

# **Business Combined Insurance Policy**



**QBE**

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# 1 How your policy works

## 1.1 Legal agreement

This **policy** sets out the terms and conditions applying to the contract between you (the insured) and us (the insurer). The **policy** is made up of this document, the schedule, any replacement schedules and any attached endorsements. These documents together form the **policy** and set out the scope of this insurance.

## 1.2 Words in bold

Other than in the headings, words in bold carry specific meanings which are set out in the General Definitions and Interpretation **section**.

## 1.3 Policy period and premium

**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, exclusions, limitations and endorsements of the **policy**.

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.

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;
- c) an incident has happened which is likely to lead to a claim but is yet to be reported to **us**

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

## 1.4 Setting your sums insured

- a) For all items of **property insured** for which a **sum insured** is stated in the **schedule** under **Property**, the **sum insured** should be set at the maximum amount for which **we** could indemnify **you** under the **Basis of settlement conditions** clause in the 'Other terms and conditions applicable to this section' clause of the '**Property**' **section** were that item of **property insured** entirely destroyed. The **sum insured** needs to remain adequate throughout the **period of insurance** (unless it is stated in the **schedule** that the item is covered on the Day One (1) Basis). That means **you** should make allowance for any potential increases that may occur during the **period of insurance**.
- b) For cover under the '**Property**' **section**, it is important that **you** check that all **sums insured** and **declared values** stated in the **schedule** are correct as underinsuring your **property insured** could result in a reduced payment. If **you** are in any doubt **you** should ask **your** broker for advice. All **sums insured** and **declared values** are subject to the provisions of the 'Underinsurance conditions' clause in the 'Other terms and conditions applicable to this section' clause of the '**Property**' **section**, unless expressly stated otherwise. This means that if, when making a claim, a **sum insured** or **declared value** (as applicable) is found to be inadequate, the amount **you** are able to claim under this **policy** will be reduced accordingly. The way that this works is explained in the 'Underinsurance conditions' clause in the 'Other terms and conditions applicable to this section' clause of the '**Property**' **section**.
- c) If **you** are purchasing cover under the '**Business Interruption**' **section** for **insurable gross profit, gross fees, gross revenue or rent receivable**, you should consider whether the **sum insured** should include an uplift to allow for some element of unexpected growth of **your business** during the **period of insurance**.

- d) For cover under the '**Business Interruption**' **section you** must ensure that the figure **you** have provided for **insurable gross profit, gross fees, gross revenue or rent receivable** is as accurate as possible and is based on the best information available to **you** at the time, which should be **your** latest budget where available. Likewise, **you** should ensure that **you** and/or any advisor acting on **your** behalf, are familiar with and understand the **Policy** definitions when calculating **your sums insured**. It is important to note that failure to provide us with accurate and/or up to date information could result in you being underinsured and lead to reduced payments under the policy. A margin of error of up to 50% is allowed against the estimated figures **you** have provided. However, if that margin of error is exceeded then the amount for which **we** will indemnify **you** for any loss will be proportionally reduced. The way that this works is explained in the 'Underinsurance conditions' clause in the 'Other terms and conditions applicable to this section' clause of the '**Business Interruption**' **section**.
- e) Please note that the waiver of any underinsurance reduction within the 50% margin of error does not relieve **you** of **your** obligation to make a fair presentation under the Insurance Act 2015. This means that if the estimated figures **you** have provided were deliberately or recklessly false, the remedies in the Insurance Act 2015 will be available to **us** regardless of whether the 50% margin of error was exceeded
- f) The **limit of indemnity, sums insured**, and any **sub-limits of indemnity** act as a cap on the amount for which **we** will indemnify **you** under this **policy**. The way these provisions operate is set out in each **policy section** and the 'General definitions and interpretation' **section**.

## 1.5 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.

### 1.5.1 Remedies for breach of the duty of fair presentation - 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:

- a) if such breach is deliberate or reckless, **we** may:
  - i) treat this **policy** as having been terminated from its inception; and
  - ii) retain the premium;
- b) 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
- c) in all other cases if, but for the said breach, **we** would have entered into this **policy** but:
  - i) 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
  - ii) 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  $X = (\text{premium actually charged/higher premium}) \times 100$ .

### 1.5.2 Remedies for breach of the duty of fair presentation - 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:

- a) if such breach is deliberate or reckless, **we** may:
  - i) treat this **policy** as having been terminated from the time when the variation was concluded; and
  - ii) retain the premium;
- b) if such breach is not deliberate or reckless and **we** would not have entered into the variation but for the breach, **we** may by notice to **you** treat this **policy** as having been terminated from the time when the variation was concluded in which case **we** shall return

the relevant premium; and

- c) in all other cases if, but for the said breach, **we** would have entered into the variation but:
  - i) 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 from the outset;
  - ii) 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
  - iii) would not have reduced the premium by as much as **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  $X = (\text{premium actually charged/reduced total premium}) \times 100$ .

## 1.6 Fraudulent claims

If **you** or anyone acting on **your** 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 **you**; 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 **you** in respect of a relevant event occurring after that time and may retain any premium.

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

## 1.7 Compliance with policy terms

The **policy** contains a number of terms which **you** must comply with:

- a) Compliance with these terms is particularly important to **our** decision to insure **you** under this **policy**.
- b) The consequences for breach of certain terms are potentially serious and are set out in the Insurance Act 2015. At the most serious, breach of these terms may mean that **you** lose **your** entitlement to claim under this **policy**. **We** would advise **you** to obtain full details from **your** broker.
- c) Additional terms may also be included in any endorsements to the **policy**, and **you** should check these carefully as they may also be important to **our** decision to insure **you** and to **our** obligation to indemnify **you** under the **policy**.

Terms specifically identified as conditions precedent are conditions to **our** obligation to indemnify **you** under the **policy**.

## 1.8 Cancellation

This **policy** may be cancelled either by you or us.

### 1.8.1 Our Rights

The **policy** may be cancelled by **us** at any time by giving **you** twenty-one (21) days written notice of cancellation by recorded delivery to **your** last known address. **We** will set out the reason for cancellation in **our** letter.

**You** shall be entitled to the return of a proportionate part of the premium in respect of the unexpired term of this **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 the current **period of insurance**.

This termination will be without prejudice to **your** or **our** rights or claims incurred prior to the expiration of such notice. 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.

### 1.8.2 Your rights – including cooling off period

**You** may cancel this **policy** by giving written notice to **your** broker or to **us** quoting **your** policy number:

- a) within fourteen (14) days from the inception day of the **policy**. **You** have the right to cancel the policy free of charge and to receive full refund of premium under this **policy**;
- b) after fourteen (14) days from the inception day of the **policy**. **We** may refund any unearned premium calculated pro-rata to the annual premium; provided that there have been:
  - i) no claims made under the policy for which we have made a payment;
  - ii) no claims made under the policy which are still under consideration;
  - iii) no incident likely to give rise to a claim but is yet to be reported to us; during the current period of insurance.

If **you** cancel this **policy** after fourteen (14) days from the inception day of the **policy**, there will be an additional charge of forty pounds (£40) to cover the administrative cost of providing the insurance. This termination will be without prejudice to your or our rights or claims incurred prior to the expiration of such notice. 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.

### 1.9 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

For all claims except the 'Legal expenses' section please either:

- a) contact **your** insurance adviser; or
- b) telephone **us** on **0800 328 9640**; or
- c) submit **your** claim by email to [SMEnewclaims@uk.qbe.com](mailto:SMEnewclaims@uk.qbe.com)

Please do not ask for help from a lawyer, accountant or anyone else before **DAS** have agreed that the **person insured** should do so. If they do, **DAS** will not pay the costs involved even if **DAS** accept the claim.

To report a claim visit [www.das.co.uk/claim](http://www.das.co.uk/claim) - have **your DAS** reference number ready – TS5/6109294. Alternatively, call **DAS** on **0344 893 0859**, available 24 hours a day, 7 days a week. **DAS** will ask the **person insured** about their claim.

**DAS** will assess the claim to check the claim is covered by the policy. If it is, **DAS** will send it to a lawyer who specialises in the **person insured's** type of claim.

The lawyer will assess the case and tell the **person insured** how likely it is they will win.

If they are more likely than not to win, the lawyer will manage the case from start to finish.

Please note this is an overview of the claims process for guidance purposes only. Please visit [www.das.co.uk/claim](http://www.das.co.uk/claim) for more details on how to claim.

### 1.10 Privacy Notice

Any personal **data** provided to the **insurer** will be processed in compliance with all applicable laws and regulations and in accordance with the privacy notice which can be found at: <https://qbeurope.com/privacy-policy/>

Alternatively the **insured** may contact the insurer's Data Protection Officer to request a copy

of the full privacy notice by email: [dpo@uk.qbe.com](mailto:dpo@uk.qbe.com) or by writing to the: Data Protection Officer, QBE European Operations, 30 Fenchurch Street, London EC3M 3BD

## 2 Helplines

**You** can contact **DAS'** UK-based call centre 24 hours a day, seven days a week during **the period of insurance**. However, **DAS** may need to arrange to call **you** back depending on the enquiry. To help **DAS** check and improve their service standards **DAS** may record all calls. When phoning, please quote **your** policy number **TS5/61092964** 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 Legal advice service Call 0344 893 0859

Advice can be provided on any commercial legal problem affecting **your business** under the laws of the United Kingdom of Great Britain and Northern Ireland, any European Union country, the Isle of Man, the Channel Islands, Switzerland and Norway.

Wherever possible the Legal Advice helpline aims to provide immediate advice from a qualified legal adviser. However, if this is not possible they will arrange to call **you** back at a time to suit **you**.

Advice on the laws of England and Wales can be provided 24 hours a day, 365 days a year. Beyond this jurisdiction, or for very specialist legal matters, **DAS** will refer **you** to one of their specialist advisers.

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

### 1.6 Tax advice service Call 0344 893 0859

Advice can be provided on any tax matters affecting the **business**, under the laws of the **United Kingdom**.

**Tax advice is provided 9am – 5pm, Monday to Friday, excluding public and bank holidays. If calls are received outside of these times, DAS will arrange to call you back.**

### 1.7 Counselling service Call 0344 893 9012

**DAS** will provide the **insured person** (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 (or aged between 16 and 18 and in full-time employment). This includes, 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.

### 1.8 Employment manual

The **DAS** Employment Manual offers comprehensive, up to date guidance on rapidly changing employment law. To view it, please visit [www.dasinsurance.co.uk/employment-manual](http://www.dasinsurance.co.uk/employment-manual).

If **you'd** like notifications of when updates are made to the Employment Manual, please email **DAS** at [employmentmanual@das.co.uk](mailto:employmentmanual@das.co.uk) quoting **your** policy number **TS5/6109294**

### 1.9 DASbusinesslaw www.dasbusinesslaw.co.uk

What is DAS Businesslaw?

DAS Businesslaw contains a range of regularly updated business and legal guides, document builders, interactive checklists and videos that can help **you** with the day-to-day running of **your business**, as well as helping **you** to manage its exposure to legal risk.

DAS Businesslaw's document builders can help **you** quickly create documents such as:

- HR policies
- T&C documentation
- Privacy statements
- Copyright and trademark licences
- Data protection policy



- Employee contracts
- Debt recovery letters.

In addition, DAS Businesslaw contains hundreds of regularly updated expert guides and videos on topics such as branding, crowdfunding, financial and tax planning, and marketing strategy to help build and grow **your business**.

**How do I get started?**

1. Visit [www.dasbusinesslaw.co.uk](http://www.dasbusinesslaw.co.uk);
2. Enter **DASBQBE100** into the 'voucher code' text box and press Validate Voucher;
3. Fill out **your** name and email address, create a password, and specify what type of **business you** have;
4. Validate **your** email address by pressing the link in the confirmation email that **you** receive.

### 3 Duties in the event of a claim or potential claim

#### 3.1 Our rights

**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.

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**.

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.

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

##### 3.2.1 All sections except Legal expenses sections

On the happening of any event which might reasonably be expected to give rise to a claim and which may be the subject of indemnity under this **policy you** must:

- a) give notice to **us** in writing or by an agreed electronic medium immediately on but in any event within three (3) business days from:
  - i) receipt of notice of any impending inquest, fatal accident inquiry, prosecution or other legal proceedings that include alleged **personal injury**; or
  - ii) coming into possession of actual knowledge that notice of an Industrial Tribunal hearing includes alleged **personal injury**; or
  - iii) **your** actual knowledge of any **RIDDOR** incident involving any person
  - iv) your actual knowledge of any **bodily 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;
- c) give us notice in writing within seven (7) days of **damage** caused by riot
- d) give immediate notice to the police authority of **damage** caused by theft or malicious persons, and take all practical steps to discover any guilty person or persons and recover the property lost.

Notice shall include the reasons for the anticipation of a claim, with full particulars as to the circumstances, dates and persons involved. Any subsequent claim arising out of such circumstances shall be deemed to have been made during the **period of insurance**.

##### Legal expenses section

To report a claim under this section please see the details specified in the '1.5 Claims procedure' clause of '1. How your policy works'.

### **All sections**

**You** must notify **us** in accordance with this claims notification clause to the claims notification addresses specified in the 'Claims procedure' clause of 'How your **policy** works'.

## **3.3 Your Duties**

For each and every claim you and any person acting on your behalf must:

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

## **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 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**

Except as expressly stated otherwise under the terms of any clause herein that agrees to waive rights of subrogation, for each and every claim you, any other insured party and any person acting on your or their behalf must not waive any rights of recourse, subrogation or recovery against any other person relating to an occurrence, loss or suit that may give rise to a claim under this insurance.

At our request and expense you or any other insured party will take and permit to be taken in your name all steps as may be necessary or reasonably required by us for the purpose of enforcing any rights and remedies or of obtaining relief or indemnity from other parties to which we will be or would become entitled, whether such steps become necessary or required before or after we make payment under this **policy**.

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.

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.

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 Property section

### 4.1 Property cover

**We** will indemnify **you** in accordance with the 'Basis of claim settlement' condition for **accidental damage** to the **property insured** described in this **section** and which has a **sum insured** entered against it in the schedule, provided that:

- a) **damage** occurs during the **period of insurance** and arises from a cause not excluded in the 'Property related exclusions' or the 'General exclusions';
- 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** do not increase the **sums insured**. Any **sub-limits** stated form part of and are not additional to the **sums insured**.

### 4.2 Rent Payable

**We** will indemnify **you** for either:

- a) the actual **rent** payable for the unexpired term of the lease or until such time that the **building** is repaired to a condition fit for habitation should the **building** be wholly untenable or unusable; or
- b) the proportion of the **rent** applicable to the untenable or unusable part of the **building** that would otherwise be occupied by **you** should the **building** be partially untenable or unusable;

provided that:

- i) 'Rent payable' has a **sum insured** entered against it in the schedule; and
- ii) any **building** which is leased or rented by you becomes untenable or unusable following **damage**; and
- iii) the lease or rental agreement requires continuation of the **rent**;
- iv) **we** shall not be liable for **rent** payable beyond the **maximum indemnity period** stated in the schedule from the date of the **damage** to the **building**;
- v) **our** liability for rent will not exceed the **sum(s) insured** stated in the schedule.

### 4.3 Costs and expenses

**We** will indemnify **you** for the following costs and expenses that may be incurred following **damage** insured by this **section**, provided that unless expressly stated to the contrary, these costs and expenses form part of and are not additional to the **sums insured**.

**We** will indemnify **you** for:

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

the fees of architects, surveyors consulting engineers and other fees incurred with our prior written consent, for estimates, plans, specifications, quantities, tenders and supervision necessarily incurred in the reinstatement of loss in the event of **damage** provided that:

- i) **we** will not be liable for such fees incurred in preparing any claim made under this **policy**; and
- ii) our liability for such expenses will not exceed the **sum insured** in respect of each insured item for which fees are being claimed.

#### 4.3.2 Debris Removal

the costs **you** necessarily incur with **our** prior consent, which consent will not be unreasonably withheld, in:

- a) removing debris from the **damaged property** site or the area immediately adjacent to the **damaged property** site including **your** compliance with any statutory or other requirements or regulations governing disposal of the **damaged property**

- b) cleaning or clearing the drains, the sewers and/or the gutters of the **damaged property** site or the area immediately adjacent to the **damaged property** site;
- c) dismantling and/or demolishing of, or shoring up, propping and/or fencing the portion(s) of the **property insured** that has been **damaged**;
- d) removing extraneous materials from plant and machinery following insured **damage**, whether or not such plant and machinery has itself been **damaged**;
- e) removing stock debris; Provided that:
  - i) **we** will not provide indemnity for any cost and expenses arising from **pollution** or contamination; and
  - ii) **our** liability for such costs will not exceed the **sum insured** in respect of the item of **property** of which debris is being removed.

#### 4.3.3 Decontamination and/or decommissioning

expenses **you** necessarily incur with **our** prior written consent, which consent will not be unreasonably withheld, in decontamination and/or decommissioning of **property insured** following **damage** whether **property** has been **damaged** or not, provided that:

- a) **we** will not be liable for any costs and expenses:
  - i) incurred in removing debris; or
  - ii) arising from **pollution** or contamination not insured by this **section**;
- b) **our** liability for such expenses will not exceed £10,000 in the aggregate during any one **period of insurance**

#### 4.3.4 European Union and public authorities

the additional cost of **reinstatement** of the **damaged buildings** and **contents**, which may be incurred solely to comply with building or other regulations under or framed in pursuance of any Act of Parliament or with bye-laws of any municipal or local authority or European Union directive, provided that:

- a) the amount recoverable under this clause will not include the cost incurred in complying with any such regulations, bye-laws or directive:
  - i) in respect of **damage** occurring prior to the commencement of the **period of insurance** stated in the schedule;
  - ii) in respect of **damage** not insured by this **section**; or
  - iii) where notice has been served upon you prior to the happening of the **damage**;
- b) the amount recoverable under this clause will not include:
  - i) the additional cost that would have been required to make good the **damaged property** to a condition equal to its condition when new had the necessity to comply with any of the aforesaid regulations, bye-laws or directives not arisen;
  - ii) the amount of any rate, tax, duty, development or other charge or assessment arising out of capital appreciation which may be payable in respect of the **property insured** or by the owner thereof by reason of compliance with any of the aforesaid regulations, bye-laws or directives;
- c) if **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;
- d) **we** will not have any 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);
- e) the total amount recoverable under this clause in respect of undamaged portions of **property insured** other than foundations, will not exceed fifteen per cent (15%) of the total amount for which **we** would have been liable had the **building**, or machinery plant and **all other contents** item been totally destroyed;

#### 4.3.5 Fire extinguishment expenses and emergency services damage

- a) extinguishment expenses **you** incur 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 **you** reasonably incur 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**.

**Our** liability for costs and expenses relating to:

- i) a), b), c) and d) above and **damage** will not exceed £20,000; and
- ii) e) above will not exceed £50,000,

during any one period of insurance.

#### 4.3.6 Machinery re-erection

to the extent that the **property** insured includes machinery and plant, the costs of dismantling, re-erecting and resetting the machinery and plant as a direct result of damage, as insured by this **section**.

#### 4.3.7 Temporary protection and expediting expenses

the reasonable and necessary costs incurred to:

- a) temporarily protect or preserve **property insured** in order to avoid or prevent immediately impending **damage** covered under this **policy**; and
- b) board up windows and doors following breakage of glass;
- c) expedite permanent or temporary repairs to or replacement of **property insured** following **damage** covered under this **policy**.

Temporary protection and expediting expenses do not include:

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

**Our** liability for such costs will not exceed £50,000 in respect of any one occurrence

#### 4.3.8 Trace and access

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, provided that:

- a) **we** will not be liable for the cost of repairs to any fixed water services or heating installation;
- b) our liability for such costs will not exceed £25,000 in respect of any one **occurrence**

### 4.4 Extensions applicable to this section

This **section** is extended to include the following additional coverages, provided that unless expressly stated to the contrary, the indemnity provided forms part of and is not additional to the **sums insured**.

**We** will indemnify you for:

#### 4.4.1 Capital additions

any newly acquired **property** at the **premises** (other than **stock and materials in trade**, **target stock** and **stock in open**) insofar as it is not otherwise insured, and any alterations, additions and improvements to **buildings** but not in respect of any appreciation in value during the **period of insurance**.

Provided that:



- a) **you** pay **us** an appropriate additional premium on demand
- b) **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 £500,000 in respect of any one **premises**; and
- 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**.
- e) if **you** acquire **property** of a value that exceeds £500,000, no cover will be provided until **you** provide **us** with full details and **we** have agreed to accept such **property** and then only from the date and time that **we** agree acceptance.

#### 4.4.2 Deterioration of stock

**damage** by deterioration or putrefaction to **stock and materials in trade** whilst contained within refrigerating units or any other temperature controlled environment caused by:

- a) **change of temperature**; or
- b) contamination caused by sudden and unforeseen leakage of refrigerant or refrigerant fumes from the unit;

provided that:

- i) the event giving rise to such deterioration, putrefaction or contamination occurs during the **period of insurance**; and
- ii) **we** shall not be liable for:
  - I) the failure of the electricity utility undertaking arising from **your** deliberate act, unless performed for the sole purpose of safeguarding life or protecting any part of the utility undertaking systems; or
  - II) the failure of the electricity utility undertaking arising from any scheme of rationing not necessitated solely by **damage** to the utility undertaking's generating or supply equipment; or
  - III) wear and tear, deterioration or gradually developing flaws or defects in the unit or incorrect setting of thermostats and/or automatic controls; or
  - IV) the use of a refrigerating unit or temperature control systems over ten (10) years old unless specifically agreed by **us** in writing;
  - V) the amount of the **excess** stated in the schedule;
- iii) in respect of each **occurrence** of deterioration, putrefaction or contamination, **our** liability shall not exceed the **sum insured** specified in the schedule.

#### 4.4.3 Discharge of gas flooding systems

the cost of recharging gas cylinders installed solely for the protection of the **property insured** following **accidental** discharge, up to a maximum of £10,000 any one event. Provided that **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.

#### 4.4.4 Exhibitions and tradefairs

**damage to property insured** while at exhibitions and trade fairs, including **transit** anywhere in the European Union (including air and sea transit within the European Union territories on recognised passenger and freight carriage routes unless more specifically insured), except that **we** will not be liable for **damage**:

- a) to watches, tobacco, cigars, cigarettes, wines and spirits, documents, audio equipment, radios, televisions, video equipment and pictures; caused by theft or pilferage by an employee either as a principal or accessory;
- b) resulting directly from defective packing faulty assembly or dismantling;
- c) recoverable under any other insurance or in any other way;
- d) caused by theft or attempted theft, but this exclusion will not apply where the theft or attempted theft takes place from a building or a motor vehicle and the theft or attempted theft meets the following conditions:
  - i) if the theft or attempted theft takes place from a building, the theft or attempted theft must involve entry to or exit from the building by violent and forcible means, or must arise from robbery or attempted robbery; or
  - ii) if the theft or attempted theft takes place from a motor vehicle belonging to you or under **your** control, either:
    - I) the vehicle must be occupied by **you** or **your** employee; or
    - II) all doors windows and other means of entry to an **unattended vehicle** must be closed and locked and all keys must be removed to a place of safety; or
    - III) between the hours of 9pm and 6am, any **unattended vehicle** must be parked in a securely locked building or garage or in a security compound that is permanently manned and protected by a controlled security barrier or the vehicle must be fitted with an immobiliser approved by **us** and brought into operation.

