



# Commercial Combined Policy Wording

Specialist insurance  
for specialist markets



# OAMPS Insurance Policy

**Underwritten by QBE Insurance (Europe) Limited**

This policy has been exclusively arranged by:

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High Street  
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This policy has been issued through OAMPS (UK) Ltd and any claims or underwriting queries should be forwarded to them at the above address.

## Contents

|    |  |    |
|----|--|----|
| 1  | Our agreement in general                                     | 2  |
| 2  | Insured section A - Property                                 | 4  |
| 3  | Insured section B - Business interruption                    | 24 |
| 4  | Insured section A and B exclusions                           | 33 |
| 5  | Insured section C - Terrorism                                | 37 |
| 6  | Insured section D - Personal accident                        | 39 |
| 7  | Insured section E - Employers' liability                     | 43 |
| 8  | Insured section F – Public, products and pollution liability | 48 |
| 9  | Insured section G – Legal expenses                           | 59 |
| 10 | Duties in the event of a claim or potential claim            | 67 |
| 11 | General terms and conditions                                 | 71 |
| 12 | General definitions and interpretation                       | 75 |
| 13 | Complaints   | 94 |

# 1 Our agreement in general

## 1.1 Parties to this agreement

This OAMPS Insurance Policy is between the **insured** and the **insurer** as declared in the **schedule**. This document, together with 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.

## 1.2 Words in bold

Words in bold type face used in this **policy** document, other than in the headings, such as **insured** in clause 1.1 above, have specific meanings attached to them as set out in clause 12, the General definitions and interpretation section of this document.

## 1.3 Primary purpose of the policy

By this **policy**, the **insurer** agrees, subject to the **policy's** terms, limitations, exclusions and conditions, to:

1.3.1 indemnify the **insured** up to the **limit of liability** or **sum insured**, as appropriate and/or indemnify the **insured** up to the **limit of indemnity** for all sums that the **insured** becomes legally liable to pay as damages, including claimant costs recoverable from the **insured**;

1.3.2 pay **costs and expenses**, some of which **costs and expenses** are expressly stated to be in addition to the **limit of indemnity**;

to the extent more fully described in each **insured section** set out in clauses 2 - 3 and 5 - 9 below and stated as insured in the **schedule**.

## 1.4 Policy structure

1.4.1 Clauses 2 - 3 and 5 – 9 sets out the scope of main coverage and the circumstances in which the **insurer's** liability to the **insured** is limited, or may be excluded. Finally each clause sets out other terms and conditions.

1.4.2 Clause 4 set out limitations and exclusions shared by **insured sections A** and **B**.

1.4.3 Clauses 10 - 13 are applicable to all **insured sections** and set out the **insurer's**:

- a) claims handling terms and conditions, including further conditions precedent;
- b) general terms and conditions, including further conditions precedent;
- c) definitions;
- d) complaints procedure.

## 1.5 Policy period and premium

1.5.1 The **policy** will provide insurance as described in clauses 1.3 and 1.4 above for the **period of insurance** provided the premium and other charges are paid to and accepted by the **insurer**. Taxes, levies and other relevant fiscal charges are payable in addition to the premium.

1.5.2 The premium is deemed paid and accepted on receipt by the **insurer** or the intermediary appointed to place this insurance with the **insurer**.

## 1.6 Basis for the policy

1.6.1 All information supplied by the **insured** in connection with the application for insurance including any proposal form, application form or otherwise and supplied by or on behalf of the **insured** will be incorporated into and form the basis of the **policy**. It shall be a condition of the **policy** that all such information is true so far as is within the **insured's** knowledge or could, with reasonable diligence, have been ascertained.

1.6.2 It is a further condition of the **policy** that any material change in, or material addition to, the information mentioned in clause 1.6.1, either before or during the **period of insurance**, shall be notified in writing as soon as practical after the **insured** becomes aware of any such change or addition to the **insurer** who will continue the **policy** on such terms and conditions as it may determine.

1.6.3 In the event of a breach of any provision of this clause 1.6, and without prejudice to any other rights of the **insurer**, the **insurer** may reject or reduce claims connected with the breach and continue the **policy** on such terms as it may determine.

## 1.7 Cancellation

1.7.1 The **insurer** may cancel this insurance in accordance with the cancellation provisions at clauses 2.6.10 (Conditions precedent for property: Reasonable precautions), 5.5.1 (Other terrorism terms and conditions: Cancellation), 6.5.1 (Other personal accident terms and conditions: Change in circumstances) and 11.4 (General terms and conditions: Cancellation).

## 1.8 Privacy

1.8.1 The **insurer** collects non-public personal information about the **insured** and any **other insured party** from the following sources:

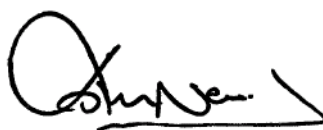
- a) information the **insurer** receives from the **insured** on applications or other forms;
- b) information about the **insured's** transactions with the **insurer**, its subsidiary, parent and or other group companies, or others;
- c) information the **insurer** receives from consumer reporting agencies.

1.8.2 The **insurer** does not disclose any non-public personal information relating to the **insured** and/or any **insured person** to anyone except as is necessary in order to provide its products or services to the **insured** or otherwise as it is required or permitted by law (e.g., a subpoena, fraud investigation, regulatory reporting etc.).

1.8.3 The **insurer** restricts access to non-public personal information relating to the **insured** and/or any **other insured party** to its employees, its subsidiary, parent and or other group companies, their employees or others who need to know that information to service the **insured's** account. The **insurer** maintains physical, electronic, and procedural safeguards to protect the **insured's** non-public personal information. As a consequence, any non-public personal information disclosed to one such employee or company is not deemed disclosed to all such employees or companies.

## 1.9 Signature

In evidence of the **insurer's** intention to be bound by this insurance, it prints the signature of its Chief Underwriting Officer below.

A handwritten signature in black ink, appearing to read "John V. [unclear]", with a horizontal line underneath the name.

## 2 Insured section A - Property

### 2.1 Property insurance

#### 2.1.1 Accidental damage

If there is accidental **damage** to the **property insured**, the **insurer** will at its option indemnify the **insured**, reinstate or replace the **property insured** or any part thereof provided that:

- a) **damage** occurs during the **period of insurance** and arises from an **insured peril** that is not otherwise subject to an exclusion; and
- b) the **property insured** is located at an **insured's premises** within the **territorial limits**; and
- c) the liability of the **insurer** under this **insured section A** will not exceed the **sum insured** or the **limit of liability** as applicable and stated in the **schedule**; and
- d) unless expressly stated to the contrary cover granted by clauses 2.1 to 2.3 to this **insured section A** do not increase the **sums insured** or the **limit of liability**. Any sub-limits stated form part of and are not additional to the **sums insured** or the **limit of liability**.

#### 2.1.2 Capital additions

Except for **stock and materials in trade** and provided that the **insured** pays an appropriate additional premium on demand from the **insurer**, **property insured** includes:

- a) any **buildings** and other **property insured** acquired or erected after inception of this **policy** anywhere within the **territorial limits**; and
- b) alterations, additions and improvements to **buildings** and **property insured** but excluding appreciation in value.

Where 'reinstatement day 1 basis' is not applicable the **insured** must advise the **insurer**:

- i) as soon as practicable of any such **property insured** or **buildings** acquired and/or erected after inception of this **policy**; and in addition
- ii) annually prior to each renewal of this **policy** of any alterations, additions and improvements at each **premises** that increase the value insured.

The **insurer's** liability under this Capital additions clause will be in addition to the **sum insured** or **limit of liability**, but the **insurer's** total liability for such amount payable under this Capital additions clause will not exceed GBP500,000 in the aggregate during the **period of insurance** or as shown on the **schedule**.

#### 2.1.3 Deterioration of stock covered

In event of food while contained within refrigerating units suffering deterioration or putrefaction due to or arising from **change of temperature** or contamination caused by accidental leakage of refrigerant or refrigerant fumes from the unit then the **insurer** will pay the **insured** the value of food at the time of its deterioration, putrefaction or contamination providing that:

- a) the food is the property of the **insured** or held in trust for which they are responsible;
- b) the deterioration, putrefaction or contamination occurs during the **period of insurance**.

In respect of each occurrence of deterioration, putrefaction or contamination the liability of the **insurer** under this **insured section** will not exceed GBP2,500 or such increased **limit of liability** as may be stated in the **schedule**.

#### 2.1.4 **Glass, glass surrounds and washroom facilities**

To the extent that they are present at the **premises**, and for the purposes of clause 2.1.4 (a) - (d) excluding stock in trade, **property insured** includes:

- a) fixed glass, including polycarbonate and other synthetic substitutes, and fixed glass in showcases, shelves, counters and display cabinets;
- b) window and door frames;
- c) fixed wash basins, lavatory bowls, cisterns, baths, shower trays and shower screens or cabinets;
- d) neon, plastic or decorative signs;
- e) goods incidental to the **business** damaged by breakage of glass if not insured elsewhere in this section, owned by the **insured** or for which the **insured** is responsible.

#### 2.1.5 **Metered water and gas**

The **insurer** will pay to the **insured** any charges that the **insured** is responsible for and unable to recover from any other party, in respect of loss of metered water or gas, provided that:

- a) loss of water or gas is due to **damage** at the **premises** which is covered as accidental **damage** under clause 2.1.1.
- b) the lost water or gas is measured by the utility meter; and
- c) the **insured** maintains a record of readings from the utility meter at intervals of not more than ninety (90) days; and
- d) the **insurer's** liability in respect of any one insured **premises** is limited to such excess water or gas charges demanded by the utility undertaking in consequence of **damage** and will not exceed GBP10,000 in all.

#### 2.1.6 **Rent**

The **insurer** will pay to the **insured** an amount for **rent** if it is specified in the **schedule** as being payable in respect of any **building** covered by this **insured section A**, but only if the **buildings** are, or any part thereof is, unfit for occupation in consequence of accidental **damage** which is covered under clause 2.1.1 provided that the liability of the **insurer** will not exceed such proportion of the **sum insured** on **rent** as the period necessary for reinstatement bears to the term of **rent** stated in the **schedule**.

#### 2.1.7 **Spontaneous combustion**

The **insurer** will pay for **damage** to wood blocks, coal or coke by its own spontaneous combustion or self-heating notwithstanding anything herein contained to the contrary.

#### 2.1.8 **Theft damage to buildings**

If the **insured** is responsible for the cost of **damage** to buildings that are not insured by the **policy**, the **insurer** will pay to the **insured** an amount in respect of **damage**, arising from theft or any attempted theft, to

- a) buildings,
- b) security lighting, security cameras and other security or fire protection devices, affixed signs, television, radio, satellite receiving aerials, communication aerials, their fittings and masts affixed to the buildings' walls gates fences fixed poles or fixed pylons at the **premises**,

### 2.1.9 **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 for an amount not exceeding GBP10,000 in the aggregate; and
- b) **tobacco, cigars, cigarettes and wines and spirits**; but for an amount not exceeding GBP 1,000 in the aggregate;

or such larger amount as is specified in the **schedule**.

### 2.1.10 **Non-ferrous metals**

The **property insured** under the heading of **stock and materials in trade** includes non-ferrous metals (other than aluminium) whilst at the **premises** provided that the **insurer's** maximum liability under this clause does not exceed GBP5,000 in respect of any one claim or such larger amount as is specified in the **schedule**.

### 2.1.11 **Electronic business equipment**

The **property insured** under the heading of **office contents** includes electronic business equipment whilst at the **premises** provided that the **insurer's** maximum liability under this clause does not exceed GBP5,000 in respect of any one claim or such larger amount as is specified in the **schedule**.

## 2.2 **Additional Property Costs and Expenses**

In respect of any accidental **damage** which is covered by clause 2.1.1 the **insurer** will also pay to the **insured** the following additional **costs and expenses**:

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

In respect of **buildings, machinery, plant and all other contents, bulk storage tanks and office contents** an amount for legal and other fees of architects, surveyors and consulting engineers, for estimates, plans, specifications, quantities, tenders and supervision necessarily incurred in the reinstatement of loss in the event of **damage** by any **insured peril** in accordance with the scales of their respective institutes, except that the **insurer** will not be liable for such fees incurred in preparing any claim made under this **policy**.

### 2.2.2 **Debris removal**

**Costs and expenses** necessarily incurred by the **insured** with the consent of the **insurer** in removing from the **damaged** property site or the area immediately adjacent to the **damaged** property site:

- a) debris from or cleaning or clearing drains, sewers and/or gutter of, or dismantling and/or demolishing of, or shoring up, propping and/or fencing the portion or portions of the **property insured** that has been **damaged** by an **insured peril**;
- b) debris of the **stock and materials in trade** that has been **damaged** by an **insured peril** subject to the **insurer's** maximum liability not exceeding GBP100,000 in respect of any one claim unless stated otherwise in the **schedule**.
- c) extraneous materials from machinery, plant and or equipment whether or not such machinery, plant and / or equipment has been **damaged**;
- d) except that the **insurer** will not be liable for any **cost and expenses**:
  - i) in removing debris except from the site of such **damage** and the area immediately adjacent to such site,
  - ii) arising from **pollution** or contamination of property not insured by this **policy** other than sudden and accidental pollution resulting in the cleanup of

the **insured's** own land subject to the **insurer's** maximum liability not exceeding GBP100,000 in respect of any one claim unless stated otherwise in the **schedule**.

- iii) arising from pollution or contamination of property not insured by this **policy**;
- iv) of temporary boarding up of windows as part of a claim for breakage of glass if this insurance includes glass damage.
- v) re-erecting, fitting and fixing plant and machinery.

### 2.2.3 **European Union and public authorities**

In respect of **buildings, machinery, plant and all other contents** and **office contents**, 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 except that the amount recoverable under this clause will not include:

- a) the cost incurred in complying with any such regulations, bye-laws or directive:
  - i) in respect of **damage** occurring prior to inception;
  - ii) in respect of **damage** not insured by this **insured section A**;
  - iii) under which notice has been served upon the **insured** prior to the happening of the **damage**;
  - iv) in respect of undamaged **property insured** or undamaged portions of **property insured** other than foundations (unless foundations are specifically excluded from the insurance by this **insured section**) of that portion of the property **damaged**;
- b) 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 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 or by the owner thereof by reason of compliance with any of the aforesaid regulations, bye-laws or directives
- d) if the liability of the **insurer** in respect of any item of **property insured** apart from this clause is reduced by the application of any of the terms and conditions of this insurance or this clause then the liability of the **insurer** under this clause in respect of any such **property insured** will be reduced in like proportion;
- e) the **insurer** will have no liability under this clause unless the work of reinstatement is commenced and carried out with reasonable despatch (which may be carried out upon another site and in any manner suitable to the requirements of the **insured** subject to the liability of the **insurer** not being thereby increased).
- f) the total amount recoverable under this clause in respect of any item of **property insured** will not exceed the applicable **sum insured** or **limit of liability**.

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

An amount for:

- a) extinguishment expenses reasonably incurred by the **insured** in order to minimise **damage**;
- b) expenses incurred in recharging or repairing **damage** to any gas or sprinkler fire extinguishment system;
- c) damage to lawns gardens playing surfaces and landscaped areas car parks private roads and pathways at the **premises** caused by emergency service vehicles while

attending an incident involving **damage** for which the **insurer** has accepted a claim under this **insured section A**;

- d) costs and expenses reasonably incurred by the **insured** to upgrade or improve any gas or sprinkler fire extinguishment rendered necessary to comply with regulation introduced after the installation of the original system following an incident involving **damage** for which the **insurer** has accepted a claim under this **insured section A**;

except that the **insurer's** liability for costs and expenses relating to a), b), c) or d) above and **damage** will not exceed GBP50,000 during any one **period of insurance**.

#### 2.2.5 **Glass, glass surrounds and washroom facilities**

Reasonable expenses the **insured** incurs with the **insurer's** consent for the cost of boarding up necessary before the replacement of damaged glass; the replacement or reinstatement of frames or glass supports arising from the loss, destruction or damage; the reinstatement of intruder alarm protection equipment if the damage includes breakage of the glass to which it is fixed; the contents of display windows and cabinets if the damage includes breakage of such display windows and cabinets; and if not insured elsewhere in this **insured section A**, damage to lettering or other ornamental work, and the removal or replacement of fixtures and fittings in order to replace the glass as a result of the breakage.

#### 2.2.6 **Lock replacement**

The reasonable cost of replacing external locks, safe or strong room locks at the **premises** following theft of keys from the **premises**, the **insured's** home or the home of any authorised **employee**, or, following a hold-up while the keys are in the **insured's** personal custody or that of any authorised **employee**:

except that the **insurer** will not be liable for any amount in excess of GBP20,000 for any one claim.

#### 2.2.7 **Machinery re-erection**

To the extent that the **property insured** includes machinery, the cost of re-erection and re-setting of the machinery as a direct result of **damage** insured by this **insured section**.

#### 2.2.8 **Stock cost fluctuation**

In the event that stock of fuel insured is lost or destroyed, the **insurer** will pay the increased cost of replacement stock of fuel solely arising from fluctuation of the exchange rate or raw material price as at the date of the loss or destruction provided always that:

- a) the **sum insured** on stock of fuel at inception of the **period of insurance** or any subsequent revision of **sum insured** on stock of fuel must represent not less than the replacement cost of the quantity being insured at that time;
- b) where the quantity of stock of fuel at the situation at the time of loss or destruction is greater than the quantity insured at inception or is greater than any subsequently revised quantity, then the **insured** shall be considered as being their own insurer for the difference and shall bear a rateable proportion of the loss accordingly;
- c) where at the time stock of fuel is lost or destroyed the **sum insured** is less than eighty five per cent (85%) of the replacement cost of the same quantity of fuel insured at inception or any subsequent time of revision, then the **insured** will pay a rateable proportion of the loss otherwise insured after application of point b) above.

#### 2.2.9 **Temporary repairs following damage**

Following **damage** at the **premises**, the reasonable cost of boarding-up of fixed glass in windows, doors, fan lights and skylights that is necessary to make the building secure; the installation of temporary doors made necessary for weather-proofing or securing the building; weather-proofing buildings and securing the site.

#### 2.2.10 Trace and access

Costs necessarily and reasonably incurred with the consent of the **insurer** in locating the source of any escape of water from any fixed water services, heating installation or fuel oil used for domestic purpose only including the repair to walls, floors or ceilings necessary as a direct result of the location work except that the **insurer** will not be liable:

- a) Under clauses 2.2.1 or 2.2.10 for the cost of repairs to any fixed domestic water services or heating installation; or
- b) for any amount in excess of GBP25,000 during any one **period of insurance**.

#### 2.2.11 Transfer expenses – goods in transit

The insurance provided by this **insured section A** will include additional **costs and expenses** reasonably and necessarily incurred by the **insured** in transferring the **goods in transit** to another vehicle, or reloading on the original vehicle for onward delivery or return to the point of origin and removal of debris due to fire, explosion, collision or overturning of the carrying vehicle, subject to a limit of GBP1,500 any one event.

### 2.3 Property cover away from premises

The **insurer** will pay to the **insured**:

#### 2.3.1 Documents removal

If the **schedule** states that **machinery plant and all other contents** are insured by this **insured section A** the reasonable **costs and expenses** of reinstating **documents** where reasonably possible, in the event that **documents** are **damaged** while temporarily removed to any **premises**, not in the **insured's** occupation, or in **transit** by road, rail or inland waterway except that the **insurer** 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 hard covered **motor vehicle** and the theft or attempt 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 hard covered **motor vehicle** (not being any soft-top or open-top **motor vehicle**) belonging to or under the control of the **insured** the vehicle must be:
    - I. occupied by the **insured** or employee of the **insured**; 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. when the vehicle is left unattended between the hours of 9pm and 6am the vehicle must be parked in a securely locked building or garage or in a security compound that is permanently manned and protected by a controlled security barrier or the vehicle is fitted with an immobiliser approved by the insurer and brought into operation;
- d) any amount in excess of GBP250,000, any one claim.

### 2.3.2 Exhibition and trade fairs

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

- a) **damage** to watches, **tobacco, cigars, cigarettes, wines and spirits, documents**, audio equipment, radios, televisions, video equipment and pictures;
- b) **damage** caused by theft or pilferage by an **employee** either as a principal or accessory;
- c) **damage** resulting directly from defective packing, faulty assembly or dismantling;
- d) **damage** recoverable under any other insurance or in any other way;
- e) **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 hard covered **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 hard covered **motor vehicle** (not being any soft-top or open-top **motor vehicle**) belonging to or under the control of the **insured** the vehicle must be:
    - I. occupied by the **insured** or employee of the **insured**; 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. when the vehicle is left unattended between the hours of 9pm and 6am the vehicle must be parked in a securely locked building or garage or in a security compound that is permanently manned and protected by a controlled security barrier or the vehicle is fitted with an immobiliser approved by the insurer and brought into operation;
- f) any amount in excess of GBP10,000 any one claim.

### 2.3.3 Temporary removal

For **damage** which would otherwise have been covered under clause 2.2.1 to **property insured** while temporarily removed from the **insured's premises** for cleaning, renovation, repair or similar purpose, elsewhere on the same or to any other **premises** except that the **insurer** will not be liable for:

- a) temporary removal outside the **territorial limits**;
- b) **motor vehicles** and motor chassis licensed for normal road use;
- c) transit of the **property insured**;
- d) **damage** by theft or attempted theft of the property insured unless involving entry to or exit from a building by violent and forcible means or by robbery or attempted robbery;
- e) **damage** recoverable under any other insurance or in any other way;
- f) any amount in excess of:
  - i) 15% (fifteen per cent) of the **sum insured** or **limit of liability** applicable to each item of property insured or GBP250,000 which ever is the lesser;
  - ii) GBP500,000 in the aggregate in respect of any one event.

