

# **Contractors Combined Insurance Policy**

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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 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

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

- a) contact **your** insurance broker; or
- b) send details by post to QBE Claims, Acclaim House, Central Park, New Lane, Leeds, LS11 5UF; and/or
- c) telephone **us** on **0844 7369640**; or
- d) submit **your** claim by email to [SMEnewclaims@uk.qbe.com](mailto:SMEnewclaims@uk.qbe.com)

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

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

Telephone **us** on **0117 9330618**

Email details to [newclaims@das.co.uk](mailto:newclaims@das.co.uk) or as set out in the Helpline **section** or the Claims notification section.

#### 1.4 Signature

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

A handwritten signature in black ink, appearing to read "R. G.", with a stylized flourish at the end.

## 2 Helplines

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

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

DAS Law Limited is authorised and regulated by the Solicitors Regulation Authority. DAS 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 DAS Legal Expenses Insurance Company Limited.

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

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

- 2.1.1 **Legal advice service** **Call 0844 893 0859**  
**DAS** will give **you** confidential legal advice over the telephone on any commercial legal problem affecting the **business**, under the laws of 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, DAS will call you back.***
- 2.1.2 **Tax advice service** **Call 0844 893 0859**  
**DAS** 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, DAS will call you back.***
- 2.1.3 **Counselling service** **Call 0844 893 9012**  
**DAS** will provide **your employees** (including any members of their immediate family who permanently live with them) with a confidential counselling service over the telephone including, where appropriate, onward referral to relevant voluntary and/or professional services. Any costs arising from the use of these referral services will not be paid by **DAS**.  
***The counselling service helpline is open 24 hours a day, seven days a week.***
- 2.1.4 **Employment manual**  
The **DAS** Employment Manual offers comprehensive, up to date guidance on rapidly changing employment law. To view it, please visit their website at [www.das.co.uk](http://www.das.co.uk). From the Home Page click on the Employment Manual icon. All the sections of this web-based document can be printed off for **your** own use. Contact **DAS** at [employmentmanual@das.co.uk](mailto:employmentmanual@das.co.uk) with **your** email address, quoting **your policy** number and they will contact **you** by email to inform **you** of future updates to the information.
- 2.1.5 **DASbusinesslaw**  
Using [www.dasbusinesslaw.co.uk](http://www.dasbusinesslaw.co.uk) **you** can create ready-to-sign contracts, agreements and letters in minutes. Developed by solicitors and tailored by **you** using **DAS'** smart document builders. **You** can also buy legal documents from the site, ranging from simple debt recovery letters to employment contracts.  
The service also provides useful tools, articles and information on matters such as new legislation, employment issues, property law and taxation all regularly updated by legal experts to help **you** keep **your business** one step ahead.  
To access DASbusinesslaw, **you** will need to visit [www.dasbusinesslaw.co.uk](http://www.dasbusinesslaw.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 [businesslaw@das.co.uk](mailto:businesslaw@das.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**

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

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

- 3.1.2 **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**. **DAS** 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**, **DAS** will provide **you** with a claim reference number. At this point **DAS** will not be able to confirm that **you** are covered but they will pass the information **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 **DAS**' contact details specified in the 'Claim procedure' clause of 'Our agreement in general.'

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

Please do not ask for help from a solicitor or accountant before **DAS** have agreed. If **you** do, **DAS** 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 **you**.
- 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 of **gross profit**. You shall at **your** own expense also provide **us** with such books of account and other **business** books vouchers invoices balance sheets and other documents proofs information explanation and other evidence as may reasonably be required by **us** for the purpose of investigating or verifying such claim together with (if demanded) a statutory declaration of the truth of the claims and any related matter. No claim under the Business interruption **section** shall be payable unless the terms of these conditions have been complied with and in the event of non compliance therewith in any respect any payment on account of the claim already made shall be repaid to **us** immediately.
- 3.2.2 In respect of any event which may give rise to a claim under the Employers' liability or Public, Products and Pollution 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 Queen's Counsel (or Solicitor with at least 20 years experience in the field of insurance law) to be mutually agreed between the parties (or in default of agreement to be nominated by the President of the Law Society) whose decision will be final. In the event of conflict between any **other insured party** separate representation will be arranged for each party.

### 3.5 Subrogation

- 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 - Employers' liability

### 4.1 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.

### 4.2 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.

### 4.3 Employers' liability extensions

#### 4.3.1 Compensation for court attendance

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

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

#### 4.3.2 Contractual liability

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

#### 4.3.3 Cross liabilities

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

#### 4.3.4 Data Protection Act 1998

**We** will indemnify you and if **you** so require, any **employee** in respect of their liability under the Data Protection Act 1998 ('DPA') to pay:

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

in relation to claims made by **employees** during the period of insurance, provided that:

- a) **you** have registered in accordance with the terms of the DPA;
- c) the claim arises from damage or distress occurring or prosecution commenced during the period of insurance;

- d) this extension will not apply in respect of:
  - i) the cost of replacing, reinstating, rectifying or erasing any personal data;
  - ii) liability caused by or arising from a deliberate or intentional act by or omission of any party entitled to indemnity by this insurance the effect of which will knowingly result in liability under the DPA;
  - iii) claims which arise out of circumstances notified to any previous insurer or known to **you** at inception of this **section**;
  - iv) liability for which indemnity is provided under any other insurance.

#### 4.3.5 **Indemnity to other parties**

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

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

#### 4.3.6 **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.

#### 4.3.7 **Principals**

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

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

#### 4.3.8 **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.

#### 4.3.9 Unsatisfied court judgments

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

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

then at **your** request, **we** will pay the amount of damages or costs awarded to the **employee** or the personal representatives of the **employee** to the extent that they remain unsatisfied provided that:

- i) there is no appeal outstanding; and
- ii) the judgment relates to **bodily injury** which would otherwise be indemnified by this **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.

#### 4.3.10 War and terrorism

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

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

#### 4.3.11 Waiver of subrogation

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

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

### 4.4 Employers' liability limitations and exclusions

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

#### 4.4.1 **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.

#### 4.4.2 **Fees for intervention**

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

#### 4.4.3 **Fines and penalties**

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

#### 4.4.4 **Hazardous work**

liability for any loss arising in connection with any work:

- a) of demolition except where such work forms an ancillary part of a contract for construction, alteration or repair
  - i) carried out by employees of structures not exceeding five (5) metres in height, or
  - ii) undertaken by bona fide subcontractors on your behalf
- b) of construction, alteration or repair of bridges, dams, docks, harbours, towers, steeples, spires, chimney shafts, blast furnaces, viaducts, mines or collieries;
- c) undertaken in or on aircraft or watercraft, airport or aerodrome runways manoeuvring areas or aprons or those parts of airports or aerodromes to which aircraft have access, nuclear plant installations, chemical or petrochemical works, oil refineries, gas works, fuel storage facilities or power stations;
- d) involving railway track, signal, rolling stock or where trains continue to operate where work is ongoing (red zone working);
- e) of pile driving, tunnelling or quarrying;
- f) involving the use of explosives for any purpose;
- g) involving excavations below a depth of three (3) metres;
- h) carried out at a height in excess of fifteen (15) metres.

#### 4.4.5 **Limit of indemnity**

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

#### 4.4.6 **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**.

#### 4.4.7 **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**.

#### 4.4.8 **Offshore**

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

#### 4.4.9 **Road traffic legislation**

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

- a) being carried in or upon a vehicle; or

b) entering or getting onto or alighting from a vehicle

in circumstances where insurance or security is required to be effected by you to comply with the Road Traffic Act 1988 as amended by The Motor Vehicles (Compulsory Insurance) Regulations 1992 or any alteration to such regulations or any similar legislation applying to Northern Ireland, the Isle of Man or the Channel Islands or to any other territory consequent on the Third Council Directive 90/232/EEC of 14/05/1990 or consequent on any other legislation relating to compulsory insurance against civil liability in respect of the use of motor vehicles.

**4.4.10 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**.

**4.4.11 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.

**4.4.12 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.

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

**4.5.1 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.

## 5 Section - Public Products and Pollution liability

### 5.1 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

- 5.1.1 arises out of and in connection with the **business**;
- 5.1.2 arising out of or arising from or in connection with a **product**;
- 5.1.3 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

### 5.2 Public, Products and Pollution liability defence costs

#### 5.2.1 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**.

#### 5.2.2 North American jurisdiction

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

#### 5.2.3 All other jurisdictions

- a) For claims not involving **North American jurisdiction**, **we** agree to indemnify **you** for **defence costs** but the said **defence costs** are payable in addition to and do not count towards the **limit of indemnity**.
- b) Where payment exceeding the **limit of indemnity** has to be made to dispose of a claim, **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.

### 5.3 Public products and pollution liability extensions

#### 5.3.1 Asbestos accidental discovery

Notwithstanding the 'asbestos' exclusion clause in the exclusions to this **section**, **we** agree to indemnify **you** in respect of liability arising following the accidental discovery of asbestos and/or asbestos containing materials on or after the retroactive date but only in respect of claims first made against **you** and notified to **us** during the **period of insurance** in accordance with the terms of the **policy**, provided always that:

- a) no indemnity is provided in respect of any subsequent activities related or connected to dealing with the asbestos and/or asbestos containing materials once discovered, which shall be carried out by qualified licensed sub-contractors on terms which indemnify **you** for liability arising out of such work;
- b) **we** agree that any circumstance(s) notified to **us** during the **period of insurance** which subsequently gives rise to a claim after expiry of the **period of insurance** shall be deemed to be a claim first made during the **period of insurance**;
- c) **we** will not indemnify **you** for any claims arising from the existence of or exposure to asbestos and/or asbestos containing materials where **you** were aware of the

circumstance or event which gave rise to the claim before the effective date of this clause;

- d) **we** will not indemnify **you** for any claims in respect of the diminution in the value of property or loss of or potential loss of rental income or any other losses (including business interruption) howsoever arising;
- e) **our** liability to pay damages, including claimant costs recoverable from **you** and **defence costs** shall not exceed the sum of £1,000,000 any one claim which sum shall be the maximum **we** will pay in the aggregate during any one **period of insurance**;
- f) the **excess** applicable to this clause shall be £5,000 each and every claimant.

The retroactive date in respect of this clause is inception.

#### 5.3.2 **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.

#### 5.3.3 **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**.

#### 5.3.4 **Data Protection Act 1998**

**We** will indemnify **you** and, if **you** so require, any of **your** directors, partners or **employees** in respect of their liability under the Data Protection Act 1998 ('DPA') to pay:

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

in relation to claims made by persons other than directors, partners or employees during the **period of insurance**, provided that:

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

#### 5.3.5 **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.

#### 5.3.6 **Environmental statutory liability**

The insurance provided by this section is extended to indemnify you for all sums, including statutory debts, that you are legally liable to pay or legally obliged to incur for remediation in respect of environmental damage where such liability arises under an environmental protection directive, statute or statutory instrument, provided that:

- a) liability arises from pollution occurring during the course of business, within a state of the European Union and is caused by a sudden, identifiable, unintended and unexpected incident that takes place in its entirety at a specific moment in time and place during the period of insurance;
- b) the insurance by this extension excludes and does not cover any sum incurred in respect of:
  - i) **preventative costs** for prevention of imminent threat of environmental damage;
  - ii) primary, complementary or compensatory remediation for damage;
  - iii) the removal of any significant risk of an adverse effect on human health;

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

- c) the insurance by this extension excludes and does not cover any sum incurred in achieving any improvement or alteration in the condition of the land, the atmosphere or any watercourse or body of water beyond that required under any relevant and applicable law or statutory enactment at the time remediation commences; and
- d) the total amount payable by **us** inclusive of all **defence costs** for any one occurrence or in the aggregate during any one **period of insurance** shall not exceed the £1,000,000;

and provided also that the exclusion in proviso b) i) above shall not apply to **preventative costs** that are incurred with **our** written consent that must be obtained prior to each claim, where a **pollution** event is taking place or has occurred and such **preventative costs** relate solely to halt or limit further **pollution** to third party property except that nothing in this clause shall imply that we will indemnify you for **preventative costs** relating to your own land, **premises** or watercourse or body of water

#### 5.3.7 **Financial loss**

The insurance by the Public, Products and Pollution liability **sections** is extended to indemnify **you** for **your** liability for **financial loss** provided that:

- a) any claim is first made against you and notified in writing to us during the period of insurance in accordance with the terms of the policy; and
- b) such liability is for **financial loss** incurred by others and arises out of and in connection with the **business** or **your products**; and the act or omission creating the liability is not a deliberate or intentional act by or omission of any party entitled to indemnity by this extension the effect of which will knowingly result in **financial loss**.

The insurance by this extension excludes and does not cover:

- c) liability which attaches by way of any contract or agreement that would not have attached in the absence of such contract or agreement;
- d) liability arising out of failure to meet a delivery deadline, non-completion of works or operations by or on **your** behalf, or misdirection of products supplied, whether or not expressly promised in any contract;
- e) liability resulting from conspiracy, intimidation, unlawful interference with another's economic interests, conversion, deceit, inducement of breach of contract, injurious falsehood, breach of confidence, or infringement of patent, copyright, trademark, name or other intellectual property right;
- f) claims brought anywhere in the world arising out of any breach or alleged breach of any competition law or antitrust law or similar;
- g) liability for **financial loss** sustained by any **employee** arising out of or in the course of his employment by **you**;
- h) liability arising from electronic data including:
  - i) any agreement for the storage or processing of computer data or use of computer facilities;
  - ii) transmission or impact of any virus
  - iii) unauthorised access to a system
  - iv) interruption of or interference of any electronic means of communication used in the conduct of the **business** including but not limited to any diminution in the performance of any website or electronic means of communication

- v) failure of a system;
- vi) use of the internet;
- i) liability arising out of any circumstance which was:
  - i) notified to previous insurers prior to inception of this extension; or
  - ii) known to **you**, or in **our** reasonable opinion ought to have been known to **you** prior to inception of this extension; or
  - iii) disclosed or **our** reasonable opinion ought to have been disclosed by **you** when providing information to **us** prior to inception of this extension;
- j) liability arising out of or relating to property belonging to **you** or in the custody or control of **you** or any **employee**;
- k) liability arising out of fraud or dishonesty by **you** or any **employee**;
- l) **war** or any act of **terrorism**;
- m) liability arising out of or from or brought about by or contributed to by **pollution**;
- n) liability arising from any advice, instruction or design:
  - i) given for a fee by you or on your behalf unless relating to any product for which indemnity is provided by this section;
  - ii) given without a fee and for which indemnity is provided by other insurance;
- o) liability arising out of or in connection with any strikes or labour disturbances;
- p) diminution in value of real property;
- q) financial default as a result of or in consequence of bankruptcy or insolvency;
- r) the cost of rectifying defective work done by **you** or on **your** behalf;
- s) liability in respect of the cost or value of or refund for any **product** or work done by **you** or on **your** behalf;
- t) liability where the event giving rise to **financial loss** occurs prior to inception of this extension;

The **limit of indemnity** under this extension shall be £100,000 any one claim and in the aggregate during any one **period of insurance** which shall be the maximum amount payable by **us** including all defence costs.

In respect of each and every claim under this extension, **you** will be responsible for the first ten per cent (10%) of the cost of the claim or £5,000 whichever amount is the greater.

#### 5.3.8 **Indemnity to other parties**

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

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

#### 5.3.9 **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.

#### 5.3.10 **Motor contingent liability**

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

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

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

#### 5.3.11 **Motor liability**

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

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

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

- g) for which indemnity is provided by any motor insurance or fleet insurance policy held in **your** name; or
- h) for which insurance is necessary to comply with the Road Traffic Act 1988 as amended by The Motor Vehicles (Compulsory Insurance) Regulations 1992 or any alteration to such regulations or any similar legislation applying to Northern Ireland, the Isle of Man or the Channel Islands or to any other territory consequent on the Third Council Directive 90/232/EEC of 14/05/1990 relating to insurance against civil liability in respect of the use of motor vehicles or similar legislation in any country outside the European Union.

#### 5.3.12 **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.

#### 5.3.13 Principals

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

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

#### 5.3.14 Property in the insured's care, custody and control

Notwithstanding the exclusion of 'Property in the insured's care, custody and control' but subject always to the exclusion 'Owned or previously owned premises', **we** agree to extend coverage under this **section** to indemnify **you** in respect of liability arising out of or from:

- a) **damage** to personal effects (including vehicles and their contents) of **employees** or **your** directors, officials, visitors or guests;
- b) **damage** to **premises** including landlord's contents, fixtures and fittings not owned by **you** but leased or rented by **you** in the course of **business** but always excluding liability:
  - i) which attaches by way of any contract or agreement that would not have attached in the absence of such contract or agreement; or
  - ii) for which indemnity to **you** is provided under any other insurance or in any other way;
  - iii) for **damage** to premises or their contents thereof not belonging to or leased to or rented to **you** or otherwise in **your** custody or control but temporarily occupied by **you** for **work away** therein but no indemnity is provided by this clause for damage to that part of the property on which you are working and which arises out of such work away.

