



Per Capita Extra Policy Wording



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PER CAPITA EXTRA POLICY WORDING

IMPORTANT NOTICE TO THE INSURED

This insurance is a legal contract. Please read it carefully to ensure that it is in accordance with your requirements and that you understand its terms and conditions. Your Insurance Broker who arranged this insurance should be contacted immediately if any correction is necessary.



PER CAPITA EXTRA POLICY WORDING

INTRODUCTION

In return for payment of the premium shown in the **Schedule**, the **Insurer** agrees to indemnify the **Insured**, subject to the terms and conditions contained in or endorsed on this insurance, against loss or damage the **Insured** sustain or legal liability the **Insured** incur for accidents happening during the period of insurance.

Wherever the following words appear in bold in this policy they will have the meanings shown in the Definitions page for the relevant section.

This document, the **Schedule** and any endorsement(s) attached form the policy.

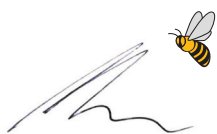
This document sets out the conditions of the policy between the **Insured** and the **Insurer**. It should be kept in a safe place.

Please read the whole document carefully. It is arranged in different sections. It is important that:

- the **Insured** checks that the sections requested are included in the **Schedule**;
- the **Insured** checks that the information given to the **Insurer** is accurate – see the “Information given to the Insurer”, below;
- the **Insured** notify their broker as soon as practicable of any inaccuracies in the information they have given;
- the **Insured** complies with their duties under each section and under the policy as a whole.

In witness whereof this policy has been signed for and on behalf of the **Insurers**.

Authorised Signatory



Russell Brown
Director of Underwriting
GB Underwriting Limited.
For and on behalf of **Insurers** (please see **Schedule**)

IMPORTANT INFORMATION - INFORMATION GIVEN TO THE INSURER

In deciding to accept this policy and in setting the terms and premium, the **Insurer** has relied on the information provided. The **Insured** must take care when answering any questions asked by ensuring that all information provided is accurate and complete.

If the **Insurer** establishes that the **Insured** deliberately or recklessly provided the **Insurer** with false or misleading information, the **Insurer** will treat this policy as if it never existed and decline all claims.

If the **Insurer** establishes that the **Insured** carelessly provided the **Insurer** with false or misleading information it could adversely affect the policy and any claim. For example, the **Insurer** may:

- treat this policy as if it had never existed and refuse to pay all claims and return the premium paid. The **Insurer** will only do this if it provided insurance cover which it would not otherwise have offered;
- amend the terms of the insurance. The **Insurer** may apply these amended terms as if they were already in place if a claim has been adversely impacted by the carelessness of the **Insured**;
- reduce the amount paid on a claim in the proportion the premium paid bears to the premium the **Insurer** would have charged; or
- cancel the policy in accordance with the cancellation condition below.

The **Insurer** or insurance broker will write to the **Insured** if the **Insurer**:

- intend to treat the policy as if it never existed; or
- need to amend the terms of the policy.

If the **Insured** becomes aware that information given to the **Insurer** is inaccurate, the **Insured** must inform their broker as soon as practicable.

IMPORTANT INFORMATION - POLICYHOLDER NOTICES

CANCELLATION

The **Insured** can also cancel this policy at any time by writing to their broker.

The **Insurer** can cancel this policy by giving the **Insured** thirty (30) days' notice in writing.

The **Insurer** will only do this for a valid reason (examples of valid reasons are as follows):

- Non-payment of premium;
- A change in risk occurring which means insurance cover can no longer be provided;



- Non-cooperation or failure to supply any information or documentation requested;
- Threatening or abusive behaviour or the use of threatening or abusive language.

REFUND OF PREMIUM

The **Insured** has a statutory right to cancel this policy by writing to their broker within fourteen (14) days of either:

- the date the **Insured** receive this policy; or
- the start of the period of insurance

whichever is the later.

If this insurance is cancelled, then, provided the **Insured** has not made a claim, the **Insured** will be entitled to a refund of any premium paid, subject to a deduction for any time for which the **Insured** has been covered. This will be calculated on a proportional basis. For example, if the **Insured** has been covered for six (6) months, the deduction for the time covered will be half the annual premium.

If the **Insured** cancels this insurance outside of the statutory right period, there may be an additional charge, as stated in the **Schedule**, to cover the administrative cost of providing the insurance.

If the **Insurer** pays any claim, in whole or in part, then no refund of premium will be allowed.

If the **Insured** does not exercise the right to cancel the policy, it will continue in force and the **Insured** will be required to pay the premium.

CLAIMS PROCEDURES

At all times the **Insured** must act to reduce the likelihood and minimise the severity of any incident which may give rise to a claim under this policy.

SECTION 1 - EMPLOYERS', PUBLIC AND PRODUCT LIABILITY

In the event of any **Occurrence** giving rise or likely to give rise to a claim under Section 1 of the policy the **Insured** or his representative shall:

1. give written notice to GB Underwriting via their broker of any **Injury**, loss or **Damage** or claim or proceeding as soon as reasonably possible and in any event no later than fourteen (14) days after the same shall have come to the knowledge of the **Insured** or any representative of the **Insured**;
2. not admit liability for, or negotiate the settlement of any claim without the prior written consent of the **Insurer** who shall be entitled to conduct, in the name of the **Insured**, the defence or settlement of any claim, or to prosecute for their own benefit any claim for indemnity or damages or otherwise, and shall have full discretion in the conduct of any proceedings and in the settlement of any claim. The **Insured** shall give all such

information and assistance as the **Insurer** may require.

SECTION 2 - CONTRACTORS ALL RISKS

In the event of any **Occurrence** giving rise or likely to give rise to a claim under Section 2 of the policy the **Insured** or his representative shall:

1. as soon as possible give notice to:
 - a) the Police Authority in respect of any theft, attempted theft, riot, malicious damage, accidental loss or Act of Terrorism (if and to the extent that Terrorism is insured by this policy);
 - b) GB Underwriting via the **Insured's** broker; and
2. give notice to GB Underwriting via the **Insured's** broker within seven (7) days in the case of **Damage** caused by riot, civil commotion, strikers, locked out workers or persons taking part in labour disturbances or malicious persons; or
3. give notice to GB Underwriting via the **Insured's** broker within thirty (30) days of the occurrence of any other event;
4. retain any damaged property or parts;
5. when required to do so, but in any event no later than thirty (30) days after the expiry of the period of insurance, deliver to the **Insurer** a statement in writing of all particulars and details relating to the incident and other evidence as may be required.