#### 2.3.4 Goods in transit

In event of **goods in transit** being accidentally **damaged** the **insurer** will pay to the **insured** the value of the **goods in transit** at the time of its **damage** provided that:

- a) **damage** occurs in **transit**; and
- b) during the **period of insurance**; and
- c) within the **territorial limits**;, and

the **insurer** may at its option indemnify, reinstate or replace the **goods in transit** or any part thereof, and the liability of the **insurer** under this clause will not exceed the limit any one consignment stated in the **schedule**.

#### 2.3.5 Ropes/Sheets

**Goods** is extended to include ropes, sheets, tarpaulins, trolleys and the like while in **transit** subject to a limit of GBP1,500 any one event.

#### 2.3.6 Clothing or personal effects

In event of **damage** to clothing or personal effects of an **insured person** directly due to any such theft or attempted theft, the **insurer** will indemnify the **insured person** in respect of such **damage** up to a maximum amount of GBP1,000.

#### 2.3.7 Money

In the event of **money** belonging to the **insured** or for which the **insured** is responsible being accidentally **damaged**, or an **insured person** being **assaulted**, the **insurer** will pay to the **insured** the value of **money damaged** or compensation for **assault** in accordance with the following table of benefits, provided that:

- a) **damage** or **assault** occurs within the **territorial limits**;
- b) **damage** or **assault** occurs during the **period of insurance**;
- c) for each category of **damage** the liability of the **insurer** will not exceed the **limit of liability** stated in the **schedule**.

**Table of benefits**

| <b>Item</b> | <b>Injury</b>  | <b>Compensation</b> |
|-------------|--|---------------------|
|             | Payable GBP per insured person   |                     |
| A.          | Death  | 25,000              |
| B.          | Loss of eye or irrecoverable loss of use of one or both eyes   | 25,000              |
| C.          | Loss of limb or irrecoverable loss of use of one or more limbs   | 25,000              |
| D.          | <b>Permanent total disablement</b> not being E-J below   | 25,000              |
| E.          | Permanent total deafness in both ears  | 50%)                |
| F.          | Permanent total deafness in one ear  | 15%)                |
| G.          | Total loss of thumb  | 25%) of 25,000      |
| H.          | Total loss of index finger   | 20%)                |
| I.          | Total loss of any other finger   | 10%)                |
| J.          | Total loss of any toe  | 5%)                 |
| K.          | Temporary total <b>disablement</b> for each week of its continuance not exceeding a benefit period of 104 week | 100                 |

Death or injury as detailed above must follow within twelve (12) months from the date of the accident. The amount of compensation payable in respect of item K will not exceed eighty per cent (80%) of the insured person's normal gross weekly remuneration.

In addition to **benefits** otherwise payable, the **insurer** will pay medical and surgical expenses necessarily incurred with the **insurer's** consent as a result of **assault** for which indemnity is provided by this clause 2.3.7 up to GBP100 or 15% of the amount paid in respect of weekly benefits whichever is the greater.

#### 2.3.8 **Employees' Effects**

In so far as the same are not otherwise insured the **insurer** will pay to the **insured** the value of **damage** to **employees'** personal property arising from **goods in transit** or the carrying of **money** and due to fire, explosion, theft, collision or overturning of the carrying vehicle subject to a limit of GBP 1,000 any one **employee** any one event.

### 2.4 **Property Limitations and Exclusions**

In addition to the limitations and exclusions applicable to this **insured section** in clause 4, the following are excluded from and not covered by the insurance under **insured section A**:

#### 2.4.1 **Consequential loss**

consequential loss of any kind or description except **rent** if insured hereby;

#### 2.4.2 **Dishonesty**

**damage** which is in any way caused or facilitated by the dishonesty of any director or partner of the **insured** or any person in the service of or employed by the **insured**;

#### 2.4.3 **Fidelity guarantee insurance**

**damage** otherwise covered by an in force fidelity guarantee insurance;

#### 2.4.4 **Glass, glass surrounds and washroom facilities**

in respect of clauses 2.1.4 and 2.2.5:

- a) breakage or damage caused by chipping or scratching only;
- b) breakage or damage caused by repairs or alterations to the buildings at the **premises**;
- c) breakage or damage caused at any empty or unoccupied building at the **premises**;
- d) any glass broken or defective at the commencement of the insurance;
- e) stained, engraved or armoured glass;
- f) any amount in excess of GBP10,000 for any one claim;

#### 2.4.5 **Interest**

interest on any **claim payment** or compensation benefit for any reason whatsoever;

#### 2.4.6 **Marine Insurance cover**

**damage** regarding import shipments until fully discharged or until marine insurance has ceased to cover whichever last occurs;

#### 2.4.7 **Multiple benefits from assault**

payment of more than one item of benefit under the table of benefits to any one **insured person**;

2.4.8 **Property insured elsewhere**  
**damage** to, or **costs and expenses** in respect of any **property insured** which is otherwise is more specifically insured by or on behalf of the **insured**;

2.4.9 **Sports and pastimes**  
payment of benefit where the claim for benefit is due solely to an inability to take part in sports, pastimes or hobbies;

and for Deterioration of stock

2.4.10 **Deliberate act of the electricity utility undertaking**  
deterioration of stock due to failure of the electricity utility undertaking due to:

- a) its deliberate act unless performed for the sole purpose of safeguarding life or protecting any part of the utility undertaking systems; or
- b) any scheme of rationing not necessitated solely by accidental **damage** to the utility undertaking's generating or supply equipment;

2.4.11 **Gradually developing defects**  
deterioration due to wear and tear, deterioration or gradually developing flaws or defects in the unit or incorrect setting of thermostats and automatic controls;

2.4.12 **Refrigerating equipment over 10 years old**  
the use of a refrigerating unit over ten (10) years old unless specifically agreed by the **insurer** in writing;

2.4.13 **Thirty minutes loss of power**  
deterioration of stock due to failure of the electricity supply services which does not exceed thirty (30) consecutive minutes;

and for Goods in transit

2.4.14 **Dangerous Goods**  
in respect of **goods in transit**, **damage** caused by or in respect of **goods** detailed in the Special Classification of Explosives and other Dangerous Goods carried by the Railway Companies at Owner's Risks only, according to the General Railway Classification of Goods List;

2.4.15 **Food, change in temperature**  
**goods** conveyed in a refrigerated, frozen, chilled or insulated condition as a result of deterioration due to any variation in temperature unless as a result of an **accident** to the conveying vehicle;

2.4.16 **Fragile articles**  
in respect of **goods in transit**, 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;

2.4.17 **Goods in transit**  
**damage** arising to **property insured** while in **transit** except as specifically stated as being insured in clause 2.3.4 or the **schedule**;

2.4.18 **Inadequate packing**  
in respect of **goods in transit**, **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;

2.4.19 **Mechanical breakdown, pollution, insects, loss of weight**  
in respect of **goods in transit, 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;

2.4.20 **Open sided/curtained vehicles**  
**damage to goods** caused by theft, attempted theft or malicious damage carried in or on open sided / curtained vehicles, or on any vehicle that cannot be secured;

2.4.21 **Theft**  
in respect of **goods in transit**, theft or any attempt thereat arising while any vehicle belonging to or under the control of the **insured** and containing the **goods** is left unattended unless:

- a) for the work day or shift period - breaks taken during the transit:
  - i) all doors have been securely locked and all windows and other openings securely and adequately fastened; and
  - ii) any immobiliser and any alarm fitted to the said vehicle is correctly set to operate; and
  - iii) all keys removed; and
- b) after the last business **transit** of the work day or shift:
  - iv) all keys removed after the until collected by the driver for the next business **transit**; and
  - v) 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 minute's walking distance from the driver;

2.4.22 **Valuables and Business Records**  
in respect of **goods in transit, 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 DVD, digital music players, video equipment, cameras, computer games equipment, televisions, or documents, manuscripts, computer systems records, business books or livestock unless specified to the contrary in the **schedule**;

and for Money

2.4.23 **Coin operated gaming machines and unattended vehicles**  
**damage to money** contained in coin operated gaming devices/machines or in any unattended vehicle;

2.4.24 **Errors**  
**damage to money** occasioned by errors or omissions;

2.4.25 **Money**  
**damage to money** except as specifically stated as being insured in clause 2.3.7 or the **schedule**;

2.4.26 **Security carrier**  
**damage to money** recoverable from a specialist security carrier.

#### 2.4.27 **Theft from unattended vehicles**

**damage to money** caused by theft from unattended vehicles.

## 2.5 **Other Property Terms and Conditions**

### 2.5.1 **Fire protection, extinguishing and sprinkler installation appliances**

The premium for this **insured section A** has been calculated after taking into consideration the fire extinguishing, fire protection appliances and the standard of sprinkler installation at the **premises**, and the insured acknowledges the condition precedent relating to fire extinguishing appliances and/or sprinkler installation set out in clause 2.6 below.

### 2.5.2 **Material alteration**

Solely in relation to this **insured section A** the general conditions 'material alteration' clause 11.14 is deleted and the following substituted:

'The **insurer** may declare this **policy** to be void with respect to any item of **property insured** if after the commencement of this insurance:

- a) such item is removed;
- b) the **insured's** interest in such item ceases except by will or operation of law;
- c) the risk of **damage** thereto is increased (whatsoever the reason for such increase even if there is no change in the use or physical alteration of such item) but only from the time that the **insured** becomes aware of, or with reasonable prudence could have become aware of, an increased risk of **damage**;

unless such change of circumstance has been expressly acknowledged and accepted by written memorandum signed for and on behalf of the **insurer**.'

### 2.5.3 **Reinstatement of property**

If the **insurer** elects or becomes bound to reinstate or replace any property, the **insured** will, at their own expense, produce and give to the **insurer** all such plans, documents, books and information as the **insurer** may require. The **insurer** will not be bound to reinstate exactly or completely but only as circumstances permit, and in 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 indemnity** thereon.

### 2.5.4 **Average**

If the **schedule** specifies that this insurance is provided on a sum insured basis, each of the **sums insured** by this **insured section A** except any **sums insured** on private dwellings, fees, **rent** or **stock debris removal** is declared to be separately subject to the following condition of Average:

'Whenever a **sum insured** is declared to be subject to average, if the property insured thereby will at the breaking out of any fire or at the commencement of any **damage** to such property by any **insured peril**, be collectively of greater value than such **sum insured**, then the **insured** will be considered as being their own **insurer** for the difference and will bear a rateable proportion of the loss accordingly.'

### 2.5.5 **Contract price**

In respect of **goods** sold, but not delivered, for which the **insured** is responsible under a contract of sale, if the contract of sale is cancelled by reason of the fire or any other **insured peril** either wholly or to the extent of the damage, the liability of the **insurer** will be based on the contract price of the **goods**, and for the purpose of average the value of

all **goods** to which the clause would in the event of damage be applicable, will be ascertained on the same basis.

#### 2.5.6 Contracting purchaser

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

#### 2.5.7 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 the **insured's** books.

#### 2.5.8 Non-invalidation

If the risk of **damage** is increased by any act or omission, or by any alteration, that occurs without the **insured's** knowledge, such increase will not invalidate this insurance, provided that the **insured** immediately on such act, omission or alteration coming to their knowledge, gives notice thereof to the **insurer** and pays such extra premium as the **insurer** may require.

#### 2.5.9 Other parties

The interest of such other parties including, as the case may be lessors, mortgagees, banks, hire purchase companies specified in the **schedule** (or notified by the **insured** to the **insurer** 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 the:

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

#### 2.5.10 Reinstatement

- a) This clause does not apply to the insurance on **stock and materials in trade** nor to insurance of **motor vehicles** or motor chassis or of employees', directors' or visitors' property, but will apply to tools used on the **insured's** behalf by the **insured's** employees at the **premises**;
- b) Subject to 2.5.10(a) above, and unless stated in the **schedule** to the contrary, if **property insured** is **damaged**, the **insurer's** liability to the **insured** is to be calculated on the basis of reinstatement of the property **damaged**, subject always to the terms and conditions of this **insured section A** and in particular, the Reinstatement Special Provisions set out in 2.5.10(d), below
- c) For the purposes of the insurance under this clause 'reinstatement' will mean:
  - i) where property is lost or destroyed, the rebuilding of the **property insured** 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; and/or

- ii) where property 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.
- d) Reinstatement Special Provisions
- i) The work of reinstatement (which may be carried out upon another site and in any manner suitable to the requirements of the **insured** subject to the liability of the **insurer** not being thereby increased) must be commenced and carried out with reasonable despatch otherwise no payment will be made beyond the amount which would have been payable under this **insured section** if this clause 2.5.10 had not been incorporated.
  - ii) When the **property insured** under this clause is damaged in part only the liability of the **insurer** will not exceed the sum representing the cost which the **insurer** could have been called upon to pay for reinstatement if such **property insured** had been wholly destroyed.
  - iii) The **insurer** will have no liability to pay any amount beyond the amount that would have been payable under this **insured section A** if this clause 2.5.10 had not been incorporated until such time as the cost of reinstatement has actually been incurred.
  - iv) 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 condition 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 of **property insured** had been destroyed, exceeds the **sum insured** thereon at the breaking out of any fire or at the commencement of any loss, destruction of or **damage** to such property by any other cause hereby insured against, then the **insured** will be considered as being their 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.
  - v) The **insurer** will have no liability to pay any amount beyond the amount that would have been payable under this **insured section A** if this clause 2.5.10 had not been incorporated, if at the time of any **damage** to any **property insured**, such property is covered by any other insurance effected by or on behalf of the **insured** that is not on an identical basis of reinstatement to the terms of this clause 2.5.10.
  - vi) Where by reason of any of the above special provisions no payment is to be made beyond the amount which would have been payable under this **insured section A** if this clause had not been incorporated, the rights and liabilities of the **insurer** and the **insured** in respect of the **damage** will be subject to the terms and conditions of this **insured section A**, including any condition of Average as if this clause had not been incorporated.

#### 2.5.11 Reinstatement day one basis

For each item of **property insured** specified as 'Day 1 operative' in the **schedule** the **insurer** agrees to calculate the premium upon the **declared value** provided that:

- a) at inception of this insurance and the commencement of each subsequent **period of insurance** the **insured** notifies the **insurer** of the **declared value** of each such item (in the absence of such a notification the last amount declared by the **insured** will be taken as the **declared value** for the ensuing **period of insurance**).

- b) The Reinstatement Special Provisions set out in clause 2.5.10(d) also apply to this clause 2.5.11, except that for the purposes of this clause 2.5.11, the provisions of clauses 2.5.10(d)(iv) and (vi) are amended to read:

‘Each item of **property insured** under this clause is declared to be separately insured subject to the following condition of Average:

- i) If at the time of loss the **declared value** of the **property insured** is less than the cost of reinstatement at inception of the **period of insurance** then the **insurer’s** liability for any loss hereby insured will be limited to that proportion thereof which the **declared value** bears to the cost of reinstatement.
- ii) Where by reason of any of the above special provisions no payment is to be made beyond the amount which would have been payable under this **insured section A** if this clause had not been incorporated, the rights and liabilities of the **insurer** and the **insured** in respect of loss, destruction or **damage** will be subject to the terms and conditions of this **insured section** including any condition of Average as if this clause had not been incorporated, except that the **sums insured** will be limited to one hundred and fifteen per cent (115%) of the **declared value** (or such other percentage uplift as specified in the **schedule**).’
- c) In the event of **damage** the liability of the **insurer** in respect of **property insured** to which this clause applies will not exceed the **sum insured** in respect of each separate **premises**.
- d) ‘Reinstatement’ for the purposes of this clause 2.5.11, has the same meaning as in clause 2.5.10.

#### 2.5.12 **Reinstatement of sum insured following loss**

In respect of **property insured** on a ‘sum insured’ basis, in consideration of this insurance not being reduced by the amount of any loss under this **insured section A** the **insured** will pay such additional premium to the **insurer** as may be required.

#### 2.5.13 **Stock declaration**

In respect of **stock and materials in trade** and any item of stock more specifically insured hereby where the Stock declaration condition is stated as ‘operative’ in the **schedule**, this insurance is subject to the following special provisions:

- a) the first and annual premiums are provisional and are subject to adjustment as described below;
- b) the value of such stock and materials in trade on the last day of each month or of each quarter, whichever period has been agreed, will be declared in writing by the **insured** to the **insurer** within thirty days thereafter and if no declaration is given the **insured** will be deemed to have declared the maximum **sum insured** as the value;
- c) on the expiry of each **period of insurance** the actual premium payable will be calculated at the rate agreed upon the average **sum insured**, i.e. the total of the **sums insured** declared divided by the number of declarations. If the premium due is greater than the provisional premium the **insured** will pay the difference or if it is less, the difference will be repaid to the **insured**;
- d) in consideration of the insurance not being reduced by the amount of any loss the **insured** will pay such extra premium as may be required;
- e) it is a condition of this insurance that every insurance on **stock and materials in trade** or stock more specifically insured is identical in purpose with this insurance.

#### 2.5.14 **Subrogation waiver**

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

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

#### 2.5.15 **Unoccupied or vacant buildings**

The **insured** will give notice to the **insurer** forthwith if a **building** becomes unoccupied or vacant for a period in excess of 30 consecutive days and if an unoccupied or vacant **building** or portion thereof is again occupied. The **insured** will pay such extra premium as the **insurer** may require in consideration for the continuance in force of this insurance.

#### 2.5.16 **Workmen**

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

#### 2.5.17 **Claim discharge**

The **insured's** or the **insured's** personal representatives' receipt will discharge the **insurer**.

#### 2.5.18 **Compromised settlements**

If the **insured** compromises with the **insurer** any claim under this insurance, where more than one party has an interest in the **insured person** the benefit will represent the total amount payable in respect of that person for all interests covered by this **insured section**.

#### 2.5.19 **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 **limit of liability** then the **insurer's** liability will be proportionately reduced.

#### 2.5.20 **Reasonable Precautions**

The **insured** will take all reasonable precautions in maintaining vehicles under their 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**, packaging, labelling and addressing the **goods** in **transit**.

## 2.6 Conditions precedent for Property

Where the insured has procured this insurance in the capacity of landlord but does not occupy or otherwise use the premises then the duties imposed by this clause 2.6 apply from the time the insured or any agent of the insured acquires knowledge of non-compliance.

### 2.6.1 Automatic sprinkler installations

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

- a) the said installation will be maintained in full working order during the currency of this insurance;
- b) a test will be made every week for the purpose of ascertaining that the alarm is in working order and that the stop valves controlling the water supplies of the installation are fully open;
- c) if required by the **insurer** quarterly or half yearly tests will be made for the purpose of ascertaining that each water supply is in order and the particulars of each test will be recorded;
- d) any defect whether revealed by such tests or otherwise will be remedied immediately;
- e) the **insured** will notify the **insurer** immediately should the water supplies be turned off or the sprinkler installation be rendered inoperative from any cause.

### 2.6.2 Sprinkler Leakage

In respect of cover provided by this **insured section A** in respect of **damage** caused by sprinkler leakage, the following additional conditions precedent to the **insurer's** liability under this **insured section A** shall apply:

- a) the **insured** will at all times take reasonable steps to prevent frost and other **damage** to the automatic sprinkler installation in so far as his responsibility extends to maintain the installation and will maintain the automatic external alarm signal in efficient working order;
- b) in the event of any discharge or leakage the **insured** will do and permit to be done all things practicable whether by removal or otherwise to save and protect the **property insured**;
- c) whenever it is the intention to make any changes, repairs or alterations to the installation the **insured** will give written notice to the **insurer** and obtain their permission in writing;
- d) the **insured** will procure that the **insurer** has access to the **premises** at all reasonable times for the purposes of inspection and if the **insurer** notifies the **insured** of any defects in the condition of the installation the **insurer** may at its option suspend sprinkler leakage cover until the defects have been remedied and approved by the **insurer**.

### 2.6.3 Fire extinguishing appliances

In relation to **property insured** being protected by fire extinguishing appliances in accordance with details declared to the **insurer**, it is agreed as a condition precedent to the **insurer's** liability under this **insured section A** that the **insured** will procure that the following work is carried out:

- a) the **insured** will inspect the appliances regularly for the purposes of ascertaining that they are maintained in proper working order and keep a written record thereof;
- b) the **insured** will remedy any defect promptly, whether disclosed by any such inspection or otherwise;
- c) the **insured** will establish and maintain a training programme for the operation of fire extinguishing appliances and retain a documented register of all such training for inspection by the **insurer** on request.

It is further agreed as a condition precedent that in the event of any changes to fire extinguishing appliances at the **premises** the **insured** will give written notice to the **insurer**.

#### 2.6.4 Maintenance Agreements

It is agreed as a condition precedent to the **insurer's** liability under this **insured section A** that the **insured** will procure that sprinkler installations and fire extinguishers will be subject to maintenance agreements with the manufacturers or installers, and subject thereto cover provided by this **insured section A** will not be invalidated by any defect in the said appliances due to circumstances beyond the control of the **insured**.

#### 2.6.5 Hot work permit

It is agreed as a condition precedent to the **insurer's** liability under this **insured section A** that before the use of a naked flame or other heat source or oxyacetylene, electric arc or similar welding, cutting, grinding or other spark emitting equipment is used by any person (whether a third party contractor, an employee or other) at the **premises** (other than in connection with the **insured's** trade processes) the **insured** will procure that:

- a) a hot work permit in the form set out in Loss Prevention Recommendation RC7 published by the Fire Protection Association (FPA), is completed jointly by the person responsible for carrying out the work and the **insured's** safety officer (or nominated person); and
- b) the precautions and systems of work shown on the designated hot work permit are complied with.