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

- a) **We** agree to indemnify **you** and at **your** request, any **other insured party**, in respect of **defence costs** incurred with **our** prior consent in defending:
  - i) any alleged breach of statutory duty (including any prosecution brought under sections 2 to 8 of the Health and Safety at Work, etc. Act 1974, Health and Safety at Work (Northern Ireland) Order 1978 or similar legislation in the Isle of Man or the Channel Islands) or criminal proceedings brought; and / or
  - ii) any alleged breach of statutory duty under the Protection from Harassment Act 1997; and/or
  - iii) allegations (whether under common law or statute) of manslaughter, corporate manslaughter or corporate homicide made against **you** or any **other insured party**;

provided that the prosecution or proceedings relate to:

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

- costs), in excess of £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings;
- iii) in respect of prosecution costs other than such costs relating to item ii) above (prosecution costs), in excess of £1,000,000, any one claim or series of claims arising out of the same prosecution or proceedings.
  - d) For the avoidance of doubt the following statutes, whilst not exhaustive, are included within the statutes or regulations contemplated for which **defence costs** are insured by this clause:
    - i) Health and Safety at Work, etc. Act 1974, but only sections 2 to 8,
    - ii) Health and Safety at Work (Northern Ireland) Order 1978,
    - iii) The Trade Description Act 1968
    - iv) Part II of the Consumer Protection Act 1987
    - v) Part II of the Food Safety Act 1990.
    - vi) Corporate Manslaughter Act 2007.

#### 5.3.16 **Waiver of subrogation**

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

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

### 5.4 **Public products and pollution liability 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**:

#### 5.4.1 **Advertising injury**

liability arising out of **advertising injury**.

#### 5.4.2 **Advice, design or plans provided for a fee**

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

#### 5.4.3 **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.

#### 5.4.4 **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.

5.4.5 **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.

5.4.6 **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.

5.4.7 **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.

5.4.8 **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.

5.4.9 **Excess**

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

5.4.10 **Fees for intervention**

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

5.4.11 **Financial loss**

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

- a) **personal injury**;
- b) **denial of access**, nuisance; or
- c) cover as provided by Data Protection Act 1998 clause; or
- d) cover as provided by the 'Financial loss' clause.

- 5.4.12 **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.
- 5.4.13 **Hazardous work**  
liability for any loss arising in connection with any work:
- a) of demolition except where such work forms an ancillary part of a contract for construction, alteration or repair
    - i) carried out by **employees** of structures not exceeding five (5) metres in height, or
    - ii) undertaken by bona fide subcontractors on **your** behalf
  - b) of construction, alteration or repair of bridges, dams, docks, harbours, towers, steeples, spires, chimney shafts, blast furnaces, viaducts, mines or collieries;
  - c) undertaken in or on aircraft or watercraft, airport or aerodrome runways manoeuvring areas or aprons or those parts of airports or aerodromes to which aircraft have access, nuclear plant installations, chemical or petrochemical works, oil refineries, gas works, fuel storage facilities or power stations;
  - d) involving railway track, signal, rolling stock or where trains continue to operate where work is ongoing (red zone working);
  - e) of pile driving, tunnelling or quarrying;
  - f) involving the use of explosives for any purpose;
  - g) involving excavations below a depth of three (3) metres
  - h) carried out at a height in excess of fifteen (15) metres
- 5.4.14 **Inevitable or unavoidable consequence of performance**  
liability which is the inevitable or unavoidable consequence of the performance of a contract
- 5.4.15 **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.
- 5.4.16 **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**.
- 5.4.17 **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**.
- 5.4.18 **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.
- 5.4.19 **Loss or damage to property manufactured designed sold supplied repaired or installed**
- a) for **products** that are not being sold or supplied as part of a contract for construction, building, erection or installation; liability for **damage** to the **product** or any part thereof arising from defect or unsuitability thereof and pure financial loss arising therefrom;
  - b) for **products** that are sold or supplied as part of a contract for construction, building, erection, or installation; loss of, destruction of or **damage** to **products**, designed, sold, supplied, repaired or installed by **you** or any structure or contract works (including materials for incorporation therein):
    - i) prior to certified completion or handover by **you**;
    - ii) after certified completion or handover by **you** where such loss, destruction or damage arises out of the defective condition of any part of such property, structure

or contract works but this does not exclude subsequent loss resulting from an ensuing cause which is not otherwise excluded;

5.4.20 **Materials prior to installation**

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

5.4.21 **North American jurisdiction**

- a) liability in respect of any judgment, award, payment, **defence costs** or settlement delivered, made or incurred within countries which operate under the laws of **North America** (or any order made anywhere in the world to enforce such judgment, award, payment, **defence costs** or settlement either in whole or in part) unless otherwise stipulated in the **schedule**;
- b) but this exclusion shall not apply to visits to **North America** in the course of **business** to undertake non-manual work including but not limited to clerical work, sales and promotional activities and conference attendance providing that, in such circumstances:
  - i) **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**.

5.4.22 **North American territory**

- a) liability in respect of **personal injury, damage, denial of access** or nuisance occurring within **North America** but this exclusion shall not apply to temporary non-manual visits to **North America** as specified in 'North American jurisdiction' above.
- b) liability in respect of or arising from **pollution** occurring within **North America**.

5.4.23 **Nuclear risks**

- a) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom;
  - 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**.

5.4.24 **Overseas domiciled operations**

**your** subsidiary companies, branch offices or representatives with power of attorney that are domiciled outside of the **United Kingdom**.

5.4.25 **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.

5.4.26 **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.

- 5.4.27 **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.
- 5.4.28 **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.
- 5.4.29 **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' clause within this **section**.
- 5.4.30 **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;
- 5.4.31 **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**.

## 6 Conditions precedent to Public Products and Pollution liability

The due observance and fulfilment of the provisions of this clause is a condition precedent to **our** liability for any claim under this **policy**. The 'Observance' clause within the 'General conditions' sets out the consequences of a failure to comply with conditions precedent of the **policy**.

### 6.1.1 Bona fide subcontractors insurance check

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

- a) covers the work to be undertaken by the bona fide subcontractor;
  - b) is subject to a minimum of the **limit of indemnity** applying to this **section** or £5,000,000, whichever is the lesser;
  - c) includes an 'indemnity to principals' clause,
- and such evidence is revalidated every twelve (12) months throughout the duration of their contract with **you**.

## 6.2 Fork lift truck conditions

It is a condition precedent to the **our** liability under this insurance that:

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

to prevent unauthorised use. For the purpose of this clause, unattended means that the fork lift truck is out of sight of the driver and / or more than one (1) minute's walking distance from the driver to prevent unauthorised use;
- 6.2.4 the carriage of passengers, unauthorised use or application as a tool in excess of the design capabilities of the vehicle is prohibited at all times;
- 6.2.5 all drivers must engage all operational safety systems in accordance with the manufacturers' recommendations.

## 6.3 Heat away from premises

- 6.3.1 It is a condition precedent to **our** liability under this insurance that, when using a naked flame or other heat source including but not limited to:
  - a) oxyacetylene;
  - b) electric arc or similar welding, cutting, grinding or other spark emitting equipment;
  - c) blow lamps;
  - d) otherwise applying heat;

away from **your** premises, **you** and **your employees** shall take all reasonable precautions to prevent damage.
- 6.3.2 Where the use of heat away from **your** premises involves
  - a) oxyacetylene;

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

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

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

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

6.3.4 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:

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

## 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:

6.4.1 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;

6.4.2 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;

- 6.4.3 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**;
- 6.4.4 meet any request, direction or timetable of the adjudicator;
- 6.4.5 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;
- 6.4.6 not disclose to anyone the existence of this **policy** without **our** consent;
- 6.4.7 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**;
- 6.4.8 not agree to accept the decision of the adjudicator as finally determining the dispute without the prior consent in writing of **us**;
- 6.4.9 ensure that the adjudication provisions in the Contract shall:
  - a) provide that the adjudicator must be independent of the parties to the dispute;
  - b) not allow for the adjudicator's decision to finally determine the dispute;
  - c) not allow the adjudicator to disregard the legal entitlements of the parties in order to reach a decision based on commercial considerations;
- 6.4.10 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).

## 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.

## 6.6 Skip hire conditions

It is a condition precedent to **our** liability under this insurance that:

- 6.6.1 in connection with the use, ownership or hiring out of skips, **you** must at all times observe and comply with the requirements of the Roads (Scotland) Act 1984 or the Highways Act 1980 or any other statutes, regulations or local bye-laws and must ensure that:
  - a) each skip is marked with fluorescent markings which must be kept clean;
  - b) each skip deposited on a highway is equipped to be properly lit during the hours of darkness;
  - c) no skip is left at or outside any customer's premises or on any working site without delivery being accepted by or on behalf of the customer.
- 6.6.2 skips must be hired out under the conditions of hire as advised to **us** and a copy of these conditions must be given to the customer and the contents thereof drawn to the customer's attention prior to or at the time of delivery of the skip.

## 6.7 Tar boiler conditions

It is a condition precedent to the **our** liability under this insurance that whenever tar boilers are used that:

- 6.7.1 a regulation spill tray is provided,
- 6.7.2 suitable and approved fire extinguishers are kept on hand for immediate use,
- 6.7.3 the equipment and work is not left unattended,

- 6.7.4 a thorough examination must be made in the vicinity of the work at regular intervals up to one (1) hour after the completion of the work.

## 7 Section – Contract works

### 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 and equipment**;
- c) **plant, temporary buildings and other property**;
- d) **personal effect and tools**;

or as otherwise described in the **schedule** be accidentally **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.

#### 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 extension' 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,
- d) shoring up, propping or fencing,

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

#### 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 and equipment** is out of commission following:

- a) damage to the hired-in plant and equipment 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 and equipment** 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 £50,000 in respect of any one occurrence of **damage**.

#### 7.3.3 **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,

#### 7.3.4 **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.

#### 7.3.5 **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**.

#### 7.3.6 **New activities and or subsidiary companies**

This **section** is extended to indemnify **you** in respect of all new acquisitions, **your** newly created entities or new activities provided that **you** shall:

- a) notify **us** within thirty (30) days of acquisition completion date or creation or commencement of any new activity except in respect of acquisitions for which annual turnover exceeds £2,500,000 when notification is required as soon as possible;
- b) provide all information as **we** may reasonably require regarding the newly acquired, created entity or new activity within thirty (30) days of completion or commencement date;
- c) pay or promise to pay any additional premium as may be required by **us**.

#### 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) £10,000 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 indemnity granted by this clause.
- 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 **Architects', surveyors' and other fees**  
The cover provided by, this **section** in respect of Architects', surveyors' and other fees excludes and does not cover fees for preparing a claim under this **policy**.
- 7.4.2 **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.
- 7.4.3 **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 extensions – show houses.  
except as specifically provided under any clause to this **policy**.
- 7.4.4 **Deliberate acts**  
This **section** does not cover **damage** arising from or caused by a wilful act or wilful neglect by **you**.
- 7.4.5 **Directional drilling**  
This **section** does not cover **damage** arising from or caused by directional drilling operations.
- 7.4.6 **Design and workmanship**  
This **section** excludes and does not cover the costs rendered necessary by defects of material, workmanship, design, plan or specification and should **damage** occur to any portion of the **property insured** containing any of the said defects the costs of replacement or rectification which is excluded is that cost which would have been incurred if replacement or rectification of the **property insured** had been put in hand immediately prior to the **damage**. For the purpose of this policy and not merely this exclusion the property insured

shall not be regarded as **damaged** solely by virtue of the existence of any defect in design, plan, specification, materials or workmanship in the **property insured** or any part thereof.

**7.4.7 Disappearance of property**

This **section** excludes and does not cover **damage** either by disappearance or by shortage that is revealed only during stocktaking or when an inventory is made unless **damage** can be traced to a specific event that has been notified under the terms of 'Duties in the event of a claim or potential claim' **section**.

**7.4.8 Electronic risks**

This **section** excludes and does not cover **damage** directly or indirectly caused by, 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.

**7.4.9 Excess for property damage**

This **section** excludes and does not cover the first amount stated in the **schedule** as the **excess** in respect of each and every claim.

**7.4.10 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.

**7.4.11 Ionising radiation**

This **section** excludes and does not cover loss or **damage**

- a) in whatever form, directly or indirectly, contributed to, by or in connection with, **nuclear hazards**;
- b) to any **property insured** within High Radio Active Zone (HRZ) of any nuclear installation.

**7.4.12 Mechanical or electrical breakdown**

This **section** excludes and does not cover **damage** to **property insured** due to its own explosion, electrical or mechanical breakdown or failure or derangement including but not limited to overrunning, overheating or short circuiting.

**7.4.13 Normal upkeep**

This **section** excludes and does not cover the costs relating to normal upkeep and normal making good.

**7.4.14 Northern Ireland**

This **section** does not cover **damage** to **property insured** or happening through or in consequence directly or indirectly of riot or civil commotion occurring in Northern Ireland.

**7.4.15 Pressure wave**

This **section** excludes and does not cover **damage** directly occasioned by pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds.

**7.4.16 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.

#### 7.4.17 **Theft from unattended vehicles**

This **section** excludes and does not cover **damage** by theft arising from or caused by theft from any unattended vehicle away from **your** premises unless any such vehicle is:

- a) alarmed or is suitably immobilized; or
- b) in a locked and secure compound or garage.

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.

#### 7.4.18 **Wear and tear etc.**

This **section** excludes and does not cover **damage** arising from or caused by:

- a) wear and tear, wet or dry rot, mildew, dryness or dampness, rust, corrosion, insect, vermin, erosion, depreciation, gradual deterioration or obsolescence;
- b) scratching or chipping of surfaces;
- c) hardening or setting of materials due to delay in their use or application unless the delay unavoidably results from **damage** otherwise insured by this section;
- d) materials not being stored in accordance with conditions recommended by the manufacturer.

#### 7.4.19 **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**

The word occurrence shall mean any one (1) loss or series of losses arising out of and directly occasioned by one (1) event or one (1) original cause. However, the duration and extent of any one (1) occurrence shall be limited to:

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

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

Should any such period extend beyond the expiry or cancellation date, **we** shall be liable as if such period had fallen entirely within the **period of insurance** of the **policy**.

#### 7.5.5 **Basis of settlement**

- a) If own plant (including Specified own plant as shown in the **schedule**) 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;
- b) For all other items insured under this **section** **we** will repair, replace or indemnify **you** for the **actual value**.

## 8 Property

### 8.1 Property cover

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

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

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

In the event of **damage** that is insured by this **section we** will indemnify **you** for the fees of architects, surveyors consulting engineers and other fees incurred with **our** prior written consent, for estimates, plans, specifications, quantities, tenders and supervision necessarily incurred in the reinstatement of loss in the event of **damage** except that **we** will not be liable for such fees incurred in preparing any claim made under this **policy**.

#### 8.1.3 Capital additions

This **policy** shall automatically, include:

- a) any newly acquired property (other than **stock and materials in trade**) of a kind not excluded by this **policy** at the **premises** insofar as it is not otherwise insured; and
- b) any alterations, additions and improvements to **buildings**;

during the **period of insurance** provided that:

- i) **our** liability under this clause will be in addition to the **sums insured** and **our** total liability for such amount payable under this capital additions clause will not exceed 10% of the sum insured by each item or £500,000, whichever is the lesser amount
- ii) **you** undertake to give particulars of such newly acquired property at the expiry date of the **period of insurance** or, if the **period of insurance** is greater than twelve (12) months, at anniversary of the commencement of the **period of insurance** each twelve (12) months and to retrospectively insure the newly acquired **property** to the date of the commencement of **our** liability;
- iii) **we** shall be entitled to charge an appropriate additional premium pro rata from the date of acquisition of the newly acquired **property** and **you** shall pay such additional premium on demand from **us**;
- iv) **we** may vary the terms of this **policy** in respect of such newly acquired property;
- v) **we** shall not cover any appreciation in value that may accrue to any **buildings** following any alterations, additions and improvements.

#### 8.1.4 Continuing plant hire charges

In the event of **damage** that is insured by this **section we** will indemnify **you** for continuing hire charges incurred as a result of **your** legal obligation while **hired-in plant and equipment** is out of commission following damage to the hired-in plant and equipment but only if :

- a) **you** have made a claim under this **section** for the **damage**; and
- b) **we** have accepted the claim, or would have but for the amount of the **excess**; and
- c) the breakdown of the **hired-in plant and equipment** is not on account of **your** neglect or misuse.

The insurance provided by this clause excludes and does not cover hire charges for the first two (2) full working days that the hired-in plant and equipment is out of use and is thereafter limited to the lesser of:

- i) continuing hire charges up to a period of ninety (90) calendar days; or
- ii) £50,000.

#### 8.1.5 Debris removal

In the event of **damage** that is insured by this **section we** will, with **our** prior consent which consent will not be unreasonably withheld, indemnify **you** for the costs necessarily incurred by **you** in:

- a) removing debris from the **damaged** property site and the area within two hundred and fifty meters (250m) of the perimeter of the **damaged** property site;
- b) cleaning or clearing the drains, the sewers and/or the gutters of the **damaged** property site and the area within two hundred and fifty meters (250m) of the perimeter of the **damaged** property site;
- c) dismantling and/or demolishing of, or shoring up, propping and/or fencing the portion(s) of the **property insured** that has been **damaged** by an **insured peril**;
- d) removing extraneous materials from plant and machinery, whether or not such plant and machinery has been **damaged**;
- e) removing stock debris;

Except that **we** will not provide indemnity for any cost and expenses:

- i) arising from pollution or contamination of property not insured by this **policy**;
- ii) of temporary boarding up of windows as part of a claim for breakage of glass if this insurance includes glass damage;

Provided that **our** total liability in respect of **damage** to any **property insured** including the costs covered by this extension shall be limited to the **sum insured** shown against each item in the **schedule**.