The **Insurer** shall not be liable for any further **Damage** resulting from the continued use of the **Insured Property** until repaired to the satisfaction of the **Insurer** and no claim shall be paid until the **Insured** has complied with the procedures above.

SECTION 3 - ESSENTIAL BUSINESS LEGAL

SECTION 4 - MANAGEMENT LIABILITY

SECTION 5 - CYBER RISK

Please refer to the relevant policy section for details on how to make a claim under that policy section.

COMPLAINTS PROCEDURE

It is always the intention to provide a first class standard of service. However, if the **Insured** have any cause for complaint or wish to make any enquiry regarding this insurance, the **Insured** should, in the first instance, contact their broker.

Please refer to the final page of the insurance **Schedule** for details of the relevant complaints procedures.

COMPENSATION

The **Insurer** is covered by the Financial Services Compensation Scheme (FSCS). The **Insured** may be entitled to compensation from the Scheme if the **Insurer** is unable to meet its obligations under this policy. If the **Insured** was entitled to compensation under the Scheme, the level and extent of the compensation would depend on the nature of this policy. Further information



about the Scheme is available from the Financial Services Compensation Scheme (10th Floor, Beaufort House, 15 St. Botolph Street, London EC3A 7QU) and on their website: www.fscs.org.uk.

PROTECTION

Your insurance cover may include cover for individuals who are either insureds or beneficiaries under the policy ("individual insureds"). GB Underwriting and the **Insurer** collect and use relevant information about individual insureds to provide the **Insured** with the insurance cover and to meet our legal obligations.

Your Obligations

To enable us to use individual insureds' details in accordance with applicable data protection laws, we need the **Insured** to provide those individuals with certain information about how we will use their details in connection with the insurance cover.

You, the **Insured**, agree to provide to each individual insured our personal information notice, which we have provided to you below, on or before the date that the individual becomes an individual insured under the insurance cover or, if earlier, the date that you first provide information about the individual to us.

You, the **Insured**, must promptly notify us if an individual insured contacts you about how we use their personal details in relation to the insurance cover so that we can deal with their queries.

Personal Information Notice

The basics:

We collect and use relevant information about you, the **Insured**, to provide the insurance cover that benefits you and to meet our legal obligations. This information includes details such as your name, address and contact details and any other information that we collect about you in connection with the insurance cover from which you benefit.

In certain circumstances, we may need your consent to process certain categories of information about you (including sensitive details such as information about your health and any criminal convictions you may have). Where we need your consent, we will ask you for it separately.

The way insurance works means that your information may be shared with, and used by, a number of third parties in the insurance sector for example, insurers, agents or brokers, reinsurers, loss adjusters, sub-contractors, regulators, law enforcement agencies, fraud and crime prevention and detection agencies and compulsory insurance databases. We will not keep your information for longer than necessary and will only disclose your information in connection with

the insurance cover that we provide and to the extent required or permitted by law.

Other people's details you provide to us:

Where you, the **Insured**, are providing us with personal information about a person other than yourself, you must provide this notice to them.

Your rights:

You, the **Insured**, have rights in relation to the information we hold about you, including the right to access a copy of your information. If you wish to exercise your rights or would like more details about how we or insurer(s) use your personal information please see GB Underwriting's full Data Privacy Notice (www.gbunderwriting.co.uk/privacy). A paper copy of the full Data Privacy Notice can be obtained by contacting GB Underwriting by email (info@gbunderwriting.co.uk) or at the address below:

Compliance Department
GB Underwriting Limited
Little Braxted Hall
Little Braxted
Essex CM8 3EU

RIGHTS OF THIRD PARTIES

A person who is not a party to this policy has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this policy but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

LAW AND JURISDICTION

Unless specifically agreed to the contrary this policy shall be governed by the laws of England and Wales and subject to the exclusive jurisdiction of the courts of England.

SANCTIONS

The **Insurer** shall not provide any benefit under this policy by way of cover, payment of any claim, or any other benefit where such cover, payment or benefit would breach any sanction, prohibition or restriction imposed by law or regulation.

CONDITIONS PRECEDENT

There are conditions contained within this policy that are condition precedent to **Insurer** liability. If the **Insured** breach any of these conditions precedent this may render the claim null and void or reduce the amount payable or the **Insurer** may treat this insurance as though it never existed.



IMPORTANT CONDITION - HEAT CONDITION

It is a condition precedent to liability that the following precautions will be taken on each occasion where the **Insured** is using any process which involves the application of heat away from the premises of the **Insured**:

1. the immediate area in which the operation is to be carried out must be segregated to the greatest practical extent by the use of screens made of metal and/or fire retardant material;
2. the whole of this segregated area must be adequately cleaned and freed from combustible material before operations commence;
3. combustible floors and/or substances in, or surrounding this segregated area must be liberally covered with sand or protected by overlapping sheets of incombustible material;
4. where work is being carried out in any area where there is a risk that combustible material is in danger of ignition either directly or by conduction of heat, an additional **Person Employed** or **Employee** of the **Insured** or an employee of the occupier shall remain continuously in attendance at the point of work until the work is complete to guard against an outbreak of fire;
5. no work is carried out unless specifically authorised by the occupier who should also be asked to approve the safety arrangements;
6. a suitable fire extinguisher and/or hoses connected up in readiness for immediate use and tested prior to the commencement of the work must be kept available for immediate use near the scene of operations;
7. thorough examinations must be made in the vicinity of the work at frequent intervals for at least one hour after the termination of each operation. In the event that it is not practical for such examination to be carried out by a **Person Employed** or **Employee** of the **Insured** then appropriate arrangements must be made with the occupier;
8. before "burning off" metal work built into or projecting through walls or partitions an examination should be made to confirm that the other end of the metal is not in a hazardous proximity to combustible material which may be ignited by the conduction of heat;
9. where the **Insured** burns debris away from their premises the following precautions shall be taken on each occasion:
 - a) fires to be in a cleared area and at a distance of at least ten metres from any property;
 - b) fire not to be left unattended at any time;
 - c) a suitable fire extinguisher to be kept available for immediate use;
 - d) fires to be extinguished at least one hour prior to leaving site at the end of each working day.

