

Tradesman Insurance (Imarket) Policy



QBE

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1 Our agreement in general

1.1 This agreement

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

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

1.2 Policy period and premium

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

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

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

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

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

1.3 Setting your sums insured

- a) For all items of **property insured** 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 claim settlement conditions** clause in the 'Other terms and conditions applicable to this section' clause of the '**Business Goods**' **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 '**Business Goods**' **section**, it is important that **you** check that all **sums insured** 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** are subject to the provisions of the 'Underinsurance conditions' clause in the 'Other terms and conditions applicable to this section' clause of the '**Business Goods**' **section**, unless expressly stated otherwise. This means that if, when making a claim, a **sum insured** (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 '**Business Goods**' **section**.
- c) If **you** are purchasing cover under the '**Business Interruption**' **section** for **increased cost of working**, **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 **increased cost of working** 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.
- e) 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**.

1.4 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.

1.4.1 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 $X = (\text{premium actually charged/higher premium}) \times 100$.

1.4.2 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 $X = (\text{premium actually charged/reduced total premium}) \times 100$.

1.5 Fraudulent claims

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

- 1.5.1 are not liable to pay the claim;
- 1.5.2 may recover any part of the claim already paid from **you**; and
- 1.5.3 may by notice to **you** treat this **policy** as having been terminated with effect from the time of the first fraudulent act, in which case **we** are not liable to **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.

1.6 Claims procedure

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

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

- 1.6.1 For all claims except the 'Legal expenses' **section** please:
 - a) contact **your** insurance broker; or
 - b) telephone **us** on **0800 328 9640**; or
 - c) submit **your** claim by email to SMEnewclaims@uk.qbe.com
- 1.6.2 For claims under Legal expenses **section** please contact **ARAG**: Unit 4a, Greenway Court, Bedwas, Caerphilly CF83 8DW Telephone **us** on **0117 9330618**

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

2 Helplines

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

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

ARAG Law Limited is authorised and regulated by the Solicitors Regulation Authority. **ARAG** Law Limited is listed on the Financial Conduct Authority register to carry out insurance mediation activity, including the administration of insurance contracts, on behalf of **ARAG** Legal Expenses Insurance Company Limited.

Lines are available 24 hours a day, seven days a week during the **period of insurance**. However, **ARAG** may need to arrange to call **you** back depending on the enquiry or as shown below against each service. To help **ARAG** check and improve their service standards, **ARAG** record all inbound and outbound calls, except those to the counselling service.

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

2.1.1 Legal advice service Call 0844 893 0859

ARAG will give **you** confidential legal advice over the telephone on any commercial legal problem affecting the **business**, under the laws of the **United Kingdom** of Great Britain and Northern Ireland, the member countries of the European Union, the Isle of Man, the Channel Islands, Switzerland and Norway.

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

2.1.2 Tax advice service Call 0844 893 0859

ARAG will give **you** confidential advice over the telephone on any tax matters affecting the **business**, under the laws of the **United Kingdom**.

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

2.1.3 Counselling service Call 0844 893 9012

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

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

2.1.4 Employment manual

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

2.1.5 ARAG Businesslaw

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

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

To access ARAG Businesslaw, **you** will need to visit www.aragbusinesslaw.co.uk and register using the voucher code **DAS472301** and Policy Number **TS5/6695190**. When prompted to input **your** company name, please insert the prefix **QBE** followed by the name of **your business**. If **you** experience any problems accessing the service, please email the problem to digital@arag.co.uk quoting **your** policy number.

3 Duties in the event of a claim or potential claim

3.1 Claim notification

All sections except Legal expenses and Personal accident sections

- 3.1.1 **You** will give notice in writing or by an agreed electronic medium to us:
- a) 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**;
 - ii) coming into possession of actual knowledge that notice of an Industrial Tribunal hearing includes alleged personal **injury**;
 - iii) your actual knowledge of any death or personal **injury** to any person involving a stay in hospital in excess of three (3) **business** days;
 - b) as soon as practical but in any event within thirty (30) days after any other **accident**, event or the coming into possession of actual knowledge of personal **injury** or **damage**, with full particulars thereof;

which may be the subject of indemnity under this **policy**.

- 3.1.2 **You** will give notice to **us** immediately on but in any event within three (3) **business** days from, **your** actual knowledge of any **RIDDOR** incident involving any person.

- 3.1.3 **You** must give **us** notice in writing within seven (7) days of **damage** caused by riot.

- 3.1.4 In respect of **damage** caused by theft or malicious persons **you** will give immediate notice to the police authority, and take all practical steps to discover any guilty person or persons and recover the property lost.

Legal expenses section

- 3.1.5 To make a claim under this **section** please telephone **us** on 0117 9330618. **ARAG** will ask **you** about **your** legal dispute and if necessary call **you** back at an agreed time to give **you** legal advice. If **your** dispute needs to be dealt with as a claim under this **section**, **ARAG** will provide **you** with a claim reference number. At this point **ARAG** will not be able to confirm that **you** are covered but they will pass the information **you** have given to the claims handling teams and explain what to do next.

If **you** would prefer to report **your** claim in writing please use **ARAG's** contact details specified in the 'Claim procedure' clause of 'Our agreement in general.'

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

Please do not ask for help from a solicitor or accountant before **ARAG** have agreed. If **you** do, **ARAG** will not pay the costs involved.

Personal accident section

- 3.1.6 **You** will give notice in writing to **us** as soon as reasonably practicable and at least within:
- a) fourteen (14) days from the date of **accident** suffered by the **insured** person that causes or may cause **temporary total disablement** or **temporary partial disablement insured** by this **policy**;
 - b) ninety (90) days from the date of **accident** of the **insured** person that causes or may cause death or permanent disablement **insured** by this **policy**.
- 3.1.7 In the event of permanent disablement claims must be presented to **us** for settlement within twelve (12) months of the date of the original **accident** giving rise to such claim under this **policy**, unless otherwise agreed by **us**.
- 3.1.8 In the event of the **insured** person's death or other incapacity that prevents the **insured** person from submitting notice, the **insured** person's executors or administrators will give

notice in writing, within ninety (90) days from the date of **injury** of the **insured** person to **us** and otherwise act in place of the **insured** person.

- 3.1.9 If an **accident** involves the death of the **insured** person claims must be presented to the **insurer** within twelve (12) months of the date of the original **accident** giving rise to such claim under this insurance, unless otherwise agreed by **us**.

All sections

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

3.2 Your duties

All sections except Legal expenses section

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

3.3 Our rights

- 3.3.1 **Our** preferred intention is to investigate any potential claim and to undertake the conduct of any proceedings in connection with such claims on **your** behalf. It is one of the services offered and provided by this **policy**. However, there may be occasions, for example, in relation to potential proceedings in **North America**, when this is not appropriate.
- 3.3.2 Therefore, it is agreed that **we** have the right not to, and shall be under no obligation to, investigate any potential claims or to undertake the conduct of any proceedings in connection with such claims but will be free to leave the conduct of such proceedings wholly with **you**.

3.3.3 In such cases, **we** will transfer the conduct of proceedings to **you** and will clearly set out the conditions as regards the payment of costs and **your** freedom to commit **us** to any settlement by compromise or otherwise. Provided that any settlement or compromise is made within these conditions, this **policy** will provide an indemnity as otherwise stated.

3.3.4 Further, **we** may at any time pay the **limit of indemnity** (after deduction of any sums already paid) or such lesser sum for which the claim can be settled and will relinquish the conduct and control of the claim and be under no further liability except (where payable under the relevant **section**) for payment of **defence costs** incurred prior to the date of payment.

3.4 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 King'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

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

3.5.2 **You** or any other party **insured** by this **policy** will, at the request and expense of the **insurer**, do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by **us** for the purpose of enforcing any rights and remedies, whether such acts and things will be or become necessary or required before or after their indemnification by **us**.

3.5.3 In the event of any payment under this insurance, **we** will act in concert with all other interested persons (including **you**) concerned in the exercise of any rights of **recovery**.

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

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

4 Section – Public, Products and Pollution liability

4.1 Public, products 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** and;

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

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

4.2 Public, products and pollution 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:

- 4.2.1 **products**; or
- 4.2.2 **pollution**

4.3 Public and products and pollution liability defence costs

- 4.3.1 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**.
- 4.3.2 **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.

4.4 Public and products and pollution liability extensions

- 4.4.1 **Additional persons insured**
 - a) In the event of the death of any person entitled to indemnity under this **section**, **we** will indemnify in the terms of this **policy** the deceased's legal personal representatives but only in respect of liability incurred by such deceased person;
 - b) At **your** request **we** will indemnify in the terms of this **section**:
 - i) any **principal** in respect of liability arising out of the performance by **you** of any agreement entered into by **you** with the **principal** to the extent required by such agreement;

- ii) any director of **yours** or **employee** in respect of liability arising in connection with the **business**, provided that **you** would have been entitled to indemnity under the **section** if the claim had been made against **you**;
- iii) any officer, committee or member of **your** canteen, sports, social or welfare organisations, fire, security, first aid, medical or ambulance services in their respective capacities as such;
- iv) any director or senior official of **yours** in respect of private work undertaken by any **employee** for such director or senior official, provided that:
 - I) each person indemnified by this clause shall as though he were **you** observe fulfil and be subject to the terms of this **policy** insofar as they can apply;
 - II) **we** shall retain the sole conduct and control of all claims;
 - III) where **we** are required to indemnify more than one party the total amount of indemnity payable to all parties in respect of damages shall not exceed the **limit of indemnity**.

4.4.2 **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:

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

4.4.3 **Contractual liability**

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

4.4.4 **Cross liabilities**

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

4.4.5 **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 material and non-material **damage** under Article 82 of the General Data Protection Regulation ('GDPR') including 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:

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

- c) 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;
- d) claims which arise out of circumstances that are notified to any previous **insurer** or known to **you** at inception of this **policy**;
- e) liability for which indemnity is provided under any other insurance; or
- f) claims or prosecutions brought against the **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**.

4.4.6 **Defective Premises Act 1972**

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

4.4.7 **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;
- c) to or on **your** land, **premises**, watercourse or body of water whether owned, leased, hired, tenanted or otherwise in **your** care, custody or control;
- d) 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
- e) the total amount payable by **us** inclusive of all **defence costs** for any one occurrence or in the aggregate during any one **period of insurance** shall not exceed £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.

4.4.8 **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**.

4.4.9 **Motor contingent liability**

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

- a) **damage** to such **vehicle** or to property conveyed therein or thereon,
- b) **bodily injury** or **damage** arising while such **vehicle** is being driven by:
 - i) any **other insured party** other than an **employee**; or
 - ii) any person who to **your** knowledge or the knowledge of any **your** directors, officers or managers, does not hold a licence to drive such vehicle;
- c) **bodily injury** or **damage** caused or arising while such **vehicle** is:
 - i) engaged in racing, pace-making, reliability trials or speed testing;
 - ii) being used outside the **United Kingdom**;

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

4.4.10 **Motor liability**

Notwithstanding the exclusion 'Ownership or use of mechanically propelled vehicles', **we** agree to indemnify **you** and any **other insured party** in respect of liability arising out of or from:

- a) the use or movement of any mechanically propelled vehicle as a tool or plant;
- b) the loading or unloading of any mechanically propelled vehicle or trailer when carried out beyond the limits of any carriageway or thoroughfare but this extension shall not apply to **damage** to any property being loaded or unloaded;
- c) the movement of any mechanically propelled vehicle not owned, hired or borrowed by or leased to **you** or any **other insured party** on or under any **premises** occupied by **you** where such vehicle is causing an obstruction and interfering with the performance of the **business**;
- d) **damage** to visitors' or **employees'** mechanically propelled vehicle (including contents and/or accessories) while parked within any car park for which **you** are responsible or on any **premises** occupied by **you** provided that:
 - i) such vehicle is not lent or hired to **you**;
 - ii) the **damage** to an **employee's** vehicle does not arise out of the maintenance, operation or use of a vehicle by that **employee**;
- e) the unauthorised use of any mechanically propelled vehicle by any person in **your** employment provided that **you** shall have taken all reasonable precautions to ensure that **employees** are made aware of and comply with restrictions applicable to the use of the vehicle;
- f) **damage** to any bridge, weighbridge, road or anything beneath caused by the weight of any mechanically propelled vehicle or trailer or of the load carried thereon; except always that the indemnity provided by this clause excludes liability:
 - i) for which indemnity is provided by any motor insurance or fleet insurance **policy** held in **your** name; or
 - ii) 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.

4.4.11 Overseas liability

At **your** request the insurance by this **section** is extended to indemnify **you** and any of **your employees** or directors (including their family or persons normally resident with them), against legal liability for **bodily injury, personal injury, advertising injury, damage, or denial of access** incurred in a personal capacity while temporarily outside the **United Kingdom** in connection with the **business**, provided that such **bodily injury, personal injury, advertising injury, damage or denial of access** does not arise out of the ownership or occupation of land or buildings.

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

- a) **We** agree to indemnify **you** and at **your** request, any **other insured party**, in respect of **defence costs** incurred with our prior consent in defending:
- i) any alleged breach of statutory duty (including any prosecution brought under sections 2 to 8 of the Health and Safety at Work, etc. Act 1974, Health and Safety at Work (Northern Ireland) Order 1978 or similar legislation in the Isle of Man or the Channel Islands) or criminal proceedings brought; and / or
 - ii) any alleged breach of statutory duty under the Protection from Harassment Act 1997; and/or
 - iii) allegations (whether under common law or statute) of manslaughter, corporate manslaughter or corporate homicide made against **you** or any **other insured party**;
- provided that the prosecution or proceedings relate to:
- I) an offence alleged to have been committed during the **period of insurance** and in the course of **business**; and
 - II) **bodily injury** or potential **insured** claim for **bodily injury** to persons other than **employees** including their health, safety and welfare.
- b) **We** will also indemnify **you** for:
- i) **defence costs** of appeal including appeal against improvement and prohibition notices incurred with our prior consent;
 - ii) prosecution costs awarded against **you**.
- c) But the indemnity by this clause excludes and does not cover any amount:
- i) in respect of allegations provided by this clause (statutory **defence costs**) but not those relating to prosecution costs (clause iii) below) or manslaughter, corporate manslaughter or corporate homicide (clause ii) below), in **excess** of £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings;
 - ii) in respect of allegations of manslaughter, corporate manslaughter or corporate homicide including prosecution costs relating to this item ii) (manslaughter **defence costs**), in **excess** of £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings;
 - iii) in respect of prosecution costs other than such costs relating to item ii) above (prosecution costs), in **excess** of £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings.
- d) For the avoidance of doubt the following statutes, whilst not exhaustive, are included within the statutes or regulations contemplated for which **defence costs** are **insured** by this clause:
- i) Health and Safety at Work, etc. Act 1974, but only sections 2 to 8,
 - ii) Health and Safety at Work (Northern Ireland) Order 1978,
 - iii) The Trade Descriptions Act 1968,
 - iv) Part II of the Consumer Protection Act 1987,
 - v) Part II of the Food Safety Act 1990,
 - vi) Corporate Manslaughter Act 2007.

4.4.13 **Tenants liability**

This **section** is extended to indemnify **you** against legal liability for **damage** to the **premises** if they are leased, let, rented, hired or lent to **you**. Provided that this clause excludes and **we will** not be liable for:

- 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 or on **your** behalf.

4.4.14 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 provided that **we** will not be liable for the first £1,000.

4.4.15 **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 any of **your** subsidiaries or from **your** parent company.

4.5 **Public products and pollution liability limitations and exclusions**

In addition to the limitations and exclusions applicable to this **section** in the General the following are excluded from and not covered by the insurance under this **section**:

4.5.1 **Advertising injury**

liability arising out of **advertising injury**.