#### 8.1.6 Deterioration of stock

If the Deterioration of stock sub-section is shown as operative in the **schedule we** will indemnify **you** in the event of **stock and materials in trade**, whilst contained within refrigerating units, suffering deterioration or putrefaction due to or arising from:

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

then **we** will cover **you** for the loss of such deteriorated, putrefied or contaminated **stock and materials in trade** provided that:

- i) the event giving rise to such deterioration, putrefaction or contamination occurs during the **period of insurance**; and
- ii) the refrigerating machine is less than ten (10) years old and there is in force a planned maintenance programme for the servicing of the refrigerating machine at regular intervals by the manufacturer or a competent refrigeration engineer; and
- iii) in respect of each occurrence of deterioration, putrefaction or contamination, **our** liability under this sub-section will not exceed the total **sum insured** shown against this sub-section in the **schedule**; and
- iv) **we** shall not be liable for:
  - I) the failure of the electricity utility undertaking arising from **your** deliberate act, unless performed for the sole purpose of safeguarding life or protecting any part of the utility undertaking systems; or
  - II) the failure of the electricity utility undertaking arising from any scheme of rationing not necessitated solely by **damage** to the utility undertaking's generating or supply equipment; or
  - III) wear and tear, deterioration or gradually developing flaws or defects in the unit or incorrect setting of thermostats and automatic controls; or
  - IV) the use of a refrigerating unit over ten (10) years old unless specifically agreed by **us** in writing;

#### 8.1.7 Documents removal

If the **schedule** states that **machinery plant and all other contents** are insured by this **section, we** will indemnify **you** for the costs and expenses of reinstating **documents** to the extent possible, in the event that **documents** are **damaged** while temporarily removed away

from the **premises**, or in **transit** by road, rail or inland waterway, except that **we** will not be liable for:

- a) **damage** that occurs during temporary removal or **transit** outside the European Union;
- b) **damage** that is recoverable under any other insurance or in any other way;
- c) **damage** 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 an immobiliser approved by **us** and brought into operation;
- d) for any amount in excess of ten percent (10%) of the **machinery plant and all other contents sum** insured specified in the **schedule**.

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

#### 8.1.8 European Union and public authorities

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

- a) the amount recoverable under this clause will not include the cost incurred in complying with any such regulations, bye-laws or directive:
  - i) in respect of **damage** occurring prior to inception of this **policy**;
  - ii) in respect of **damage** not insured by this **section**; or
  - iii) under which notice has been served upon **you** prior to the happening of the **damage**;
- b) the amount recoverable under this clause will not include the additional cost that would have been required to make good the property **damaged** to a condition equal to its condition when new had the necessity to comply with any of the aforesaid regulations, bye-laws or directives not arisen;
- c) the amount recoverable under this clause will not include the amount of any rate, tax, duty, development or other charge or assessment arising out of capital appreciation which may be payable in respect of the **property insured** or by the owner thereof by reason of compliance with any of the aforesaid regulations, bye-laws or directives;
- d) if **our** liability in respect of any item of **property insured** apart from this clause is reduced by the application of any of the terms and conditions of this **policy** or this clause, then **our** liability under this clause in respect of any such **property insured** will be reduced in like proportion;
- e) **we** will have no liability under this clause unless the work of **reinstatement** is commenced and carried out with reasonable dispatch (which may be carried out upon another site and in any manner suitable to **your** requirements subject to **our** liability not being thereby increased);
- f) the total amount recoverable under this clause in respect of undamaged portions of **property insured** other than foundations, will not exceed fifteen per cent (15%) of the total amount for which **we** would have been liable had the **building**, or **contents** item been totally destroyed;

- g) the indemnity provided by this clause shall be included within and not be in addition to the **sums insured** under each item of **property insured** shown in the **schedule**.

#### 8.1.9 **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 European Union, 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 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 £50,000 in respect of any one loss or in the aggregate during any **period of insurance**.

#### 8.1.10 **Fidelity guarantee**

This cover extension does not apply or operate unless **your schedule** states that this clause is 'operative'.

- a) **We** will indemnify **you** for loss of **your money** or goods or **money** or goods for which **you** are legally responsible caused by any act of theft committed during the **period of insurance** by an **employee** normally resident within the **United Kingdom** and discovered not later than six (6) months after the termination of:
  - i) this insurance;
  - ii) the insurance in respect of an **employee** specified by name or position;
  - iii) the employment of any **employee**;

whichever occurs first.

- b) **We** will indemnify **you** for auditors fees incurred with **our** written consent solely to substantiate the amount of the claim.
- c) **We** will indemnify **you** for the reasonable cost of re-writing or amending the software programmes or systems where such re-writing or amending is necessary to correct the programmes or amend the security codes following the fraudulent use of computer hardware or software programmes or computer systems the subject of a claim for which liability is admitted under the **policy**.
- d) If this insurance immediately supersedes a fidelity insurance effected by **you** (the 'superseded insurance') **we** will indemnify **you** in respect of any loss discovered during the continuation of this insurance but committed during the continuation of the superseded insurance if the loss is not recoverable thereunder solely because the period allowed for discovery has expired provided that:

- i) such insurance had been continuously in force from the time of the loss until inception of this insurance;
- ii) the loss would have been insured by this insurance had it been in force at the time of the loss;
- iii) **our** liability shall not exceed whichever is the lesser of the:
  - I) amount recoverable under the insurance in force at the time of the loss
  - II) **limit of indemnity** under this insurance.

**Our** total liability in respect of any one claim continuing through both the term of the superseded insurance and the continuation of this insurance shall not exceed the limit of indemnity applicable under this insurance.

- e) **Our** liability under this extension will not exceed the **limit of indemnity** specified in the **schedule**.
- f) **We** shall not be liable under this clause for:
  - i) loss of interest or consequential loss of any kind;
  - ii) the first £250 in respect of each and every claim (the excess);
  - iii) further acts of theft by an **employee** immediately following **your** discovery of any act of theft by such an **employee**.
- g) It is further agreed that:
  - i) any money of the **employee** in **your** hands upon discovery of any loss and any money which but for the **employee's** theft would have been due from **you** to the **employee** shall be deducted from the amount of the loss before a claim is made under this insurance;
  - ii) any further monies which are recovered less any costs incurred in recovery shall accrue:
    - I) in the event that **your** claim has exceeded the limit of indemnity firstly to **your** benefit to reduce or extinguish the amount of **your** loss (but not the excess);
    - II) to **our** benefit to the extent of the claim paid or payable;
    - III) to **your** benefit where the **excess** had been deducted from the claim

#### 8.1.11 **Fire extinguishment expenses and emergency services damage**

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

- a) extinguishment expenses necessarily incurred by **you** in order to minimise **damage**;
- b) expenses incurred in recharging or repairing **damage** to any gas or sprinkler fire extinguishment system;
- c) **damage** to lawns, gardens, playing surfaces and landscaped areas, car parks, private roads and pathways at the **premises** caused by emergency service vehicles while attending an incident involving **damage** for which **we** have accepted a claim under this **section**;
- d) fire brigade charges;
- e) costs and expenses reasonably incurred by **you** to upgrade or improve any gas or sprinkler fire extinguishment rendered necessary to comply with any regulations introduced after the installation of the original system following an incident involving **damage** for which **we** have accepted a claim under this **section**.

Our maximum liability during any one **period of insurance** under this extension shall not exceed:

- f) a) £20,000 in respect of a) to d) above; and
- g) b) £50,000 in respect of e) above

#### 8.1.12 **Glass and glass surrounds**

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

- a) replacing **damaged** glass;
- b) boarding up where necessary before the replacement of **damaged** glass;
- c) the replacement or reinstatement of frames or glass supports which arises from the **damage**;

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

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

#### 8.1.13 **Lock replacement**

The insurance by this **section** extends to indemnify **you** for the reasonable cost of replacing external locks or safe or strong room locks at the **premises** following theft of keys from the **premises**, the **insured person's** home, or following a hold-up while the keys are in **your** personal custody or that of any authorised employee, except that **we** will not be liable for any amount exceeding £2,500 in respect of any one loss.

#### 8.1.14 **Machinery re-erection**

To the extent that the **property insured** includes machinery, the insurance by this **section** extends to indemnify **you** for the reasonable cost of dismantling, re-erection and re-setting of the machinery as a direct result of **damage** insured by this **section**.

#### 8.1.15 **Metered water or gas**

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

- a) loss of water or gas is due to **damage** at the **premises** which is covered under this **section**; and
- b) the lost water or gas is measured by the utility meter; and
- c) **you** maintain a record of readings from the utility meter at intervals of not more than ninety (90) days; and
- d) the insurance provided by this extension shall not apply to **unoccupied buildings**; and
- e) **our** liability in respect of any one (1) insured **premises** is limited to such excess water or gas charges demanded by the utility undertaking in consequence of **damage**.
- f) **our** maximum liability shall be limited to £25,000 in respect of any one claim

#### 8.1.16 **Money**

This cover extension does not apply or operate unless **your schedule** states that this clause is 'operative'.

**You** will be indemnified against loss from any cause of **negotiable money** held in connection with the **business**:

- a) whilst in transit within the **United Kingdom** or in a bank night safe up to a maximum amount specified in the **schedule** by Limit a) for any one loss;
- b) whilst at the private residence of any principal or your authorised **employee** up to a maximum amount specified in the **schedule** by Limit b) for any one loss;
- c) from the **premises** during **business** hours up to a maximum amount specified in the **schedule** by Limit c) for any one loss;

except that when the **premises** are closed to **business**:

- d) liability for **money** not contained within a locked safe is limited to the amount specified in the **schedule** by Limit d) ;
- e) liability for **money** within a locked safe is limited to the amount specified in the **schedule** by Limit e);

It is further agreed as a condition precedent to **our** liability under this clause that

- f) keys and/or combination codes to safes are not left on the **premises** unless the **premises** are still attended by **you** or **your** authorised **employee** in which case such keys and/or combination codes shall be deposited in a secure place not in the vicinity of any safe.

- g) whenever money in transit exceeds £3,000 at any one time:
  - i) the **negotiable money** will be accompanied by not less than two (2) responsible adult persons; and
  - ii) no more than £3,000 will be carried by any one (1) person; and
  - iii) more than £15,000 must be carried by a professional security company.

You will be indemnified against loss from any cause of **non-negotiable money** held in connection with the **business** up to a maximum amount of £500,000 for any one loss or as specified in the **schedule** by Limit f).

The insurance by this clause excludes and does not cover loss:

- h) arising from fraud or dishonesty of **your employees** unless such loss be discovered within fourteen (14) clear working days of the occurrence;
- i) due to clerical or accounting errors;
- j) from unattended motor vehicles.

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

#### 8.1.17 **Personal Accident (Assault)**

- a) If **you** or any of your **employees** between the ages of sixteen (16) and seventy (70) years shall suffer **bodily injury** caused solely or directly as a result of robbery or any attempt thereat in the course of the **business** we will pay compensation on the basis of the following table:
 

i) Death	£20,000
ii) Total loss or permanent and total loss of use of one or more limbs occurring within two (2) years of sustaining the <b>bodily injury</b>	£20,000
iii) Total and irrecoverable loss of all sight in one or more eyes occurring within two (2) years of sustaining the <b>bodily injury</b>	£20,000
iv) For any period up to a maximum of two (2) years of total disablement from engaging in usual occupation	£100 per week
v) For any period up to a maximum of two (2) years of partial disablement from engaging in usual occupation	£50 per week
- b) Provided that:
  - i) compensation will not be payable under more than one of the items in the compensation table for the same **bodily injury**; and
  - ii) no liability will attach to **us** for **bodily injury** arising from or influenced by any existing physical defect or infirmity or the medical condition of any person entitled to compensation hereunder or resulting from pregnancy or childbirth.
- c) The insurance by this clause is extended to pay for **damage** to cash carrying devices or clothing and personal effects belonging to **you** or any of **your employees** up to a limit of £1,000 in respect of any one person.
- d) The insurance by this clause is extended to pay for **damage** to any safe or strongroom at the **premises** as a direct result of theft or attempted theft of **money** up to a limit of £5,000 any one claim.
- e) The insurance by this clause is extended to include dental costs for **you** or **your employees** as a direct result of robbery or assault or attempt thereat, up to a limit of £500 in respect of any one person.

#### 8.1.18 **Rent**

If **rent** is specified as covered under **property insured** in the **schedule**, and any **building** which is leased or rented by **you** becomes untenable or unusable following **damage** and the lease or rental agreement requires continuation of the **rent**, **we** will indemnify **you** for either:

- a) the actual rent payable for the unexpired term of the lease or until such time that the **building** is repaired to a condition fit for habitation should the **building** be wholly untenable or unusable; or

- b) the proportion of the rent applicable to the untenable or unusable part of the **building** that would otherwise be occupied by **you** should the **building** be partially untenable or unusable.

Provided that **we** shall not be liable for :

- i) any amount for **rent** payable beyond the period of rent protection stated in the **schedule**; and
- ii) any amount in excess of the **sum insured** in respect of **rent**.

#### 8.1.19 Specified contents (all risks)

We shall indemnify **you** against **damage** to the property insured as specified in the **schedule** by any accident or misfortune occurring anywhere within the **territorial limit** specified against each item excluding:

- a) the first £100 of each claim;
- b) any property otherwise insured;
- c) **damage** arising from wear and tear or from any process of cleaning, dyeing restoring, adjusting or repairing;
- d) **damage** arising from or attributable to the action of light or atmosphere moth, parasites, vermin, corrosion, dampness, marring, scratching, bruising or deterioration;
- e) **damage** (other than by fire) to any machine or apparatus arising from mechanical or electrical breakdown or derangement or arising from adjustment maintenance or repair;
- f) erasure or distortion of information on computer systems or their records;
- g) **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 without limitation any information or programs or software) and whether the property is **yours** or not where such **damage** is caused by programming or operators error, **virus or similar mechanism** or **hacking**;
- h) **damage** by confiscation or detention by customs or other officials or authorities;
- i) **damage** to **money**, documents, securities, motor vehicles, caravans, boats, cycles, household goods, sports equipment, contact or corneal lenses;
- j) **damage** by theft from an unattended motor vehicle unless such vehicle has been securely locked at all points of access

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

#### 8.1.20 Temporary protection and expediting expenses

In the event of **damage** that is insured by this **section we** will, with **our** prior consent which consent will not be unreasonably withheld, indemnify **you** for the reasonable and necessary costs incurred to:

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

Temporary protection and expediting expenses do not include:

- i) expense payable elsewhere in the **policy**; or
- ii) the cost of permanent repair or replacement; or
- iii) any amount which exceeds £25,000.

#### 8.1.21 Temporary removal (excluding documents)

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

- a) **damage** that is recoverable under any other insurance or in any other way;
- b) **damage** caused by theft or attempted theft, but this exclusion will not apply where the theft or attempted theft takes place from a building and the theft or attempted theft

involves entry to or exit from the building by violent and forcible means or arises from robbery or attempted robbery;

- c) property of others held by **you** in trust;
- d) any **property insured** at exhibitions or trade fairs;
- e) **damage to documents**;
- f) **damage** that occurs when the **property** being temporarily removed is in due course of transit.

Provided that our maximum liability under this extension shall not exceed 15% of the sum insured for each item as shown on the **schedule**.

#### 8.1.22 **Theft damage to buildings**

If **you** are responsible for the cost of **damage to buildings** that are not insured by this **policy**, **we** will indemnify **you** for an amount in respect of **damage**, arising from theft or any attempted theft to such **buildings**. **Our** liability under this clause shall not exceed £25,000 any one **period of insurance**.

#### 8.1.23 **Trace and access**

In the event of **damage** that is insured by this **section we** will cover the costs necessarily and reasonably incurred in locating the source of any escape of water from any fixed water services, heating installation or fuel oil, including the repair to walls, floors or ceilings necessary as a direct result of the location work, except that **we** will not be liable for the cost of repairs to any fixed water services or heating installation. **Our** liability under this clause shall not exceed £25,000 any one claim.

#### 8.1.24 **Undamaged tenants' improvements**

Where a lease is terminated as a direct result of **damage**, this **policy** is extended to include the cost of reimbursing **your** tenants for their undamaged improvements which are no longer available to such tenants, provided that **our** liability under this clause shall not exceed £25,000 any one claim.

#### 8.1.25 **Valuables**

The **property insured** under the heading of **machinery, plant and all other contents** includes:

- a) gold, silver, jewellery, precious stones, works of art, rare books, sculptures, curios and collections; and
- b) tobacco, cigars, cigarettes and wines and spirits.

**Our** liability under this clause shall not exceed £2,500 any one occurrence.

### 8.2 **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**:

#### 8.2.1 **Indirect loss**

any form of indirect loss except as specifically included with this **section**;

#### 8.2.2 **Property insured elsewhere**

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

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

#### 8.3.1 **Basis of settlement**

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

- a) On **stock and materials in trade** that is unsold, the value of the cost of production.
- b) On raw materials, supplies and other merchandise not manufactured by **you**:

- i) if repaired or replaced, the actual expenditure incurred in repairing or replacing the **damaged** or destroyed property; or
  - ii) if not repaired or replaced, the **actual value**.
- c) On documents, the value blank plus the cost of copying information from back-up or from originals of a previous generation. These costs will not include research, engineering or any costs of restoring or recreating lost information.
- d) On gold, silver, jewellery, precious stones, works of art, rare books, sculptures, curios and collections where insured by this policy, the lesser of:
  - i) the reasonable and necessary cost to repair or restore such property to the physical condition that existed on the date of loss; or
  - ii) the cost to replace the article;
  - iii) the value, if any, stated in the **schedule** pertaining to the specific article.
- e) On **electronic data** the cost to repair, replace or restore the medium containing such **electronic data** to the condition that existed immediately prior to the **damage**, including the cost of reproducing any **electronic data** contained thereon, providing such medium is repaired, replaced or restored. Such cost of reproduction shall include all reasonable and necessary amounts, incurred by **you** in recreating, gathering and assembling such **electronic data**. If the medium is not repaired, replaced or restored the basis of valuation shall be the cost of the blank media.
- f) On **employees'**, directors' or visitors' property, the cost of repairing or replacing the item(s) as new, whichever is the lesser.
- g) On motor vehicles or motor chassis the **actual value**.
- h) On all other **property insured**:
  - i) where the **property insured** is destroyed, the rebuilding of the property if a building, or, in the case of other property, its replacement by similar property, in either case in a condition equal to but not better or more extensive than its condition when new;
  - ii) where the **property insured** is **damaged**, the repair of the **damage** and the restoration of the **damaged** portion of the property to a condition substantially the same as but not better or more extensive than its condition when new.