GENERAL CONDITIONS APPLYING TO SECTIONS 1, 2 AND 5

1. **Observance:** The **Insured** shall observe the terms of this policy relating to anything to be done or complied with except insofar as is necessary to comply with the requirements of any legislation enacted in the **Insured Territories** relating to compulsory insurance of legal liability to employees;
2. **Reasonable Precautions:** The **Insured** shall exercise due diligence and at his own expense shall:
 - a) take all reasonable precautions to prevent bodily injury, loss of or damage to property, and the sale or supply of **Products** which are defective in any way and cease any activity which may give rise to liability under these sections of the policy;
 - b) exercise care in the selection and supervision of **Persons Employed**;
 - c) as soon as possible after discovery, cause any defect or danger to be made good or remedied and in the meantime shall cause such additional precautions to be taken as the circumstances require;
 - d) comply with all statutory requirements and other safety regulations imposed by any authority;
 - e) ensure that **Insured Property** is maintained and used in accordance with manufacturers' recommendations and in taking reasonable precautions to prevent loss or damage;
3. **Change of Risk:** The **Insured** shall give notice to the **Insurer** as soon as possible if there is any alteration to the facts or matters set out in the **Schedule** or otherwise comprising the risk presentation made by the **Insured** to the **Insurer** at inception, renewal or variation of the policy. A qualifying change or alteration may include but is not limited to the following:
 - a) prosecution of the **Insured** by the Health and Safety Executive;
 - b) the criminal conviction of a director or shareholder;
 - c) the undertaking of an activity not disclosed to the **Insurer**.

Coverage under Section 2 of this policy may be avoided or discontinued if:

- i. the **Insured** becomes the subject of voluntary or involuntary rehabilitation proceedings, or becomes the subject of an action in bankruptcy, or makes or proposes any arrangement with their creditors which acknowledges their insolvency;
- ii. the **Insured's** interest ceases other than by death;

unless its continuance be accepted by the **Insurer** and the policy endorsed accordingly;

4. **Excess:** The **Insurer** shall not be liable for the amount of the **Excess** stated in the **Schedule** in respect of the first amount of each and every claim;



5. Interpretation: The policy and the **Schedule** shall be read together as one contract. Any word or expression to which a specific meaning has been attached in any section of this policy shall bear the same meaning wherever it may appear within that section. Any reference to:
- the singular, shall include the plural and vice versa;
 - the masculine, shall include the feminine and vice versa;
 - a statute, statutory instrument, regulation, or order shall include any amendment and/or re-enactment;

6. Adjustment of premium: If the premium has been calculated on estimates given by the **Insured**, the **Insured** shall keep an accurate record containing all relevant particulars which shall be available to the **Insurer** for inspection.

Within one (1) month of the expiry of the period of insurance the **Insured** shall supply to the **Insurer** an accurate statement in the form required, so that the premium for that period can be calculated and the difference paid by, or allowed to, the **Insured**.

Should the **Insured** fail to supply such a statement within one (1) month of the expiry of the period of insurance, the **Insurer** shall be entitled, if they so wish, to charge an additional premium in respect of that period of insurance;

7. Other Insurances: This policy does not provide any indemnity or cover any loss or damage which is insured by, or would, but for the existence of this policy, be insured by any other policy or policies except in respect of any excess beyond the amount which would have been payable under such policy or policies had this insurance not been effected;

8. Fraud: If the **Insured** shall provide any information or make any claim that is in any respect fraudulent or if any fraudulent means or devices are used by the **Insured** or anyone acting on behalf of the **Insured** or if any **Injury** or **Damage** is caused by the wilful act or with the connivance of the **Insured** the **Insurer**:
- will not pay the claim; and
 - may recover from the **Insured** any sums paid by the **Insurer** to the **Insured** in respect of the claim; and
 - may by notice to the **Insured** treat this policy as having been terminated with effect from the time of the fraudulent act; and

if the **Insurer** does treat this policy as having been terminated, the **Insured** will:

- have no cover under this policy from the date of termination; and
- not be entitled to any refund of premium;

9. Subrogation: If any payment is made under this policy in respect of a claim or loss and there is available to the

Insurer any of the **Insured's** rights of recovery against any other party, then the **Insurer** maintains all such rights of recovery.

The **Insurer** shall not exercise those rights against any past, present, or future employee, director, or partner of the company named as the **Insured** in the **Schedule** or any subsidiary, unless such payment is in respect of any wilful, malicious, or dishonest acts or omissions.

The **Insured** must do nothing to impair any rights of recovery. At the request of the **Insurer**, the **Insured** will bring proceedings to transfer those rights to the **Insurer** and help the **Insurer** to enforce them.

Any recovery shall be applied as follows:

- first to the **Insurer**, up to the amount of their payment, in respect of compensation and defence costs and expenses;
- then to the **Insured**, as recovery of the **Insured's Excess** or other amount paid as compensation or costs and expenses;

10. Access: The **Insurer** or its representatives shall have the right of access to the **Insured Property** at reasonable times.

SECTION 1 - EMPLOYERS', PUBLIC AND PRODUCTS LIABILITY

1. SECTION 1 OPERATIVE CLAUSE

The **Insurer** will indemnify the **Insured** against their legal liability as defined by each insured sub-section of Section 1 as set out in the **Schedule**, arising out of the **Business**, to pay compensatory damages (including claimants' costs, fees and expenses) subject always to the terms, conditions and exclusions of such sub-section.

Provided that, unless specifically agreed by endorsement, this section shall not indemnify the **Insured** in respect of any judgment, award or settlement made within territories which operate under the laws of the United States of America or Canada (or any order made anywhere in the world to enforce such judgment, award, or settlement either in whole or in part).

2. SECTION 1 INDEMNITY TO OTHERS

If the **Insured** so requests and it is agreed by the **Insurer**, the indemnity granted extends to:

- directors, officers, employees and partners of the **Insured** in their business capacity arising out of the performance of the **Business**;
- the officers, committee, and members of the **Insured's** canteen, social, sport, medical, fire fighting and welfare organisations in their respective capacities as such;
- any person or firm arising out of the performance of a contract with the **Insured** constituting the



- d) provision of labour only;
- d) any principal for legal liability in respect of which the **Insured** would have been entitled to indemnity under this section if the claim had been made against the **Insured** arising out of work carried out by the **Insured** under a contract or agreement;
- e) the personal representatives of any person or party indemnified by reason of this clause 2 in respect of legal liability incurred by such person

provided always that all such persons or parties shall observe, fulfil and be subject to the terms, conditions and exclusions of this section as though they were the **Insured**.

3. SECTION 1 INDEMNITY LIMITS

- a) Section 1A – The **Insurer's** total liability to pay damages and/or claimants' costs, fees and expenses shall not exceed the sum stated in the **Schedule** in respect of any one claim against the **Insured** or series of claims against the **Insured** arising out of one **Occurrence**.
- b) Sections 1B and 1C – The **Insurer's** total liability to pay damages and/or claimants' costs, fees and expenses shall not exceed the sum stated in the **Schedule** against each section in respect of any one **Occurrence** or series of **Occurrences** arising from one originating cause but under Section C the limit applies to the total amount of damages and /or claimants' costs, fees and expenses payable in respect of all losses occurring during the period of insurance.