4.5.2 **Advice, design or plans provided for a fee**

liability arising out of or from advice, design, plans, specifications, formulae, surveys or directions prepared or given by **you** or **other insured party** for a fee but this shall not exclude such liability arising in conjunction with **products** supplied.

4.5.3 **Aircraft and watercraft**

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

- a) motor barges not exceeding seventy five (75) ton capacity on inland waterways;
- b) hand-propelled craft, sailing vessels and motor launches not exceeding fifteen (15) metres in length and only when operated in inland waterways;
- c) watercraft not belonging to or chartered by **you** but used by **you** for **business** entertainment provided that:
 - i) such watercraft is primarily owned and operated as a river cruise vessel;
 - ii) such watercraft is **insured** by the owner or charterer under a **policy** of marine insurance; and
 - iii) **we** will not indemnify **you** in respect of liability which attaches by way of any **contract** or agreement that would not have attached in the absence of such **contract** or agreement.

4.5.4 **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.

- 4.5.5 **Costs of recall or guarantee**
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 **your product** forms, or is intended to form, a part or ingredient) and/or financial loss consequent upon the necessity for such withdrawal, recall, disposal, removal, repair, adjustment, alteration, reconditioning, replacement or **reinstatement**.
- 4.5.6 **Damage to works/rectification of defects**
The insurance by this **section** excludes and does not cover liability for any claim in respect of:
- a) **damage** to **goods** or materials supplied or for use by **you** or which form part of work that **you** are carrying out or have completed. This exclusion will not apply to **goods** or materials forming part of work completed by **you** under a separate previous **contract**.
 - b) the cost or value of any defective harmful or unsuitable **goods** materials or work supplied used or undertaken.
 - c) expenditure incurred by anyone in
 - i) investigating or providing a remedy for removing, reinstating, replacing, reapplying; or
 - ii) rectifying any defective harmful or unsuitable **goods** materials or work supplied used or undertaken
- 4.5.7 **Deliberate acts**
damages or compensation, including claimant costs and any associated **defence costs**, which result from **personal injury, damage, denial of access** or nuisance either expected or intended by **you** or **other insured party** but this exclusion does not apply to **personal injury** resulting from the use of reasonable force to protect persons or property.
other **defence costs** incurred in proceedings other than in respect of manslaughter, corporate manslaughter or corporate homicide consequent upon any deliberate act or omission by or on behalf of **you** or **other insured party**, if the result of such act or omission could reasonably have been expected to constitute an offence under any legislation.
however this exclusion shall not apply to any individual person or company if the **personal injury, damage, denial of access** or nuisance is not expected or intended by that party.
- 4.5.8 **Electronic data**
liability arising from:
- a) loss, alteration or impairment of or **damage** to information and/or data in electronic form;
 - b) malicious acts of any person carried out by electronic means;
 - c) defamation or harassment carried out by electronic means;
- but this exclusion shall not apply in respect of liability for any ensuing accidental **bodily injury** (save for mental **injury** or mental disease) or accidental **damage** which is not otherwise excluded.
- 4.5.9 **Employment practices dispute**
liability which arises out of employment practice disputes directly or indirectly related to employment or prospective employment of any person or persons by **you** including but not limited to:
- a) wrongful unfair or constructive dismissal;
 - b) denial of natural justice, defamation, misleading representation or advertising;
 - c) refusal to employ a suitably qualified applicant or failure to promote;
 - d) coercion, demotion, evaluation, relocation, punishment, slander, humiliation, harassment 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.

- 4.5.10 **Excess**
the amount of the **excess** stated in the **schedule**.
- 4.5.11 **Fees for intervention**
any payments raised under the Health and Safety (Fees) Regulations 2012 relating to 'fees for intervention'.
- 4.5.12 **Financial loss**
liability for pure economic loss not consequent upon bodily **injury** or **damage**, but this exclusion shall not apply to:
- personal **injury**;
 - denial of access**, nuisance; or
 - cover as provided by Data Protection clause.
- 4.5.13 **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.
- 4.5.14 **Hazardous locations**
The insurance by this **section** excludes and does not cover legal liability arising in connection with work 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;
 - railways or railway installations;
 - docks or harbours;
 - work on **offshore** installations;
 - quarries mines or collieries;
 - chemical** or petro-chemical works oil refineries gas works or fuel storage facilities;
 - power stations or nuclear plant;
 - bridges viaducts tunnels dams chimney shafts towers or steeples.
- 4.5.15 **Hazardous work**
The insurance by this **section** excludes and does not cover legal liability arising in connection with any work:
- of demolition except demolition solely undertaken with hand held tools and of structures not exceeding five (5) metres in height by **employees** in the direct service of the **insured** when such work forms an ancillary part of a **contract** for construction, alteration or repair carried out by **you**;
 - of construction, alteration or repair of bridges, towers, steeples, chimney shafts, blast furnaces, viaducts or mines;
 - of pile driving, tunnelling or quarrying;
 - involving the use of explosives;
 - involving excavations below the limit specified in the **schedule**;
 - carried out at a height in **excess** of the limit specified in the **schedule**.
- 4.5.16 **Inevitable or unavoidable consequence of performance**
liability which is the inevitable or unavoidable consequence of the performance of a **contract**.
- 4.5.17 **JCT 21(2)(1) contracts or comparable**
liability which arises as a result of any requirement under Section 21(2)(1) of the JCT Standard Form of Building Contract (all editions) or any comparable condition of a similar effect in any other **contract** or agreement.

- 4.5.18 **Liability from employment**
bodily injury caused to or sustained by any **employee** arising out of or in the course of employment by **you** in the **business**.
- 4.5.19 **Limit of indemnity**
liability in **excess** of the **limit of indemnity** stated in the **schedule** except for payment of **defence costs** as provided for by the Public products and pollution liability **section**.
- 4.5.20 **Liquidated damages**
any loss arising out of or from any liquidated damages clauses or penalty clauses or performance warranties in any **contract** or agreement which **you** or **other insured party** has entered into unless it is proven that, and then only to the extent that, liability would have attached in the absence of such clauses or warranties.
- 4.5.21 **North American jurisdiction**
- a) liability in respect of any judgment, award, payment, **defence costs** or settlement delivered, made or incurred within countries which operate under the laws of **North America** (or any order made anywhere in the world to enforce such judgment, award, payment, **defence costs** or settlement either in whole or in part) unless otherwise stipulated in the **schedule**;
 - b) but this exclusion shall not apply to visits to **North America** in the course of **business** to undertake non-manual work including but not limited to clerical work, sales and promotional activities and conference attendance providing that, in such circumstances:
 - i) **we** will not be liable to indemnify any entity based in, operating in or domiciled in **North America**; and
 - ii) **we** will not be liable to indemnify for any liability that arises under any agreement or **contract** that would not arise in the absence of any agreement or **contract**;
 - iii) **we** will not be liable to indemnify for liability arising directly or indirectly from the ownership, maintenance, operation or use of any mechanically propelled vehicle or watercraft;
 - iv) **we** will not be liable to indemnify for liability arising directly or indirectly from **pollution**;
 - v) **defence costs** are inclusive and form part of the **limit of indemnity**.
- 4.5.22 **North American territory**
- a) liability in respect of personal **injury, damage, denial of access** or nuisance occurring within **North America** but this exclusion shall not apply to temporary non- manual visits to **North America** as specified in '**North American jurisdiction**' above.
 - b) liability in respect of or arising from pollution occurring within **North America**.
- 4.5.23 **Nuclear risks**
- a) loss or destruction of or **damage** to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom;
 - b) any legal liability of whatsoever nature;
 - c) any sum which **you** become legally liable to pay or any loss or expense; directly or indirectly caused by or contributed to by or arising from or, in the case of item c) above, attributable to **nuclear hazards**.
- 4.5.24 **Overseas domiciled operations**
your subsidiary companies, branch offices or representatives with power of attorney that are domiciled outside of the **United Kingdom**.
- 4.5.25 **Owned or previously owned premises**
solely in respect of liability arising out of **pollution**, liability for **damage, denial of access** or nuisance to land or **premises** (including land or water within or below the boundaries of such land or **premises**) that are presently or were at any time previously owned, leased, hired or tenanted by **you** or otherwise in **your** care, custody or control.

- 4.5.26 **Ownership or use of mechanically propelled vehicles**
personal injury, damage, denial of access or nuisance arising out of or from the ownership, maintenance, operation or use of any mechanically propelled vehicle by or on behalf of **you** or any **other insured party** except that this exclusion shall not apply in respect of and to the extent of the indemnity provided by any expressly stated coverage extensions herein.
- 4.5.27 **Property in the insured's care, custody and control**
damage to property owned, leased, hired or held in trust by **you** or under hire, purchase or on loan to **you** or held otherwise in **your** care, custody or control except that this exclusion shall not apply in respect of and to the extent of the indemnity provided by any expressly stated coverage extensions herein.
- 4.5.28 **Rectification of defective work**
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 **work away** as a result of any defect (suspected or known) therein or any unsuitability for its intended purpose.
- 4.5.29 **Statutory defence costs**
liability for **defence costs** arising out of or in respect of any alleged breach of statutory duty or any allegation of manslaughter, corporate manslaughter or corporate homicide except as stated in the clause entitled 'Statutory **defence costs** including Health and Safety at Work, etc. Act 1974' under the 'Public products and pollution liability extensions'.
- 4.5.30 **Underground services**
for loss of, destruction of or **damage** to cables, pipes or other services located underground unless **you** have:
a) taken or caused to be taken all reasonable measures to identify the location of such cables, pipes and services before any work is commenced which may involve a risk of **damage** thereto (reasonable measures include contacting the appropriate authorities where it is possible cables, pipes or services are under the site);
b) retained a written record of the measures which were taken to locate such cables, pipes or other services;
c) conveyed the location of such cables, pipes and services to **employees** or others who are carrying out such work on **your** behalf;
- 4.5.31 **War or terrorism**
personal injury, damage, denial of access or nuisance directly or indirectly caused by or contributed to by or arising from **war** or any act of **terrorism**.

4.6 Other Public and products liability terms and conditions

- 4.6.1 **Bona fide subcontractors insurance check**
Whenever work is undertaken on **your** behalf by bona fide subcontractors, **you** will establish and maintain an administrative procedure for obtaining evidence that bona fide subcontractors effect public liability insurance that:
a) covers the work to be undertaken by the bona fide subcontractor;
b) is subject to a **limit of indemnity** of not less than GBP2,000,000 or the **limit of indemnity** of this **section**, whichever is the greater;
c) includes an 'indemnity to principals' clause;
d) is revalidated every twelve (12) months throughout the duration of their **contract** with **you**.
- 4.6.2 **Bona fide subcontractors payment condition**
It is a condition precedent to **our** liability that annual payments to bona fide subcontractors do not exceed the percentage of **your annual turnover** stated in the **schedule**.

4.6.3 Heat away from premises

a) 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:

- i) oxyacetylene;
- ii) electric arc or similar welding, cutting, grinding or other spark emitting equipment;
- iii) blow lamps;
- iv) otherwise applying heat;

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

b) Where the use of heat away from **your premises** involves

- i) oxyacetylene;
- ii) electric arc or similar welding, cutting, grinding or other spark emitting equipment;
- iii) blow lamps;
- iv) otherwise applying heat;

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

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

i) 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.

ii) 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.

iii) 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.

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

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

4.6.4 **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 they 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 the prior consent in writing of us;
- 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;
- j) 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).

4.6.5 **Reasonable precautions**

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

5 Section - Employers' liability

5.1 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** 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.

5.2 Employers' liability defence costs

Following any event which is or may be the subject of indemnity under the Employers' liability cover clause above whether or not **bodily injury** has occurred **we** agree to indemnify **you** for **defence costs** but such **defence costs** form part of the **limit of indemnity** and do not increase the **limit of indemnity**.

5.3 Employers' liability extensions

5.3.1 Additional persons insured

- a) In the event of the death of any person entitled to indemnity under this **section**, **we** will indemnify in the terms of this **policy** the deceased's legal personal representatives but only in respect of liability incurred by such deceased person;
- b) At **your** request **we** will indemnify in the terms of this **section**:
 - i) any **principal** in respect of liability arising out of the performance by **you** of any agreement entered into by **you** with the **principal** to the extent required by such agreement;
 - ii) any director of **yours** or **employee** in respect of liability arising in connection with the **business** provided that **you** would have been entitled to indemnity under the **section** if the claim had been made against **you**;
 - iii) any officer, committee or member of **your** canteen, sports, social or welfare organisations, fire security, first aid, medical or ambulance services in their respective capacities as such;
 - iv) any director or senior official of **yours** in respect of private work undertaken by any **employee** for such director or senior official provided that:
 - I) each person shall as though he were the **insured** observe fulfil and be subject to the terms of this **policy** insofar as they can apply;
 - II) we shall retain the sole conduct and control of all claims.

5.3.2 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

5.3.3 **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.

5.3.4 **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**.

5.3.5 **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 material and non-material **damage** under Article 82 of the General Data Protection Regulation ('GDPR') including 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:

- a) the cost of replacing, reinstating, rectifying or erasing any personal data;
- b) any cost relating to the investigation of a data breach, or the statutory obligation to report a data breach to the Information Commissioner's Office or any other supervisory authority or other regulator or to data subjects;
- c) 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;
- d) claims which arise out of circumstances that are notified to any previous **insurer** or known to **you** at inception of this **policy**;
- e) liability for which indemnity is provided under any other insurance; or
- f) claims or prosecutions brought against **you** outside the Courts of the **United Kingdom**.

5.3.6 **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

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

- a) **We** agree to indemnify **you** and at **your** request, any **other insured party**, in respect of **defence costs** reasonably incurred with our prior consent in defending:
 - i) any alleged breach of statutory duty (including any prosecution brought under sections 2 to 8 of the Health and Safety at Work, etc. Act 1974, Health and Safety at Work (Northern Ireland) Order 1978 or similar legislation in the Isle of Man or the Channel Islands) or criminal proceedings brought; and/or

- ii) any alleged breach of statutory duty under the Protection from Harassment Act 1997; and/or
 - iii) allegations (whether under common law or statute) of manslaughter, corporate manslaughter or corporate homicide made against **you** or any **other insured party**;
- provided that the prosecution or proceedings relate to:
- iv) an offence alleged to have been committed during the **period of insurance** and in the course of **business**; and
 - v) bodily **injury** to or potential **insured** claim for bodily **injury** to **employees** including their health, safety and welfare.
- b) **We** will also indemnify **you** for:
- i) **defence costs** of appeal including appeal against improvement and prohibition notices incurred with our prior consent
 - ii) prosecution costs awarded against **you**.
- c) The indemnity by this clause excludes and does not cover any amount:
- i) in respect of allegations provided by this clause (Statutory **defence costs**) but not those relating to prosecution costs (clause iii) below) or manslaughter, corporate manslaughter or corporate homicide (clause ii) below), in **excess** of a £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings;
 - ii) in respect of allegations of manslaughter, corporate manslaughter or corporate homicide including prosecution costs relating to this item ii) (manslaughter **defence costs**), in **excess** of £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings;
 - iii) in respect of prosecution costs other than such costs relating to item ii) above (prosecution costs) in **excess** of £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings.