#### 2.6.6 Unoccupied or vacant premises

It is agreed as a condition precedent to the **insurer's** liability under this **insured section A** in respect of **buildings** that become unoccupied, vacant or disused for period of thirty (30) or more consecutive days at the **premises** that:

- a) all main services are turned off at the mains and water tanks drained and emptied; and
- b) all combustible materials not forming part of the landlords fixtures and fittings are removed from inside and outside the **buildings**; and
- c) all ground floor windows and letterboxes are securely boarded over, and
- d) all reasonable precautions are taken to secure the **buildings** against unauthorised entry.

#### 2.6.7 Waste

It is agreed as a condition precedent to the **insurer's** liability under this **insured section A** that waste and any other trade refuse will be:

- a) kept in closed metal receptacles outside working hours, or
- b) swept up daily and removed from the **premises** and not allowed to accumulate around the **premises**.

### 2.6.8 Intruder and fire alarm

As regards **damage** caused by, arising from or contributed to by **insured perils** of fire, explosion, subterranean fire and theft it is agreed as a condition precedent to the **insurer's** liability under this **insured section A** that in relation to any intruder and or fire alarm specified and required by the **insurer** under the terms of this **policy** the **insured** will:

- a) ensure the alarm system is installed in accordance with the manufacturer's specification and any other specifications of the **insurer** and no alteration or variation of the system or any structural alteration to the **premises** which would affect the system will be made without the prior written consent of the **insurer**;
- b) ensure that the intruder and or fire alarm is in full and efficient working order at all times and regularly serviced under the manufacturer's maintenance contract and any other maintenance requirements of the **insurer**;
- c) notify the **insurer** forthwith of any defects that arise in such alarm systems, procure that such defects are remedied as soon as is practicable and notify the **insurer** forthwith once such defects are remedied;
- d) ensure that the intruder alarm is tested and fully set whenever the alarmed portion of the **premises** is closed for **business** or not attended by the **insured** or any competent adult authorised by the **insured** to be responsible for the security of the **premises**;
- e) ensure that the fire alarm is tested at least monthly and continually set in active mode;
- f) notify the **insurer** immediately of any disconnection or failure of, or downgrading of police or fire brigade response to the system likely to leave any area unprotected;
- g) ensure that there are available keyholders notified to all appropriate services.

The **insurer** will not be liable for **damage** caused by **insured perils** of fire, explosion, subterranean fire and theft subsequent to the **insured** receiving a written notification from an intruder and/or fire alarm company that the maintenance is suspended or from the relevant police authority or fire brigade that alarm signals from the **premises** will no longer be answered.

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

### 2.6.9 Reasonable precautions

It is agreed as a condition precedent to the **insurer's** liability under this **insured section A** that the **insured** will take all reasonable precautions to prevent **damage** and failure to do so will preclude any payment under this **insured section A**.

Further all security devices, fire protection devices and other monitoring devices must be maintained in good working order and put into use at all times that general business practice prescribes that they should be operational.

Where the **insurer** specifies certain precautions or other risk improvements to be carried out to an explicit timetable then if the precautions or improvement are not completed as required, the **insurer** can give written notice to the **insured** at its address shown on the **schedule** cancelling the **policy** with effect from the seventh (7<sup>th</sup>) day after the notice has been served, but that cancellation will be prevented from taking effect and the **policy** continue if the precautions or improvement are completed as required before the cancellation takes effect. Upon demand the **insurer** will return to the **insured** a part of any premium paid in excess of that proportionate to the pre-cancelled portion of the

**policy.** Without prejudice to other forms of service, the notice of cancellation is deemed to be served on the third **day** after being posted if sent by pre-paid letter post properly addressed.

#### 2.6.10 **Security of money**

It is a condition precedent to liability for any claim under this **insured section** that:

- a) all protections and procedures for the safety of **money** while in the **premises** existing at the inception date of this **policy** or undertaken at the request of the **insurer** are maintained and operated; and
- b) the keys for all protections and the keys of any safes containing **money** are removed from the **premises** out of **business hours** and held by designated keyholders;
- c) the following minimum standards of precaution for the safety of **money** in transit (other than by specialist security carrier) are operated at all times;
  - i) the times of transits, routes and conveyances used will be varied as far as possible;
  - ii) all persons engaged in the transit of **money** will be able-bodied adults;
  - iii) transits of amounts exceeding GBP 3,000 will be accompanied by at least 2 able-bodied adults;
  - iv) transits of amounts exceeding GBP 6,000 will be accompanied by at least 3 able-bodied adults;
  - v) transits of amounts exceeding GBP 9,000 will be accompanied by at least 3 able-bodied adults or 2 able-bodied adults by motor car or in an approved security case;
  - vi) transits of amounts exceeding GBP 12,000 will be transported by specialist security carrier;

and any failure to comply with these conditions will bar any claim under this **insured section A**.

#### 2.6.11 **Medical evidence**

It is a condition precedent to liability for any claim under this **insured section A** that:

- a) in event of **injury** the **insured person** will be attended by a duly qualified medical practitioner as soon as possible after an **assault** which may give rise to a claim under clause 2.3.7;
- b) all certificates, information and evidence required must be provided free of charge and in a form prescribed by the insurer;
- c) that the **insured person** will if requested submit to medical examination at the expense of the **insurer** in connection with any claim;

and failure to comply with this condition in full will bar any claim under this **insured section A**.

#### 2.6.12 **Maintenance**

It is a condition precedent to the **insurer's** liability under this **insured section** that there is in force a planned maintenance program 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 the **insurer** must be notified immediately.

## 3 Insured section B - Business interruption

### 3.1 Business interruption cover

3.1.1 In the event that any building or other property used by the **insured** at the **premises** for the purpose of the **business** is **damaged** by an **insured peril** during the **period of insurance** and in consequence the **business** carried on by the **insured** at the **premises** is interrupted or interfered with then the **insurer** will pay in respect of each item of Business interruption insurance stated in the **schedule** the amount of loss resulting from such interruption or interference provided that at the time the **damage** occurs:

- a) there is in force an insurance policy covering the interest of the **insured** in the property at the **premises** against such **damage**;
- b) the **insured** has claimed under the policy referred to in clause 3.1.1(a), 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.

3.1.2 Further, the **insurer** agrees that if any records of accounts receivable used by the **insured** at the **premises** for the purpose of the **business** be **damaged** by an **insured peril** during the **period of insurance** and in consequence income is lost resulting from the **insured's** inability to trace or establish their **outstanding debit balances** then the **insurer** will pay the loss of income resulting from the **insured's** inability to trace or establish their **outstanding debit balances** as a direct result of **damage** by any **insured peril** provided that:

- a) the liability of the **insurer** under this **insured section** shall not exceed the **sum insured** or **limit of liability** stated in Item 6 to the Business Interruption section of the **schedule**;
- b) if at the time of any **damage** the **sum insured** by this item of **outstanding debit balances** be less than the actual balances, the amount payable by the **insurer** will be proportionately reduced.

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

### 3.2 Additional business interruption costs and expenses

#### 3.2.1 Alternative trading

If during the **indemnity period** **goods** are sold or services rendered elsewhere than at the **premises** for the benefit of the **business**, either by the **insured** or by others on the **insured's** behalf, the **money** paid or payable in respect of such sales or services will be brought into account in calculating the **turnover** during the **indemnity period**.

#### 3.2.2 Professional Accountants

- a) Any particulars or details contained in the **insured's** books of account or other **business** books or documents which may be required by the **insurer** under clause 10 (Duties in the event of a claim or potential claim) of this **policy** for the purpose of investigating or verifying any claim made under this **policy** may be produced by professional accountants if at the time they are regularly acting as such for the **insured** and their report will be prima facie evidence of the particulars and details to which such report relates.
- b) The **insurer** will pay to the **insured** the reasonable charges payable by the **insured** to their professional accountants for producing such particulars or details

or any other proofs, information or evidence as may be required by the **insurer** under the terms of clause 10 (Duties in the event of a claim or potential claim) of this **policy** and reporting that such particulars or details are in accordance with the **insured's** books of account or other **business** books or documents.

### 3.2.3 **Research and Development**

The **insurer** will pay to the **insured** the additional expenditure incurred as a result of **damage** by an **insured peril** under **insured section A** 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) the **insurer's** liability under this clause 3.2.3 will not exceed GBP25,000 for any one claim.

## 3.3 **Additional business interruption cover away from premises**

The **insurer** will pay to the **insured**:

### 3.3.1 **Customers**

Loss resulting from interruption of or interference with the **business** in consequence of **damage** by an **insured peril** covered under the **insured section A** to property at the **premises** of any of the **insured's** customers in the **territorial limits** or the Republic of Ireland with whom at the time of the **damage** the **insured** has agreed under contract or trading relationship to supply goods or services, except that the **insurer's** liability for such loss will not exceed GBP100,000 any one claim.

### 3.3.2 **Damage to property at contract sites**

Loss resulting from interruption of or interference with the **business** in consequence of **damage** by an **insured peril** covered under the **insured section A** to this insurance to property at any **premises** in the **territorial limits** or the Republic of Ireland not occupied by the **insured** but where the **insured** is carrying out a contract, except that the **insurer's** liability for such loss will not exceed GBP100,000 any one claim.

### 3.3.3 **Denial of access**

Loss resulting from interruption of or interference with the **business** in consequence of **damage** by an **insured peril** covered under **insured section A** to property in the vicinity of the **premises** which prevents or hinders the use of the **premises**, or access to the **premises** whether the **premises** or property of the **insured** therein are **damaged** or not, except that the **insurer's** liability under this clause will not exceed GBP250,000 any one claim.

### 3.3.4 **Suppliers**

Loss resulting from interruption of or interference with the **business** in consequence of **damage** by an **insured peril** covered under the **insured section A** to property at the **premises** of any of the **insured's** suppliers in the **territorial limits** or the Republic of Ireland (other than the suppliers of electricity, gas, water or telecommunication services), except that the **insurer's** liability for such loss will not exceed GBP100,000 any one claim.

### 3.3.5 **Supply utilities**

Loss resulting from interruption of or interference with the **business** in consequence of:

- a) **damage** by an **insured peril** to property at any:

- i) generating station or sub-station of the electricity supply undertaking;
  - ii) land based premises of the gas supply undertaking or of any natural gas producer linked directly therewith;
  - iii) water works or pumping station of the water supply undertaking;
  - iv) land based premises of the telecommunications undertaking;
- from which the **insured** obtains electricity, gas, water or telecommunication services.
- b) accidental failure at the **premises** of:
    - i) the terminal ends of the electricity supply utility service feeders ;
    - ii) the supply of gas at the supply utility meters ;
    - iii) the supply of water at the supply utility main stopcock;
    - iv) the supply of telecommunication services at the incoming line terminal or receivers.

The maximum amount payable in respect of any one occurrence under this clause 3.3.5 will not exceed GBP 250,000.

### 3.4 Business interruption limitations and exclusions

In addition to the limitations and exclusions applicable to this **insured section** in clause 4, the following are excluded from and not covered by the insurance under **insured section B**:

#### 3.4.1 Fines or penalties

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

#### 3.4.2 Supply utilities

The **insurer** will not be liable under clause 3.3.5 or elsewhere under this insurance for interruption or interference with the **business** caused by **damage** resulting from:

- a) 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;
- b) strikes or any labour or trade dispute;
- c) drought;
- d) any other atmospheric or weather conditions, but not excluding accidental failure due to damage to supply utility equipment caused by such conditions;
- e) where the period of interruption or interference is less than twenty four (24) hours.

#### 3.4.3 Uninsured standing charges

If any standing charges of the **business** deducted in arriving at the **gross profit** are not insured under this **insured section B**, 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 uninsured standing charges.

#### 3.4.4 Limit of liability

The liability of the **insurer** under this **insured section B** will not exceed the lesser of:

- a) in the whole the total **sums insured**; or

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

#### 3.4.5 **Gross profit/estimated gross profit**

The **insurer's** liability in respect of **schedule** item 1 (**gross profit**) is limited to loss of **gross profit** caused by a reduction in **turnover** or an increase in cost of working. The **insurer's** liability under clause 3.1.1 in respect of **schedule** item 1 will be:

- a) in respect of reduction in **turnover**: the sum produced by applying the **rate of gross profit** to the amount by which the **turnover** during the **indemnity period** will, in consequence of the **damage**, fall short of the **standard turnover**;
- b) in respect of increase in cost of working: the additional expenditure (subject to the provisions of the uninsured standing charges clause) necessarily and reasonably incurred 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 sum produced by applying the **rate of gross profit** to the amount of the reduction thereby avoided;
- c) minus, regardless of whether the calculation is based on clause 3.4.5(a) or (b), any sum saved during the **indemnity period** in respect of such of the charges and expenses of the **business** payable out of **gross profit** as may cease or be reduced in consequence of the **damage**;
- d) except that, in either case, if the **sum insured** in respect of **schedule** item 1 is less than the sum produced by applying the **rate of gross profit** to the **annual turnover** (or to a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months) the **insurer's** liability will be proportionately reduced.
- e) in respect of increase in cost of working arising from **damage to motor vehicle(s)** the maximum amount payable after deduction of any sum saved will not exceed GBP250,000 or the **limit of liability** stated in the **schedule** whichever is the less.

#### 3.4.6 **Gross revenue/estimated gross revenue**

The **insurer's** liability in respect of **schedule** item 2 (**gross revenue**) is limited to loss of **gross revenue** and increase in cost of working and the **insurer's** liability under clause 3.1.1 in respect of **schedule** item 2 will be:

- a) in respect of loss of **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 increase in 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 clause 3.4.6(a) or (b), 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 **schedule** item 2 is less than the **annual gross revenue** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months) the **insurer's** liability will be proportionately reduced.
- e) in respect of increase in cost of working arising from **damage to motor vehicle(s)** the maximum amount payable after deduction of any sum saved will not exceed GBP250,000 or the **limit of liability** stated in the **schedule** whichever is the less.

#### 3.4.7 **Increased cost of working**

The **insurer's** liability in respect of **schedule** item 3 (Increased Cost of Working) is limited to the increase in cost of working and the amount payable under clause 3.1.1. in respect of **schedule** item 3 will be the additional expenditure necessarily and reasonably incurred by the **insured** in consequence of the **damage** in order to prevent or minimise the interruption of the **business** during the **indemnity period**.

#### 3.4.8 **Additional increased cost of working**

The **insurer's** liability in respect of **schedule** item 4 (Additional Increased Cost of Working) is limited to additional increased cost of working and the amount payable under clause 3.1.1 in respect of **schedule** item 4 will be 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** by this item.

#### 3.4.9 **Rent receivable**

The **insurer's** liability in respect of **schedule** item 5 is limited to loss of **rent** receivable and additional expenditure and the amount payable under clause 3.1.1 in respect of **schedule** item 5 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**;
- d) except that if the **sum insured** in respect of **schedule** item 5 is less than the annual **rent receivable** (or a proportionately increased multiple thereof where the maximum **indemnity period** exceeds twelve months) the **insurer's** liability will be proportionately reduced.

#### 3.4.10 **Outstanding debit balances.**

The insurance by **schedule** item 6 is limited to loss of **outstanding debit balances**.

### 3.5 Other business interruption terms and conditions

#### 3.5.1 Material alteration

As regards this **insured section B** the General condition Material alteration at clause 11.14 is deleted and the following substituted:

'This **insured section B** will be void if

- a) the **business** is wound up; or
- b) carried on by a liquidator, administrator or receiver; or
- c) permanently discontinued; or
- d) the **insured's** interest ceases otherwise than by death; or
- e) any alteration is made either in the **business** or in the **premises** or property therein whereby the risk of **damage** is increased (whatsoever the reason for such increase and even if there is no change in the use or physical alteration of the said **premises** or property) but only from the time that the **insured** becomes aware of, or with reasonable prudence could have become aware of, an increased risk of **damage**;

at any time after the commencement of this insurance, unless the **insurer** agrees by memorandum signed by or on behalf of the **insurer** that this **insured section B** will continue in force'.

#### 3.5.2 Declaration linked condition

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

- a) The **insured** will prior to each renewal furnish the **insurer** with the **estimated gross profit** or **estimated gross revenue** to be insured. Such amounts are to be calculated on the basis of the respective amounts for the financial year most nearly concurrent with ensuing period of insurance;
- b) The first and annual premiums in respect of **schedule** items 1 or 2 as insured by this **insured section B** are provisional and calculated on the basis of the **estimated gross profit** or **estimated gross revenue**.
- c) The **insured** will furnish to the **insurer** not later than six months after the expiry of each **period of insurance** a declaration certified by the **insured's** professional accountants of the **gross profit** or **gross revenue** earned during the financial year most nearly concurrent with the **period of insurance**.
- d) If at or prior to the date of the certified declaration under clause 3.5.2(c) **damage** has occurred giving rise to a claim for loss of **gross profit** or **gross revenue** the amount of **gross profit** or **gross revenue** certified in such declaration will be deemed by the **insurer** for the purpose of premium calculation to have been increased by the amount by which the **gross profit** or **gross revenue** was reduced in consequence of the **damage** during the financial year.
- e) If the amount of **gross profit** or **gross revenue** certified in the declaration (adjusted as provided above and proportionately increased where the **maximum indemnity period** exceeds twelve months) is less than the **estimated gross profit** or **estimated gross revenue** as insured hereby for the relative **period of insurance** the **insurer** will allow a pro rata return of the premium paid on the **estimated gross profit** or **estimated gross revenue** as insured, but not exceeding twenty-five per cent (25%) of such premium; or
- f) If the amount of **gross profit** or **gross revenue** certified in the declaration (adjusted as provided above and proportionately increased where the **maximum indemnity period** exceeds twelve months) is greater than the **estimated gross profit** or **estimated gross revenue** as insured hereby for the relative **period of insurance**

the **insured** will pay a pro rata extra premium on the **estimated gross profit** or **estimated gross revenue** as insured.

- g) Notwithstanding any other clause of this **policy**, the liability of the **insurer**:
- i) in respect of **gross profit** or **gross revenue** will in no case exceed one hundred and thirty-three and one third per cent of the **estimated gross profit** or **estimated gross revenue**; or in respect of each other item specified in the schedule as 'declaration linked condition operative' one hundred per cent (100%) of the sum stated in the schedule or otherwise substituted therefor by memorandum signed by or on behalf of the insurer ; or
  - ii) will in no case exceed in the whole the sum of one hundred and thirty-three and one third per cent of the **estimated gross profit** or **estimated gross revenue** as insured and one hundred per cent (100%) of the **sums insured** as other items specified as 'declaration linked condition operative' or such other amounts as may be substituted therefor by memorandum signed by or on behalf of or on behalf of the **insurer**.
- h) In the absence of written notice by the **insured** or the **insurer** to the contrary the **insurer's** liability will not be reduced by the amount of any loss and the insured will pay such extra premiums, as the **insurer** requires for such automatic reinstatement of cover.
- i) The averaging provisions in clause 3.4.5 (d) and 3.4.6 (d) are deleted and of no effect.

### 3.5.3 **Delayed Loss**

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

### 3.5.4 **Automatic reinstatement**

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

### 3.5.5 **Departmental**

#### a) **Gross profit**

If the **business** is conducted in departments and the independent trading results of each department are ascertainable and can be distinguished from each other department, the provisions of **schedule** item 1 will apply separately to each department affected by the **damage**, except that if the **sum insured** is less than the aggregate of the sums produced by applying the **rate of gross profit** for each department of the **business** (whether affected by the **damage** or not) to its relative **annual turnover** (or to a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months (12)), the **insurer's** liability will be reduced pro rata accordingly.

#### b) **Gross revenue**

If the **business** is conducted in departments, and the independent trading results of each department are ascertainable and can be distinguished from each other department, the provisions of **schedule** item 2 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 revenue** for each department of the **business** (whether affected by the **damage** or not) the **insurer's** liability will be reduced pro rata accordingly.

### 3.5.6 Refund of premium

Where the **schedule** specifies 'Premium subject to adjustment : Yes', then in the event of the **gross profit** or **gross revenue** during the financial year most nearly concurrent with any **period of insurance** being less than the **sum insured** a pro rata return of premium will be made in respect of the difference provided that the **gross profit** or **gross revenue** earned is certified by the **insured's** professional accountants, proportionately increased if the **indemnity period** exceeds twelve (12) months. In any event, the return of premium will not exceed twenty-five per cent (25%) of the premium paid on such **sum insured** for such **period of insurance**.

### 3.5.7 Salvage sale

If following **damage** giving rise to a claim under this **insured section B**, the **insured** holds a salvage sale during the **indemnity period**, clause 3.4.5(a) 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.'

### 3.5.8 Subrogation waiver

In the event of a claim arising under this **insured section B**, the **insurer** agrees to waive any rights, remedies or relief to which they might become entitled by subrogation against:

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

### 3.5.9 Payments on account

Payments on account may be made to the **insured** monthly during the **indemnity period** if desired.

### 3.5.10 Reimbursement of amounts recovered

After payment of any claim hereunder all amounts recovered by the **insured** on accounts receivable for which the **insured** has been indemnified under clause 3.1.2 will belong and be paid immediately to the **insurer** by the **insured** up to the total amount of loss paid by the **insurer**.