**Our** maximum liability shall not exceed £50,000 in respect of any one **occurrence**.

#### 4.4.5 **Glass breakage**

making good the breakage or scratching of glass (not otherwise insured) in the **premises** and **your** private dwelling portion of the **premises** and in addition the cost of:

- a) temporary boarding-up following breakage;
- b) repair of **damage** to window frames as a result of such breakage or the cost of removal or replacement of fixtures and fittings in the course of replacement of glass up to a maximum amount of £2,500 for any one loss;
- c) lettering or other ornamental work and alarm foil on glass up to a maximum amount of £2,500 for any one loss.

**We** will not be liable for the first £250 in respect of each and every claim.

#### 4.4.6 **Lock Replacement**

the reasonable cost of replacing external locks or safe or strong room locks at the **premises** following **damage** to the keys to the **premises**:

- a) from either:
  - i) the **premises**; or
  - ii) the insured person's home; or
- b) following a hold-up while the keys are in **your** personal custody or that of any authorised **employee**.

**Our** maximum liability shall not exceed £2,500 in respect of any one event or in the aggregate during the **period of insurance**.

#### 4.4.7 **Metered Water or gas**

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

- a) loss of water or gas is due to **damage** at the **premises** and which is covered under this **section**; and
- b) the lost water or gas is measured by the utility meter; and
- c) **you** maintain a record of readings from the utility meter at intervals of not more than ninety (90) days; and
- d) the insurance provided by this extension shall not apply to **unoccupied buildings**; and



- e) our liability in respect of any one (1) insured **premises** is limited to such excess water or gas charges demanded by the utility undertaking in consequence of **damage**; and **our** maximum liability under this clause shall not exceed £10,000 in respect of any one occurrence.

#### 4.4.8 Temporary Removal

**damage** which would otherwise have been covered under this insured **section** to:

- a) machinery plant and **all other contents** while temporarily removed from the **premises** for storage, cleaning, renovation, repair or similar purpose;
- b) stock and materials in trade or target stock while temporarily removed from the **premises** to any warehouse or depot; except that **we** will not be liable for:
  - i) temporary removal outside the **territorial limits**;
  - ii) motor vehicles and motor chassis licensed for normal road use;
  - iii) **damage** caused by or arising during **transit**;
  - iv) **damage** by theft or attempted theft of the **property insured** unless involving entry to or exit from a building by violent and forcible means or by robbery or attempted robbery;
  - v) **damage** recoverable under any other insurance or in any other way;

**Our** maximum liability shall not exceed £50,000 in respect of any one **occurrence**.

#### 4.4.9 Theft damage to buildings

**damage** to **buildings** where **you** are responsible for the cost of repair and that are not insured by this **policy** where such **damage** arises from theft or attempted theft, provided that:

- a) **you** are not able to recover the costs of the **damage** under any other **policy** or from any other source; and
- b) **our** maximum liability under this clause shall not exceed £25,000 in respect of any one **occurrence**.

### 4.5 Exclusions applicable to this section

In addition to the limitations and exclusions in the 'Property related exclusions' and 'General exclusions' sections, **we** will not indemnify **you** for the following:

#### 4.5.1 Excluded property

- a) **Damage** to the following **property** unless specified to the contrary in the schedule:
  - i) livestock, bloodstock, fishstock, growing crops or trees;
  - ii) watercraft or aircraft or other aerial or spatial devices (including drones);
  - iii) motor vehicles and their contents, accessories, caravans or trailers except for such vehicles that are not licensed for road use;
  - iv) **money**, bullion, foreign coins, counterfeit or substitute **money**;
  - v) land, piers, jetties, bridges, culverts or excavations;
  - vi) **property** in the course of erection or installation;
  - vii) **property** in **transit** except as specifically covered in the 'Exhibitions and trade fairs' extension;
  - viii) explosives;
- b) any items insured under the 'All risks - specified **business** equipment' **section** of this policy;
- c) 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;
- d) **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**

#### 4.5.2 Indirect loss

Any form of indirect or consequential loss except as specifically included within this **section**.

#### 4.5.3 Property insured elsewhere

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

#### 4.5.4 Unprotected property

Unless **we** expressly agree otherwise in writing, **damage** by fire or theft after you receive written notification from:

- a) the maintenance contractors that maintenance of **your** fire or intruder alarm is suspended; or
- b) the relevant police authority that alarm signals from the **premises** will no longer be answered where such **premises** is fitted with an approved intruder alarm equipped with a unique reference number.

### 4.6 Conditions precedent applicable to this section

Compliance with the following requirements is a condition precedent to **our** liability in respect of a claim under this **section**, however, the duties imposed apply only to those areas of the **premises** that operate under **your** direct control.

Subject to the above, if **we** are not satisfied that such a condition precedent was complied with in each and every respect, **we** will not be liable for any claim under this **section** which might potentially have been avoided or reduced by compliance, unless **you** establish that non-compliance could not have increased the risk of the **damage** which actually occurred in the circumstances in which it occurred.

#### 4.6.1 Minimum standards of security

**You** must ensure that within thirty (30) days of the commencement of the **period of insurance** stated in the schedule, (or, if this insurance is a renewal of a previous QBE policy, immediately from the renewal date):

- a) the minimum standards of security detailed below; or
- b) alternative methods of securing the **premises** agreed in writing by **us**;

are put into full and effective operation when the **premises** are closed for **business** or left unattended.

The minimum standards of security are:

- a) All hinged final exit doors are secured as follows:
  - i) Timber doors – by a mortice deadlock certified as meeting BS3621 and where the frame, (or if a double door, the receiving door) has a boxed striking plate;
  - ii) Aluminium or UPVC framed doors – by a cylinder operated mortice deadlock.  
For double doors, the first closing **section** must have integral or surface mounted bolts which shoot into the frame at the top and the floor at the bottom of the door.  
The final closing **section** must have a cylinder operated mortice mortice deadlock.
  - iii) Double leaf doors – by the first closing leaf having a multi-point security device operated by a central handle secured by a cylinder lock or, fitted at top and bottom of the leaf, flush or barrel bolts. The final closing leaf to be secured either:
    - I) as i) or ii) above; or
    - II) each leaf to be fastened to the other by means of a centrally positioned hardened steel padlock bar secured by a closed shackle padlock.
- b) All other hinged external doors and internal doors leading to areas of the **premises** not occupied by **you**, common areas, or to other premises, are secured by:
  - i) The means set out in a) above; or
  - ii) Secured internally by lockable bolts or key operated mortice rack bolts fitted at the top and bottom of the door.
- c) Any cellar trap door to be secured by means of a centrally positioned internal steel padlock bar secured by a padlock.

- d) All opening basement and ground floor windows or opening upper storey windows which can be reached by a person standing on adjacent or adjoining lower storey roofs or other structural features, are secured by a window lock or lockable fastening device or are screwed permanently shut from the inside or are protected by solid steel bars weld mesh or expanded metal grilles securely fixed to brickwork surrounding the window
- e) Opening roof lights are to be secured using a proprietary fastening device;
- f) Roller shutters:
  - i) for electrically operated roller shutters **you** must fit a key operated isolation switch to the electricity supply to the controls. Where this is not fitted then one of the measures for manually operated roller shutters must be installed;
  - ii) For manually operated roller shutters **you** must:
    - I) Fit key operated pinson or bullet locks; or
    - II) Secure the chain of the door to the wall bracket by a good quality open shackle padlock; or
    - III) Fit a bolt to the shutter door internally with the bolt engaging into the door runner and padlocked into position using a padlock conforming to BS EN 12320 Security Grade 4.
- g) All keys are removed to a secure place.

Any door or window designated as a fire exit by any person who is legally responsible for fire safety at the **premises** under current fire legislation is excluded from these requirements however any such doors or windows must be secured by a proprietary emergency escape mechanism.

#### 4.6.2 Protections

Where **you** have declared to **us** that **you** have fire protections, sprinkler systems or theft alarms installed in **your** premises, **you** shall ensure that:

- a) All systems, appliances and extinguishers that are installed for the protection of the **premises** are:
  - i) installed in accordance with the manufacturer's specification;
  - ii) not altered, varied or affected by any structural alteration to the **premises** without **our** prior written consent;
  - iii) in full and efficient working order at all times;
  - iv) regularly serviced either under the manufacturer's maintenance contract or an National Security Inspectorate or Loss Prevention Certification Board approved contractor in accordance with the manufacturer's specifications and our maintenance requirements;
- b) the fire alarm is tested at least weekly and continually set in active mode;
- c) the intruder alarm is tested and fully set whenever the alarmed portion of the **premises** is closed for **business** or not attended by **you** or any competent adult **you** authorise to be responsible for the security of the **premises**;
- d) the sprinkler system and its water supplies are inspected and tested weekly to ascertain they are in working order and that control valves are in the fully open position and, if **we** require, the water supply is tested for adequacy quarterly or half yearly;
- e) the fire extinguishers are inspected regularly to ensure effective operation;
- f) all fire break doors and shutters be kept closed except during working hours and be maintained in efficient working order;
- g) the particulars of the tests described above shall be recorded in writing;
- h) we are notified as soon as reasonably practicable:
  - i) upon discovery of any defects that arise in the alarm or sprinkler systems (whether revealed by such tests or otherwise), that such defects are remedied as soon as is practicable and that we are advised in writing once the system is fully operational;
  - ii) of any withdrawal, disconnection or failure of or downgrading of any civil authority response to the alarm system likely to leave any area unprotected;
- k) details of all available keyholders are notified to all appropriate services and such details are maintained and updated as necessary;

- l) all reasonable steps are taken to ensure that the sprinkler system is protected from frost insofar as **your** responsibility extends to maintaining the installation;
- m) a training programme for all staff to ensure familiarity with the operation of fire extinguishing appliances is established, maintained and documented;

The provisions above will not deprive **you** of the cover provided by this **section** if any defect in the said systems is due to circumstances beyond **your** control which arise after the systems have been properly set.

#### 4.6.1 Use of frying range

**You** will ensure that the undernoted precautions will be complied with where deep fat frying ranges are used at the **premises**:

- a) an extraction system is fitted to all frying ranges;
- b) frying ranges are fitted with an oil sump which is emptied at least once every seven (7) days;
- c) hoods, ducting or flues have not been installed within eighty millimetres (80mm) of any combustible material including combustible partitions, ceilings and doors unless suitably protected by fire resistant substances or materials;
- d) all frying ranges are equipped with thermostats designed to prevent the temperature of fat and or oils rising above two hundred and five degrees centigrade (205°C) or the supplier's maximum recommended temperature if this is less than two hundred and five degrees centigrade (205°C);
- e) the cooking range, extraction and electrical equipment be serviced regularly at least once a year, either under a maintenance or service agreement, or by **you** or member of **your** staff; provided that a record be kept of all maintenance and servicing work undertaken by **you** or a member of **your** staff and such record shall be stored away from the **premises**;
- f) all readily accessible equipment is thoroughly cleaned at least once every seven (7) days;
- g) all fats and/or oils or other frying substances not needed for cooking that day are stored in an area separate from the cooking/frying ranges;
- h) metal receptacles with metal lids are used to store waste and batter scraps prior to disposal and are removed from the **premises** at the end of each frying session.

### 4.7 Other terms and conditions applicable to this section

#### 4.7.1 Basis of claim settlement

In the event of **damage** to **property insured** under this **section**, **our** liability shall be calculated as follows:

- a) On **stock and materials in trade** and **target stock** that is unsold: the cost of production including raw materials and the labour expended to restore the stock to the position that as closely as possible existed prior to the **damage**;
- b) On raw materials, supplies and other merchandise not manufactured by **you**:
  - i) if repaired or replaced, the actual expenditure incurred in repairing or replacing the **damaged** or destroyed **property**; or
  - ii) if not repaired or replaced, the **actual value**.
- c) On plans, deeds, briefs, manuscripts, books, documents office records: the value of the materials used plus the cost of copying information from back-up or from originals of a previous generation. These costs will not include research, engineering or any costs of restoring or recreating lost information.
- d) On gold, silver, jewellery, precious stones, works of art, rare books, sculptures, curios and collections where insured by this **policy**, the lesser of:
  - i) the reasonable and necessary cost to repair or restore such **property** to the physical condition that existed on the date of loss; or
  - ii) the cost to replace the article; or
  - iii) the value, if any, stated in the schedule pertaining to the specific article.

- e) On **electronic data** the cost to repair, replace or restore the medium containing such **electronic data** to the condition that existed immediately prior to the **damage**, including the cost of reproducing any **electronic data** contained thereon, providing such medium is repaired, replaced or restored. Such cost of reproduction shall include all reasonable and necessary amounts, incurred by the **insured** in recreating, gathering and assembling such **electronic data**. If the medium is not repaired, replaced or restored the basis of valuation shall be the cost of the blank media. on **electronic data** the cost of the blank media, plus the costs of copying the **electronic data** from back-ups, but not including research or engineering, or the costs of recreating, gathering or assembling such **electronic data**. **We** will not insure any amount pertaining to the value of such **electronic data** to **you** or any other party, even if such **electronic data** cannot be regenerated, gathered or assembled;
- f) On **employees'**, directors' or visitors' **property**, the cost of repair or replacing the item(s) as new, whichever is the lesser.
- g) On motor vehicles or motor chassis the **actual value**.
- h) On **buildings** awaiting demolition, the costs of removing debris which **you** incur solely as a result of the **damage**;
- i) 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.

#### 4.7.2 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 **you** or on **your** behalf but is not on the identical basis of **reinstatement** to the terms of this clause, then this **policy** excludes payment of any amount in excess of the amount that would have been payable if this condition had not been incorporated.
- e) The work of **reinstatement** must be commenced and carried out with reasonable despatch, otherwise no payment will be made beyond the amount which would have been payable under this **section** in the absence of this condition.
- f) The **buildings** may be reinstated in any manner suitable to **your** requirements and upon another site if **you** so require provided that **our** liability is not increased;
- g) Until such time as the cost of reinstatement has actually been incurred **We** will have no liability to pay any amount beyond the amount that would have been payable under this **section** in the absence of this condition.

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

- a) For each item of **property insured** that has a **declared value** shown in the schedule, the **insurer** agrees to calculate the premium upon the **declared value** provided that, at inception of this **policy** and the commencement of each subsequent **period of insurance**, **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 application of the 'Index linking' clause for the ensuing **period of insurance**).



- b) Where by reason of any provision of the 'Basis of Settlement conditions' no payment is to be made beyond the amount that would have been payable in the absence of these conditions, the **sum(s) insured** will be deemed to be the total of the **declared value(s)**.

#### 4.7.4 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:

- a) Eighty five percent (85%) average

**We** recognise that calculating the **sum insured** for **your property** can be difficult. **We** therefore allow **you** some margin of error in **your** calculations. However, it is important to make sure **your** calculations are as accurate as possible. If, at the point at which damage to **your insured property** commences, the **sum insured** for an item of **insured property** is less than 85% of the cost of **reinstating** that damaged item of **insured property** on a total loss basis, then **you** are underinsured. **You** will then be considered as being **your own** insurer for the difference between the **sum insured**, and the cost of **reinstating** the item of **insured property** on a total loss basis. **You** will therefore have to bear a rateable proportion of the loss caused by the **damage**.

- b) For example, an item of **property insured** subject to an eighty-five percent (85%) average has a **reinstatement** cost after total destruction of £1,000,000. The **sum insured** is £750,000. As the **sum insured** is less than £850,000 (i.e., 85% of £1,000,000), the **property insured** is underinsured by 25%. In this example, we would only pay 75% of the valid claim. However, if the **sum insured** in this example was instead £860,000, the **sum insured** would be greater than 85% of the total **reinstatement** cost. In this further example, we would pay 100% of the valid claim.

- c) Day one (1) basis average

Where **property insured** is specified as insured on a day one (1) basis then if at the time of loss the **declared value** of the **property insured** is less than the cost of **reinstatement** at inception of the **period of insurance**, then **our** liability for any loss hereby insured will be limited to that proportion thereof which the **declared value** bears to the cost of **reinstatement**.

- d) Standard underinsurance condition

For stock and materials in trade, target stock, stock in open, documents, electronic data, motor vehicles and chassis or any property insured that has the actual value applied, then each item of property is covered on a sum insured basis and is declared to be separately subject to average that is, if at the commencement of any damage, the value of property insured is collectively of greater value than the sum insured, then you will be considered as being your own insurer for the difference and will bear a rateable proportion of the loss accordingly.

#### 4.7.5 Claim discharge

**Your** receipt, or the receipt by **your** personal representatives of the final adjusted claim settlement will discharge **our** liability for the claim.

#### 4.7.6 Contract price

In respect of goods sold, but not delivered, for which **you** are responsible under a contract of sale, if the contract of sale is cancelled wholly or in part by reason of **damage** insured by this **section**, **our** liability will be based on the contract price of the goods and in the event of underinsurance the value of all goods to which this clause would in the event of **damage** be applicable will be ascertained on the same basis.

#### 4.7.7 Contracting purchaser

If at the time of **damage** to any **building** insured under this **section**:

- a) you have contracted to sell your interest in such building; and  
b) the purchase has not been but is thereafter completed

provided the **property** is not otherwise insured by or on behalf of the purchaser against such **damage** the purchaser will on completion of the purchase be entitled to the benefit of this **section** insofar as it relates to such **damage** without prejudice to either parties' rights and liabilities under

this **section** up to the date of completion

#### 4.7.8 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.

#### 4.7.9 Index linking

**We** will adjust the **declared values** and **sums insured** in line with suitable indices of costs at each renewal and the renewal premium for this **section** will be based on the adjusted **declared values** and **sums insured**.

#### 4.7.10 Involuntary betterment

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

- a) accept, without deduction for betterment, replacement **property** which is as similar as possible and which is capable of performing the same function; and
- b) 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**.

#### 4.7.11 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 tell **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.

#### 4.7.12 Automatic reinstatement of sum insured

In the event of a loss **we** shall not reduce the **sum insured** by the amount of such loss provided that **you** shall:

- a) pay the appropriate extra premium on the amount of loss from the date thereof to the date of expiry of the **period of insurance**; and
- b) if the loss results from theft, give effect to any additional protective devices which **we** may require for the further security of the **property insured**.

#### 4.7.13 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**, following **damage** covered by this **section**, 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.

#### 4.7.14 Seventy two hour

All claims arising out of and directly occasioned by a single event or a single original cause shall be considered to be a single loss for the purposes of this **section**. However, the duration and extent of any single **occurrence** shall be limited to:

- a) seventy-two (72) consecutive hours as regards earthquake, **flood**, or **storm**;
- 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 seventy two (72) consecutive hour period extend beyond the expiry or cancellation date, **we** shall be liable as if such period had fallen entirely within the **period of insurance** of the **policy**

#### 4.7.15 **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:
  - h) for the purposes of the 'Basis of settlement conditions' and the 'Rent Payable' clause,
    - i) **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.

#### 4.7.16 **Workmen**

**You** may employ workmen to carry out alterations, repair, decoration, plant installation, general maintenance and the like at the **premises** as required without prejudice to this insurance.



## 5 All risks - specified business equipment section

### 5.1 Specified business equipment coverage

We shall indemnify **you** against **accidental damage** to the **property insured** as specified under this **section** in the schedule provided that:

- a) the cause of the **damage** is not excluded by the 'Property related exclusions' or the 'Exclusions applicable to this section' detailed below or the 'General exclusions'; and
- b) **damage** occurs anywhere within the **territorial limit** shown in the schedule; and
- c) **our** liability in respect of any item of **property insured** will not exceed the **sum insured** specified against such item in the schedule

#### 5.1.2 Extension applicable to this section

This section is extended to include the following additional coverages, provided that unless expressly stated to the contrary, the indemnity provided forms part of and is not additional to the **sums insured**.

We will indemnify **you** for:

### 5.2 Exclusions applicable to this section

In addition to the limitations and exclusions in the 'Property related exclusions' and 'General exclusions', **we** will not indemnify **you** for the following

#### 5.2.1 Property insured elsewhere.

any **property** otherwise insured including by the 'Property' **section** of this **policy**;

#### 5.2.2 Unattended vehicle

Theft from an **unattended vehicle** unless;

- a) such vehicle has all doors, windows and other means of entry closed and locked with all keys removed to a place of safety; and
- b) any **property insured** is secured in a locked boot or a locked glove box within the vehicle

### 5.3 Conditions applicable to this section

#### 5.3.1 Basis of claims settlement

Claims will be settled on the following basis:

- a) where the **property insured** is lost stolen or destroyed, its replacement by similar property, in either case in a condition equal to but not better or more extensive than its condition when new;
- b) where 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.

The option to repair or replace such **damaged property insured** shall be at our sole discretion.

#### 5.3.2 Condition of average

If at the time of any **damage** the value of the **property insured** under any item is greater than its **sum insured**, **you** shall be considered as being **your own insurer** for the difference and shall bear a rateable share of the loss accordingly.

#### 5.3.3 Index linking

We will adjust the **sum insured** in line with suitable indices of costs and the renewal premium for this **section** will be based on the adjusted **sum insured**.

#### 5.3.4 Automatic reinstatement of sum insured

In the event of a loss the **sum insured** hereby shall not be reduced by the amount of such loss provided that **you** shall:

- a) pay the appropriate extra premium as **we** may require on the amount of loss from the date thereof to the date of expiry of the **period of insurance**;
- b) if the loss results from theft, give effect to any additional protective devices which we may require for the further security of the **property insured**.

## 6 Computer breakdown section

### 6.1 Computer breakdown coverage

We shall indemnify **you** against **damage** to **property insured** caused by the undernoted perils:

- a) breakdown or failure of any part of the **computer equipment** or **electronic data** whilst in ordinary use arising from either mechanical or electrical defect causing a stoppage of normal functions;
- b) failure or fluctuation of the supply of electricity to the **computer equipment**;
- c) the erasure, destruction, corruption or distortion of software contained or **data** stored on fixed disks or **electronic data**;

provided that such **damage** occurs during the **period of insurance** within the **territorial limits** and that **our** liability under this **section** will not exceed the **sum insured(s)** or any applicable **sub-limit**.

### 6.2 Extensions applicable to this section

We will indemnify **you** for the following costs and expenses that may be incurred following loss as covered by this **section**, provided that **our** liability shall not exceed the applicable **sub-limit**. Unless expressly stated to the contrary, the **sub-limits** form part of and are not additional to the **sums insured**.

We will indemnify **you** for:

Increased cost of working

Increased cost of working being the additional expenditure necessarily and reasonably incurred by **you** for the sole purpose to:

- a) prevent or minimise the interruption of or interference with the work normally carried out by or on the **computer equipment**;
- b) recompile or restore data or software or replace third party proprietary software in direct consequence of loss as covered by this **section**;

provided that **our** liability does not extend beyond the **maximum indemnity period** specified in the schedule and does not exceed the **sum insured** stated in the schedule for each of a) and b) above in any one **period of insurance**.

#### 6.2.1 Incompatibility of computer records

the costs of:

- a) modification of the **computer equipment**; or
- b) replacement of **electronic data** 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 equipment** has resulted in undamaged **electronic data** being incompatible with the replacement **computer equipment**;

provided that **our** liability does not exceed £10,000 in any one **period of insurance**.

#### 6.2.2 Additional increased cost of working

the additional expenditure necessarily and reasonably incurred in consequence of the **damage** covered by this **section** in accordance with the 'Additional increased cost of working' clause of 'Business interruption' section, provided that **our** liability does not exceed the **sum insured** stated in the schedule in any one **period of insurance**.