### 8.3.2 Basis of settlement conditions

- a) If **you** elect and **we** agree not to repair or reinstate any **property insured**, then **our** liability shall be limited to the **actual value** of the **damaged property insured**, however settlement on this basis shall be at **our** sole discretion.
- b) If **we** elect or become bound to reinstate or replace any **property insured**, **you** will, at **your** own expense, produce and give to **us** all such plans, documents, books and information as **we** may require.
- c) **We** will not be bound to reinstate exactly or completely but only as circumstances permit, and in a reasonably sufficient manner, and will not in any case be bound to expend in respect of any item of the **property insured** more than the **sum insured** or **sub-limit** thereon.
- d) If at the time of any **damage** to any **property insured**, such property is covered by any other insurance effected by **you** or on **your** behalf but is not on the identical basis of **reinstatement** to the terms of this clause, then this **policy** excludes and does not cover payment of any amount in excess of the amount that would have been payable if this condition had not been incorporated.
- e) The work of **reinstatement** must be commenced and carried out with reasonable despatch, otherwise no payment will be made beyond the amount which would have been payable under this **section** if this condition had not been incorporated.
- f) **We** will have no liability to pay any amount beyond the amount that would have been payable under this **section** if this condition had not been incorporated until such time as the cost of **reinstatement** has actually been incurred.

### 8.3.3 Claim discharge

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

#### 8.3.4 **Compromised settlements**

If **you** compromise with **us** any claim under this insurance, where more than one (1) party has an interest in the **property insured**, the benefit will represent the total amount payable in respect of that **property insured** for the interests of all parties covered by this **section**.

#### 8.3.5 **Contract price**

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

#### 8.3.6 **Contracting purchaser**

If at the time of **damage** to any **building** insured under this **section you** have contracted to sell **your** interest in such **building** and the purchase has not been but is thereafter completed, the purchaser will be entitled (on completion of the purchase, and then only so far as the property is not otherwise insured by or on behalf of the purchaser against such **damage**) to the benefit of this **section** insofar as it relates to such **damage**, without prejudice to the rights and liabilities of **you** or **us** under this **section** up to the date of completion.

#### 8.3.7 **Designation**

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

#### 8.3.8 **Involuntary betterment**

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

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

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

#### 8.3.9 **Maintenance of refrigeration units**

It is agreed that there is in force a planned maintenance programme for the servicing of the refrigerating machine at regular intervals by the manufacturer or a competent refrigeration engineer and that a proper record is kept. Any defects arising during the **period of insurance** must be addressed immediately but where this is not possible, **we** must be notified immediately.

#### 8.3.10 **Non-invalidity**

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

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

#### 8.3.11 **Other parties**

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

In the event of any claim:

- a) **you** will immediately 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.

**8.3.12 Pairs and set settlement basis**

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

**8.3.13 Reinstatement of property**

If **we** elect or become bound to reinstate or replace any **property insured**, **you** will, at **your** own expense, produce and give to **us** all such plans, documents, books and information as **we** may require. **We** will not be bound to reinstate exactly or completely but only as circumstances permit, and in a reasonably sufficient manner, and will not in any case be bound to expend in respect of any of the **property insured** more than the **sum insured** or **limit of liability** thereon.

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

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

**8.3.15 Exclusions**

a) Excluded property

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

b) Dual insurance under different conditions

If at the time of any **damage** to any **property insured**, such property is covered by any other insurance effected by or on **your** behalf but is not on the identical basis of **reinstatement** or day one (1) reinstatement, as applicable, to the terms of this clause, then this **policy** excludes and does not cover payment of any amount in excess of the amount that would have been payable if this clause had not been incorporated.

**8.3.16 Conditions**

a) No unreasonable delay

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

b) Payment sub-limit - partial damage

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

c) Claim payment terms

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

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

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

e) Underinsurance

Each item of **property insured** covered is, to the extent specified in the **schedule** as being covered on a **sum insured** basis, subject to the following conditions of average:

- i) Eighty five percent (85%) average

If at the time of **reinstatement** the sum representing eighty five per cent (85%) of the cost that would have been incurred in **reinstatement**, if the whole of the item of **property insured** had been destroyed, exceeds the **sum insured** thereon at the breaking out of any fire or at the commencement of any **damage** to such property by any other cause hereby insured against, then **you** will be considered as being **your** own insurer for the difference between the **sum insured** and the sum representing the cost of reinstatement of the whole of the property and will bear a rateable proportion of the loss accordingly.

ii) Day one (1) basis average

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

iii) Standard underinsurance condition

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

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

8.3.17 **Reinstatement of sum insured following loss**

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

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

The word occurrence shall mean any one (1) loss or series of losses arising out of and directly occasioned by one (1) event or one (1) original cause. However, the duration and extent of any one (1) occurrence shall be limited to:

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

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

Should any such period extend beyond the expiry or cancellation date, **we** shall be liable as if such period had fallen entirely within the **period of insurance** of the **policy**.

8.3.19 **Subrogation waiver**

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

- a) any company standing in the relation of parent to subsidiary (or subsidiary to parent) to **you** as defined in the Companies Act 2006 or Companies (N.I.) Order 2006, as appropriate, current at the time of the loss; and
- b) any company that is a subsidiary of a parent company of which **you** are a subsidiary, in each case within the meaning of the Companies Act 2006 or Companies (N.I.) Order 2006, as appropriate, current at the time of the loss.

8.3.20 **Unoccupied or vacant buildings**

- a) **You** will give **us** notice forthwith if a **building** becomes **unoccupied** or if an **unoccupied building** or portion thereof is again occupied. **You** will pay such extra premium as **we** may require in consideration for the continuance in force of this insurance.
- b) Further it is agreed as a condition of this insurance in respect of **buildings** that become **unoccupied** that:

- i) all main services are turned off at the mains and water tanks drained and emptied; and
- ii) all combustible materials not forming part of the landlord's fixtures and fittings are removed from inside and outside the **buildings**; and
- iii) all ground floor windows and letterboxes are securely boarded over, and
- iv) all reasonable precautions are taken to secure the **buildings** against unauthorised entry

Notwithstanding compliance with the terms of the above paragraphs, the insurance in respect of the **unoccupied buildings** remains subject to the General exclusions - Disused, unoccupied or vacant buildings.

#### 8.3.21 **Workmen**

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

#### 8.3.22 **Hot work permit**

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

It is a condition precedent to **our** liability under this **section** that:

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

## 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 **Property section**, provided that:

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

#### 9.1.2 Gross revenue/estimated gross revenue

**Our** liability in respect of **gross revenue/estimated gross revenue** is limited to loss of **gross revenue/estimated gross revenue** and increase in cost of working and **our** liability under this **section** in respect of **gross revenue/estimated gross revenue** will be:

- a) in respect of the reduction in **gross revenue**: the amount by which the **gross revenue** during the indemnity period will, in consequence of the **damage**, fall short of the **standard gross revenue**;
- b) in respect of **increased cost of working**: the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in **gross revenue** which but for that expenditure would have taken place during the **indemnity period** in consequence of the **damage**, but not exceeding the amount of the reduction thereby avoided;
- c) minus, regardless of whether the calculation is based on, the reduction in **revenue** or the **increased cost of working** any sum saved during the **indemnity period** in respect of such of the charges and expenses of the **business** payable out of **gross revenue** as may cease or be reduced in consequence of the **damage**;
- d) except that, in either case, if the **sum insured** in respect of **gross revenue** is less than the **annual gross revenue** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months), **our** liability will be proportionately reduced.

#### 9.1.3 Gross fees/estimated gross fees

**Our** liability in respect of **gross fees/estimated gross fees** is limited to loss of **gross fees/estimated gross fees** and increase in cost of working. **Our** liability under this **section** in respect of **gross fees/estimated gross fees** will be:

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

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

#### 9.1.4 **Gross revenue/estimated gross revenue**

**Our** liability in respect of **gross revenue/estimated gross revenue** is limited to loss of **gross revenue/estimated gross revenue** and increase in cost of working and our liability under this section in respect of gross revenue/estimated gross revenue will be:

- a) in respect of the reduction in **gross revenue**: the amount by which the **gross revenue** during the indemnity period will, in consequence of the **damage**, fall short of the **standard gross revenue**;
- b) in respect of **increased cost of working**: the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in **gross revenue** which but for that expenditure would have taken place during the **indemnity period** in consequence of the **damage**, but not exceeding the amount of the reduction thereby avoided;
- c) minus, regardless of whether the calculation is based on, the reduction in **revenue** or the **increased cost of working** any sum saved during the **indemnity period** in respect of such of the charges and expenses of the **business** payable out of **gross revenue** as may cease or be reduced in consequence of the **damage**;
- d) except that, in either case, if the **sum insured** in respect of **gross revenue** is less than the **annual gross revenue** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months), **our** liability will be proportionately reduced.

#### 9.1.5 **Increased cost of working**

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

#### 9.1.6 **Additional increased cost of working**

**Our** liability in respect of additional increased cost of working is limited to the additional expenditure necessarily and reasonably incurred during the **indemnity period** in consequence of the **damage** for the sole purpose of preventing or minimising a reduction in turnover or resuming or maintaining normal **business** operations for an amount not exceeding the **sum insured**.

#### 9.1.7 **Rent receivable**

**Our** liability in respect of **rent receivable** is limited to loss of **rent receivable** and additional expenditure and the amount payable under this **section** will be:

- a) in respect of loss of **rent receivable**: the amount by which, in consequence of the **damage**, the **rent receivable** during the **indemnity period** falls short of the **standard rent receivable**;
- b) in respect of additional expenditure: the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the loss of **rent receivable** which but for that expenditure would have taken place during the **indemnity period** in consequence of the **damage**, but not exceeding the amount of the reduction in **rent receivable** thereby avoided;
- c) minus any sum saved during the **indemnity period** in respect of such of the expenses and charges payable out of **rent receivable** as may cease or be reduced in consequence of the **damage**;

except that if the **sum insured** in respect of **rent receivable** is less than the **annual rent receivable** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve (12) months), **our** liability will be proportionately reduced.

#### 9.1.8 **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 ten percent (10%) of the **sum insured** or £100,000 whichever is the lesser.

9.1.9 **Denial of access**

**We** will indemnify **you** for loss as covered by this **section** 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.

9.1.10 **Inter-group dependency**

**We** will indemnify **you** for loss as covered by this **section** resulting from **damage** to property at any other **premises** of **yours**, or any premises of a **subsidiary company**, or **your** holding company (including those not insured hereunder) provided that the property is situated within the **United Kingdom**.

9.1.11 **Loss of attraction**

**We** will indemnify **you** for loss as covered by this **section** in consequence of diminution of attraction to the **premises** following **damage** to property occurring at any other site within a one (1) mile radius of any of the **premises**, provided that our liability under this clause in respect of any one (1) occurrence shall not exceed £50,000.

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

**We** will indemnify **you** for loss as covered by this **section** in consequence of any of the following events:

- a) any occurrence of a **notifiable disease** at the premises or attributable to food or drink supplied from the **premises**;
- b) any discovery of any organism at the **premises** likely to result in the occurrence of a **notifiable disease**;
- c) any occurrence of a **notifiable disease** within a radius of one (1) mile of the **premises**;
- d) the discovery of vermin or pests at the **premises** which causes restrictions on the use of the **premises** on the order or advice of the competent local authority;
- e) any accident causing defects in the drains or other sanitary arrangements at the **premises** which causes restrictions on the use of the **premises** on the order or advice of the competent local authority;
- f) any occurrence of murder or suicide at the **premises**;

provided that :

- i) **we** shall only be liable for loss arising at those **premises** which are directly subject to the incident;
- ii) **we** shall not be liable for any costs incurred in cleaning, repair, replacement, recall or checking of property except as stated above
- iii) **we** will not be liable for any amount payable beyond the **indemnity period** stated in the **schedule**.

9.1.13 **Research and development**

**We** will indemnify **you** for the additional expenditure incurred as a result of **damage** to property at the **premises** that interrupts the current research and development programme of the **business** except that

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

9.1.14 **Supply utilities**

a) **We** will indemnify **you** for loss as covered by this **section** 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 fifteen percent (15%) of the **sum insured** or £250,000 whichever is the lesser.

#### 9.1.15 **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 Property **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 fifteen (15%) percent of the **sum insured** by this **section** or £250,000 whichever is the lesser.

#### 9.1.16 **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 Property **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 fifteen (15%) percent of the **sum insured** by this **section** or £250,000 whichever is the lesser.

## 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 whole of the total **sums insured**;
- b) in respect of any item of settlement specification, its **sum insured** at the time of the **damage**;
- c) 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**.

#### 9.2.2 Specified working expenses

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

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

#### 9.3.1 Alternative trading

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

#### 9.3.2 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.

#### 9.3.3 Delayed loss

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

#### 9.3.4 Departmental

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

#### 9.3.5 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) that 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.

#### 9.3.6 Professional accountants

- a) Any particulars or details contained in **your** books of account or other **business** books or documents which may be required by **us** under the 'Duties in the event of a claim or potential claim' **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.

#### 9.3.7 Salvage sale

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

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

#### 9.3.8 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 – Book debts

### 10.1.1 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 stated in the **schedule**;
- b) if at the time of any **damage** the **sum insured** for book debts is less than the actual balances, the amount payable by **us** will be proportionately reduced.

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

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

## 10.2 Other terms and conditions applicable to this section

### 10.2.1 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.

## 11 Section – Computer breakdown

### 11.1 Computer breakdown cover

We will indemnify **you** in accordance with the Basis of Settlement clause for **damage** caused by:

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

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

#### 11.1.2 Further, the insurance granted by this **section** is extended to indemnify **you** against:

- a) any additional expenditure necessarily and reasonably incurred by **you** for the sole purpose of:
  - i) preventing or minimising the interruption of or interference with the work normally carried out by or on the **computer equipment**;
  - ii) recompiling or restoring data or software or replacing third party proprietary software in direct consequence of **damage** to **property insured**;

Provided that our liability does not extend beyond twelve (12) months and shall not exceed the sum insured specified in the schedule for each of the items referred to above in any one (1) period of insurance;

- b) the costs of:
  - i) modification of the **computer equipment**; or
  - ii) replacement of **electronic data** together with **reinstatement** of programs and/or information thereon (whichever is the lesser amount) to achieve compatibility in the event that the loss of **computer equipment** has resulted in **undamaged electronic data** being incompatible with the replacement **computer equipment**;

arising out of the incompatibility of **electronic data**, provided that our liability shall not exceed £15,000 in any one (1) **period of insurance**;

- c) the additional rental arising out of the replacement of a lease/hire agreement in respect of the **computer equipment** by a new contract for a similar property consequent upon **damage** insured by this **section**, provided that **our** liability shall not exceed £15,000 in any one (1) **period of insurance**;
- d) loss of **gross profit** or **gross** income, as insured by and more particularly described by the Business interruption **section** by paying the short fall of **gross profit** or **gross income** over the **standard turnover** or **standard gross income** for an **indemnity period** not exceeding twelve (12) months, provided that **our** liability shall not exceed the **sum insured** specified in the **schedule** during any one (1) **period of insurance**.

### 11.2 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**:

#### 11.2.1 **damage to the computer equipment:**

- a) occasioned by its own breakdown unless there is in force an approved maintenance agreement;
- b) for which any manufacturer, supplier, agent or maintenance undertaking is responsible under the terms of a guarantee or maintenance agreement;
- c) for which **you** are relieved of responsibility under any rental hire or lease agreement;
- d) caused by any of the **insured perils** insured under the Property **section**;

- e) caused by or consisting of wear and tear or deterioration due to atmospheric or climatic conditions but this exclusion shall not apply to subsequent **damage** which itself results from a cause not otherwise excluded;
- f) caused by a deliberate act of a supply undertaking in withholding the supply of electricity or telecommunication services unless for the sole purpose of safeguarding human life;
- g) caused by the inability of the supply undertaking to maintain the supply system due to industrial action by its employees;
- h) caused by the use of telecommunications equipment which is not approved by the telecommunications regulatory authority;
- i) caused by it undergoing any process of production, packaging, treatment, testing, commissioning, servicing or repair;
- j) caused by the use of unproven software which has not been finalised or which has not passed all the testing procedures or which has not been successfully proven; or
- k) caused by programming errors or design defects in software.

11.2.2 damage to **computer equipment** or **electronic data** or other system which processes, stores, transmits or retrieves data or any part thereof, whether tangible or intangible (including without limitation **computer records**, any information or programs or software), directly or indirectly caused by, occasioned by or arising from programming or operator error, **virus or similar mechanism** or **hacking**.

11.2.3 any amount pertaining to the value of **electronic data** to **you** or any other party, even if such **electronic data** cannot be recreated, gathered or assembled

11.2.4 delay, loss of use, loss of market, loss of profit, income or revenue or any other form of indirect loss except as specially included with the Computer breakdown cover clause.

