence** of the insured incident is during the **period of insurance** or;
- 11.1.3 during the currency of a previous equivalent legal expenses insurance policy, provided that:
 - a) the previous legal expenses insurance policy required **you** to report claims during its currency;
 - b) **you** could not have notified a claim previously as **you** could not have reasonably been aware of the insured incident;
 - c) cover has been continuously maintained in force;
 - d) **DAS** will not cover any claim that should have been covered under a previously operative legal expenses insurance policy; and
 - e) the available limit of indemnity shall be limited to the lesser of the sums payable under this or **your** previous policy.
- 11.1.4 any legal proceedings will be dealt with by a court, or other body which **DAS** agree to, within the **territorial limits**; and
- 11.1.5 the insured incident happens within the **territorial limits**.
For the purpose of this **section** 'insured incident' refers to 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;
 - f) contract disputes; and
 - g) commercial and residential leased or let property cover

as described fully as follows;

11.1.6 What DAS will pay

DAS will pay an **appointed representative**, on **your** behalf, **legal expenses costs** incurred following an insured incident, and any compensation awards that **DAS** have agreed to, provided that:

- a) the most **DAS** 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 **DAS** will pay in **legal expenses costs** is no more than the amount we would have paid to a **preferred law firm or tax consultancy**. The amount **DAS** will pay a law firm (where acting as an **appointed representative**) is currently £100 per hour. This amount may vary from time to time;
- c) in respect of an appeal or the defence of an appeal, **you** must tell **DAS** within the time limits allowed that **you** want to appeal. Before **DAS** pay the **legal expenses costs** for appeals, **DAS** must agree that **reasonable prospects** exist;
- d) for an enforcement of judgment to recover money and interest due to **you** after a successful claim under this policy, **DAS** must agree that **reasonable prospects** exist;

- 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 **DAS** will pay in **legal expenses costs** is the value of the likely award, and;
- f) in respect of insured incident – Legal defence the maximum **DAS** 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 **you**, the court or tribunal pays.

11.1.7 What DAS will not pay

In the event of a claim, if **you** decide not to use the services of a **preferred law firm or tax consultancy**

- a) **you** will be responsible for any costs that fall outside the **DAS standard terms of appointment** and these will not be paid by **DAS**.
- b) the total of the compensation awards payable by **DAS** shall not exceed £1,000,000 in any one **period of insurance**; and
- c) **you** will be responsible for the first £500 of any contract dispute claim where the amount in dispute exceeds £5,000 (including VAT).

If **you** are using a **preferred law firm**, **you** will be asked to pay this within twenty one (21) days of **your** claim having been assessed as having **reasonable prospects**. If **you** are using **your** own law firm, **you** will need to pay this within twenty one (21) days of their appointment (following confirmation **your** claim has **reasonable prospects**). If **you** do not pay this amount, the cover for **your** claim could be withdrawn.

11.1.8 Employment disputes

DAS will pay **legal expenses costs** to defend **your** legal rights:

- a) prior to the issue of legal proceedings in a court or tribunal:
 - i) following the dismissal of an **employee**; or
 - ii) where an employee or ex-employee has contacted ACAS ('Advisory, Conciliation and Arbitration Service') to commence the Early Conciliation procedure;
- b) in 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 **you**; or
 - ii) an alleged breach of the statutory rights of an **employee**, prospective **employee** or ex-**employee** under employment legislation.

11.1.9 Compensation awards

DAS will pay:

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

in respect of a claim **we** have accepted under the 'Employment disputes' clause provided that:

- a) in cases relating to performance and/or conduct, **you** have 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;
 - iii) sought and followed advice from **our** legal advice service.
- b) for an order of compensation following **your** breach of statutory duty under employment legislation **you** have at all times sought and followed advice from the **DAS** legal advice service since the date when **you** should have known about the employment dispute;
- c) for any compensation award for redundancy or alleged redundancy or unfair selection for redundancy, **you** have sought and followed advice from the **DAS** claims department before starting any redundancy process or procedure with **your employees**;

- 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 **DAS**; and
- e) the total of the compensation awards payable by **DAS** shall not exceed £1,000,000 in any one **period of insurance**. Please see 'what **DAS** will not pay'.

11.1.10 **Employee civil legal defence**

DAS will pay **legal expenses costs** to defend the **person insured's** (other than **your**) legal rights if an event arising from their work as an **employee** leads to civil action being taken against them:

- a) 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 **DAS** will only provide cover for a **person insured** (other than **you**) at **your** request.

11.1.11 **Service Occupancy**

DAS will pay **legal expenses costs** to pursue a dispute against an **employee** or ex-**employee** to recover possession of premises owned by, or for which **you** are responsible.

11.2 **Legal defence**

At **your** request:

11.2.1 **DAS** will pay **legal expenses costs** to 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 Enforcement Officer;

where it is alleged that the **person insured** has or may have committed a criminal offence; or

- b) following an event which leads to the **person insured** being prosecuted in a court of criminal jurisdiction

(please note **DAS** will only cover criminal investigations and/or prosecutions which arise in direct connection with the activities of the **business** shown in the **schedule**);

- c) if civil action is taken against the **person insured** for compensation under section 13 of the Data Protection Act 1998. **DAS** will also pay any compensation award made against the **person insured** under section 13 of the Data Protection Act 1998 provided **you** were registered with the Information Commissioner at the time of the insured incident; or
- d) in an appeal against the refusal of the Information Commissioner to register **your** application for registration.

Provided that:

- i) in so far as proceedings under the Health and safety at Work etc. Act 1974 are concerned the **territorial limit** shall be any place where the act applies; and
- ii) in respect of any civil action under the Data Protection Act 1998, at the time of the insured incident **you** have registered with the Information Commissioner.

11.2.2 **DAS** will pay **legal expenses costs** to defend **your** legal rights following civil action taken against **you** for wrongful arrest in respect of an accusation of theft alleged to have been carried out during the **period of insurance**.

11.2.3 **DAS** will represent the **person insured** in appealing against the imposition or terms of any statutory notice issued under legislation affecting **your business**.

11.2.4 **DAS** will pay for a **person insured's** absence from work:

- a) to perform jury service; or
- b) to attend any court or tribunal at the request of the **appointed representative**.

The maximum **DAS** will pay is the **person insured's** net salary or wages for the time that they are absent from work less any amount **you**, the court or tribunal, have paid them.

Provided that for **each** of the above sections of Legal defence cover **you** request **DAS** to provide cover for the **person insured**.

11.3 Statutory licence appeal

DAS will represent **you** 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 **your** licence, mandatory registration or British standard certificate of registration.

11.4 Property protection and bodily injury

11.4.1 Property protection

DAS will pay **legal expenses costs** to defend for **your** legal rights in any civil dispute relating to material property which is owned by **you**, or is **your** responsibility, following:

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

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

11.4.2 Bodily injury

At **your** request, **DAS** will pay **legal expenses costs** 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.

11.5 Tax protection

DAS will pay **legal expenses costs** for an **appointed representative** following:

- a) A **tax enquiry**.
- b) an **employer compliance dispute**; or
- c) a **VAT dispute**.

provided that **you** have taken reasonable care to ensure that all returns are complete and correct and are submitted within the statutory time limits allowed.

*Please note **DAS** will only cover tax claims which arise in direct connection with the activities of the **business** shown in the **schedule**.*

11.6 Contract disputes

DAS will pay **legal expenses costs** to defend **your** legal rights in a contractual dispute arising from an agreement or an 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 (including **VAT**), **you** must pay the first £500 of any claim. If **you** are using a **preferred law firm**, **you** will be asked to pay this within twenty one (21) days of **your** claim having been assessed as having **reasonable prospects**. If **you** are using **your** own law firm, you will need to pay this within twenty one (21) days of their appointment (following confirmation **your** claim has **reasonable prospects**). If **you** do not pay this amount the cover for **your** claim could be withdrawn;
- b) if the amount in dispute is payable in instalments, the instalments due and payable at the time of making the claim exceed £500 (including **VAT**); and
- c) if the dispute relates to money owed to **you**, a claim under this **section** is made within ninety (90) days of the money becoming due and payable.