#### 6.2.3 Additional rental

the additional rental arising out of the replacement of a lease/hire agreement in respect of the **property insured** by a new contract for a similar property consequent upon **damage** insured by this **section**, provided that **our** liability shall not exceed £10,000 in any one **period of insurance**.

#### 6.2.4 Data reinstatement

the additional expenditure necessarily and reasonably incurred in consequence of the **damage** covered by this **section** in **reinstatement** of erased, corrupted or distorted software contained or data stored on fixed disks or **electronic data** provided that **our** liability does not exceed the **sum insured** stated in the schedule in any one **period of insurance**.

### 6.2.5 Loss of income

loss as a result of interruption of or interference with the business following **damage** to the **computer equipment** or **electronic data** covered by this **section** by paying the amount by which the **income** during the **indemnity period** shall fall short of the income during the equivalent period immediately before the **damage** provided that **our** liability does not extend beyond the **maximum indemnity** period specified in the schedule and does not exceed the **sum insured** stated in the schedule.

## 6.3 Exclusions applicable to this section

In addition to the limitations and exclusions in the 'Property related exclusions' and 'General exclusions' sections, **we** will not indemnify **you** for any loss:

### 6.3.1 damage to computer equipment:

- a) occasioned by its own breakdown unless there is in force an approved maintenance agreement providing a minimum service of on call remedial and or corrective maintenance at inclusive costs;
- b) for which any manufacturer supplier agent or maintenance undertaking is responsible under the terms of a guarantee or maintenance agreement;
- c) for which **you** are relieved of responsibility under any rental hire or lease agreement;
- d) which is insured under the 'Property' section, or would be insured but for the application of any excess, deductible or other self-insured amount or sub-limit;
- e) caused by or consisting of wear and tear deterioration due to atmospheric or climatic conditions but this exclusion shall not apply to subsequent **damage** which itself results from a cause not otherwise excluded;
- f) 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 life;
- g) caused by the inability of the supply undertaking to maintain the supply system due to industrial action by its employees;
- h) caused by the use of telecommunications equipment which is not approved by the telecommunications authority;
- i) caused by it undergoing any process of production, packaging, treatment, testing, commissioning, servicing or repair;
- j) 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 ;
- k) caused by programming errors or design defects in software.

6.3.2 delay, loss of use, loss of market, loss of profit, income or revenue or any other form of indirect or consequential loss except as specifically included within the extensions application to this **section**.

6.3.3 the **excess** shown in the schedule.

## 6.4 Other terms and conditions applicable to this section

### 6.4.1 Basis of settlement

- a) If the **computer equipment** covered by this **section** is **damaged**, **our** liability shall be:
  - i) on **electronic data** the cost of the blank media, plus the costs of copying the **electronic data** from back-ups, but not including research or engineering, or the costs of recreating, gathering or assembling such **electronic data**. **We** will not insure any amount pertaining to the value of such **electronic data** to **you** or any other party, even if such **electronic data** cannot be regenerated, gathered or assembled; and
  - ii) on **computer equipment** the cost of repairing or replacing, however if the **computer equipment** is obsolete after **damage** and beyond economic repair, **we** agree to the replacement with **computer equipment** that fulfils the same function and has the same cost as that **damaged computer equipment** when new.
- b) If **computer equipment** is covered by any other insurance effected by **you** 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 in the absence of this clause.

- c) The work of **reinstatement** must be commenced and carried out with reasonable despatch, otherwise no payment will be made beyond the amount which would have been payable under this **section** in the absence of this clause
- d) Until such time as the cost of **reinstatement** has actually been incurred **We** will have no liability to pay any amount beyond the amount that would have been payable under this **section** in the absence of this clause.

#### 6.4.2 Condition of average

- a) 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 had been destroyed, exceeds the **sum insured** thereon 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.
- b) If the **property insured** is not reinstated in accordance with the 'Basis of settlement' clause; then if at the time of any **damage** the value of the **property insured** under any item is greater than its **sum insured**, **you** shall be considered as being **your** own insurer for the difference and shall bear a rateable share of the loss accordingly.

#### 6.4.3 Index linking

**We** will adjust the **sum insured** in line with suitable indices of costs and the renewal premium for this **section** will be based on the adjusted **sum insured**.

## 7 Business interruption section

### 7.1 Business interruption coverage

#### 7.1.1 Insuring Clause

**We** will indemnify **you** in accordance with each item of business interruption insurance described below and shown as the 'Cover basis' in the schedule, for loss caused by the interruption of or interference with the **business** resulting directly from **damage** to property used by **you** at the **premises** within the **territorial limits**, provided that:

- a) at the time the **damage** occurs there is in force either:
  - i) cover under the 'Property' **section** of this **policy**, 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; and
- c) **our** liability under this **section** shall not exceed the lower of:
  - i) **the sum(s) insured** shown in the schedule; or
  - ii) any applicable **sub-limit** stated in any extension clause.

#### 7.1.2 Insurable gross profit

**Our** liability under this **section** in respect of **insurable gross profit** will be:

- a) in respect of reduction in **turnover**: the sum produced by applying the **rate of gross profit** to the amount by which the **turnover** during the **indemnity period** will, in consequence of the **damage**, fall short of the **standard turnover**;
- b) in respect of increased cost of working: the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in **turnover** that would otherwise have occurred during the **indemnity period** in consequence of the **damage**, but not exceeding the sum produced by applying the **rate of gross profit** to the amount of reduction thereby avoided;
- c) minus, regardless of whether the calculation is based on the reduction of **turnover** or increased cost of working, any sum saved during the **indemnity period** in respect of such of the charges and expenses of the **business** payable out of **insurable gross profit** as may cease or be reduced in consequence of the **damage**;

except that, in either case, if the **sum insured** in respect of **insurable gross profit** is less than the sum produced by applying the **rate of gross profit** to the **annual turnover** (or to a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months), **you** are underinsured and **our** liability may be proportionately reduced..

If any **specified working expenses** of the **business** deducted in arriving at the **insurable gross profit** are not insured under this **section** then in computing the amount recoverable as increased cost of working, the amount of additional expenditure that will be taken into account will be reduced by the proportion that the **insurable gross profit** bears to the sum of the **insurable gross profit** and the **specified working expenses**.

#### 7.1.3 Gross fees

**Our** liability under this **section** in respect of **gross fees** will be:

- a) in respect of the reduction in **gross fees**: the amount by which the **gross fees** during the **indemnity period** will, in consequence of the **damage**, fall short of the **standard gross fees**;
- b) in respect of increased cost of working: the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in **gross fees** which but for that expenditure would have taken place during the **indemnity period** in consequence of the **damage**, but not exceeding the amount of the reduction thereby avoided;

- c) minus, regardless of whether the calculation is based on the reduction in **gross fees** or the increased cost of working, any sum saved during the **indemnity period** in respect of such of the charges and expenses of the **business** payable out of **gross fees** as may cease or be reduced in consequence of the **damage**;

except that, in either case, if the **sum insured** in respect of **gross fees** is less than the **annual gross fees** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months), **you** are underinsured and **our** liability may be proportionately reduced.

#### 7.1.4 Gross revenue

**Our** liability under this **section** in respect of **gross revenue** will be:

- a) in respect of the reduction in **gross revenue**: the amount by which the **gross revenue** during the **indemnity period** will, in consequence of the **damage**, fall short of the **standard gross revenue**;
- b) in respect of increased cost of working: the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in **gross revenue** which but for that expenditure would have taken place during the **indemnity period** in consequence of the **damage**, but not exceeding the amount of the reduction thereby avoided;
- c) minus, regardless of whether the calculation is based on the reduction in **gross revenue** or the increased cost of working, any sum saved during the **indemnity period** in respect of such of the charges and expenses of the **business** payable out of **gross revenue** as may cease or be reduced in consequence of the **damage**;

except that, in either case, if the **sum insured** in respect of **gross revenue** is less than the **annual gross revenue** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months), **you** are underinsured and **our** liability may be proportionately reduced.

#### 7.1.5 Increased cost of working

The additional expenditure **you** necessarily and reasonably incur for the sole purpose of avoiding or diminishing the reduction in **turnover** which but for that expenditure would have taken place during the **indemnity period** in consequence of the **damage** but not exceeding the amount of reduction reasonably anticipated at the time the expenditure was incurred.

#### 7.1.6 Rent receivable

**Our** liability in respect of **rent receivable** is limited to loss of **rent receivable** and additional expenditure and the amount payable under this **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), **you** are underinsured and **our** liability may be proportionately reduced.

#### 7.1.7 Book debts

If any records of accounts receivable **you** use at the **premises** for the purpose of the **business** sustain **damage** by any cause not excluded by this **policy** during the **period of insurance** and as a result **you** are unable to trace or establish **your outstanding debit balances** and



subsequently lose income, then **we** will indemnify **you** for the loss of income resulting from **your** inability to trace or establish **your outstanding debit balances** as a direct result of **damage** provided that:

- a) if at the time of any **damage** the **sum insured** for **outstanding debit balances** is less than the actual balances, the amount payable by us will be proportionately reduced;
- b) all paper records and books of accounts containing customers' accounts are kept in a fire resistant cabinet or safe when not in use;
- c) all electronic records are backed up at least weekly to disks which are stored off site or to a cloud based computer service;

In addition, **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 **you** recover on accounts receivable for which **we** have indemnified **you** for **outstanding debit balances** will belong to and be paid immediately to **us**.

## 7.2 Costs and expenses

**We** will indemnify **you** for the following costs and expenses that may be incurred following damage:

### 7.2.1 Professional accountants

the reasonable charges payable by **you** to **your** professional accountants for producing:

- a) such particulars or details contained in **your** books of account or other business books or records; or
- b) any other proofs, information or evidence as we may require;

for the purpose of investigating or verifying any claim made under this **section**, provided that at the time of loss such professional accountants are regularly acting as such for **you**. The accountant's 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 **you**.

## 7.3 Extensions applicable to this section

This **section** is extended to include the following additional coverages, provided that our liability shall not exceed any applicable **sub-limit**. Unless expressly stated to the contrary, these extensions do not increase the **sum(s) insured** and any **sub-limits** stated form part of and are not additional to the **sum(s) insured**.

**We** will indemnify **you** for:

### 7.3.1 Additional increased cost of working

the additional expenditure necessarily and reasonably incurred during the indemnity period in consequence of the **damage** for:

- a) preventing or minimising a reduction in turnover, gross fees, gross revenue or rent receivable and/or
- b) resuming or maintaining normal business operations Provided that the amount payable as indemnity shall be:
  - i) over and above the amount recoverable under the increased cost of working clauses included within the **Insurable gross profit** clause, **Gross fees** clause and **Gross revenue** clause,
  - ii) in addition to the **sums insured**, but shall not exceed the **sub-limit** on additional increased cost of working stated in the schedule.

### 7.3.2 Contract sites and transit

the loss resulting from the interruption of or interference with the **business** caused by **damage** as insured by this **policy** to **property insured** belonging to or held in trust by **you** whilst temporarily at **premises** not occupied by **you** or whilst in **transit** by road, rail or inland waterway anywhere within the **United Kingdom** provided that **our** liability under this clause shall not exceed ten (10%) percent of the **sum insured** by this **section** or £100,000 whichever is the greater.

### 7.3.3 Customers and suppliers premises

the loss resulting from interruption of or interference with the **business** as insured by this **section** resulting from **damage** by any cause not excluded by this **policy** to **property** of a kind not excluded by this **section** at the premises of **your** direct **customers** and direct suppliers except that **we** will not provide cover under this clause for:

- a) **damage** to the premises and/or transmission and distribution lines, pipes, cables and masts of **your** electricity, gas, water or telecommunications services providers;
- b) **damage** to premises of **customers** and unspecified suppliers outside the **United Kingdom**;
- c) **our** liability under this clause shall not exceed fifteen (15%) percent of the **sum insured** by this **section** or £250,000 whichever is the greater.

### 7.3.4 Denial of access

loss resulting from interruption of or interference with the **business** as covered by this **section** caused by **damage** by any cause not excluded by this **policy** to **property** within two hundred and fifty (250) metres of the perimeter of the **premises** which physically prevents or hinders the use of the **premises** or access thereto, whether the **premises** or **property insured** therein shall be **damaged** or not.

### 7.3.5 Exhibitions

loss resulting from interruption of or interference with the **business** in consequence of **damage** by any cause covered under the 'Property' **section** to **property** used by **you** whilst at any exhibition anywhere within the European Economic Area, except that **our** liability under this extension will not exceed £50,000.

### 7.3.6 Loss of attraction

loss as covered by this **section** in consequence of diminution of attraction to the **premises** following **damage** by any cause not excluded by this **policy** to **property** occurring at any other site within a one (1) mile radius of any of the **premises**, provided that:

- a) our maximum liability shall not exceed £100,000 in any one period of insurance; and
- b) we shall not be liable for loss relating to the first four (4) hours as the excess of each and every interruption or interference.

### 7.3.7 Lottery winners increased costs

the additional costs specified in:

- a) recruitment;
- b) overtime costs;
- c) employment of temporary staff for amounts in excess of permanent full time rates of payment

where an **employee** or group of **employees** resign from his/her or their post(s) within the **business** as a direct consequence of their securing a win in either the UK National Lottery Prize Draws (including Scratch Cards), UK National Football Pools, Euro Millions Lottery, Irish National Lottery or the UK Premium Bond Prize Draws.

Provided that:

- i) the employee or group of employees resign within fourteen (14) days from the date of the successful lottery win, and;
- ii) the maximum we will pay in respect of any one claim or in the aggregate during any one period of insurance will not exceed £100,000;
- iii) No indemnity shall be paid beyond the maximum indemnity period of three (3) months of the date of the successful win.

### 7.3.8 Notifiable disease, murder or suicide, food or drink poisoning

**We** will indemnify **you** for loss caused by the interruption of or interference with the **business** resulting solely and directly from your inability to use the **premises** in consequence of any of the following events:

- a) an occurrence of a **notifiable disease**:



- i) at the **premises**; or attributable to food or drink supplied from the **premises**;
- b) the discovery of any organism at the **premises** likely to result in the occurrence of a **notifiable disease**;
- c) the discovery of vermin or pests at the **premises**;
- d) an accident causing defects in the drains or other sanitary arrangements at the
- e) **premises**; and
- f) an occurrence of murder or suicide at the **premises**; provided that:
  - i) **we** will only be liable for loss arising at those **premises** which are directly subject to the event in (a) to (e) above;
  - ii) **we** will only be liable for loss where the event causes closure of the **premises** on the order of a Local or Government Authority;
  - iii) **we** will not be liable for any costs incurred in cleaning, repair, replacement, recall or checking of **property** except as stated above;
  - iv) the indemnity provided by this clause shall only apply for the period beginning with the occurrence of the loss and ending not later than three (3) months thereafter; and
  - v) **our** liability will not exceed the sub limit of £10,000 any one occurrence and £50,000 in the aggregate anyone **period of insurance**

This extension shall not cover loss resulting from forty-eight (48) hours of each and every such interruption or interference at the **premises**.

#### 7.3.9 Patterns

loss resulting from interruption of or interference with the **business** in consequence of **damage** by any cause not excluded under the 'Property' **section** to patterns, jigs, models, templates, moulds, dies, tools, plans, drawings and designs, **your property** or held by **you** in trust or on commission for which **you** are responsible whilst at the premises of any machine makers, engineers, founders or other metal workers other than at premises in **your** occupation.

Provided that:

- i) **our** maximum liability will not exceed £50,000 in respect of any one **period of insurance**; and
- ii) no indemnity shall be paid beyond the **maximum indemnity period** of three (3) months of the date of the **damage**.

#### 7.3.10 Property Stored

loss resulting from interruption of or interference with the **business** in consequence of **damage** by any cause not excluded under the 'Property' **section** whilst stored anywhere in the **territorial limits** other than at premises in **your** occupation.

Provided that:

- i) **our** maximum liability will not exceed £10,000 in respect of any one occurrence; and
- ii) no indemnity shall be paid beyond the **maximum indemnity period** of three (3) months of the date of the **damage**.

#### 7.3.11 Research and development

**We** will pay to **you** the additional expenditure incurred as a result of **damage** to **property** at the **premises** by any cause not excluded under the 'Property' **section** that interrupts the current research and development programme of the **business** except that:

- a) cover will be limited to the additional expenditure necessary to reinstate research and development projects to the stage that they were at immediately prior to the **damage**;
- b) **our** liability under this clause will not exceed £25,000 for any one claim.

#### 7.3.12 Utilities supply

loss resulting from interruption of or interference with the **business** as covered by this **section** caused by:

- a) **damage** to any:
  - i) generating station or sub-station of the electricity supply undertaking;

- ii) land-based premises of the gas supply undertaking or of any natural gas producer linked directly therewith;
  - iii) water works or pumping station of the water supply undertaking; or
  - iv) land-based premises of the telecommunications undertaking;
- from which **you** obtain electricity, gas, water or telecommunication services.
- b) failure at the **premises** of:
- i) the terminal ends of the electricity supply utility service feeders;
  - ii) the supply of gas at the supply utility meters;
  - iii) the supply of water at the supply utility main stopcock; or
  - iv) the supply of telecommunication services at the incoming line terminal or receivers.
- Provided that:
- a) **we** will not be liable under this clause or elsewhere under this **policy** for interruption or interference with the **business** caused by **damage**:
    - i) resulting from the deliberate act of any supply utility undertaking or the exercise by any such utility undertaking of its power to withhold or restrict supply or services;
    - ii) resulting from strikes or any labour or trade dispute;
    - iii) resulting from drought;
    - iv) resulting from any other atmospheric or weather conditions, but not excluding accidental failure due to damage to supply utility equipment caused by such conditions;
    - v) to electricity, gas, water or telecommunications transmission lines or pipes except that this exclusion shall not apply to such **property** for which **you** are responsible that is located on, under or over **your premises**;
    - vi) to any satellite or interruption in the supply of any telecommunication;
  - c) **our** liability under this clause shall not exceed (fifteen) 15% percent of the **sum insured** by this **section** or £250,000 whichever is the greater.

## 7.1 Limitations and exclusions applicable to this section

In addition to the limitations and exclusions in the 'Property related exclusions' and 'General exclusions' **sections**, **we** will not indemnify **you** for any loss:

### 7.4.1 Excluded property

interruption of or interference with **your business** caused by or resulting from **damage** to, or in connection with:

- a) the following property, unless specified to the contrary in the schedule:
  - i) livestock, bloodstock, fishstock, growing crops or trees;
  - ii) watercraft or aircraft or other aerial or spatial devices (including drones);
  - 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**;
  - v) land, piers, jetties, bridges, culverts or excavations;
  - vi) **property** in the course of erection or installation;
  - vii) **property** in **transit** except as specified in the 'Exhibitions and trade fairs' extension in the 'Property' **section** and in the 'Contract sites' extension;
  - viii) explosives;
  - ix) gold, silver, jewellery, precious stones, works of art, rare books, sculptures, curios and collections except as specifically covered in the 'Property' **section**;
- 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 either:
  - i) such **property** that is located on or over **your premises** those within f if ty (50)

metres of the perimeter of the **premises**; (whichever is the lesser) and for which **you** are responsible; or

ii) as provided under the 'Utilities supply' extension.

#### **7.4.2 Other loss recoverable**

any loss where payment has been made in respect of insured costs or expenses under any other **section** of this **policy** or another contract of insurance;

#### **7.4.3 Off premises damage**

any loss caused by:

a) acts of any civil, government or military authority caused by or following:

i) conflagration; or

ii) **storm**; or

iii) earthquake; or

iv) explosion; or

v) impact by aircraft or other aerial or spatial device; or

vi) **flood**; or

vii) actual or suspected presence of any radioactive or toxic material (including "dirty bombs"); or

viii) suspect packages;

b) **damage** to

i) any **property** in the vicinity of **your premises** or **property insured**;

ii) the **property** of **your** electricity, gas, water or telecommunications supplier;

iii) the **property** of any party in **your** supply chain;

iv) the **property** of any party in **your** distribution chain

v) any location not owned or occupied by **you** but where **property insured** is stored;

other than to the extent provided in the various extensions contained in this **section** or as may be added by endorsement.

### **7.4 Other terms and conditions applicable to this section**

#### **7.4.1 Alternative trading**

If during the **indemnity period** goods are sold or services rendered elsewhere than at the **premises** for the benefit of the **business**, either by **you** or by others on **your** behalf, the amount received by **you** in respect of such sales or services will be brought into account in calculating the **turnover**, **gross revenue** or **gross fees** during the **indemnity period**.

#### **7.4.2 Delayed loss**

In adjusting any loss, **we** will take into account and make an equitable allowance if any reduction in **turnover** due to the **damage** is postponed by reason of the **turnover** being temporarily maintained from accumulated stocks of finished goods.

#### **7.4.3 Departmental**

If the **business** is conducted in departments and the independent trading results of each department are ascertainable and can be distinguished from each other, the provisions of this **section** will apply separately to each department affected by the **damage** except that, if the **sum insured** is less than the aggregate of the sums of the **insurable gross profit**, **gross fees** or **gross revenue** as stated in the schedule for each department of the **business** (whether affected by the **damage** or not), **our** liability will be reduced pro rata accordingly.

#### **7.4.4 Payments on account**

If **you** so request, **we** will 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) that if the total adjusted loss under this **section** differs from the quantum of the payments made under this clause then both parties agree to pay or return the difference accordingly.

#### 7.4.5 Automatic 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 we may require.

#### 7.4.6 Salvage sale

If following damage giving rise to a claim under this section, you hold a salvage sale during the indemnity period, the 'reduction in turnover' item of the 'Insurable Gross Profit' Clause will for the purpose of such claim read as follows:

'In respect of reduction in turnover: the sum produced by applying the rate of gross profit to the amount by which the turnover during the indemnity period (less the turnover for the period of the sale) in consequence of the damage falls short of the standard turnover from which will be deducted the insurable gross profit actually earned during the period of the salvage sale.'

#### 7.4.7 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 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.

#### 7.4.8 Underinsurance

Our liability for each item of business interruption insurance described in this section is, where specified in the schedule as being covered on a sum insured basis, subject to the following conditions of underinsurance:

- a) When calculating our liability for each item of business interruption insurance under this Section, if the insurable gross profit, gross fees, gross revenue or rent receivable that we calculate would, but for the incident, have been earned during the financial year most nearly concurrent with the period of insurance exceeds 150% of the sum insured for gross profit, gross fees, gross revenue or rent receivable (proportionately reduced in each case to an annual figure where the maximum indemnity period is greater than 12 (twelve) months), then the amount for which we will indemnify you for any loss hereby insured will be limited to that proportion which the sum insured (proportionately reduced to an annual figure if required) bears to the insurable gross profit, gross fees, gross revenue or rent receivable that would, but for the incident, have been earned during the financial year most nearly concurrent with the period of insurance.

For example, say the sum insured for insurable gross profit is £500,000. However, we calculate the insurable gross profit that would, but for the incident, have been earned during the financial year most nearly concurrent with the period of insurance is £900,000. Our calculated figure for insurable gross profit is greater than 150% of the sum insured. You will therefore have to bear a rateable proportion of the loss caused by the damage. In this example, the sum insured is only 56% of our calculated figure for insurable gross profit. We would therefore only pay 56% of the valid claim for Business Interruption.