4. SECTION 1 DEFENCE COSTS

The **Insurer** will also pay all costs, fees and expenses incurred with their prior consent by the **Insured** in the defence or settlement of any claim under this section (hereinafter called "Defence Costs").

Defence Costs include legal expenses:

- a) incurred by or awarded against the **Insured** arising out of any prosecution of the **Insured** for:
 - i. breach or alleged breach of Part 1 of the United Kingdom Health & Safety at Work Act 1974 (and /or any legislation of similar effect);
 - ii. corporate manslaughter or corporate homicide made against the **Insured** or other insured party under the Corporate Manslaughter and Corporate Homicide Act 2007

provided that the **Insurer** shall not be liable for any fines or penalties imposed as a consequence of such prosecution or for any costs, fees and/or other expenses incurred by or on behalf of the **Insured** or other insured party in complying with a publicity and /or remedial order made under the Corporate Manslaughter and Corporate Homicide Act 2007;

- b) arising out of representation of any Coroner's Inquest or Fatal Accident Inquiry;
- c) arising out of the defence of any proceedings in a Court of Summary Jurisdiction in respect of matters which may form the subject of indemnity by this section.

Defence Costs will be payable in addition to the **Indemnity Limits** except in respect of Section A when the **Indemnity Limit** will be inclusive of Defence Costs unless this section is specifically endorsed to the contrary.

5. SECTION 1 DEFINITIONS

For the purpose of this section:

- a) **Business** means the business of the **Insured** specified in the **Schedule**, conducted at or from premises in the **Insured Territories** and shall include:
 - i. ownership, repair and maintenance of the **Insured's** own property;
 - ii. provision and management of canteen, social, sport, medical, fire fighting and welfare organisations for the benefit of any **Person Employed**;
 - iii. participation in exhibitions held in member countries of the European Union in connection with the **Business** specified in the **Schedule**;
 - iv. private work carried out by any employee of the **Insured** (with the consent of the **Insured**) for any director, partner or senior official of the **Insured**;
- b) **Consequential Loss** means an indirect loss which accompanies an insured loss;
- c) **Damage** means accidental loss of, possession of, or accidental damage to, tangible property;
- d) **Excess** means the amount of the **Insured's** retained liability arising out of one **Occurrence** or series of **Occurrences** consequent on one original cause (the **Insurer** shall only be liable to the extent that any liability exceeds the **Excess**);
- e) **Financial Loss** means any pecuniary loss unaccompanied by **Injury** or **Damage**;
- f) **Indemnity Limit** or **Sum Insured** means the liability of the **Insurer** in respect of any one loss or series of losses arising out of any one **Occurrence** and shall not exceed the amount specified in the **Schedule** as the Indemnity Limit or Sum Insured;
- g) **Injury** means death, bodily injury, illness or disease of, or to, any person including mental injury, mental anguish or shock;
- h) **Insured** means:
 - i. the person, persons or corporate body named in the **Schedule**;
 - ii. subsidiary companies of the **Insured** notified to and accepted in writing by the **Insurer**;
- i) **Insured Territories** means Great Britain, Northern Ireland, The Channel Islands or the Isle of Man;



- j) **Insurer** means the Insurance Company or Lloyd's Syndicate(s) stated in the **Schedule** for this section;
- k) **Occurrence(s)** means an accident, including continuous or repeated exposure to substantially the same general conditions which results in **Injury** or **Damage** neither expected nor intended by the **Insured**;
- l) **Person Employed** means any:
 - i. employee under a contract of service or apprenticeship with the **Insured**;
 - ii. labour master and persons supplied by him;
 - iii. labour only sub-contractors;
 - iv. self employed person working for and under the control of the **Insured**;
 - v. person hired or borrowed by the **Insured**;
 - vi. person undertaking study or work experience or youth training scheme with the **Insured**;
 - vii. voluntary workers or volunteers;
 - viii. a prospective employee who is undergoing practical work experience whilst being assessed by the **Insured** as to his or her suitability for employment;
 - ix. any person who is an outworker or home worker employed under a contract to personally carry out work in connection with the **Business**, whilst they are engaged in that work whilst working on behalf of the **Insured** in connection with the **Business**;
- m) **Product** means any tangible property after it has left the custody or control of the **Insured** which has been designed, specified, formulated, manufactured, constructed, installed, erected, sold, hired out, supplied, distributed, treated, processed, serviced, altered or repaired by or on behalf of the **Insured** in connection with the **Business**;
- n) **Schedule** means the Schedule attached to and forming part of this policy.

SECTION 1A – EMPLOYERS' LIABILITY

6. SECTION 1A – INDEMNITY

The **Insured** is indemnified by Section 1A in accordance with the Operative Clause, but only for **Injury** to any **Person Employed** where such **Injury** arises out of and in the course of employment by the **Insured** and occurs during the period of insurance either:

- a) within the **Insured Territories**; or
- b) elsewhere in the world in respect of temporary visits by any **Person Employed** who is normally resident in the **Insured Territories** provided that:
 - i. the action for damages is brought against the **Insured** in a court of law in the **Insured Territories**;
 - ii. the **Insurer** will not be liable in respect of any amount payable under any workman's compensation, social security or health insurance legislation or similar legislation or

any medical and/or repatriation costs.

7. EMPLOYERS' LIABILITY COMPULSORY INSURANCE CLAUSE

The indemnity granted by this section is deemed to be in accordance with the provisions of any law enacted in the **Insured Territories** relating to compulsory insurance of liability to employees.

If however, there has been non observance of any section conditions by the **Insured** and the **Insurer** shall have paid any sum which would not have been paid but for the provisions of such law, then the **Insured** shall, within fourteen (14) days, repay such sum to the **Insurer**.

Unsatisfied Court Judgments

In the event that:

- a) a judgment for damages is obtained against any company or individual operating from premises within the **Insured Territories** by any **Person Employed**, in respect of **Injury** caused during any period of insurance, arising out of and in the course of their employment by the **Insured** in the **Business**; and
- b) it remains unsatisfied, in whole or in part, six (6) months after the date of such judgment then the **Insurer** will indemnify the **Person Employed** or their personal representative, up to the **Indemnity Limit**, for the amount of damages and awarded costs which remain unsatisfied, as long as:
 - i. there is no appeal outstanding;
 - ii. any payment made by the **Insurer** shall only be in respect of bodily injury which would otherwise be within the scope of cover of this section of the policy;
 - iii. any payment made by the **Insurer** shall only be in respect of liability for which the **Insured** would have been entitled to indemnity under this section of the policy, if the judgment had been made against the **Insured**; and
 - iv. the **Insurer** shall be entitled to take over and prosecute, for the **Insurer's** own benefit, any claim against any other party and the **Insured**, the **Person Employed**, or their personal representatives shall give all information and assistance required.