11.7 Commercial and Residential Leased or Let Property Cover

DAS will pay **legal expenses costs** to pursue **your** legal rights:

- a) in a dispute with a tenant arising from a breach or alleged breach of the tenancy agreement which relates to the use or maintenance of **the premises**, excluding repossession, recovery of money and dilapidations;
- b) to obtain possession of the **premises**, provided that, where appropriate, all statutory and contractual notices have been correctly served by **you** on the tenant; or
- c) to recover money and interest due from a lease, licence or tenancy of the **premises**, including enforcement of judgment;

provided that:

- i) the amount in dispute exceeds £250 (including VAT) and a claim is made within ninety (90) days of the money becoming due and payable or, if it is rent that is owed, it must have been overdue for at least one calendar month;
 - ii) if **you** accept payment (or part payment) of any rent arrears from the tenant, you must provide proof **you** have warned the tenant this does not prevent **you** taking further action against them to recover monies owed;
 - iii) where the tenant is a limited company, **you** must have sought and followed advice from the **appointed representative** before accepting payment of rent arrears;
 - iv) the other party does not intimate that a defence exists.
- d) in a dispute relating to dilapidations to the **premises**

provided that:

- i) the amount in dispute exceeds £1,000;
 - ii) prior to the tenancy beginning, a detailed inventory, which notes the condition of all items on the inventory is prepared by **you**;
 - iii) (after the tenant has vacated the **premises**, a detailed Schedule of Dilapidations is prepared by **you**.
- e) in defending any allegation of nuisance arising from the **premises** used solely for residential purposes; and
- f) to evict anyone who is not **your** tenant or ex-tenant from the **premises** and who has not got **your** permission to be there.

11.8 Specific Legal expenses limitations and exclusions

This **section** excludes and does not cover:

11.8.1 Employment disputes and compensation awards

a) Employment disputes

- i) unless equivalent legal expenses insurance was continuously in force immediately prior to the inception of this **policy**:
 - I) any dispute where the originating cause of action arises within the first ninety (90) days of the start of the cover provided by this **section**.
 - II) any dispute with an **employee** who was subject to 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 **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 **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 **section**.
- ii) any claim in respect of damages for personal injury or loss of or damage to property.
- iii) 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; or
- IV) statutory rights in relation to trustees of occupational pension schemes;
- ii) non-payment of money due under the relevant contract of employment or statutory provision.
- iii) any award ordered because **you** have failed to provide relevant records to **employees** under the National Minimum Wage legislation.
- iv) a compensation award or increase in compensation award ordered by the tribunal for failure to comply with a current or previous recommendation it has made; and
- v) a settlement agreed and payable following conciliation under the ACAS Early Conciliation procedure.

c) **Service occupancy**

A claim relating to defending **your** legal rights other than defending a counter-claim.

11.8.2 **Legal defence**

- a) any criminal investigation or enquiry by, with or on behalf of HM Revenue & Customs. Please note this exclusion applies to clause 11.2.1 of the **Legal defence** section.
- b) any claim related to prosecution due to infringement of road traffic laws or regulations in connection with the ownership, driving or use of a motor vehicle. Please note this exclusion applies to clause 11.2.1 a) and b) of the Legal defence section.

Please note the following exclusion apply to section 11.2.3 of the Legal defence cover:

- c) any claim related to an appeal against the imposition of terms of any Statutory Notice issued in connection with your license, mandatory registration or British Standard Certificate of Registration.
- d) any claim relating to a Statutory Notice issued by a **person insured's** regulatory or governing body.

11.8.3 **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; and
- b) the ownership, driving or use of a motor vehicle.

11.8.4 **Property protection and bodily injury**

a) **Property Protection**

Any claim relating to the following:

- i) a contract entered into by **you** (please refer to insured incident in clause 11.6 Contract disputes)
- ii) goods in transit or goods lent or hired out;
- iii) goods at premises other than those occupied by **you** unless the goods are at such premises for the purpose of installations or use in work to be carried out by **you**;
- iv) mining subsidence;
- v) defending **your** 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 **you** are engaged in the business of selling motor vehicles; or
- vii) the enforcement of a covenant by or against **you**.

b) **Bodily injury**

Any claim relating to:

- i) any illness or bodily injury which develops gradually;
- ii) the defence of a **person insured's** or their family members' legal rights other than in defending a counter-claim;
- iii) clinical negligence; or

- iv) psychological injury or mental illness unless the condition follows a specific or sudden **accident** that has caused physical **bodily injury**.

11.8.5 **Tax protection**

- a) any claim relating to a tax avoidance scheme;
- b) any failure to register for **VAT** or Pay as You Earn.
- c) 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.
- d) any claim relating to import or excise duties and import **VAT**; or
- e) any investigation or enquiry by HM Revenue & Customs into alleged dishonesty or alleged criminal offences.

11.8.6 **Contract disputes**

- a) unless equivalent legal expenses insurance was continuously in force immediately prior to the inception of this **policy**, a dispute arising from an agreement entered into prior to the start of the cover provided by this **section** if the **date of occurrence** is within the first ninety (90) days of the cover provided by this **section**:
 - i) the settlement payable under an insurance policy (**DAS** will cover a dispute if **your** insurer refuses your claim, but not for a dispute over the amount of the claim).
 - ii) the sale, purchase, terms of a lease, licence, or tenancy of land or buildings. However, **DAS** will cover a dispute with a professional adviser in connection with these matters.
 - iii) a loan, mortgage, pension, guarantee or any other financial product and choses in action.
 - iv) a motor vehicle owned by, or hired or leased to **you** other than agreements relating to the sale of motor vehicles where **you** are engaged in the business of selling motor vehicles.
- b) a dispute with an **employee** or ex-**employee** which arises out of, or relates to, a contract of employment with **you** (Please refer to insured incident 11.1.7 Employment disputes and 11.1.8 compensation awards.)
- c) a dispute which arises out of the:
 - i) sale or provision of computer hardware, software, systems or services; or
 - ii) the purchase or hire of computer hardware, software, systems or services tailored by a supplier to **your** own specification.
- d) a dispute arising from a breach or alleged breach of professional duty by a **person insured**;
- e) the recovery of money and interest due from another party, other than disputes where the other party indicates that a defence exists.

11.8.7 **Commercial and residential leased or let property cover**

- a) unless equivalent legal expenses insurance was continuously in force immediately prior to inception of this **policy**, any claim where the originating cause of action arises within ninety (90) days of the start of this cover.
- b) a dispute arising from or relating to:
 - i) the negotiation, review or renewal of the lease or tenancy agreement;
 - ii) any matter relating to service charges;
 - iii) rent, tax or building regulations or decisions or compulsory purchase orders or restrictions or controls placed on **your** material property by any government or public or local authority;
 - iv) any claim relating to registering rents, reviewing rents, buying the freehold of the **premises** or any matter that relates to rent tribunals, the leasehold valuation tribunal, land tribunals or rent assessment committees;
 - v) any planning application, review or decision; or
 - vi) mining subsidence.

- c) any claim related to:
 - i) land or premises used for agricultural purposes;
 - ii) any arbitration or Agricultural Land Tribunal hearing related to any dispute arising out of a contract of tenancy or lease regulated by the 1986 Agricultural Holdings Act or 1995 Agricultural Tenancies Act or at hearings of the Scottish Land Court relating to disputes arising out of a contract of tenancy or lease regulated by the 1991 Agricultural Holdings (Scotland) Act or 2003 Agricultural Holdings (Scotland) Act under the terms of the tenancy or lease or as directed by statute.