## 8 Terrorism section

### 8.1 Terrorism coverage

8.1.1 Where this **section** is shown in the schedule as “operative”, subject to the application of any applicable excess or deductible, **we** will indemnify **you** in accordance with the terms of this **insured section** for losses arising under the **eligible insured sections** as a result of damage to or destruction of **property** in the **territory**, the proximate cause of which is an **act of terrorism**, provided that the **act of terrorism**:

8.1.2 occurs in the **territory** during the **period of insurance**; and

8.1.3 is certified by HM Treasury or a competent tribunal from time to time as an **act of terrorism**; provided that in any action, suit or other proceedings where **we** allege that any **damage** or costs and expenses are not covered by this **policy**, the burden of proving the contrary will be upon **you**, save for clauses 8.2.1(b)(iii) and 8.2.1(c) where the burden of proof will be upon **us**.

### 8.2 Limitations and exclusions applicable to this section

The general policy exclusions do not apply to this **section**. Instead, the following are specifically excluded from the insurance under this **section**;

#### 8.2.1 Virus or similar mechanism, hacking, phishing or denial of service

a) Any losses whatsoever directly or indirectly caused by, contributed to by, or arising from or occasioned by or resulting from:

- i) damage to or the destruction of any **computer system**; or
- ii) any alteration, modification, distortion, erasure, or corruption of **data**

in each case whether the property of the insured or not, where such loss is directly or indirectly caused by or contributed to by or arising from or occasioned by or resulting from a virus or similar mechanism or hacking or phishing or denial of service attack.

b) Covered losses otherwise falling within this exclusion will not be treated as excluded by this clause solely to the extent that such loss:

- i) results directly from any of the **specified perils**;
- ii) comprises any of the **specified losses**; and
- iii) is not proximately caused by an **act of terrorism** in relation to which the relevant organisation or any persons acting on behalf of or in connection with that organisation are controlled by, acting on behalf of or part of any de jure or de facto government of any nation, country or state.

c) Notwithstanding the exclusion of **data** from the definition of **property** in this **insured section**:

- i) to the extent that damage to or destruction of **property** comprises any of the
- ii) **specified losses**; and
- iii) that damage or destruction indirectly results from any alteration, modification, distortion, erasure or corruption of **data**;

the fact that a **specified peril** results directly or indirectly from any alteration, modification, distortion, erasure or corruption of **data** shall not prevent cost or business interruption loss directly resulting from damage to or destruction of such **property** (and otherwise falling within **specified losses** or **specified perils**) from being recoverable under this **policy**.

In no other circumstances, however, will any loss or losses directly or indirectly caused by, contributed to by or arising from or occasioned by or resulting from any alteration, modification, distortion, erasure or corruption of **data** be recoverable under this **policy**.

#### 8.2.2 War

Any losses whatsoever occasioned by riot, civil commotion, war, invasion, act of foreign enemy, hostilities (whether war be declared or not) civil war, rebellion, revolution, insurrection or military or usurped power.

### 8.3 Other terrorism terms and conditions

8.3.1 Our liability under this **section** in any one (1) **period of insurance** shall not exceed the **sum insured** stated in the **schedule** for the applicable **section** shown as operative in the schedule in respect of all losses arising out of any one (1) **occurrence** and in the aggregate.

8.3.2 Where the **period of insurance** shown in the schedule is for a period greater than twelve (12) months, the cover provided by this **section** shall only apply for a period of twelve (12) months and shall be subject to renewal at each annual anniversary.

#### 8.3.3 Restricted terms

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

except that any:

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



## 9 Money section

### 9.1 Money cover

#### 9.1.1 Money damage

**We** will indemnify **you** for the value of the **damaged money** provided that:

- a) the **damage** occurs within the **territorial limits**; and
- b) the **damage** occurs during the **period of insurance**; and
- c) for each category of **damage**, **our** liability will not exceed the limits stated in the schedule in respect of any one event.

#### 9.1.2 Assault

If an **insured person** is **assaulted**, **we** will pay to **you** the compensation benefit for **assault** provided that:

- a) the assault occurs within the territorial limits;
- b) the assault occurs during the period of insurance;
- c) for each category of injury to the insured person, the amount of benefit we will pay will not exceed the amount stated below:

Item	Injury	Benefit amount
i.	Death	£ 20,000
ii	Total loss or permanent and total loss of use of one or more limbs occurring within two (2) years of sustaining the <b>injury</b>	£ 20,000
iii	Total and irrecoverable loss of all sight in one or both eyes occurring within two (2) years of sustaining the <b>injury</b>	£ 20,000
iv	For any period up to a maximum of two (2) years of total disablement from engaging in usual occupation	£ 100 per week
v	For any period up to a maximum of two (2) years of partial disablement from engaging in usual occupation	£ 50 per week

- d) compensation will not be payable under more than one of the items in the compensation table for the same **injury**; and
- e) the amount of compensation payable under item iv) in the compensation table will not exceed eighty per cent (80%) of the **insured person's** normal gross weekly remuneration.

### 9.2 Costs and expenses

**We** will provide indemnity for the following costs and expenses that may be reasonably incurred following **damage**:

#### 9.2.1 Clothing or personaleffects

the cost incurred by the **insured person** up to £1,000 to repair or replace with like kind and quality any clothing or personal effects of the **insured person damaged** directly due to **assault**, such amount to be paid directly to the **insured person**; and

#### 9.2.2 Damage to safes

the reasonable costs **you** incur up to a maximum of £5,000 in repairing or replacing any safe, strongroom, bag, case or waistcoat used for the carriage of **money** or of a ranking machine that is **damaged** during the theft or attempted theft of **money**.

#### 9.2.3 Dental costs

dental costs for **you** or **your employees** as a direct result of **assault**, up to a limit of £500 in respect of any one person, such amount to be paid directly to the **insured person** upon production of receipt(s) from a BDS approved dentist.

### 9.3 Limitations and exclusions applicable to this section

In addition to the limitations and exclusions in the 'Property related exclusions' and 'General exclusions' sections applicable to this section, we will not indemnify **you** or the **insured person** for:

#### 9.3.1 Indirect loss

loss or damage other than the **damage** expressly and specifically insured under this section;

#### 9.3.2 Dishonesty

loss or damage which is in any way caused or facilitated by, or in collusion with **you**, any of **your** directors or partners or **employees** but this exclusion does not apply where the dishonesty is reported to **us** within fourteen (14) days of the loss or damage;

#### 9.3.3 Unattended Vehicles

loss or damage to **money** contained in any **unattended vehicle**;

#### 9.3.4 Errors

loss or damage to **money** occasioned by errors or omissions;

#### 9.3.5 Non-specific loss or damage

loss or damage to **money** except as specifically stated as being insured in this **section** or the schedule;

#### 9.3.6 Security carrier

loss or damage to **money** recoverable from a specialist security carrier;

#### 9.3.7 Security system withdrawal

loss or damage to **money** on the **premises** subsequent to **you** receiving written notification from:

- a) the maintenance contractors of the security systems that the maintenance is suspended; or
- b) the relevant police service that alarm signals from the **premises** will no longer be answered where such **premises** is fitted with an approved intruder alarm equipped with a Unique Reference Number.

### 9.4 Conditions precedent applicable to this section

Compliance with the following requirements is a condition precedent to our liability in respect of a claim under this **section**, however, the duties imposed apply only to those areas of the premises that operate under **your** direct control.

Subject to the above, if we are not satisfied that such a condition precedent was complied with in each and every respect, we will not be liable for any claim under this **section** which might potentially have been avoided or reduced by compliance, unless **you** establish that non-compliance could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

#### 9.4.1 Carryings

Where the value of **negotiable money** in **transit** as described in the schedule exceeds £3,000 **you** shall:

- a) arrange for the **negotiable money** to be accompanied by at least two (2) able bodied adults;
- b) ensure that no single person carries more than £ 3,000.

#### 9.4.2 Protections

**You** shall ensure that:

- a) Any alarm system that is installed for the protection of the **premises** is:
- b) installed in accordance with the manufacturer's specification;
- c) not altered, varied or affected by any structural alteration to the **premises** without
- d) **our** prior written consent;
- e) in full and efficient working order at all times;
- f) regularly serviced either under the manufacturer's maintenance contract or an National Security Inspectorate or Loss Prevention Certification Board approved contractor and in



accordance with the manufacturer's specifications and any other maintenance requirements **we** may specify;

- g) tested and fully set whenever the alarmed portion of the **premises** is closed for **business** or not attended by **you** or any competent adult authorised by **you** to be responsible for the security of the **premises**;
- h) **we** are notified as soon as reasonably practicable:
  - i) upon discovery of any defects that arise in the alarm system, that such defects are remedied as soon as is practicable and that **we** are advised in writing once the alarm system is fully operational;
  - ii) of any withdrawal, disconnection or failure of or downgrading of any civil authority response to the alarm system likely to leave any area unprotected;
- i) details of all available keyholders are notified to all appropriate services and such details are maintained and updated as necessary;
- j) any safe containing money is securely locked and all keys or combination numbers to that safe are kept in a secure place away from the building or portion of the building containing the safe;

Notwithstanding the provisions of (a) and (b) above, cover provided by this **section** will not be invalidated by any defect in the said systems due to circumstances beyond **your** control arising after the systems have been properly set.

## 10 Fidelity guarantee section

### 10.1 Fidelity guarantee insurance cover

We will indemnify **you** in accordance with the terms of this **section** for **theft** of **money** or goods belonging to **you** or for which **you** are legally responsible committed by **your employee** normally resident within the **territorial limits** during the **period of insurance**, provided that such **theft** is discovered not later than six (6) months after the termination of:

- a) this section;
- b) the insurance in respect of an employee specified by name or position;
- c) the employment of any employee; whichever occurs first.

### 10.2 Additional costs and expenses cover

We will indemnify **you** for the following costs and expenses that may be incurred following a loss under this **section**.

#### 10.2.1 Auditors fees

Auditors fees incurred with **our** written consent solely to substantiate the amount of a loss, provided that **we** have accepted liability for the loss under this **section**;

#### 10.2.2 Cost of re-writing software

The reasonable costs **you** incur in re-writing or amending **electronic data** where such re-writing or amending is necessary to revise security controls following the use of **computer equipment** for **theft** the subject of a loss for which liability is admitted under this **section**.

### 10.3 Extensions applicable to this section

#### 10.3.1 Previous insurance

If this **policy** immediately supersedes a fidelity insurance that **you** previously effected (the '**superseded insurance**') **we** will indemnify **you** in respect of any loss discovered during the continuation of this **policy** but committed during the continuation of the **superseded insurance** if the loss is not recoverable thereunder solely because the period allowed for discovery has expired, provided that:

- a) such insurance had been continuously in force from the time of the loss until inception of this **policy**;
- b) the loss would have been insured by this **policy** had it been in force at the time of the loss;
- c) **our** liability shall not exceed whichever is the lesser of the:
  - i) amount recoverable under the insurance in force at the time of the loss; or
  - ii) **limit of indemnity** for this **section** which would have applied to the loss;

and **our** total liability in respect of any one loss continuing through both the term of the **superseded insurance** and the continuation of this **policy** shall not exceed the applicable **limit of indemnity** for this **section**.

### 10.4 Limitations and exclusions applying to this section

In addition to the limitations and exclusions in the 'Property related exclusions' and 'General exclusions' **sections**, **we** will not indemnify **you** for any loss:

#### 10.4.1 Continued use of an employee

where **you** continue to entrust an **employee** with money or goods after discovering any circumstance that casts any material doubts on the integrity of the said **employee**;

#### 10.4.2 Employees of legacy companies

caused by the acts of any **employee** of any firm or firms with whom **you** merge or whom **you** acquire during the **period of insurance** unless **we** have agreed to provide such cover in writing and **you** have paid any additional premium we require. Other terms and conditions applicable to this section

#### 10.4.3 Theft

- a) Immediately following your discovery of any act of theft by an employee all indemnity for further acts of theft by that employee shall cease.

- b) Any money of the employee in your hands upon discovery of any loss and any money which but for the employee's theft would have been due to the employee from you shall be deducted from the amount of the loss before a claim is made under this section, if lawful to do so.
- c) Any further **monies** which are recovered less any costs incurred in recovery shall accrue:
  - i) in the event that **your** loss has exceeded the **limit of indemnity** firstly to **your**
  - ii) benefit to reduce or extinguish the amount of **your** loss (but not the **excess**); then
  - iii) to **our** benefit to the extent of the loss indemnified or indemnifiable; and finally
  - iv) to **your** benefit where the **excess** had been deducted from sums indemnified.

## 10.5 Conditions precedent applicable to this section

**You** shall operate or bring into force the minimum standards listed below and shall not make any change to these unless **we** are advised and our written approval obtained. Compliance with each requirement of these minimum standards shall be a condition precedent to **our** liability under this section.

If **you** cannot satisfy **us** that such a condition precedent was complied with in each and every respect, **we** will not be liable for any loss under this section which might potentially have been avoided or reduced by compliance, unless **you** establish that non-compliance could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

### 10.5.1 Auditors

- a) **Your** accounts including those of **your subsidiary companies** shall be examined by external auditors every twelve (12) months.
- b) All recommendations or alternative/additional actions acceptable to the auditors shall be implemented without delay.

### 10.5.2 Cash and petty cash

Cash in hand and petty cash must be checked independently of **employees** responsible at least monthly and without warning every six (6) months.

### 10.5.3 Cash receipts

**Employees** receiving cash and cheques in the course of their duties shall be required to remit all monies received and/or bank in full on the day of receipt or next banking day unless **we** otherwise agree.

### 10.5.4 Payroll

At least quarterly and independently of persons responsible for the payroll, the payroll will be checked to minimise the possibility that fictitious names and enhanced payments have been included.

### 10.5.5 References

- a) No **employee** shall be given responsibility for **money**, goods, accounts, computer operations or computer programming unless the **insured** has first obtained satisfactory references to confirm their honesty or has otherwise satisfied the requirements of this clause.
- b) Such references shall be obtained directly from former employers for the three (3) years immediately preceding engagement and before the **employee** is entrusted without supervision.
- a) References need not be obtained in respect of **employees** who have satisfactorily and continuously served the **insured** for at least one (1) year in another capacity before being entrusted with the duties referred to above.
- b) In respect of **employees** joining directly from school or government sponsored youth training schemes, one character reference shall be obtained.
- c) A written record of any verbal reference shall be made at the time it is obtained.
- d) The original copy of each written reference and the record of any verbal reference shall be retained by **you** and made available for **our** inspection on request.

## 11 Goods in transit section

### 11.1 Goods in transit cover

11.1.1 We will indemnify **you** in accordance with the 'Basis of settlement' clause for **damage to goods in transit** to destinations anywhere in or between the **United Kingdom** and Eire whilst being carried by vehicles operated by **you**, hauliers, rail or post, provided that **damage** occurs during the **period of insurance**.

**Our** liability under this **section** will not exceed the limit stated in the schedule

11.1.2 Cover under clause 11.1.1:

- a) commences when the **goods** are lifted immediately prior to loading and continues until arrival at destination including unloading;
- b) includes temporary housing in the course of **transit** whether on or off the means of conveyance and does not include temporary housing of property unloaded from a vehicle at any premises **you** own or rent;
- c) includes incoming supplies and **goods** consigned to **you** from addresses within the **United Kingdom** and Eire but only where the supplies and **goods** consigned to **you** are **your** responsibility.

### 11.2 Costs and expenses

We will indemnify **you** for the following costs and expenses that may be reasonably incurred following **damage**:

#### 11.2.1 Transfer expenses

- a) transferring the **goods** in **transit** to another vehicle;
- b) reloading onto the original vehicle for onward delivery or return to the point of origin;
- c) the removal of debris of the **goods** (but not the vehicle, the trailer or any part thereof);
- d) re-securing the **goods** where there is dangerous movement of the load in **transit**

should the vehicle carrying the **goods** be involved in fire, explosion, collision or overturning.

### 11.3 Extensions applicable to this section

We will indemnify **you** for:

#### 11.3.1 Employees' effects

the **actual value** of **employees'** personal property if **damaged** by fire, explosion, theft, collision or overturning of the carrying vehicle, when the **employee** is accompanying **goods** in **transit** provided that:

- a) there is no indemnity available under any other more specific insurance; and
- b) **our** liability under this clause will not exceed £500 in respect of any one event;

#### 11.3.2 Ropes/sheets

damage to ropes, sheets, tarpaulins, trolleys and the like while in **transit**.

### 11.4 Limitations and exclusions applicable to this section

In addition to the limitations and exclusions in the 'Property related exclusions' and 'General exclusions' **sections**, we will not indemnify **you** for the following:

#### 11.4.1 Animals

**damage** or injury to animals, bloodstock, livestock or fishstock;

#### 11.4.2 Food, change in temperature

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

#### 11.4.3 Consequential or indirect loss

**damage** other than the **damage** expressly and specifically insured under this **section**;

#### 11.4.4 Dangerous goods

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

#### 11.4.5 Inadequate packing

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

#### 11.4.6 Theft

theft or attempted theft from an **unattended vehicle** belonging to **you** under **your** control unless:

- a) While during the work day, shift period or during a break taken during the **transit**:
  - i) all doors have been securely locked and all windows and other openings securely and adequately fastened; and
  - ii) any immobiliser and any alarm fitted to the said vehicle is correctly set to operate; and
  - iii) all keys are removed
- b) after the last business **transit** of the work day or shift:
  - i) all keys are removed until collected by the driver for the next business transit; and
  - ii) the vehicle is housed in a securely locked building of substantial construction or a compound which has secure walls and/or fences and securely locked gates.

#### 11.4.7 Open sided/curtained vehicles

**damage** caused by or arising from theft or attempted theft or malicious **damage** or vandalism of **goods** carried in or on open sided / curtained vehicles, or on any vehicle that cannot be secured;

#### 11.4.8 Excluded Property damage

- a) by any cause to **money** securities for **money** (which includes certificates of bond stock certificates bills of exchange promissory notes) stamps clocks watches precious stones jewellery or bullion;
- b) by breakage of scientific instruments, china, glass, marble, earthenware or other items or a fragile or brittle nature unless consequent upon an **accident** in which the carrying vehicle, vessel or aircraft is damaged.
- c) to or arising from nuclear waste carried by **you** or on **your** behalf
- d) to or arising from explosives carried by **you** or on **your** behalf

#### 11.4.9 Mechanical breakdown, pollution, insects, loss of weight

**damage** caused by or consisting of moth, vermin, insects, damp, mildew, rust, loss in weight, evaporation, taint, leakage or spillage, pollution, contamination, deterioration, depreciation, mechanical or electrical breakdown or derangement, unless arising as a consequence of fire, explosion, or accident to the carrying vehicle, vessel or aircraft and not otherwise excluded.

### 11.5 Other terms and conditions applicable to this section

#### 11.5.1 Average (under-insurance)

If at the time of the commencement of any **damage** the total value of the **goods** in **transit** in or upon any vehicle exceeds the appropriate **limit**, then **our** liability will be proportionately reduced.

#### 11.5.2 Basis of settlement

**We** may at **our** option repair, reinstate or replace the **goods** in **transit** or any part thereof on the same basis as the 'Basis of settlement' clause contained in the 'Property' **section**, except that the 'Average (under-insurance)' clause will apply in respect of claims under this **section**.

If **you** elect, and **we** agree not to repair or reinstate any **goods** in **transit**, then **our** liability shall be limited to the **actual value** of the damaged **goods** in **transit**, however settlement on this basis shall be at **our** sole discretion.

#### 11.5.3 Reasonable precautions

**You** will take all reasonable precautions in maintaining vehicles under **your** control in an efficient and roadworthy condition and ensure the suitability of the vehicles for the purpose used, employing

competent and honest persons who can be entrusted with the **goods** in **transit**, and with packaging, labelling and addressing the **goods** in **transit**.

**11.5.4 Automatic reinstatement of sum insured**

**We** will reinstate the limits shown in the schedule from the date of any loss (unless **we** give written notice to the contrary) provided that you pay such additional premium as **we** may require.



## 12 Property related exclusions

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

In addition to the 'General exclusions', the 'Property'; 'All risks – Specified business equipment'; 'Computer Breakdown'; 'Business interruption'; 'Terrorism'; 'Money'; 'Fidelity guarantee'; and 'Goods in transit' sections of this **policy** exclude:

### 12.1 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.

#### 12.1.1 Boiler explosion and failure

12.1.2 **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 **you**, or under **your** control;

12.1.3 **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 insured section 'Business interruption', if stated as being 'operative' in the schedule, and shall not exclude subsequent loss resulting from an ensuing cause which is not otherwise excluded

### 12.2 Communicable Disease

Regardless of any provision to the contrary, the **policy** excludes any amount for which the **insurer** would otherwise be liable directly or indirectly caused by, resulting from, arising out of, in connection with, attributable to, or occurring concurrently or in any sequence with:

- a) a communicable disease;
- b) the fear or threat (whether actual or perceived) of a **communicable disease**;
- c) the costs to clean-up, detoxify, remove, monitor or test for the actual, alleged, perceived or suspected presence of a **communicable disease**; or
- d) the **insured's** actual or alleged non-compliance with any advice, guidance, regulation, order, decree or law issued by a **public authority** in response to a **communicable disease**.

This exclusion shall not apply in respect of and to the extent of the indemnity provided by the notifiable disease, murder or suicide, food or drink poisoning' extension of the **policy**.

### 12.3 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.

### 7.2 Electrical or mechanical breakdown

**damage**, except as covered under the 'Computer breakdown' **section** 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.

### 7.3 Excess

the amount of the **excess** as stated in the schedule, or in a particular clause, it being noted that:

if the **excess** is stated as a temporal period then the amount so deducted shall represent the monetary amount lost during the first period stated in the schedule commencing from the time **you** begin to incur pecuniary loss following the **damage** or the event giving rise to the loss.

- a) if any **damage** forms the subject of indemnity under more than one **section** then the

**excess** applied will be the highest applicable **excess**.

#### 12.4 Fines or penalties

finer or damages for breach of contract for late or non-completion of orders or any penalties of whatsoever nature.

#### 12.5 Frost

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

#### 12.6 Gradual change

**damage**, or loss or interruption or interference caused by corrosion, gradual change or deterioration, change of temperature (except as provided under the 'Deterioration of stock' extension under the Property **section**), 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.

#### 12.7 Marine impact

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

#### 12.8 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.

#### 12.9 Micro-organism

**damage**, or loss or interruption or interference caused by mould, 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 'Murder, Suicide or Disease' extension in the 'Business interruption' **section**.

This exclusion applies regardless of 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, clean up, abatement, disposal, relocation, or steps taken to address medical or legal concerns.

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

#### 12.11 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;
- caused by or arising from misfiling or misplacing of property, information or **data**.

#### 12.12 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, **storm, flood, inundation of water**, escape of water or oil from any tank or pipe, sprinkler leakage, theft or impact by any vehicle or animal provided that such defined perils are not excluded under the 'Property' section.

### 12.13 Processing

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

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

### 12.14 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.

### 12.15 Subsidence or collapse

in respect of **buildings**:

- a) subsidence or collapse caused by the bedding down of new structures, by settlement; or
- b) subsidence or collapse caused by coastal or river erosion; or
- c) subsidence or collapse of buildings or any part thereof whilst in the course of erection or undergoing demolition, structural alterations or structural repairs; or
- d) **damage** caused by subsidence or collapse which commenced and of which **you** were aware prior to the acceptance of this insurance by **us**; or
- e) subsidence or collapse caused by the movement of reclaimed or made up ground or of any building erected on a mining site; or
- f) **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.