### 3.5.11 Inspection of records

The **insurer** will be permitted to inspect the **premises** and the receptacles in which the records of accounts receivable are kept by the **insured**, and to examine and audit the **insured's** books and records at any time during the **period of insurance** and within 3 years after the final termination of this **insured section**, as far as they relate to the premium basis or the subject matter of this insurance, and to verify the statements of any outstanding record of accounts receivable submitted by the **insured** and the amount of accounts receivable on which the **insurer** has made any settlement.

### 3.5.12 First year of trading

In the event of any claim arising from **damage** occurring before the completion of the first year's trading of the **business** at the **premises** the terms expressed in clause 12 – General Definitions and Interpretation will be adjusted to apply to the **gross profit** and

outgoing during the period from commencement of the **business** to the date of the **damage**.

### **3.6 Conditions precedent for business interruption**

#### **3.6.1 Insured section A conditions**

All the conditions precedent of **insured section A** at clause 2.6 are deemed to apply to this **insured section B**, as if printed below in full with all references to **insured section A** replaced by references to **insured section B**, unless otherwise provided in this **insured section B**.

## 4 Insured section A and B exclusions

The **insurer** is not liable under **insured sections A and B**, for the amount of the **excess** as stated in the **schedule** as applicable to each respective **insured section**.

In addition and subject to the amendment that clauses 4.1 - 4.10 shall not exclude any subsequent **damage** resulting from any ensuing cause which is not otherwise excluded, **insured sections A and B** exclude and do not cover **damage** or loss caused by or interruption or interference caused by **damage** resulting from:

### 4.1 Aircraft travelling at supersonic speeds

or consisting of, pressure waves caused by aircraft, other aerial device or satellite travelling at sonic or supersonic speeds;

### 4.2 Boiler explosion and failure

4.2.1 explosion, failure or collapse of a boiler (but not a boiler used for domestic purposes only) economiser or other vessel, machine, apparatus or pipework at the **premises** in which internal pressure is due to steam only belonging to or under the control of the **insured**;

4.2.2 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 exclusion clause 4.2 will not apply to consequential loss as described by **insured section B**.

### 4.3 Defective design

defective design, latent defect, the use of defective materials, the misapplication of tools or other defective workmanship;

### 4.4 Electrical or mechanical breakdown

electrical or mechanical breakdown or failure or derangement including but not limited to overrunning, overheating or short-circuiting, but not excluding any other **damage** resulting from such breakdown, failure or derangement.

### 4.5 Frost

frost or freezing;

### 4.6 Gradual change

corrosion, gradual change or deterioration, change of temperature, colour, texture, finish, inherent vice, rust, shrinkage, infestation, insects or vermin;

### 4.7 Processing

the **property insured**:

4.7.1 undergoing any process including but not limited to cleaning, repairing, restoring, renovating, testing, commissioning or packaging;

4.7.2 itself undergoing any heating process or any process involving the application of heat,

### 4.8 Theft and fraud

4.8.1 theft or attempted theft unless involving entry to or exit from the **buildings** at the **premises** by forcible and violent means or by violence or threat of violence to the **insured** or any **employee** of the **insured** provided that this exclusion will not apply to:

a) 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**;

- b) Lock Replacement endorsement clause, if any;
  - c) **Money**;
  - d) **Goods in transit**;
  - e) **Property in the open**.
  - f) **Bulk storage tanks** and their contents.
- 4.8.2 dishonesty of the **insured's employees** but this will not exclude theft or attempted theft as defined above;
- 4.8.3 any fraudulent or dishonest accessing, extraction, distortion, misappropriation or corruption of information or data contained in any computer or **electronic data** equipment or system;
- 4.8.4 for the purpose of clause 4.8.1 forcible and violent entry to or exit from or through an internal door, office, cage, compartment or store within the **buildings** will not satisfy the rider to this theft exclusion unless the internal door, office, cage, compartment or store is the sole part of the **buildings** occupied by the **insured**;
- 4.8.5 theft or attempted theft of **property in the open** unless contained within a securely locked and fenced compound and such **damage** involves entry to or exit from the compound by forcible and violent means or by violence or threat of violence to the **insured** or any **employee** of the **insured**.

#### **4.9 Water table level**

change in water table level;

#### **4.10 Wear and tear**

wear and tear, marring or scratching;

#### **4.11 Disused, unoccupied or vacant buildings**

- a) escaping water from any pipe, tank, water system or automatic sprinkler installation;
- b) riot, civil commotion or malicious damage;
- c) theft or theft damage;
- d) the first GBP2,500 of any claim;

in respect of any **building** which is unoccupied, vacant or disused for period of thirty (30) or more consecutive days.

#### **4.12 Electronic risks**

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

#### **4.13 Excluded property**

- 4.13.1 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, other aerial devices or satellites;
  - c) **motor vehicles** or their contents, accessories, caravans or trailers;

- d) **money**, bullion, foreign coins counterfeit or substitute **money** other than as stated in **insured section A**;
  - e) land, piers, jetties, bridges, culverts or excavations;
- 4.13.2 or in connection with the following property unless the **damage** is caused by fire, lightning, aircraft, explosion, riot, civil commotion, malicious persons, impact or earthquake:
- a) gates or fences;
  - b) any **motor vehicle** the use of which is not permanently confined to the **premises**;
  - c) property in the course of erection or installation;

#### **4.14 Explosives**

**damage** of or to explosives;

#### **4.15 Excess**

the amount of the **excess** as stated below:

- a) the first GBP500 of each and every loss, including loss of **goods** in **transit**, other than in respect of theft of **money** or **property insured** by 4.15 b) and 4.15 c);
  - b) the first GBP2,500 of each and every theft loss of fuel from **bulk storage tanks**;
  - c) the first GBP2,500 of each and every theft loss of **property in the open**;
- unless otherwise stated in the **schedule**,

#### **4.16 Ionising radiation**

in whatever form, directly or indirectly, or contributed to, by or in connection with, **nuclear hazards**;

#### **4.17 Non specific loss or damage**

- 4.17.1 loss resulting from disappearance or which is not identifiable by the insured with a specific occurrence or is unexplained and which has not been notified under the terms of clause 10 ( Duties in event of a claim or potential claim);
- 4.17.2 loss revealed only during an inventory or stocktaking;
- 4.17.3 loss arising from misfiling or misplacing of property, information or data;

#### **4.18 Northern Ireland**

- 4.18.1 or happening through or in consequence directly or indirectly of riot or civil commotion occurring in Northern Ireland.

#### **4.19 Pollution**

pollution or contamination (other than **cross contamination**) except damage to property insured by:

- 4.19.1 pollution or contamination which itself results from a defined peril;
- 4.19.2 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, other aerial device or satellite or articles dropped therefrom, riot civil commotion strikers locked out workers person taking part in labour disturbances malicious persons other than thieves storm flood escape of water or oil from any tank or pipe sprinkler leakage theft or impact by any vehicle or animal);

#### **4.20 Subsidence or collapse**

in respect of **buildings**:

- 4.20.1 subsidence, ground heave or landslip;
- 4.20.2 normal settlement, bedding down of new structures;

4.20.3 collapse.

**4.21 War and terrorism**

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 the **insurer** have any liability for loss, **damage**, costs and expenses directly or indirectly caused by, contributed to by, resulting from, or arising out of or in connection with any action controlling, preventing, suppressing, retaliating against or responding to any act of **war** or **terrorism**.

## 5 Insured section C - Terrorism

### 5.1 Terrorism loss cover

The **insurer** will indemnify the **insured** for **damage** to the **property insured** and consequential loss resulting therefrom insofar and to the extent that it is insured in Great Britain (meaning England and Wales and Scotland but not the territorial seas adjacent thereto as defined by the Territorial Seas Act 1987 nor the Isle of Man nor the Channel Islands) 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 provided that in any action **suit** or other proceedings where the **insurer** alleges that any **damage**, costs and expenses are not covered by this insurance the burden of proving the contrary will be upon the **insured**.

### 5.2 Additional terrorism costs and expenses

Not applicable to this **insured section C**.

### 5.3 Extended terrorism losses cover

Not applicable to this **insured section C**

### 5.4 Terrorism loss limitations and exclusions

#### 5.4.1 This **insured section C** excludes and will not cover:

- a) Chemical, biological or radioactive contamination defined as any loss whatsoever or any expenditure resulting or arising therefrom or any consequential loss directly or indirectly caused by or contributed to by or arising from the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or its nuclear component thereof, ionising radiation or contamination by radioactivity or from the combustion of any radioactive material, chemical and or biological and or radiological irritants contaminants or pollutants, in respect only of residential property houses and blocks of flats and other dwellings insured in the name of a private individual;
- b) **war** and allied risks as defined as **war** invasion act of foreign enemy hostilities (whether **war** be declared or not) civil **war** rebellion revolution insurrection or military or usurped power;
- c) digital or cyber risks, that is any loss whatsoever directly or indirectly caused by or contributed to by or arising from or occasioned by or resulting from **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) and whether the property of the **insured** or not, where such **damage** is caused by **virus or similar mechanism** or **hacking** or **denial of service attack**, or consequential loss directly or indirectly caused by or arising from **virus or similar mechanism** or **hacking** or **denial of service attack**.

#### 5.4.2 The **insurer's** liability in respect of all losses arising out of any one occurrence and in the aggregate in any one **period of insurance** is limited to, and will not exceed, the **sums insured** or **limits of liability** otherwise specified in the **policy**.

## 5.5 Other terrorism terms and conditions

### 5.5.1 Cancellation

The **insurer** may cancel this **insured section C** by giving written notice to the **insured** at its address shown on the **schedule** cancelling the **policy** with effect from the seventh **day** after the notice has been served. Without prejudice to other forms of service, notice of cancellation is deemed to be served on the third **day** after being posted if sent by pre-paid letter post properly addressed.

### 5.5.2 Restricted terms

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

- a) Long Term Undertaking;
- b) terms which provide for adjustments of premium based upon declarations on expiry or during the **period of insurance**;
- c) coverage in respect of **premises** to locations outside England and Wales and Scotland;

will not apply to losses covered under this **insured section C**.

## 6 Insured section D - Personal accident

### 6.1 Personal accident cover

6.1.1 The **insurer** agrees to pay the **beneficiary** the **benefits** listed in the schedule of compensation in the **schedule** in the event the **insured person**:

- a) dies within twelve (12) months as a result of **injury**;
- b) sustains **permanent total disablement, total loss of sight, total loss of speech, total loss of hearing, total loss of one hand, total loss of one foot, paraplegia or quadriplegia** within twelve (12) months as a result of **injury**;

provided that the accident giving rise to the injury occurs:

- c) during the **period of insurance** and the **policy operative time** and within the **territorial limits**;
- d) **benefits** listed are also limited by the terms of clauses 6.5 and 6.6.

### 6.2 Additional personal accident costs and expenses

Not applicable to this **insured section**.

### 6.3 Extended personal accident losses cover

Not applicable to this **insured section**.

### 6.4 Personal accident limitations and exclusions

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

#### 6.4.1 Accumulated injury

death or **disablement** directly or indirectly resulting from or consequent upon **injury** arising due to the accumulation of a series of **accidents** and/or traumas;

#### 6.4.2 Accumulation limit

any payment in excess of the **accumulation limit** specified in the **schedule**;

#### 6.4.3 Air Travel

death or **disablement** directly or indirectly resulting from or consequent upon the **insured person** engaging in air travel, except as a fare paying passenger in a commercially licensed aircraft;

#### 6.4.4 Alcohol and drugs

death or **disablement**, directly or indirectly resulting from or consequent upon the **insured person**:

- a) being over the legal limit for alcohol, as defined by the **motor vehicle** laws of the state in which this **policy** was delivered or issued for delivery;
- b) being under the influence of drugs or narcotics that are not lawfully available, unless prescribed for the **insured person** by a **healthcare practitioner**;
- c) using performance enhancing substances, including but not limited to anabolic steroids, stimulants and corticosteroids, regardless of whether or not prescribed by a **healthcare practitioner**;

6.4.5 **Arthritis**

death or **disablement** directly or indirectly resulting from or consequent upon osteoarthritis, arthritis or any other degenerative process of the joints, bones, muscles, tendons or ligaments;

6.4.6 **Child death benefit**

death **benefit** under this **insured section D** is limited to and shall not exceed ten thousand pounds (GBP10,000) any one **child**.

6.4.7 **Deliberate exposure**

death or **disablement**, directly or indirectly resulting from or consequent upon deliberate or reckless exposure to danger (except in an attempt to save human life), or the **insured person's own criminal act**;

6.4.8 **Epilepsy and emotional disorders**

death or **disablement** directly or indirectly resulting from or consequent upon stress (work related or otherwise), neuroses, psychoneuroses, psychopathies, psychoses, post traumatic stress disorder or mental or emotional diseases or disorders of any type, or epilepsy;

6.4.9 **Excluded activities**

death or **disablement** directly or indirectly resulting from or consequent upon the **insured person** engaging in or taking part in:

- a) naval, military or air force service or operations, winter sports (other than on piste skiing, on piste snowboarding, skating and curling), skin diving involving the aid of breathing apparatus, snorkelling, rock climbing or mountaineering normally involving the use of ropes or guides, potholing, parachuting, hunting on horseback, or driving or riding in any kind of race, driving or riding on motor cycles or motor scooters other than mopeds, hanggliding, paragliding and parasailing;
- b) any other activity, specifically excluded by endorsement attached to or incorporated in the **schedule** to this insurance;

6.4.10 **Natural causes**

death or **disablement** directly or indirectly resulting from or consequent upon, or attributable to **sickness** or natural causes, including any venereal disease and Hepatitis B, Human Immunodeficiency Virus (HIV), Acquired Immune Deficiency Syndrome (AIDS) or AIDS Related Complex (ARC) or their sequelae howsoever the aforementioned conditions have been acquired or may be named.

6.4.11 **Nuclear risks**

death or **disablement** directly or indirectly resulting from or consequent upon **nuclear hazards**;

6.4.12 **Pre-existing Condition**

death or **disablement** directly or indirectly resulting from or consequent upon any **pre-existing condition** not declared to and accepted in writing by **insurer**, or any **injury** contributed to or aggravated by any specifically excluded or **pre-existing condition**, and any condition or body part specifically excluded by endorsement attached to or incorporated in the **schedule** to this insurance;

6.4.13 **Repetitive strain**

death or **disablement** directly or indirectly resulting from or consequent upon repetitive strain **injury** or syndrome or any other gradually operating cause;

#### 6.4.14 **Suicide and self-inflicted injury**

death or **disablement** directly or indirectly resulting from or consequent upon suicide or attempted suicide, intentional self-inflicted **injury** including self-inflicted **injury** arising from mental illness or intentional **injury** of the **insured person** by the **insured**;

#### 6.4.15 **War and terrorism**

death or **disablement** directly or indirectly resulting from or consequent upon **war** and/or **terrorism**.

### 6.5 **Other personal accident terms and conditions**

#### 6.5.1 **Change of circumstances**

##### a) Change of material facts

At inception of this insurance certain material information was disclosed. It is a condition of the **policy** that there shall be no material change in, or addition to, that information, either before or during the **period of insurance**, except that if the **insured** or its agent informs the **insurer** immediately of any such material change or addition the **insurer** may agree to continue the **policy** on such terms and conditions as it may determine. Remedies for breach of this condition are set out in clause 1.6.

##### b) Change of occupation

If the **insured person** will engage in any **occupation** or activity in which greater risk may be incurred than in the **occupation** declared in the **schedule** without first notifying the **insurer** and obtaining the written agreement of the **insurer** to the amendment of the **policy** (subject to the payment of such reasonable additional premiums as the **insurer** may require as the consideration for such agreement), then no claim will be payable in respect of any **accident** arising out of or in the course of such **occupation** or activity.

#### 6.5.2 **Schedule of compensation restrictions**

##### a) Claiming under more than one (1) item of **benefit**:

- i) If it is possible to claim **benefit** under more than one (1) item of compensation in the schedule of compensation, then the **insured** may elect to claim under any one (1) item of **benefit** that offers the maximum amount of payment except always that the **insurer** is only liable to pay **benefit** under a single item of **benefit** under the schedule of compensation.
- ii) If an **accident** involves the death of the **insured person** prior to the definite settlement of compensation for **disablement**, the **insurer** will pay the **beneficiary** the **benefit** for death as a result of accidental **injury** in the schedule of compensation. If death is not insured no **benefit** will be payable under this insurance.

##### b) Interest

No **benefit** payable under this insurance will carry interest.

##### c) **Benefits** exceeding the **accumulation limit**

Where the aggregate value of **benefit** claimed in respect of all **insured persons** suffering death or **disablement** for the one (1) event exceeds the **accumulation limit**, the amount claimed by each **beneficiary** will be reduced in proportion to the ratio that the **accumulation limit** bears to the total amount claimed.

### 6.5.3 **Medical examination**

After initial notice or submission of an incident or claim, any medical examiner appointed by the **insurer** will be allowed, so often as may be deemed necessary to conduct an examination of the **insured person**; and in the event of accidental death of the **insured person** to conduct an autopsy if legally permitted.

### 6.5.4 **Prior physical disability or condition**

If the consequences of an **injury** are judged by any medical examiner appointed by the **insurer** to be aggravated by any physical disability or condition of the **insured person** which existed before the **injury** occurred, the amount of any benefit payable under this **policy** in respect of the consequences of the **injury** will be reduced by the amount which it is reasonably considered would be attributable to the effect of the prior physical disability or condition of the **insured person** in the course of the claim.

### 6.5.5 **Conditions on payment**

Payment may be made under this **insured section** only after the **beneficiary** has submitted, through the intermediary as stated in the **schedule**, the completed claim form, a general medical release signed by the **insured person**, any other materials requested by the **insurer**, and only after the **insurer** has completed an investigation of such incident or claim and agreed that the claim is covered under the terms and conditions of this **policy**.

### 6.5.6 **Refund by beneficiary**

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

### 6.5.7 **Claim discharge**

The **beneficiary's** receipt will discharge the **insurer**.

### 6.5.8 **Third party rights**

The **insured person** or the **insured person's** personal representatives will have no right to claim from or sue the **insurer** in respect of any benefit payable under this **insured section**.

### 6.5.9 **Compromised settlements**

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

## 6.6 **Conditions precedent for personal accident**

### 6.6.1 **Co-existing accident insurance**

It is a condition precedent to the **insurer's** liability under this **insured section** that the **insured** has no other **accident** insurance with respect to the **insured person** except as specifically declared to the **insurer** at inception or agreed by the **insurer** during the **period of insurance**.

## 7 Insured section E - Employers' liability

### 7.1 Employers' liability cover

7.1.1 The **insurer** agrees to indemnify the **insured** for all sums that the **insured** will become legally liable to pay as damages, including claimant costs recoverable from the **insured**, arising out of **bodily injury** caused during the **period of insurance** and sustained by an **employee** in the course of employment by the **insured** in 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.

### 7.2 Additional employers' liability costs and expenses

7.2.1 Following any event which is or may be the subject of indemnity under clause 7.1.1, whether or not **bodily injury** has occurred, the **insurer** agrees to indemnify the **insured** for **costs and expenses** but the **costs and expenses** form part of the **limit of indemnity** and do not increase the **limit of indemnity**.

### 7.3 Employers' liability extensions

#### 7.3.1 Contractual liability

Where any contract or agreement entered into by the **insured** so requires the **insurer** will:

- a) indemnify the **insured** against liability arising in connection with and assumed by the **insured** by virtue of such contract or agreement but only so far as concerns liability as defined in this **insured section** to **employees** of the **insured**; and
- b) waive rights of subrogation against any party specified in the contract or agreement; provided that the **insured** shall arrange for such other parties as may be indemnified by any such contract or agreement, to observe and fulfil the terms and conditions of this insurance so far as they can apply.

#### 7.3.2 Cross liabilities

For each legal entity comprising the **insured**, the **insurer** will separately indemnify each party under this **insured section** as if a separate **policy** had been issued to each provided that in respect of claims made or **suits** brought against any of them by any other person the **insurer's** total liability to all parties, will not exceed the **limit of indemnity**.

#### 7.3.3 Data Protection Act 1998

The **insurer** will indemnify the **insured** and if the **insured** so requires any **employee** in respect of their liability under the Data Protection Act 1998 ('DPA') to pay:

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

in relation to claims made by an **employee**, provided that:

- c) the **insured** has registered in accordance with the terms of the DPA;
- d) the claim arises from damage or distress caused 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 the **insured** at inception of this **policy**;
  - iv) liability for which indemnity is provided under any other insurance.

#### 7.3.4 **Indemnity to other parties**

At the request of the **insured**, the **insurer** will separately indemnify each **other insured party** provided that the:

- a) **insured** would have been entitled to indemnity by this insurance had the claim or **suit** been made against the **insured**;
- b) **other insured party** is not indemnified under any other insurance or in any other way;
- c) **insurer** has the sole conduct and control of any claim;
- d) **other insured party** agrees it will be bound by this **policy** (other than in respect of premium) as if it were the **insured**.

#### 7.3.5 **Medical treatment**

This insurance extends to indemnify the **insured** and any medical doctor or dentist employed by the **insured** in respect of liability to any person under a contract of service or apprenticeship with the **insured** resulting from treatment given provided that any such doctor or dentist shall as though they were the **insured** be subject to the terms of this **policy** so far as they can apply.

#### 7.3.6 **Principals**

The **insurer** will indemnify any principal of the **insured**, where requested by the **insured**, but only to the extent that liability arises solely out of the work performed for the principal by or on behalf of the **insured** and provided that:

- a) the principal shall as though he were the **insured** observe, fulfil and be subject to the terms and conditions of this **policy** in so far as they can apply; and
- b) the **insurer's** liability under this clause shall in no way operate to increase the **limit of indemnity**;
- c) the principal is not indemnified under any other insurance or in any other way.