11.9 Legal expenses general limitations and exclusions

This **section** excludes and does not cover:

- a) any claim reported to **DAS** more than one hundred and eighty (180) days after the date the **person insured** should have known about the insured incident;
- b) **legal expenses costs** incurred before the written acceptance of a claim by **DAS**;
- c) fines, penalties, compensation or damages which the **person insured** is ordered to pay by a court or other authority, other than compensation awards as covered under Compensation awards insured incident and Legal defence insured incident;
- d) legal action a **person insured** takes which **DAS** or the **appointed representative** have not agreed to, or where the **person insured** does anything that hinders **DAS** or the **appointed representative**;
- e) any claim relating to patents, copyrights, trademarks, merchandise marks, registered designs, intellectual property, secrecy and confidentiality agreements;
- f) any claim relating to rights under a franchise or agency agreement entered into by **you**;
- g) any insured incident deliberately or intentionally caused by a **person insured**;
- h) a dispute with **DAS** not otherwise dealt with under clause 11.10 below;
- i) any claim relating to a shareholding or partnership share in the **business** shown in the **schedule**;
- j) **legal expenses costs** arising from or relating to judicial review, coroner's inquest or fatal accident inquiry;
- k) any claim caused by, contributed to by or arising from:
 - i) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from burning nuclear fuel;
 - ii) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear part of it;
 - iii) war, invasion, act of foreign enemy, hostilities (whether war is declared or not), civil war, rebellion, revolution, military force or coup, or any **act of terrorism** or alleged **act of terrorism** as defined by the Terrorism Act 2000;
 - iv) pressure waves caused by aircraft or any other airborne devices travelling at sonic or supersonic speeds.
- l) any claim when either at the commencement of or during the course of a claim, **you** are declared bankrupt or have filed a bankruptcy petition or winding-up petition, or have made an arrangement with **your** creditors, or have entered into a deed of arrangement or are in liquidation or part or all of **your** affairs or property are in the care or control of a receiver or administrator;
- m) any claim directly or indirectly caused by or resulting from any device failing to recognise, interpret, or process any date as its true calendar date;
- n) any claim relating to written or verbal remarks that damage the **person insured's** reputation; and
- o) any claim where a **person insured** is not represented by a law firm, barrister or tax expert.

11.10 Legal expenses other terms and conditions

- 11.10.1 On receiving a claim, if representation is necessary, **DAS** will appoint a **preferred law firm or tax consultancy** as **your appointed representative** to deal with **your** claim. They will try to settle **your** claim by negotiation without having to go to court.
- 11.10.2 If the appointed **preferred law firm or tax consultancy** cannot negotiate settlement of **your** claim and it is necessary to go to court and legal proceedings are issued or there is a conflict of interest, then **you** may choose a law firm or tax expert to act as the **appointed representative**. **DAS** will choose the **appointed representative** to represent **you** in any proceedings where **DAS** are liable to pay a compensation award.
- 11.10.3 If **you** choose a law firm as **your appointed representative** who is not a **preferred law firm or tax consultancy**, **DAS** will give **your** 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 **DAS** will pay is the amount **DAS** would have paid if they had agreed to the **DAS standard terms of appointment**. The amount **DAS** will pay a law firm (where acting as the **appointed representative**) is currently £100 per hour. This amount may vary from time to time.
- 11.10.4 The **appointed representative** must co-operate with **DAS** at all times and must keep **DAS** up to date with the progress of the claim.
- 11.10.5 A **person insured** must:
- a) co-operate fully with **DAS** and the **appointed representative**; and
 - b) give the **appointed representative** any instructions that **DAS** ask **you** to.
- 11.10.6 A **person insured** must tell **DAS** if anyone offers to settle a claim and must not negotiate or agree to any settlement without **DAS** written consent.
- a) If a **person insured** does not accept a reasonable offer to settle a claim, **DAS** may refuse to pay further **legal expenses costs**.
 - b) **DAS** 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 **DAS** to take over and pursue or settle a claim in their name. A **person insured** must allow **DAS** to pursue at **DAS**' own expense and for the **person insureds** benefit, any claim for compensation against any other person and a **person insured** must give **DAS** all the information and help **DAS** need to do so.
- 11.10.7 A **person insured** must:
- a) instruct the **appointed representative** to have **legal expenses costs** taxed, assessed or audited if **DAS** ask for this; and
 - b) must take every step to recover **legal expenses costs** and court attendance and jury service expenses that **DAS** have to pay and must pay **DAS** any amounts that are recovered.
- 11.10.8 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 **DAS** provide will end at once, unless **DAS** agree to appoint another **appointed representative**.
- 11.10.9 If a **person insured** settles a claim or withdraws their claim without **DAS** agreement, or does not give suitable instructions to the **appointed representative**, **DAS** can withdraw cover and will be entitled to reclaim any **legal expenses costs** **DAS** have paid.
- 11.10.10 **DAS** may require **you** to get, at **your** own expense, an opinion from an expert, that **DAS** consider appropriate, on the merits of the claim or proceedings, or on a legal principle. The expert must be approved in advance by **DAS** and the cost agreed in writing between **you** and **DAS**. Subject to this **DAS** will pay the cost of getting the opinion if the expert's opinion indicates that it is more likely than not that **you** will recover damages (or obtain any other legal remedy that **DAS** have agreed to) or make a successful defence.
- 11.10.11 If there is a disagreement between **you** and **DAS** about the handling of a claim and it is not resolved through the **DAS** internal complaints procedure, **you** can contact the Financial

Ombudsman Service for help. This is a free arbitration service for eligible consumers, small businesses, charities and trusts. (Details available from www.financial-ombudsman.org.uk.) If **your** dispute is not covered by the Financial Ombudsman Service there is a separate arbitration process available. The arbitrator will be a barrister, solicitor or other suitably qualified person chosen jointly by **you** and **us**. If there is a disagreement over the choice of arbitrator, **we** will ask the Chartered Institute of Arbitrators to decide. The arbitrator will decide who will pay the costs of the arbitration. For example, costs may be split between **you** and **DAS** or may be paid by either **you** or **DAS**.

11.10.12 A **person insured** must:

- a) keep to the terms and conditions of this **section**;
- b) take reasonable steps to avoid and prevent claims;
- c) take reasonable steps to avoid incurring unnecessary costs;
- d) send everything **DAS** ask for in writing, and
- e) report to **DAS** full and factual details of any claim as soon as possible and give **DAS** any information **DAS** need.

11.10.13 **DAS** will, at **DAS'** discretion, void the **policy** (make it invalid) from the date of claim, or alleged claim, and/or **DAS** will not pay the claim if

- a) a claim the **person insured** has made to obtain benefit under this **policy** is fraudulent or intentionally exaggerated; or
- b) a false declaration or statement is made in support of a claim.

11.10.14 Apart from **DAS**, **you** are the only person who may enforce all or any part of this **section** 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 **section** in relation to any third-party rights or interest.

11.10.15 If any claim covered under this **section** is also covered by another policy, or would have been covered if this **section** did not exist, **DAS** will only pay **DAS'** share of the claim even if the other insurer refuses the claim.

11.10.16 This policy is governed by the law that applies in the part of the **United Kingdom**, Channel Islands or Isle of Man where **your business** is registered. Otherwise the law of England and Wales applies. All Acts of Parliament mentioned in this **section** include equivalent laws in Scotland, Northern Ireland, the Isle of Man and the Channel Islands as appropriate.

11.11 DATA PROTECTION

To comply with data protection regulations **DAS** are committed to processing the **person insureds** personal information fairly and transparently. This section is designed to provide a brief understanding of how **DAS** collect and use this information.