5.3.8 Unsatisfied court judgments

In the event of a judgment for damages being obtained during the **period of insurance**:

- a) by any **employee** or the personal representatives of any **employee** in respect of bodily **injury** to such **employee** that arises out of and in the course of his employment by **you** in the **business**, against any person operating from **premises** in the European Economic Area; and
 - b) which remains unsatisfied in whole or in part six (6) months after the date of such judgment; and
 - c) in any court of law except a court operating under the laws of North America;
- then at **your** request, **we** will pay the amount of damages or costs awarded to the **employee** or the personal representatives of the **employee** to the extent that they remain unsatisfied provided that:
- i) there is no appeal outstanding; and
 - ii) the judgment relates to bodily **injury** which would otherwise be indemnified by this **section**; and
 - iii) we will be entitled to take over and prosecute for our own benefit any claim against any other person and **you**, the **employee** or the personal representatives of the **employee** will give **us** all the information and assistance **we** may require.

5.3.9 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.

5.3.10 **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 any of **your** subsidiaries or from **your** parent company.

5.4 **Employers' liability limitations and exclusions**

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

5.4.1 **Employment practices dispute**

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

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

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

5.4.2 **Fees for intervention**

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

5.4.3 **Fines and penalties**

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

5.4.4 **Hazardous locations**

The insurance by this **section** excludes and does not cover legal liability arising in connection with work undertaken in or on:

- a) aircraft or watercraft;
- b) airport or aerodrome runways manoeuvring areas or aprons or those parts of airports or aerodromes to which aircraft have access;
- c) railways or railway installations;
- d) docks or harbours;
- e) work on **offshore** installations;
- f) quarries mines or collieries;
- g) **chemical** or petro-chemical works oil refineries gas works or fuel storage facilities;
- h) power stations or nuclear plant;
- i) bridges viaducts tunnels dams chimney shafts towers or steeples.

5.4.5 **Hazardous work**

The insurance by this **section** excludes and does not cover legal liability arising in connection with any work:

- a) of demolition except demolition solely undertaken with hand held tools and of structures not exceeding five (5) metres in height by **employees** in the direct service of the **insured** when such work forms an ancillary part of a **contract** for construction, alteration or repair carried out by **you**;
- b) of construction, alteration or repair of bridges, towers, steeples, chimney shafts, blast furnaces, viaducts or mines;
- c) of pile driving, tunnelling or quarrying;

- d) involving the use of explosives;
- e) involving excavations below the limit specified in the **schedule**;
- f) carried out at a height in **excess** of the limit specified in the **schedule**.

5.4.6 **Limit of indemnity**

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

5.4.7 **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**.

5.4.8 **Nuclear hazards**

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

5.4.9 **Offshore**

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

5.4.10 **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 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.

5.4.11 **Statutory defence costs**

liability for **defence costs** arising out of or in respect of any alleged breach of statutory duty or any allegation of manslaughter, corporate manslaughter or corporate homicide except as stated

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

under the Employers' liability **section**.

5.4.12 **War or terrorism**

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

5.4.13 **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.

5.5 **Other employers' liability terms and conditions**

5.5.1 **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.

6 Section – Business goods

6.1 Business goods coverage

6.1.1 Loss or damage to property insured

In the event that the **property insured** comprising:

- a) **Business equipment;**
- b) **Business stock;**

or as otherwise described in the **schedule** be **damaged**, then **we** will indemnify **you**, reinstate or replace the **property insured** or any part thereof up to the **sum insured** provided that the **damage** occurs at the **premises** during the **period of insurance**.

6.2 Business goods extensions

6.2.1 Debris removal

The insurance on each category of **property insured** extends to include costs and expenses necessarily incurred by **you** with our consent in:

- a) removing debris,
- b) cleaning or repairing of drains or sewers,
- c) dismantling or demolishing,
- d) shoring up, propping or fencing,

of any portion of the **property insured** which has suffered **damage** provided that:

- i) our maximum amount payable in respect of any one occurrence under this 'Debris removal' clause shall not exceed ten percent (10%) of the **sum insured**;
- ii) we will not provide indemnity for any pollution or contamination not **insured** by this **policy**

6.2.2 Exhibition and trade fairs

The insurance by this **section** extends to indemnify **you** for **damage** to **property insured** while at exhibitions and trade fairs within the **United Kingdom**, including **transit** directly thereto and therefrom, 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;
- b) caused by theft or pilferage by an **employee** either as a **principal** or accessory;
- c) resulting directly from defective packing, faulty assembly or dismantling;
- d) recoverable under any other insurance or in any other way;
- e) 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 or under **your** control the vehicle must be:
 - I) occupied by **you** or **your employee**; or
 - II) if unattended, all doors windows and other means of entry must be closed and locked and all keys must be removed to a place of safety; and
 - III) if left unattended between the hours of 9pm and 6am, 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
 - IV) an immobiliser approved by **us** and brought into operation.

For the purpose of this exclusion, "unattended" means that the carrying vehicle is out of sight of the driver and/or more than one (1) minute's walking distance from the driver.

Our maximum liability under this extension shall not exceed £2,000 in respect of any one loss or in the aggregate during any **period of insurance**.

6.3 Business goods exclusions

We will not pay for:

6.3.1 Breakdown

mechanical or electrical breakdown or derangement.

6.3.2 Computers and systems

damage to any computer or other equipment or component or system or item which processes, stores, transmits or retrieves data or any part thereof whether tangible or intangible (including but not limited to any information or programs or software) and whether **your** property or not where such **damage** is caused by programming or operator error, **virus or similar mechanism** or **hacking** (meaning unauthorised access to any computer or other equipment or component or system or item which processes, stores, transmits or retrieves data).

6.3.3 Excess

the amount of the **excess** shown in **your policy schedule** for each and every claim.

6.3.4 Other insurance

damage to property more specifically **insured**.

6.3.5 Process

damage to the **property insured** resulting from its undergoing any process of production or packaging, treatment, testing or commissioning, servicing or repair.

6.3.6 Shortages

damage caused by or consisting of

- a) acts of fraud or dishonesty;
- b) disappearance, unexplained or inventory shortage, misfiling, misplacing of information or clerical error

6.3.7 Theft from the Premises

damage caused by theft or attempted theft:

- a) not involving entry into or exit from buildings by forcible or violent means;
- b) by any person lawfully in the **premises** where **you** or **your** partners, directors or employed persons or any member of **your** household is involved;
- c) from any building or part of any building not capable of being locked;
- d) from the open or from any yard, compound, garden or car park.

6.3.8 Water table level

damage attributable solely to change in water table level.

6.3.9 Wear and tear

damage caused by or consisting of:

- a) an existing or hidden defect;
- b) gradual deterioration, wear and tear, corrosion, rust or rot;
- c) change in temperature, colour, flavour, texture or finish.

6.3.10 Weather

damage to moveable property in the open by:

- a) wind, rain, hail, sleet or snow;
- b) flood;

- c) dust.

6.4 Other Business goods terms and conditions

6.4.1 Basis of claim settlement

- a) In the event of **damage** to each item of **property insured** by this **section** (excluding **Business stock**, computer systems records, documents, manuscripts, **business** books, data carrying materials or **employees'** effects and pedal cycles) **your** claim will be settled by **reinstatement** of the property.
- b) In the event of **damage** to computer systems records, documents, manuscripts, **business** books or data carrying materials, claims will be settled on the basis of the value of the materials together with the cost of clerical labour and computer time expended in reproducing such records (excluding any expenses in connection with the production of information to be recorded therein) but not for the value to **you** of the information contained in them.
- c) In the event of **damage** to stock or other property not specified by a) or b) above claims will be settled on the basis of its value at the time of **damage** with adjustment for wear and tear.
- d) 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
- e) 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.

6.4.2 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.

6.4.3 Our limit of liability

Our maximum limit of liability shall not exceed the **sum insured** shown against each item of **property insured** shown in the **schedule** or in aggregate during any one **period of insurance** the total **sum insured** but subject to the undernoted conditions:

- a) Under insurance
 - i) For each item of **property insured** covered on a **reinstatement** basis if at the time of loss the **sum insured** 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 **sum insured** bears to the cost of **reinstatement** at inception.
 - ii) For each item of property not **insured** on a **reinstatement** basis if at the time of loss the value of the **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
- b) **Reinstatement of sum insured.**

In event of any loss the **sum insured** will be automatically reinstated from the date of the loss unless there is written notice by **us** or **you** stating otherwise. **You** will have to pay an additional premium for this.

- c) Inflation

For each item of **property insured** covered on a **reinstatement** basis the **sum insured** shown in the **schedule** is deemed to be increased by 15% inflation allowance.

6.4.4 **Minimum standards of security**

It is a condition precedent to our liability for **damage** by theft or any attempt thereat that the following minimum level of security (or alternative security precautions as agreed in writing by **us** whether following a survey or otherwise) is installed at the **premises** and put into effect whenever the **premises** are left unattended:

- a) the final exit door of the **premises** are to be fitted with a mortise deadlock which has 5 or more levers and/or conforms to BS3621. A matching boxed striking plate must also be added.
- b) all other external doors and all internal doors giving access to any part of the building not occupied by **you** for the purpose of the **business** are to be fitted with either:
 - i) a mortise deadlock which has 5 or more levers or conforms to BS3621 with a matched boxed striking plate as specified above; or
 - ii) two key operated security bolts for doors one fitted approximately 30cm from the top of the door and the other 30cm from the bottom.
- c) aluminium or UPVC framed doors are to be fitted with integral cylinder key operated mortise deadlocks.
- d) all opening external basement ground floor and other accessible (accessible being a window that can easily be reached such as a window adjacent to a flat roof or fire escape balconies canopies or down pipes) windows, fanlights, roof lights and skylights are to be fitted with key operated window locks. This requirement does not apply to windows protected by solid steel bars weldmesh or expanded metal grilles securely fixed to the brickwork surrounding the window.

Any door or window officially designated a fire exit by a fire authority is excluded from the above requirements. These are to be secured internally by panic bolts or fire exit bolts (capable of opening at all times). Any additional devices must be approved by the local Fire Prevention Officer.

6.4.5 **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** insured 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 property insured** commences, the **sum insured** for an item of **property insured** is less than 85% of the cost of **reinstating** that **damaged** item of **property insured** 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 **property insured** on a total loss basis. **You** will therefore have to bear a rateable proportion of the loss caused by the **damage**.

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.

7 Section – Contractors all risks cover

7.1 Contract works insurance

7.1.1 Contract works

In the event that the **property insured** comprising:

- a) **contract works**;
- b) **hired-in plant**;
- c) **own plant**,
- d) **tools**;

or as otherwise described in the **schedule** be **damaged**, then **we** will at our option indemnify **you**, reinstate or replace the **property insured** or any part thereof up to the **sum insured** provided that **damage** that occurs during the **period of insurance** and the **property insured** is:

- i) on or adjacent to the **contract** site within the **United Kingdom**; or
- ii) in **transit** to or from the **contract** site; or
- iii) temporarily stored away from the **contract** site, including storage at **your premises**, but for **property insured** by sub clause a) above storage at **your premises** is only covered if the **contract works** are consigned for use in a specific **contract** and **you** are responsible for the **damage** under **contract** conditions; or
- iv) elsewhere within the **United Kingdom** in respect of sub clause c) and d) above only.

7.1.2 Additional benefits

Unless expressly stated to the contrary cover granted by the 'additional **contract works** costs and expenses' clause and the '**contract works** extensions' to this **section** do not increase the sums **insured**. Any sub-limits stated form part of and are not additional to the sums **insured**.

7.2 Additional Contract works costs and expenses

7.2.1 Architects', surveyors' and other fees incurred in reinstatement

This **section** extends to cover:

- a) architects, surveyors' and consulting engineers' fees; and
- b) other fees,

necessarily incurred in the **reinstatement** following **damage** to the **property insured** provided that our maximum amount payable in respect of any one occurrence under this 'architects', surveyors' and other fees incurred in **reinstatement**' clause shall not exceed the amount authorised by the appropriate professional body.

7.2.2 Debris removal

The insurance on each category of **property insured** extends to include costs and expenses necessarily incurred by **you** with our consent in:

- a) removing debris,
- b) cleaning or repairing of drains or sewers, c) dismantling or demolishing,
- c) shoring up, propping or fencing,

of any portion of the **property insured** which has suffered **damage** provided that:

- i) our maximum amount payable in respect of any one occurrence under this 'Debris removal' clause shall not exceed ten percent (10%) of the **sum insured**;
- ii) we will not provide indemnity for any pollution or contamination not **insured** by this **policy**

7.2.3 **Expediting expenses**

The insurance on **contracts** works extends to include costs and expenses necessarily incurred by **you** with our consent of repair, **reinstatement** or replacement including overtime, weekend shift working, plant hire charges, express delivery (including air freight) necessarily and reasonably incurred in expediting repair, **reinstatement** or replacement of such **damage** but excluding:

- a) any such costs to expedite the completion of any construction, erection or installation of undamaged property; and/or
- b) any amount payable under this 'expediting expenses' clause in **excess** of £50,000 any one loss or series of losses arising from one originating cause.

7.2.4 **Free issue materials**

The insurance on **contract works** extends to include free issue materials supplied by the **principal** or his agent and for which **you** are responsible under the terms of the **contract** provided that the total value of all such free issue materials is included in any declaration made to **us**.

7.3 **Contract works extensions**

7.3.1 **Cessation of works**

We will provide cover for **contract works** if from any cause work is to stop for a continuous period in **excess** of thirty (30) days provided that:

- a) **You** will provide **us** with details of the works completed and outstanding for **us** to consider continuation of cover
- b) Nothing in this extension shall be deemed to extend cover beyond the date of expiration or non-renewal of this **policy**.

7.3.2 Continuing plant hire charges

This **section** extends to cover **your** legal obligation to pay continuing hire charges while **hired-in plant** is out of commission following:

- a) damage to the **hired-in plant** but only if:
 - i) you have made a claim under this **section** for the **damage**; and
 - ii) we have accepted the claim, or would have but for the amount of the **excess**;
- b) breakdown of the **hired-in plant** because of **your** neglect or misuse; except that the insurance provided by this 'continuing plant hire charges' clause excludes and does not cover:
 - c) hire charges for the first twenty-four (24) hours the plant is out of use;
 - d) continuing hire charges exceeding a period of ninety (90) days (after the expiry of the first twenty-four (24) hours);
 - e) any amount in **excess** of £25,000 in respect of any one occurrence of **damage**.

7.3.3 **Escalator clause**

If there is an increase in the value of any **contract** the **sum insured** shown in the **schedule** will automatically increase for that **contract** as long as the amount of the increase is not more than 20% of the **sum insured**.

7.3.4 **European Union and public authority requirements**

This **section** extends to cover **your** liability for such additional costs of **reinstatement** of the **contract works** as may be incurred with our written consent in complying with the stipulations of European Union legislation or building or other regulations under or framed in pursuance of any Act of Parliament or bye-laws of any public authority first imposed upon **you** following loss or **damage** provided that:

- a) the **reinstatement** is completed within twelve (12) months of the occurrence of the **damage** or within such further time as **we** may in writing allow;
- b) this insurance excludes and does not cover costs for:

- i) requirements relating to any undamaged parts of the **contract works** other than foundations (unless foundations are specifically excluded from this insurance);
- ii) any rate tax duty development or other charge or assessment which may arise out of capital appreciation a result of complying with any of the regulations or requirements referred to;
- iii) additional costs incurred solely to comply with building or other regulations if relevant notice had been served upon **you** before the **damage** occurred.

7.3.5 **Immobilised plant**

If constructional plant or equipment becomes unintentionally immobilised on the **contract** site, then **we** will pay the costs necessarily incurred in its **recovery** or withdrawal provided that:

- a) our liability for the cost of **recovery** under this extension clause shall not exceed the total value of the item recovered at the time of the **damage**;
- b) we will not pay costs if the **recovery** or withdrawal is necessary solely because of electrical or mechanical breakdown, failure or derangement but this shall not exclude breakdown due to negligence by **you** or **your employees**.