This extension is subject otherwise to the terms (including, without limitation, the conditions and exceptions) of this policy.

SECTION 1B – PUBLIC LIABILITY

8. SECTION 1B – INDEMNITY

The **Insured** is indemnified by Section 1B in accordance with the Operative Clause for and/or arising out of accidental **Injury** and/or **Damage** occurring during the period of insurance within:



- a) **Insured Territories;**
- b) elsewhere in the world in respect of liability arising out of temporary visits by **Persons Employed**, provided that the **Person Employed** is normally resident in the **Insured Territories**.

SECTION 1C – PRODUCTS LIABILITY

9. SECTION 1C – INDEMNITY

The **Insured** is indemnified by Section 1C in accordance with the Operative Clause in respect of legal liability arising out of accidental **Injury** and/or **Damage** occurring during the period of insurance but only against claims arising out of or in connection with any **Product**.

SECTION 1 EXCLUSIONS

EXCLUSIONS APPLICABLE TO ALL OF SECTION 1

10. Section 1 does not cover liability:

- a) directly or indirectly caused by, or contributed to, by or arising from:
 - i. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
 - ii. the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component
 provided that, in respect of claims arising out of **Injury** which forms the subject of indemnity under Section 1A, this Exclusion shall only apply to liability:
 1. of any party (or their personal representatives) to whom indemnity is granted under Clause 2. c);
 2. assumed by the **Insured** by agreement which would not have attached in the absence of such agreement;
- b) for any award of punitive or exemplary damages whether as fines, penalties, multiplications or compensatory awards, or damages or in any other form whatsoever;
- c) arising from **Injury** or **Damage**, cost or expense of whatsoever nature, directly or indirectly caused by, resulting from, or in connection with, any Act of Terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

For the purpose of this Exclusion an Act of Terrorism means an act including, but not limited to, the use of violence and/or the threat 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.

This Exclusion also excludes **Injury** or **Damage**, cost, or expense of whatsoever nature, directly or indirectly caused by, resulting from, or in connection with any action taken in controlling, preventing, suppressing, or in any way relating to any Act of Terrorism.

If the **Insurer** alleges that by reason of this Exclusion any **Injury** or **Damage**, cost or expense is not covered by this section, the burden of proving to the contrary shall be upon the **Insured**.

In respect of Section 1A Employers' Liability, this Exclusion shall only apply in excess of GBP5,000,000 any one **Occurrence**;

- d) arising from or in any way related to asbestos or asbestos fibres including, but not limited to, **Injury** or **Damage** directly or indirectly caused by asbestos or asbestos fibres or any commodity, article, or thing containing asbestos or asbestos fibres or the cost of removing, nullifying, or cleaning up asbestos, asbestos fibres or any commodity, article or thing containing asbestos or asbestos fibres.

In respect of Section 1A Employers' Liability this Exclusion shall only apply in excess of GBP5,000,000 any one **Occurrence**.

EXCLUSIONS APPLYING TO SECTION 1A

11. Section 1A does not cover liability for:

- a) claims incurred in circumstances where any road traffic legislation requires compulsory insurance or security;
- b) claims arising out of work on and/or visits to any offshore rig and/or installation and/or platform from the time of embarkation onto a conveyance at the point of final departure to such offshore rig and/or installation and/or platform until disembarkation from the conveyance from such offshore rig and/or installation and/or platform onto land.

EXCLUSIONS APPLICABLE TO SECTION 1B

12. Section 1B does not cover liability for:

- a) claims for which indemnity is afforded by sections 1A and 1C whether or not such sections are insured by this policy;
- b) claims arising out of the ownership, possession or use by or on behalf of the **Insured** or any person or party entitled to indemnity, of any motor vehicle or



trailer for which compulsory insurance or security is required by legislation, other than claims:

- i. caused by the use of any tool or plant forming part of, or attached to, or used in connection with any motor vehicle or trailer in circumstances where compulsory insurance or security is not required by any road traffic legislation;
 - ii. arising beyond the limits of any carriageway or thoroughfare caused by the loading or unloading of any motor vehicle or trailer except where indemnity is provided by any motor insurance contract;
 - iii. arising out of any motor vehicle or trailer temporarily in the **Insured's** custody or control for the purpose of parking, except liability for which compulsory insurance or security is required by legislation governing the use of any motor vehicle or trailer;
- c) claims arising out of the ownership, possession or use by or on behalf of the **Insured** of any aircraft, hovercraft, offshore installation and/or rig and/or platform or watercraft (other than watercraft not exceeding ten (10) metres in length whilst on inland waterways);
- d) claims for **Damage** to property owned, leased to, hired by, under hire purchase, on loan to, held in trust by or otherwise in the **Insured's** care, custody or control other than:
- i. employees' and visitors' clothing and personal effects;
 - ii. premises (including contents therein) temporarily occupied by the **Insured** for work therein or thereon but no indemnity shall be granted for **Damage** to that part of the property on which the **Insured** is or has been working and which arises out of such work;
 - iii. premises tenanted by the **Insured** provided always that:
 1. details of such premises shall have been disclosed to the **Insurer**;
 2. liability for such **Damage** is not assumed by the **Insured** under agreement where liability would not have existed in the absence of the agreement;
 3. the **Insurer** shall not be responsible for the first GBP500 of such **Damage** caused otherwise than by fire or explosion.

EXCLUSIONS APPLICABLE TO SECTION 1C

13. Section 1C does not cover liability for:

- a) claims falling within the scope of cover set out in Section 1A and 1B whether or not such sections are insured by this policy;
- b) costs incurred in the repair, reconditioning or replacement of any **Product** or part which is alleged to be defective;
- c) claims arising out of the recall of any **Product** or part of any **Product**;

- d) claims arising out of any **Product** which, with the **Insured's** knowledge, is intended for incorporation into the structure, machinery or controls of any aircraft, other aerial device, hovercraft, or offshore rig and/or installation and/or platform;
- e) claims arising out of any **Product** which the **Insured** knows or should reasonably know is to be delivered to or used in the United States of America or Canada or any territory which operates under the laws of the United States of America or Canada unless the **Insured** has requested that there shall be no such limitation and has accepted the terms offered by the **Insurer** in granting such cover, which offer and acceptance must be signified by specific endorsement to this policy;
- f) claims arising by virtue of a contract or agreement but which would not have arisen in the absence of such contract or agreement;
- g) claims arising out of the failure of any **Product** or part to fulfil the purpose for which it was intended unless due to an unintended and unexpected defect in the manufacture and/or assembly of such **Product** or part;
- h) claims arising from circumstances known to the **Insured** prior to the inception date of this policy.