DAS may collect personal details, including the **person insureds** name, address and, on occasion their medical records. This is for the purpose of managing the **person insureds** products and services, and this may include underwriting, claims handling and providing legal advice.

Who **DAS** are;

DAS is part of DAS UK Holdings Limited (DAS UK Group). The uses of the **person insureds** personal data by **DAS** and members of the DAS UK Group are covered by the **DAS** individual company registrations with the Information Commissioner's Office.

How **DAS** will use **your** information;

DAS may need to send the **person insureds** information to other parties, such as lawyers or other experts, the court, insurance intermediaries, insurance companies, appointed service providers, specialist agencies so they may contact the **person insureds** to ask for their feedback, or members of the DAS UK Group. If the **person insureds** policy includes legal advice **DAS** may have to send the information outside of the European Economic Area in order to give legal advice on non-European Union law.

DAS will not disclose the **person insureds** personal data to any other person or organisation unless **DAS** are required to by the **DAS** legal and regulatory obligations. For example, **DAS** may use and share the **person insureds** data with other organisations and

public bodies, including the police and anti-fraud organisations, for the prevention and detection of crime, including fraud and financial sanctions. If false or inaccurate information is provided and fraud is identified, details will be passed to fraud prevention agencies to prevent fraud and money laundering. Further details explaining how the information held by fraud prevention agencies may be used can be obtained by writing to, or telephoning **DAS**. A copy is also accessible and can be downloaded via the **DAS** website.

Questions for **DAS**;

If the **person insured** has any questions or comments about how **DAS** store, use or protect their information, or if the **person insureds** wishes to request to see the information held about them, they can do this by calling 0344 893 0859 or, by writing to the Data Protection Officer at the **DAS** Head Office address – please see page 72 or by visiting www.das.co.uk

12 General terms and conditions

12.1 Applicable law

The law allows the parties to this contract of insurance to select the law and jurisdiction to be applied to this **policy**. Unless it is agreed otherwise, the law that applies to this contract is the law of that part of the **United Kingdom** where **your** head office is located.

It is agreed that any legal proceedings between **you** and **us** in connection with this contract will only take place in the courts of that part of the **United Kingdom** where **your** head office is located and they are subject to the exclusive jurisdiction of that court.

12.2 Basis of contract

Any reference to 'basis of the contract' in this **policy**, in the proposal form (if any) or **statement of fact** is of no effect.

12.3 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 **we** and **you** 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.

12.4 Contribution

If at the time of any claim under **sections** Property, Business Interruption, Failure of building services and Terrorism there will be any other insurance covering the same risk or any part thereof **we** will not be liable for more than **our** rateable proportion. Nothing herein will be construed to make the insurance by these sections 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 **section** if not already subject to a condition of average will be subject to average in like manner.

12.5 Dispute resolution

All matters in dispute between **you**, any other party covered by this insurance and **us** 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.

12.6 Duty of fair presentation

You must make a fair presentation of the risk (as set out in the Insurance Act 2015 or successor or amending legislation) in proposing for, or proposing to vary, this insurance.

12.7 Duty of fair presentation – remedies for breach - proposing for this insurance

If **you** or anyone acting on **your** behalf breaches **your** duty of fair presentation then **our** remedies shall be as follows:

12.7.1 if such breach is deliberate or reckless, **we** may:

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

12.8 Duty of fair presentation– remedies for breach - variation

If **you** or anyone acting on **your** behalf breaches **your** duty of fair presentation in relation to a variation of this **policy**, **our** remedies shall be as follows:

- 12.8.1 if such breach is deliberate or reckless, **we** may:
 - a) by notice to **you** treat this **policy** as having been terminated from the time when the variation was concluded; and
 - b) retain the premium;
- 12.8.2 if such breach is not deliberate or reckless, and **we** would not have entered into the variation but for the breach, **we** may treat this **policy** as if the variation was never made, in which case **we** shall return any additional premium relating to the variation; and
- 12.8.3 in all other cases if, but for the said breach, **we** would have entered into the variation but:
 - a) on different terms (other than terms relating to the premium), **we** may require that the variation is treated as if it had been entered into on those different terms;
 - b) would have increased the premium by more than **we** did or at all, **we** may reduce proportionately the amount to be paid on a claim arising out of events after the variation. In those circumstances, **we** shall pay only X% of what **we** would otherwise have been required to pay, where $X = (\text{premium actually charged/higher premium}) \times 100$; or
 - c) would not have reduced the premium by as much as it did or at all, **we** may reduce proportionately the amount to be paid on a claim arising out of events after the variation. In those circumstances, **we** shall pay only X% of what it would otherwise have been required to pay, where $X = (\text{premium actually charged/reduced total premium}) \times 100$.

12.9 Employers' Liability (Compulsory Insurance) Act 1969

The indemnity granted by the **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 **we** will provide an indemnity to the **employee** under the terms of the Employers' liability **section** but **you** will repay to **us** that part of **our** indemnity for which **we** would not otherwise have been liable under this **policy** by reason of any such breach of condition precedent, term, condition or exclusion.

12.10 Fraudulent claims

- 12.10.1 If **you** or anyone acting on its behalf makes a fraudulent claim under this **policy**, **we**:

- a) are not liable to pay the claim;
- b) may recover any part of the claim already paid from the relevant insured; and
- c) may by notice to **you** treat this **policy** as having been terminated with effect from the time of the first fraudulent act, in which case **we** are not liable to that **insured** in respect of a relevant event occurring after that time and may retain any premium.

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

12.11 Inspection and audit

We, or such representative as **we** may designate, will be permitted but not obligated to inspect **your** property and operations at any time given reasonable notice. Neither **our** right to make inspections nor the making thereof nor any report thereon will constitute an undertaking on behalf of or for the benefit of **you** or others to determine or warrant that such property or operations are safe.

12.12 Late payment of claims

The **insurer** shall, pursuant to section 13A of the Insurance Act 2015, pay any sum due in respect of a valid claim with reasonable time (which includes a reasonable time to investigate and assess the claim).

12.13 Material changes during the policy period

12.13.1 **You** must notify **us** within thirty (30) days of any material change to the **insured, your business** or the risks insured if indemnity under this insurance is sought in relation to any such change.

12.13.2 **We** shall not indemnify **you** for any liability arising out of a material change for which indemnity would otherwise have been available under this insurance unless **we** have provided valid confirmation of cover, whether by an express term of this **policy**, endorsement, written confirmation or otherwise.

12.14 Minimisation of risk

12.14.1 **You** will take all reasonable steps at **your** own expense to prevent an insured event arising or continuing.

12.14.2 Upon the happening of an insured event and at all times thereafter, **you** shall act as a prudent uninsured and take all reasonable measures as are appropriate to avoid or minimise any claims which arise or may arise from that insured event. Any failure by **you** to take such steps shall reduce or extinguish **our** liability to indemnify **you** under the **policy** to the extent that such failure has increased the claim under the **policy**.

12.15 Observance

12.15.1 The due observance and fulfilment of the provisions of this **policy** insofar as they may relate to anything to be done or complied with by **you**, and are not described in the **policy** as conditions precedent, will be a condition of this **policy**. Any waiver by **us** of any provision will not prevent **us** from relying on such term or condition or condition precedent in the future.

12.15.2 Further, where an indemnity is provided to any other party, **you** will arrange for each party to comply with the terms, conditions and conditions precedent of this insurance so far as they can apply provided always that the other party complies with the terms of the 'Duties in the event of a claim or potential claim' **section**.

12.15.3 In the event of a breach of any condition in the **policy**, and without prejudice to any of **our** other rights, **we** may reject or reduce **claims** connected with the breach providing **we** can demonstrate some prejudice.