### 12.16 Theft and fraud

**damage**, or loss or interruption or interference caused by:

- a) theft or attempted theft from the **premises** unless involving entry to or exit from 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 **your employees** except as insured under the 'Fidelity guarantee' section, if shown as 'operative' in the schedule;
- 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.

### 12.17 Unoccupied buildings

**damage to buildings** (or the **contents** thereof) which are or become unoccupied during the **period of insurance**.

This exclusion shall not apply:

- a) to **damage** to an unoccupied **building** caused by fire, explosion, lightning, earthquake, aircraft, other aerial device, satellite, missile or articles which impact upon unoccupied **buildings**;
- b) if **you**:

- i) have given notice to us that the **building** is or will become unoccupied; and
- ii) pay **us** any extra premium we may require to provide cover in respect of such unoccupied **buildings**; and
- iii) ensure that:
  - I) all main services are turned off at the mains and water tanks drained to prevent **damage** caused by escaping water from any pipe, tank, water system or automatic sprinkler installation; and
  - II) all combustible materials not forming part of the landlord's fixtures and fittings are removed from inside and outside the **buildings** in respect of **damage** by fire; and
  - III) all ground floor windows and letterboxes are securely boarded over, and
  - IV) all reasonable precautions are taken to secure the **buildings** against unauthorised entry.

## **12.18 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.

### **12.18.1 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.

## 13 Personal accident section

### 13.1 Personal accident cover

We agree to pay **you** the **benefits** listed in the schedule in the event the **insured person**:

- a) dies within twelve (12) months after and as a result of **injury**; or
- b) sustains **permanent total disablement** which shall include **loss of limbs**, total loss of sight, **total loss of hearing** or **total loss of speech**, within twelve (12) months after and as a result of **injury**; or
- c) sustains **temporary total disablement** and/or **temporary partial disablement** which continues without interruption beyond the **deferment period**;

provided that the **accident** giving rise to the **injury** occurs during the **period of insurance**, within the **territorial limits** and within the **cover basis**.

### 13.2 Costs and expenses

#### 13.2.1 Funeral expenses and emergency travel expenses

- a) In the event of a claim being agreed by **us** for death under the 'Personal accident cover' clause, **we** agree to indemnify **you** on behalf of the **insured person** for the reasonable funeral expenses incurred up to a maximum of five thousand pounds (£5,000) any one **insured person**.
- b) In the event of an **insured person** suffering **injury** and as a direct result requiring hospital treatment as an inpatient **we** will indemnify **you** on behalf of the **insured person** up to a maximum of £1,000 for the costs of:
  - i) accommodation and emergency travel for up to two close relatives to remain with the **insured person**; and/or
  - ii) transporting the **insured person** to their home address following discharge from hospital if it is not possible to travel by the intended means

Provided that such costs are not recoverable from any other source, including any other insurance **policy**.

#### 13.2.2 Medical

In the event of a claim being agreed by **us** following injury, **we** agree to indemnify **you** or the **insured person** or their personal representative for medical expenses incurred up to fifteen percent (15%) of the amount payable under sub clause a) or b) of the 'Personal accident cover' clause except that the maximum amount payable under this clause will not exceed fifteen thousand pounds (£15,000). Provided that such costs are not recoverable from any other source, including any other insurance **policy**.

### 13.3 Limitations and exclusions applicable to this section

13.3.1 In addition to the limitations and exclusions in the 'General exclusions' **section**, **we** will not indemnify **you** for death or **permanent total disablement** directly or indirectly resulting from or consequent upon:

- a) **sickness** or natural causes; or
- b) NCB terrorism
- c) the **insured person** engaging in air travel as a pilot or crew member;
- d) intentional self-inflicted **injury** or **injury** caused by the **insured person's** own reckless act (except in an attempt to save human life or in the course of the **insured person's** employment)
- e) the **insured person** engaging in or taking part in
  - i) naval, military or air force service or operations;
  - ii) motor sports, winter sports, scuba diving to a depth greater than fifteen (15) metres, rock climbing or mountaineering, caving, potholing, paragliding, parachuting, sky diving, hunting on horseback, or racing of any kind except on foot.
- f) nuclear hazards;

- g) suicide or attempted suicide;
- h) intentional self-inflicted **injury** including self-inflicted **injury** arising from mental illness or the **insured person** being in a state of insanity;
- i) **war** in the **insured person's** country of domicile.

### 13.3.2 Accumulation limit

Where a single event, or series of events in a twenty kilometres radius originating from the same proximate cause, occurs and where:

- a) within twenty-four (24) consecutive hours of the event; or
- b) within twenty-four (24) consecutive hours of the first event in the series of events;

the event or series of events causes **injury** to more than one **insured person**, then the maximum amount of **benefits** payable by **us** under the 'Personal accident cover' clause in connection with all injury arising from such event or series of events shall be £1,000,000 ('the accumulation limit') irrespective of the number of **insureds** and/or **insured persons** claiming.

Where the aggregate value of **benefits** claimed under this **section** in connection with **injuries** arising from an event or series of events exceeds the accumulation limit, the amount claimed by each **insured** and/or **insured person** will be reduced in proportion to the ratio that the accumulation limit bears to the total amount claimed.

### 13.3.3 Schedule of compensation restrictions

#### a) Claims admissible under more than one item of benefit:

- i) If it is possible to claim under more than one **benefit**, then **you** may elect to claim under the item of **benefit** that offers the maximum amount of payment except always that **we** are only liable to pay **benefit** under a single item of **benefit**;
- ii) If an **accident** involves the death of the **insured person** prior to the definite settlement of compensation for **permanent disablement**, **we** will pay the beneficiary the **benefit** for death as a result of **injury** in the schedule. If death is not insured no **benefit** will be payable under this insurance;
- iii) If the death of the **insured person** involves **sickness** prior to the definite settlement of compensation for **permanent disablement**, no **benefit** will be payable under this insurance unless, in the opinion of an independent medical practitioner the **sickness** resulted directly from the **injury** that caused the **permanent disablement**.

#### b) Temporary total disablement and temporary partial disablement

- i) The **temporary total disablement benefit** payable under this **policy** will not exceed the **insured person's** gross weekly wage or 1/52 of the **insured person's** annual salary; such basis to be determined by the **insured person's** contractual remuneration pattern;
- ii) **We** will make interim payments for **temporary total disablement** or **temporary partial disablement benefit** to the **insured person** monthly on account during the period of disability, provided always that:
  - I) the aggregate amount of such payments shall not exceed the **sum insured**
  - II) under the item for which the claim is being paid hereunder, and
  - III) if the total claim amount for **temporary total disablement** or **temporary partial disablement benefit** differs from the amount of the payments made under this clause then the parties mutually agree to pay or return the difference accordingly;
- iii) the amount paid will be deducted from any lump sum becoming payable in respect of **accidental death benefit** arising from the same **injury** or **permanent total disablement benefit** arising from the same **injury**;

13.3.4 Payment of the **temporary total disablement benefit** will cease when the **insured person** has made a recovery from **temporary total disablement**; or the total maximum **benefit** is exhausted, or the **insured person** dies or is deemed to suffer **permanent total disablement**, whichever first occurs.

### 13.3.5 Pre-existing condition

Death or disablement directly or indirectly resulting from or consequent upon any **pre-**



**existing condition** not declared to and accepted by **us** in writing, or any **injury** contributed to or aggravated by any specifically excluded or **pre-existing condition**, and any condition or body part specifically excluded by endorsement attached to or incorporated in the schedule.

### **13.4 Other terms and conditions applicable to this section**

- 13.4.1 Prior to any claim payment under the **permanent total disablement section** of the schedule of compensation the **insured person** will sign an undertaking that in the event the **insured person** subsequently recovers sufficiently to resume his regular occupation or a similar occupation, then the **insured person** will immediately refund any **permanent total disablement benefits** paid under this insurance.

## 14 Employers' liability section

### 14.1 Employers' liability coverage

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

- a) ordinarily resident within the **United Kingdom** at the time the **bodily injury** is caused; and
- b) intending to return to the **United Kingdom** following completion of the temporary overseas employment and the temporary overseas employment outside the **United Kingdom** is not intended or planned to exceed twelve (12) months duration.

Provided that any temporary overseas employment undertaken in **North America** applies only to clerical, promotional, sales conference attendance and other similar non-manual work.

### 14.2 Costs and expenses

Following any event which is or may be the subject of indemnity under the 'Employers' liability coverage' 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**.

### 14.3 Extensions applicable to this section

#### 14.3.1 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

#### 14.3.2 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.

#### 14.3.3 Cross liabilities

If more than one entity is referred to as 'the insured' in the **policy** 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**.

#### 14.3.4 Data Protection

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

- a) any valid compensation in respect of **damage** or distress under section 13 of Part II of the Data Protection Act 1998 ('DPA'), or any equivalent provision under any subsequent amending or replacement legislation; or in respect of material or non-material **damage** under Article 82 of the General Data Protection Regulation ('GDPR'), and any associated **defence costs**; and
- b) **defence costs** in relation to a prosecution brought under the DPA, any subsequent amending or replacement legislation or the GDPR and incurred with **our** prior written consent,

in relation to claims brought by any **employee** first occurring, or prosecutions commenced, during the **period of insurance**.

This extension shall not apply in respect of:

- c) the cost of replacing, reinstating, rectifying or erasing any personal data;
- d) any cost relating to the investigation of a data breach, or any obligation to report a data breach to the Information Commissioner's Office or any other supervisory authority or other

regulator or to data subjects;

- e) liability caused by or arising from a deliberate act by or omission of any party entitled to indemnity under this **policy**, the effect of which would knowingly result in liability under the DPA, or any subsequent amending or replacement legislation, or the GDPR;
- f) claims which arise out of circumstances that are notified to any previous insurer or known **you** at inception of this **policy**;
- g) liability for which indemnity is provided under any other insurance; or
- h) claims or prosecutions brought against **you** outside the Courts of the **United Kingdom**.

#### 14.3.5 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**.

#### 14.3.6 Injury to working partners

If **you** are a working partner the cover will apply as though **you** were an employed person as long as:

- a) **bodily injury** is sustained while **you** are working in connection with the **business**;
- b) **bodily injury** is caused by another partner or employed person while working in connection with the **business**;
- c) **you** have a valid right of action for negligence against the other partner or employed person.

#### 14.3.7 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 **you** 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**.

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

**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:

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

provided that the prosecution or proceedings relate to:

- i) an offence alleged to have been committed during the **period of insurance** and in the course of **business**; and
- ii) **bodily injury** to or potential **bodily injury** to **employees** including their health, safety and welfare.

**We** will also indemnify **you** for:

- a) defence costs of appeal including appeal against improvement and prohibition notices incurred with **our** prior consent

b) prosecution costs awarded against you.

The indemnity by this clause excludes and does not cover any amount (including **defence costs**):

- iii) for which **you** or any **other insured party** is entitled to indemnity by any other legal expenses, motor or employment protection **policy**;
- iv) 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;
- v) 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;
- vi) 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.

#### 14.3.9 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
- iii) **section**; and
- iv) **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.

#### 14.3.10 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**.

#### 14.3.11 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.

#### 14.4 Limitations and exclusions applicable to this section

In addition to the limitations and exclusions in the 'General exclusions' section, **we** will not indemnify you for the following.

#### **14.4.1 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 or failure to promote a suitably qualified applicant;
- 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.

#### **14.4.2 Fees for intervention**

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

#### **14.4.3 Fines and penalties**

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

#### **14.4.4 Limit of indemnity**

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

#### **14.4.5 North American jurisdiction**

any 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**.

#### **14.4.6 Offshore**

liability which arises directly or indirectly out of or caused by visits, work or activities undertaken **offshore**.

#### **14.4.7 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.

#### **14.4.8 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 this 'Employers' liability' **section**.

#### **14.4.9 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.

### **14.5 Other terms and conditions applicable to this section**

#### **14.5.1 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.

## 15 Public liability section

### 15.1 Public and Pollution liability cover

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**, within the **territorial limits** and

15.1.1 arises out of and in connection with the **business**; or

15.1.2 arising out of or from **pollution**, provided that such **pollution**:

a) arises solely in the course of the **business**; and

b) is the direct result of a sudden, specific and identifiable event occurring during the **period of insurance**;

provided that any temporary overseas work undertaken outside the **United Kingdom** or other member states of the European Union applies only to clerical, promotional, sales conference attendance and other similar non-manual activities.

### 15.2 Limit of indemnity

**Our** liability for all damages payable to any claimant or number of claimants as a result of any one **occurrence** or all occurrences of a series consequent upon or attributable to one source or original cause shall not exceed the **limit of indemnity** stated in the schedule but this **limit of indemnity** shall be the maximum amount payable in any one **period of insurance** in respect of liability arising from or caused by **pollution**;

### 15.3 Costs and expenses

#### 15.3.1 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**.

#### 15.3.2 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, **our** 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.

### 15.4 Extensions applicable to this section

#### 15.4.1 Data Protection

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

a) any valid compensation in respect of damage or distress under **section 13** of Part II of the Data Protection Act 1998 ('DPA'), or any equivalent provision under any subsequent amending or replacement legislation; or in respect of material or non-material damage under Article 82 of the General Data Protection Regulation ('GDPR'), and any associated **defence costs**; and

b) **defence costs** in relation to a prosecution brought under the DPA, any subsequent amending or replacement legislation or the GDPR and incurred with **our** prior written consent,

in relation to claims brought by any person not being a director, partner or **employee** first occurring, or prosecutions commenced, during the **period of insurance**.

This extension shall not apply in respect of:

c) the cost of replacing, reinstating, rectifying or erasing any personal **data**;

d) any cost relating to the investigation of a **data** breach, or any obligation to report a **data** breach to the Information Commissioner's Office or any other supervisory authority or other



regulator or to **data** subjects;

- e) liability caused by or arising from a deliberate act by or omission of any party entitled to indemnity under this **policy**, the effect of which would knowingly result in liability under the DPA, or any subsequent amending or replacement legislation, or the GDPR;
- f) claims which arise out of circumstances that are notified to any previous insurer or known to **you** at inception of this **policy**;
- g) liability for which indemnity is provided under any other insurance; or
- h) claims or prosecutions brought against **you** outside the Courts of the **United Kingdom**.

**Our** maximum liability during the **period of insurance** in respect of all claims under this extension shall not exceed the **sub-limit** of £500,000 which amount shall be inclusive of all **defence costs** and the maximum payable any one **claim** and in the aggregate, and shall be part of and not in addition to the **limit of indemnity** specified in the **schedule**.

#### 15.4.2 Defective premises Act

**We** will indemnify **you** in respect of **bodily injury** or **damage to property** which **you** may incur as owner by virtue of the Defective Premises Act 1972 in connection with any premises which have been disposed of by **you** and which prior to disposal were occupied by **you** in connection with the **business**, provided that **we** shall not be liable for:

- a) any liability for which **you** are entitled to indemnity under any other policy of insurance;
- b) **bodily injury** or **damage** happening prior to such disposal;
- c) the cost of repairing, replacing or reinstating any defect giving rise to such claim or for the rectification of faulty workmanship.

#### 15.4.3 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 **we** will pay inclusive of all **defence costs** for any one **occurrence** or in the aggregate during any one **period of insurance** shall not exceed £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.

#### 15.4.4 Overseas personal liability

**We** shall indemnify **you** and if **you** so request any director or partner of **yours** or any **employee** or spouse of such person against legal liability incurred in a personal capacity whilst temporarily outside the **United Kingdom** in the course of a **business** trip.

The indemnity provided by this clause will not apply to legal liability:

- a) arising out of the ownership or occupation of land or **buildings**;
- b) in respect of which any person referred to above is entitled to indemnity under any other insurance.

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

#### **15.4.5 Run off cover for legionella claims made basis**

- a) In the event and to the extent that any **policy** of insurance in force immediately prior to this insurance expressly provided cover for legionella on the basis of an indemnity for claims made during the **period of insurance** (claims made basis); and
- b) In the event that a claim first made against **you** during the **period of insurance** in respect of legionella (meaning any discharge, release or escape of legionella or other airborne pathogens from water tanks, water systems, air-conditioning plants, cooling towers and the like) then the insurance by this **section** is extended to indemnify **you** in respect of liability for **bodily injury** arising from legionella provided that:
- c) the discharge, release or escape of legionella occurred prior to the inception of this **policy** but after the retroactive date stated in any prior **policy** or if no such date is stated then after 1st January 2010;
- d) **you** will give notice in writing to **us** of any claim or any notice of an intention to make a claim as soon as reasonably practicable but in any event not later than twenty eight (28) days from receipt of the claim or notice.

#### **15.5 Limitations and exclusions applicable to this section**

In addition to the exclusions set out in 'Public and Products liability exclusions' and the 'General exclusions', this section excludes and does not cover:

##### **15.5.1 Materials prior to installation**

**damage** to materials, parts or equipment furnished in connection with performance of the **work away** but this limitation shall not be applied to **products** previously supplied under any previous contract;

##### **15.5.2 Owned or previously owned premises**

liability for **damage**, denial of access or nuisance caused by **pollution** to land or **premises** (including land or water within or below the boundaries of such land or **premises**) that **you**:

- a) presently; or
- b) at any time previously;

owned, lease, hired or tenanted or is or was otherwise in **your** care, custody or control.

##### **15.5.3 Products**

liability arising from **personal injury**, **damage**, denial of access or nuisance arising out of or from or in connection with a **product**.

##### **15.5.4 Pollution in North America**

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

##### **15.5.5 Rectification of defectivework**

- a) damage to; or
- b) any expenditure incurred by you for the removal, repair, adjustment, alteration, reinstatement, withdrawal, inspection or disposal of

any property (including any part of the property) furnished in connection with performance of the **business** as a result of any defect (suspected or known) therein or any unsuitability for its intended purpose.

## 16 Products liability section

### 16.1 Products liability cover

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**, within the **territorial limits** and arising out of or arising from or in connection with a **product**.

### 16.2 Limit of indemnity

Our liability for all damages payable to any claimant or number of claimants as a result of any one occurrence or all occurrences of a series consequent upon or attributable to one source or original cause shall not exceed the **limit of indemnity** stated in the schedule and this **limit of indemnity** shall be the maximum amount payable in any one **period of insurance**;

### 16.3 Products liability defence costs

#### 16.3.1 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**.

#### 16.3.1 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, our 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.

### 16.4 Limitations and exclusions applicable to this section

In addition to the exclusions set out in the 'Public and Products liability exclusions' and the 'General exclusions' **sections** this **section** excludes and does not cover:

#### 16.4.1 Aircraft

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

#### 16.4.2 Costs of recall or guarantee

- a) expenditure, whether incurred by **you** or others, for the withdrawal, recall, disposal, removal, repair, adjustment, alteration, reconditioning, replacement or reinstatement of any **product** or part thereof (or any other product or part thereof of which forms **your product**, or is intended to form or is a part or ingredient of **your product**) and/or financial loss consequent upon the necessity for such withdrawal, recall, disposal, removal, repair, adjustment, alteration, reconditioning, replacement or reinstatement.
- b) legal liability which attaches by virtue of an express warranty indemnity or guarantee given or entered into by **you** in connection with any **products** supplied and which would not have attached in the absence of such warranty or guarantee;

#### 16.4.3 Pollution

liability arising out of or from or brought about by or contributed to by **pollution**.

#### 16.4.4 North America sales

**bodily injury, damage** or **pollution** caused by or in connection with **Products** which to **your** knowledge are directly or indirectly exported to **North America**;

## 17 Coverage extensions to Public Liability and Products liability sections

### 17.1 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 either of these **sections** **we** shall provide compensation to **you** at the following rates per day for each day on which attendance is required:

- |        |  |      |
|--------|--|------|
| 17.1.1 | any of <b>your</b> directors or partners | £500 |
| 17.1.2 | any employee                             | £250 |

### 17.2 Contingent motor liability

Notwithstanding the exclusion 'Ownership or use of mechanically propelled vehicles', **we** shall indemnify **you** against legal liability in respect of **bodily injury** or **damage** arising out of the use in connection with the **business** of any motor vehicle not owned or provided by **you**.

The indemnity will not apply to legal liability:

- a) in respect of **damage** to such vehicle or to goods conveyed therein or thereon;
- b) in respect of **injury** or **damage** arising while such vehicle is being:
  - i) driven by **you**;
  - ii) driven with **your** general consent or that of **your** representative by any person who to **your** knowledge or that of **your** representative does not hold a licence to drive a vehicle unless such person has held and is not disqualified from holding such a licence;
  - iii) used elsewhere than in the **United Kingdom**;
- c) in respect of which **you** are entitled to indemnity under any other insurance.

### 17.3 Contractual liability

Where any contract or agreement entered into by **you** so requires **we** will:

- 17.3.1 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 **insured** under these **sections**; and
- 17.3.2 waive rights of **subrogation** against any party specified in the contract or agreement; provided that: **you** shall arrange for such other parties as may be indemnified by any such contract or agreement, to observe and fulfil the terms and conditions of this insurance so far as they can apply;
  - a) **we** shall retain the sole conduct and control of all claims.

### 17.4 Cross liabilities

If the '**insured**' referred to in the schedule comprises more than one entity; these **sections** 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**.

### 17.5 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 the **insured** observe, fulfil and be subject to the terms and conditions of this **policy** in so far as they can apply;

- d) **our** liability under this clause shall in no way operate to increase the **limit of indemnity** or any applicable **sub-limit of indemnity**.

## **17.6 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.

## **17.7 Motor liability**

17.7.1 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** have taken all reasonable precautions to ensure that **your employees** are made aware of and comply with restrictions applicable to the use of the vehicle;

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

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

## **17.8 Statutory defence costs including Health and Safety at Work, etc. Act 1974**

17.8.1 **We** will indemnify **you** and at **your** request any **other insured party** in respect of **costs and expenses** reasonably incurred with our prior consent in defending:

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

provided that the prosecution or proceedings relate to:

- i) an offence alleged to have been committed during the **period of insurance** and in the course of **business**; and



- ii) **bodily injury** or potential **bodily injury** to persons other than **employees** including their health, safety and welfare.

17.8.2 **We** will also pay:

- a) the costs and expenses of appeal including appeal against improvement and prohibition notices incurred with **our** written consent;
- b) prosecution costs awarded against **you**;

17.8.3 The indemnity by this clause excludes and does not cover any amount (including **defence costs**):

- a) for which **you** or any additional **insured person** are entitled to indemnity by any other legal expenses, motor or employment protection **policy**;
- b) in respect of allegations provided by this clause (statutory defence costs) but not those relating to prosecution costs (clause iv below) or manslaughter, corporate manslaughter or corporate homicide (clause iii below), in excess of a **sub-limit of indemnity** of
- c) £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings.
- d) in respect of allegations of manslaughter, corporate manslaughter or corporate homicide (manslaughter defence costs), in excess of a **sub-limit of indemnity** of £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings.
- e) in respect of prosecution costs (prosecution costs) in excess of a sub-limit of indemnity of £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings.

17.8.4 For the avoidance of doubt the under noted statutes, whilst not exhaustive, are included within the statutes or regulations contemplated for which defence costs are insured by this clause:

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

## 17.9 **Tenants liability**

If **you** rent, lease, let or hire **your premises**, the exclusion of Property in **your** care custody or control shall not apply in respect of **your premises**, provided that the indemnity will not apply to legal liability in respect of:

- a) **damage** arising under agreement unless liability would have attached to **you** in the absence of such agreement;
- b) the first £100 of any claim caused otherwise than by fire or explosion;
- c) **damage** caused by fire or any other peril against which a tenancy or other agreement stipulates that insurance shall be effected by **you** or on **your** behalf.