EXCLUSIONS APPLICABLE TO SECTIONS 1B AND 1C

14. Sections 1B and 1C do not cover liability for:

- a) claims arising out of the deliberate, conscious or intentional disregard by the **Insured's** technical or administrative management of the need to take all reasonable steps to prevent **Injury** or **Damage**;
- b) claims arising out of liquidated damages, clauses, penalty clauses, or performance warranties unless proven that liability would have attached in the absence of such clauses or warranties;
- c) claims arising out of pollution or contamination of the atmosphere or of any water, land, buildings or other tangible property except to the extent that it can be proved that such pollution or contamination:
 - i. was the direct result of a sudden, identifiable, unintended and unexpected incident occurring in its entirety at a specific time and place during the period of insurance;
 - ii. was not the direct result of the **Insured** failing to take reasonable precautions to prevent such pollution or contaminationprovided always that **Insurer's** total liability to pay compensation and/or claimants' costs, fees and expenses under this clause shall not exceed the sum stated in the **Schedule** in the aggregate in respect of the period of insurance and that all such pollution or contamination which arises out of one incident shall be considered for the purposes of this section to have occurred at the time such incident takes place;
- d) claims directly or indirectly occasioned by, happening through, or in consequence of, war,



invasion, act of foreign enemy hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power;

- e) claims directly or indirectly arising out of or relating to:
 - i. the recognition, interpretation, failure to recognise or interpret, or calculation, comparison, differentiation, sequencing or processing of data involving one or more dates or times by any computer system, hardware programme or software or any microchip, integrated circuit or similar device in computer or non-computer equipment whether the property of the **Insured** or not; or
 - ii. any change, alteration, correction or modification involving one or more dates or times to any such computer system, hardware programme or software or any microchip, integrated circuit or similar device in computer or non-computer equipment whether the property of the **Insured** or not.

This Exclusion shall apply regardless of any other cause which contributes concurrently or in any sequence to such loss, **Damage**, expense, liability or claim;

- f) claims arising from or caused by design, formula, specification, technical or professional service given for a fee by the **Insured** or anyone acting on behalf of the **Insured**;
- g) claims arising in respect of liability for **Financial Loss**;
- h) claims arising out of liability for Loss directly or indirectly caused by, resulting from, arising or in connection with the **Insured's** use of, or reliance upon or sale or supply of any computer hardware or related Information Technology or communication system, any computer software, Internet, Intranet, website or similar facility, system or network and/or any electronic data or related information, provided that this clause shall not exclude claims for personal injuries caused by an accident involving physical contact with computer hardware.

"Loss" in this clause shall include (but shall not be limited to) **Injury**, loss, **Damage**, cost or expense of whatsoever nature including **Consequential Loss** and **Financial Loss** and loss of, damage to, deterioration or corruption (whether permanent or temporary) or loss of use of any computer hardware or related Information Technology or communication system, computer software, Internet, Intranet, website or similar facility, system or network and/or any electronic data and related information.

If the **Insurer** maintains that by reason of this

clause any Loss is not covered by this section the burden of proving the contrary shall be upon the **Insured**.

If any part of this clause is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

SECTION 1 EXTENSION

15. SECTION 1 COMPENSATION FOR COURT ATTENDANCE

In the event of any director, partner or employee of the **Insured** attending court as a witness at the request of the **Insurer** in connection with a claim in respect of which the **Insured** is entitled to indemnity under this section, the **Insurer** will provide compensation at the following rates for each day on which attendance is required:

- a) any director or partner GBP250 per day;
- b) any employee GBP150 per day

subject to a maximum aggregate limit during the period of insurance of GBP5,000.

SECTION 1 CONDITIONS

- 16. a) Discharge of Liability: The **Insurer** may, at any time, pay the **Indemnity Limit** or the **Sum Insured** (after the deduction of any sum already paid) or any lesser amount for which a claim can be settled and shall be under no further liability except for the payment of costs and expenses incurred prior to the date of payment, provided that the **Indemnity Limit** so allows;
- b) Bona Fide Subcontractors: All bona fide subcontractors engaged by the **Insured** have in full force and effect throughout the duration of their contract with the **Insured** insurances as follows:
 - i. Employers' liability insurance in respect of their liability at law for **Injury** to any person in the employment of the subcontractor, including any labour master or labour only subcontractor or person supplied or employed by them;
 - ii. Public/Products Liability insurance in respect of their liability at law for **Injury** or **Damage**, with an indemnity limit of not less than the **Indemnity Limit** any one **Occurrence**, or series of **Occurrences**, arising out of one original cause provided under this section.

It is further a condition that:

- 1. such insurances contain an Indemnity to Principals Clause; and
- 2. the **Insured** shall have obtained and retained a copy of written evidence of such insurances.



For the purposes of this condition, bona fide subcontractor shall mean any company or firm or individual which enters into a contract with the **Insured** for services and/or supplies goods or materials in conjunction with labour but shall not include any company or firm or individual entering into a contract of service supplying labour only;

- c) Rights of Recourse: full rights of recourse must be maintained against any manufacturer or supplier with whom the **Insured** has entered into a legal contract for the provision of **Products**;
- d) Personal Protective Equipment: the use or wearing of Personal Protective Equipment by any **Person Employed** must be rigorously enforced and the Personal Protective Equipment must be supplied to the **Person Employed** and a formal record maintained confirming receipt of such equipment;
- e) Cross Liabilities: where there is more than one party named as the **Insured** in the **Schedule**, the coverage under Section 1 will apply separately to each such **Insured** in the same manner and to the same extent as if a separate policy had been issued to each **Insured** and the **Insurer** agrees to waive all rights of subrogation against any of these parties, provided that the total amount payable in respect of compensation does not exceed the **Indemnity Limit**.

SECTION 2 - CONTRACTORS ALL RISKS

1. SECTION 2 OPERATIVE CLAUSE

The **Insurer** will indemnify the **Insured** against their legal liability as defined by each insured sub-section of Section 2 as set out in the **Schedule** to pay compensatory damages (including claimants' costs, fees and expenses) in accordance with the law of any country, subject always to the terms, conditions and exclusions of such sub-section.