12.15.4 In the event of a breach of any condition precedent in the **policy** and without prejudice to any of **our** other rights, **we** may reject or reduce **claims** connected with the breach and

continue the **policy** on such terms as **we** may determine and, if any payment on account of any such **claim** has already been made, **you** will repay forthwith all payments on account to **us**.

12.16 Premium adjustment

Where the premium in whole or part is provisionally based on estimates provided by **you**, **you** will keep accurate records and declare such information as **we** require 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 **you** as the case may be but subject to any minimum premium that may apply. **We** reserve the right to request that **you** supply an auditor's certificate with such calculations as are subject to adjustment attesting the accuracy thereof.

12.17 Premium adjustments following cover amendments

12.17.1 In the event of cancellation, adjustment of premium or notification of a change of circumstances the premium for this insurance will be re-calculated to reflect the material change to the risk. The amended annual premium will be compared to the annual premium charged at inception or most recent annual premium following previous amendment and any difference payable or refundable calculated. This difference will be adjusted, according to the terms of the **policy**, to represent the change of premium for the unexpired **period of insurance**.

12.17.2 Where the difference results in an additional charge of less than £20.00, a minimum of £20.00 will be charged; where the difference results in a refund of premium of less than £20.00, any such refund will be waived and not processed. If the difference results in an additional charge or refund of premium greater than £20.00 this sum will be charged or refunded in its entirety via **your** intermediary

12.18 Records

We may hold documents relating to this insurance and any claims under it in electronic form and may destroy the originals. An electronic copy of any such document will be admissible in evidence to the same extent as, and carry the same weight as, the original.

12.19 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 **us** or **our** 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 **our** obligations to return premium to any other party covered by this insurance.

12.20 Sanction limitation and exclusion

We shall not provide cover nor be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose **us** or any member of **our** group to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of any country.

12.21 Subscribing insurer

Our obligations under this **policy** are severable and not joint and are limited solely to the extent of **our** individual subscriptions. **We** are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

12.22 Tracing office database

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

Accordingly, it is a condition of this insurance that **you** undertake to supply full details (as required by the Employers' Liability Tracing Office) of the company and all subsidiary

companies to **us** at inception of this **policy** and promptly thereafter following acquisition or disposal of any subsidiary company.

13 General definitions and interpretation

The following words will have the same meaning attached each time they appear in this **policy** in **bold** type face, whether with a capital first letter or not.

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, EU Directive 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**.

13.1 Accident

Accident will mean a single and unexpected event, which occurs at an identifiable time and place.

13.2 Actual value

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.

13.3 Act of terrorism

13.3.1 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.

13.3.2 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.

13.4 Advertising injury

Advertising injury means:

- 13.4.1 misappropriation of advertising ideas or style of doing business;
 - 13.4.2 infringement of copyrighted advertising materials, titles or slogans;
- in the course of advertising **your** goods, **products** or services.

13.5 Annual rent receivable

Annual rent receivable means the **rent receivable**, **trend adjusted**, during the twelve months immediately before the date of the **damage**.

13.6 Alternative Accommodation expenses

Alternative accommodation expenses means the expenditure necessarily and reasonably incurred in the provision of comparable accommodation for the benefit of any lessee to comply with the requirements of the lease, including:

- 13.6.1 temporary storage of residents' furniture;
- 13.6.2 kennelling or boarding domestic pets if they are not allowed in the alternative accommodation.

13.7 Appointed representative

Appointed representative means the **preferred law firm**, law firm, **tax consultancy**, accountant or other suitably qualified person **DAS** will appoint to act on the **person insured's** behalf.

13.8 Bodily injury

For all **sections** except the Legal expenses **section** bodily injury means death, disease, illness, physical and mental injury of or to an individual.

13.9 Buildings

Buildings means the fixed permanent structures at the **premises** including:

- 13.9.1 buildings within the boundaries of the **premises** belonging to/for which the **insured** is responsible or for which the **insured** has accepted responsibility;
- 13.9.2 landlord's fixtures and fittings therein and thereon;
- 13.9.3 outbuildings and annexes together with extensions and canopies adjoining thereto or communicating therewith, gangways, bridges, conveyors, trunks, lines, wires, service pipes and other equipment;
- 13.9.4 foundations;
- 13.9.5 adjoining gangways, yards, roadways or pavements, car parks, barriers, forecourts, artificial surfaces constructed of concrete or asphalt around and pertaining thereto, drains, sewers and gutters;
- 13.9.6 walls, gates, fences and signage;
- 13.9.7 soft and hard landscaping;
- 13.9.8 ponds, water features, lakes, canals, reservoirs and swimming pools;
- 13.9.9 solar panels;
- 13.9.10 cleaning cradles;
- 13.9.11 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**;
- 13.9.12 telephone, gas, water and electricity meters, piping, ducting, trunking, cables, wires and associated control gear, instruments and accessories and the like, including such property for which **you** are responsible but which is in or under adjoining yards or roadways extending to the public mains and which partly or wholly serves to supply the **premises**;
- 13.9.13 underground storage tanks;
- 13.9.14 washroom and sanitary fittings;
- 13.9.15 wind turbines used by the **insured** for the generation of electricity; but excluding property more specifically insured.

13.10 Business

Your business activities as stated in the **schedule** and including;

- 13.10.1 provision and management of canteens, sports, social and welfare and medical organisations for the benefit of **employees** and/or **your** pensioners, sponsorships, medical, dental, nursing, first aid, fire, rescue and ambulance services, principally in connection with but not limited to **your** operations;
- 13.10.2 provision of security services for **your** benefit;

- 13.10.3 provision of nursery, crèche or child care facilities where incidental to the business;
- 13.10.4 provision of educational facilities;
- 13.10.5 property owners, lessors and lessees including repair, refurbishment and maintenance of such property;
- 13.10.6 organisation of and participation in exhibitions, trade fairs, conferences and the like,
- 13.10.7 private work undertaken by any **employee** for any fellow principal **employee**, director or partner or executive of **you**;
- 13.10.8 employment of subcontractors for performance of work on **your** behalf;
- 13.10.9 the organisation of charitable events or similar fund raising activities;
- 13.10.10 sponsorship of events, organisations, entities and individuals;
- 13.10.11 repair, maintenance and servicing of own mechanically propelled vehicles sale or disposal of own property and goods, including owned mechanically propelled vehicles;
- 13.10.12 provision of gifts and promotional material incidental to the business.

13.11 Building services equipment

- 13.11.1 Building services equipment shall mean:
 - a) boilers and pressure plant subject to internal steam pressure or used for storage of fluids under pressure;
 - b) plant used for the generation, transmission or utilisation of energy;
 - c) piping associated with any of the above;
 - d) lifts or escalators;
 - e) air conditioning;
 - f) **computer control systems** pertaining to the above.
- 13.11.2 Building services equipment includes all integral parts of any item of plant and machinery but does not include even if integral to the plant and machinery:
 - a) supporting structure, foundation, masonry, brickwork, cabinet, compartment or air supported structure or building;
 - b) insulating or refractory material;
 - c) sewer piping, underground vessels or piping, or piping forming a part of a sprinkler system;
 - d) water piping other than boiler feedwater piping, boiler condensate, return piping, hot water heating and supply piping or water piping forming a part of a refrigerating or air conditioning system;
 - e) vehicles, aircraft, floating vessels or any equipment mounted on such vehicle, aircraft or floating vessel;
 - f) mobile plant and equipment dragline, excavation or construction equipment;
 - g) equipment **you** manufacture for sale;
 - h) tools, dies, cutting edges, crushing surfaces, trailing cables, non metallic linings, driving belts or bands, chains, consumables and auxiliary materials, reagents, toner, coolant and extinguishing medium, development fluids, cassette ribbons, image and sound carriers, films, film/foil combinations, specially prepared paper and type face carriers, light sources, fuses, batteries, filters, cutters, bits, moulds, dies, heating elements, or any part requiring periodic renewal or replacement;
 - i) any electronic equipment (other than **computer control systems**), used for research, diagnostic, treatment, experimental or other medical or scientific purposes;
 - j) any manufacturing production or process equipment meaning any machine or apparatus which takes in, processes, forms, cuts, shapes, grinds or conveys raw materials, materials undergoing the process or the finished product, including any equipment forming a part of the dedicated power supply, driving or controlling mechanism for such machine or apparatus;

- k) domestic laundry, kitchen, audio visual and home entertainment equipment when such equipment is used in private living quarters;
- l) equipment owned by **your** tenants;
- m) neon signs;
- n) desktop computers, laptop computers, tablet computers, smart phones, PDAs and/or other software and peripherals.