In addition **we** will indemnify **you** for legal liability in respect of all sums which **you** may be legally liable to pay as tenant for the cost of repairing **accidental damage** to cables and underground pipes and drains (and their inspection covers) on the **premises** or connecting them to the public mains.

## 17.10 **War and Terrorism**

Notwithstanding the exclusion 'War and Terrorism', **we** agree to indemnify **you** and any **other insured party** in respect of liability arising out of or from an act of **war** or **terrorism** provided that:

- a) **our** maximum liability will not exceed £2,000,000 in the aggregate during any one **period of insurance**; and
- b) notwithstanding the indemnity granted at the above paragraph this **policy** excludes and does not cover liability of whatsoever nature directly or indirectly caused or occasioned by or happening through or in consequence of **war** or **terrorism** or any action taken in controlling preventing suppressing or in any way relating to **terrorism**;
  - i) arising by through or in connection with:



- I) the provision of police, fire or security services of any kind
  - II) any public or private utility including telecommunications, electricity, gas, water, radio and television;
  - III) public transport services whether rail, road, sea or air.
- c) arising out of the ownership operation or occupation of or work in at or on:
- I) airports, airfields, ports, rail or underground stations freight or passenger terminals;
  - II) government, military or local authority establishments;
  - III) buildings of more than twenty (20) floors in height including basements and underground car parks;
  - IV) facilities for the manufacture processing, refining, distribution or storage of liquid or gaseous fuel, oil, petrochemical, chemicals, explosives or ammunition;
  - V) tunnels, bridges, viaducts, aqueducts, dams, river or sea defences;
  - VI) schools, colleges, universities, or other places of education or religious worship;
  - VII) sports stadia, theatres or entertainment arenas, amusement parks, exhibition or conference halls.

## 18 Public and Products liability related exclusions

In addition to the 'General Exclusions', the 'Public liability' and 'Products liability' **sections** of this **policy** exclude:

### 18.1 Advertising injury

Liability arising out of **advertising injury**.

### 18.2 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 any **other insured party** for a fee but this shall not exclude such liability arising in conjunction with **products** supplied.

### 18.3 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.

### 18.4 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 fibres, asbestos dust or asbestos-containing materials.

### 18.5 Employment practices dispute

liability which arises out of employment practice disputes directly or indirectly related to **your** employment or prospective employment of any person or persons, 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 or failure to promote a suitably qualified applicant;
- d) coercion, demotion, evaluation, relocation, punishment, slander, humiliation, harassment, bullying or discrimination.

### 18.6 Excess or deductible

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

### 18.7 Fees for intervention

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

### 18.8 Financial loss

liability for pure economic loss not consequent upon **bodily injury** or **damage**, but this exclusion shall not apply to:

- a) personal injury; or
- b) denial of access, nuisance; or
- c) cover as provided by Data Protection clause.

### 18.9 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.

### 18.10 Hazardous work

liability for any loss arising in connection with any work:

- a) of demolition except where such work forms an ancillary part of a contract for construction, alteration or repair
  - i) carried out by **employees** of structures not exceeding five (5) metres in height, or
  - ii) undertaken by bona fide subcontractors on **your** behalf

- b) of construction, alteration or repair of bridges, dams, docks, harbours, towers, steeples, spires, chimney shafts, blast furnaces, viaducts, mines or collieries;
- c) undertaken in or on aircraft or watercraft, airport or aerodrome runways manoeuvring areas or aprons or those parts of airports or aerodromes to which aircraft have access, nuclear plant installations, chemical or petrochemical works, oil refineries, gas works, fuel storage facilities or power stations;
- d) involving railway track, signal, rolling stock or where trains continue to operate where work is ongoing (red zone working);
- e) of pile driving, tunnelling or quarrying;
- f) involving the use of explosives for any purpose.

#### **18.11 Liability from employment**

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

#### **18.12 Limit of indemnity**

liability in excess of the **limit of indemnity** stated in the schedule except for payment of defence costs.

#### **18.13 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 any **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.

#### **18.14 North American jurisdiction**

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

18.14.2 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:

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

#### **18.15 North American territory**

18.15.1 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.

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

#### **18.16 Offshore**

Any work on **offshore** installations;

#### **18.17 Outside the United Kingdom**

any action for damages brought in a Court of Law of any **territory** outside the **United Kingdom** in which **you** have a branch or subsidiary or are represented by a party domiciled

in such **territory** or by a party holding **your** Power of Attorney;

**18.18 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 **you** or on **your** behalf or by any **other insured party** except, that this exclusion shall not apply:

- a) to mechanically-propelled garden implements used within the grounds of the **premises**; or
- b) in respect of and to the extent of the indemnity provided by any expressly stated coverage extensions herein

**18.19 Property in your care, custody and control**

**damage** to property:

- a) owned, leased, hired or held in trust by **you**; or
- b) under hire, purchase or on loan to **you**; or
- c) held otherwise in **your** care, custody or control or the subject of a bailment to **you**;

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.

**18.20 Statutory defence costs**

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

**18.21 The product itself**

liability for **damage** to **your product** or any part thereof arising from a defect or unsuitability thereof and economic loss or other loss of any kind arising therefrom.

## 19 Conditions precedent to Public and Products liability

Compliance with the following requirements is a condition precedent to **our** liability in respect of a claim under the 'Public liability' and 'Products liability' **sections**.

Subject to the above, if **we** are not satisfied that such a condition precedent was complied with in each and every respect, **we** will not be liable for any claim under these **sections** which might potentially have been avoided or reduced by compliance, unless **you** establish that non-compliance could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

### 19.1 Bona fide subcontractors insurance check

Whenever work is undertaken on **your** behalf by bona fide subcontractors, it is a condition precedent to **our** liability under this insurance that **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 **limit of indemnity** of not less than £2,000,000;
- c) includes an 'indemnity to principals' clause,

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

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

As regards liability or alleged liability arising from any claim arising from a decision of an adjudicator relating to claims made against **you** referred to adjudication in accordance with an adjudication clause contained in a contract ('the Contract') to comply with the Local Democracy, Economic Development and Construction Act 2009, it is a condition precedent to **our** liability under this insurance that **you** shall:

- a) notify **us** within two (2) business days of receipt of any 'notice of intention to adjudicate' or of the service by **you** of any 'notice of intention to adjudicate' in circumstances which will lead to or are likely to lead to a claim against **you** being dealt with as a part of the adjudication;
- b) promptly supply **us** with all details relating to any reference to adjudication, including copies of all documentation made available to **you** or subsequently by **you** to the adjudicator;
- c) allow **us** to appoint advisers and to have conduct of the adjudication as they deem appropriate and to co-operate with **us** in the conduct of the adjudication; any appointments made by **us** shall be at **our** expense but subject always to the application of the **excess**;
- d) meet any request, direction or timetable of the adjudicator;
- e) satisfy **us** that any liability incurred under an adjudicator's decision for which indemnity is being sought is as a direct result of negligence by **you** in the conduct of **your** professional activities;
- f) not disclose to anyone the existence of this **policy** without **our** consent;
- g) institute legal proceedings or arbitration in accordance with the terms of the original contract to challenge or reopen or stay the enforcement of such adjudicator's decision if reasonably requested to do so by **us** and to allow **us** to appoint appropriate advisers as we may deem necessary to have conduct of such proceedings and, if appropriate, any such steps taken by **you** shall be at **our** expense but subject always to the application of the **excess**;
- h) not agree to accept the decision of the adjudicator as finally determining the dispute without **our** prior written consent;
- i) ensure that the adjudication provisions in the Contract shall:
  - i) provide that the adjudicator must be independent of the parties to the dispute;
  - ii) not allow for the adjudicator's decision to finally determine the dispute;
  - iii) not allow the adjudicator to disregard the legal entitlements of the parties in order to reach a decision based on commercial considerations;

- iv) ensure that the Contract does not place any conditions upon the timing of commencement of legal or arbitration proceedings (for the sake of clarity, this does not apply to adjudication proceedings).

### 19.3 Heat away from premises

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

- a) oxyacetylene;
- b) electric arc or similar welding, cutting, grinding or other spark emitting equipment;
- c) blow lamps;
- d) otherwise applying heat;

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

Where the use of heat away from **your** premises is subcontracted and involves:

- e) oxyacetylene;
- f) electric arc or similar welding, cutting, grinding or other spark emitting equipment;
- g) blow lamps;
- h) otherwise applying heat;

then **you** shall require the subcontractor to also take all reasonable precautions to prevent damage.

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

- a) Before Starting Work:
  - i) a person shall be made responsible for fire safety and for ensuring that reasonable precautions are taken;
  - ii) all persons shall be made aware of the location of the site's fire alarms and fire fighting equipment;
  - iii) the responsible person shall examine all property within a radius of six (6) metres from where the heat is being applied and where possible, remove all combustible materials or otherwise cover and protect by overlapping sheets or screens of non-combustible material.
- b) During the Process of Work
  - i) a person shall work alongside the operator of the equipment to look out for an outbreak of fire and there shall be available for immediate use a hose connected to the nearest hydrant with water turned on and controllable at the nozzle of the hose. If water is not available or unsuitable or provision of such a hose is not practical, then two (2) fully charged fire extinguishers must be available and if used during the process, the heat work must cease until two (2) fully charged fire extinguishers are made available,
  - ii) the lighting of equipment shall be in accordance with manufacturer's instructions and no piece of lighted equipment shall be left unattended,
  - iii) gas cylinders not required for immediate use shall be kept at least six (6) metres from where the heat is being applied.
- c) After Ceasing Work
  - i) a continuous examination for one (1) hour shall be made of the area within a radius of six (6) metres from where the heat has been applied to ensure that there is no risk of fire.

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

- a) fires to be in a cleared area and at a distance of at least ten (10) metres from any property;
- b) fire not to be left unattended at any time;
- c) a suitable fire extinguisher to be kept available for immediate use;
- d) fires to be extinguished at least one (1) hour prior to leaving site at the end of each working day.



## 20 Legal expenses section

### 20.1 Legal expenses cover

#### 20.1.1 Insuring Clause

**This section**, subject to the terms and conditions, exclusions and limitations set out in this section, **will cover you (or where specified the person insured) in respect of any insured incident arising in connection with the business**, subject to the terms and conditions, exclusions and limitations set out in this section, **provided that:**

- a) **reasonable prospects** exist for the duration of the claim;
- b) the **date of occurrence** of the insured incident is:
  - i) during the **period of insurance**, or
  - ii) during the currency of a previous equivalent legal expenses insurance policy, provided that:
    - I) the previous legal expenses insurance policy required **you** to report claims during its currency
    - II) **you** could not have notified a claim previously as **you** could not have reasonably been aware of the insured incident
    - III) cover has been continuously maintained in force
    - IV) any claim that should have been covered under a previously operative legal expenses insurance policy will not be covered by **us**, and
    - V) the available limit of indemnity shall be limited to the lesser of the sums payable under this or **your** previous policy
- c) any legal proceedings will be dealt with in the **territorial limits** by:
  - i) a court, or
  - ii) employment tribunal or employment appeal tribunal; or
  - iii) arbitration where parties to a dispute appoint an arbitrator to determine the evident and issue a decision which is recognised by and enforceable through a court; or
  - iiii) the Equality and Humans Rights Commission, Equality Commission for Northern Ireland; or
  - iv) any other body which replaces any of the above or which we agree to, and
- d) the insured incident happens within the **territorial limits**.

#### 20.1.2 What we will pay

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

- a) the most **we** will pay in respect of all claims resulting from one or more event arising at the same time or from the same originating cause, for **costs and expenses** and compensation awards claims, is shown as the limit of indemnity in the schedule
- b) the most **we** will pay for the total of all compensation awards under insured incident Employment disputes and compensation awards 20.2.2 Compensation awards in any one **period of insurance** shall not exceed £1,000,000
- c) the most **we** will pay in **costs and expenses** is no more than the amount **we** would have paid to a **preferred law firm** or tax consultancy. The amount **we** will pay a law firm (where acting on **your** behalf) is currently £100 per hour. This amount may vary from time to time
- d) in respect of an appeal or the defence of an appeal, **you** must tell **us** as soon as possible and within the statutory time limits allowed that **you** want to appeal. Before **we** pay the **costs and expenses** for appeals, **we** must agree that **reasonable prospects** exist
- e) for an enforcement of judgment to recover money and interest due to **you** after a successful claim under this policy, **we** must agree that **reasonable prospects** exist

- f) 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 **we** will pay in **legal expenses costs** is the value of the likely award, and;
- g) in respect of insured incident Legal defence 20.3.6 Jury service and court attendance, the maximum **we** will pay is the **person insured's** net salary or wages for the time that the **person insured** is attending court or tribunal, less any amount **you**, the court or tribunal pays.

### 20.1.3 What we will not pay

- a) In the event of a claim, if **you** decide not to use the services of a **preferred law firm** or tax consultancy, **you** will be responsible for any costs that fall outside the **DAS Standard Terms of Appointment** and these will not be paid by **us**.
- b) if **you** are registered for VAT **we** will not pay the VAT element of any **costs and expenses**.
- c) 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 21 days of your claim having been assessed as having reasonable prospects. If you are using your own law firm, this will be within 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.

## 20.2 Employment disputes and compensation awards

### 20.2.1 Employment disputes

**Costs and expenses to defend your legal rights:**

- a) before 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; or
- 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**, ex-**employee** or prospective **employee** under employment legislation.

### 20.2.2 Compensation awards

In respect of a claim **we** have accepted under insured incident Employment disputes and compensation awards 20.2.1 Employment disputes, **we** will pay:

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

provided that:

- a) in cases relating to performance and/or conduct, **you** have throughout the employment dispute either:
  - i) followed the ACAS Code of Practice on Disciplinary and Grievance Procedures; or
  - ii) followed equivalent codes of practice issued by the Labour Relations Agency in Northern Ireland; or
  - iii) sought and followed advice from **our** legal advice service (telephone 0344 893 0859)
- 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 **our** legal advice service since the date when **you** should have known about the employment dispute (telephone 0344 893 0859)

- c) for any compensation award for redundancy or alleged redundancy or unfair selection for redundancy, **you** have sought and followed advice from **our** legal advice service before starting any redundancy process or procedure with **employees** (telephone 0344 893 0859)
- d) any sum of money in settlement of a dispute is awarded by a court, tribunal or through the ACAS Arbitration Scheme, under a judgment made after full argument and otherwise than by default, or is payable under settlement approved in writing in advance by **us**.

Please note that the total amount payable by **us** for all compensation awards and any sums of money in settlement of a dispute, in aggregate and in any one **period of insurance** is £1,000,000.

### 20.2.3 Employee civil legal defence

**Costs and expenses to defend the person insured's (other than your) legal rights if:**

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

Please note that **we** will only provide cover for a **person insured** (other than **you**) at **your** request.

### 20.2.4 Service occupancy

**Costs and expenses** to recover possession of premises owned by **you**, or for which **you** are responsible, from **your employee** or ex-employee.

## 20.3 Legal defence

**Costs and expenses** to defend the **person insured's** legal rights:

(provided that for each of the following **sections** of **Legal defence** cover 20.3.1-6 you request us to provide cover for the **person insured**).

### 20.3.1 Criminal pre-proceedings cover

Prior to the issue of legal proceedings, when dealing with the Police, or other body with criminal investigatory powers, where it is alleged that the **person insured** has or may have committed a criminal offence.

Provided that:

for claims relating to the Health and Safety at Work etc Act 1974 the **territorial limits** shall be any place where the Act applies.

Please note **we** will only cover criminal investigations which arise in direct connection with the activities of the **business**.

### 20.3.2 Criminal prosecution defence

Following an event which leads to the **person insured** being prosecuted in a court of criminal jurisdiction.

Provided that:

for claims relating to the Health and Safety at Work etc Act 1974 the **territorial limits** shall be any place where the Act applies.

Please note **we** will only cover criminal investigations which arise in direct connection with the activities of the **business**. Please see 20.1.

### 20.3.3 Data Protection

If civil action is taken against the **person insured** for compensation under data protection legislation, when handling personal data in their capacity as a data controller and/or data processor by:

- a) An individual. **We** will also pay any compensation award in respect of such claim
- b) Another data controller and/or data processor which arises out of, or relates to, a claim made by an individual for compensation against that data controller and/or data

processor. Please note **we** will not pay any compensation award in respect of such a claim.

Provided that:

In respect of 20.3.3(a) any sum of money in settlement of a dispute is awarded by a court under a judgement made after a full argument and otherwise than by consent or default, or is payable under settlement approved in advance by **us**.

Please note **we** will not cover the cost of fines imposed by the Information Commissioner or any other regulatory and/or criminal body. Please see General legal expenses limitations and exclusions 20.10.3.

#### **20.3.4 Wrongful arrest**

If civil action is taken against the **person insured** for wrongful arrest in respect of an accusation of theft alleged to have been carried out during the **period of insurance**.

#### **20.3.5 Statutory Notice Appeals**

**In an appeal** against the imposition or terms of any statutory notice issued under legislation affecting **your business**

#### **20.3.6 Jury service and court attendance**

**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 in relation to a claim that is an insured incident under this section of the policy**.

The maximum **we** 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.

**We** will reimburse **you** for net salary or wages that **you** have paid the **person insured** for that time, less any amount they have been paid by, or can recover from, the court or tribunal.

### **20.4 Statutory licence appeal**

**Costs and Expenses** for:

An appeal 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.

### **20.5 Property protection**

**Costs and expenses** for:

A civil dispute relating to physical property which is owned by **you**, or is **your** responsibility following:

- a) any event which causes physical damage to such physical property; or
- b) a legal nuisance
- c) a trespass.

Please note that **you** must have, or there must be reasonable prospects of establishing **you** have, the legal ownership or right to the physical property that is the subject of the dispute.

#### **20.5.2 Personal injury**

At **your** request **costs and expenses** 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.

#### **20.5.3 Tax protection**

**Costs and expenses** for:

- a) A **tax enquiry**
- b) An **employer compliance dispute**
- 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 **we** will only cover tax claims which arise in direct connection with the activities of the **business** shown in the policy schedule. Please see clause 20.1.

## 20.6 Contract disputes

**Costs and expenses** for a contractual dispute arising in 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:

the amount in dispute exceeds £250 (incl VAT). If the amount in dispute exceeds £5,000, **you** will be responsible for the first £500 of legal costs in each and every claim.

*If **you** are using a **preferred law firm**, **you** will be asked to pay this within 21 days of **your** claim having been assessed as having **reasonable prospects**. If **you** are using **your** own law firm, this will be within 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*

- a) if the amount in dispute is payable in instalments, the instalments due and payable at the time of making the claim exceed £250 (incl VAT).
- b) 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.

## 20.7 Lease disputes

**Costs and expenses** in a civil dispute between **you** and **your** landlord relating to **premises** leased or rented by **you**.

**We** will not cover any claim relating to the following:

- a) the negotiation, review or renewal of the lease or tenancy agreement.
- b) a dispute arising from rent or service charges.

## 20.8 Specific Legal expenses limitations and exclusions

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

### 20.8.1 Employment disputes and compensation awards

#### a) Employment disputes

A claim relating to the following:

- i) any dispute where the originating cause of action arises within the first ninety (90) days of the start of 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 preceding the inception date of this section if the date of occurrence was within the first one hundred and eighty (180) days of the start of this section and the dispute relates directly to the same matter(s) which gave rise to that warning;
  - iii) any notice of redundancy or alleged redundancy or unfair selection for redundancy which occurs within the first one hundred and eighty (180) days of the start of this section
- unless, in respect of i) to iii) above, equivalent legal expenses insurance was continuously in force before
- iv) any claim in respect of **damages** for **personal injury**
  - v) Transfer of Undertakings Regulations (TUPE) or the Transfer of Employment (Pension Protection) Regulations
  - vi) employee internal disciplinary or grievance procedures
  - vii) pursuing **your** legal rights.

#### b) Compensation awards

A claim relating to the following:

- i) any compensation award relating to the following:

- I) trade union activities, trade union membership or non-membership;
- II) pregnancy or maternity rights, paternity, parental or adoption rights;
- III) health and safety related dismissals brought under section 44 of the Employment Rights Act 1996;
- IV) statutory rights in relation to trustees of occupational pension schemes.
- viii) non-payment of money due under a contract
- ix) any award ordered because **you** have failed to provide relevant records to **employees** under the National Minimum Wage legislation
- x) any compensation award or increase in a compensation award relating to failure to comply with a current or previous recommendation made by a tribunal.
- xi) a settlement agreed and payable following conciliation under the ACAS Early Conciliation procedure.

**c) Service occupancy**

A claim relating to the following:

- i) defending **your** legal rights other than defending a counter-claim that is an insured incident under this **section**

**20.8.2 Legal defence**

**a) Criminal pre-proceedings cover**

A claim relating to the following:

- i) any criminal investigation or enquiry by, with or on behalf of HM Revenue & Customs
- ii) investigations due to alleged infringement of road traffic laws or regulations in connection with the ownership, driving or use of a motor vehicle.

**b) Criminal prosecution defence**

A claim relating to prosecution due to alleged infringement of road traffic laws or regulations in connection with the ownership, driving or use of a motor vehicle.

**c) Data protection**

A claim relating to the following:

- i) the loss, alteration, corruption or distortion of, or damage to stored personal data, or
- ii) a reduction in the functionality, availability, or operation of stored personal data

resulting from hacking (unauthorised access), malicious or negligent transfer (electronic or otherwise) of a computer program that contains any malicious or damaging code, computer virus or similar mechanism.

**d) Statutory notice appeals**

A claim relating to the following:

- i) an appeal against the imposition or terms of any statutory notice issued in connection with **your** licence, mandatory registration or British Standard Certificate of Registration (please refer to insured incident Statutory licence appeal)
- ii) a statutory notice issued by a **person insured's** regulatory or governing body.

**e) Jury service and court attendance**

Any claim if **you** or the **person insured** are unable to prove the loss.

**20.8.3 Statutory licence appeal**

A claim relating to the following:

- a) the original application or renewal application of a statutory licence, mandatory registration or British Standard Certificate of Registration
- b) the ownership, driving or use of a motor vehicle.



#### 20.8.4 Property protection

Any claim relating to the following:

- a) a contract **you** have entered into (please refer to insured incident 20.7 Contract disputes)
- b) physical property which is in transit or which is lent or hired out
- c) physical property at premises other than those occupied by **you** unless the physical property is at the premises for the purpose of installations or use in work to be carried out by **you**
- d) defending **your** legal rights other than the defence of a counter-claim that is an insured incident under this **section**
- e) a motor vehicle owned or used by, or hired or leased to a **person insured** (other than damage to motor vehicles where **you** are in the business of selling motor vehicles)

#### 20.8.5 Personal injury

Any claim relating to the following:

- a) any illness or bodily injury which develops gradually;
- b) psychological injury or mental illness unless the condition follows a specific or sudden accident that has caused physical bodily injury
- c) defending a **person insured's** or their family members' legal rights other than in defending a counter-claim; or
- d) clinical negligence or the failure or alleged failure to correctly diagnose a **person insured's** or their family members' condition.