#### 7.3.7 **Statutory defence costs including Health and Safety At Work, Etc. Act 1974**

The **insurer** will, with its prior consent which consent will not be unreasonably withheld, indemnify the **insured** and at the request of the **insured** any **other insured party**, in respect of legal **costs and expenses** incurred in defending:

- a) any alleged breach of statutory duty (including any prosecution brought under sections 2 to 8 of the Health and Safety at Work, etc. Act 1974, Health and Safety at Work (Northern Ireland) Order 1978 or similar legislation in the Isle of Man or the Channel Islands) or criminal proceedings brought; and / or

- b) allegations (whether under common law or statute) of manslaughter, corporate manslaughter or corporate homicide made against the **insured** or any **other insured party**;

provided that the prosecution or proceedings relate to:

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

and, the **insurer** will also pay to the **insured**:

- iii) **costs and expenses** of appeal including appeal against improvement and prohibition notices incurred with its written consent which consent will not be unreasonably withheld;
- iv) prosecution costs awarded against the **insured**;

but the indemnity by this clause excludes and does not cover:

- v) circumstances where the **insured** or any **other insured party** is entitled to indemnity by any other legal expenses, motor or employment protection policy;
- vi) in respect of allegations of manslaughter, corporate manslaughter or corporate homicide, any amount in excess of a **limit of indemnity** of GBP1,000,000 any one claim or series of claims arising out of the same prosecution or proceedings;

#### 7.3.8 **Unsatisfied court judgments**

In the event of a judgment for damages being obtained:

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

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

- i) there is no appeal outstanding; and
- ii) the judgment relates to **bodily injury** which would otherwise be indemnified by this **insured section**; and
- iii) the **insurer** will be entitled to take over and prosecute for its own benefit any claim against any other person and the **insured**, the **employee** or the personal representatives of the **employee** will give the **insurer** all the information and assistance the **insurer** may require.

#### 7.3.9 **War and terrorism**

The insurance under clause 7 will cover liability to an **employee** arising from or caused by an act of **war** or **terrorism** provided that the **limit of indemnity** under this clause will not exceed:

- a) GBP5,000,000 anywhere in the world except in travel to, travel in, travel from or working in a **hostile territory**; or

b) GBP1,000,000 arising directly or indirectly whilst in travel to, travel in, travel from or working in a **hostile territory**;  
in respect of:

- i) any one claim against the **insured** or series of claims against the **insured**; and
- ii) any claim or series of claims made by the **insured** under this **insured section**;

arising out of one occurrence.

But where an **employee** is already working in a territory that is subsequently declared to be a **hostile territory** the **limit of indemnity** will remain at GBP5,000,000 provided the **insured** takes all reasonable steps immediately following the declaration to repatriate the **employee** or to remove the **employee** to a safe location as determined by the local peace force or the Foreign & Commonwealth Office.

## 7.4 Employers' liability limitations and exclusions

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

### 7.4.1 Employment practices dispute

liability which arises out of:

- a) a dispute between an employer / prospective employer and **employee** / prospective **employee** referred or capable of being referred to an Employment Tribunal including such appeal courts or tribunals as are available from an Employment Tribunal as provided by the Employment Rights Act 1986; or
- b) a settlement or adjudication of or under the auspices of an Employment Tribunal or ACAS;

and which is or is capable of being insured under a generally available Employment Practices Liability Insurance Policy but this exclusion shall not apply in respect of compensatory damages for **bodily injury** required by the Employers' Liability (Compulsory insurance) Regulations 1998;

### 7.4.2 Fines and penalties

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

### 7.4.3 Limit of indemnity

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

### 7.4.4 North American jurisdiction

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

### 7.4.5 Nuclear hazards

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

### 7.4.6 Offshore work

liability for **bodily injury** or liability which arises directly or indirectly from work **offshore**.

### 7.4.7 Road traffic legislation

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

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

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

#### 7.4.8 **War and 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 clause 7.3.9;

#### 7.4.9 **Workman's compensation or social security payment**

liability for any claims arising out of **bodily injury** that are payable by reason of any workman's compensation scheme, social security scheme or similar insurance scheme arising in connection with, from or due to employment but this exclusion will not apply to payments required to be made to the Compensation Recovery Unit or its successor.

### 7.5 **Other employers' liability terms and conditions**

#### 7.5.1 **Conflict of interest**

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

## 8 Insured section F – Public, products and pollution liability

### 8.1 Public including products and pollution liability cover

The **insurer** agrees to indemnify the **insured** by the terms of this **insured section** against legal liability to pay damages, including claimant costs recoverable from the **insured**, as a result of:

- 8.1.1 **bodily injury, damage or denial of access** that happens during the **period of insurance** and arises out of and in connection with the **business**;
- 8.1.2 **bodily injury or damage** that happens during the **period of insurance** and arising out of or from or in connection with the **insured's products**;
- 8.1.3 **bodily injury, damage or denial of access**, arising out of or from **pollution** occurring during the course of **business** provided that the **pollution** 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**.

### 8.2 Additional public including products and pollution liability costs and expenses

In addition, following any event which is or may be the subject of indemnity under this **insured section F** the **insurer** agrees to indemnify the **insured** for **costs and expenses**, which are payable in addition to the **limit of indemnity**, incurred in respect to any insured event under this **insured section**.

### 8.3 Public including products and pollution liability extensions

#### 8.3.1 Contractual liability

Subject always to the exclusion set out in clauses 8.4.19 and 8.4.20, where any contract or agreement entered into by the **insured** so requires the **insurer** will:

- a) indemnify the **insured** against liability arising in connection with and assumed by the **insured** by virtue of such contract or agreement but only so far as concerns liability as defined in these **insured sections**; and
- b) waive rights of subrogation against any party specified in the contract or agreement; provided that the **insured** shall arrange for such other parties as may be indemnified by any such contract or agreement, to observe and fulfil the terms and conditions of this insurance so far as they can apply.

#### 8.3.2 Cross liabilities

For each legal entity comprising the **insured**, the **insurer** will separately indemnify each party under this **insured section** as if a separate **policy** had been issued to each but in respect of claims made or **suits** brought against any of them but the **insurer's** total liability to all parties, will not exceed the **limit of indemnity**. Further, where requested by the **insured**, the **insurer** will waive all rights of subrogation against a subsidiary of the **insured** or from a subsidiary against the parent (the **insured**).

#### 8.3.3 Data Protection Act 1998

The **insurer** will indemnify the **insured** and if the **insured** so requires any **employee** in respect of liability under the Data Protection Act 1998 ('DPA') to pay compensation for **damage** or distress under section 13 of Part II of the DPA, provided that:

- a) the **insured** has registered in accordance with the terms of the DPA;
- b) a claim is first made against the **insured** during the **period of insurance**;

but the insurance by this extension excludes:

- a) the cost of replacing, reinstating, rectifying or erasing any personal data; or
- b) liability caused by or arising from a deliberate or intentional act or omission of any the **insured** or any **other insured party** which can be reasonably expected to result in a breach of the DPA; or
- c) any **damage** or distress under section 13 alleged or claimed against the **insured** on or prior to the inception date of this **insured section**.

#### 8.3.4 **Environmental statutory liability**

The insurance by this **insured section** is extended to indemnify the **insured** for all sums, including statutory debts, that the **insured** is legally liable to pay for remediation or **preventative costs** 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** 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:
  - i) in respect of **preventative costs** for prevention of imminent threat of environmental damage to the **insured's** land, premises, watercourse or body of water whether owned, leased, hired, tenanted or otherwise in the **insured's** care, custody or control; or
  - ii) in respect of primary, complementary or compensatory remediation for damage to the **insured's** land, premises, watercourse or body of water whether owned, leased, hired, tenanted or otherwise in the **insured's** care, custody or control; or
  - iii) in respect of the removal of any significant risk of an adverse effect on human health on the **insured's** land, premises, watercourse or body of water whether owned, leased, hired, tenanted or otherwise in the **insured's** care, custody or control; or
  - iv) 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; or
  - v) in respect of **preventative costs** for prevention of imminent threat of environmental damage where such sums are incurred without there being any actual occurrence of **pollution, damage** or harm to human health; or
  - vi) in excess of the **limit of indemnity** stated in the **schedule** for any one occurrence which sum shall be the maximum the **insurer** will pay, inclusive of all **costs and expenses**, in the aggregate during any one **period of insurance**.

#### 8.3.5 **Defective Premises Act 1972**

The insurance by this **insured section** is extended to indemnify the **insured** against any liability incurred by the **insured** by virtue of Section 3 of the Defective Premises Act, 1972 or Section 3 of the Defective Premises Measure (Northern Ireland) 1974 or any amendment thereto in connection with **premises** that have been disposed of by the **insured**, except that the **insurer** will not be liable to provide an indemnity for the cost of remedying any defect or alleged defect in such **premises**.

#### 8.3.6 **Financial loss (Including Products)**

The **insurer** will indemnify the **insured** against any liability incurred by the **insured** up to the **limit of indemnity** as stated in the **schedule** for financial loss incurred by others provided that:

- a) a claim is first made against the **insured** during the **period of insurance**; and

- b) such liability arises from or is caused by:
  - i) accidental escape or discharge of any substance or gas from any premises owned or occupied by the **insured**, or
  - ii) accidental stoppage or interference with pedestrian, rail, air, vehicular or waterborne traffic; or
  - iii) accidental obstruction, loss of amenities, trespass, nuisance or similar cause; or
  - iv) such other occurrence that is not a deliberate or intentional act by or omission of any party entitled to indemnity by this **policy** the effect of which will knowingly result in financial loss.

and the insurance by this extension excludes and does not cover:

- c) financial loss incurred in respect of or in consequence of **bodily injury** or **damage** to property;
- d) costs incurred in or in consequence of recalling, replacing or making good products or workmanship performed by the **insured** or on behalf of the **insured**;
- e) fines, penalties or liquidated damages;
- f) liability which attaches by way of any contract or agreement that would not have been attached in the absence of such contract or agreement;
- g) liability resulting from conspiracy, conversion, deceit, inducement of breach of contract, injurious falsehood or infringement of patent, copyright, trademark or name;
- h) claims brought in **North America** arising out of any breach or alleged breach of anti-trust laws;
- i) claims which arise out of circumstances notified to previous insurers or known to the **insured** at inception of this **policy**;
- j) liability arising from any advice, instruction or design:
  - i) given for a fee by the **insured** or on behalf of the **insured** unless relating to any **products** for which indemnity is provided by this policy;
  - ii) given for a fee and for which indemnity is provided by other insurance;

In respect of each and every claim under this extension the **insurer** will not be liable for the first ten (10) per cent of the cost of the claim or the first GBP500 whichever is the greater.

### 8.3.7 **Indemnity to other parties**

At the request of the **insured**, the **insurer** will separately indemnify each **other insured party** provided that the:

- a) **insured** would have been entitled to indemnity by this insurance had the claim or **suit** been made against the **insured**;
- b) **other insured party** is not indemnified under any other insurance or in any other way;
- c) **insurer** has the sole conduct and control of any claim;
- d) **other insured party** agrees it will be bound by this **policy** (other than in respect of premium) as if it were the **insured**.

### 8.3.8 **Leased premises**

The **insurer** will indemnify the **insured** for **damage** to **premises** including landlord's contents, fixtures and fittings not owned by the **insured** but leased or rented by them in the course of the **business** but excluding:

- a) liability for which indemnity is provided under any other insurance or in any other way;
- b) the first GBP100 (or such larger sum that has been agreed overall) of any amount otherwise payable hereunder in respect of each claim other than as a result of fire or explosion;

- c) liability which attaches by way of any contract or agreement that would not have attached in the absence of such contract or agreement.

#### 8.3.9 **Legionella**

Notwithstanding exclusion 8.4.16, the **insurer** will indemnify the **insured** and any **other insured party** for all sums (including claimants' costs and expenses) which the **insured** becomes legally liable to pay in respect of any claim(s) first made against the **insured** and notified to the **insurer** during the **period of insurance** resulting from **legionella** causing **bodily injury, personal injury, damage or denial of access** except that the **insurer** shall not be liable for:

- a) any amount in excess of the sub-limit of **indemnity** any one claim and in the aggregate as specified in the **schedule**;
- b) any claims which arise out of any circumstances notified to previous insurers or known to the **insured** at the inception of this **policy**;
- c) any claims for **bodily injury or personal injury** arising from employment;
- d) any claims made against the **insured** for **legionella** where the insured event giving rise to the claim happened prior to the inception date (From: date) stated in the **schedule**.

#### 8.3.10 **Motor liability**

Notwithstanding **insured sections F** exclusion 8.4.26, the **insurer** agrees to indemnify the **insured** and any **other insured party** in respect of liability arising out of or from:

- a) the use of any mechanically propelled vehicle as a tool or plant; or
- b) the loading or unloading of any mechanically propelled vehicle or trailer when carried out beyond the limits of any carriageway or thoroughfare by a person other than the driver or attendant of any such vehicle or trailer; or
- c) the movement of any mechanically propelled vehicle not owned hired or borrowed by or **leased** to the **insured** or any **other insured party** on or under any **premises** occupied by the **insured** where such vehicle is causing an obstruction and interfering with the performance of the **business**; or
- d) **damage** to visitors' or **employees'** mechanically propelled vehicle (including contents and/or accessories) while parked within any car park for which the **insured** are responsible or on any **premises** occupied by the **insured** provided that:
  - i) such vehicle is not lent or hired to the **insured**; or
  - ii) the **damage** to an **employee's** vehicle does not arise out of the maintenance, operation or use of a vehicle by that **employee**;

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

#### 8.3.11 **Motor contingency liability**

Notwithstanding **insured sections F** exclusion 8.4.26, the **insurer** agrees to indemnify the **insured** and any **other insured party** in respect of liability arising out of or from the operation or use of any mechanically propelled vehicle not owned hired or borrowed by or leased to the **insured** and used in the course of **business** provided that this clause excludes and the **insurer** will not be liable for:

- a) **damage** to such vehicle or to property conveyed therein or thereon; or

- b) **bodily injury** or **damage** arising while such vehicle is being driven by:
  - i) any insured person other than an **employee**; or
  - ii) any person who to the **insured's** knowledge or the knowledge of any director, officer or manager of the **insured** does not hold a licence to drive such vehicle;
- c) **bodily injury** or **damage** caused or arising while such vehicle is:
  - i) engaged in racing, pace-making, reliability trials or speed testing;
  - ii) being used outside the **United Kingdom**;
- d) **bodily injury** or **damage** in respect of which the **insured** or any **other insured party** is entitled to indemnity under any other insurance.

#### 8.3.12 **Overseas liability**

At the request of the **insured** the insurance by this **insured section** is extended to indemnify the **insured** and any of the **insured's employees** or directors (including their family or persons normally resident with them), against legal liability for **bodily 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, damage or denial of access** does not arise out of the ownership or occupation of land or buildings.

#### 8.3.13 **Principals**

The **insurer** will indemnify any principal of the **insured**, where requested by the **insured**, but only to the extent that liability arises solely out of the work performed for the principal by or on behalf of the **insured** and provided that:

- a) the principal shall as though he were the **insured** observe, fulfil and be subject to the terms and conditions of this **policy** in so far as they can apply; and
- b) the **insurer's** liability under this clause shall in no way operate to increase the **limit of indemnity**; and
- c) the principal is not indemnified under any other insurance or in any other way.

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

Notwithstanding the exclusion at clause 8.4.28, the **insurer** agrees to extend coverage under **insured section F** to indemnify the **insured** in respect of liability arising out of or from **damage** to personal effects (including vehicles and their contents) of the **insured's employees, directors, officials, visitors or guests**.

#### 8.3.15 **Statutory defence costs including Health and Safety At Work, Etc. Act 1974**

- a) The **insurer** will, with its prior consent which consent will not be unreasonably withheld, indemnify the **insured** and at the request of the **insured** any **other insured party**, in respect of legal **costs and expenses** incurred 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) allegations (whether under common law or statute) of manslaughter, corporate manslaughter or corporate homicide made against the **insured** or any **other insured party**;

provided that the prosecution or proceedings relate to:

- I. an offence alleged to have been committed during the **period of insurance** and in the course of **business**;
- II. **bodily injury** to, or potential **bodily injury** to persons other than **employees**;

and, the **insurer** will also pay to the **insured**:

III. **costs and expenses** of appeal including appeal against improvement and prohibition notices incurred with its written consent which consent will not be unreasonably withheld;

IV. prosecution costs awarded against the **insured**;

b) The indemnity by this clause excludes and does not cover:

- i) circumstances where the **insured** or any **other insured party** is entitled to indemnity by any other legal expenses, motor or employment protection policy;
- ii) in respect of allegations of manslaughter, corporate manslaughter or corporate homicide, any amount in excess of a **limit of indemnity** of GBP1,000,000 any one claim or series of claims arising out of the same prosecution or proceedings.

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

- 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.

#### 8.3.16 **Work upon third party property**

- a) The words “in the **insured**’s care, custody or control” in exclusion 8.4.28 will not apply in respect of premises and their contents temporarily in the **insured**’s custody possession or control for the purpose of undertaking work. This clause will not apply in respect of premises and their contents belonging to the **insured** or occupied by them as tenants;
- b) liability arising from or caused by **damage** to that part of the premises or contents upon which the **insured** are or have been working resulting directly from the work process.

### 8.4 **Public including products and pollution liability limitations and exclusions**

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

#### 8.4.1 **Airside**

liability for **damage** or **bodily injury** caused by or arising from **airside** activities.

#### 8.4.2 **Advertising injury**

any loss or liability arising from **advertising injury**;

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

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

#### 8.4.4 **Aircraft products**

any loss or liability arising out of any **product** or part thereof which with the **insured**’s knowledge is intended to be incorporated into the structure, machinery or controls of any aircraft or other aerial device or satellite;

#### 8.4.5 **Aircraft and watercraft**

any loss or liability arising out of or from the ownership, possession or use of any aircraft, or other aerial device or satellite, 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 the **insured** but used by them 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;
  - iii) the **insurer** will not indemnify the **insured** in respect of liability which attaches by way of any contract or agreement that would not have attached in the absence of such contract or agreement;

#### 8.4.6 **Asbestos**

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

#### 8.4.7 **Costs and expenses arising from a deliberate act**

**costs and expenses** incurred in proceedings other than in respect of manslaughter, corporate manslaughter or corporate homicide consequent upon any deliberate act or omission by or on behalf of the **insured** or **other insured party** if the result of such act or omission could reasonably have been expected to constitute an offence under any legislation;

#### 8.4.8 **Costs of recall or guarantee**

expenditure, whether incurred by the **insured** or others, for the withdrawal, recall, disposal, removal, repair, adjustment, alteration, reconditioning, replacement, reinstatement of any **product** or part thereof and/or from financial loss consequent upon the necessity for such withdrawal, recall, disposal, removal, repair, adjustment, alteration, reconditioning, replacement or reinstatement;

#### 8.4.9 **Damages arising from a deliberate act**

**bodily injury, damage or denial of access**, and any associated **costs and expenses**, either expected or intended by the **insured** or **other insured party** but this exclusion does not apply to **bodily injury** resulting from the use of reasonable force to protect persons or property;

#### 8.4.10 **Electronic data**

Liability:

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

#### 8.4.11 **Employment practices dispute**

liability which arises out of:

- a) a dispute between an employer / prospective employer and **employee** / prospective **employee** referred or capable of being referred to an Employment Tribunal including such appeal courts or tribunals as are available from an Employment Tribunal as provided by the Employment Rights Act 1986; or
- b) a settlement or adjudication of or under the auspices of an Employment Tribunal or ACAS;

and liability by clause 8.4.11 a) or b) which is capable of being insured under a generally available Employment Practices Liability Insurance Policy;

#### 8.4.12 **Excess**

the first GBP500 of any amount otherwise payable in respect of each and every occurrence (irrespective of the number of claims occasioned thereby) arising from **damage** to property, except in respect of any increased amount shown on the **schedule**,

#### 8.4.13 **Fines, penalties or multiplication of compensatory damages**

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

#### 8.4.14 **Intentional disregard of reasonable precautions**

any insured event or loss arising or arising out of or continuing from the **insured's** deliberate, conscious or intentional disregard of the need to take all reasonable precautions to prevent an insured event or loss arising or continuing;

#### 8.4.15 **Legionella**

**bodily injury, damage** or **denial of access** arising out of, alleging or attributable to the existence of **legionella** except as stated as insured in clause 8.3.7;

#### 8.4.16 **Liability from employment**

**bodily injury** sustained by any **employee** arising out of or in the course of employment by the **insured** in the **business**;

#### 8.4.17 **Limit of indemnity**

liability in excess of the **limit of indemnity** stated in the **schedule** except for payment of **costs and expenses** as provided for by clauses 8.2;

#### 8.4.18 **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 the **insured** or **other insured party** has entered into unless it is proven that, and then only to the extent that, liability would have attached in the absence of such clauses or warranties;

#### 8.4.19 **North America risks**

- a) loss or liability arising from **bodily injury, damage** occurring or **denial of access** within **North America**;
- b) liability arising out of or from or brought about by or contributed to by **pollution** within **North America**;

#### 8.4.20 **North American jurisdiction**

liabilities in respect of any judgment, award, payment, **costs and expenses** or settlement delivered, made or incurred within countries which operate under the laws of

**North America** (or to any order made anywhere in the world to enforce such judgment, award, payment, **costs and expenses** or settlement either in whole or in part);

8.4.21 **Nuclear risks**

- a) loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss;
- b) any legal liability of whatsoever nature;
- c) any sum which the **insured** becomes legally liable to pay or any loss or expense; directly or indirectly caused by or contributed to by or arising from or, in the case of 8.4.22 c) above, attributable to **nuclear hazards**.