13.12 Contents

13.12.1 Contents means:

- a) Contents of common parts, including fitted carpets, furniture, furnishings, potted plants and their containers, fixtures and fittings, contents of fixed fuel tanks, refuse disposal bins and skips;
- b) **Documents**;

That belong to **you** or for which **you** are responsible, whilst contained in or about the **buildings** at the **premises**.

13.13 Computer control systems

Computer control systems means all computer equipment including interconnecting wiring fixed disks and telecommunications equipment used for the storage and communication of electronically processed data owned by or leased hired or rented to **you**. Computer control systems shall not include equipment used in connection with any manufacturing production or process equipment meaning any machine or apparatus which takes in, processes, forms, cuts, shapes, grinds or conveys raw materials, materials undergoing the process or the finished product, including any equipment forming a part of the dedicated power supply, driving or controlling mechanism for such machine or apparatus.

13.14 Computer records

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.

13.15 Contract works

Contract works means;

- 13.15.1 property forming part of the permanent or temporary works completed or in the course of completion in the performance of the **contract** with **your principal**, and
- 13.15.2 materials or other goods supplied for incorporation into the works but not including property more specifically insured

13.16 Declared value

Declared value means the **insured's** assessment of the cost of reinstatement of the **property insured** arrived at in accordance with the **reinstatement** definition at the level of costs applying at inception 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.

13.17 Damage/damaged

Damage means:

- 13.17.1 for **sections** Property, Business Interruption and Terrorism, loss of, destruction of or damage to tangible property arising out of a cause not otherwise excluded in the Exclusions to the **sections** Property, Business Interruption, Failure of building services and Terrorism;
- 13.17.2 for the **section** Failure of Building services, destruction of or damage to **building services equipment** caused by **electrical or mechanical failure**

- 13.17.3 for **sections** Property owners' liability and Legal expenses, loss of use of tangible property that has been lost, destroyed or damaged but not economic loss.

13.18 DAS

DAS means:

- a) DAS Legal Expenses Insurance Company Limited whose head office and registered address is DAS Legal Expenses Insurance Company Limited | DAS House | Quay Side | Temple Back | Bristol | BS1 6NH

DAS Legal Expenses Insurance Company Limited is registered in England and Wales, number 103274. Website: www.das.co.uk

DAS Legal Expenses Insurance Company Limited is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority.

DAS are covered by the Financial Services Compensation Scheme (FSCS). Compensation from the scheme may be claimed if **DAS** cannot meet their obligations. This will be dependent on the type of business and the circumstances of the claim. More information on the compensation scheme arrangements can be found on the FSCS website, www.fscs.org.uk

- b) DAS Law Limited whose head office and registered is DAS Law Limited | North Quay | Temple Back | Bristol | BS1 6FL.

DAS Law Limited is registered in England and Wales, number 5417859. Website: www.daslaw.co.uk

DAS Law Limited is authorised and regulated by the Solicitors Regulation Authority (registered number 423113).

13.19 DAS standard terms of appointment

For the Legal expenses **insured section**, 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). Where a law firm is acting as an **appointed representative** the amount is currently £100 per hour. This amount may vary from time to time.

13.20 Date of occurrence

For the Legal expenses insured section, date of occurrence means:

- 13.20.1 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 **you** or a **person insured** first became aware of it);
- 13.20.2 for criminal cases, the date the **person insured** began, or is alleged to have begun, to break the law;
- 13.20.3 for insured incident – Statutory licence appeal, the date when **you** first became aware of the proposal by the relevant licensing or regulatory authority to suspend, alter the terms of, refuse to renew or cancel **your** licence, mandatory registration or British Standard Certificate of Registration;
- 13.20.4 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**; following the issue of an assessment, written decision or notice of a civil penalty.
- 13.20.5 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.

13.21 Deductible

The deductible forms part of the **limit of indemnity** or **sub-limit of indemnity** 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 any one claim or occurrence only the one deductible, the highest deductible, will be applied.

13.22 Defence costs

Defence costs means:

- 13.22.1 costs (other than claimant costs recoverable from **you** or any **other insured party**) incurred at **your** request, with **our** prior consent in the investigation, adjustment, appraisal, defence or settlement of an insured event, including expert, legal, appeal and defence costs;
- 13.22.2 costs and expenses incurred by **you** in pre-trial and case reviews;
- 13.22.3 pre-judgment interest awarded against **you** on that part of any judgment covered under this **policy** but where **we** offer to pay the **limit of indemnity** in settlement of a claim or suit, **we** will not pay any pre-judgment interest imposed or accruing after the date of such offer;
- 13.22.4 all interest accruing on that part of any judgment within the **limit of indemnity** after entry of the judgment and before **we** have paid, offered to pay or deposited in court that part of any judgment that is within the applicable **limit of indemnity**;
- 13.22.5 the cost of attendance in court as a witness at **our** request, payable at the following rates per day on which attendance is required:
 - a) any principal director or partner of **you** - £500;
 - b) any **other insured party** - £250;
- 13.22.6 costs incurred at **your** request, with **our** prior consent of legal representation at any coroner's inquest or inquiry in respect of any death which may be the subject of indemnity under this **policy**.

13.23 Denial of access

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

13.24 Denial of service attack

Denial of service attack means any actions or instructions constructed or generated with the ability to damage, interfere with or otherwise affect the availability 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.

13.25 Documents

Documents means business books and records, deeds, documents (including stamps thereon), manuscripts, plans and writings of every description and books (written or printed) excluding computer systems, computer tapes and records.

13.26 Electrical or mechanical failure

Electrical or mechanical failure means the sudden and unforeseen breakdown, derangement distortion, burning out or fault arising from either mechanical or electrical defect.

13.27 Electronic data

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.

13.28 Employee

- 13.28.1 In respect of all **sections** other than Legal Expenses, Employee means any person whilst:
- a) engaged under a contract of service or apprenticeship with **you**;
 - 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 **you** in the course of **business** and under **your** control including but not limited to:
 - d) persons on secondment from another company that is not an **insured** under this **policy**;
 - e) labour masters or persons supplied by them;
 - f) labour-only subcontractors;
 - g) self-employed persons;
 - h) drivers or operators of hired-in plant;
 - i) persons engaged under work experience, training, study, exchange or similar schemes;
 - j) any officer, member or voluntary helper of the organisations or services stated in the **business**;
 - k) voluntary workers, helpers and instructors;
 - l) persons working under the Community Offenders Act 1978, the Community Offenders (Scotland) Act 1978 or similar legislation;
 - m) employee(s) elected on any industry users' committee;
 - n) outworkers or homeworkers employed under contracts to personally execute any work in connection with **business** while they are engaged in that work;
 - o) any other person defined under Sections 32.-(1), 35.-(2) and 54.-(3)(b) of the National Minimum Wage Act 1998;
 - p) prospective employees who are being assessed by **you** as to their suitability for employment;
 - q) any person a Court of Law in the **United Kingdom** deems to be an employee;

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

- 13.28.2 In respect of the Legal Expenses **section**, Employee means any person whilst engaged under a contract of employment or apprenticeship with **you**.