7.3.6 **Maintenance**

Where required by **contract** this **policy** includes **damage** that occurs during the **period of insurance**:

- a) occurring during the maintenance period, not exceeding twenty four (24) months from a cause arising whilst in **transit** or at the site before the issue of the certificate of practical completion; and
- b) occasioned by **you** in the course of fulfilling **your** obligations during the maintenance period as required by the terms of the **contract**.

7.3.7 **Offsite storage**

This **section** is extended to indemnify **you** in respect of **damage** to finished materials or **goods** designated for and awaiting incorporation into specific **contract works** while such **goods** are temporarily held in store away from the **contract** site but not while such materials or **goods** are being worked upon subject to a limit of £100,000 any one loss.

7.3.8 **Plans, drawings, specifications and documents**

This **section** extends to cover **damage** to plans, drawings, specifications and documents within the **United Kingdom** (except on the site of a **contract** not **insured** by this section) but any claim is limited to:

- a) the value of the materials as stationery and the cost of clerical labour involved in their reproduction and not the value to **you** of the information they contain;
- b) £25,000 for all claims in total during the **period of insurance**.

7.3.9 **Principals**

We will indemnify any **principal** of **you**, where requested by **you**, but 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) the **principal** 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; and
- b) our liability under this clause shall in no way operate to increase the **sum insured**.

7.3.10 **Replacement of locks**

In the event of loss or theft of keys to any immobilising device permanently fitted to any item of constructional plant being used in connection with the **contract** the indemnity provided under sub clauses b) and c) of the '**contracts works**' clause is extended to include the necessary and reasonably incurred cost of replacing the cylinder of the lock of such immobilising device provided that:

- a) Such keys are kept in a locked safe or locked cabinet when not in use
- b) Our liability shall not exceed £500 in respect of any one claim.

- 7.3.11 **Show houses**
This **section** extends to cover **damage** to any property used as a show house except that **we** shall not be liable to pay any amount in **excess** of £250,000 any one loss for the show houses and for £10,000 for the contents of the show houses.
- 7.3.12 **Speculative housing**
In the event of speculative housing being completed but unsold cover shall continue for a period of six (6) months from the date of practical completion providing that **we** shall not be liable to pay any amount in **excess** of £250,000 any one loss for the indemnity granted by this clause.
- 7.3.13 **Waiver of recovery rights under the JCT Standard Form of Building Contract**
Where you are awarded a contract under JCT Standard Form of Building Contract incorporating the 1986 Amendments to Insurance and Related Liability Provisions or their equivalent conditions, then we agree insofar as required by the contract to waive any rights of **recovery** we may acquire against sub-contractors but only in respect of damage to the contract works by any of the specified perils defined in the contract.

7.4 Contract works limitations and exclusions

In addition to the limitations and exclusions applicable to this **section** in the General Exclusions, the following are excluded from and not covered by the insurance under this **section**.

- 7.4.1 **Asbestos**
This **section** excludes and does not cover **damage** directly or indirectly arising from, contributed to or by contamination of the **property insured** by asbestos, asbestos dust or asbestos containing products.
- 7.4.2 **Completion or occupancy of the contract works**
This **section** excludes and does not cover **damage** to the **contract works**:
a) for which a certificate of completion has been issued;
b) which occurs after completion and handover to **your principal**;
c) which occurs while the **contract works** are being used or occupied;
but this restriction shall not exclude **damage** to the **contract works** which is not otherwise excluded that:
i) occurs within fourteen (14) days after the issue of a certificate of completion but only to the extent that **you** may be responsible under the **contract** conditions;
ii) is expressly **insured** under **Contract works** extension showhouses except as specifically provided under any clause to this **policy**.
- 7.4.3 **Deliberate acts**
This **section** does not cover **damage** arising from or caused by a wilful act or wilful neglect by **you**.
- 7.4.4 **Excess**
This **section** excludes and does not cover the first amount stated in the **schedule** as the **excess** in respect of each and every claim.
- 7.4.5 **Faulty workmanship and design damage to property insured**
a) which is faulty due to a defect in the design plan specification materials or workmanship but this does not apply to resultant **damage** to other **property insured** which is free of the fault;
b) to enable the replacement repair or rectification of the property excluded by sub clause a) of this exclusion above.
For the purpose of this insurance the **property insured** will not be considered **damaged** just because there is a fault in the design, plan, specification, materials or workmanship in the **property insured** or any part of it.

7.4.6 **Indirect loss, fines or penalties**

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

- a) liquidated damages, fines or penalties for delay or detention in connection with any guarantees of performance or efficiency, or
- b) any other indirect loss.

7.4.7 **Property excluded**

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

- a) aircraft, hovercraft or watercraft except safety boats, non-self-propelled watercraft, or other watercraft up to twenty feet (20) in length used on or about the **contract** site;
- b) any mechanically propelled motor vehicle, or its attached trailer which is:
 - i) licensed for road use or for which insurance or security is required under Road Traffic law,
 - ii) more specifically **insured** under any other **policy** of insurance;
- c) **money**, promissory notes, cheques, bills of exchange, securities for **money**, stamps or bonds;
- d) deeds, manuscripts or documents of any kind;
- e) property for which **you** are relieved of responsibility by the conditions of the **contract**;
- f) **property insured** in **transit** by sea or air;
- g) existing structures and/or existing property being worked upon;
- h) property more specifically **insured** under any other **policy** of insurance.

7.4.8 **Theft from unattended vehicles**

This **section** excludes and does not cover

- a) damage caused by theft or attempted theft of **property insured** while contained in an unattended vehicle or trailer unless there is evidence of forcible and violent entry to the vehicle or trailer;
- b) any amount exceeding £750 each and every claim in respect of theft or attempted theft of **property insured** while contained in an unattended vehicle or trailer between the last **business transit** of the working day until the first **business transit** of the following day.

For the purpose of this exclusion, "unattended" means that the carrying vehicle is out of sight of the driver and/or more than one (1) minute's walking distance from the driver.

7.4.9 **Wet work and tunnels**

This **section** excludes and does not cover **damage** arising from any contracts involving work in on over or adjacent to tidal waters tunnels (but not cut and cover) galleries where the estimated **contract** value is greater than £25,000.

7.5 **Other Contract works terms and conditions**

7.5.1 **Automatic reinstatement**

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

7.5.2 **General interest**

The interest of other parties including, as the case may be, lessors, mortgagees, banks, hire purchase companies specified in the **schedule** (or notified by **you** to **us** in writing from time to time) is noted in this insurance, but only to the extent of their financial interest in the **property insured**, but not as joint **insured**.

In the event of any claim:

- a) you will immediately declare to **us** the names of such interested parties; and
- b) we will consult with such declared interested parties as regards the manner and method of any indemnity so as to protect the direct financial interests of such parties.

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

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

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

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**.

7.5.5 **Basis of settlement**

- a) If **own plant** is **damaged** and **insured** under this **section**, our liability to **you** is to be calculated as follows:
 - i) where the **own plant** is less than twelve (12) months old from the date of sale as new **we** will replace the item by similar plant in a condition equal to but not better or more extensive than its condition when new.
 - ii) where the **own plant** is more than twelve (12) months old, **we** will indemnify **you** for the value of the plant at the time of **damage** or the cost of repair of the constructional plant to a condition substantially the same as but not better or more extensive than the condition at the time of **damage** or at our option reinstate or replace such plant and machinery;

For all other items **insured** under this section **we** will repair, replace or indemnify **you** for the **actual value**.

8 Section – Personal accident

8.1 Personal accident cover

We agree to pay compensation to the **insured** person on the basis of and in accordance with the terms of this **section** and the benefit amounts specified in the **schedule** in respect of **injury** sustained anywhere in the world during the **period of insurance** causing:

Item 1 Death or total loss or permanent total loss of use of one or more limbs, or total and irrecoverable loss of:

- a) all sight in one or both eyes
- b) speech
- c) hearing

Item 2 **Permanent total disablement** (other than specified in Item 1 above)

Item 3 **Temporary total disablement**

Item 4 **Temporary partial disablement**

provided that:

- a) compensation will not be payable under more than one of the items above for the same **injury**;
and
- b) payment under Item 3 or item 4 will cease if benefit under either Item 1 or 2 becomes payable when the sums paid under Items 3 and/or 4 will be deducted from the amount of benefit payable under Item 1 or 2.

8.2 Additional personal accident costs and expenses

8.2.1 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 £5,000 any one **insured** person.
- b) In the event of the death of an **insured** person by **injury**, provided that the **accident** giving rise to the **injury** occurs during the **period of insurance**, **we** agree to pay **you** £1,000 on receipt of an interim death certificate for emergency travel and accommodation expenses.

8.2.2 Medical

In the event of a claim being agreed by **us** for death or **permanent total disablement** under Item 1 of the 'Personal **accident cover**' clause, **we** agree to indemnify **you** for:

- a) medical expenses up to fifteen percent (15%) of the amount payable under Item 1 of the 'Personal accident cover' clause except that the maximum amount payable under this clause will not exceed £15,000.
- b) accommodation and travel costs up to a maximum of £500 for up to two close relatives to travel and remain with the **insured person**, where the **insured person** is hospitalised not less than a radius of seventy five (75) miles from their home address.

8.3 Personal accident limitations and exclusions

The insurance by this **section** excludes and does not cover

- a) The **deferment period**
- b) **Sickness** or natural causes; or
- c) **NCB terrorism**
- d) the **insured** person engaging in air travel as a pilot or crew member;

- e) Deliberate exposure - deliberate exposure to exceptional danger (except in an attempt to save human life or in the course of the **insured** persons employment).
- f) Excluded activities 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 or potholing, paragliding, parachuting or sky diving, hunting on horseback, or racing of any kind except on foot.
- g) Nuclear risks
- h) **nuclear hazards**;
- i) **Suicide and self-inflicted injury**
suicide or attempted suicide, intentional self-inflicted **injury** including self-inflicted **injury** arising from mental illness or intentional **injury** of the **insured person** or the **insured person** being in a state of insanity;
- j) War
war in the **insured person's** country of domicile.

8.3.1 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 £500,000 irrespective of the number of **insureds** and/or **insured persons** claiming.

8.4 Other personal accident terms and conditions

8.4.1 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 to it under this insurance.

8.4.2 Where the aggregate value of **benefits** claimed under the 'Personal accident cover' clause in connection with **injury** arising from an event or series of events as specified in sub clause b) of the 'Accumulation limit' clause exceeds the accumulation limit specified, 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.

8.4.3 Schedule of compensation restrictions

- a) Claiming under more than one item of benefit:
 - i) If it is possible to claim benefit under more than one item of compensation in the **schedule** of compensation, 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 under the **schedule** of compensation;
 - 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** of compensation. If death is not **insured** no benefit will be payable under this insurance;
 - iii) **Benefits** for death or permanent disablement payable under this **section** will not exceed five (5) times the **annual salary** or earnings of the **insured** person.
- b) **Temporary total disablement** and **Temporary Partial Disablement**
 - i) **Temporary total disablement** benefit payable under this **policy** will not exceed the **insured** person's gross weekly earnings;

- ii) No **temporary total disablement** or **temporary partial disablement** benefit will become payable until the total claim amount has been ascertained and agreed by the **insurer**. If, nevertheless, an interim payment is made for **temporary total disablement** or **temporary partial disablement** benefit, 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**;
- iii) 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.
- iv) Notwithstanding the provisions of the above sub clause b) iii), the maximum period for which **we** will pay **benefits** in respect of **temporary total disablement** will not exceed one hundred and four (104) weeks or in respect of **temporary partial disablement** will not exceed fifty two (52) weeks.

9 Section - Business interruption

9.1 Business interruption cover

9.1.1 **We** will indemnify **you** in accordance with each item of **business** interruption insurance which is described below and shown as operative in the **schedule**, for the amount of loss caused by the interruption or interference with the **business** resulting from **damage** to property used by **you** at the **premises** within the **United Kingdom** shown in the Business goods **section**, provided that:

- a) at the time the **damage** occurs there is in force either:
 - i) cover under the Business goods **section**, or
 - ii) an insurance **policy** covering **your** interest in the property at the **premises** against such **damage** and such property is of a type and kind not excluded by this **section**;
- b) at the time the **damage** occurs **you** have claimed under the **policy** referred to in a) above and the relevant **insurer** has paid such claim in full or admitted liability for such claim or would have done so but for the operation of a proviso in such insurance **policy** excluding liability for losses below a specified amount.

9.1.2 Increased cost of working

Our liability under this **section** is limited to the increased cost of working.

9.1.3 Outstanding debit balances

We agree that if any records of accounts receivable used by **you** at the **premises** for the purpose of the **business** should sustain **damage** during the **period of insurance** and in consequence income is lost resulting from **your** inability to trace or establish their **outstanding debit balances** then the **insurer** will indemnify **you** for the loss of income resulting from **your** inability to trace or establish their **outstanding debit balances** as a direct result of **damage** by any **insured peril** provided that:

- a) our liability under this **section** shall not exceed the **sum insured** for book debts of £25,000;
- b) if at the time of any **damage** the **sum insured** for book debts is less than the actual balances, the amount payable by **us** will be proportionately reduced.

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

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

9.1.4 Payments on account

If **you** so request, **we** will, subject to our prior consent which consent will not be unreasonably withheld, make payments to **you** monthly on account during the **indemnity period**, provided always that:

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

9.1.5 Damage to property at contract sites

We will indemnify **you** for loss as covered by this **section** resulting from **damage** to property away from the **premises** but within the **United Kingdom** where **you** are carrying out a **contract**. Our liability under this clause shall not exceed £50,000

9.1.6 Denial of access

We will indemnify **you** for loss resulting from **damage** to property within two hundred and fifty (250) metres of the perimeter of the **premises** which prevents or hinders the use of the

premises or access thereto, whether the **premises** or **property insured** therein shall be **damaged** or not.

9.1.7 **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
 - ii) attributable to food or drink supplied from the **premises**;
- b) the discovery of any organism at the premises likely to result in the occurrence of a **notifiable disease**;
- c) the discovery of vermin or pests at the **premises**;
- d) an accident causing defects in the drains or other sanitary arrangements at the **premises**; and
- e) an occurrence of murder or suicide at the **premises**;

provided that:

- 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**.

9.1.8 **Supply utilities**

a) **We** will indemnify **you** for loss resulting from:

- i) 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.

- ii) 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.

b) **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) The maximum amount payable in respect of any one (1) occurrence under this clause will not exceed £100,000.

9.1.9 **Unspecified customers premises**

We will indemnify **you** for loss resulting from interruption of or interference with the **business** in consequence of **damage** by an **insured peril** covered under the Business Goods **section** to the **premises** of any of **your** direct customers but excluding:

- a) customers specified by a more specific clause of this **policy**;
 - b) damage to **premises** outside the **United Kingdom**
- provided that our liability under this clause shall not exceed £100,000.

9.1.10 **Unspecified suppliers premises**

We will indemnify **you** for loss resulting from interruption of or interference with the **business** in consequence of **damage** by an **insured peril** covered under the Business Goods **section**

to the **premises** of any of **your** direct suppliers but excluding:

- a) suppliers specified by a more specific clause of this **policy**;
- b) damage to **premises** outside the **United Kingdom**

provided that our liability under this clause shall not exceed £100,000.

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

In addition to the limitations and exclusions applicable to this **section** in the General Exclusions, the following are excluded from and not covered by the insurance under this **section**:

9.2.1 **Limit of liability**

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

- a) the **sum insured**;
- b) the **sum insured** remaining after deduction for any other interruption or interference consequent upon **damage** occurring during the same **period of insurance**, unless **we** have agreed to reinstate any such **sum insured**.