8.4.22 **Offshore work**

loss or liability arising from work **offshore**.

8.4.23 **Overseas domiciled operations**

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

8.4.24 **Owned or previously owned premises**

loss or liability for **damage** or **denial of access** caused by or arising from **pollution** to land or **premises** (including land or water within or below the boundaries of such land or **premises**) that are presently or were at any time previously owned, leased, hired or tenanted by the **insured** or otherwise in the **insured's** care, custody or control;

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

**bodily injury, damage** or **denial of access** arising out of or from the ownership, maintenance, operation or use of any mechanically propelled vehicle by or on behalf of the **insured** or any **other insured party**;

8.4.26 **Personal injury**

loss or liability arising from **personal injury**;

8.4.27 **Polychlorinatedbyphenols**

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

8.4.29 **Products and workmanship**

liability for **damage** to and costs incurred in or in consequence of recalling, replacing or making good **products** or workmanship performed by or on behalf of the **insured** arising from a defect or unsuitability thereof and pure financial loss arising therefrom;

8.4.30 **Property in the insured's care, custody and control**

**damage** to property owned, leased, hired or held in trust by the **insured** or under hire purchase or on loan to the **insured** or held otherwise in the **insured's** care, custody or control;

8.4.31 **Use or application of heat**

liability arising from or caused by the use or application of heat away from the **insured's premises**:

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

8.4.32 **War or terrorism**  
**bodily injury, pollution, damage or denial of access** directly or indirectly caused by or contributed to by or arising from **war** or any act of **terrorism**.

## 8.5 **Other Public including products and pollution liability terms and conditions**

Not applicable to this **insured section F**.

## 8.6 **Conditions precedent for Public including products and pollution liability**

### 8.6.1 **Bona fide subcontractors insurance check**

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

- a) covers the work to be undertaken by the bona fide subcontractor;
- b) is subject to a **limit of indemnity** of not less than the **limit of indemnity** provided by this **insured section F**;
- c) includes an 'indemnity to principals' clause,
- d) the insurance is revalidated every twelve (12) months throughout the duration of their contract with the **insured**.

### 8.6.2 **Fork lift truck conditions**

It is a condition precedent to the **insurer's** liability under this insurance that the use of fork lift trucks is subject to the **insured** undertaking to adopt the following procedures

- a) all drivers must be at least eighteen (18) years of age;
- b) all drivers must:
  - i) complete a training course in the safe use of fork lift trucks through an Accredited Training Provider belonging to one of the five accrediting bodies as recognised by the Health & Safety Executive,
  - ii) complete a refresher course within five (5) years of the initial training programme,and the **insured** must retain appropriate documentation verifying completion thereof;
- c) whenever a fork lift truck is unattended
  - i) the ignition keys must be removed, or
  - ii) the vehicle otherwise immobilised,to prevent unauthorised use. For the purpose of this clause unattended means that the fork lift truck is out of sight of the driver and / or more than one (1) minute's walking distance from the driver;
- d) 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;
- e) all drivers must engage safety restraints.

### 8.6.3 **Skip hire conditions**

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

- a) in connection with the use ownership or hiring out of skips the **insured** must at all times observe and comply with the requirements of the Roads (Scotland) Act 1984 or

the Highways Act 1971 as amended by the Highways Act 1980 or any other statutory regulations or local bye-laws and must ensure that;

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

## 9 Insured section G – Legal expenses

### 9.1 Commercial legal protection cover

- 9.1.1 This **insured section** will cover the **insured person** in respect of any **insured incident** arising in connection with the **business** shown in the **schedule** if the premium has been paid.
- 9.1.2 **DAS** agrees to provide the insurance in this **insured section** in accordance with the operative covers shown in the **schedule** as long as:
- a) the **date of occurrence** of the **insured incident** happens during the **period of insurance** and within the **territorial limit**; and
  - b) any legal proceedings will be dealt with by a court, or other body which **DAS** agree to, in the **territorial limit**; and
  - c) in civil claims it is always more likely than not that an **insured person** will recover damages (or obtain any other legal remedy which **DAS** have agreed to) or make a successful defence; and
  - d) the liability of the **insurer** for all claims resulting from one or more event, at the same time or from the same originating cause shall not exceed GBP100,000.
- 9.1.3 For all **insured incidents**, **DAS** will help in appealing or defending an appeal as long as the **insured person** tells **DAS** within the time limits allowed that they want **DAS** to appeal. Before **DAS** pay any **costs and expenses** for appeals, **DAS** must agree that it is always more likely than not that the appeal will be successful.
- 9.1.4 If a **representative** is used, **DAS** will pay the **costs and expenses** incurred for this.
- 9.1.5 **DAS** will pay compensation awards that **DAS** have agreed to.

### Insured Incidents the Company will cover

### 9.2 Employment disputes and compensation awards

#### 9.2.1 Employment disputes

**DAS** will defend the **insured's** legal rights:

- a) prior to the issue of legal proceedings in a court or tribunal following the dismissal of an **employee**; or
- b) in the resolution of unfair dismissal disputes under the ACAS Arbitration Scheme; or
- c) in legal proceedings in respect of any dispute with
  - i) an **employee** or ex-**employee** or a trade union acting on behalf of an **employee** or ex-**employee** which arises out of, or relates to, a contract of employment with the **insured**; or
  - ii) an **employee**, prospective **employee** or ex-**employee** arising from an alleged breach of their statutory rights under employment legislation.

#### 9.2.2 Compensation awards

**DAS** will pay:

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

in respect of a claim **DAS** have accepted under **insured incident** 9.2.1.

9.2.3 Provided that for insurance granted by 9.2.2:

- a) in cases relating to performance and/or conduct, the **insured** has throughout the employment dispute either:
  - i) followed the ACAS Code of Disciplinary and Grievance Procedures as prepared by the Advisory Conciliation and Arbitration Service; or
  - ii) followed equivalent codes of practice issued by the Labour Relations Agency in Northern Ireland; or
  - iii) sought and followed advice from the **DAS** legal advice service.
- b) for an order of compensation following the **insured's** breach of statutory duty under employment legislation the **insured** has at all times sought and followed advice from the **DAS** legal advice service since the date when the **insured** should have known about the employment dispute;
- c) for any compensation award for redundancy or alleged redundancy or unfair selection for redundancy, the **insured** has sought and followed advice from the **DAS** claims department prior to serving notice of redundancy;
- d) the compensation is awarded by a tribunal or through the ACAS Arbitration Scheme, under a judgment made after full argument and otherwise than by consent or default, or is payable under settlement approved in writing in advance by **DAS**;
- e) the total of the compensation awards payable by the **insurer** shall not exceed GBP1,000,000 in any one **period of insurance**.

9.2.4 **Service Occupancy**

**DAS** will negotiate for the **insured's** legal rights against an **employee** or **ex-employee** to recover possession of premises owned by, or for which the **insured** is responsible.

9.3 **Statutory licence protection**

**DAS** will represent the **insured** in appealing to the relevant statutory or regulatory authority, court, or tribunal following a decision by a licensing or regulatory authority to suspend, or alter the terms of, or refuse to renew, or cancel the **insured's** licence, mandatory registration or British Standard Certificate of Registration.

9.4 **Debt recovery**

**DAS** will negotiate for the **insured's** legal rights including enforcement of judgment to recover money and interest due from the sale or provision of goods or services provided that:

- a) the debt exceeds GBP250;
- b) a claim for debt recovery under this **insured section** is made within ninety (90) days of the money becoming due and payable;
- c) **DAS** have the right to select the method of enforcement, or to forego enforcing judgment if **DAS** are not satisfied that there are, or will be, sufficient assets available to satisfy judgment.

9.5 **Bodily injury**

At the **insured's** request, **DAS** will negotiate for an **insured person's** and their family members' legal rights following an event which causes the death of, or **bodily injury** to them.

9.6 **Tax protection**

9.6.1 **Full or aspect enquiries**

**DAS** will negotiate on behalf of the **insured** in respect of a **full enquiry** and/or **aspect enquiry** and represent them in any subsequent appeal proceedings.

## 9.6.2 Employers' compliance

**DAS** will negotiate on behalf of the **insured** and represent them in any appeal proceedings in respect of a dispute concerning the **insured's** compliance with Pay As You Earn or Social Security Regulations following a review by HM Revenue & Customs.

## 9.6.3 VAT disputes

**DAS** will negotiate on behalf of the **insured** and represent them in any appeal proceedings following an assessment issued by HM Revenue & Customs in respect of value added tax due.

provided that:

- a) for all **insured incidents**, the **insured** has taken reasonable care to ensure that all returns are complete and correct and that such returns are submitted within the statutory time limits allowed;
- b) **DAS** will not pay more than GBP2,000 for claims in respect of **aspect enquiries**.

## 9.7 Commercial legal protection limitations and exclusions

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

### 9.7.1 in respect of clause 9.2.1 Employment disputes:

- a) any employment dispute where the cause of action arises within the first ninety (90) days of the indemnity provided by this **insured section**;
- b) any dispute with an **employee** who was subject to a written or oral warning (formal or informal) within one hundred and eighty (180) days immediately preceding the inception date of the indemnity provided by this **insured section** if the **date of occurrence** was within the first one hundred and eighty (180) days of the indemnity provided by this **insured section**;
- c) any redundancy or alleged redundancy or unfair selection for redundancy arising within the first one hundred and eighty (180) days of the indemnity provided by this **insured section**;
- d) any claim in respect of damages for personal injury or loss of or damage to property;
- e) any claim arising from or relating to any transfer of business which falls within the scope of the Transfer of Undertakings (Protection of Employment) Regulations 2006 or the Transfer of Employment (Pension Protection) Regulations 2005.

### 9.7.2 in respect of clause 9.2.2 Compensation awards:

- a) any compensation award relating to the following:
  - i) trade union activities, trade union membership or non-membership;
  - ii) pregnancy or maternity 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;
  - v) statutory rights in relation to Sunday shop and betting work.
- b) non-payment of money due under the relevant contract of employment or statutory provision relating thereto;
- c) any award ordered because the **insured** has failed to provide relevant records to **employees** under the National Minimum Wage laws;
- d) any compensation award or increase in compensation award ordered by the tribunal for failure to comply with a recommendation it has made, including non-compliance with a reinstatement or re-engagement order.

- 9.7.3 in respect of clause 9.2.4 Service occupancy:  
any claim relating to defending the **insured's** legal rights other than defending a counter-claim.
- 9.7.4 in respect of clause 9.3 Statutory licence protection:
- a) 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**.
- 9.7.5 in respect of clause 9.4 Debt recovery:
- a) any debt arising from an agreement entered into prior to the inception date of the indemnity provided by this **insured section** if the debt is due within the first ninety (90) days of the indemnity provided by this **insured section**;
  - b) any claim relating to the following:
    - i) the settlement payable under an insurance policy;
    - ii) a lease, licence or tenancy of land or buildings;
    - iii) a loan, mortgage, pension or any other financial product and choses in action;
    - iv) a motor vehicle owned by, or hired or leased to, the **insured**.
  - c) a dispute which arises out of the supply, hire, sale or provision of computer hardware, software, systems or services;
  - d) the recovery of money and interest due from another party where the other party intimates that a defence exists.
- 9.7.6 in respect of clause 9.5 Bodily injury:  
any claim relating to the following:
- a) any illness or **bodily injury** which develops gradually or is not caused by a specific or sudden accident; or
  - b) defending an **insured person's** or their family members' legal rights other than in defending a counter-claim; or
  - c) a motor vehicle owned or used by, or hired or leased to an **insured person** or their family members.
- 9.7.7 in respect of clause 9.6 Tax protection:
- a) in respect of **aspect enquiries** the first GBP200 of **costs and expenses** in each and every claim;
  - b) any **insured incident** arising from a tax avoidance scheme;
  - c) any **insured incident** caused by the failure of the **insured** to register for value added tax;
  - d) any **insured incident** arising from any investigation or enquiries undertaken by HM Revenue & Customs, Special Investigation Section or Special Civil Investigations or the Revenue & Customs Prosecution Office;
  - e) any **insured incident** arising from any investigation or enquiry by HM Revenue & Customs into alleged dishonesty or alleged criminal offences.
- 9.7.8 in respect of **insured section G**:
- a) any claim reported to **DAS** more than one hundred and eighty (180) days after the date the **insured person** should have known about the **insured incident**;
  - b) any **costs and expenses** incurred before the written acceptance of a claim by **DAS**;

- c) fines, penalties, compensation or damages which the **insured person** is ordered to pay by a court or other authority other than compensation awards as covered under **insured incident 9.2.2** compensation awards;
- d) any claim relating to patents, copyrights, trademarks, merchandise marks, registered designs, intellectual property, secrecy and confidentiality agreements;
- e) any claim relating to rights under a franchise or agency agreement entered into by the **insured**;
- f) any **insured incident** deliberately or intentionally caused by an **insured person**;
- g) a dispute with the **insurer** or **DAS** not otherwise dealt with under clause 9.8.2 o) of this **insured section**;
- h) any claim relating to a shareholding or partnership share in the **insured** unless such shareholding was acquired under a scheme open to all **employees** of the **insured** or a substantial number of them of a certain minimum grade other than the directors or partners of the **insured**;
- i) judicial review;
- j) legal action an **insured person** takes which **DAS** or the **representative** has not agreed to or where the **insured person** does anything that hinders **DAS** or the **representative**;
- k) any claim relating to any non-contracting party's right to enforce all or any part of this **policy**. The Contracts (Rights of Third Parties) Act 1999 does not apply to this **insured section**;
- l) when either at the commencement of or during the course of a claim, the **insured** is bankrupt or has filed a bankruptcy petition or winding-up petition, or has made an arrangement with its creditors, or has entered into a deed of arrangement or is in liquidation or part or all of its affairs or property are in the care or control of a receiver or administrator;
- m) any claim covered under any other policy, or any claim that would have been covered by any other policy if this **insured section** did not exist.

#### 9.7.9 **Contract disputes**

Any claim relating to a contractual dispute arising from a contractual agreement or an alleged agreement which has been entered into by the **insured** or on behalf of the **insured**.

### 9.8 **Other commercial legal protection cover terms and conditions**

#### 9.8.1 An **insured person** must:

- a) keep to the terms and conditions of this **insured section**;
- b) notify **DAS** immediately of any alteration which may materially affect their assessment of the risk;
- c) take reasonable steps to keep any amount that **DAS** have to pay as low as possible;
- d) try to prevent anything happening that may cause a claim;
- e) send everything that **DAS** ask for, in writing;
- f) give **DAS** full details of any claim as soon as possible and give them any information that they need.

#### 9.8.2

- a) **DAS** can take over and conduct in the name of the **insured person**, any claim or legal proceedings at any time. **DAS** can negotiate any claim on behalf of an **insured person**.

- b) **DAS** will choose the **representative** to represent an **insured person** in any proceedings where the **insurer** may be liable to pay a compensation award. In any other case an **insured person** is free to choose a **representative** (by sending **DAS** a suitably qualified person's name and address) if **DAS** agree to start legal proceedings and it becomes necessary for a lawyer to represent the interest of an **insured person** in those proceedings, or there is a conflict of interest.
- c) before an **insured person** chooses a lawyer or an accountant, **DAS** can appoint a **representative**.
- d) any **representative** will be appointed by **DAS** and represent an **insured person** according to **DAS**' standard terms of appointment (which may include a 'no win, no fee' agreement). The **representative** must co-operate fully with **DAS** at all times.
- e) **DAS** will have direct contact with the **representative**;
- f) an **insured person** must co-operate fully with **DAS** and with the **representative** and must keep **DAS** up-to-date with the progress of the claim;
- g) an **insured person** must give the **representative** any instructions that **DAS** require;
- h) an **insured person** must tell **DAS** if anyone offers to settle a claim and must not agree to any settlement without written consent from **DAS**;
- i) if an **insured person** does not accept a reasonable offer to settle a claim, the **insurer** may refuse to pay further **costs and expenses**;
- j) **DAS** may decide to pay the **insured person** the amount of damages that the **insured person** is claiming or is being claimed against them instead of starting or continuing legal proceedings;
- k) If **DAS** asks, an **insured person** must tell the **representative** to have **costs and expenses** taxed, assessed or audited.
- l) An **insured person** must take every step to recover **costs and expenses** that **DAS** have to pay and must pay **DAS** any **costs and expenses** that are recovered.
- m) If a **representative** refuses to continue acting for an **insured person** with good reason or if an **insured person** dismisses a **representative** without good reason, the cover **DAS** provides will end at once, unless **DAS** agree to appoint another **representative**.
- n) If an **insured person** settles a claim or withdraws their claim without the agreement of **DAS**, or does not give suitable instructions to a **representative**, the cover **DAS** provides will end at once and **DAS** will be entitled to re-claim any **costs and expenses** paid by them.
- o) If there is a disagreement about the way that **DAS** handle a claim that is not resolved through the **DAS** internal complaints procedure, **DAS** and the **insured person** can choose a suitably qualified person to arbitrate. **DAS** and the **insured person** must both agree to the choice of this person in writing. Failing this, **DAS** will ask the president of a national association relevant to the arbitration to choose a suitably qualified person. All costs of resolving the matter must be paid by the party whose argument is rejected. If the decision is not clearly made against either party, the arbitrator will decide how the costs are shared.
- p) **DAS** may at their discretion require the **insured** to obtain an opinion from counsel at the **insured's** expense as to the merits of a claim or proceedings. If counsel's opinion indicates that there are reasonable grounds for the pursuit or defence of a claim or proceedings, the cost of obtaining the opinion will be paid by **DAS**.
- q) All Acts of Parliament within this **insured section** wording shall include equivalent legislation in Scotland, Northern Ireland, the Isle of Man or the Channel Islands as the case may be.

## HELPLINE SERVICES

**DAS** provide these services twenty four (24) hours a day, seven (7) days a week during the **period of insurance**. To help **DAS** check and improve these standards, **DAS** record all calls.

### EUROLAW COMMERCIAL LEGAL ADVICE

**DAS** will give the **insured** confidential legal advice over the phone 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.

### TAX ADVICE

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

### BUSINESS ASSISTANCE

In the event of an unforeseen emergency affecting the **insured's** business premises which causes damage or potential danger, **DAS** will contact a suitable repairer or contractor and arrange assistance on behalf of the **insured**. All costs of assistance provided are the responsibility of the **insured**.

**To contact the above services, phone DAS on 0117 927 1867 quoting your policy number.**

### COUNSELLING

**DAS** will provide all **employees** (including any members of their immediate family who permanently live with them) of the **insured** with a confidential counselling service over the phone including, where appropriate, onward referral to relevant voluntary and/or professional services.

**To contact the counselling helpline, phone DAS on 0117 934 2121. These calls are not recorded.**

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

### EMPLOYMENT MANUAL

The online Employment Manual facility offers comprehensive guidance on rapidly changing employment law. To view this, please visit the **DAS** 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 **DAS** will contact you by email to inform you of future updates to the information.

### DASBUSINESSLAW

At [www.dasbusinesslaw.co.uk](http://www.dasbusinesslaw.co.uk) you will find a wide range of letter, articles and reference information, as well as interactive document builders designed to help you run your business.

The service also provides useful tools 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.

Access the DASbusinesslaw website at [www.dasbusinesslaw.co.uk](http://www.dasbusinesslaw.co.uk). Please insert your QBE policy number prefixed by "QBE" and the password is DAS472301.

## Customer Satisfaction

**DAS** will always try to give you a quality service. If you think that **DAS** have let you down, please write to:

Customer Relations Department  
DAS Legal Expenses Insurance Company Limited  
DAS House  
Quay Side  
Temple Back  
Bristol  
BS1 6NH

Or you can telephone **DAS** on 0117 934 0066 or email at [customerrelations@das.co.uk](mailto:customerrelations@das.co.uk).

Details of the **DAS** internal complaint handling procedures are available on request.

**DAS** is authorised and regulated by the Financial Services Authority.

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

Except for the insurance granted by **insured section E**, the due observance and fulfilment of the provisions of clause 10 is a condition precedent to the **insurer's** liability for any claim under this **policy**. Clause 11.16 sets out consequences of a failure to comply with conditions precedent or **policy** provisions such as clause 10.

### 10.1 Claim notification – insured sections A – C

10.1.1 The **insured** will give notice in writing or by an agreed electronic medium, to the **insurer**:

- a) within seven (7) **days** in respect of **damage** caused by **insured peril** of riot;
- b) as soon as practical but in any event within thirty (30) days of the event giving rise to the claim in respect of **damage** caused by any **insured peril** other than riot; and
- c) as soon as practical but in any event within thirty (30) days of the event giving rise to any other claim.

10.1.2 In respect of **damage** caused by theft or malicious persons the **insured** 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.

10.1.3 Notice to the **insurer** must be given to the claims notification addresses specified in the **schedule**.

### 10.2 Claim notification – insured section D

10.2.1 The **insured** will give notice in writing or by an agreed electronic medium, to the **insurer** as soon as reasonably practicable or at least within ninety (90) days from the date of **injury** of the **insured person** that causes or may cause death or **disablement** insured by this **policy**.

10.2.2 In the event of **disablement**, claims other than first notice must be presented to the **insurer** for settlement within twelve (12) months of the date of the original **injury** giving rise to such claim under this **policy**, unless otherwise agreed by the **insurer**.

10.2.3 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 **injury** giving rise to such claim under this insurance, unless otherwise agreed by **insurer**.