13.29 Employer compliance dispute

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.

13.30 Excess

For all **sections** except Property owners' 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 **you**, 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 **section** Property owners liability, the **limit of indemnity** or any **sub-limit** as applicable is additional to the excess and excess means the first amount payable by **you** 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.

13.31 Hacking

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.

13.32 Hazardous substance

Hazardous substance means any substance other than ammonia that has been declared to be hazardous to health by a governmental agency.

13.33 Indemnity period

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**.

If at the date of the **damage** the **premises** are subject to a rent free period concession under the terms of **your** lease, indemnity period means the period beginning with the date following the **damage** that the rent free period finishes and ending not later than the expiry of the **maximum indemnity period** thereafter during which the results of the **business** are affected in consequence of the **damage**.

13.34 Independent lawyer

Independent lawyer means:

- 13.34.1 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
- 13.34.2 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

13.35 Insured/you/your

Insured/you/your means the person(s) or company named in the schedule.

13.36 Insured peril

Insured peril means any cause not otherwise excluded.

13.37 Insurer/us/we/our

Insurer/we/our/us means:

- 13.37.1 QBE Insurance (Europe) Limited whose Head office and registered address is:
Plantation Place, 30 Fenchurch Street, London, EC3M 3BD, tel: 020 7105 4000 fax: 020 7105 4019. Registered in England No. 1761561. Home State - United Kingdom. Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Registration Number 202842.

13.38 Legal expenses costs

Legal expenses costs means:

- a) all reasonable and necessary costs chargeable by the **appointed representative** and agreed by **DAS** 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 **DAS** agreement.

13.39 Limit of indemnity

Limit of indemnity means:

- 13.39.1 the amount stated in the **schedule** which is the maximum amount of **our** liability for any one (1) occurrence regardless of the number of:
 - a) **insureds** or **other insured parties**;
 - b) persons or organisations bringing claims or suits; or
 - c) claims against **you** or series of claims against **you** or claims or series of claims made by **you**;

- 13.39.2 where a limit of indemnity is stated in the **schedule** as in the aggregate, that aggregate is the maximum **we** will pay for all insured events during the **period of insurance**;
- 13.39.3 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;
- 13.39.4 where indemnity may be provided under two (2) or more **insured sections** of this **policy**, then the combined single limit stated in the **schedule** is the maximum **we** will pay for any insured event to which such **sections** apply in combination.

13.40 Maximum indemnity period

Maximum indemnity period means the period stated in the **schedule**.

13.41 Money

Money means both **negotiable money** and **non-negotiable money**.

13.42 NCB terrorism

NCB terrorism means the use of nuclear, **chemical** or **biological** (NCB) agents or devices, regardless of any other cause or event contributing concurrently or in any other sequence to the loss, 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), 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.

13.43 Negotiable money

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

13.44 Non-negotiable money

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

13.45 North America

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

13.46 North American jurisdiction

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**.

13.47 Notifiable disease

a) Notifiable disease means illness sustained by any person resulting from:

Acute encephalitis	Haemolytic uraemic syndrome (HUS)	Rubella
Acute meningitis	Infectious bloody diarrhoea	SARS
Acute poliomyelitis	Invasive group A streptococcal disease and scarlet fever	Smallpox
Acute infectious hepatitis	Legionnaires' Disease	Tetanus
Anthrax	Leprosy	Rabies
Botulism	Malaria	Tuberculosis
Brucellosis	Measles	
Cholera	Meningococcal septicaemia	Typhus
Diphtheria	Mumps	Viral haemorrhagic fever (VHF)
Enteric fever (typhoid or paratyphoid fever)	Plague	Whooping cough
Food poisoning	Rabies	Yellow fever

b) And any additional diseases notifiable under the Health Protection (Notification) Regulations 2010.

13.48 Nuclear hazards

Nuclear hazards means:

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

13.49 Nuclear Installation

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

- 13.49.1 the production or use of atomic energy;
- 13.49.2 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
- 13.49.3 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.

13.50 Nuclear Reactor

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.

13.51 Offshore

Offshore means:

- 13.51.1 work in or on any offshore rig or platform or support or accommodation vessel for any offshore rig or platform;

- 13.51.2 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.

13.52 Outstanding debit balances

Outstanding debit balances means the **money** owed to **you** by **your** customers at the date of the **damage** but adjusted to take account of

- 13.52.1 bad debts;

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

- 13.52.2 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.

13.53 Other insured party

Other insured party means any of the following parties:

- 13.53.1 any of **your** directors, partners, **employees** or former **employees**;
- 13.53.2 any officers, members' committee and/or **employee** and voluntary helpers of **your** canteen and welfare organisations, nursery, crèche or child care facilities, sports and social organisations, in their respective capacities as such;
- 13.53.3 any officers and members of **your** 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;
- 13.53.4 any of **your** directors or partners or executives in respect of private work undertaken by any **employee** for a director, partner or executive of the **insured**;
- 13.53.5 any officers or trustees of **your** pension scheme(s).

13.54 Period of insurance

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

13.55 Personal injury

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**:

- 13.55.1 false arrest;
- 13.55.2 detention or imprisonment;
- 13.55.3 malicious prosecution;
- 13.55.4 wrongful entry into or eviction of a person from a room, dwelling or premises that the person occupies;
- 13.55.5 invasion of the right of privacy;
- 13.55.6 libel, slander and defamation.

13.56 Person insured

Person insured means **you** and **your** directors, partners, managers, **employees** and any other individuals declared to **us** by **you**.

13.57 Phishing

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

13.58 Policy

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

13.59 Pollutant

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

13.60 Pollution

Pollution means:

- 13.60.1 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;
- 13.60.2 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 **you** or any **other insured party** test for, monitor, clean up, remove, contain, treat, detoxify or neutralise or in any way respond to or assess the effects of **pollutants**.

13.61 Preferred law firm or tax consultancy

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**.

13.62 Premises

Premises means the buildings or land that are owned, leased, hired or tenanted by or on loan to **you** for the purpose of the **business**.

For the Legal expenses **section**; The property or properties which are owned by **you** or are **your** responsibility and insured as declared to **DAS** and let under a tenancy agreement which is in writing, properly executed and containing an enforceable forfeiture clause.

13.63 Principal

Principal means any company, partnership, public authority or individual for whom **you** have agreed to carry out work under the terms of a **contract**.

13.64 Product

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 **you** or on **your** behalf

13.65 Property insured

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.

13.66 Reasonable prospects

- 13.66.1 Reasonable prospects 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**.
- 13.66.2 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%.

13.67 Reinstatement

Reinstatement means the repair or replacement of the property insured that has sustained **damage** as specified in the basis of settlement clauses.

13.68 Rent

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

13.69 Rent receivable

Rent receivable means the money which is contractually payable to **you** for rent and other charges and for services rendered in relation to the occupation or tenancy of buildings at the **premises**.

13.70 RIDDOR

RIDDOR means the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995.

13.71 Schedule

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

13.72 Section

Section means all or any individual sections of this **policy** that form part of the insurance contract but only if stated as 'operative' in the schedule.

13.73 Sub-limit of liability /Sub-limit of indemnity /Sub-limit

Sub-limit of liability/ Sub-limit of indemnity/ Sub-limit means **our** maximum liability which is stated either:

- 13.73.1 under a specified section, clause or other part of this **policy**;
- 13.73.2 in the **schedule**; or
- 13.73.3 in any endorsement which is included within the **policy**.

13.74 Subrogation

Subrogation means **our** right having granted indemnity to take over any recovery rights **you** may have against third parties liable for the same loss.