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

9.3.1 **Automatic reinstatement**

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

9.3.2 **Payments on account**

If **you** so request, **we** will, subject to our prior consent which consent will not be unreasonably withheld, make payments to **you** monthly on account during the **indemnity period**, provided always that:

- a) the aggregate amount of such payments shall not exceed the **sum insured**, and
- b) if the total adjusted loss under this **section** differs from the quantum of the payments made under this clause then **we** and **you** mutually agree to pay or return the difference accordingly.

9.3.3 **Professional accountants**

- a) Any particulars or details contained in **your** books of account or other **business** books or documents which may be required by **us** under the 'Duties in the event of a claim or potential claim' **section** to this **policy** for the purpose of investigating or verifying any claim made under this **policy** may be produced by professional accountants if at the time they are regularly acting as such for **you** and their report will be the basis for evidence of the particulars and details to which such report relates, unless any such contradictory circumstance or evidence is apparent in which case the onus to prove the loss shall be upon **you**.
- b) **We** will indemnify **you** for the reasonable charges payable by **you** to **your** professional accountants for producing such particulars or details or any other proofs, information or evidence as may be required by **us** under the terms of the 'Duties in the event of a claim or potential claim' **section** to this **policy** and reporting that such particulars or details are in accordance with **your** books of account or other **business** books or documents.

9.3.4 **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, 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, as appropriate, current at the time of the **damage**

10 Section - Legal expenses

10.1 Legal expenses cover

ARAG Legal Expenses Insurance Company Limited ('**ARAG**') is the underwriter and provides the legal protection insurance under **your policy**. The legal advice service is provided by **ARAG** Law Limited and/or a preferred law firm on behalf of **ARAG**.

ARAG Legal Expenses Insurance Company Limited is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority (FRN202106) and the Prudential Regulation Authority | **ARAG** Legal Expenses Insurance Company Limited, Unit 4a, Greenway Court, Bedwas, Caerphilly CF83 8DW | Registered in England and Wales | Company Number 103274 | Website: www.arag.co.uk

ARAG Law Limited is authorised and regulated by the Solicitors Regulation Authority (registered number 423113) | **ARAG** Law Limited Head and Registered Office: Unit 4a, Greenway Court, Bedwas, Caerphilly CF83 8DW | Registered in England and Wales | Company Number: 5417859 | Website: www.araglaw.co.uk

ARAG agree to provide the insurance described in this **section** for **you** (or where specified, the **person insured**) in respect of any **insured** incident arising in connection with the **business** shown in the **schedule**, in return for payment of the premium and subject to the terms, conditions, exclusions and limitations set out in this **policy**, provided that:

- 10.1.1 **reasonable prospects** exist for the duration of the claim;
- 10.1.2 the **date of occurrence** of the **insured** incident is during the **period of insurance**;
- 10.1.3 during the currency of a previous equivalent legal expenses insurance **policy**, provided that:
 - a) the previous legal expenses insurance **policy** required **you** to report claims during its currency,
 - b) you could not have notified a claim previously as **you** could not have reasonably been aware of the **insured** incident
 - c) cover has been continuously maintained in force
 - d) **ARAG** will not cover any claim that should have been covered under a previously operative legal expenses insurance **policy**
 - e) the available **limit of indemnity** shall be limited to the lesser of the sums payable under this or **your** previous **policy**
- 10.1.4 any legal proceedings will be dealt with by a court, or other body which **ARAG** agree to, within the **territorial limits**; and
- 10.1.5 the **insured** incident happens within the **territorial limits**.
For the purpose of this **section** 'insured incident' refers to the indemnity provided by:
 - i) Employment dispute and compensation awards
 - ii) Legal defence
 - iii) Statutory licence appeal
 - iv) Property protection and bodily **injury**
 - v) Tax protection
 - vi) Contract disputesas describe more fully under.
- 10.1.6 **What ARAG will pay**
ARAG will pay an **appointed representative**, on **your** behalf, **legal expenses costs** incurred following an **insured** incident, and any compensation awards that **ARAG** have agreed to, provided that:
 - a) the most **ARAG** will pay for all claims resulting from one or more event arising at the same time or from the same originating cause is shown as the **limit of indemnity** in the **schedule**;

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

in respect of **insured** incident – Legal defence 10.3.4 the maximum **ARAG** will pay is the **person insured's** net salary or wages for the time that the **insured** person is absent from work less any amount **you**, the court or tribunal pays.

10.1.7 **What ARAG 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 **ARAG Standard Terms of Appointment** and these will not be paid by **us**.
- b) The total of the compensation awards payable by **us** shall not exceed £1,000,000 in any one **period of insurance**.

10.2 **Employment disputes and compensation awards**

10.2.1 **Employment disputes**

Legal costs and expenses to defend **your** legal rights:

- a) prior to the issue of legal proceedings in a court or tribunal
 - i) following the dismissal of an **employee**; or
 - ii) Where an **employee** or ex-employee has contacted ACAS ('Advisory, Conciliation and Arbitration Service') to commence the Early Conciliation Procedure; 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**, prospective **employee** or ex-employee under employment legislation.

10.2.2 **Compensation awards**

ARAG will pay:

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

in respect of a claim **ARAG** have accepted under 10.2 provided that:

- a) in cases relating to performance and/or conduct, **you** have throughout the employment dispute either:
 - i) followed the ACAS Code of Disciplinary and Grievance Procedures; or
 - ii) followed equivalent codes of practice issued by the labour relations agency in Northern Ireland; or
 - iii) sought and followed advice from our legal advice service.
- b) for an order of compensation following **your** breach of statutory duty under employment legislation **you** have at all times sought and followed advice from the **ARAG** legal advice service since the date when **you** should have known about the employment dispute.

- c) for any compensation award for redundancy or alleged redundancy or unfair selection for redundancy, **you** have sought and followed advice from the **ARAG** claims department before starting any redundancy process or procedure with **your employees**.
- d) the compensation is awarded by a tribunal or through the ACAS Arbitration Scheme, under a judgment made after full argument and otherwise than by consent or default, or is payable under settlement approved in writing in advance by **ARAG**.

10.2.3 **Employee civil legal defence**

ARAG cover the costs and expenses to will defend the **insured** person (other than **your**) legal rights if an event arising from their work as an **employee** leads to civil action being taken against them,

- a) under legislation for unlawful discrimination; or
- b) civil action is taken against them as a trustee of a pension fund set up for the benefit of **your employees**.

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

10.2.4 **Service Occupancy**

ARAG will negotiate for **your** legal rights against an **employee** or ex-employee to recover possession of **premises** owned by, or for which **you** are responsible.

10.3 **Legal defence**

At **your** request

10.3.1 **ARAG** will cover costs and expenses to defend the **person insured's** legal rights:

- a) prior to the issue of legal proceedings when dealing with the:
 - i) police;
 - ii) health and safety executive and/or local authority health and safety enforcement officer; where it is alleged that the **person insured** has or may have committed a criminal offence; or
- b) following an event which leads to the **person insured** being prosecuted in a court of criminal jurisdiction

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

Provided that:

- iii) in so far as proceedings under the Health and Safety at Work etc Act 1974 are concerned the territorial limit shall be any place where the act applies.
- c) 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:
 - i) An individual, **ARAG** will also pay any compensation award in respect of such claim
 - ii) A 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 **ARAG** will not pay any compensation award in respect of such a claim.

Provided that:

In respect of 10.3.1 c) i) any sum of **money** in settlement of a dispute is awarded by a court under a judgment made after a full argument and otherwise than by consent or default, or is payable under settlement approved in advance by **ARAG**. Please note **ARAG** will not cover the cost of fines imposed by the Information Commissioner or any other regulatory and/or criminal body. Please see 10.9.3

But not covered for:

A claim related 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 programme that contains any malicious or damaging code, computer **virus or similar mechanism**.
- d) **ARAG** will cover **you** if civil action taken against **you** for wrongful arrest in respect of an accusation of theft alleged to have been carried out during the **period of insurance**.
- e) **ARAG** will cover an appeal against the imposition or terms of any Statutory Notice issued under legislation affecting **your business**.
- f) **ARAG** will pay for an **person insured's** absence from work:
- g) to perform jury service
- h) to attend any court or tribunal at the request of the appointed representative.

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

Provided that:

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

10.4 Statutory licence protection

ARAG will cover costs and expenses to 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.

10.5 Property protection and bodily injury

10.5.1 Property protection

ARAG will negotiate for **your** legal rights in any civil action relating to material property which is owned by **you**, or is **your** responsibility, following:

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

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

10.5.2 Personal injury

ARAG will negotiate for a **person insured's** and their family members' legal rights following a specific or sudden **accident** that causes the death of, or bodily **injury** to them.

10.6 Tax protection

10.6.1 A tax enquiry

10.6.2 An employer compliance dispute.

10.6.3 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 **ARAG** will only cover tax claims which arise in direct connection with the activities of the **business** shown in the **schedule**.*

10.7 Contract disputes

ARAG will negotiate for **your** legal rights in a **contractual** dispute arising from that agreement or that an alleged agreement or an alleged agreement which has been entered into by **you** or on **your** behalf for the purchase, hire, sale or provision of **goods** or of services provided that:

- a) the amount in dispute exceeds £500 (including **VAT**). If the amount in dispute exceeds £5,000, (including **VAT**), **you** must pay the first £500 of any claim. If **you** are using a **preferred law firm**, **you** will be asked to pay this within 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
- b) if the amount in dispute is payable in instalments, the instalments due and payable at the time of making the claim exceed £500 (including **VAT**)
- c) if the dispute relates to **money** owed to **you**, a claim under this **section** is made within ninety (90) days of the **money** becoming due and payable.

10.8 Specific Legal expenses limitations and exclusions

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

10.8.1 Employment disputes and compensation awards

a) Employment disputes

Unless equivalent legal expenses insurance was continuously in force immediately prior to the inception of this section

- i) Any dispute where the originating cause of action arises within the first ninety (90) days of the start of the cover provided by this **section**.
- ii) Any dispute with an **employee** who was subject to a written or oral warning (formal or informal) within one hundred and eighty (180) days immediately before the start of the cover provided by this **section** if the **date of occurrence** was within the first one hundred and eighty (180) days of the start of the cover provided by this **section**.
- iii) Any redundancy or alleged redundancy or unfair selection for redundancy arising within the first one hundred and eighty (180) days of the start of the cover provided by this **section**.
- iv) Any claim in respect of damages for personal **injury** or loss of or **damage** to property.
- v) Any claim arising from or relating to the Transfer of Undertakings or the Transfer of Employment (Pension Protection) Regulations.

b) Compensation awards

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

c) Service occupancy

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

10.8.2 **Legal defence**

a) any criminal investigation or enquiry by, with or on behalf of HM Revenue & Customs.

Please note this exclusion applies to **section 10.3.1 a)** of the Legal defence cover.

b) Any claim related to prosecution due to infringement of road traffic laws or regulations in connection with the ownership, driving or use of a motor vehicle. Please note this exclusion applies to sections 10.3.1 a) and b) of the Legal defence cover.

c) Any claim related to an appeal against the imposition of terms of any Statutory Notice issued in connection with **your** license, mandatory registration or British Standard Certificate of Registration.

Any claim relating to a Statutory Notice issued by a **person insured's** regulatory or governing body. Please note the following exclusions apply to **section 10.3** of the Legal defence cover;

d) A claim related 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 programme that contains any malicious or damaging code, computer **virus or similar mechanism**.

Please note this exclusion applies to **section 10.3** of the legal defence cover.

10.8.3 **Statutory licence appeal**

Any claim relating to:

a) assistance with the application process either in relation to an original application or application for renewal of a statutory licence, mandatory registration or British standard certificate of registration.

b) the ownership, driving or use of a motor vehicle.

10.8.4 **Property protection and bodily injury**

a) Property Protection

Any claim relating to the following:

i) a **contract** entered into by **you**; (please refer to **insured** incident 10.7 **contract** disputes)

ii) **goods in transit** or **goods** lent or hired out;

iii) **goods at premises** other than those occupied by **you** unless the **goods** are at such **premises** for the purpose of installations or use in work to be carried out by **you**;

iv) mining subsidence;

v) defending **your** legal rights other than in defending a counter-claim;

vi) a motor vehicle owned or used by, or hired or leased to a **person insured** other than **damage** to motor vehicles where **you** are engaged in the **business** of selling motor vehicles.

b) Personal Injury

Any claim relating to the following:

i) any illness or bodily **injury** which develops gradually or is not caused by a specific or sudden **accident**; or

ii) defending a **person insured's** or their family members' legal rights other than in defending a counter-claim; or

iii) a motor vehicle owned or used by, or hired or leased to a **person insured** or their family members.

10.8.5 Tax protection

- a) Any claim relating to a tax avoidance scheme.
- b) Any failure to register for Value Added Tax or Pay As **You** Earn.
- c) Any investigation or enquiries by, with or on behalf of HM Revenue & Customs Special Investigations Section, Special Civil Investigations, Criminal Investigations Unit, Criminal Taxes Unit, under Public Notice 160 or by the Revenue & Customs Prosecution Office.
- d) Any claim relating to import or excise duties and import **VAT**
- e) Any investigation or enquiry by HM Revenue & Customs into alleged dishonesty or alleged criminal offences.

10.8.6 Contract disputes

Any claim relating to:

- a) unless equivalent legal expenses insurance was continuously in force immediately prior to the inception of this **section** a dispute arising from an agreement entered into prior to the start of the **policy** if the **date of occurrence** is within the first 90 days of the cover provided by the **policy**.
 - i) the settlement payable under an insurance **policy** (**ARAG** will cover a dispute if **your insurer** refuses **your** claim, but not for a dispute over the amount of the claim).
 - ii) the sale, purchase, terms of a lease, licence, or tenancy of land or buildings. However, **ARAG** will cover a dispute with a professional adviser in connection with these matters.
 - iii) a loan, mortgage, pension, guarantee or any other financial **product** and choses in action.
 - iv) a motor vehicle owned by, or hired or leased to **you** other than agreements relating to the sale of motor vehicles where **you** are engaged in the **business** of selling motor vehicles.
- b) a dispute with an **employee** or ex-employee which arises out of, or relates to, a **contract** of employment with **you**. Please refer to **insured** incident 10.1.7 Employment disputes and 10.1.8 compensation awards.
- c) a dispute which arises out of the sale or provision of computer hardware, software, systems or services; or
- d) a dispute arising from a breach or alleged breach of professional duty by a **person insured**.
- e) the **recovery** of **money** and interest due from another party, other than disputes where the other party indicates that a defence exists.

10.8.7 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.

10.9 Legal expenses exclusions

10.9.1 On receiving a claim, if representation is necessary, **ARAG** will appoint a preferred law firm, tax consultancy or in-house lawyer as **your appointed representative** to deal with **your** claim. They will try to settle **your** claim by negotiation without having to go to court.

- a) If the appointed preferred law firm, tax consultancy cannot negotiate settlement of **your** claim and it is necessary to go to court and legal proceedings are issued or there is a conflict of interest, then **you** may choose a law firm or tax expert to act as the

appointed representative. ARAG will choose the **appointed representative** to represent you in any proceedings where ARAG is liable to pay a compensation award.

- b) If you choose a law firm as your **appointed representative** who is not a preferred law firm or tax consultancy, ARAG 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 ARAG will pay is the amount ARAG would have paid if they had agreed to the **ARAG Standard Terms of Appointment**. The amount ARAG will pay a law firm (where acting as the **appointed representative**) is currently £100 per hour. This amount may vary from time to time.
- c) The **appointed representative** must co-operate with ARAG at all times and must keep ARAG up to date with the progress of the claim.