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

#### 11.3.1 Basis of settlement

- a) If the **computer equipment** covered by this **section** is **damaged**, our liability to **you** shall be:
  - i) on **electronic data**:
    - I) if the medium is repaired, replaced or restored, the cost to repair, replace or restore the medium containing such **electronic data** to the condition that existed immediately prior to such loss or **damage**, including all the reasonable and necessary amounts, incurred by **you** in recreating, gathering and assembling such **electronic data**;
    - II) If the medium is not repaired, replaced or restored the basis of valuation shall be the cost of the blank media.
  - ii) on **computer equipment** the cost of repairing or replacing of the **damaged computer equipment** however if the **computer equipment** so **damaged** be obsolete at the time of loss and beyond economic repair, **we** agree to the replacement of **damaged computer equipment** with **computer equipment** that fulfils the same function and has the same cost as that **damaged** when new.
- b) If **computer equipment** is covered by any other insurance effected by **you** or on **your** behalf but is not on the identical basis of **reinstatement** to the terms of this clause, then this **policy** excludes and does not cover payment of any amount in excess of the amount that would have been payable if this clause had not been incorporated.
- c) The work of **reinstatement** must be commenced and carried out with reasonable despatch, otherwise no payment will be made beyond the amount which would have been payable under this **section** if this clause had not been incorporated
- d) **We** will have no liability to pay any amount beyond the amount that would have been payable under this **section** if this clause had not been incorporated until such time as the cost of **reinstatement** has actually been incurred.

#### 11.3.2 Average

Each item covered under this **section** is to the extent specified in the **schedule** as being covered on a **sum insured** basis, subject to the following conditions of average:

If at the time of **reinstatement**, the sum representing eighty five per cent (85%) of the cost that would have been incurred in **reinstatement** if the whole of the item had been destroyed, exceeds the **sum insured** thereon at the commencement of any **damage** to such property by any cause hereby insured against, then **you** will be considered as being **your** own insurer for the difference between the **sum insured** and the sum representing the cost of **reinstatement** of the whole of the property and will bear a rateable proportion of the loss accordingly.

## 12 Section – Terrorism

### 12.1 Terrorism loss cover

We will indemnify **you** for **damage** by way of an **act of terrorism** to **your property insured** and where shown as 'insured' in the **schedule**, the Section - Goods in Transit and consequential loss resulting therefrom insofar as and to the extent that:

- 12.1.1 it is insured in Great Britain (meaning England, Wales and Scotland, but not the territorial seas adjacent thereto, as defined by the Territorial Sea Act 1987, nor Northern Ireland nor the Isle of Man nor the Channel Islands); and
- 12.1.2 it is occasioned by or happening through or in consequence of any act of any person acting on behalf of or in connection with any organisation with activities directed towards the overthrowing or influencing of any government de jure or de facto by force or violence; and
- 12.1.3 such act is certified by HM Treasury or a competent tribunal from time to time as an **act of terrorism**;  
provided that in any action, suit or other proceedings where **we** allege that any **damage** or costs and expenses are not covered by this **policy**, the burden of proving the contrary will be upon **you**.

### 12.2 Limitations and exclusions applicable to this section

- 12.2.1 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**:
  - a) any **nuclear installation** or **nuclear reactor** and all fixtures and fittings situated thereon and attached thereto and all pipes wires cables drains or other conduits or service media of any description which are affixed or connected to or in any way serve such **nuclear installation** or **nuclear reactor**.
  - b) any land or building which is occupied as a private residence or any part thereof which is so occupied, unless:
    - i) insured under the same contract of direct insurance as the remainder of the building which is not a private residence and the commercial element of the building occupies more than twenty percent (20%) of the building; or
    - ii) not insured in the name of an individual.  
For the purpose of this exclusion, a trustee or sole trader is not deemed to be an individual unless they occupy the premises or any part thereof as their own private residence;
  - c) any losses whatsoever occasioned by riot, civil commotion, war, invasion, act of foreign enemy, hostilities (whether war be declared or not) civil war, rebellion, revolution, insurrection or military or usurped power;
  - d) any losses whatsoever directly or indirectly caused by contributed to by or arising from or occasioned by or resulting from:
    - i) the alteration, modification, distortion, corruption of or damage to any computer or other equipment or component or system or item which processes stores transmits or receives data or any part thereof whether tangible or intangible (including but without limitation any information or programs or software); or
    - ii) any alteration modification distortion erasure, corruption of data processed by any such computer or other equipment or component or system or item;whether **your** property or not, where such loss is directly or indirectly caused by or contributed to by or arising from or occasioned by or resulting from **virus or similar mechanism** or **hacking** or **phishing** or **denial of service attack**.
- 12.2.2 Our liability under this **insured section** in any one (1) **period of insurance** shall not exceed the **sum insured** stated in the **schedule** in respect of all losses arising out of any one (1) occurrence and in the aggregate.

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

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

### **12.3.1 Event**

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

### **12.3.2 Restricted terms**

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

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

## 13 Section – Goods in transit

### 13.1 Goods in transit cover

13.1.1 **We** will indemnify **you** in accordance with the Basis of Settlement clause for **damage** to **goods** in **transit** provided that **damage** occurs:

- a) during the **period of insurance**; and
- b) within the **United Kingdom** or the Republic of Ireland.

**Our** liability under this **section** will not exceed the **sums insured** stated in the **schedule**.

#### 13.1.2 **Transfer expenses**

Should the vehicle carrying the **goods** be involved in fire, explosion, collision or overturning, the insurance provided by this **section** will include costs and expenses reasonably and necessarily incurred by **you**:

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

#### 13.1.3 **Ropes/sheets**

**Goods** is extended to include ropes, sheets, tarpaulins, trolleys and the like while in **transit**.

#### 13.1.4 **Employees' effects**

In the event of the payment of a claim under this **section** **we** will pay up to £500 for **damage** to **employees'** personal effects (excluding wear and tear) whilst they are in vehicles operated by **you** but **we** will not pay for audio/visual/ telecommunications equipment or clothing watches and jewellery whilst being worn.

### 13.2 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**

#### 13.2.1 **Animals**

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

#### 13.2.2 **Change in temperature**

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

#### 13.2.3 **Dangerous goods**

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

#### 13.2.4 **Fragile articles**

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

#### 13.2.5 **Inadequate packing**

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

#### 13.2.6 **Indirect loss**

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

- 13.2.7 **Mechanical breakdown, pollution, insects, loss of weight**  
**damage** caused by or consisting of moth, vermin, insects, damp, mildew, rust, loss in weight, evaporation, taint, leakage or spillage, pollution, contamination, deterioration, depreciation, mechanical or electrical breakdown or derangement, unless arising as a consequence of fire, explosion, or accident to the carrying vehicle, vessel or aircraft and not otherwise excluded;
- 13.2.8 **Open sided/curtained vehicles**  
**damage** caused by theft, attempted theft, malicious **damage** or vandalism to **goods** carried in or on open sided / curtained vehicles, or on any vehicle that cannot be secured;
- 13.2.9 **Theft**  
theft or attempted theft arising while any vehicle belonging to **you** or under **your** control and containing the **goods** is left unattended unless:
- a) during the work day or shift period, during a break taken during the **transit**:
    - i) all doors have been securely locked and all windows and other openings securely and adequately fastened;
    - ii) any immobiliser and any alarm fitted to the said vehicle is correctly set to operate; and
    - iii) all keys are removed; and
  - b) after the last **business transit** of the work day or shift:
    - i) all keys are removed until collected by the driver for the next **business transit**; and
    - ii) the vehicle is housed in a securely locked building of substantial construction or a compound which has secure walls and/or fences and securely locked gates.
- 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.
- 13.2.10 **Valuables and business records**  
**damage** of or to jewellery, clocks, watches, precious stones, bullion, furs or curiosities, precious metals, works of art or rare books, tobacco, cigarettes, alcohol, audio, video or computer disks (whether blank or encoded with content), digital music players, video equipment, mobile phones, tablet computers, cameras, computer games equipment, televisions, or **documents**, manuscripts or **electronic data**.
- 13.3 Other terms and conditions applicable to this section**
- 13.3.1 **Basis of settlement**  
**We** may at **our** option repair, reinstate or replace the **goods** in **transit** or any part thereof on the same basis as the basis of settlement clause contained in the Property **section**, except that the following Average (under-insurance) clause will apply in respect of claims under this **section**.
- If **you** elect, and **we** agree not to repair or reinstate any **goods in transit**, then **our** liability shall be limited to the **actual value** of the **damaged goods in transit**, however settlement on this basis shall be at **our** sole discretion Average (under-insurance)
- If at the time of the commencement of any **damage** the total value of the **goods in transit** in or upon any vehicle, vessel or aircraft exceeds the **sum insured**, then **our** liability will be proportionately reduced.
- 13.3.2 **Reasonable precautions**  
**You** will take all reasonable precautions in maintaining vehicles under **your** control in an efficient and roadworthy condition and ensure the suitability of the vehicles for the purpose used, employing competent and honest persons who can be entrusted with the **goods** in **transit**, and with packaging, labelling and addressing the **goods** in **transit**.
- 13.3.3 **Reinstatement of sum insured**  
**We** will automatically reinstate the limits shown in the **schedule** from the date of any loss unless **we** give written notice to the contrary. **You** may be required to pay extra premium and if the loss has resulted from theft **we** may require that **you** fit additional protective devices to the vehicle.

## 14 Section – Personal accident

### 14.1 Personal accident cover

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

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

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

### 14.2 Additional personal accident costs and expenses

#### 14.2.1 Funeral expenses and emergency travel expenses

- a) In the event of a claim being agreed by **us** for death under the 'Personal accident cover' clause, **we** agree to indemnify **you** on behalf of the **insured person** for the reasonable funeral expenses incurred up to a maximum of five thousand pounds (£5,000) any one **insured person**.
- b) In the event of the death of an **insured person** by **injury**, provided that the accident giving rise to the **injury** occurs during the **period of insurance** and within the **cover basis**, **we** agree to pay **you** one thousand pounds (£1,000) on receipt of an interim death certificate for emergency travel and accommodation expenses.

#### 14.2.2 Medical

In the event of a claim being agreed by **us** for death or **permanent total disablement** under sub clause a) or b) 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 sub clause a) or b) of the 'Personal accident cover' clause except that the maximum amount payable under this clause will not exceed fifteen thousand pounds (£15,000).
- b) accommodation and travel costs up to a maximum of five hundred pounds (£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.

### 14.3 Personal accident limitations and exclusions

14.3.1 This **section** excludes and does not cover payment for death or **permanent total disablement** directly or indirectly resulting from or consequent upon the death or permanent total **disablement** caused by:

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

deliberate exposure to exceptional danger (except in an attempt to save human life or in the course of the **insured persons** employment).

- e) 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.
- f) Nuclear risks

**nuclear hazards;**

g) **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;

h) **War**

**war** in the **insured person's** country of domicile.

14.3.2 **Accumulation limit**

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

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

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

14.3.3 **Schedule of compensation restrictions**

a) Claiming under more than one item of **benefit**:

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;

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;

**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

**Temporary total disablement benefit** payable under this **policy** will not exceed the **insured person's** gross weekly earnings;

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**;

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.

14.4 **Other personal accident terms and condition**

14.4.1 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.

14.4.2 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.

## 15 Section - Legal expenses

### 15.1 Legal expenses cover

This section will cover the **person insured** in respect of any insured incident arising in connection with the **business** shown in the schedule provided that:

- 15.1.1 **reasonable prospects** exist for the duration of the claim;
- 15.1.2 the **date of occurrence** of the insured incident is during the **period of insurance**;
- 15.1.3 any legal proceedings will be dealt with by a court, or other body which **we** agree to, within the **territorial limits**; and
- 15.1.4 the insured incident happens within the **territorial limits**.

For the purpose of this **section** 'insured incident' refers to the indemnity provided by:

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

as described more fully hereunder.

#### 15.1.5 What we will pay

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

- a) the most **we** 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 **we** will pay in **legal expenses costs** is no more than the amount we would have paid to a **preferred law firm or tax consultancy**;
- c) in respect of an appeal or the defence of an appeal, **you** must tell **us** within the time limits allowed that **you** want to appeal. Before **we** pay the **legal expenses costs** for appeals, **we** 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, **we** 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 **we** will pay in **legal expenses costs** is the value of the likely award;

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

#### 15.1.6 What we will not pay

In the event of a claim, if **you** decide not to use the services of a **preferred law firm or tax consultancy**, **you** will be responsible for any costs that fall outside the **DAS standard terms of appointment** and these will not be paid by **us**.

The total of the compensation awards payable by **us** shall not exceed £1,000,000 in any one **period of insurance**.

#### 15.1.7 Employment disputes

**We** will pay **legal expenses costs** defend **your** legal rights:

- a) prior to the issue of legal proceedings in a court or tribunal following the dismissal of an **employee**; or
- b) in the resolution of unfair dismissal disputes under the ACAS Arbitration Scheme; or
- c) in legal proceedings in respect of any dispute relating to:

- i) a contract of employment with **you**; or
- ii) an alleged breach of the statutory rights of an **employee**, prospective **employee** or **ex-employee** under employment legislation.

#### 15.1.8 Compensation awards

**We** will pay:

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

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

- c) 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.
- d) for an order of compensation following **your** breach of statutory duty under employment legislation **you** have at all times sought and followed advice from **our** legal advice service since the date when **you** should have known about the employment dispute.
- e) for any compensation award for redundancy or alleged redundancy or unfair selection for redundancy, **you** have sought and followed advice from **our** claims department prior to serving notice of redundancy.
- f) 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 **us**.
- g) the total of the compensation awards payable by **us** shall not exceed £1,000,000 in any one **period of insurance**.

#### 15.1.9 Employee civil legal defence

**We** will pay **legal expenses costs** to defend the **person insured's** (other than **your**) legal rights if:

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

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

#### 15.1.10 Service Occupancy

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

### 15.2 Legal defence

At **your** request:

#### 15.2.1 **We** will pay **legal expenses costs** to defend the **person insured's** legal rights:

- a) prior to the issue of legal proceedings when dealing with the:
  - i) police;
  - ii) Health and Safety Executive and/or Local Authority Health and Safety Officer;
 where it is alleged that the **person insured** has or may have committed a criminal offence; or

following an event which leads to the **person insured** being prosecuted in a court of criminal jurisdiction (please note **we** will only cover criminal investigations and/or prosecutions which arise in direct connection with the activities of the **business** shown in the **schedule**); or

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

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

15.2.3 **We** will represent the **person insured** in appealing against the imposition or terms of any statutory notice issued under legislation affecting **your business** except for any claim in connection with **your** license, mandatory registration or British Standard Certificate of Registration, or a Statutory Notice issued by a **person insured's** regulatory or governing body.

15.2.4 **We** will pay for a **person insured's** absence from work:

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

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

Provided that:

- c) 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;
- d) in respect of any civil action under the Data Protection Act 1998, at the time of the insured incident **you** have registered with the Information Commissioner.

### 15.3 Statutory licence appeal

**We** will pay **legal expenses costs** to defend **your** legal rights in appealing to the relevant statutory or regulatory authority, court or tribunal following a decision by a licensing or regulatory authority to suspend, or alter the terms of, or refuse to renew, or cancel **your** licence, mandatory registration or British standard certificate of registration.

### 15.4 Property protection and bodily injury

#### 15.5 Statutory licence appeal

**We** will represent **you** in appealing to the relevant statutory or regulatory authority, court or tribunal following a decision by a licensing or regulatory authority to suspend, or alter the terms of, or refuse to renew, or cancel **your** licence, mandatory registration or British standard certificate of registration.

##### 15.5.1 Property protection

**We** will pay **legal expenses costs** to defend 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.*

##### 15.5.2 Bodily injury

At **your** request, **we** will pay **legal expenses costs** for a **person insured's** and their family members' legal rights following a specific or sudden accident that causes the death of, or **bodily injury** to, them.

### 15.6 Tax protection

**We** will pay **legal expenses costs** incurred by a **person insured** arising out of:

- 15.6.1 A **full enquiry or aspect enquiry**.
- 15.6.2 A **cross-tax enquiry**.
- 15.6.3 An **employer compliance dispute**.
- 15.6.4 A **VAT dispute**.

Provided that:

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

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

## 15.7 Contract disputes

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

- a) the amount in dispute exceeds £500 (including **VAT**). If the amount in dispute exceeds £5,000 (including **VAT**), **you** will be responsible for the first £500 of **legal expenses costs** in each and every dispute.
- b) if the amount in dispute is payable in instalments, the instalments due and payable at the time of making the claim exceed £500 (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.

## 15.8 Specific Legal expenses limitations and exclusions

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

### 15.8.1 Employment disputes and compensation awards

#### a) Employment disputes

- i) A dispute where the cause of action arises within the first ninety (90) days of the start of the cover provided by this **section**.
- ii) A dispute with an **employee** under a written or oral warning (formal or informal) within one hundred and eighty (180) days immediately before the start of the cover provided by this **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 (Protection of Employment) Regulations 2006 or the Transfer of Employment (Pension Protection) Regulations 2005.

#### b) Compensation awards

- i) Any compensation award relating to the following:
  - I) trade union activities, trade union membership or non-membership;
  - II) pregnancy or maternity rights, paternity, parental or adoption rights;
  - III) health and safety related dismissals brought under section 44 of the Employment Rights Act 1996;
  - IV) statutory rights in relation to trustees of occupational pension schemes;
- ii) Non-payment of money due under the relevant contract of employment or statutory provision relating thereto.
- 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.

c) **Service occupancy**

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

15.8.2 **Legal defence**

- a) Any claim which leads to the **person insured** being prosecuted for infringement of road traffic laws or regulations in connection with the ownership, driving or use of a motor vehicle.
- b) 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.
- c) Any claim relating to a Statutory Notice issued by a **person insured's** regulatory or governing body.