13.75 Subsidiary company

- 13.75.1 Subsidiary company means:
- a) any company in respect of which an **insured** (either directly or indirectly through one (1) or more of its subsidiary companies):
 - i) controls the composition of the board of directors;
 - ii) controls more than half the voting power at a general meeting of shareholders; or

- iii) holds more than half of the issued share capital (regardless of class of share);
- b) any company, as defined above, which is acquired or created on or subsequent to the inception date of this **policy** and of which the total assets do not exceed the amount stated on the **schedule**
- c) any other company that **we** have given prior written consent to for its inclusion as a subsidiary company under this **policy**.

13.76 Sum insured

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

13.77 Standard rent receivable

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**.

13.78 Statement of fact

Statement of fact means all and any information supplied to **us** by or on your **behalf**.

13.79 Stock and materials in trade

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 **your** property or held by **you** in trust or on commission and for which it is responsible, excluding property more specifically insured.

13.80 Suit

Suit means a civil proceeding in which damages to which this insurance applies are alleged, including any other alternative dispute resolution proceeding in which such damages are claimed.

13.81 Tax enquiry

A written notice of enquiry, issued by HM Revenue & Customs, to carry out an Income Tax or Corporation Tax compliance check which either:

- a) includes a request to examine any aspect of **your** books and records; or
- b) advises of a check of **your** whole tax return.

13.82 Territorial limits

Territorial limit means:

- 13.82.1 For the 'Legal defence,' (excluding 11.2.3) 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, Gibraltar, Iceland, Liechtenstein, Macedonia, Monaco, Montenegro, Norway, San Marino, Serbia, Switzerland and Turkey.
- 13.82.2 For all other clauses and **sections**, the **United Kingdom** unless otherwise stated by endorsement to this policy.

13.83 Transit

Transit means being carried within the **United Kingdom** to a destination, but outside the **premises**, by any vehicle, including trailers and containers, and whether or not **your** 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.

13.84 Terrorism

13.84.1 For sections Property, Business Interruption, Failure of building services and Terrorism

Terrorism means an **act of terrorism**;

13.84.2 For sections Employers Liability, Property owners' liability and Legal expenses

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.

13.85 Trend adjusted

Trend adjusted means adjustments will be made to figures as may be necessary to provide for the trend of the **business** and for variations in or circumstances affecting the **business** either before or after the **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**.

13.86 United Kingdom

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

13.87 Unoccupied

Unoccupied means any **building** that is owned or used by **you** in the course of the **business** and has become vacant, disused or unfurnished and empty for a period in excess of thirty (30) days.

13.88 VAT

VAT means Value Added Tax under the Value Added Tax Act 2008.

13.89 VAT dispute

A dispute with HM Revenue & Customs following the issue of an assessment, written decision or notice of a civil penalty relating to **your VAT** affairs.

13.90 Virus or similar mechanism

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.

13.91 War

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

13.92 Wines and spirits

Wines and spirits means wines, spirits, beer and other alcoholic liquids.

13.92.1 **Work away**

Work away means manual work, operations, installation or services performed by **you** or on **your** behalf but not on **your premises**.

14 Policy endorsements

The terms, exclusions or conditions of this insurance may be varied by any endorsement that expressly states that the following clauses are 'operative'.

Each clause will override any conflicting term in the **policy** and each is subject otherwise to the **policy** exclusions, terms, conditions and definitions.

14.1 POF001 Exclusion – Subsidence

The **excess** under the Property **section** in respect of **damage** caused by subsidence, ground heave and landslip is increased to £2,500 each and every claim.

14.2 POF002 - Exclusion – Flood

The **excess** under the Property **section** in respect of **damage** caused by flood is increased to £2,500 each and every claim.

14.3 POF003 - Exclusion - Restriction of perils

The cover provided under the Property and Business Interruption **sections** is limited to **damage** caused by the insured perils of:

- 14.3.1 fire, explosion, lightning or earthquake; or
- 14.3.2 impact by aircraft or other aerial devices or articles dropped from them or by any vehicle, train, animal, falling branch, aerial or mast or satellite dish.

14.4 POF004 Exclusion - Manual work

The Employers liability **section** excludes and does not cover liability for any claim in respect of work carried out other than that of a clerical, administrative and/or non-manual nature in the course of **your business**.

15 Complaints

15.1 What you should do?

We strive to provide an excellent service to all our customers but occasionally things can go wrong. **We** take all complaints seriously and endeavour to resolve all customers' problems promptly. If **you** have a question or complaint about this insurance or the conduct of **your** intermediary **you** will contact that intermediary in the first instance.

If **you** wish to contact **us** directly **you** should write to the complaints address shown below: For all **sections** other than Legal expenses please contact:

Plantation Place, 30 Fenchurch Street, London, EC3M 3BD,

tel: +44 (0)20 7105 5988, fax: +44 (0)20 7105 4032. enquiries@qbееurope.com,

For Legal expenses **section** :

DAS always aim to give **you** a high quality service. If **you** think **DAS** have let **you** down, **you** can contact **DAS** by:

- a) phone 0344 893 9013;
- b) email customerrelations@das.co.uk;
- c) writing to the Customer Relations Department | DAS Legal Expenses Insurance Company Limited | DAS House | Quay Side, Temple Back | Bristol | BS1 6NH; or
- d) completing the **DAS** online complaint form at www.das.co.uk/about-das/complaints

Further details of the **DAS** internal complaint-handling procedures are available on request.

If **you** are not happy with the complaint outcome or if **DAS** have been unable to respond to **your** complaint within eight (8) weeks, **you** can, provided **you** are an eligible small business, charity or trust, ask the Financial Ombudsman Service for a free and independent review of **your** complaint.

You can contact them by:

- a) phone 0800 023 4567 (free from mobile phones and landlines); or 0300 123 9123;
- b) email complaint.info@financial-ombudsman.org.uk;
- c) writing to The Financial Ombudsman Service | Exchange Tower | London | E14 9SR;

Further information is available on their website: www.financial-ombudsman.org.uk Using this service does not affect **your** right to take legal action.

The Financial Ombudsman's role is to assess **DAS'** handling of a claim in light of the **policy** terms. It is not to assess the quality of legal advice. If you are unhappy with the service provided by an **appointed representative** the relevant complaint-handling procedure is available on request.

15.2 About the Financial Ombudsman Service (FOS)

If **you** feels that its complaint has not been satisfactorily resolved, **you** may contact the FOS to review the complaint.

To be an eligible complainant, **you** must be:

- a) a consumer;
- b) a micro-enterprise – a business that has an annual turnover of under EUR2million employing fewer than ten (10) employees;
- c) a charity with an annual income of less than GBP1million; or
- d) a trustee of a trust with net assets of less than GBP1million.

If eligible, **you** can contact the FOS via its website: <http://www.financial-ombudsman.org.uk/consumer/complaints.htm>, write to the FOS, Exchange Tower, London E14 9SR, or telephone 0300 123 9 123 or 0800 023 4567.

You must refer its complaint to the FOS (a) within six (6) months of **our** final response letter or (b) when **we** has failed to resolve the issue within eight (8) weeks.

The FOS provides impartial advice free of charge and contacting them will not affect the **your** legal rights.

15.3 Financial Services Compensation Scheme

You may be entitled to compensation from the FSCS if **we** are unable to meet its obligations under this **policy**.

Entitlement to FSCS compensation depends on the type of business insured and the circumstances of the claim. Further information is available from www.fscs.org.uk, or **you** can write to the Financial Services Compensation Scheme, PO Box 300, Mitcheldean, GL17 1DY.

QBE European Operations

Plantation Place
30 Fenchurch Street
London
EC3M 3BD
tel +44 (0)20 7105 4000
fax +44 (0)20 7105 4019

enquiries@uk.qbe.com
www.QBEurope.com