#### 20.8.6 Tax protection

A claim relating to the following:

- a) a tax avoidance scheme
- b) any failure to register for Value Added Tax or Pay As You Earn
- c) any investigation, enquiry, or prosecution relating to suspected or alleged dishonesty or suspected or alleged criminal offences
- d) import or excise duties and import VAT

#### 20.8.7 Contract disputes

A claim relating to the following:

- a) a dispute arising from an agreement entered into prior to the start of this **section** if the **date of occurrence** is within the first ninety (90) days of the start of this **section**, unless equivalent legal expenses insurance was in force immediately before
- b)
  - i) a dispute relating to an insurance policy, other than when **your** insurer refuses **your** claim
  - ii) a lease, licence, or tenancy of land or buildings, or the sale or purchase of land or buildings. However, **we** will cover a dispute with a professional adviser in connection with these matters.
  - iii) a loan, mortgage, pension, guarantee or any other financial product. However, **we** will cover a dispute with a professional adviser in connection with these matters
  - 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
- c) 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 20.2 Employment disputes and compensation awards.)
- d) 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.

- e) the recovery of money and interest due from another party, other than disputes where the other party indicates that a defence exists.

## **20.9 General legal expenses limitations and exclusions**

This section excludes and does not cover:

- 20.9.1 A claim where the person insured has failed to notify us of the insured incident within a reasonable time of it happening and where this failure adversely affects the reasonable prospects of a claim or we consider our position has been prejudiced.
- 20.9.2 Costs and expenses incurred before our expressed acceptance.
- 20.9.3 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 clause 20.2.2 Compensation awards and clause 20.3 Legal defence.
- 20.9.4 Any claim relating to patents, copyrights, trademarks, merchandise marks, registered designs, intellectual property, secrecy and confidentiality agreements.
- 20.9.5 Any claim relating to rights under a franchise or agency agreement entered into by you.
- 20.9.6 Any wilful act or omission of a person insured deliberately intended to cause a claim under this section.
- 20.9.7 Any claim under this policy for a dispute with DAS or QBE UK Limited. For disagreements with us about the handling of a claim refer to clause 20.11.8 Arbitration.
- 20.9.8 Any claim relating to a shareholding or partnership share in the business.
- 20.9.9 Costs and expenses arising from or relating to judicial review, coroner's inquest or fatal accident inquiry.
- 20.9.10 Any claim caused by, contributed to by or arising from:
  - a) ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from burning nuclear fuel;
  - b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear part of it;
  - c) war, invasion, act of foreign enemy, hostilities (whether war is declared or not), civil war, rebellion, revolution, military force or coup, or any other act of terrorism or alleged act of terrorism as defined by the Terrorism Act 2000;
  - d) pressure waves caused by aircraft or any other airborne devices travelling at sonic or supersonic speeds.
- 20.9.11 Any claim where a person insured is not represented by a law firm, barrister or tax expert.
- 20.9.12 Any claim where either at the start of, or during the course of a claim:
  - a) **you** are declared bankrupt
  - b) **you** have filed a bankruptcy petition
  - c) **you** have filed a winding-up petition
  - d) **you** have made an arrangement with **your** creditors
  - e) **you** have entered into a deed of arrangement
  - f) **you** are in liquidation
  - g) part or all of **your** affairs or property are in the care or control of a receiver or administrator.
- 20.9.13 Any defamation claim brought by or against you or a person insured.
- 20.9.14 Legal action a person insured takes which we or the appointed representative have not agreed to, or where the person insured does anything that hinders us or the appointed representative.

## **20.10 Legal expenses other terms and conditions**

### **20.10.1**

- a) On receiving a claim, if representation is necessary, **we** will appoint a **preferred law firm or tax consultancy** as **the person insured's appointed representative** to deal with their claim. They will try to settle **the person insured's** claim by negotiation without having to go to court.
- b) If the appointed **preferred law firm or tax consultancy** cannot negotiate settlement of **the person insured's** claim and it is necessary to go to court and legal proceedings are issued or there is a conflict of interest, then **the person insured** may, if they prefer, choose a law firm or tax expert of their own choice to act as the **appointed representative**. **We** will choose the **appointed representative** to represent **the person insured** in any proceedings where **we** are liable to pay a compensation award.
- c) If **the person insured** chooses a law firm as **their appointed representative** who is not a **preferred law firm or tax consultancy**, **we** 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 **we** will pay is the amount **we** would have paid if they had agreed to the **DAS standard terms of appointment**. The amount **we** will pay a law firm (where acting on **the person insured's** behalf) is currently £100 per hour. This amount may vary from time to time.
- d) The **appointed representative** must co-operate with **us** at all times and must keep **us** up to date with the progress of the claim.

20.10.2 A **person insured** must:

- a) co-operate fully with **us** and the **appointed representative**; and
- b) give the **appointed representative** any instructions that **we** ask them to.

20.10.3

- a) A **person insured** must tell **us** if anyone offers to settle a claim and must not negotiate or agree to any settlement without **our** expressed consent.
- b) If a **person insured** does not accept a reasonable offer to settle a claim, **we** will not pay further **costs and expenses**.
- c) **We** 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 **us** to take over and pursue or settle a claim in their name. A **person insured** must allow **us** to pursue at **our** own expense and for **our** benefit, any claim for compensation against any other person and a **person insured** must give **us** all the information and help **we** need to do so.

20.10.4 A **person insured** must:

- a) instruct the **appointed representative** to have **costs and expenses** taxed, assessed or audited if **we** ask for this; and
- b) take every step to recover **costs and expenses** and court attendance and jury service expenses that **we** have to pay and must pay **us** any amounts that are recovered.

20.10.5 If the **appointed representative** refuses to continue acting for a **person insured** with good reason, or if a **person insured** dismisses the **appointed representative** without good reason, the cover **we** provide will end at once, unless **we** agree to appoint another **appointed representative**.

20.10.6

- a) If a **person insured** settles a claim or withdraws their claim without **our** agreement, or does not give suitable instructions to the **appointed representative**, **we** can withdraw cover and will be entitled to reclaim any **costs and expenses** **we** have paid.
- b) If during the course of a claim **reasonable prospects** no longer exist the cover **we** provide will end at once. **We** will pay any **costs and expenses** and compensation awards **we** have agreed to, up to the date cover was withdrawn.

20.10.7 If there is a disagreement between a **person insured** and **us** on the merits of the claim or proceedings, or on a legal principle, **we** may suggest the **person insured** obtains at their own expense an opinion on the matter from an independent and appropriate expert. The expert must

be approved in advance by **us** and the cost expressly agreed in writing between the **person insured** and **us**. Subject to this **we** will pay the cost of getting the opinion if the expert's opinion indicates that it is more likely than not that the **person insured** will recover damages (or obtain any other legal remedy that **we** have agreed to) or make a successful defence. This does not affect the **person insured's** rights under 20.11.8.

20.10.8 If there is a disagreement about the handling of a claim and it is not resolved through **our** internal complaints procedure the Financial Ombudsman Service may be able to help. This is a free complaint resolution service for eligible complaints. (Details available from **www.financial-ombudsman.org.uk**)

Alternatively, there is a separate arbitration process available that can be used to settle any dispute with **us**. The arbitrator will be a jointly agreed barrister, solicitor or other suitably qualified person. 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 the parties or one party may pay all the costs

20.10.9 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 **we** ask for in writing, and
- e) report to **us** full and factual details of any claim as soon as possible and give **us** any information **we** need.

20.10.10 **We** will, at **our** discretion, void this **section** (make it invalid) from the date of claim, or alleged claim, and/or **we** will not pay the claim if:

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

20.10.11 Apart from **us**, **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.

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

20.10.13 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.

## 20.11 Data Protection

When you purchase and use a **DAS** product **we** will process personal information about you and anyone else whose details are provided to **us** to provide you with a service or a claim.

**We** process your personal information in accordance with **our** Privacy Notice. You can find **our** Privacy Notice online at [www.dasinsurance.co.uk/legal/privacy-statement](http://www.dasinsurance.co.uk/legal/privacy-statement). Alternatively you can make a request for a printed copy to be sent to you by contacting [dataprotection@das.co.uk](mailto:dataprotection@das.co.uk)

## 21 General exclusions

This **policy** excludes the following, except to the extent that it is stated expressly that an exclusion will not apply.

### 21.1 Alteration of risk

Unless such alteration is accepted by us in writing, any alteration in risk, after the commencement of this insurance:

- 21.1.1 by removal;
- 21.1.2 by change of occupation or use of the **property insured**;
- 21.1.3 whereby the risk of **damage** or **accident** or liability is increased;
- 21.1.4 the **business** is wound up or carried on by a liquidator or receiver or permanently discontinued;
- 21.1.5 whereby **your** interest ceases except by will or operation of law;

### 21.2 Cyber Risks

- 21.2.1 The **policy** excludes;
    - a) **cyber loss**; and
    - b) loss, **damage**, liability, claim, cost, expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with any loss of use, reduction in functionality, repair, replacement, restoration or reproduction of any **data**, including any amount pertaining to the value of such **data**; regardless of any other cause or event contributing concurrently or in any other sequence thereto, and subject to the provisions below.
  - 21.2.2 Paragraph a) above will not apply to:
    - i) any physical loss or physical damage to property insured and resulting business interruption under this policy caused by any fire or explosion directly and solely occasioned by a cyber event although paragraph a) will continue to apply where the cyber event is itself caused by a cyber act;
    - ii) any claim, loss or damage which would otherwise be indemnified by the 'Computer breakdown' or 'Machinery breakdown' extensions in this policy, except that these will not cover any claim, loss or damage directly or indirectly caused by a cyber act. However, paragraph b) above will still apply.
  - 21.2.3 Paragraph b) above will be subject to the proviso that, should **data processing media** owned or operated by **you** suffer physical loss or physical **damage** insured by this **policy**, then this **policy** will cover the cost to repair or replace the **data processing media** itself plus the costs of copying the **electronic data** from back-up or from originals of a previous generation. These costs will not include research and engineering nor any costs of recreating, gathering or assembling the **electronic data**. If such media is not repaired, replaced or restored the basis of valuation will be the cost of the blank **data processing media**. However, this **policy** excludes 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
- ### 21.3 Nuclear risks and ionising radiation
- 21.3.1 Any **personal** or **bodily injury**, **damage**, **claim**, loss, liability, expenses, costs or **defence costs** whatsoever caused by:
    - a) ionising radiations or **contamination** by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
    - b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
  - 21.3.2 This exclusion does not apply to:
    - a) the 'Terrorism' **section**, to the extent of such cover;
    - b) the 'Employers' liability' **section**, to the extent that the excluded risks arise in the course of the employment of **employees** by **you**.

## 21.4 War and terrorism

21.4.1 Any **personal** or **bodily injury, damage**, claim, loss, liability, expenses, costs or **defence costs** of whatsoever nature caused by:

- a) **war** or **terrorism** regardless of any other cause or event contributing concurrently or in any other sequence; or
- b) any action taken in controlling, preventing, suppressing or in any way relating to **war** or **terrorism**.

In any action, suit or other proceedings where **we** allege on reasonable grounds that by reason of this exclusion any claim is not covered by this **policy**, the burden of proving that such claim is covered shall be upon **you**.

21.4.2 This exclusion does not apply to:

- a) The cover provided by the 'Terrorism' **section**, to the extent of such cover;
- b) The cover provided in the 'Employers' liability' **section** by the 'War and terrorism' clause, to the extent of such cover;
- c) The cover provided in the 'Public and Pollution liability' **section** by the 'War and terrorism' clause, to the extent of such cover.



## 22 General terms and conditions

### 22.1 Arbitration

If any difference arises as to the amount to be paid under this **policy** (liability being otherwise admitted) such difference shall be referred to an arbitrator to be appointed by the parties in accordance with the statutory provisions. Where any difference is by this condition to be referred to arbitration the making of an award shall be a condition precedent to any right of action against **us**.

### 22.2 Basis of contract

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

### 22.3 Confirmation of values at risk

**You** must provide to **us** at the inception of the **policy** and annually thereafter full details of the **declared value** as well as the wageroll and turnover of the **business**.

### 22.4 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.

### 22.5 Contribution

If at the time of any loss **damage** or liability arising under this **policy** there shall be any other insurance covering such loss **damage** or liability or any part thereof **we** shall not be liable for more than our proportional share thereof.

### 22.6 Discharge of liability

**We** may pay the **limit of indemnity** or any lesser amount for which any claim or claims against **you** can be settled and **we** shall be under no further liability in respect of such claim or claims except for costs or expenses incurred prior to the date of such payment.

### 22.7 Document management

**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.

### 22.8 Late payment of claims

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

### 22.9 Law applicable to this policy

This **policy** will be governed by and interpreted in accordance with the laws of England and subject to the exclusive jurisdiction of the High Court, London.

### 22.10 Material changes during the policy period

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

22.10.2 **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.

## 22.11 Our right

**We** shall be entitled:

- a) on the happening of any **damage** to enter any building where such **damage** has happened and to take and keep possession of the **property insured** and to deal with salvage in a reasonable manner and this **policy** shall be proof of leave and licence for such purpose but the **property** may not be abandoned to **us**;
- b) at **our** option to either:
  - i) repair or replace the property or any part of the property for which **we** may be liable under this **policy**; or
  - ii) make payment in money to **you** in lieu of such repair or replacement or **reinstatement** effected as nearly as may be reasonably practicable and such payment shall be deemed a complete indemnity under this **policy**.

## 22.12 Premium adjustments following cover amendments

In the event of a notification of a material change of the risk by **you**, the annual premium for this insurance will be adjusted and re-calculated. In order to do that, the adjusted annual premium based on the material change of the risk, will be compared against the annual premium charged at inception of the **policy** or the most recent annual premium following any previous adjustment. Where the adjustment in annual premium results in:

- a) an additional charge of less than £20.00, a minimum of £20.00 will be charged to **you**;
- b) a refund of less than £20.00, any such refund will be waived and not processed; and
- c) an additional charge or refund greater than £20.00, this sum will be charged or refunded to **you** in its entirety via **your** intermediary.

Any difference in premium for the unexpired **period of insurance** to be payable or refundable by or to you will be adjusted in accordance to the terms of the **policy**.

## 22.13 Reasonable precautions

**You** will take:

- 22.13.1 all reasonable precautions to prevent occurrences which may give rise to **damage**;
- 22.13.2 all reasonable steps to comply with statutory requirements obligations and regulations imposed by any authority;
- 22.13.3 immediate steps to make good or remedy any defect or danger which becomes apparent or take such additional precautions as circumstances may require.

## 22.14 Representation

**You** will act on behalf of all **other insured parties** 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 **you** of any return premium that may be payable under this **policy** will satisfy **our** obligations to return premium to any **other insured party**.

## 22.15 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.

## 22.16 Subrogation

- 22.16.1 Any claimant under this **policy** shall at our request and at **our** expense take and permit to be taken all necessary steps for enforcing rights against any other party in the name of the **insured** before or after any payment **we** may make.

22.16.2 **We** shall be entitled to take over and conduct in **your** name the defence or settlement of any claim or to prosecute in **your** name at **our** own expense and for **our** own benefit any claim for indemnity or damages or otherwise.

## **22.17 Tracing office Database**

22.17.1 Where **we** provide an indemnity under the Employers' Liability (Compulsory Insurance) Regs. 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.

22.17.2 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.

## 23

## 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 will be construed to include all its amendments or replacements. All headings within the **policy** are included for convenience only and will not form part of this **policy**.

For the 'Business interruption' **section** words and expressions used in **your** books and accounts will have the meaning attached to them herein. Any adjustments implemented in current cost accounting will be disregarded. Further to the extent that **you** are accountable to the tax authorities for Value Added Tax all terms in the 'Business interruption' **section** will be exclusive of such tax.

### 23.1 Accident /accidental

Accident / accidental means a single and unexpected event, which occurs at an identifiable time and place.

### 23.2 Act of terrorism

#### 23.2.1 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.

#### 23.2.2 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.

### 23.3 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.

### 23.4 Advertising injury

Advertising injury means:

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

### 23.5 All other contents

All other contents means the following contents within the **premises** being **your** property or held by **you** in trust for which **you** are responsible up to the **sub-limits** shown against each (which shall be regarded as part of and not additional to the **sum insured**):

- a) plans, deeds, briefs, manuscripts, books, documents and office records limit any one item £2,500;
- b) computer discs and tapes limit any one item £2,500;
- c) to the extent that they are not insured elsewhere, personal effects belonging to you, or **your** directors, partners, **employees** or visitors for an amount not exceeding £1,000 in respect of any one person;
- d) wines, spirits, cigarettes and tobacco held for entertainment purposes up to a limit of £2,500 any one incident;
- e) works of art, rare books, sculptures, curios and collections for an amount not exceeding £5,000 any one incident;
- f) signs, not forming a part of the **buildings** up to a maximum amount of £2,000 in any one **period of insurance**.

### 23.6 Annual gross fees

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

### 23.7 Annual gross revenue

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

### 23.8 Annual rent receivable

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

### 23.9 Annual turnover

Annual turnover means the **turnover** excluding VAT, **trend adjusted**, during the twelve months immediately before the date of the **damage**.

### 23.10 Appointed representative

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

### 23.11 Assault/assaulted

Assault/assaulted means **injury** occurring to an **insured person** directly due to theft or attempted theft of **money**.

### 23.12 Benefit

Benefit means the sum(s) stated in the in the schedule being the maximum amount payable by the **us**.

### 23.13 Bodily injury

- 23.13.1 For all sections except 'Legal expenses', bodily injury means death and injury, illness or disease whether bodily or mental.
- 23.13.2 For the 'Legal expenses' **section**, bodily injury means death or injury caused by a specific or sudden accident.

### 23.14 Book debts

Book debts means the total amount of the balances debited to **customers** in **your** accounts after equitable allowances have been made for bad debts and for 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 commencement of the **period of insurance** and the date of the **damage**.

### 23.15 Buildings

Buildings means the fixed permanent structures for which **you** are responsible at the **premises**, including:

- 23.15.1 Glass in windows and doors, or any other glass that is fitted in or on the buildings, including frames, mountings and fixtures and fittings used for the supporting and retaining of glass;
- 23.15.2 landlord's fixtures and fittings therein and thereon;
- 23.15.3 outbuildings and annexes together with extensions and canopies adjoining thereto or communicating therewith, walls, gates fences and signage;
- 23.15.4 foundations;
- 23.15.5 adjoining gangways, bridges, yards, roadways or pavements, car parks, barriers, forecourts, artificial surfaces constructed of concrete or asphalt around and pertaining thereto, drains, sewers and gutters;
- 23.15.6 walls, gates, fences and signage;
- 23.15.7 soft and hard landscaping, ponds, water features, lakes, canals, reservoirs and swimming pools;
- 23.15.8 solar panels;
- 23.15.9 cleaning cradles;
- 23.15.10 security lighting, security cameras and other security or fire protection devices, affixed signs, television, radio, satellite receiving aerials, communication aerials, their fittings and masts affixed to the buildings, fixed poles or fixed pylons at the **premises**;
- 23.15.11 telephone, gas, water and electricity meters, piping, ducting, trunking, cables, wires and associated control gear, instruments and accessories and the like, including such property for which **you** are responsible but which is in or under adjoining yards or roadways extending to either:
  - a) the public mains and which partly or wholly serves to supply the **premises**; or
  - b) up to fifty (50) metres beyond the perimeter of the **premises**
 whichever is the lesser.
- 23.15.12 underground storage tanks;
- 23.15.13 washroom and sanitary fittings;
- 23.15.14 wind turbines used by **you** for the generation of electricity; but excluding property more specifically insured.

## 23.16 Business

Business means the business stated in the schedule including:

- 23.16.1 the provision and management of canteen sports social or welfare organisations for the benefit of **employees** and fire security first aid medical and ambulance services; or senior officials;
- 23.16.2 the ownership maintenance and repair of the **premises**.
- 23.16.3 repair, maintenance and servicing of **your** mechanically propelled vehicles, sale or disposal of **your** property and goods, including mechanically propelled vehicles;
- 23.16.4 organisation of and participation in exhibitions, trade fairs, conferences, and the like, charitable events or similar fund-raising activities

## 23.17 Change of temperature

Change of temperature means the rise or fall in temperatures as a result of:

- 23.17.1 the breaking, distortion or burning out of any part of the unit (excluding its own wiring termination including the plug and fuse) arising from mechanical or electrical defects in the unit occurring while the unit is being used under normal working conditions;
- 23.17.1 non-operation of the thermostatic or automatic controlling devices forming part of the unit;
- 23.17.2 accidental failure of the public electricity supply not occasioned by the deliberate act of any utility undertaking.



### 23.18 Communicable disease

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

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

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

### 23.19 Computer equipment

Computer equipment means means all desktops, laptops, tablets, servers, **data** storage devices, networking equipment or on-site back up facilities, and manufacturer installed software

### 23.20 Computer system

Computer equipment means any **computer equipment** and any other computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet or wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, **data** storage device, networking equipment or back up facility and ancillary equipment whether or not owned or operated by **you** or any other party at the **premises** or elsewhere.

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

### 23.21 Contents

Contents means:

- 23.21.1 **target stock** up to the limit stated in the schedule;
- 23.21.2 **stock and materials in trade** up to the limit stated in the schedule;
- 23.21.3 **stock in open** up to the limit stated in the schedule;
- 23.21.4 **office computers** and **software** up to the limit stated in the schedule;
- 23.21.5 office equipment, furniture, fixtures, fittings, machinery, plant and **all other contents**

### 23.22 Costs and expenses

For **section** – Legal Expenses, costs and expenses means:

- 23.22.1 All reasonable, proportionate and necessary costs chargeable by the **appointed representative** and agreed by **DAS** in accordance with the **DAS Standard Terms of Appointment**.
- 23.22.2 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's** agreement

### 23.23 Cover basis

Cover basis means the period of time during which an **insured person** is covered by the 'Personal accident' section of insurance as stated in the schedule.

### 23.24 Customers

Customers mean all customers of **yours** who obtain goods from **you** or use **your** services

on a credit basis.

### 23.25 Cyber act

Cyber act means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax of such acts, involving access to, processing of, use of or operation of any **computer system**.

### 23.26 Cyber event

Cyber event means any programming or operator error whether by **you** or any other person or persons, or any unintentional or unplanned whole or partial outage of your **computer system** not directly caused by physical loss or **damage**; affecting access to, processing of, use of or operation of any **computer system**.

Where a **cyber event** is caused by, contributed to by, resulting from, arising out of or in connection with a **cyber act** including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any **cyber act**, the **cyber event** will be considered to be a **cyber act**.

### 23.27 Cyber loss

Cyber loss means means any loss, **damage**, liability, claim, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with:

- a) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **computer system** or any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **computer system**; or
- b) any cyber act.

### 23.28 Damage/Damaged

Damage means:

- 23.28.1 loss of, destruction of or damage to tangible property;
- 23.28.2 in respect of the 'Public liability' **section** and the 'Products liability' **section** loss of use of tangible property that has been lost destroyed or damaged.

### 23.29 DAS

DAS means DAS Legal Expenses Insurance Company Limited, whose Head office and registered address is:

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

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

### 23.30 DAS standard terms of appointment

For **section** – Legal expenses, 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 on **your** behalf the amount **DAS** will pay is currently £100 per hour. This amount may vary from time to time.

### 23.31 Data

Data means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a **computer system**.

## 23.32 Data processing media

Data processing media means means any **property insured** on which **data** can be stored but not the **data** itself.

## 23.33 Date of occurrence

For the 'Legal expenses' **section**, date of occurrence means:

- 23.33.1 for civil cases (other than as specified under 23.33.3 – 23.33.5 below), 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);
- 23.33.2 for criminal cases, the date the **person insured** began, or is alleged to have begun, to break the law;
- 23.33.3 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 or British Standard Certificate of Registration.
- 23.33.4 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** or **employer compliance disputes**, the date the dispute arises during the **period of insurance**.
- 23.33.5 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.