15.8.3 **Statutory licence appeal**

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

15.8.4 **Property protection and bodily injury**

a) **Property Protection**

Any claim relating to the following:

- i) a contract entered into by **you**;
- 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.
- vii) the enforcement of a covenant by or against **you**.

b) **Bodily injury**

Any claim relating to the following:

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

15.8.5 **Tax protection**

- a) The first £200 of **legal expenses costs** of each and every claim in respect of **aspect enquiries**.
- b) Any tax avoidance schemes.
- c) Any failure to register for **VAT** or Pay as You Earn.
- d) Any investigation or enquiries by, with or on behalf of HM Revenue & Customs Special Investigations Section, Special Civil Investigations, Criminal Investigations Unit, Criminal Taxes Unit, under Public Notice 160 or by the Revenue & Customs Prosecution Office.
- e) Any claim relating to import or excise duties and import **VAT**.
- f) Any investigation or enquiry by HM Revenue & Customs into alleged dishonesty or alleged criminal offences.

#### 15.8.6 Contract disputes

- a) a dispute arising from an agreement entered into prior to the start of the cover provided by this **section** if the **date of occurrence** is within the first ninety (90) days of the cover provided by this **section**.
  - i) the settlement payable under an insurance policy (**we** 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, **we** will cover a dispute with a professional adviser in connection with these matters.
  - iii) a loan, mortgage, pension, guarantee or any other financial product 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**.
- c) a dispute which arises out of the:
  - i) sale or provision of computer hardware,
  - ii) software, systems or services; or
  - iii) the purchase or hire of computer hardware, software, systems or services tailored by a supplier to **your** own specification.
- 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.

### 15.9 Legal expenses other terms and conditions

15.9.1 On receiving a claim, if representation is necessary, **we** will appoint a **preferred law firm or 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 or tax consultancy** or **our** in-house lawyer 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**. **We** will choose the **appointed representative** to represent **you** in any proceedings where **we** are 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**, **we** will give **your** choice of law firm the opportunity to act on the same terms as a **preferred law firm or tax consultancy**. However if they refuse to act on this basis, the most **we** will pay is the amount **we** would have paid if they had agreed to the **DAS standard terms of appointment**.
- c) The **appointed representative** must co-operate with **us** at all times and must keep **us** up to date with the progress of the claim.

15.9.2 A **person insured** must:

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

15.9.3 A **person insured** must tell **us** 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, **we** may refuse to pay further **legal expenses costs**.
- b) **We** may decide to pay a **person insured** the reasonable value of the claim that the **person insured** is claiming or is being claimed against them instead of starting or continuing legal action. In these circumstances a **person insured** must allow **us** to take over and pursue or settle a claim in their name. A **person insured** must allow **us** to

pursue at **our** own expense and for their benefit, any claim for compensation against any other person and a **person insured** must give **us** all the information and help **we** need to do so.

- c) Where a settlement is made on a without-costs basis **we** will decide what proportion of that settlement will be regarded as **legal expenses costs** and payable to **us**.

15.9.4 A **person insured** must:

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

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

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

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

15.9.8 If there is a disagreement between **you** and **us** about the handling of a claim and it is not resolved through **our** internal complaints procedure and **you** are a small business, **you** can contact the Financial Ombudsman Service for help. Details available from [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk). Alternatively there is a separate arbitration process (this applies to all sizes of business). The arbitrator will be a barrister chosen jointly by **you** and **us**. If there is a disagreement over the choice of arbitrator, **we** will ask the Chartered Institute of Arbitrators to decide.

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

15.9.10 **We** will not pay the claim if a claim the **person insured** has made to obtain benefit under this **section** is fraudulent or intentionally exaggerated, or a false declaration or statement is made in support of a claim.

15.9.11 Apart from **us**, **you** are the only person who may enforce all or any part of this **section** and the rights and interests arising from or connected with it. This means that the Contracts (Rights of Third Parties) Act 1999 does not apply to this **section** in relation to any third-party rights or interest.

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

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

## 16 General exclusions

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

### 16.1 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.

### 16.2 Boiler explosion and failure

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

- 16.2.1 explosion, failure or collapse of a boiler (but not a boiler used for domestic purposes only) economiser or other vessel, machine, apparatus or pipe work at the **premises** in which internal pressure is due to steam only belonging to, or under the control of, **you**;
- 16.2.2 joint leakage failure of welds, cracking, fracturing, collapse or overheating of boilers, economisers, superheaters, pressure vessels of any range of steam, and feed piping in connection therewith;  
but this clause will not apply to any subsequent loss resulting from an ensuing cause which is not otherwise excluded.

### 16.3 Excess

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

### 16.4 Excluded property

- 16.4.1 **damage**, or loss or interruption or interference caused by or in connection with the following property unless specified to the contrary in the **schedule**:
  - a) livestock, bloodstock, fishstock, growing crops or trees;
  - b) watercraft or aircraft or other aerial devices or missiles or satellites;
  - c) motor vehicles or their contents, accessories, caravans or trailers except for such property that is not licensed for road use;
  - d) **money**, bullion, foreign coins counterfeit or substitute **money**, jewellery, precious stones, precious metals, furs, curiosities, works of art, rare books;
  - e) china, earthenware, marble, statuary and other fragile or brittle objects;
  - f) land, piers, jetties, bridges, culverts or excavations;
  - g) property in the course of erection or installation, except as expressly provided for by this **policy**;
- 16.4.2 **damage**, or loss or interruption or interference caused by or in connection with moveable property in the open, gates or fences, unless the **damage** is caused by fire, lightning, aircraft, explosion, earthquake, riot, civil commotion, malicious persons or impact.
- 16.4.3 **damage**, or loss or interruption or interference caused by or in connection with **damage** to electricity, gas, water or telecommunications transmission lines or pipes except that this exclusion shall not apply to such property for which the **insured** is responsible that is located on or over the **insured's premises**.

### 16.5 Explosives

**damage** of or to explosives.

### 16.6 Defective design

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

### **16.7 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**.

### **16.8 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:

- a) loss covered under the Computer Breakdown **section** if stated as being 'operative' in the **schedule**;
- b) any subsequent loss resulting from an ensuing cause which is not otherwise excluded.

### **16.9 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.

### **16.10 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.

### **16.11 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.

### **16.12 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.

### **16.13 Interest**

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

### **16.14 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.

### **16.15 Marine impact**

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

### **16.16 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.

### 16.17 Micro-organism

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

This exclusion applies regardless whether there is:

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

### 16.18 Molten metal or glass

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

### 16.19 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.

### 16.20 Pollution

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

- a) pollution or contamination which itself results from a defined peril;
- b) a defined peril which itself results from pollution or contamination;

and for the purpose of this exclusion, defined peril means fire, lightning, explosion, earthquake, aircraft or other aerial device or satellite or missile or articles dropped therefrom, riot, civil commotion, strikers, locked-out workers, persons taking part in labour disturbances, malicious persons other than thieves, windstorm, flood, escape of water or oil from any tank or pipe sprinkler leakage, theft or impact by any vehicle or animal.

### 16.21 Processing

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

- 16.21.1 undergoing any process including but not limited to, cleaning, repairing, restoring, renovating, testing, commissioning or packaging;
- 16.21.2 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.

### 16.22 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.

### 16.23 Subsidence or collapse

in respect of **buildings**:

- 16.23.1 subsidence or collapse caused by the bedding down of new structures, by settlement;
- 16.23.2 subsidence or collapse caused by coastal or river erosion;

- 16.23.3 subsidence or collapse of buildings or any part thereof whilst in the course of erection or undergoing demolition, structural alterations or structural repairs;
- 16.23.4 **damage** caused by subsidence or collapse which commenced and of which **you** were aware prior to the acceptance of this insurance by **us**;
- 16.23.5 subsidence or collapse caused by the movement of reclaimed or made up ground or of any building erected on a mining site;
- 16.23.6 **damage** caused by the **buildings'** own collapse or cracking however **we** will indemnify **you** in respect of such **damage** if it results from a cause which is not otherwise excluded; but this exclusion of subsidence and collapse shall not apply to subsidence caused by fire, explosion, earthquake or the escape of water from any tank, apparatus or pipe.

## 16.24 Theft and fraud

- 16.24.1 **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** provided that this exclusion will not apply to:
    - i) buildings;
    - ii) security lighting, security cameras and other security or fire protection devices, affixed signs, television, radio, satellite receiving aerials, communication aerials, their fittings and masts affixed to the buildings, walls, gates, fences, fixed poles or fixed pylons at the **premises**; and
    - iii) the 'lock replacement' extension to the Property **section**, where a **sub-limit** is shown for such cover in the **schedule**;
    - iv) the Money cover provided under the Property **section** or the cover provided by the Goods in transit **section**;
  - b) dishonesty of **your employees**, but this will not exclude theft or attempted theft as defined above or the cover provided by the Money cover or the Fidelity Guarantee cover, if selected, provided under the Property **section**;
  - 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**.

## 16.25 War and terrorism

- 16.25.1 **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**.
- 16.25.2 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**.
- 16.25.3 Except that this exclusion will not apply to **terrorism** as specifically covered by the Terrorism **section** if this is stated as being 'insured' in the **schedule** or as provided in the Employer's liability **section**.

## 16.26 Water table level

**damage**, or loss or interruption or interference caused by change in water table level but this shall not exclude subsequent loss resulting from an ensuing cause which is not otherwise

excluded. For the purpose of this exclusion water table level means the vertical distance from the surface of the earth to underground water being the surface at which the soil or rocks are permanently saturated with water.

#### **16.27 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.

## 17 General conditions

### 17.1 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.

### 17.2 Assignment

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

### 17.3 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.

### 17.4 Cancellation

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

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

Without prejudice to any other forms of service, the notice of cancellation is deemed to be served on the third (3<sup>rd</sup>) day after being posted if sent by pre-paid letter post properly addressed

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

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

### 17.5 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.

### 17.6 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.

### 17.7 Dispute resolution

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

mediator and the reference, conduct and any settlement of the dispute at mediation will be conducted in confidence.

The parties shall continue to perform their respective continuing obligations under this insurance, if any, while the dispute is resolved unless the nature of the dispute prevents such continued performance of those obligations.

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

## **17.8 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.

## **17.9 Duty of fair presentation – remedies for breach - proposing for this insurance**

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

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

## **17.10 Duty of fair presentation– remedies for breach - variation**

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

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

- c) would not have reduced the premium by as much as it did or at all, **we** may reduce proportionately the amount to be paid on a claim arising out of events after the variation. In those circumstances, **we** shall pay only X% of what **we** would otherwise have been required to pay, where  $X = (\text{premium actually charged/reduced total premium}) \times 100$ .

### 17.11 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.

### 17.12 Fraudulent claims

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

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

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

### 17.13 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.

### 17.14 Material changes during the policy period

17.14.1 **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.

17.14.2 **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.

### 17.15 Minimisation of risk

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

17.15.2 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**.

### 17.15.3 Minimum standards of security

As regards **damage** to the property insured at the **premises** caused by or arising from or contributed to by the perils of theft or attempted theft, which occurs more than 30 days after the inception of this **policy**, it is agreed as a condition precedent to **our** liability under this insurance that **you** will operate the minimum standard of security as detailed below. Any alternative methods of securing the **premises** must be agreed in writing by **us**.

**You** must make sure these measures are put into full and effective operation when the **premises** are closed for **business** or unattended and all keys removed to a secure place.

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

- a) All hinged final exit doors are secured as follows;
  - i) Timber doors – by a mortice deadlock certified as meeting BS3621 and where the frame, or if a double door, the receiving door, has a boxed striking plate
  - ii) Aluminium or UPVC framed doors – by a cylinder operated mortice deadlock. For double doors, the first closing section must have integral or surface mounted bolts which shoot into the frame at the top and the floor at the bottom of the door. The final closing section must have a cylinder operated mortise deadlock.
  - iii) Double leaf doors – by the first closing leaf having a multi-point security device operated by a central handle secured by a cylinder lock or, fitted at top and bottom of the leaf, flush or barrel bolts. The final closing leaf to be secured as i) or ii) above. Alternatively each leaf to be fastened to the other by means of a centrally positioned hardened steel padlock bar secured by a closed shackle padlock
- b) All other hinged external doors and internal doors leading to areas of the **premises** not occupied by you, common areas, or to other premises, are secured by;
  - i) The means set out in a) above; or
  - ii) Secured internally by lockable bolts or key operated mortice rack bolts fitted at the top and bottom of the door
- c) Any cellar trap door to be secured by means of a centrally positioned internal steel padlock bar secured by a padlock
- d) All opening basement and ground floor windows or opening upper storey windows which can be reached by a person standing on adjacent or adjoining lower storey roofs or other structural features, are secured by a window lock or lockable fastening device or are screwed permanently shut from the inside or are protected by solid steel bars weld mesh or expanded metal grilles securely fixed to brickwork surrounding the window
- e) Opening roof lights are to be secured using a proprietary fastening device
- f) Roller shutters – for electrically operated roller shutters, **you** must fit a key operated isolation switch to the electricity supply to the controls. Where this is not fitted then one of the measures for manually operated roller shutters must be installed. For manually operated roller shutters **you** must;
  - i) Fit key operated pinson or bullet locks; or
  - ii) Secure the chain of the door to the wall bracket by a good quality open shackle padlock; or
  - iii) Fit a bolt to the shutter door internally with the bolt engaging into the door runner and padlocked into position using a padlock conforming to BS EN 12320 Security Grade 4.

## 17.16 Observance

- 17.16.1 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.

- 17.16.2 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**.
- 17.16.3 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.
- 17.16.4 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**.

## **17.17 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.

## **17.18 Premium adjustments following cover amendments**

- 17.18.1 In the event of cancellation, adjustment of premium or notification of a change of circumstances the premium for this insurance will be re-calculated to reflect the material change to the risk. The amended annual premium will be compared to the annual premium charged at inception or most recent annual premium following previous amendment and any difference payable or refundable calculated. This difference will be adjusted, according to the terms of the **policy**, to represent the change of premium for the unexpired **period of insurance**.
- 17.18.2 Where the difference results in an additional charge of less than £20.00, a minimum of £20.00 will be charged; where the difference results in a refund of premium of less than £20.00, any such refund will be waived and not processed. If the difference results in an additional charge or refund of premium greater than £20.00 this sum will be charged or refunded in its entirety via **your** intermediary

## **17.19 Privacy and the Data Protection Act 1998**

- 17.19.1 All personal information (including sensitive personal data such as health details or criminal convictions) provided in connection with this **policy** will be processed in accordance with the Data Protection Act 1998. **You** consent to all personal information so provided being used for the purposes and being disclosed to the parties set out below.
- 17.19.2 Where personal information is provided about another person, **you** are required to inform that person of **our** identity, and why their personal information will be processed and disclosed. **You** are also required to obtain their written consent to the processing of their personal information in this way and provide **us** with such consent upon request.
- 17.19.3 Personal information is used:
- a) to administer the policy, including underwriting, renewal information, validation of claims history and claims handling;
  - b) for research, analysis, statistic creation, and customer profiling;
  - c) for fraud prevention and debt recovery.
- 17.19.4 Personal information may be disclosed to:
- a) other members of the QBE Insurance Group;
  - b) other insurance entities interested in the risk written under this **policy**;
  - c) agents and service providers appointed by **us** to carry out activities in connection with the **policy**;

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

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

## 17.20 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.

## 17.21 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.

## 17.22 Representation

Where more than one entity is designated as 'insured' the first named **insured** will act on behalf of all **insureds** and other parties covered under this **policy** with respect to the giving and receiving of any notices from **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.

## 17.23 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.

## 17.24 Subscribing insurer

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

## 17.25 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.

## 18 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**.

### 18.1 Accident

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

### 18.2 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.

### 18.3 Act of terrorism

#### 18.3.1 For all territories other than England, Wales and Scotland

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

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

#### 18.3.2 For England, Wales and Scotland

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

### 18.4 Advertising injury

Advertising injury means:

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

### 18.5 Annual gross revenue

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

### 18.6 Annual rent receivable

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

## 18.7 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 person's** 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).

## 18.8 Annual turnover

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

## 18.9 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.

## 18.10 Assault/assaulted

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

## 18.11 Associated companies

Associated companies means any company not being a **subsidiary company** as declared to and accepted by the **us**.

## 18.12 Benefit period

Benefit period means the maximum period for which benefits are payable for **temporary total disablement** or **temporary partial disablement**.

## 18.13 Benefits

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

## 18.14 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.

## 18.15 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.

## 18.16 Buildings

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

- 18.16.1 buildings within the boundaries of the **premises** belonging to/for which the **insured** is responsible or for which the **insured** has accepted responsibility;
- 18.16.2 landlord's fixtures and fittings therein and thereon;
- 18.16.3 outbuildings and annexes together with extensions and canopies adjoining thereto or communicating therewith, gangways, bridges, conveyors, trunks, lines, wires, service pipes and other equipment;
- 18.16.4 foundations;
- 18.16.5 adjoining gangways, yards, roadways or pavements, car parks, barriers, forecourts, artificial surfaces constructed of concrete or asphalt around and pertaining thereto, drains, sewers and gutters;

- 18.16.6 walls, gates, fences and signage;
- 18.16.7 soft and hard landscaping;
- 18.16.8 ponds, water features, lakes, canals, reservoirs and swimming pools;
- 18.16.9 solar panels;
- 18.16.10 cleaning cradles;
- 18.16.11 security lighting, security cameras and other security or fire protection devices, affixed signs, television, radio, satellite receiving aerials, communication aerials, their fittings and masts affixed to the buildings, walls, gates, fences, fixed poles or fixed pylons at the **premises**;
- 18.16.12 telephone, gas, water and electricity meters, piping, ducting, trunking, cables, wires and associated control gear, instruments and accessories and the like, including such property for which **you** are responsible but which is in or under adjoining yards or roadways extending to the public mains and which partly or wholly serves to supply the **premises**;
- 18.16.13 underground storage tanks;
- 18.16.14 washroom and sanitary fittings;
- 18.16.15 wind turbines used by the **insured** for the generation of electricity; but excluding property more specifically insured.