Provided that, unless specifically agreed by endorsement, this section shall not indemnify the **Insured** in respect of any judgment, award or settlement made within territories which operate under the laws of the United States of America or Canada (or any order made anywhere in the world to enforce such judgment, award, or settlement either in whole or in part).

2. SECTION 2 INDEMNITY LIMITS

The total amount payable by the **Insurer** in respect of any claim, irrespective of the number of parties insured by Section 2 of this policy, shall not exceed, in whole, the total **Indemnity Limit** or in respect of any item of **Insured Property**, its **Sum Insured** or any other stated limit.

For the purpose of the **Sum Insured** or **Indemnity**

Limit, all of the parties insured under Section 2 of this policy shall be treated as one party or legal entity so that there will be only two parties to the contract of insurance, namely: the **Insurer** and the **Insured**, both as defined herein.

The liability of the **Insurer** in respect of any one loss or series of losses arising from any one occurrence under:

- a) Section 2A shall not exceed one hundred and fifteen percent (115%) of the **Original Estimated Contract Price** or maximum contract price stated as the **Sum Insured** in the **Schedule** including the value of **Free Issue Materials** plus any amount payable under Additional Cover, 5. e) Dismantling or Demolition;
- b) Section 2B shall be limited to the market value at the time of the loss of the item(s) concerned and in aggregate to the **Sum Insured** stated in the **Schedule**

subject to a maximum of the **Sum Insured** stated in the **Schedule**, the amount payable for physical loss or damage in respect of **Owned Plant**, one year old or less at the time of the loss, shall be:

- i. where **Insured Property** is lost or damaged to the extent that repair is uneconomic or impractical: Its replacement by new property of equal performance or capacity or, if impossible, its replacement by property having the nearest higher performance or capacity to the **Insured Property** lost or damaged;
- ii. where the **Insured Property** is damaged: The repair of the damage and the restoration of the damaged portion of the **Insured Property** to a condition substantially the same as but not better or more extensive than its condition when new

provided that:

- 1. the liability of the **Insurer** for loss or damage shall not exceed the **Sum Insured** or **Indemnity Limit** stated in the **Schedule**;
- 2. repair or replacement must be commenced and carried out expeditiously and in any event, completed within six (6) months after the loss or damage or within any further time as the **Insurer** may allow;
- 3. no payment beyond the amount which would have been payable if this basis of settlement had not been incorporated shall be made until the cost of repair or replacement has been incurred;
- 4. no payment beyond the amount which would have been payable if this basis of settlement had not been incorporated shall be made if, at the time of any loss or damage to the **Insured Property**, it shall be covered by any other insurance held by or on behalf of the **Insured** which



differs in basis of settlement from this insurance;

5. where any **Insured Property** has an individual **Sum Insured** set against it in the **Schedule**, it is separately subject to the following condition: If, at the time of repair or replacement, the sum representing eighty-five percent (85%) of the cost which would have been incurred in repair or replacement (in the event there had been a total loss) exceeds the **Sum Insured** at the time of any loss or damage, the **Insured** shall be considered his own insurer for the difference and bear a rateable proportion of the loss or damage accordingly;
6. where, by reason of the above provisions, no payment is made beyond the amount which would have been payable if this basis of settlement had not been incorporated, the rights and liability of the **Insurer** and the **Insured** in respect of loss or damage shall be subject to the terms, conditions and exclusions of Section 2 as if this condition had not been incorporated;
- c) Section 2C shall be limited to the **Sum Insured** stated in the **Schedule**;
- d) Section 2D shall be limited to the **Sum Insured** stated in the **Schedule** and the limit any one **Employee**.

3. SECTION 2 DEFINITIONS

For the purpose of this section:

- a) **Consequential Loss** means an indirect loss which accompanies an insured loss;
- b) **Contract** means any contract or undertaking of the **Insured** detailed in the **Schedule** not exceeding twelve (12) months (excluding the maintenance period) undertaken by the **Insured** anywhere within the **Insured Territories** where the **Original Estimated Contract Price** does not exceed the **Indemnity Limit** in respect of Section 2A of the **Insured Property**;
- c) **Contract Works** means works undertaken in performance of the **Contract** including works, temporary works and materials (including **Free Issue Materials**);
- d) **Employee** means an employee under a contract of service or apprenticeship with the **Insured**;
- e) **Employees' Tools and Personal Effects** means employees' tools and personal effects for which the **Insured** is responsible;
- f) **Excess** means the amount of a claim not payable

by the **Insurer** and which shall be deducted after calculation of the amount payable under a claim and unless endorsed otherwise will apply separately in respect of individual sections;

- g) **Free Issue Materials** means materials supplied to the **Insured** for incorporation into the **Contract Works** and for which they are responsible but which have not been included in the final valuation of the work, provided that the value of **Free Issue Materials** are declared to the **Insurer** and form part of any declaration made under General Conditions Applying to Sections 1 and 2, sub section 6;
- h) **Hired In Plant** means mechanical, electrical, or manually powered implements, materials, containment, preparation and handling equipment, scaffolding, staging, ladders and similar equipment, site huts, cabins, or similar contractors plant and equipment hired in by the **Insured** unless specifically described otherwise under Section 2C of the **Schedule**.

Hired In Plant shall not include any contractors plant or equipment on a hire purchase, lease agreement, or that which is on free loan to the **Insured**;

- i) **Indemnity Limit** or **Sum Insured** means the liability of the **Insurer** in respect of any one loss or series of losses arising out of any one occurrence shall not exceed the amount specified in the **Schedule** as the Indemnity Limit or Sum Insured;
- j) **Insured** means:
 - i. the person, persons or corporate body named in the **Schedule**;
 - ii. subsidiary companies of the **Insured** notified to and accepted in writing by the **Insurer**;
- k) **Insured Property** means that property insured by this section and described in the **Schedule**;
- l) **Insured Territories** means Great Britain, Northern Ireland, The Channel Islands or the Isle of Man;
- m) **Insurer** means the Insurance Company or Lloyd's Syndicate(s) stated in the **Schedule** for this section;
- n) **Original Estimated Contract Price** means the estimated or quoted value of the **Contract Works** prior to commencement, including any other costs in connection with the **Contract**;
- o) **Owned Plant** means mechanical, electrical, or manually powered implements, materials, containment, preparation and handling



equipment, scaffolding, staging, ladders and similar equipment, site huts, cabins, or similar contractors plant and equipment owned by the **Insured** unless specifically described otherwise under Section 2B of the **Schedule**;

- p) **Schedule** means the Schedule attached to and forming part of this policy;
- q) **Transit** means the carriage of the **Insured Property** to or from the site of any **Contract** including loading on to and unloading from the conveyance used, excluding any **Transit** by sea or air.