10.2.4 Notice to the **insurer** must be given to the claims notification addresses specified in the **schedule**.

### 10.3 Claim notification – insured sections E and F

10.3.1 The **insured** will give notice in writing or by an agreed electronic medium, to the **insurer**:

- a) immediately on or not later than forty eight (48) hours from, receipt of notice of any impending inquest, fatal **accident** inquiry, prosecution or other legal proceedings that includes alleged **bodily injury**;
- b) as soon as practical but in any event within seventy two (72) hours from coming in possession of actual knowledge that notice of an Industrial Tribunal hearing includes alleged **bodily injury** or **personal injury**;
- c) immediately on, or not later than seventy two (72) hours from, the **insured's** actual knowledge of any death or **bodily injury** to any **employee** involving a stay in hospital in excess of three (3) days;

- d) as soon as practical but in any event within thirty days (30) days after any other accident, event or the coming in possession of actual knowledge of **bodily injury, personal injury or damage**, with full particulars thereof;

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

10.3.2 The **insured** will give notice by an agreed electronic medium, to the **insurer** not later than forty eight (48) hours from, the **insured's** notification to the authorities of any **RIDDOR** incident.

10.3.3 Notice to the **insurer** must be given to the claims notification addresses specified in the **schedule**.

#### **10.4 Claim notification – insured section G**

To make a claim under your policy please telephone **DAS** on 0117 927 1867. **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 **insured section G** **DAS** will provide you with a claim reference number. At this point **DAS** will not be able to confirm that you are covered but will pass the information you have given to their claims handling teams and explain what to do next.

If you would prefer to report your claim in writing please send it to:

The Claims Department, DAS Legal Expenses Insurance Company Limited, DAS House, Quay Side, Temple Back, BS1 6NH.

Alternatively you can email your claim to [newclaims@das.co.uk](mailto:newclaims@das.co.uk).

##### **If you need help from DAS**

You can phone **DAS** any time on 0117 927 1867 for advice on any commercial legal or tax problem affecting your business.

##### **When DAS cannot help**

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

#### **10.5 Insured's duties – insured sections A and F**

10.5.1 For each and every claim or **RIDDOR** incident, the **insured** and any person acting on behalf of the **insured** must:

- a) not admit responsibility, liability, make an offer or promise, nor offer payment or indemnity without the written consent of the **insurer**;
- b) not incur any expense without the consent of the **insurer** except at the **insured's** own cost;
- c) on the happening of any **damage** in consequence of which a claim is or may be made under **insured section B** the **insured** will with due diligence do and concur in doing and permit to be done all things which may be reasonably practicable to minimise or check any interruption of or interference with the **business** or to avoid or diminish the loss;
- d) always act honestly, there being no rights to any form of payment or indemnity under the **policy** in the event that any claim is made fraudulently;
- e) give all such information, assistance and forward all documents to enable the **insurer** to investigate, settle or resist any claim as the **insurer** may require;
- f) provide such proofs and information with respect to the claim as may reasonably be required together with (if demanded) a statutory declaration of the truth of the claim and any matters connected therewith;

- g) not destroy evidence or supporting information or documentation without the **insurer's** prior consent; nor destroy any plant or other property relating to an occurrence, loss or **suit** that may give rise to a claim under this **policy**;

10.5.2 In addition to the above, for each and every claim under **insured section D** it is agreed that:

- a) the **insured** must arrange for the **insured person** to place himself/herself as early as possible under the care of a **health care practitioner**;
- b) the **insured** must fully co-operate with and assist the **insurer** in the investigation and evaluation of the incident or claim including:
  - i) in the event of death by **accident**, obtaining a copy of the death certificate and any other records deemed necessary by the **insurer**,
  - ii) obtaining any other records the **insurer** deems necessary to evaluate the incident or claim;
  - iii) procuring the full co-operation and assistance of the **insured person** and / or the **beneficiary** as required by the **insurer**.

## 10.6 Claim Procedure

Unless stated otherwise all claims will be handled and overseen by the **insurer**. For each and every claim the **insured** and any person acting on behalf of the **insured** must:

10.6.1 For **insured sections A – C**, within thirty (30) days after **damage** (or expiry of the **indemnity period** in the case of **business** interruption) or such further time as the **insurer** may in writing allow, at the **insured's** own expense, deliver to the **insurer** a claim in writing, containing as particular an account as may be reasonably practical of the several articles or portions of property damaged and the amount of the **damage** thereto respectively, having regard to their value at the time of the **damage** together with any details of any other insurance on any **property insured** provide, such proofs and information with respect to the claim as may reasonably be required together with (if demanded) a statutory declaration of the truth of the claim and any matters connected therewith;

10.6.2 For **insured sections E and F**,

- a) immediately send the **insurer** copies of any request, demand, order, notice, summons, legal paper and all documents relating thereto in connection with an insured event as soon as received by the **insured**. In addition the **insured** must co-operate with the **insurer** or their appointed agents to allow them to comply with such relevant practice directions and pre-action protocols as may be issued and approved from time to time by the head of civil justice;
- b) authorise the **insurer** to obtain medical records or other pertinent information upon request but only where legally permitted to do so in the event of an insured event involving **bodily injury**;

10.6.3 prove, if it is alleged that an event is not covered or that the indemnity is otherwise limited being **war** or an act of **terrorism** that the said exclusion or **limit of indemnity** does not apply, it being understood and agreed that any portion of an exclusion or **limit of indemnity** being found invalid, inapplicable or unenforceable will not in any way render the remainder of the exclusion or limit invalid, inapplicable or unenforceable.

## 10.7 Insurer's rights - insured sections A and F

10.7.1 The **insurer** will be under no obligation to investigate any potential claims or to undertake the conduct of any proceedings in connection with such claims and will be at liberty in all cases to leave the conduct of such proceedings wholly to the **insured** upon

such conditions as regards the payment of opponent's costs and with such liberty to bind the **insurer** by compromise as the **insurer** may in its absolute discretion determine.

- 10.7.2 The **insurer** may at any time pay the **limit of indemnity** or **sum insured** (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 **insured section**) for payment of **costs and expenses** incurred prior to the date of payment.

## 10.8 Disputed defence or appeal - insured sections A and F

If any dispute arises between the **insured** and the **insurer** as to whether a prosecution should be defended or an appeal made, such dispute will be referred to a Queen's Counsel 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.

## 10.9 Excess

- 10.9.1 If the insured event forms the subject of indemnity under more than one of **insured sections F**, the **insured's** maximum liability for the **excess** will be the highest applicable **excess**.
- 10.9.2 If settlement of an insured event investigated or defended by the **insurer** under **insured sections F** does not exceed the amount of the applicable **excess** the **insured** will pay, or reimburse the **insurer** for, as applicable, any **costs and expenses** and paid damages including claimant costs recoverable from the **insured** and incurred in connection with such insured event.

## 10.10 Subrogation - insured sections A and F

- 10.10.1 Except as provided by clauses 7.3.1, for each and every claim the **insured**, any **other insured party** and any person acting on their 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.
- 10.10.2 The **insured** or any **other insured party** will at the request and expense of the **insurer** do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the **insurer** for the purpose of enforcing any rights and remedies or of obtaining relief or indemnity from other parties to which the **insurer** will be or would become entitled or subrogated upon its paying an indemnity under this **policy**, whether such acts and things will be or become necessary or required before or after their indemnification by the **insurer**.
- 10.10.3 In the event of any payment under this insurance, the **insurer** will act in concert with all other interested persons (including the **insured**) concerned in the exercise of any rights of recovery.
- 10.10.4 The apportioning of any amounts which may be so recovered will follow the principle that any interested persons (including the **insured**) that will have paid an amount over and above any payment hereunder, will first be reimbursed up to the amount paid by them; the **insurer** is then to be reimbursed out of any balance then remaining up to the amount paid hereunder; lastly, the interested persons (including the **insured**) to whom this coverage is in excess shall be entitled to claim the residue, if any.
- 10.10.5 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.

## 11 General terms and conditions

### 11.1 Adjustment of premium

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

### 11.2 Applicable law

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

### 11.3 Assignment

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

### 11.4 Cancellation

The **insurer** may at any time during the **period of insurance** serve written notice on the **insured** at the address shown on the **schedule** cancelling the **policy** with effect from the seventh (7<sup>th</sup>) day after service of the notice. Such cancellation shall not affect the coverage or premium attributable under this insurance to the period prior to cancellation. Upon demand the **insurer** will return to the **insured** a part of any premium paid in excess of that proportionate to the pre-cancelled portion of the **policy**. Without prejudice to any other forms of service, the notice of cancellation is deemed to be served on the third (3<sup>rd</sup>) day after being posted if sent by pre-paid letter post properly addressed.

### 11.5 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 the **insurer** and **insured** may amend, cancel or lapse this insurance without giving notice to, or requiring the consent of, any other third party.

### 11.6 Contribution

11.6.1 If at the time of any claim under **insured sections A-C** there will be any other insurance covering the same risk or any part thereof the **insurer** will not be liable for more than its rateable proportion. Nothing herein will be construed to make the insurance by this section subject to the terms, limitations, conditions and definitions of any other insurance except that if any other insurance will be subject to any condition of average, then the insurance by any **insured section** if not already subject to a condition of average will be subject to average in like manner.

11.6.2 If at the time of any claim under **insured section F** there is any other valid and collectible insurance available to the **insured** or any **other insured party** other than insurance that is specifically stated to be in excess of this **policy** and names the **insured** for the insurance, then the insurance afforded by this **policy** will be in excess of and will not contribute with such other insurance.

## 11.7 Document management

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

## 11.8 Disclosure under the Data Protection Act 1998

11.8.1 The **insurer** records and holds data in accordance with the Data Protection Act 1998 and follows strict security procedures in the storage and disclosure of information provided to prevent unauthorised access or loss of such information. The **insurer** may find it necessary to pass data to other firms or businesses that supply products and services associated with this **policy**.

11.8.2 Further, by accessing and updating various databases the **insurer** may share information with other firms and public bodies, including the police, in order to substantiate information and prevent or detect fraud. 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 databases. Details of databases accessed or contributed to are available on request.

## 11.9 Dispute resolution

11.9.1 All matters in dispute between the **insured, other insured parties** and the **insurer** arising out of or in connection with 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 that the reference, conduct and any settlement of the dispute at mediation will be conducted in confidence.

11.9.2 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.

11.9.3 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 be determined and be subject to the exclusive jurisdiction of the High Court, London.

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

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

## 11.11 Fraud

If the claim is in any respect fraudulent or if any fraudulent means or devices are used by the **insured** or anyone acting on their behalf to obtain any benefit under this **policy** or if any liability, loss, destruction or **damage** is occasioned by wilful act or with the connivance of the **insured** there will be no rights to any form of payment or indemnity under this **policy**.

Further any claim paid to the **insured** in respect of any fraudulent means or device must be repaid to the **insurer**.

#### **11.12 Inspection and audit**

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

#### **11.13 Legal action against the insurer**

11.13.1 In respect of liabilities covered by this insurance, no one may bring a legal action against the **insurer** until the amount of the **insured's** or an **other insured party's** liability has finally been determined or agreed.

11.13.2 No one has the right under this **policy** to bring the **insurer** into an action to determine the **insured's** liability.

#### **11.14 Material alteration**

This insurance will be voidable if after the commencement of this insurance the risk of **damage, bodily injury, personal injury or advertising injury** or liability is increased by any act or omission of the **insured** unless such change of circumstances has been expressly acknowledged and accepted in writing or by electronic medium for and on behalf of the **insurer**.

#### **11.15 Minimisation of risk**

11.15.1 The **insured** will take all reasonable steps at its own expense to prevent an insured event:

- a) arising (not applicable to **insured section E**); or
- b) continuing.

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

#### **11.16 Observance**

11.16.1 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 the **insured**, or are already described in the **policy** as conditions precedent, will be a condition of this **policy**. Any waiver by the **insurer** of any provision will not prevent the **insurer** from relying on such term or condition or condition precedent in the future.

11.16.2 Further where an indemnity is provided to an **other insured party** the **insured** will arrange for each party to comply with the terms, conditions and conditions precedent of this insurance so far as they can apply providing always that the **other insured party** complies with the terms of clause 10 (Duties in the event of a claim or potential claim).

11.16.3 In the event of a breach of any provision in the **policy**, and without prejudice to any other rights of the **insurer**, the **insurer** may reject or reduce claims connected with the breach, providing the **insurer** can demonstrate some prejudice, and continue the **policy** on such terms as it may determine and if any payment on account of any such claim has

already been made the **insured** will repay forthwith all payments on account to the **insurer**.

#### **11.17 Recovery of benefits**

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

#### **11.18 Representation**

The **insured** will act on behalf of all **other insured parties** under this **policy** with respect to the giving and receiving of any notices from the **insurer** or their representatives including any notice of cancellation. The payment to the **insured** of any return premium that may be payable under this **policy** will satisfy the **insurer's** obligations to return premium to any **other insured party**.

#### **11.19 Subscribing insurer**

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

## 12 General definitions and interpretation

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

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

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

### 12.1 Accident

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

### 12.2 Accumulation limit

Accumulation limit means the maximum amount of **benefits** payable by the **insurer** irrespective of the number of **insured's** and/or **insured persons** claiming where a single event, or series of events in a twenty (20) kilometres radius originating from the same proximate cause, occurs and where:

- 12.2.1 within twenty-four (24) consecutive hours of the event; or
- 12.2.2 within twenty-four (24) consecutive hours of the first event in the series of events causes death, **injury** and/or **sickness** to more than one (1) **insured person**.

### 12.3 Advertising injury

Advertising injury means:

- 12.3.1 oral, broadcast, telecast or written publication of material that slanders or libels a person or disparages a person's goods, **products** or services;
  - 12.3.2 oral, broadcast, telecast or written publication of material that violates an individual's right of privacy;
  - 12.3.3 misappropriation of advertising ideas or style of doing business;
  - 12.3.4 infringement of copyrighted advertising materials, titles or slogans;
- in the course of advertising the **insured's** goods, **products** or services.

### 12.4 Airside

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

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

## 12.5 All other contents

All other contents means and is deemed to include:

- 12.5.1 **documents**, but only for the value of the materials together with the cost of clerical labour and/or computer time expended in reproducing such records (excluding any expenses in connection with the production of information to be recorded therein) and not for the value to the insured of the information contained therein, for an amount not exceeding GBP50,000;
- 12.5.2 patterns, models, moulds, plans and designs for an amount not exceeding the cost of the labour and materials expended in reinstatement;
- 12.5.3 and so far as the same are not otherwise insured, personal property of principals, **employees**, partners or directors of the **insured** or visitors for an amount not exceeding GBP1,000 in respect of the property of any one person.

## 12.6 Annual gross revenue

Annual gross revenue means the **gross revenue, trend adjusted**, during the twelve (12) months immediately before the date of the **damage**.

## 12.7 Annual rent receivable

Annual rent receivable means the **rent receivable, trend adjusted**, during the twelve (12) months immediately before the date of the **damage**.

## 12.8 Annual turnover

Annual turnover means the **turnover** excluding VAT, **trend adjusted**, during the twelve (12) months immediately before the date of the **damage**.

## 12.9 Aspect enquiry

Aspect enquiry means an examination by HM Revenue & Customs which considers one or more specific aspects of the **insured's** self assessment and/or corporation tax return.

## 12.10 Assault

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

## 12.11 Beneficiary

Beneficiary means the person or entity specified in the **schedule** who will be entitled to payment of **benefits** covered under **insured section D**.

## 12.12 Benefits

Benefits means the sums stated in the schedule of compensation in the **schedule** being the maximum amount payable by the **insurer**.

## 12.13 Benefit period

Benefit period means the total period (but not necessarily consecutive period) for which item K of the table of benefits in **insured section A** clause 2.3.7 is payable in respect of any one **accident** to any **insured person**.

## 12.14 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.

## 12.15 Bodily injury

- 12.15.1 For all **insured sections** other than **insured section G** bodily injury means death, disease, illness, physical and mental injury of or to an individual.
- 12.15.2 Bodily injury under **insured section G** means death or injury caused by a specific or sudden accident.

## 12.16 Buildings

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

- 12.16.1 landlord's fixtures and fittings therein and thereon;
- 12.16.2 outbuildings and annexes together with extensions and canopies adjoining to or communicating therewith;
- 12.16.3 foundations;
- 12.16.4 walls, gates and fences and the adjoining gangways, yards, roadways or pavements constructed of concrete or asphalt around and pertaining thereto drains, sewers and gutters;
- 12.16.5 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**;
- 12.16.6 telephone, gas, water and electricity meters, piping, ducting, trunking, cables, wires and associated control gear, instruments and accessories and the like, including such property for which the **insured** 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**;

but excluding property more specifically insured.

## 12.17 Bulk storage tanks

Bulk storage tanks means bulk storage tanks, bund walls, gantry, piping and equipment pertaining thereto at the **premises**, the property of the **insured** or held by them in trust for which they are responsible.

## 12.18 Business

The activities of the **insured** as stated in the **schedule** and including:

- 12.18.1 provision and management of canteens, sports, social and welfare and medical organisations for the benefit of the **insured's employees** and / or their pensioners, sponsorships, medical, dental, nursing, first aid, fire, rescue and ambulance services, principally in connection with but not limited to the operations of the **insured**;
- 12.18.2 provision of security services for the benefit of the **insured**;
- 12.18.3 provision of nursery, crèche or child care facilities where incidental to the business;
- 12.18.4 provision of educational facilities;
- 12.18.5 property owners, lessors and lessees including repair, refurbishment and maintenance of such property;
- 12.18.6 organisation of and participation in exhibitions, trade fairs, conferences and the like;
- 12.18.7 private work undertaken by any **employee** for any fellow principal **employee**, director or partner or executive of the **insured**;

- 12.18.8 employment of subcontractors for performance of work on behalf of the **insured**;
- 12.18.9 the organisation of charitable events or similar fund raising activities;
- 12.18.10 sponsorship of events, organisations, entities and individuals;
- 12.18.11 repair, maintenance and servicing of own mechanically propelled vehicles, sale or disposal of own property and goods, including owned mechanically propelled vehicles;
- 12.18.12 provision of gifts and promotional material incidental to the business.

### **12.19 Business hours**

Business hours means the period during which the **premises** is open for **business** or is otherwise occupied for **business** purposes by the **insured** or an authorised **employee**.

### **12.20 Change of temperature**

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

- 12.20.1 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;
- 12.20.2 non-operation of the thermostatic or automatic controlling devices forming part of the unit;
- 12.20.3 accidental failure of the public electricity supply not occasioned by the deliberate act of any utility undertaking.

### **12.21 Chemical**

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

### **12.22 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.

### **12.23 Claim payment**

Claim payment will mean the amount the **insurer** agrees to pay to the **insured** for any one claim.

### **12.24 Combined single limit**

Combined single limit means the maximum the **insurer** will pay by this **policy** in the event that two (2) or more **insured sections**, to which the combined single limit applies, provide coverage for an insured event.

### **12.25 Costs and expenses**

Costs and expenses means

- 12.25.1 costs and expenses (other than claimant costs recoverable from the **insured** or any **other insured party**) incurred in the investigation, adjustment, appraisal, defence or settlement of an insured event, including expert, legal, appeal and defence costs;
- 12.25.2 pre-judgment interest awarded against the **insured** on that part of any judgment covered under this **policy** but where the **insurer** offers to pay the **limit of indemnity** in settlement of a claim or suit, the **insurer** will not pay any pre-judgment interest imposed or earned after the date of such offer;

- 12.25.3 all interest earned on that part of any judgment within the **limit of indemnity** after entry of the judgment and before the **insurer** has paid, offered to pay, or deposited in court that part of any judgment that is within the applicable **limit of indemnity**;
- 12.25.4 the cost of attendance in court as a witness at the **insurer's** request, payable at the following rates per day on which attendance is required:
- a) any principal director or partner of the **insured** – GBP500
  - b) any **other insured party** - GBP250
- 12.25.5 costs and expenses 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**.
- 12.25.6 Solely in respect of **insured section G** costs and expenses means
- 12.25.7 **for legal costs**  
all reasonable and necessary costs chargeable by the **representative** on a standard basis. Also the costs incurred by opponents in civil cases if an **insured person** has been ordered to pay them, or pays them with agreement from **DAS**;
- 12.25.8 **for accountant's costs**  
a reasonable amount in respect of all costs reasonably incurred by the **representative**;
- 12.25.9 **for attendance expenses**  
the **insured person's** salary or wages for the time that the **insured person** is off work to attend any arbitration, court or tribunal hearing at the request of the **representative** or while attending jury service. **DAS** will pay for each half or whole day that the court, tribunal or the **insured person's** employer will not pay for:

The amount the **insurer** will pay is based on the following:

- a) the time the **insured person** is off work including the time it takes to travel to and from the hearing. This will be calculated to the nearest half day assuming that a whole day is eight hours;
- b) if the **insured person** works full time, the salary or wages for each whole day equals 1/250th of the **insured person's** yearly salary or wages;
- c) if the **insured person** works part-time, the salary or wages will be a proportion of the **insured person's** weekly salary or wages.

## 12.26 Criminal act

Criminal act means committing a burglary armed with a weapon; threat or perception of unlawful force; assault or battery; causing actual bodily harm; application of unlawful force; demand with menaces; entry to building as trespasser with intent to commit theft, grievous bodily harm, rape or criminal damage; entry to a building as trespasser and attempting to steal; unlawfully destroying / damaging another's property and/or endangering life; causing death by careless driving while unfit through drink or drugs; causing death by dangerous driving; deception; receiving / handling / disposing of stolen goods for the benefit of another; murder, manslaughter or causing recklessly the death of a human being; making off without payment for goods or services; inflicting grievous bodily harm or wounding; dishonestly appropriating property belong to another.