## 18.17 Business

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

- 18.17.1 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;
- 18.17.2 provision of security services for **your** benefit;
- 18.17.3 provision of nursery, crèche or child care facilities where incidental to the business;
- 18.17.4 provision of educational facilities;
- 18.17.5 property owners, lessors and lessees including repair, refurbishment and maintenance of such property;
- 18.17.6 organisation of and participation in exhibitions, trade fairs, conferences and the like,
- 18.17.7 private work undertaken by any **employee** for any fellow principal **employee**, director or partner or executive of **you**;
- 18.17.8 employment of subcontractors for performance of work on **your** behalf;
- 18.17.9 the organisation of charitable events or similar fund raising activities;
- 18.17.10 sponsorship of events, organisations, entities and individuals;
- 18.17.11 repair, maintenance and servicing of own mechanically propelled vehicles sale or disposal of own property and goods, including owned mechanically propelled vehicles;
- 18.17.12 provision of gifts and promotional material incidental to the business.

## 18.18 Change of temperature

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

- 18.18.1 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;
- 18.18.2 non-operation of the thermostatic or automatic controlling devices forming part of the unit;
- 18.18.3 accidental failure of the public electricity supply not occasioned by the deliberate act of any utility undertaking.

### **18.19 Chemical**

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

### **18.20 Child or children**

Child or children means any person who is unmarried; and under eighteen (18) years of age or under twenty three (23) years of age if in full-time education.

### **18.21 Computer equipment**

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

### **18.22 Computer records**

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

### **18.23 Contract**

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

### **18.24 Contract works**

Contract works means;

18.24.1 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

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

### **18.25 Cover basis**

Cover basis means the period of time during which an insured person is covered by this insurance as stated in the schedule.

### **18.26 Cross-tax enquiry**

Cross-tax enquiry means a **full enquiry** which includes a review of **VAT** and/or Employer Compliance.

### **18.27 Damage/damaged**

Damage/damaged means:

18.27.1 in respect of all **sections** other than –the Computer breakdown **section** and the Public products and pollution liability **section**; loss of, destruction of or damage to tangible property caused by any cause not otherwise excluded by this **policy**;

18.27.2 in respect of the Computer breakdown section; the breakdown or derangement of **computer equipment** or loss of **electronic data**.

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

#### **18.27.4 DAS**

DAS means DAS Legal Expenses Insurance Company Limited.

### **18.28 DAS standard terms of appointment**

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

## 18.29 Date of occurrence

Date of occurrence means:

- 18.29.1 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);
- 18.29.2 for criminal cases, the date the **person insured** began, or is alleged to have begun, to break the law;
- 18.29.3 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;
- 18.29.4 for insured incident – Tax protection, the date when HM Revenue & Customs, or the relevant authority, first notifies **you** of its intention to carry out an enquiry. For **VAT disputes** or **employer compliance disputes**, the date the dispute arises during the **period of insurance**;
- 18.29.5 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.

## 18.30 Declared value

Declared value means the **insured's** assessment of the cost of reinstatement of the **property insured** arrived at in accordance with the **reinstatement** definition at the level of costs applying at inception of the **period of insurance** (ignoring inflationary factors which may operate subsequently) together with due allowance for the additional costs of reinstatement to comply with public authority requirements, professional fees and debris removal costs.

## 18.31 Defence costs

Defence costs means

- 18.31.1 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;
- 18.31.2 costs and expenses incurred by **you** in pre-trial and case reviews;
- 18.31.3 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;
- 18.31.4 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**;
- 18.31.5 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;
- 18.31.6 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**.

## 18.32 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.

### 18.33 Denial of access

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

### 18.34 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.

### 18.35 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.

### 18.36 Employee

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

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

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

### 18.37 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.

### 18.38 Estimated gross profit

Estimated gross profit means the amount declared by **you** to **us** as representing not less than the gross profit which it is anticipated will be earned by the **business** during the financial year most nearly concurrent with the **period of insurance** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months).

### 18.39 Estimated gross revenue

Estimated gross revenue means the amount declared by **you** to **us** as representing not less than the gross revenue which it is anticipated will be earned by the **business** during the financial year most nearly concurrent with the **period of insurance** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months)

### 18.40 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.

### 18.41 Excess (damage only)

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

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

### 18.42 Financial loss

Financial loss means a pecuniary loss, cost or expense not occasioned by, consequent upon, or accompanied by **personal injury, damage, denial of access**, nuisance or breach of the Data Protection Act 1998.

### 18.43 Foreign currency

Foreign currency means any currency other than pounds sterling (£).

### 18.44 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.

### 18.45 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**.

### 18.46 Gross profit

Gross profit means the amount by which the sum of the amount of the **turnover** and the amounts of the closing stock and work in progress will exceed the sum of the amounts of the opening stock and work in progress and the amount of the **specified working expenses**.

### 18.47 Gross revenue/income

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

## **18.48 Hacking**

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

## **18.49 Healthcare practitioner**

Healthcare practitioner means a qualified licensed member of the medical profession as approved by the governing medical association of the country in which the healthcare practitioner resides who is not an **insured person**, a member of the **insured person's** family or an employee of the **insured**.

## **18.50 Hired-in plant and equipment**

Hired-in plant and equipment shall mean;

18.50.1 temporary buildings and caravans; and

18.50.2 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**.

## **18.51 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.

## **18.52 Independent lawyer**

Independent lawyer means:

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

18.52.2 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

## **18.53 Independent lawyer**

Independent lawyer means:

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

18.53.2 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

## **18.54 Injury**

Injury will mean a specific injury which:

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

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

## **18.55 Insured/you/your**

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

## 18.56 Insured peril

Insured peril means any cause not otherwise excluded.

## 18.57 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

## 18.58 Insurer/us/we/our

Insurer/we/our/us means:

- 18.58.1 for all **sections** except the Legal expenses **section**; QBE Insurance (Europe) Limited whose Head office and registered address is:

Plantation Place, 30 Fenchurch Street, London, EC3M 3BD, tel: 020 7105 4000 fax: 020 7105 4019. Registered in England No. 1761561. Home State - United Kingdom. Authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Registration Number 202842.

- 18.58.2 for the Legal expenses **section**; DAS Legal Expenses Insurance Company Limited, whose Head office and registered address is:

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

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

## 18.59 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 **DAS standard terms of appointment**; and
- b) the costs incurred by opponents in civil cases if the **person insured** has been ordered to pay them, or the **person insured** pays them with **our** agreement.

## 18.60 Limit of indemnity

Limit of indemnity means:

- 18.60.1 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**;
- 18.60.2 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**;
- 18.60.3 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;
- 18.60.4 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.

## 18.61 Loss of limb

Loss of limb means:

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

## **18.62 Machinery, plant and all other contents**

Machinery, plant and all other contents means:

- a) machinery and plant (including unlicensed mechanical plant);
- b) tenants' improvements and alterations, structural alterations and additions, decorations, fixtures and fittings, above ground storage tanks; and
- c) **documents** except that cover on **documents** shall not exceed the **sub-limit** stated in the **schedule**;
- d) patterns, models, moulds, plans and designs;
- e) office equipment, telephone, telex, facsimile and **computer equipment**;
- f) and all other contents; and
- g) so far as the same are not otherwise insured, personal property of principals, **employees**, partners or directors of the **insured** or visitors except that cover on such property shall not exceed the **sub-limit** stated in the **schedule**;

at the **premises** which are **your** property or held by **you** on trust, or for which **you** are responsible, or on free loan or hire or for which **you** have otherwise accepted responsibility but excluding;

- i) landlord's fixtures and fittings therein and thereon;
- ii) **stock and materials in trade**;
- iii) **money**;
- iv) property more specifically insured.

## **18.63 Maximum indemnity period**

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

## **18.64 Money**

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

## **18.65 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.

## **18.66 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.

## 18.67 North America

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

## 18.68 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**.

## 18.69 Notifiable disease

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

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

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

## 18.70 Nuclear hazards

Nuclear hazards means:

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

## 18.71 Nuclear Installation

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

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

## 18.72 Nuclear Reactor

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

## 18.73 Offshore

Offshore means:

- 18.73.1 work in or on any offshore rig or platform or support or accommodation vessel for any offshore rig or platform;
- 18.73.2 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.

#### **18.74 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

- 18.74.1 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
- 18.74.2 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.

#### **18.75 Other insured party**

Other insured party means any of the following parties:

- 18.75.1 any of **your** directors, partners, **employees** or former **employees**;
- 18.75.2 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;
- 18.75.3 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;
- 18.75.4 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**;
- 18.75.5 any officers or trustees of **your** pension scheme(s).

#### **18.76 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.

#### **18.77 Permanent disablement**

Permanent disablement means permanent and irrecoverable disablement.

#### **18.78 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.

#### **18.79 Personal effects and tools**

Personal effects and tools (but not including furs, money or jewellery) belonging to an employee, or for which an employee is responsible, while on the contract site within the **United Kingdom**, but limited to £500 per employee

## 18.80 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**:

- 18.80.1 false arrest;
- 18.80.2 detention or imprisonment;
- 18.80.3 malicious prosecution;
- 18.80.4 wrongful entry into or eviction of a person from a room, dwelling or premises that the person occupies;
- 18.80.5 invasion of the right of privacy;
- 18.80.6 libel, slander and defamation.

## 18.81 Person insured

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

## 18.82 Phishing

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

## 18.83 Plant, temporary buildings, and other property

Plant, temporary buildings and other property shall mean

- 18.83.1 temporary buildings, caravans and their contents; and
  - 18.83.2 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.

## 18.84 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.

## 18.85 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.

## 18.86 Pollution

Pollution means:

- 18.86.1 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;
- 18.86.2 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**.

### **18.87 Preferred law firm or tax consultancy**

Preferred law firm or tax consultancy means a law firm, barristers' chambers or tax expert **DAS** chooses to provide legal or other services. These specialists are chosen as they have the proven expertise to deal with the **person insured's** claim and must comply with **DAS'** agreed service standard levels, which **DAS** audit regularly. They are appointed according to the **DAS standard terms of appointment**.

### **18.88 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**.

### **18.89 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.

### **18.90 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**.

### **18.91 Product**

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

### **18.92 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.

### **18.93 Proposal**

Proposal means any information supplied by **you** or on **your** behalf, deemed to be a completed proposal form and medical questionnaire and other relevant information that **we** may require.

### **18.94 Rate of gross profit**

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

### **18.95 Reasonable prospects**

18.95.1 Reasonable prospects means, for civil cases, that the prospects the **person insured** will recover losses or damages or a reduction in tax or National Insurance liabilities (or obtain any other legal remedy that **DAS** have agreed to, including an enforcement of judgment), make a successful defence or make a successful appeal or defence of an appeal, must be at least 51%. **DAS**, or a **preferred law firm or tax consultancy** on their behalf, will assess whether there are **reasonable prospects**.

18.95.2 For criminal cases there is no requirement for there to be prospects of a successful outcome, however for appeals the prospects must be at least 51%.

### **18.96 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.

### **18.97 Reinstatement**

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

### **18.98 Rent**

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

### **18.99 Rent receivable**

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

### **18.100 RIDDOR**

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

### **18.101 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.

### **18.102 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.

### **18.103 Specified working expenses**

Specified working expenses means

- a) Purchases and discounts relative thereto.
- b) Carriage packing and freight
- c) Bad debts.

The words and expressions used in the definition of Specified Working Expenses shall have the meaning usually attached to them in **your** books and accounts.

### **18.104 Sub-limit of liability /Sub-limit of indemnity /Sub-limit**

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

18.104.1 under a specified section, clause or other part of this **policy**;

18.104.2 in the **schedule**; or

18.104.3 in any endorsement which is included within the **policy**.

### **18.105 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.

### **18.106 Subsidiary company**

18.106.1 Subsidiary company means:

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

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

#### **18.107 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.

#### **18.108 Standard gross revenue**

Standard gross revenue means the **gross revenue, trend adjusted**, during that period in the twelve (12) months immediately before the date of the **damage** which corresponds with the indemnity period.

#### **18.109 Standard rent receivable**

Standard rent receivable means the **rent receivable, trend adjusted**, during the period in the twelve (12) months immediately before the date of the **damage** which corresponds with the **indemnity period**.

#### **18.110 Standard turnover**

Standard turnover means the **turnover** excluding VAT, **trend adjusted**, during that period in the twelve (12) months immediately before the date of the **damage** which corresponds with the **indemnity period**.

#### **18.111 Statement of fact**

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

#### **18.112 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.

#### **18.113 Suit**

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

#### **18.114 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**.

#### **18.115 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.

#### **18.116 Territorial limits**

Territorial limit means:

- 18.116.1 For the 'Legal defence,' 'Absence from work' and 'Bodily injury' insuring clauses of the Legal expenses **insured section** only:

the European Union, the Isle of Man, the Channel Islands, Albania, Andorra, Bosnia Herzegovina, Croatia, Gibraltar, Iceland, Liechtenstein, Macedonia, Monaco, Montenegro, Norway, San Marino, Serbia, Switzerland and Turkey.

18.116.2 For all other clauses and **sections**, the **United Kingdom** unless otherwise stated by endorsement to this policy.

### 18.117 Terrorism

In respect of the following Sections- Contract Works, Property, Business Interruption, Terrorism and Goods in Transit, Terrorism means an **Act of terrorism**.

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

- 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.

### 18.118 Total loss of sight

Total loss of sight means an **injury** causing either:

- a) permanent and total loss of sight in both eyes where an **insured person's** name has been added to the Register of Blind Persons on the authority of a qualified ophthalmic specialist; or
- b) permanent and total loss of sight in one eye, if the degree of sight remaining after correction is 3/60 or less of the Snellen Scale (seeing at three (3) feet what an **insured person** should see at sixty (60) feet), which lasts twelve (12) calendar months from the date of **accident** or loss of sight (if later) and at the expiry of that period being beyond hope of improvement.

### 18.119 Total loss of speech

Total loss of speech means an **injury** causing permanent and total loss of speech which lasts twelve (12) calendar months from the date of **accident** or loss of speech (if later) and at the expiry of that period being beyond hope of improvement.

### 18.120 Total loss of hearing

Total loss of hearing means an **injury** causing permanent and total loss of hearing which last twelve (12) calendar months from the date of **accident** or loss of hearing and at the expiry of that period being beyond hope of improvement

### 18.121 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.

### 18.122 Trend adjusted

Trend adjusted means adjustments will be made to figures as may be necessary to provide for the trend of the **business** and for variations in or circumstances affecting the **business** either before or after the **damage** or which would have affected the **business** had the **damage** not occurred, so that the figures thus adjusted will represent as nearly as may be reasonably practicable the results which but for the **damage** would have been obtained during the relative period after the **damage**.

#### 18.122.1 **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**

#### 18.123 **United Kingdom**

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

#### 18.124 **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.

#### 18.125 **VAT**

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

#### 18.126 **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.

#### 18.127 **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**.

#### 18.128 **Wines and spirits**

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

#### 18.129 **Work away**

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

## 19 Policy endorsements

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

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

### CPP001 Exclusion - Subsidence

#### Property and Business Interruption exclusions and limitations

The Property and Business interruption **sections** of this **policy** exclude and do not cover **damage** to **property insured** arising from or caused by subsidence, ground heave or landslip.

### CPP002 Condition - Composite panel condition

#### Property section- Conditions precedent

The following condition precedent is added to the Property **section**:

It is agreed as a condition precedent to **our** liability under the Property **section** that where any building or structure incorporates composite panels with a combustible insulation core then **you** will procure that:

- a) an inspection programme is in place, which must include minimum weekly inspections of composite panels for damage, and a written record of such inspections must be kept for verification by senior management of **yours** and/or **ours**;
- b) all damaged panels must be repaired and/or replaced within fourteen (14) days of discovery unless **we** agree to an extended repair period;
- c) all ductwork/wiring passing through composite panels must be sleeved in non-combustible material; and
- d) all void areas in buildings with composite panels must have automatic fire detection.

### CPP003 Day 1 Reinstatement 25% (Buildings)

#### Property section

The building item stated in the **schedule** against these **premises** has a **sum insured** not exceeding 125% of the **declared value**.

### CPP004 Day 1 Reinstatement 25% (Contents)

#### Property section

The contents item stated in the **schedule** against these **premises** has a **sum insured** not exceeding 125% of the **declared value**.

### CPP005 Day 1 Reinstatement 25% (Specified Contents)

#### Property section

The specified contents item stated in the **schedule** against these **premises** has a **sum insured** not exceeding 125% of the **declared value**.

### CPP006 Condition - Work outside of the UK

#### Employers liability section

Where the **insured** and/or any **employee** of the **insured** undertakes activities outside of the United Kingdom, the Employers liability **section** excludes and does not cover liability

- e) for payments in respect of
  - i) medical or surgical costs and expenses;
  - ii) repatriation costs and expenses
- f) for claims arising out of **bodily injury** that are payable by reason of any workman's compensation scheme, social security scheme or similar insurance scheme.