10.9.2 A **person insured** must:

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

10.9.3 A **person insured** must tell ARAG if anyone offers to settle a claim and must not negotiate or agree to any settlement without our written consent.

- a) If a **person insured** does not accept a reasonable offer to settle a claim, ARAG may refuse to pay further **legal expenses costs**.
- b) ARAG 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 an **insured** person must allow us to take over and pursue or settle a claim in their name. An **person insured** must allow ARAG to pursue at ARAG 'own expense and for an **insured** person's benefit, any claim for compensation against any other person and an **person insured** must give ARAG all the information and help ARAG need to do so.

10.9.4 A **person insured** must:

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

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

10.9.6 If a **person insured** settles a claim or withdraws their claim without our agreement, or does not give suitable instructions to the **appointed representative**, ARAG can withdraw cover and will be entitled to reclaim any **legal expenses costs** ARAG have paid.

10.9.7 ARAG may require you to get, at your own expense, an opinion from an expert, that ARAG consider appropriate, on the merits of the claim or proceedings, or on a legal principle. The expert must be approved in advance by ARAG and the cost agreed in writing between you and ARAG. Subject to this ARAG will pay the cost of getting the opinion if the expert's opinion indicates that it is more likely than not that you will recover **damages** (or obtain any other legal remedy that ARAG have agreed to) or make a successful defence.

10.9.8 If there is a disagreement between you and ARAG about the handling of a claim and it is not resolved through the ARAG internal complaints procedure you can contact the Financial Ombudsman Service for help. This is a free arbitration service for eligible consumers, small **businesses**, charities and trusts. (Details available from www.financial-ombudsman.org.uk)

If your dispute is not covered by the Financial Ombudsman Service there is a separate arbitration process available. The arbitrator will be a barrister, solicitor or other suitably qualified person chosen jointly by you and ARAG. If there is a disagreement over the choice of arbitrator, ARAG will ask the Chartered Institute of Arbitrators to decide. The arbitrator will

decide who will pay the costs of the arbitration. For example, costs may be split between **you** and **ARAG** or may be paid by either **you** or **ARAG**

- 10.9.9 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 **ARAG** ask for in writing, and
 - e) report to **ARAG** full and factual details of any claim as soon as possible and give **us** any information **ARAG** need.
- 10.9.10 **ARAG** will, at **ARAG's** discretion, void the **policy** (make it invalid) from the date of claim, or alleged claim, and/or **ARAG** will not pay the claim if:
- a) a claim the **person insured** has made to obtain benefit under this **policy** is fraudulent or intentionally exaggerated, or
 - b) a false declaration or statement is made in support of a claim
- 10.9.11 Apart from **ARAG**, **you** are the only person who may enforce all or any part of this **policy** and the rights and interests arising from or connected with it. This means that the Contracts (Rights of Third Parties) Act 1999 does not apply to this **section** in relation to any third-party rights or interest.

10.10 Specific Legal expenses limitations and exclusions

- 10.10.1 If any claim covered under this **section** is also covered by another **policy**, or would have been covered if this **section** did not exist, **ARAG** will only pay our share of the claim even if the other **insurer** refuses the claim.
- 10.10.2 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 **policy** include equivalent laws in Scotland, Northern Ireland, the Isle of Man and the Channel Islands as appropriate.

10.11 Data Protection

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

ARAG may collect personal details, including the **person insured's** name, address, date of birth, email address and, on occasion, dependent on the type of cover the **person insured** has, sensitive information such as medical records. This is for the purpose of managing the **person insured's** products and services, and this may include underwriting, claims handling and providing legal advice. **ARAG** will only obtain the **person insured's** personal information either directly from them, the **appointed representative** or from the authorised partner who sold them the **policy**.

WHO WE ARE

ARAG is part of **ARAG** Legal Expenses Insurance Company Limited which is part of **ARAG** UK Holdings Limited (**ARAG** UK Group). The uses of the **person insured's** personal data by **ARAG** and members of the **ARAG** UK Group are covered by **ARAG's** individual company registrations with the Information Commissioner's Office. **ARAG** has a Data Protection Officer who can be contacted through dataprotection@arag.co.uk.

HOW WE WILL USE YOUR INFORMATION

ARAG may need to send the **person insured's** information to other parties, such as lawyers or other experts, the court, insurance intermediaries, insurance companies, appointed service providers, specialist agencies so they may contact the **person insured** to ask for their feedback, or members of the **ARAG** UK Group.

If the **person insured's policy** includes legal advice **ARAG** may have to send the information outside of the European Economic Area (EEA) in order to give legal advice on non-European Union law. Dependent on the type of cover the **person insured** has, their information may also be sent outside the EEA if they require a hire car so the service provider can administer their claim.

ARAG will take all steps reasonably necessary to ensure that the **person insured's** data is treated securely and in accordance with this Privacy Notice. Any transfer outside of the EEA will be encrypted using SSL technology.

ARAG will not disclose the **person insured's** personal data to any other person or organisation unless **ARAG** are required to by **ARAG's** legal and regulatory obligations. For example, **ARAG** may use and share the **person insured's** data with other organisations and public bodies, including the police and anti-fraud organisations, for the prevention and detection of crime, including fraud and financial sanctions. If false or inaccurate information is provided and fraud is identified, details will be passed to fraud prevention agencies to prevent fraud and **money** laundering. Further details explaining how the information held by fraud prevention agencies may be used can be obtained by writing to, or telephoning **ARAG**. A copy is also accessible and can be downloaded via **ARAG's** website.

WHAT IS OUR LEGAL BASIS FOR PROCESSING YOUR INFORMATION?

It is necessary for **ARAG** to use the **person insured's** personal information to perform **ARAG's** obligations in accordance with any **contract** that **ARAG** may have with the **person insured** It is also in **ARAG's** legitimate interest to use the **person insured's** personal information for the provision of services in relation to any **contract** that **ARAG** may have with **you**.

HOW LONG WILL YOUR INFORMATION BE HELD FOR?

ARAG will retain the **person insured's** personal data for 7 years. **ARAG** will only retain and use their personal data thereafter as necessary to comply with **ARAG's** legal obligations, resolve disputes, and enforce **ARAG's** agreements. If **you** wish to cancel **your policy** or request that **ARAG** no longer use the **person insured's** personal data, please contact **ARAG** at dataprotection@arag.co.uk

WHAT ARE YOUR RIGHTS?

The **person insured** has the following rights in relation to the handling of their personal data:

- the right to access personal data held about them
- the right to have inaccuracies corrected for personal data held about them
- the right to have personal data held about them erased
- the right to object to direct marketing being conducted based upon personal data held about them
- the right to restrict the processing for personal data held about them, including automated decision-making
- the right to data portability for personal data held about them

Any requests, questions or objections should be made in writing to the Data Protection Officer:-

Data Protection Officer

ARAG Legal Expenses Insurance Company Limited

Unit 4a

Greenway Court

Bedwas

Caerphilly

CF83 8DW

Or via Email: dataprotection@arag.co.uk

HOW TO MAKE A COMPLAINT?

If the **person insured** is unhappy with the way in which their personal data has been processed, the **person insured** may in the first instance contact the Data Protection Officer using the contact details above.

If the **person insured** remains dissatisfied then they have the right to apply directly to the Information Commissioner's Office for a decision. The Information Commissioner can be contacted at: -

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF

www.ico.org.uk

11 General exclusions

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

11.1 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.

11.2 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;

- e) 'Notifiable disease, murder or suicide, food or drink poisoning' extension of the **policy**;
- f) Personal Accident **Section**;
- g) Employer's Liability **Section**;
- h) Public and Products Liability **Section**; and
- i) Legal Expenses **Section**.

11.3 Cyber Risks

11.3.1 The **policy** excludes:

- a) 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 any of the following:
 - i) 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 equipment**;
 - ii) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **computer equipment**; or
 - iii) 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 equipment**,

including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any of the above acts; and

- b) any 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 **electronic data**, including any amount pertaining to the value of such **electronic data**,

regardless of any other cause or event contributing concurrently.

11.3.2 The above exclusion shall not apply to:

- a) any claim, loss or **damage** caused by or arising out of:
- i) accidental **damage**, loss or destruction to **property insured** which would otherwise be indemnified by the 'Computer breakdown' section; and
 - ii) an act of terrorism to **your property insured**,
- for which cover is expressly provided elsewhere in the **policy** and shown as 'operative' in the **schedule**.

11.4 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.

11.5 Disused, unoccupied or vacant buildings

damage, or loss or interruption or interference caused by:

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

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

11.6 Electrical or mechanical breakdown

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

11.7 Excess

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

11.8 Electronic risks

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

11.9 Explosives

damage of or to explosives.

11.10 Fines or penalties

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

11.11 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.

11.12 Gradual change

damage, or loss or interruption or interference caused by corrosion, gradual change or deterioration, **change of temperature** (except as provided by the Deterioration of Stock clause in the 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.

11.13 Interest

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

11.14 Ionising radiation

damage, or loss or interruption or interference caused directly or indirectly by or contributed to by or in connection with **nuclear hazards** but this shall not exclude subsequent loss resulting from an ensuing cause which is not otherwise excluded.

11.15 Marine impact

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

11.16 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.

11.17 Non-specific loss or damage

damage, or loss or interruption or interference:

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

11.18 Processing

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

- 11.18.1 undergoing any process including but not limited to, cleaning, repairing, restoring, renovating, testing, commissioning or packaging;
- 11.18.2 itself undergoing any heating process or any process involving the application of heat but this shall not exclude subsequent loss resulting from an ensuing cause which is not otherwise excluded.

11.19 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.

11.20 Theft and fraud

- 11.20.1 damage, or loss or interruption or interference caused by:
 - a) theft or attempted theft unless involving entry to or exit from buildings at the **premises** by forcible and violent means or by violence or threat of violence to **you** or any of **your employees**;
 - b) dishonesty of **your employees**;
 - 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;

for the purpose of this insurance, forcible and violent entry to or exit from or through an internal door, office, cage, compartment or store within the buildings will not satisfy the rider to this theft exclusion unless the internal door, office, cage, compartment or store is the sole part of the buildings occupied by **you**.

11.21 War and terrorism

11.21.1 damage, or loss or interruption or interference caused by or contributed to, by or in connection with, in whatever form, directly or indirectly, any act of **war** or terrorism, regardless of any other cause or event contributing concurrently or in any other sequence to the loss nor will **we** have any liability for loss, **damage**, costs and expenses directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with any action controlling, preventing, suppressing, retaliating against or responding to any act of **war** or terrorism.

11.21.2 In any action, suit or other proceedings where **we** allege that by reason of this exclusion any loss, destruction, **damage**, cost, expense, indirect loss or **injury** is not covered by this **policy**, the burden of proving that such loss is covered shall be upon **you**.

Except that this exclusion will not apply to terrorism as specifically covered in the Employer's liability **section**.

11.22 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.

12 General conditions

12.1 Applicable law

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

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

12.2 Assignment

Assignment of interest under this **policy** will not bind **us** unless and until our written consent is endorsed hereon.

12.3 Basis of contract

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

12.4 Basis of rating

12.4.1 The premium is based on the total number of people shown in **your statement of fact**. **You** must tell **us** immediately if this number changes and pay any extra premium which may be necessary;

12.4.2 If employed persons are engaged on a temporary basis **you** must allow for such persons under the total number of people shown in **your statement of fact** however if the total number of working days for all temporarily employed persons in any one **period of insurance** is less than fifty (50) days and the Employers Liability **section of your policy** is operative, then cover will automatically be provided and **you** do not need to tell **us**.

12.5 Cancellation

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

12.5.1 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.

12.5.2 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 (£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.

12.6 Contract (Rights of Third Parties) Act 1999

This insurance does not confer or create any right enforceable under the Contracts (Rights of Third Parties) Act 1999 or any amending or subsequent legislation by any person who is not named as the **insured** and both **we** and **you** may amend, cancel or lapse this insurance without giving notice to, or requiring the consent of, any other third party. However, this will not preclude rights enforceable under the Third Parties (Rights against Insurers) Act 2010.

12.7 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 its proportional share thereof.

12.8 Employers' Liability (Compulsory Insurance) Act 1969

The indemnity granted by the **section** - Employers' liability is deemed to be in accordance with the provisions of the Employers' Liability (Compulsory Insurance) Act 1969 and the Employers Liability (Compulsory Insurance) Regulations 1998 or any subsequent amendment or re-enactment or similar legislation in Northern Ireland, the Isle of Man and the Channel Islands. Where any condition precedent, exclusion, term or condition of this **policy** is deemed prohibited by the act or regulations, then **we** will provide an indemnity to the **employee** under the terms of the Employers' liability **section** but **you** will repay to **us** that part of our indemnity for which **we** would not otherwise have been liable under this **policy** by reason of any such breach of condition precedent, term, condition or exclusion.

12.9 Material changes during the policy period

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

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

12.10 Inspection and audit

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

12.11 Minimisation of risk

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

12.12 Observance

- 12.12.1 The due observance and fulfilment of the provisions of this **policy** insofar as they may relate to anything to be done or complied with by **you**, and are not described in the **policy** as conditions precedent, will be a condition of this **policy**. Any waiver by **us** of any provision will not prevent **us** from relying on such term or condition or condition precedent in the future.
- 12.12.2 Further, where an indemnity is provided to any other party, **you** will arrange for each party to comply with the terms, conditions and conditions precedent of this insurance so far as they can apply provided always that the other party complies with the terms of the 'Duties in the event of a claim or potential claim' **section**.
- 12.12.3 In the event of a breach of any condition in the **policy**, and without prejudice to any of our other rights, **we** may reject or reduce claims connected with the breach providing **we** can demonstrate some prejudice.
- 12.12.4 In the event of a breach of any condition precedent in the **policy** and without prejudice to any of our other rights, **we** may reject or reduce claims connected with the breach and continue the **policy** on such terms as **we** may determine and, if any payment on account of any such claim has already been made, **you** will repay forthwith all payments on account to **us**.

12.13 Our right

We shall be entitled:

- 12.13.1 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;
- 12.13.2 at our option to either:
- a) repair or replace the property or any part of the property for which **we** may be liable under this **policy**; or
 - b) make payment in **money** to **you** in lieu of such repair or replacement or **reinstatement**.

12.14 Premium adjustment

Where the premium in whole or part is provisionally based on estimates provided by **you**, **you** will keep accurate records and declare such information as **we** require within three (3) months of the expiry of the **period of** insurance. The premium will then be adjusted and any difference paid by or allowed to **you** as the case may be but subject to any minimum premium that may apply. **We** reserve the right to request that **you** supply an auditor's certificate with such calculations as are subject to adjustment attesting the accuracy thereof.

12.15 Premium adjustments following cover amendments

- 12.15.1 In the event of a notification of a material change of the risk by **you**/the **insured**, 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/the insured**;
- 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/the insured** in its entirety via **your/the insured's** intermediary.

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

12.16 Privacy Notice

12.16.1 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://qbeeurope.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 or by writing to the: Data Protection Officer, QBE European Operations, 30 Fenchurch Street, London EC3M 3BD

12.17 Records

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

12.18 Recovery of benefits

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

12.19 Representation

Where more than one entity is designated as '**insured**' the first named **insured** will act on behalf of all **insureds** and other parties covered under this **policy** with respect to the giving and receiving of any notices from **us** or our representatives including any notice of cancellation. The payment to the first named **insured** of any return premium that may be payable under this **policy** will satisfy our obligations to return premium to any other party covered by this insurance.