## 12.27 Cross contamination

Cross contamination means contamination of **stock and materials in trade** (by any employee) caused by a sudden identifiable, unintended and unexpected incident which takes place in its entirety at a specific time and place during the **period of insurance**.

## 12.28 Damage

Damage means

- 12.28.1 loss of, destruction of or damage to tangible property;
- 12.28.2 and/or for **insured sections F** loss of use of tangible property that has been lost, destroyed or damaged.

## 12.29 Date of occurrence

Date of occurrence means:

- 12.29.1 for civil cases (other than under **insured incident** – 9.6 Tax Protection), the **date of occurrence** is when the cause of action first accrued.
- 12.29.2 for criminal cases, the **date of occurrence** is when the **insured person** commenced or is alleged to have commenced to violate the criminal law in question.
- 12.29.3 for licence or registration appeals, the **date of occurrence** is when the **insured** first became aware of the proposal by the relevant licensing or regulatory authority to suspend, alter the terms of, refuse to renew or cancel the **insured's** licence, mandatory registration or British Standard Certificate of Registration.
- 12.29.4 for **full enquiries** or **aspect enquiries**, the **date of occurrence** is when HM Revenue & Customs first notifies in writing the intention to make enquiries.
- 12.29.5 for Employers' Compliance and Value Added Tax disputes, the **date of occurrence** is when the relevant authority sends an assessment or written decision to the **insured**.

## 12.30 DAS

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

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

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## 12.31 Declared value

Declared value means the **insured's** assessment of the cost of reinstatement of the **property insured** arrived at in accordance with clause 2.5.11 of **insured section A** 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.

## 12.32 Denial of access

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

## 12.33 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.

### 12.34 Disablement

Disablement means **permanent total disablement, paraplegia, quadriplegia, total loss of sight, total loss of speech, total loss of hearing, total loss of one foot and total loss of one hand.**

### 12.35 Documents

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

### 12.36 Electronic data

Electronic data means facts, concepts and information converted to a form useable 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.

### 12.37 Employee

For all **insured sections** other than **insured section G** employee means any person whilst:

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

### 12.38 **Estimated gross profit**

Estimated gross profit means the amount declared by the **insured** to the **insurer** as representing not less than the **gross profit** which it is anticipated will be earned by the **business** during the financial year most nearly concurrent with the **period of insurance** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve (12) months).

### 12.39 **Estimated gross revenue**

Estimated gross revenue means the amount declared by the **insured** to the **insurer** as representing not less than the **gross revenue** which it is anticipated will be earned by the **business** during the financial year most nearly concurrent with the **period of insurance** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve (12) months).

### 12.40 **Excess**

12.40.1 For **insured sections A and B**: the **limit of liability** or **sum insured**, as applicable, is additional to the excess and excess means the first amount payable by the **insured** in respect of each and every claim or potential claim to be applied to each and every **premises** as ascertained after the application of all other terms and conditions of this insurance. The excess shall not apply to any claim under clause 2.3.7 - **Money**.

12.40.2 For **insured sections F**: the **limit of indemnity** is additional to the excess and excess means

- a) the first amount payable by the **insured** in respect of each and every claim or potential claim as ascertained after the application of all other terms and conditions of this insurance or
- b) in the case of a claim or potential claim that involves **damage**, and if specified in the **schedule** and applicable, the **excess (damage only)**.

### 12.41 **Excess (damage only)**

Excess (damage only) means the amount, if any, specified in the **schedule** as excess (damage only) which if so specified is the first amount payable by the insured in respect of each and every **damage** claim or potential **damage** claim as ascertained after the application of all other terms and conditions of this insurance.

### 12.42 **Full enquiry**

Full enquiry means an extensive examination by HM Revenue & Customs which considers all aspects of the **insured's** tax affairs, excluding those enquiries which are limited to one or more specific aspects of the **insured's** self assessment and/or corporation tax return.

### 12.43 **Goods**

Goods means **stock and materials in trade** and any other property specified in the **schedule**, belonging to the **insured** or for which the **insured** are responsible and connected with the **business** but excluding goods carried for hire or reward.

### 12.44 **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**.

### 12.45 **Gross revenue**

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

## 12.46 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.

## 12.47 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**.

## 12.48 Hostile territory

Hostile territory means a territory designated by the Foreign and Commonwealth Office as one

12.48.1 to which personnel are 'advised against all travel to';

12.48.2 that personnel should leave having designated the territory 'advised against all travel to'.

## 12.49 Indemnity period

12.49.1 Indemnity period means the period beginning with the occurrence of the **damage** and ending not later than the **maximum indemnity period** thereafter during which the results of the **business** will be affected in consequence of the **damage**.

## 12.50 Injury

Injury will mean a specific injury which

12.50.1 is sustained by the **insured person** during the **period of insurance**, and is caused by an **accident**, and

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

## 12.51 Insured

Insured means:

12.51.1 the company or other organisation including any subsidiary companies of the insured that are in existence at the inception date of the insurance and have been declared to the **insurer** until such time as they may be sold or otherwise disposed (but not excluding any liabilities incurred prior to disposal), and;

12.51.2 the person or people shown as insured in the **schedule**;

12.51.3 including in either case the legal or personal representatives of the insured in respect of any claim under this **policy** incurred on behalf of the insured.

12.51.4 Solely for the purpose of **insured section G** insured means the **company** or other organisation or person or people shown as insured in the **schedule**.

## 12.52 Insured incident

Insured incident means and refers to insuring clauses 9.2 - 9.6 under **insured section G**.

## 12.53 Insured peril

Insured peril means any cause not otherwise excluded.

## 12.54 Insured person

12.54.1 For **insured section A** insured person means:

- a) the insured or any principal, director, partner or **employee** of the **insured**; or
- b) any person acting on behalf of the **insured** other than an **employee** of a security company or organisation not being over seventy (70) years of age nor being under sixteen (16) years of age;

12.54.2 but for **insured section D** insured person means the person or category of person specified in the **schedule (insured section D)** but insured person under clause 12.54.2 expressly **excludes**:

- a) **any labour-master** and/or person supplied by him;
- b) any person employed by a labour-only sub-contractor;
- c) any self-employed person;
- d) any person who is hired to or borrowed by the **insured**;
- e) any driver or operator of plant hired to the **insured**.

12.54.3 but for **insured section G** insured person means the **insured** and the directors, partners, managers and employees of the **insured**.

## 12.55 Insured section

Insured section means all or any individually lettered sections of this **policy** that forms part of the insurance contract but only if stated as 'insured' in the **schedule**.

## 12.56 Insurer

12.56.1 Insurer means the party specified as insurer in the **schedule** and any other subscribing insurers; but

12.56.2 for **insured section G** insurer means; DAS Legal Expenses Insurance Company Limited, whose Head office and registered address is:

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

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

## 12.57 Legionella

Legionella means any discharge release or escape of legionella or other airborne pathogens from water tanks, water systems, air-conditioning plants, cooling towers and the like.

## 12.58 Limit of indemnity

Limit of indemnity means:

12.58.1 for **insured section E** the amount stated in the **schedule** which is the maximum amount of the **insurer's** liability arising out of one (1) occurrence regardless of the number of:

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

- 12.58.2 for **insured sections F** the amount stated in the **schedule** which is the maximum amount of the **insurer's** liability arising out of one occurrence or series of occurrences arising out of one (1) originating cause regardless of the number of:
- a) **other insured parties**; or
  - b) persons or organisations bringing claims or **suits**; or
  - c) claims against the **insured** or series of claims against the **insured**, or claims or series of claims made by the **insured**;
- 12.58.3 for **insured section G** the amount stated in the schedule as the limit of indemnity is, the maximum payable by the **insurer** under the **policy** in respect of all claims resulting from one or more event arising at the same time or from the same originating cause
- 12.58.4 where two (2) or more **insured sections** are subject to a **combined single limit**, then the **combined single limit** is the maximum the **insurer** will pay for any insured event to which such **insured sections** apply in combination, and;
- 12.58.5 where a limit of indemnity is stated in the **schedule** as in the aggregate, that aggregate is the maximum the **insurer** will pay for all insured events during the **period of insurance**.
- 12.58.6 any sub-limit of indemnity stated in the **schedule** applies as if it was the limit of indemnity for the **claims** specified in the **schedule** for that sub-limit and is deemed to be part of and not in addition to the limit of indemnity specified in the **schedule**.

## 12.59 Limit of liability

Limit of liability means the amount stated in the **schedule** which is the maximum amount of the **insurer's** liability for any one event regardless of the number of persons claiming an indemnity.

## 12.60 Machinery, plant and all other contents

Machinery, plant and all other contents means machinery, plant, tenants' improvements and alterations, **office contents** and **all other contents** at the **premises** which are the property of the **insured** or held by them in trust for which they are responsible but excluding;

- 12.60.1 landlord's fixtures and fittings therein and thereon;
- 12.60.2 **stock and materials in trade, money**;
- 12.60.3 **bulk storage tanks**;
- 12.60.4 property more specifically insured;

## 12.61 Manifest

Manifest will mean the date when a **sickness** is reasonably capable of diagnosis by a **healthcare practitioner**.

## 12.62 Maximum indemnity period

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

## 12.63 Money

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

## 12.64 Motor Vehicle(s)

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

## **12.65 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 the **insured** or any partner director or **employee** or the **insured** in connection with the **insured's business** consumer redemption vouchers and company sales vouchers and unexpired units in franking machines all belonging to the **insured** or for which the **insured** has accepted responsibility.

## **12.66 Non-negotiable money**

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

## **12.67 Non-ferrous metals**

Non-ferrous metals means **stock and materials in trade** consisting of non-ferrous metals other than aluminium.

## **12.68 North America**

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

## **12.69 Nuclear hazards**

Nuclear hazards means:

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

## **12.70 Occupation**

Occupation means the occupation of the **insured person** as stated in the **schedule (insured section D)**.

## **12.71 Office contents**

Office Contents means office contents the property of the **insured** or held by them in trust for which they are responsible including

- 12.71.1 fixtures, fittings, furniture and
- 12.71.2 office equipment, tenants' improvements and alterations,
- 12.71.3 telephone, telex, facsimile, computer and ancillary equipment and computer installations.
- 12.71.4 other electronic business equipment

## 12.72 Offshore

Offshore means:

- 12.72.1 work in or on any offshore rig or platform or support or accommodation vessel for any offshore rig or platform;
- 12.72.2 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.

## 12.73 Other insured party

Other insured party means any of the following parties:

- 12.73.1 any director, partner, **employee** or a former **employee** of the **insured**;
- 12.73.2 any officers, members' committee and/or **employee** paid and voluntary helpers of the **insured's** canteen and welfare organisations, nursery, crèche or child care facilities, sports and social organisations, in their respective capacities as such;
- 12.73.3 any officers and members of the **insured's** security, rescue, first aid, fire and ambulance services, medical organisation other than any doctor, surgeon or dentist while working in a professional capacity in their respective capacities as such;
- 12.73.4 any director or partner or executive of the **insured** in respect of private work undertaken by any **employee** for a director, partner or executive of the **insured**;
- 12.73.5 any officers or trustees of the **insured's** pension scheme(s).

## 12.74 Outstanding debit balances

Outstanding debit balances means the **money** owed to the **insured** by their customers at the date of the **damage** but adjusted to take account of bad debts, owed amounts not passed through the books during the period between the last record and the date of the **damage**, and abnormal trading conditions affecting the **business** the **insured's** last record of amounts owed by customers.

## 12.75 Paraplegia

Paraplegia means the permanent and total paralysis of the two lower limbs, bladder and rectum.

## 12.76 Period of insurance

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

## 12.77 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 the **insurer's** satisfaction to have no likelihood of improvement sufficient to participate in any and every **occupation** ever again.

## 12.78 Personal effects

Personal effects means personal possessions and belongings but excluding jewellery watches and **money**.

## 12.79 Personal injury

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

- 12.79.1 false arrest;
- 12.79.2 detention or imprisonment;
- 12.79.3 malicious prosecution;
- 12.79.4 wrongful entry into, or eviction of a person from a room, dwelling or **premises** that the person occupies;
- 12.79.5 invasion of the right of privacy;
- 12.79.6 libel, slander or defamation.

## **12.80 Policy**

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

## **12.81 Policy operative time**

Policy operative time shall mean whilst the **insured person** is undertaking the usual occupational duties on behalf of the **insured**.

## **12.82 Pollutant**

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

## **12.83 Pollution**

Pollution means:

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

## **12.84 Pre-existing condition**

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

## **12.85 Premises**

For **insured sections A – C and E**; premises means the land occupied by the **insured** for the purpose of the **business** at an address(es) or location specified in the **schedule**.

For **insured sections F**; premises means the buildings or land that are owned, leased, hired or tenanted by or on loan to the **insured** for the purpose of the **business**.

## **12.86 Preventative costs**

Preventative costs means sums that the **insured** is liable to pay for prevention of imminent threat of environmental damage as provided for in The Environmental Damage (Prevention and Remediation) Regulations 2009.

## 12.87 **Product**

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

## 12.88 **Property insured**

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

## 12.89 **Property in the open**

Property in the open means machinery, plant, stock and materials in trade which are the property of the **insured** or held by them in trust for which they are responsible not contained in a locked **building** or **bulk storage tanks** at the **premises**, but excluding:

12.90.1 valuables as defined in clause 2.1.9;

12.90.2 portable hand tools.

## 12.90 **Proposal**

Proposal means any information supplied by or on behalf of the **insured**, deemed to be a completed proposal form and medical questionnaire and other relevant information that the **insurer** may require.

## 12.91 **Quadriplegia**

Quadriplegia means permanent and total loss of and/or total and irrecoverable loss of use of the four limbs of the body which lasts twelve (12) calendar months and at the expiry of that period being beyond hope of improvement

## 12.92 **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**.

## 12.93 **Rent**

Rent means the **money** paid or payable to the **insured** for rent and other charges and for services rendered in the course of the **business** at the **premises**.

## 12.94 **Rent receivable**

Rent receivable means the amount of the rent received or receivable from the letting of the property at the **premises**.

## 12.95 **Representative**

Representative means the lawyer, accountant or other suitably qualified person, who has been appointed to act for an **insured person** in accordance with the terms of **insured section G**.

## 12.96 **RIDDOR**

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

## 12.97 **Schedule**

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

## **12.98 Specified working expenses**

Specified working expenses means:

- 12.98.1 purchases (less discounts received);
- 12.98.2 discounts allowed;
- 12.98.3 carriage, packing and freight.

## **12.99 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**.

## **12.100 Standard rent receivable**

Standard gross revenue 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**.

## **12.101 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**.

## **12.102 Stock and materials in trade**

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

## **12.103 Stock debris removal**

Stock debris removal means costs and expenses necessarily incurred by the **insured**, with the consent of the **insurer**, in removing debris of the **stock and materials in trade damaged** by any **insured peril**. The **insurer** will not pay for any costs or expenses incurred

## **12.104 Suit**

Suit means a civil proceeding in which damages to which this insurance applies are alleged, including

- 12.104.1 an arbitration proceeding in which such damages are claimed and to which an **other insured party** must submit or does submit with the **insurer's** consent; or
- 12.104.2 any other alternative dispute resolution proceeding in which such damages are claimed and to which an **other insured party** submits with the **insurer's** consent.

## **12.105 Sum insured**

Sum insured means the sum specified as the sum insured in the **schedule**.

## **12.106 Tobacco, cigars, cigarettes**

Tobacco, cigars and cigarettes means that part of **stock and materials in trade** consisting of tobacco, cigars and cigarettes.

## **12.107 Total loss of hearing**

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

### **12.108 Total loss of one foot**

Total loss of one foot shall mean an **injury** causing loss by physical severance at or above the ankle or permanent and total loss of use of an entire foot.

### **12.109 Total loss of one hand**

Total loss of one hand shall mean an **injury** causing loss by physical severance of the entire four fingers through or above the meta-carpo phalangeal joints or permanent total loss of use of an entire hand.

### **12.110 Total loss of sight**

Total loss of sight shall mean 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 that 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.

### **12.111 Total loss of speech**

Total loss of speech shall mean 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.

### **12.112 Transit**

Transit means being carried to its destination, but outside the **premises**, by any vehicle including trailers and containers and whether the **insured's** vehicle or by road haulage and or post or parcel post or rail including:

12.112.1 conveyance by canal craft, sea going vessel and aircraft,

12.112.2 loading and unloading, and

12.112.3 while temporarily housed in the course of being carried to its destination.

### **12.113 Territorial limits**

12.113.1 Territorial limits means the **United Kingdom**.

12.113.2 In respect of **insured section A - 2.3.4 Goods in transit**

Territorial limits means the **United Kingdom** and Eire.

In respect of **insured section D**

Territorial limits means worldwide

12.113.3 In respect of **insured section G - 9.5 Bodily Injury**

Territorial limits means:

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.

12.114.4 In respect of all other **insured incidents** under **Insured section G**

Territorial limits means the **United Kingdom**.

## 12.114 Terrorism

12.114.1 For **insured sections A - C**, terrorism means for all territories other than England, Wales and Scotland;

An act of terrorism includes 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.

12.114.2 For England, Wales and Scotland:

An act of terrorism includes any act of any 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

12.114.3 For **insured section D**, terrorism means:

an act including but not limited to:

- a) nuclear, **chemical** or **biological** terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss, and/or
- b) the use of force or violence and / or the threat thereof, of any person or group(s) of persons, whether acting alone or on behalf of or in connection with any organisation(s) or government(s), committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section of the public, in fear.

12.114.4 For **insured sections E, and F** terrorism means:

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

- a) intimidate or coerce a civilian population, or
- b) disrupt any segment of the economy of a government de jure or de facto, state, or country, or
- c) overthrow, influence, or affect the conduct or policy of any government de jure or de facto by intimidation or coercion, or
- d) affect the conduct or policy of any government de jure or de facto by mass destruction, assassination, kidnapping or hostage-taking.

## 12.115 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 reasonable practicable the results which but for the **damage** would have been obtained during the relative period after the **damage**.

#### **12.116 Turnover**

Turnover means the money paid or payable to the **insured** for goods sold and delivered and for services rendered in the course of the **business** at the **premises**.

#### **12.117 United Kingdom**

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

#### **12.118 Virus or similar mechanism**

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

#### **12.119 War**

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

For **insured sections E and F** 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 **terrorism**.

#### **12.120 Wines and spirits**

Wines and spirits means **stock and materials in trade** consisting of wines, spirits, beer and other alcoholic liquids.

## 13 Complaints

### 13.1 What the insured should do?

The **insurer** strives to provide an excellent service to all its customers but occasionally things can go wrong. The **insurer** takes all complaints seriously and endeavours to resolve all customers' problems promptly. If the **insured** has a question or complaint about this insurance or the conduct of its intermediary they should contact that intermediary in the first instance.

For **insured section A – F** please contact:

Plantation Place, 30 Fenchurch Street, London, EC3M 3BD,  
tel: +44 (0)20 7105 4000, fax: +44 (0)20 7105 4019. [enquiries@qbeeurope.com](mailto:enquiries@qbeeurope.com),  
In the event the **insured** remains dissatisfied and where the **insurer** is or includes a Lloyd's syndicate it may be possible in certain circumstances to refer the matter to the Policyholder and Market Assistance Department at Lloyd's, One Lime Street, London EC3M 7HA; Tel: 020 7327 5693.

For **insured section G** please contact:

The **insurer's** customer relations department at the **insurer's** head office address shown below. Or the **insured** can telephone the **insurer** on 0117 934 0066 or email the **insurer** at [customerrelations@das.co.uk](mailto:customerrelations@das.co.uk)  
The **insurer's** head and registered office is: DAS Legal Expenses Insurance Company Limited, DAS House, Quay Side, Temple Back, Bristol BS1 6NH

If, after making a complaint, the **insured** feels that the matter has not been resolved to its satisfaction then if the **insured** is an eligible complainant the **insured** may contact: The Financial Ombudsman Service, South Quay Plaza 2, 183 Marsh Wall, Docklands, London E14 9SR.

Making a complaint to the Financial Ombudsman Service (FOS) does not affect the **insured's** rights under this **policy**, but if the **insured** making a complaint to the Financial Ombudsman Services (FOS) the **insurer's** formal complaints process stated above shall cease.

A summary of the **insurer's** complaint handling procedure is available on request and will also be provided to the insured when acknowledging a complaint.

### 13.2 About the Financial Ombudsman Service (FOS)

13.2.1 Eligible complainants are a

- a) private policyholder, or
- b) commercial policyholder or charity with a **turnover** under GBP1,000,000, or
- c) trust with assets under GBP1,000,000

From 1 November 2009 these will be:

- private individuals *and*
- 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.

13.2.2 The FOS will only consider a complaint if the **insured** is an eligible complainant and if:

- a) the **insurer** has been given an opportunity to resolve the complaint; and
- b) the **insurer** has sent the **insured** a final response letter and the **insured** has referred its complaint to the FOS within six (6) months of the **insurer's** final response letter or

- c) the **insurer** has not responded to the **insured's** complaint with a decision within forty (40) days.

### **13.3 Financial Services Compensation Scheme**

The Company Market and Lloyd's underwriters are covered by the Financial Services Compensation Scheme. The **insured** may be entitled to compensation from the Scheme if the **insurer** is unable to meet its 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 7th floor, Lloyds Chambers, Portsoken Street, London E1 8BN or from their website ([www.fscs.org.uk](http://www.fscs.org.uk)).