#### **CPP007**

##### **Exclusion - Use of heat equipment**

###### **Public, products and pollution liability section**

The insurance by the Public products and pollution liability **section** excludes and does not cover liability for any claim in respect of work away from the **premises** involving the use of blow lamps, blow torches, flame guns, hot air guns, electric oxyacetylene or other welding or cutting equipment and angle grinders.

#### **CPP008**

##### **Exclusion - Use of heat third party property damage excess £1,000**

###### **Public, products and pollution liability section**

In respect of work away from the **premises** involving the use of blow lamps, blow torches, flame guns, hot air guns, electric oxyacetylene or other welding or cutting equipment and angle grinders, **we** shall not be liable for the first £1,000 of the cost of each and every claim.

#### **CPP009**

##### **Exclusion - Height limit (25 metres)**

###### **Employer's liability and Public, products and pollution liability sections**

The Hazardous work exclusion is amended to include work carried out at a height not exceeding twenty-five (25) metres above ground level.

#### **CPP010**

##### **Inclusion - Height limit deleted**

###### **Employer's liability and Public, products and pollution liability sections**

The height limit in the Hazardous work exclusion is deleted.

#### **CPP011**

##### **Exclusion - Underground services third party property damage excess £1,000**

###### **Public, products and pollution liability section**

The Public products and pollution liability **section** excludes and does not cover the first £1,000 of each and every claim in respect of loss of, destruction of or damage to cables, pipes or other services located underground.

#### **CPP012**

##### **Exclusion – Depth limit (5 metres)**

###### **Employer's liability and Public, products and pollution liability sections**

The Hazardous work exclusion is amended to include work involving excavations not exceeding a depth of five (5) metres.

#### **CPP013**

##### **Inclusion – Depth limit deleted**

###### **Employers liability and Public, products and pollution liability sections**

The depth limit in the Hazardous work exclusion is deleted.

#### **CPP014**

##### **Exclusion- Piling work**

###### **Public, products and pollution liability section**

The Public products and pollution liability **section** excludes and does not cover any liability arising from or caused by any work involving piling.

**CPP015****Exclusion-Underpinningwork****Public, products and pollution liability section**

Public products and pollution liability **section** excludes and does not cover any liability arising from or caused by any work involving underpinning.

**CPP016****Exclusion - Roofing work limitation****Public, products and pollution liability section**

The Public products and pollution liability **section** excludes and does not cover any liability caused by or arising in connection with contracts for and solely relating to roof work, unless such roofing work accounts for less than 15% (fifteen per cent) of **your** total annual turnover.

**CPP017****Exclusion - Repair and servicing of machinery and vehicles****Public, products and pollution' liability sections**

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

**CPP018****Exclusion - Motorway Work****Public products and pollution liability section**

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

**CPP019****Exclusion- Tree felling and lopping****Public products and pollution liability section**

The Public products and pollution liability **section** excludes and does not cover any liability caused by or arising in connection with any work of tree felling or tree lopping.

**CPP020****Exclusion - Steel erection****Employer's liability and Public, products and pollution liability section**

The Employer's liability and Public, products and pollution liability **sections** exclude and do not cover any claim, loss, liability, cost or expense directly or indirectly arising from the erection or dismantling of structural steelwork.

**CPP021****Exclusion - Crop spraying, waste burning and use of explosives****Public products and pollution liability section**

The Public products and pollution liability **section** excludes and does not cover any liability arising from or caused by or in connection with work involving crop spraying, waste burning and use of explosives.

**CPP022****Exclusion – servicing indemnity****Public products and pollution liability section**

The Public products and pollution liability **section** excludes and does not cover legal liability to pay damages or compensation, including claimant costs, arising from or caused by the repair, servicing or maintenance of **your** own vehicles.

#### **CPP023**

##### **Exclusion Carriage of hazardous goods**

###### **Employer's liability and Public, products and pollution liability sections**

The Employer's liability and Public, products and pollution liability **sections** exclude and do not cover liability arising from or caused by work involving the handling, carriage, storage or disposal of:

- g) waste;
- h) livestock;
- i) bulk tank liquids, oils, gases or chemicals;
- j) explosives;
- k) radioactive materials;
- l) dangerous goods as defined within the Approved Carriage List for the purposes of the Carriage of Dangerous Goods by Road and Rail (Classification, Packaging and Labelling) Regulations 1994.

#### **CPP024**

##### **Exclusion-Installation, repair or servicing of security alarms or security systems**

###### **Public products and pollution liability section**

The Public products and pollution liability **section** excludes and does not cover any liability arising from or caused by or in connection with work involving the installation, repair or servicing of security alarms or security systems.

#### **CPP025**

##### **Exclusion - Spray painting**

###### **Public products and pollution liability section**

The The Public products and pollution liability **section** excludes and does not cover any liability arising from or caused by or in connection with work involving spray painting.

#### **CPP026**

##### **Exclusion Spray drift**

###### **Public products and pollution liability section**

The Public products and pollution liability **section** excludes and does not cover liability arising out of or as a consequence of spray drift or wind drift from the use of paint spraying operations or surface preparation equipment.

#### **CPP027 Inclusion - Servicing indemnity**

###### **Public products and pollution liability section**

The Public products and pollution liability **section** is extended to indemnify **you** in respect of legal liability to pay damages or compensation, including claimant costs arising from or caused by the repair, servicing or maintenance of **your** motor vehicles, which expression shall include:

- m) the examination of motor vehicles in accordance with the Motor Vehicle (Test) Regulations;
  - n) cost of repairing, replacing or rectifying the original repair, servicing or maintenance work to vehicles other than the first £1,000 of any one claim
- provided that
- o) liability shall attach during the course of **business**,
  - p) the repair, servicing or maintenance shall be carried out within the **United Kingdom**,

#### CPP028

##### **Exclusion - Sexual, physical or mental abuse**

##### **Public products and pollution liability section**

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

- q) actual or attempted sexual relations sexual contact or intimacy sexual harassment or sexual exploitation;
- r) actual or attempted physical abuse which expression shall include the use of inappropriate method(s) of restraint or sanction;
- s) the bullying or physical harassment of individuals.

#### CPP029

##### **Condition - Damp proofing, dry rot and timber treatment conditions**

##### **Conditions precedent to Public, products and pollution section**

It is agreed as a condition precedent to **our** liability under the Public, products and pollution liability **section** that the following precautions shall be put into effect at all times when **you** are engaged in damp proofing, dry rot or timber treatment and like processes:

- t) the use of artificial lighting in the treatment areas be limited to specially constructed flame proof double encased lamps connected without junction boxes to points outside the area being treated;
- u) any other electrically operated equipment used by **you** to be similarly connected without junction boxes to points outside the area being treated;
- v) **you** shall have stipulated in writing to the customer:
  - i) that it is the responsibility of the customer to ensure that all electrical circuits and installations within the treatment area are safe and in good order before the commencement of any work;
  - ii) that the electricity to any circuits within the treatment area must be cut off and remain cut off during the course of the treatment;
  - iii) that no naked flames or electrical equipment other than stated to be taken into the area of treatment for at least forty eight (48) hours following the completion of treatment;
- w) **you** shall comply with all instructions issued with **products** used;
- x) where necessary **you** will provide polythene sheeting or other protective coverings to the customer to protect proximate property from staining.

#### CPP030

##### **Exclusion - Product Guarantee**

##### **Public, products and pollution liability section**

The Public products and pollution liability **section** excludes liability arising out of and in connection with any **product** giving rise to financial loss incurred by others as a result of any **product** failing to perform the function for which it was manufactured designed sold supplied installed repaired despatched or delivered by **you** or on **your** behalf.

#### CPP031

##### **Condition – Waste deposition conditions**

##### **Public products and pollution liability section**

It is agreed as a condition precedent to **our** liability under the Public, products and pollution liability **section** that all waste will only be deposited at licensed waste sites or tips.

#### **CPP032**

##### **Exclusion - Inefficacy**

###### **Public products and pollution liability section**

The Public products and pollution liability **section** excludes and does not cover liability for any claim in respect of or caused by the failure of **your product** to fulfil its intended function or to remedy, rectify or repair any work which is or alleged to have been defective.

#### **CPP033**

##### **Exclusion Spray drift**

###### **Public products and pollution liability section**

The Public products and pollution liability **section** excludes and does not cover liability arising out of or as a consequence of spray drift or wind drift from the use of grit, sand or shot blasting operations or equipment, paint spraying operations or surface preparation equipment.

#### **CPP034**

##### **Exclusion - Pipe cladding**

###### **Public products and pollution liability section**

The Public products and pollution liability **section** excludes and does not cover any liability arising from or caused by or in connection with work involving pipe cladding.

#### **CPP035**

##### **Exclusion - Advice design or plans irrespective of a fee being charged**

###### **Public products and pollution liability section**

The Public products and pollution liability **section** excludes any liability arising out of or from advice, design, plans, specifications, formulae, surveys or directions prepared or given by **you** or **other insured party**, irrespective of whether a fee is charged.

#### **CPP036**

##### **Condition - Rights of recourse**

###### **Public products and pollution liability section**

It is a condition precedent to **our** liability under the Public, products and pollution liability **section** that **you** maintain full rights of recourse against any manufacturer or supplier with whom **you** have entered into a legal contract for the provision of products as defined by the **policy**.

#### **CPP037**

##### **Exclusion – Paint and surface application inefficacy**

###### **Public, products and pollution liability sections**

The Public products and pollution liability **section** excludes and does not cover liability directly or indirectly arising from the failure of any paint and/or protective and/or decorative coating to adhere to or to protect the surface to which it is applied or to achieve or maintain the aesthetic qualities required whether due to discoloration or otherwise.

#### **CPP038**

##### **Exclusion - Tank cleaning exclusion**

###### **Public, products and pollution liability section**

The Public products and pollution liability **section** excludes and does not cover any liability arising from or caused by any work involving tank cleaning

#### CPP039

##### Exclusion - Tunnelling exclusion

###### Public, products and pollution liability' section

The Public products and pollution liability **section** excludes and does not cover any liability arising from or caused by any work involving tunnelling.

#### CPP040

##### Exclusion - Diminution in property values

###### Public, product and pollution liability section

The Public products and pollution liability **section** excludes and does not cover any liability in respect of the diminution in the value of property arising from **your business** or loss of or potential loss of rental income which is a consequence of such diminution.

#### CPP041

##### Condition - Confined spaces

###### Public, product and pollution liability section

It is agreed as a condition precedent to **our** liability under the Public, product and pollution liability **section** that the following precautions shall be put into effect at all times when **you** are engaged in working in a confined space which is subject to the Confined Spaces Regulations 1997 namely one containing or likely to contain a toxic or an asphyxiant atmosphere and and/or lack of oxygen processes:

- y) the confined space will only be certified as safe for entry without breathing apparatus after it has been certified by a competent person as safe for entry under these conditions;
- z) in all other cases any person entering such a confined space must wear self contained breathing apparatus;
- aa) in both situations as detailed in a) and b) above you must fully comply with any other requirements imposed by the relevant statutory provisions namely the Health and Safety at Work etc. Act 1974 and germane Codes of Regulations including but not limited to the Management of Health and Safety at Work Regulations 1974, 1990 and 2000, Personal Protective Equipment at Work Regulations 1992 and the Confined Spaces Regulations 1997 and its Approved Code of Practice or any other replacing or subsequent legislation or regulations imposed

#### CPP042

##### Condition - Survey requirement

###### General conditions

The following clause is added to and forms part of the General conditions of this **policy**.

The **policy** has been issued on the basis that **we** survey **your** premises during the **period of insurance** and that **you** comply with any resulting risk improvements or recommendations within the timescales given by **our** surveyor.

In the event that **you** do not comply with the risk improvements or recommendations within the timescales given by the surveyor, then **we** at **our** sole discretion and with seven days written notice may elect to:

- bb) amend the terms, conditions or exclusions of the **policy**; and/or
- cc) amend the **policy** premium; or
- dd) cancel the **policy**.

In the event that the **policy** terms, conditions or exclusions are amended, **you** may elect to cancel this insurance.

In the event that the **policy** is cancelled **you** shall be entitled to the return of a proportionate part of the premium paid in respect of the unexpired term of this **policy** provided that there have been:

- ee) no claims made under the **policy** for which we have made a payment;

- ff) no claims made under the **policy** which are still under consideration;
- gg) no incident likely to give rise to a claim but is yet to be reported to **us**;  
during the **period of insurance**.

#### CPP043

##### Condition- Flat roof maintenance

###### Property section

It is a condition precedent to **our** liability under the Property **section** that:

- hh) any flat felted roof portion of the premises will be inspected at least once every year by a qualified builder or property surveyor and any defect whether identified by that inspection or otherwise, be repaired immediately; and
  - ii) any guttering at the **premises** shall be checked for blockages or defects by a competent person at least once a year and any remedial action be implemented immediately; and
  - jj) a record of all inspections shall be made and retained by **you**;
- where **you** have responsibility for maintenance of the **building** as a freeholder or leaseholder.

#### CPP044

##### Condition - Intruder alarm

###### Property section

It is a condition precedent to liability for loss destruction or **damage** following entry or attempted entry to or exit from the **premises** by forcible and violent means that:

- kk) the **premises** are protected by the **intruder alarm system** as declared to **us**;
- ll) No alteration to or substitution of:
  - i) any part of the **intruder alarm system**;
  - ii) the maintenance contract;
  - iii) the structure of the **premises** or changes to the layout of the **premises** which would affect the effectiveness of the **intruder alarm system**;
  - iv) the procedures agreed with **us** for Police or any other response to any activation of the **intruder alarm system**;

shall be made without our written agreement.

- mm) The **alarmed premises** shall not be left unattended without **our** agreement:
  - i) unless the **intruder alarm system** is set in its entirety with the means of communication used to transmit signals (including both alarm transmission systems for dual signalling systems) in full operation;
  - ii) if the Police have withdrawn their response to alarm activations;
- nn) **You** shall maintain secrecy of codes for the operation of the **intruder alarm system** and detail of such codes and all keys to the **intruder alarm system** shall be removed from the **premises** when the **premises** are left unattended;
- oo) **You** shall appoint at least two **key holders** and lodge written details (which must be kept up to date) with the alarm company and either the Police or the alarm receiving centre;
- pp) In the event of notification of any activation of the **intruder alarm system** or interruption of means of communication including one or both alarm transmission systems in respect of dual signalling systems during any period the **intruder alarm system** is set a **key holder** shall attend the **premises** as soon as reasonably possible;
- qq) In the event of **you** receiving any notification the Police attendance in response to alarm signals/calls from the **intruder alarm system** may be withdrawn or the level of response reduced or delayed;
  - i) from a Local Authority or Magistrate imposing any requirement for abatement of nuisance;
  - ii) so that the **intruder alarm system** cannot be returned to or maintained in full working order;

- rr) you shall advise **us** as soon as possible and comply with any subsequent requirements stipulated by **us**.

## **Definitions**

### **Intruder alarm system**

The component parts including the means of communication used to transmit signals to the alarm receiving centre.

### **Alarmed premises**

The **premises** or those portions of the **premises** protected by the **intruder alarm system**.

### **Key holder**

**You** or any person or key holding company authorised by **you** who is available at all times to accept notification of faults or alarm signals to the **intruder alarm system** and attend and allow access to the **premises**.

### **Premises**

The buildings occupied by **you** or under **your** control (unless otherwise stated in the schedule).

## 20 Complaints

### 20.1 What you should do?

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

If **you** wish to contact **us** directly **you** should write to the complaints address shown below:

For all **sections** other than Legal expenses please contact:

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

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

For Legal expenses **section** please contact:

**Our** customer relations department at **our** head office address shown below. Or **you** can telephone **us** on 0844 893 9013 or email **us** at customerrelations@das.co.uk

**Our** head and registered office is: DAS Legal Expenses Insurance Company Limited, DAS House, Quay Side, Temple Back, Bristol BS1 6NH.

If an eligible complainant and the matter has not been resolved to **your** satisfaction **you** may contact:

The Financial Ombudsman Service, Exchange Tower, Exchange Square, London E14 9SR.

Making a complaint to the Financial Ombudsman Service (FOS) does not affect **your** rights under this policy, but if **you** are not an eligible complainant then the informal complaint process ceases.

A summary of **our** complaint handling procedure is available on request and will also be provided to **you** when acknowledging a complaint.

### 20.2 About the Financial Ombudsman Service (FOS)

- 20.2.1 Eligible complainants are:  
private individuals, or  
'micro-enterprises'.

'Micro-enterprises' will be able to bring complaints to the ombudsman as long as they have an annual turnover of under EUR2 million and fewer than ten (10) employees.

- 20.2.2 The FOS will only consider a complaint if **you** are an eligible complainant and if:
- a) **we** have been given an opportunity to resolve it and
  - b) **we** have sent **you** a final response letter and **you** have referred the complaint to the FOS within six (6) months of **our** final response letter or
  - c) **we** have not responded to **your** complaint with a decision within eight (8) weeks.

### 20.3 Financial Services Compensation Scheme

The Company Market and Lloyd's underwriters are covered by the Financial Services Compensation Scheme. **You** may be entitled to compensation from the Scheme if **we** are unable to meet **our** obligations under this contract.

Entitlement to compensation under the Scheme depends on the type of business and circumstances of the claim. Further information about compensation scheme arrangements is available from the Financial Services Compensation Scheme 10th Floor, Beaufort House, 15 St Botolph Street, London EC3A 7QU or from their website ([www.fscs.org.uk](http://www.fscs.org.uk)).