12.20 Sanction limitation and exclusion

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

12.21 Subscribing insurer

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

12.22 Tracing office database

Where **we** provide an indemnity under the Employers' Liability (Compulsory Insurance) Regulations 1998, **we** are required by regulation to maintain a database of all the

companies and subsidiary companies covered by such insurance. **We** support and will add details of all company names to the Employers' Liability Tracing Office database.

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

13 General definitions and interpretation

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

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

13.1 Accident

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

13.2 Actual value

Actual value means the amount it would cost to repair or replace **property insured**, on the date of loss, with material of like kind and quality, with deduction for obsolescence and physical depreciation.

13.3 Advertising injury

Advertising **injury** means:

13.3.1 misappropriation of advertising ideas or style of doing **business**;

13.3.2 infringement of copyrighted advertising materials, titles or slogans;
in the course of advertising **your** goods, products or services.

13.4 Annual salary

Annual salary means the total gross annual salary excluding payments for overtime, commission or bonus payable by the **insured** to an **insured** person at the date **injury** is sustained. For weekly paid **insured** persons, annual salary will be calculated by taking the average gross basic weekly salary of the **insured** person for the thirteen (13) weeks prior to sustaining **injury** and multiplying this amount by fifty-two (52).

13.5 Annual turnover

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

13.6 Appointed representative

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

13.7 Benefits

Benefits means the sums stated in the benefits table in the **schedule** being the maximum amount payable by the **insurer**.

13.8 Biological

Biological means any pathogenic (disease producing) micro-organism(s) and/or biologically produced toxin(s) (including genetically modified organisms and chemically synthesised toxins) which cause illness and/or death in humans, animals or plants.

13.9 Bodily injury

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

For the Legal expenses **section**, **bodily injury** means death or injury caused by a specific or sudden **accident**.

13.10 Business

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

- 13.10.1 provision and management of canteens, sports, social and welfare and medical organisations for the benefit of employees and/or **your** pensioners, sponsorships, medical, dental, nursing, first aid, fire, rescue and ambulance services, principally in connection with but not limited to **your** operations;
- 13.10.2 provision of security services for **your** benefit;
- 13.10.3 provision of nursery, crèche or child care facilities where incidental to the **business**;
- 13.10.4 provision of educational facilities;
- 13.10.5 property owners, lessors and lessees including repair, refurbishment and maintenance of such property;
- 13.10.6 organisation of and participation in exhibitions, trade fairs, conferences and the like,
- 13.10.7 private work undertaken by any employee for any fellow **principal employee**, director or partner or executive of **you**;
- 13.10.8 employment of subcontractors for performance of work on **your** behalf;
- 13.10.9 the organisation of charitable events or similar fund raising activities;
- 13.10.10 sponsorship of events, organisations, entities and individuals;
- 13.10.11 repair, maintenance and servicing of own mechanically propelled vehicles sale or disposal of own property and goods, including owned mechanically propelled vehicles;
- 13.10.12 provision of gifts and promotional material incidental to the **business**

13.11 Business equipment

Business equipment means

- a) tools, machinery and equipment including office equipment a telephone, telex, facsimile and **computer equipment**) belonging to or borrowed or leased by **you** or **your** partners principals directors or employed persons used in connection with the **business** at the **premises**.
- b) documents, manuscripts, **business** books or data carrying materials not exceeding £25,000 in the aggregate during any one period of insurance.

13.12 Business stock

Business stock means goods held in trust (other than **business** equipment) for which **you** are responsible whilst at the **premises**.

13.13 Change of temperature

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

- 13.13.1 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;
- 13.13.2 non-operation of the thermostatic or automatic controlling devices forming part of the unit;
- 13.13.3 accidental failure of the public electricity supply not occasioned by the deliberate act of any utility undertaking.

13.14 Chemical

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

13.15 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
- c) transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas or between organisms; and
- d) 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.

13.16 Computer equipment

means all computer hardware including manufacturer installed software.

13.17 Contract

Contract means the **contract** or agreement that **you** enter into to perform work in accordance with **your business**.

13.18 Contract works

Contract works means;

13.18.1 property forming part of the permanent or temporary works completed or in the course of completion in the performance of the **contract** with **your** principal, and

13.18.2 materials or other goods supplied for incorporation into the works but not including property more specifically **insured**

13.19 Damage/damaged

Damage/damaged means:

13.19.1 in respect of all sections other than the Public and Products liability **section**; loss of, destruction of or **damage** to tangible property caused by any cause not otherwise excluded by this **policy**;

13.19.2 in respect of the Public and Products liability **section**; loss of use of tangible property that has been lost, destroyed or **damaged** but not pure economic loss.

13.20 ARAG

ARAG means **ARAG** Legal Expenses Insurance Company Limited.

13.21 ARAG Standard Terms of Appointment

ARAG Standard Terms of Appointment means the terms and conditions (including the amount **ARAG** 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).

13.22 Date of occurrence

date of occurrence means:

- 13.22.1 for civil cases (other than under **insured** incident – Tax protection), the date of the event that leads to a claim. If there is more than one event arising at different times from the same originating event, the date of occurrence is the date of the first of these events. (This is the date the event happened, which may be before the date **you** or a person **insured** first became aware of it);
- 13.22.2 for criminal cases, the date the person **insured** began, or is alleged to have begun, to break the law;
- 13.22.3 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.
- 13.22.4 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.
- 13.22.5 for **insured** incident - Legal defence - statutory notice appeals, the date when the person **insured** is issued with the relevant notice and has the right to appeal

13.23 Defence costs

Defence costs means

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

13.24 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 or temporary partial disablement during which no benefits are payable. The sum of money represented by such periods shall not contribute towards any claim for benefits or other indemnification under this insurance.

13.25 Denial of access

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

13.26 Denial of service attack

Denial of service attack means any actions or instructions constructed or generated with the ability to damage, interfere with or otherwise affect the availability of networks, network services, network connectivity or information systems. Denial of service attacks include, but

are not limited to the generation of **excess** traffic into network addresses, the exploitation of system or network weaknesses and the generation of **excess** or non-genuine traffic between and amongst networks.

13.27 Electronic data

Electronic data means facts, concepts and information converted to a form usable for communication, display, distribution, interpretation or processing by electronic and electromechanical processing or electronically controlled equipment, including programmes, software and other coded instructions for such equipment.

13.28 Employee

Employee means any person whilst:

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

13.29 Employer compliance dispute

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

13.30 Excess

The limit of indemnity is additional to the excess and excess means the first amount payable by **you** in respect of each and every claim or any one occurrence (as stated in the **schedule**), potential claim or potential occurrence and/or defence costs (but not adjusters' fees), as ascertained after the application of all other terms and conditions of this insurance. Where more than one excess could be applied to one claim or occurrence, only the one excess, the highest excess, will be applied.

13.31 Full enquiry

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

13.32 Goods

Goods means **stock and materials in trade**, machinery plant and all other contents and any other property specified in the **schedule**, belonging to **you** or for which **you** are responsible or have accepted responsibility and connected with the **business**.

13.33 Hacking

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

13.34 Hired-in plant

Hired-in plant shall mean;

13.34.1 temporary buildings and caravans; and

13.34.2 constructional plant, tools and equipment supplied to **you** and for which **you** are responsible under the terms of a hiring agreement while anywhere within the **United Kingdom** including while in transit by road, rail or inland waterway (transit includes plant driven under its own power) but this will not include insurance of any item of constructional plant having a replacement value in excess of £100,000 unless the replacement value of such an item is specified in the **schedule**.

13.35 Increased cost of working

Increased cost of working means the additional expenditure necessarily and reasonably incurred by **you** 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 the reduction thereby avoided.

13.36 Indemnity period

In respect of the Business interruption **section**, 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.

13.37 Independent lawyer

Independent lawyer means:

13.37.1 where the claim is in England, a King's Counsel agreed upon by both **you** and **us** or failing such agreement to be nominated by the chairman for the time being of the Bar Council of England and Wales; or

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

13.38 Injury

Injury will mean a specific injury which:

13.38.1 is sustained by the **insured** person during the period of insurance and is caused by an accident; and

13.38.2 solely and independently of any other cause, causes death or disablement of the **insured** person.

13.39 Insured/you/your

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

13.40 Insured peril

Insured peril means any cause not otherwise excluded.

13.41 Insured person

Insured person means any person or category of person upto the age of seventy (70) years specified in the **schedule** as being an insured person. Cover applies until the end of the **period of insurance** in which the insured person attains the age of seventy (70) years or the date upon which the insured person ceases employment with **you**, whichever occurs first.

13.42 Insurer/us/we/our

Insurer/we/our/us means:

13.42.1 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)

13.43 Legal expenses costs

Legal expenses costs means;

- a) all reasonable and necessary costs chargeable by the appointed representative and agreed by **us** in accordance with the **ARAG Standard Terms of Appointment**; and
- b) the costs incurred by opponents in civil cases if the person **insured** has been ordered to pay them, or the person **insured** pays them with our agreement.

13.44 Limit of indemnity

Limit of indemnity means:

13.44.1 the amount stated in the **schedule** which is the maximum amount of our liability for any one (1) occurrence regardless of the number of:

- a) **insureds** or other **insured** parties;
- b) persons or organisations bringing claims or suits; or
- c) claims against **you** or series of claims against **you** or claims or series of claims made by **you**;

13.44.2 where a limit of indemnity is stated in the **schedule** as in the aggregate, that aggregate is the maximum **we** will pay for all **insured** events during the period of insurance;

13.44.3 any sub-limit of indemnity stated in the **schedule** applies as if it were the limit of indemnity for the claims specified in the **schedule** for that sub-limit of indemnity and is deemed to be part of and not in addition to the limit of indemnity specified in the **schedule** unless expressly stated otherwise;

13.44.4 where indemnity may be provided under two (2) or more **insured** sections of this **policy**, then the combined single limit stated in the **schedule** is the maximum **we** will pay for any **insured** event to which such sections apply in combination.

13.45 Money

Money means both negotiable money and non-negotiable money.

13.46 NCB terrorism

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

the loss, by any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any **section** of the public, in fear.

13.47 Negotiable money

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

13.48 Non-negotiable money

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

13.49 North America

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

13.50 North American jurisdiction

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

13.51 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 a) to g) above.

13.52 Nuclear hazards

Nuclear hazards means:

- 13.52.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;

13.52.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

13.53 Offshore

Offshore means:

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

13.53.2 in transit to and from or between any offshore rig or platform or support or accommodation vessel from the time of embarkation onto a conveyance at the point of final departure to an offshore rig or platform until disembarkation from the conveyance onto land upon return from an offshore rig or platform.

13.54 Outstanding debit balances

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

13.54.1 bad debts;

amounts debited (or invoiced but not debited) and credited (including credit notes and cash not passed through the books at the time of the damage) to customers' accounts in the period between the date to which said last statement relates and the date of the damage; and

13.54.2 any abnormal conditions of trade which had or could have had a material effect on the **business**;

so that the figure thus adjusted shall represent as nearly as reasonably practicable those which would have obtained at the date of the damage had the damage not occurred.

13.55 Other insured party

Other **insured** party means any of the following parties:

13.55.1 any of **your** directors, partners, employees or former employees;

13.55.2 any officers, members' committee and/or employee and voluntary helpers of **your** canteen and welfare organisations, nursery, crèche or child care facilities, sports and social organisations, in their respective capacities as such;

13.55.3 any officers and members of **your** security, rescue, first aid or fire and ambulance services or medical organisation other than any qualified medical practitioner while working in a professional capacity in their respective capacities as such;

13.55.4 any of **your** directors or partners or executives in respect of private work undertaken by any employee for a director, partner or executive of the **insured**;

13.55.5 any officers or trustees of **your** pension scheme(s).

13.56 Own plant

Own plant means

13.56.1 constructional plant, tools and equipment

while anywhere within the **United Kingdom** including whilst in transit but this will not include:

a) insurance of any item of constructional plant having a replacement value in excess of £100,000 unless the replacement value of such an item is specified in the **schedule**;

b) property supplied to the **insured** under the terms of a hiring agreement.

13.57 Period of insurance

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

13.58 Permanent disablement

Permanent disablement means permanent and irrecoverable disablement.

13.59 Permanent total disablement

Permanent total disablement will mean 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, or for **insured** persons that are not gainfully employed by **you** to have no likelihood of improvement sufficient to participate in any and every form of occupation.

13.60 Personal injury

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

- 13.60.1 false arrest;
- 13.60.2 detention or imprisonment;
- 13.60.3 malicious prosecution;
- 13.60.4 wrongful entry into or eviction of a person from a room, dwelling or **premises** that the person occupies;
- 13.60.5 invasion of the right of privacy;
- 13.60.6 libel, slander and defamation.

13.61 Person insured

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

13.62 Policy

Policy means this document, the **schedule** (including any **schedules** issued in substitution) and any endorsements attaching to this document or the **schedule** that will be considered part of the legal **contract** and any word or expression in bold type face on any of these documents will bear the specific meaning stated in these definitions.

13.63 Pollutant

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

13.64 Pollution

Pollution means:

- 13.64.1 the actual, alleged or threatened discharge, seepage, migration, dispersal, release or escape of **pollutants** at any time other than any discharge release or escape of legionella or other airborne or waterborne pathogens from water tanks, water systems, air conditioning plants, cooling towers and the like;
- 13.64.2 any cost, expense, claim or suit arising out of any request, demand or order arising from actual, alleged or threatened discharge, seepage, migration, dispersal, release or escape of **pollutants** at any time that **you** or any other **insured** party test for, monitor, clean up, remove, contain, treat, detoxify or neutralise or in any way respond to or assess the effects of **pollutants**.

13.65 Preferred law firm or tax consultancy

Preferred law firm or tax consultancy means a law firm, barristers' chambers or tax expert **ARAG** 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 **ARAG's** agreed service standard levels, which they audit regularly. They are appointed according to the **ARAG Standard Terms of Appointment**.

13.66 Premises

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

13.67 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.

13.68 Principal

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

13.69 Product

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

13.70 Property insured

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

13.71 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.

13.72 Reasonable prospects

Reasonable prospects means:

- a) For civil cases, the prospects that the person **insured** will recover losses or damages or a reduction in tax or National Insurance liabilities (or obtain any other legal remedy that **ARAG** have agreed to, including an enforcement of judgment), make a successful defence or make a successful appeal or defence of an appeal, must be at least 51%. **ARAG**, 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, however for appeals the prospects must be at least 51%.

13.73 Recovery

Recovery will mean the **insured** person having made a recovery when he is able to participate in his regular occupation, and perform the major duties thereof, even if he chooses not to.

13.74 Reinstatement

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

13.75 RIDDOR

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

13.76 Schedule

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

13.77 Section

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

13.78 Sub-limit of liability /Sub-limit of indemnity /Sub-limit

Sub-limit of liability/ Sub-limit of indemnity/ Sub-limit means our maximum liability under a specified **section**, clause or other part of this **policy** and is the amount stated in the **schedule**.

13.79 Subrogation

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

13.80 Sum insured

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

13.81 Statement of fact

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

13.82 Stock and materials in trade

Stock and materials in trade means stock and materials in trade including work in progress and contents of storage tanks at the **premises** which are **your** property or held by **you** in trust or on commission and for which it is responsible, excluding property more specifically **insured**.

13.83 Temporary partial disablement

Temporary partial disablement means disablement arising from injury which is medically determined to prevent an **insured** person from undertaking the majority of his occupation as carried out at the date of the accident.

13.84 Temporary total disablement

Temporary total disablement means the **insured** person being totally disabled and prevented from attending to the whole of his **business** or occupation as a result of bodily injury not being permanent total disablement, loss of limbs or sight, as otherwise defined in the scale of compensation or table of benefits, as applicable.