## 23.34 Declared value

Declared value means your assessment of the cost of the **property insured** at a level of costs applying at the time that such values are required by **us** as the basis for the calculation of the policy premium in respect of the 'Property' **section** (ignoring inflationary factors which may operate subsequently) together with insofar as the insurance by the item provides due allowance for:

- d) debris removal costs;
- e) professional fees;
- f) additional cost of **reinstatement** to comply with European Community and Public Authority requirements;

## 23.35 Deferment period

Deferment period means the number of consecutive days as stated in the schedule from the date the **insured person** suffers **temporary total disablement** and/or **temporary partial disablement** during which no **benefits** are payable. The sum of money represented by such periods will not contribute towards any claim for **benefits** under this insurance.

## 23.36 Defence costs

Defence costs means

- 23.36.1 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;
- 23.36.2 costs and expenses incurred by **you** in pre-trial and case reviews;
- 23.36.3 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;
- 23.36.4 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**;
- 23.36.5 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;
- 23.36.6 costs incurred at **your** request, with our prior consent (which consent must be individually obtained in respect of each claim) 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**.

### 23.37 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.

For **section - Terrorism**

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

### 23.38 Electronic data

Electronic data means facts, concepts, and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.

### 23.39 Eligible insured sections

Eligible insured sections means any **sections** shown as operative on the **schedule** providing direct insurance cover for the risk of fire and/or explosion (either alone or with other perils) for any of the following heads of cover:

- a) buildings and completed structures;
- b) other property (including contents, engineering, contractors and computers)
- c) business interruption; or
- d) book debts,

provided always that each eligible insured section shall be deemed to be a separate eligible insured section whether the item insured is insured under separate policies, under separate terms of a policy or under separate sections of combined or package policies.

### 23.40 Employee

Employee means any of the following while working for **you** in connection with the **business**:

- 23.40.1 person under a contract of service or apprenticeship with **you**;
- 23.40.2 person who is hired to or borrowed by **you**;
- 23.40.3 person engaged in connection with a work experience or training scheme;
- 23.40.4 labour master or person supplied by him;
- 23.40.5 person engaged by labour only sub-contractors;
- 23.40.6 self-employed person working on a labour only basis under **your** control or supervision;
- 23.40.7 voluntary helper;
- 23.40.8 prospective employee who is being assessed by **you** as to their suitability for employment
- 23.40.9 person working under the Community Offenders Act 1978, the Community Offenders

(Scotland) Act 1978 or similar legislation;

#### **23.41 Employer compliance dispute**

For the 'Legal expenses' **section**, 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.

#### **23.42 Excess**

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.

Where more than one excess could be applied to any one claim or occurrence or claim as applicable only one excess the highest excess will be applied.

#### **23.43 Flood**

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

#### **23.44 Goods**

Goods mean **your** goods and tools or for which **you** are responsible and relating to the business.

#### **23.45 Gross fees**

Gross fees means the **money** paid or payable to **you** for professional services rendered in the course of the **business** at the **premises**.

#### **23.46 Gross revenue**

Gross revenue means the **money** paid or payable to **you** for services rendered in the course of the **business** at the **premises**.

#### **23.47 Gross weekly wage**

the average gross basic weekly wage of the **insured person** for the thirteen (13) weeks prior to sustaining **injury**.

#### **23.48 Hacking**

Hacking means unauthorised access to any computer or other equipment or component or system or item which processes stores or retrieves data, whether belonging to **you** or not.

For **insured section** – Terrorism

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

#### **23.49 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**.

#### **23.50 Injury**

Injury means a specific injury which is sustained by the **insured person** during the **period of insurance**, is caused by an **accident**, and within twelve (12) months of the **accident**, solely and independently of any other cause, brings about death or disablement of the **insured person**.

#### **23.51 Insurable gross profit**

insurable gross profit means the amount by which the sum of the amount of the **turnover**

and the amounts of the closing stock and work in progress will exceed the sum of the amounts of the opening stock and work in progress and the amount of the **specified working expenses**.

### 23.52 Insured/you/your

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

### 23.53 Insured incident

Insured incident means and refers to insuring clauses in the 'Legal expenses' **section**.

### 23.54 Insured person

Insured person means:

- a) **you** or any of **your** principals, directors, partners or **employees**; or
- b) any person acting on **your** behalf other than an **employee** of a security company or organisation not being over seventy (70) years of age nor being under sixteen (16) years of age;

but for the 'Personal accident' **section**, insured person means the individual or group (category of person) specified in the Personal Accident part of the schedule to whom **injury** must occur before the **we** are liable to make any payment of **benefit**.

### 23.55 Insurer/us/we/our

Insurer/we/our/us means:

- 23.55.1 for all **sections** other than the 'Legal expenses' **section**;  
QBE UK Limited (registered in England number 01761561; 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)
- 23.55.2 For the 'Legal expenses' **section**; DAS Legal Expenses Insurance Company Limited, whose Head office and registered address is:  
DAS Parc, Greenway Court, Bedwas, Caerphilly, CF83 8DW Registered in England and Wales, Company Number 103274  
Website: [www.dasinsurance.co.uk](http://www.dasinsurance.co.uk)  
Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority (FRN202106) and the Prudential Regulation Authority

### 23.56 Inundation of water

Inundation of water means the sudden and unexpected build-up of excess water following a pluvious event, including the backing up of sewers or drains but excluding changes to the water table level and **flood**.

### 23.57 Limit of indemnity

Limit of indemnity means:

- 23.57.1 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**;
- 23.57.2 where a limit of indemnity is stated as in the aggregate, that aggregate is the maximum **we** will pay for all insured events during the **period of insurance**;
- 23.57.3 any **sub-limit of indemnity** applies as if it were the limit of indemnity for the claims specified 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;
- 23.57.4 where indemnity may be provided under two (2) or more **sections** of this **policy**, then the maximum we will pay for any insured event to which such **sections** apply in combination, shall not exceed the greater limit of indemnity of the sections in question.



### **23.58 Loss of limb**

Loss of limb means:

- 23.58.1 in the case of a lower limb loss by physical severance at or above the ankle or permanent and total loss of and/or total and irrecoverable loss of use of an entire leg or foot;
- 23.58.2 in the case of an upper limb loss by physical severance of the entire four fingers through or above the meta carpo phalangeal joints or permanent and total loss of and/or total and irrecoverable loss of use of an entire arm or hand.

### **23.59 Maximum indemnity period**

Maximum indemnity period means the number of months shown in the schedule.

### **23.60 Money**

Money means both negotiable money and non-negotiable money.

### **23.61 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.

### **23.62 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 crossed bankers drafts 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 bills of exchange securities for money travel warrants and authenticated travel tickets phonecards and mobile phone vouchers for use by the insured or any partner director or employee of the insured in connection with the insured's business gift tokens customer redemption vouchers credit card company sales vouchers credit card counterfoils VAT purchase receipts unexpired units in franking machines all belonging to **you** or for which **you** have accepted responsibility.

### **23.63 Non-negotiable money**

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

### **23.64 North America**

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

### **23.65 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**.

### **23.66 Notifiable disease**

Notifiable disease means any diseases sustained by a person notifiable under the Health Protection (Notification) Regulations 2010, but excluding:

- a) Avian Influenza and/or Influenza A (H5N1);

- b) Swine Influenza and/or Influenza A (H1N1);
- c) Severe Acute Respiratory Syndrome (SARS);
- d) any coronavirus (or similar or equivalent virus in the future);
- e) any mutation or variation of d) above;
- f) any coronavirus disease (or similar or equivalent disease in the future);
- g) any epidemic or pandemic which poses a threat to human health or human welfare whether officially declared an epidemic or pandemic or not; or
- h) any fear or threat of d), e), f) or g) above.

### 23.67 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:

- 23.67.1 the production or use of atomic energy;
- 23.67.2 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
- 23.67.3 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.

### 23.68 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.

### 23.69 Occurrence

In respect of **insured section Terrorism**, occurrence means a single loss or series of losses arising out of and directly occasioned by a single event or a single original cause. However, the duration and extent of any single occurrence shall be limited to all individual losses arising in respect of a continuous period of seventy two (72) hours of which the proximate cause is the same **act of terrorism**.

**You** may choose the date and time when any such period of seventy two (72) hours shall commence provided that no two periods overlap and no period commences earlier than the date and time of the happening of the first recorded individual loss to **you** as a result of the **act of terrorism**.

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

### 23.70 Office computers and software

Office computers and software means **computer equipment** and software used for electronic processing communication and storage of data including all current and back up computer records (excluding fixed discs and paper records of any description) incorporating stored programs and/or information stored thereon.

### 23.71 Offshore

Offshore means from the time of embarkation onto a conveyance at the point of final departure from land to any offshore rig or any offshore platform and until such time of disembarkation from a conveyance onto land upon return from any offshore rig or any offshore platform.

### 23.72 Other insured party

Other insured party means any of the following parties:

- 23.72.1 the deceased's legal personal representatives but only in respect of liability incurred by such

deceased person;

- 23.72.2 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 **you** or on **your** behalf;
- 23.72.3 any of **your** directors, partners, **employees** or former **employees**;
- 23.72.4 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;
- 23.72.5 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;
- 23.72.6 any of **your** directors or partners or executives in respect of private work undertaken by any **employee** for **your** directors or partners or executives;
- 23.72.7 any officers or trustees of **your** pension scheme(s).

### **23.73 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

- 23.73.1 bad debts;
- 23.73.2 amounts debited (or invoiced but not debited) and credited (including credit notes and cash not passed through the books at the time of the damage) to **customers'** accounts in the period between the date to which said last statement relates and the date of the damage; and
- 23.73.3 any abnormal conditions of trade which had or could have had a material effect on the business;  
so that the figure thus adjusted shall represent as nearly as reasonably practicable those which would have obtained at the date of the **damage** had the **damage** not occurred.

### **23.74 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**:

- 23.74.1 false arrest;
- 23.74.2 detention or imprisonment;
- 23.74.3 malicious prosecution;
- 23.74.4 wrongful entry into or eviction of a person from a room, dwelling or premises that the person occupies;
- 23.74.5 invasion of the right of privacy;

### **23.75 Pre-existing condition**

Pre-existing condition means illness malady disease physical impairment defect degenerative process or infirmity of the **insured person** existing prior to the commencement of the **period of insurance**. For the purpose of this definition an illness malady disease physical impairment defect degenerative process or infirmity exists prior to the commencement of the **period of insurance** if it has been diagnosed by a health care practitioner prior to the commencement of the **period of insurance** or in the event that it has not been so diagnosed then in the opinion of a health care practitioner the **insured person** could reasonably have been expected to be aware of its existence at the commencement of the **period of insurance**.

### **23.76 Period of insurance**

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

### 23.77 Permanent total disablement

Permanent total disablement means irrecoverable disablement arising **from** injury which permanently and totally incapacitates the **insured person** for a continuous period of twelve (12) months, and that as a result of the injury the **insured person** is medically determined to **our** satisfaction to have no likelihood of improvement sufficient to participate in his occupation ever again.

### 23.78 Person insured

For the Legal expenses **section** person insured means:

- a) **you** and the directors, partners, managers, employees and any other individuals declared to **us** by **you**.
- b) A person contracted to work for **you** who works for **you** on the same basis as **your** employees, and performs that work under **your** supervision and direction.

### 23.79 Phishing

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

### 23.80 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.

### 23.81 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.

### 23.82 Pollution

Pollution means:

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

### 23.83 Preferred law firm

For **section** – Legal Expenses, preferred law firm means a law firm, barrister 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**

### 23.84 Premises

Premises means the buildings and land shown in the schedule being occupied by **you** for the purpose of the **business**.

### 23.85 Preventative costs

Preventative costs means sums that **you** are liable to pay for prevention of imminent threat of environmental damage as provided for in any **United Kingdom** law implementing the EU Environmental Liability Directive.

### 23.86 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**.

### 23.87 Product

Product means any property including packaging containers labels and instructions for use after it has left **your** custody or control which has been designed specified formulated manufactured constructed installed sold supplied distributed treated serviced altered or repaired by or on **your** behalf.

### 23.88 Property

Property means all property whatsoever, but excluding:

- a) Any land or building which is wholly or partially occupied as a private residence, unless:
  - i) insured under the same contract of direct insurance as the remainder of the building which is not a private residence;
  - ii) not insured in the name of an individual; or
  - iii) insured in the name of an individual, and the commercial element of the building occupies more than twenty percent (20%) of the building.

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

- b) 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**.

For the purposes of clause 8.2.1, **property** shall exclude:

- c) any money, currency, electronic cryptographic or virtual currency including Bitcoin or anything similar, negotiable or non-negotiable instruments, financial securities or any other financial instrument of any sort whatever; and
- d) any **data**.

### 23.89 Property insured

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.

### 23.90 Public authority

For the '**Communicable disease**' exclusion of this **policy**, public authority means any national, regional, local or municipal government or any national or international organisation with the responsibility to promote and protect public health.

### 23.91 Rate of gross profit

Rate of gross profit means the rate of gross profit earned, **trend adjusted**, on the **turnover** during the financial year immediately before the date of the **damage**.

### 23.92 Reasonable prospects

For **section** – Legal Expenses, reasonable prospects means:

- a) 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), or make a successful defence, must be at least 51%. **DAS** or a **preferred law firm** or tax consultancy on their behalf, will assess whether there are **reasonable prospects**.
- b) For criminal cases there is no requirement for there to be prospects of a successful outcome
- c) For civil and criminal appeals the prospects of a successful outcome must be at least 51%.

### 23.93 Reinstatement

Reinstatement means the repair or replacement of the **property insured** that has sustained

**damage** as specified in the 'Basis of settlement' clauses.

#### **23.94 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**.

#### **23.95 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**.

#### **23.96 RIDDOR**

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

#### **23.97 Section**

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

#### **23.98 Sickness**

Sickness means any known physical illness, disease or malady which first manifests itself during the **period of insurance** and is diagnosed by a qualified health care practitioner.

#### **23.99 Specified losses**

Specified losses means:

- a) the cost of reinstatement, replacement or repair in respect of damage to or destruction of property insured by you; or
- b) the amount of business interruption loss suffered directly by you by way of loss of or reduction in profits, revenue or turnover or increased cost of working as a direct result of either damage to or destruction of property insured as a direct result of denial, prevention or hindrance of access to or use of the property insured by reason of an act of terrorism causing damage to other property within one mile of the property insured by you to which access is affected.

#### **23.100 Specified perils**

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

#### **23.101 Specified working expenses**

Specified working expenses means

- 23.101.1 purchases (less discounts received);
- 23.101.2 discounts allowed;
- 23.101.3 carriage, packing and freight.

#### **23.102 Standard gross fees**

Standard gross fees means the **gross fees, trend adjusted**, during that period in the twelve (12) months immediately before the date of the **damage** which corresponds with the **indemnity period**.

#### **23.103 Standard gross revenue**

Standard gross revenue means the **gross revenue, trend adjusted**, during that period in the twelve (12) months immediately before the date of the **damage** which corresponds with



the **indemnity period**.

#### **23.104 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**.

#### **23.105 Standard turnover**

Standard turnover means the **turnover** excluding VAT, **trend adjusted**, during that period in the twelve (12) months immediately before the date of the **damage** which corresponds with the **indemnity period**.

#### **23.106 Statement of fact**

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

#### **23.107 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 **your** trust or on commission and for which **you** are responsible. Stock and materials in trade shall not include **Targetstock**.

#### **23.108 Stock in open**

**Stock and materials in trade** whilst stored in the open at the **premises**.

#### **23.109 Storm**

Storm shall mean storm, windstorm, hurricane, tornado, tempest, cyclone and typhoon including ensuing **damage** as a direct result thereof, but excluding **flood** and earthquake.

#### **23.110 Sub-limit of liability /Sub-limit of indemnity /Sub-limit**

Sub-limit of liability, Sub-limit of indemnity or Sub-limit means the maximum liability of the **insurer** under a specified **section**, clause or other part of this **policy**.

#### **23.111 Subrogation**

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

#### **23.112 Sum insured**

Sum insured means the sum specified as the sum insured in the schedule.

#### **23.113 Target stock**

**Stock and materials in trade** specifically described in the schedule which is **your** property or held by **you** in **your** trust or on commission and for which **you** are responsible whilst at the **premises**.

#### **23.114 Tax Enquiry**

For Section – Legal Expenses, tax enquiry means, 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.

#### **23.115 Temporary partial disablement**

Temporary partial disablement means the **insured person** being partially disabled and prevented from attending to the majority of his business or occupation as a result of **injury** not being **permanent total disablement, loss of limbs** or sight as otherwise defined in the **benefits**.

#### **23.116 Temporary total disablement**

Temporary total disablement means the **insured person** being totally disabled and prevented from attending to any of his business or occupation as a result of **injury** not being

**permanent total disablement, loss of limbs** or sight as otherwise defined in the **benefits**.

### 23.117 Territorial limits

23.117.1 For the 'Property', 'Business interruption', 'Computer breakdown', 'Money' and 'Fidelity guarantee' **sections**, territorial limits mean the **United Kingdom**.

23.117.2 For the Personal accident section, territorial limits mean worldwide.

23.117.3 For the 'All Risks: Specified business equipment' **section**:

- a) territorial limit EU means **United Kingdom** and member states of 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.
- b) territorial limit Worldwide means **United Kingdom** and elsewhere in the world;
- c) territorial limit UK means **United Kingdom**.

23.117.4 For the 'Employers liability' **section**, territorial limit means:

- a) anywhere within the **United Kingdom** other than **offshore**;
- b) elsewhere in the world other than **offshore** and **North America**;
- c) **North America** but only in respect of clerical, promotional, sales conference attendance and other similar non-manual activities.

23.117.5 For the 'Public Liability' **section**, territorial limit means:

- a) anywhere within the **United Kingdom** other than **offshore**;
- b) anywhere within other member states of the European Union, the Isle of Man, the Channel Islands, Albania, Andorra, Bosnia and Herzegovina, Gibraltar, Iceland, Liechtenstein, Monaco, Montenegro, North Macedonia, Norway, San Marino, Serbia, Switzerland and Turkey, other than **offshore**;
- c) elsewhere in the world other than **offshore** but only in respect of clerical, promotional, sales conference attendance and other similar non-manual activities.

23.117.6 For the 'Products Liability' **section**, territorial limit means:

- a) anywhere within the **United Kingdom** other than **offshore**;
- b) elsewhere in the world.

23.117.7 For the 'Legal expenses' **section**, territorial limit means:

- a) For insured incidents Legal defence (excluding Statutory notice appeals) and Bodily injury  
The United Kingdom of Great Britain and Northern Ireland, 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.
- b) For all other insured incidents  
The United Kingdom of Great Britain and Northern Ireland, the Isle of Man and the Channel Islands.

### 23.118 Territory

means England and 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.

### 23.119 Terrorism

23.119.1 For the property related **sections**, terrorism means an **act of terrorism**.

23.119.2 For all other **sections**, terrorism means:

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

- i) intimidate or coerce a civilian population, or

- ii) disrupt any segment of the economy of a government de jure or de facto, state, or country, or
- iii) overthrow, influence, or affect the conduct or policy of any government de jure or de facto by intimidation or coercion, or
- iv) affect the conduct or policy of any government de jure or de facto by mass destruction, assassination, kidnapping or hostage-taking.

### 23.120 Theft

For the 'Fidelity guarantee' **section**, theft means any act of fraud or dishonesty by any **employee** committed with the clear intent of obtaining an improper financial gain for themselves or for any other person or organisation intended by the **employee** to receive such gain other than salaries fees commission or other **employee** benefit earned in the normal course of employment.

### 23.121 Total loss of hearing

Total loss of hearing means an **injury** causing permanent and total loss of hearing which lasts twelve (12) calendar months from the date of **accident** or loss of hearing and at the expiry of that period being beyond hope of improvement.

### 23.122 Total loss of sight

Total loss of sight means an **injury** causing either:

- a) permanent and total loss of sight in both eyes where an **insured person's** name has been added to the Register of Blind Persons on the authority of a qualified ophthalmic specialist; or
- b) permanent and total loss of sight in one eye, if the degree of sight remaining after correction is 3/60 or less of the Snellen Scale (seeing at three (3) feet what an **insured person** should see at sixty (60) feet), which lasts twelve (12) calendar months from the date of **accident** or loss of sight (if later) and at the expiry of that period being beyond hope of improvement.

### 23.123 Total loss of speech

Total loss of speech means an **injury** causing permanent and total loss of speech which lasts twelve (12) calendar months from the date of **accident** or loss of speech (if later) and at the expiry of that period being beyond hope of improvement.

### 23.124 Transit

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

### 23.125 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**.

### 23.126 Turnover

Turnover means the money paid or payable to **you** for goods sold and delivered and for services rendered in the course of the **business**.

### **23.127 Unattended vehicle**

Unattended vehicle means a vehicle which is out of sight of the driver or more than one (1) minute's walking distance from the driver.

### **23.128 United Kingdom**

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

### **23.129 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.

### **23.130 VAT**

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

### **23.131 VAT dispute**

For the 'Legal expenses' **section**, VAT dispute means 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.

### **23.132 Virus or similar mechanism**

Virus or similar mechanism means a computer program, 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 any file virus, boot sector virus, macro virus, hostile applet, trojan horse program, java virus, ActiveX virus, worms, logic bombs or other executable program which contains instructions to initiate an event on the infected computer, causing modification of or damage to data, memory or data media or otherwise adversely affecting the operation of any information and communications technology system.

#### **For section - Terrorism**

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. Virus or similar mechanism includes but is not limited to trojan horses, worms and logic bombs.

### **23.133 War**

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

### **23.134 Work away**

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

## 24 How to Complain

### 24.1 Complaints to QBE

**You** can complain about this **policy** by contacting **your** broker or where **your policy** is insured by QBE Europe SA/NV, QBE UK Limited or where **your** insurer is or includes a Lloyd's syndicate write to:

Customer Relations, QBE European Operations, 30 Fenchurch Street, London EC3M 3BD

Email: [CustomerRelations@uk.qbe.com](mailto:CustomerRelations@uk.qbe.com)

Telephone: 020 7105 5988

### 24.2 Complaints to DAS

For complaints relating to **section K** – Legal expenses write to:

Customer Relations Department, DAS Legal Expenses Insurance Company Limited, DAS Parc, Greenway Court, Bedwas, Caerphilly, CF83 8DW

Email: [customerrelations@das.co.uk](mailto:customerrelations@das.co.uk)

Telephone 0344 893 9013

Online: [www.dasinsurance.co.uk/complaints](http://www.dasinsurance.co.uk/complaints)

### 24.3 The UK Financial Ombudsman Service (UK FOS)

If **you** feel that **your** complaint has not been satisfactorily resolved, **you** may be eligible to contact the UK FOS to review the complaint. Information about the eligibility criteria is available on the UK FOS website:

<http://www.financialombudsman.org.uk/consumer/complaints.htm>.

**You** can contact the UK FOS via its website, or write to Exchange Tower, London E14 9SR, Tel: +44 (0)800 023 4567.

### 24.4 Financial Services Compensation Scheme (FSCS)

**You** may be entitled to compensation from the FSCS if **we** are unable to meet **our** obligations under the **policy**. Further information is available from [www.fscs.org.uk](http://www.fscs.org.uk), or **you** can write to the Financial Services Compensation Scheme, PO Box 300, Mitcheldean, GL17 1DY

## QBE European Operations



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