13.85 Territorial limits

Applicable only to the Legal Expenses Section:

- 13.85.1 For **insured incidents** Legal Defence clause of the Legal expenses **section** (excluding the absence from work extension thereof) and the Bodily injury sub clause of the Legal Defence clause:

the laws of the **United Kingdom** of Great Britain and Northern Ireland, the European Union the Isle of Man, the Channel Islands, Albania, Andorra, Bosnia Herzegovina, Croatia,

Gibraltar, Iceland, Liechtenstein, Macedonia, Monaco, Montenegro, Norway, San Marino, Serbia, Switzerland and Turkey.

13.85.2 The **United Kingdom** and any other extension agreed by **us**.

13.86 Terrorism

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

- a) intimidate or coerce a civilian population, or
- b) disrupt any segment of the economy of a government de jure or de facto, state, or country, or
- c) overthrow, influence, or affect the conduct or **policy** of any government de jure or de facto by intimidation or coercion, or

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

13.87 Tools

Tools mean tools and personal effects belonging to an employee.

13.88 Transit

Transit means being carried within the **United Kingdom** to a destination, but outside the **premises**, by any vehicle, including trailers and containers, and whether or not **your** vehicle, or by road haulage, post, or parcel post or rail, including:

- a) conveyance by canal craft on inland waterways
- b) conveyance of the vehicle on sea going vessels where such conveyance does not exceed twelve (12) hours;
- c) loading and unloading; and
- d) while temporarily housed in the course of being carried to its destination.

13.89 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** at the **premises**.

13.90 United Kingdom

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

13.91 Unoccupied

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

13.92 VAT

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

13.93 Virus or similar mechanism

Virus or similar mechanism means program code, programming instruction or any set of instructions intentionally constructed with the ability to damage, interfere with or otherwise adversely affect computer programs, data files or operations, whether involving self-replication or not. The definition of virus or similar mechanism includes but is not limited to trojan horses, spyware, malware, worms and logic bombs.

13.94 War

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

13.95 Wines and spirits

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

13.96 Work away

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

14 Policy endorsements

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

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

TRA300

Exclusion - Excluding manual work away

Public and products liability exclusions and Employers liability exclusions

The insurance by Public and products liability and Employers' liability **sections** exclude and does not cover liability for any claim in respect of **work away** from the **premises** other than that carried out of a clerical, administrative and/or non-manual nature in the course of **your business**.

TRA301

Condition – Use of proprietary materials

Other public and products liability terms and conditions

The following clause is incorporated in and forms part of this **policy**.

It is a condition precedent to **our** liability under this insurance that only proprietary materials are used and liability will not extend to include the use of **products** or other goods manufactured by **you** or made up to **your** own formula.

TRA302

Exclusion - Sexual, physical or mental abuse

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** excludes and does not cover liability for any claim directly or indirectly caused by or alleged to be caused by:

- a) actual or attempted sexual relations sexual contact or intimacy sexual harassment or sexual exploitation;
- b) actual or attempted physical abuse which expression shall include the use of inappropriate method(s) of restraint or sanction;
- c) wrongful restraint or wrongful removal of children;
- d) the bullying or physical harassment of individuals.

TRA303

Exclusion – Tree felling or lopping

Public and products liability exclusions and Employers liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability and Employers' liability **sections** excludes and does not cover legal liability caused by or arising in connection with work of tree felling or tree lopping.

TRA304

Exclusion - Excluding Manual work away other than surveying activities

Public and products liability exclusions and Employers liability exclusions

The insurance by Public and products liability and Employers' liability **sections** excludes and does not cover liability for any claim in respect of **work away** from the **premises** other than

that carried out of a clerical, administrative, non-manual nature and/or surveying activities in the course of **your business**.

TRA305

Exclusion - Motorway Work

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** excludes and does not cover liability for any claim caused by or arising in connection with work undertaken on motorways.

TRA306

Exclusion - Manual activities

Public and products liability exclusions and Employers liability exclusions

The insurance by Public and products liability and Employers' liability **sections** excludes and does not cover liability for any claim in respect of manual work.

TRA307

Exclusion - Cable Laying

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability excludes and does not cover liability for any claim caused by or arising in connection with the laying of underground cables.

TRA308

Condition – Food hygiene

Other public and products liability terms and conditions

The following clause is incorporated in and forms part of this **policy**.

It is a condition precedent to **our** liability under this insurance that **you** must put in place food safety management procedures based on the principles of HACCP (hazard analysis critical control point) and otherwise comply with the requirements of The Food Hygiene (England) Regulations 2006 (as amended) and the equivalent regulations in Scotland, Wales and Northern Ireland

TRA309

Exclusion - Damage to property being worked upon

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** excludes and does not cover liability for any claim in respect of **damage** to property whilst being worked upon.

TRA310

Exclusion – Form work and shuttering

Public and products liability exclusions and Employers liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability and Employers' liability **sections** excludes and does not cover legal liability caused by or arising in connection with form work or shuttering work.

TRA311

Exclusion - Waste Burning

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** excludes and does not cover liability for any claim caused by or arising in connection with the burning of waste in the open.

TRA312

Exclusion – Crop spraying

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** excludes and does not cover legal liability caused by or arising in connection with crop spraying work.

TRA313

Exclusion – Motor cycles

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** excludes and does not cover legal liability caused by or arising in connection with the ownership or use of motorcycles.

TRA314

Exclusion – Use of slings ropes and cradles

Public and products liability exclusions and Employers liability exclusions

The insurance by Public and products liability and Employers' liability **sections** excludes and does not cover legal liability caused by or arising in connection with the use of slings ropes and cradles.

TRA315

Exclusion – Paint spraying

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** excludes and does not cover legal liability caused by or arising in connection with paint spraying.

TRA316

Condition – Care, custody and control

Other public and products liability terms and conditions

The following clause is incorporated in and forms part of this **policy**.

It is a condition precedent to **our** liability under the Public and products liability **section** that any animals not owned by **you** but under **your** care, custody or control and left without a responsible adult in attendance are locked in a secure cage or container or within a securely enclosed yard

TRA317

Condition - Dog and Pet Walking

Other public and products liability terms and conditions

The following clause is incorporated in and forms part of this **policy**.

It is a condition precedent to **our** liability under the Public and products liability **section** that any animals being exercised outdoors under **your** control be kept on a harness or lead at all times.

TRA318

Exclusion - Use of asphalt

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** excludes and does not cover liability for any claim caused by or arising in connection with the use of asphalt.

TRA319

Exclusion – High voltage work

Public and products liability exclusions and Employers liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability and Employers' liability **sections** excludes and does not cover legal liability caused by or arising in connection with work on or involving electrical transmission and distribution lines for electric power or other similar circuits carrying high voltage.

TRA320

Exclusion - Manual work away other than erection of boards

Public and products liability exclusions and Employers liability exclusions

The insurance by Public and products liability and Employers' liability **sections** excludes and does not cover liability for any claim in respect of **work away** from the **premises** other than that carried out of a clerical, administrative, non-manual nature and/or the erection of boards in the course of **your business**.

TRA321

Exclusion – Spectator stands

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** excludes and does not cover legal liability caused by or arising in connection with the erection, supply or use of audience seating or stands for spectators.

TRA322

Exclusion - Aerial and underwater activities

Public and products liability exclusions and Employers liability exclusions

The insurance by the Public and products liability and Employer's liability **sections** excludes and does not cover liability for any claim arising from or in connection with aerial or underwater activities.

TRA323

Exclusion - Work outside EU

Public and products liability exclusions and Employers liability exclusions

The insurance by the Public and products liability and Employers' liability **sections** excludes and does not cover liability for any claim arising from or in connection with activities undertaken outside the European Union.

TRA324

Exclusion - Alarm System Efficacy

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** excludes and does not cover liability for any claim caused by or arising in connection with the failure of any intruder alarm and/or fire detection systems installed, serviced or repaired by **you** to fulfil its intended function.

TRA325

Exclusion - External aerials installation

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** excludes and does not cover liability for any claim caused by or arising in connection with the installation of external aerials.

TRA326

Exclusion – Safety barriers

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** excludes and does not cover legal liability caused by or arising in connection with the manufacture, sale or supply of safety barriers.

TRA327

Exclusion – Fish stocks

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** excludes and does not cover legal liability directly or indirectly arising from or in connection with the loss of fish stocks.

TRA328

Exclusion - Professional Indemnity

Public and products liability exclusions

The following clause is incorporated in and forms part of Public and products liability exclusions:

The insurance by Public and products liability **section** excludes and does not cover liability for any claim in respect of **bodily injury** or **damage** to property arising from professional neglect, errors, omissions or advice by **you**, any **employee** or any party who is carrying out work on **your** behalf.

TRA329

Exclusion – Hazardous goods

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** excludes and does not cover legal liability caused directly or indirectly by the carriage of or storage of **hazardous goods**.

For the purpose of this clause Hazardous goods means any goods of a nature and/or quantity that require carriage in accordance with:

- a) the Carriage of Explosives by Road Regulations 1996; or

- b) the Radioactive Materials (Road Transport) (Great Britain) Regulations 1996; or
- c) Transport Categories 0, 1 and 2 of the Carriage of Dangerous Goods by Road Regulations 1996.

TRA330

Exclusion – Care Services

Public and products liability exclusions

The following clause is incorporated in and forms part of the exclusions to the Public and products liability **section** to this **policy**.

Notwithstanding anything to the contrary the insurance by the Public and products liability **section** excludes and does not cover liability for any claim directly or indirectly caused by or alleged to be caused by:

- a) nursing care including the administering of prescribed and non-prescribed medicines;
- b) assistance with dressing and personal hygiene;
- c) assistance with lifting of or mobility of Third Party.

TRA331

Exclusion – Roofing contracts

Public and products liability exclusions and Employers liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by the Public and products liability and Employers' liability **sections** excludes and does not cover legal liability caused by or arising in connection with contracts for and solely relating to roof work.

TRA332

Exclusion – Precious and semi precious metals and stones

General exclusions

The insurance by the Public and products liability **section** excludes and does not cover legal liability directly or indirectly arising from or in connection with the loss of precious and semi precious metal and stones.

TRA333

Exclusion – Work on vehicles

Public and products liability exclusions

The Public and products liability **section** excludes and does not cover any liability caused by or arising from the repair testing servicing maintenance or inspection of any mechanically propelled vehicle.

TRA334

Exclusion – Lift installation work

Public and products liability exclusions and Employers liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by the Public and products liability and Employers' liability **sections** excludes and does not cover legal liability caused by or arising in connection with lift installation work.

TRA335

Exclusion - External work

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by the Public and products liability **section** excludes and does not cover liability for any claim caused by or arising in connection with any work undertaken to the exterior of any building or structure.

TRA336

Exclusion – Restriction to use of 7 seat vehicles

Public and products liability exclusions and Employers liability exclusions

The following clause is incorporated in and forms part of this **policy**.

For the avoidance of doubt the **business** described in the **schedule** includes the ownership, use and driving of vehicles having seven (7) seats or less including the driver. The driving of larger vehicles will render all insurance by these **sections** void and all cover will be cancelled from the date of breach of the declared **business** description.

All other terms and conditions of this insurance continue to apply to liability arising from the ownership, use and driving of vehicles having seven (7) seats or less including the driver.

TRA337

Exclusion – Wrongful delivery

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by the Public and products liability **section** excludes and does not cover legal liability caused directly or indirectly by the wrongful collection or delivery of a load, or where the load does not conform to the specification of the customer.

TRA338

Exclusion - Increased excess to £750 each and every claimant

Public and products liability exclusion

The **excess** applicable to the Public and Products liability **section** in respect of claims arising out of or as a consequence of spray drift or wind drift from the use of paint spraying equipment is amended to GBP750.00 each and every claimant

TRA339

Exclusion – Use of firearms and shotguns

Public and products liability exclusions and Employers liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by the Public and products liability and Employers' liability **sections** excludes and does not cover legal liability caused by or arising in connection with the use of firearms and shotguns.

TRA340

Exclusion – Property ownership

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by the Public and products liability **section** excludes and does not cover legal liability arising from the ownership of property, under the Occupiers Liability Act 1957 or arising under the Occupiers Liability Act 1984.

TRA341

Exclusion – Warehouseman's and freight forwarders liability

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by the Public and products liability **section** excludes and does not cover legal liability, defence or other obligation of any kind or description directly or indirectly arising from warehouseman's and freight forwarders liability and property of others stored in the warehouse or warehouses operated by **you**, including:

- a) loss or **damage** caused by:
 - i) rust, wear or tear, gradual deterioration, moths, vermin, inherent vice or damage sustained due to or resulting from any repairing, restoration or retouching process;
 - ii) spontaneous combustion;
- b) loss arising out of **your** acceptance of accounts, bills, currency, deeds, evidences of debt, money or securities, jewellery, furs, precious metals or stones or works of art;
- c) loss caused by or contributed to by the dishonesty of any of **your employees** or of persons to whom **you** have entrusted property;
- d) loss due to forged warehouse receipts;
- e) loss arising out of the wilful illegal sale of the property, wilful conversion or wilful or wrongful secretion;
- f) loss arising out of:
 - i) any delay in the return or delivery of the property;
 - ii) mysterious disappearance or inventory shortage;
- g) loss arising out of work of stevedores and/or customs agents;
- h) **damage** caused by **change of temperature** resulting from the total or partial destruction of any refrigerating or cooling apparatus from any cause

TRA342

Exclusion – Hazardous sports

Public and products liability exclusions and Employers liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by the Public and products liability and Employers' liability **sections** excludes and does not cover **bodily injury** or **damage** to property arising from professional neglect, errors, omissions or advice by **you**, any **employee** or any party who is carrying out work on **your** behalf in connection with extreme or hazardous sports which include but not limited to:

- a) winter sports (other than on piste skiing, on piste snowboarding, skating and curling), skin diving involving the aid of breathing apparatus, snorkelling, rock climbing or mountaineering normally involving the use of ropes or guides, potholing, parachuting, hunting on horseback, or driving or riding in any kind of race, driving or riding on motor cycles or motor scooters other than mopeds, hang gliding, paragliding, parasailing martial arts and wrestling.

TRA343

Exclusion - Member to member liability

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by Public and products liability **section** does not indemnify any member or participant against liability arising from **bodily injury** to, or **damage** to the property of, another member or participant.

TRA344

Exclusion - Indoor Swimming Pools

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by the Public and products liability **section** excludes and does not cover liability for any claim caused by or arising in connection with any work undertaken in respect of indoor swimming pools.

TRA345

Exclusion – External tiling work

Public and products liability exclusions and Employers liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by the Public and products liability and Employers' liability **sections** excludes and does not cover legal liability caused by or arising in connection with work involving tiling activities undertaken outside the external walls to any building.

TRA346

Exclusion – Design of contraflows

Public and products liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by the Public and products liability **section** excludes and does not cover legal liability caused by or arising from the design of contra flow traffic systems.

TRA347

Exclusion – Restriction to classroom work only

Public and products liability exclusions and Employers liability exclusions

The following clause is incorporated in and forms part of this **policy**.

The insurance by the Public and products liability and Employers' liability **sections** excludes and does not cover training other than that of a clerical, administrative and/or non-manual nature in the course of **your business**.

TRA348

Exclusion - Removal of depth limitation

Public and products liability exclusions and Employers liability exclusions

The depth limitation specified in the **schedule** and hazardous work limitations and exclusions is deleted.

15 How to Complain

15.1 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

Telephone: 020 7105 5988

15.2 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.

15.3 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, or the can write to the Financial Services Compensation Scheme, PO Box 300, Mitcheldean, GL17 1DY

QBE European Operations