SECTION 2A - CONTRACT WORKS

4. SECTION 2A – INDEMNITY

The **Insured** is indemnified by Section 2A in accordance with the Operative Clause, but only for physical loss or damage arising from **Contract Works** on or adjacent to the site of any **Contract** including whilst in **Transit**.

5. ADDITIONAL COVER APPLYING TO SECTION 2A

In accordance with the Operative Clause, the **Insurer** agrees to additionally indemnify the **Insured** for:

- a) Additional Interests: The interest of any employer, principal contractor or sub contractor but only to the extent to which that interest is required to be insured by the terms of the **Contract**;
- b) Plans and Documents: Clerical costs necessarily incurred in re-writing or reproducing plans, drawings or other **Contract** documents damaged within the **Insured Territories** provided that the liability of the **Insurer** shall not exceed GBP25,000 in respect of any one occurrence of physical loss or damage;
- c) Maintenance: Physical loss of or damage to the permanent works occurring:
 - i. during the maintenance period or defects liability period, not exceeding twelve (12) months in duration specified in the conditions of the **Contract** arising from a cause occurring whilst in **Transit** or at the site prior to the commencement of the defects liability period but after the inception date of this policy;
 - ii. by a cause occurring within fourteen (14) days after the issue of a certificate of completion or for which the contractor is responsible under the conditions of the **Contract**;
 - iii. by the contractor during the course of any operations carried out by it for the purpose of complying with its obligations under the provisions of the **Contract** in respect of any defects liability period;

- d) Show Houses and Contents: Physical loss of or damage to:
 - i. Show Houses;
 - ii. contents of Show Houses subject to a limit of GBP50,000 any one Show House;
- e) Dismantling or Demolition: In substitution for Additional Cover Applying To Section 2, clause 14, a) Debris Removal:

The costs and expenses necessarily incurred in respect of:

- i. removal of debris;
- ii. dismantling or demolition;
- iii. shoring or propping up;
- iv. clearance of drains and sewers;
- v. dewatering

resulting from physical loss of or damage to the **Insured Property** under Section 2A and for which there is liability under Section 2 of this policy.

Cover also extends to include the cost of removal of debris arising from unauthorised tipping or inundation of the site but only occurring after commencement of the **Contract**, provided that the liability of the **Insurer** in respect of this additional cover shall not exceed ten percent (10%) of the **Original Estimated Contract Price**;

- f) Off Site Storage: Materials and goods for which the **Insured** is responsible (other than items of stock, property, materials, or equipment intended for sale) and intended for inclusion in any **Contract Works** whilst temporarily stored within the **Insured Territories** provided that the liability of the **Insurer** in respect of this additional cover shall not exceed:
 - i. GBP50,000 in respect of any loss or damage at the premises of the **Insured**;
 - ii. GBP100,000 in respect of any loss or damage elsewhere;
- g) Architects, Surveyors and Consulting Engineers Fees: Architects, surveyors, consulting engineers and other professional fees necessarily incurred in the reinstatement of the **Insured Property** under Section 2A, consequent upon its destruction or damage but not incurred for the preparation of a claim;
- h) Local Authorities Clause: The additional cost of reinstatement of the **Insured Property** under Section 2A which has been lost or damaged as may be incurred solely by reason of necessity to comply with European Union Legislation for building and other regulations under or framed in pursuance of any Act of Parliament or with the Bye-Laws of any Municipal or Local Authority but excluding:
 - i. costs incurred in complying with any of the



said Legislation, Acts or Bye-Laws:

- a) in respect of damage occurring prior to the granting of this extension under which notice has been served on the **Insured** prior to the occurrence of the physical loss or damage;
 - b) in respect of undamaged property or portions of undamaged property other than foundations;
- ii. the amount of any tax rate 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 of the property by reason of compliance with any of the said Legislation, Acts or Bye-Laws.

Additionally, the work of reinstatement must be commenced and carried out with reasonable despatch and may be carried out wholly or partially upon another site subject to the liability of the **Insurer** under this additional cover not being thereby increased;

- i) Completed Pending Sale – Private Dwelling Houses: Physical damage to private dwelling houses constructed as part of the **Contract** for one hundred and eighty (180) days from completion of the individual house or until the date of sale whichever occurs first;
- j) Contract Conditions: If required by the terms and conditions of the **Contract** (subject to any exclusions), cover is extended to include the period of fourteen (14) days following the issue of a certificate of completion.

This extension does not cover any loss or damage caused by or arising out of the use or occupation by the employer, purchaser, or principal, nor their agents, servants, or any other contractors (not being employed by the **Insured**) of the part of the **Insured Property** under Section 2A.

SECTION 2B – OWNED PLANT

6. SECTION 2B – INDEMNITY

The **Insured** is indemnified by Section 2B in accordance with the Operative Clause, but only for physical loss or damage to **Owned Plant** anywhere within the **Insured Territories** including whilst in **Transit**.

SECTION 2C – HIRED IN PLANT

7. SECTION 2C – INDEMNITY

The **Insured** is indemnified by Section 2C in accordance with the Operative Clause, but only for the **Insured's** legal liability arising under the terms of any hiring agreement to pay:

- a) for physical loss of or damage to the **Hired In Plant**;
- b) continuing hiring charges for the **Hired In Plant** following physical loss or damage insured under a)

whilst anywhere within the **Insured Territories** including whilst in **Transit**.

Where legal proceedings have been defended, the **Insurer** will, with its written consent, pay all legal expenses for which the **Insured** may be liable.

ADDITIONAL COVER APPLYING TO SECTIONS 2B AND 2C

8. a) Immobilised Plant: Costs necessarily incurred in the recovery of unintentionally immobilised plant or equipment (other than plant or equipment working underground or underwater) provided that recovery is not necessitated by or in consequence of:
- i. its own electrical or mechanical breakdown, derangement, failure, or explosion;
 - ii. failure to maintain **Insured Property** in accordance with manufacturer's recommendations

subject to a limit of:

- a) GBP25,000 in respect of any loss or series of losses arising from a single occurrence; or
- b) the sum which would have been payable had the costs not been incurred

provided that the **Insurer** shall not be liable for loss or damage caused by the process of recovery.

- b) Contents of Site Huts: Contents of site huts subject to a maximum of GBP5,000 excluding:
- i. computers and peripheral equipment;
 - ii. items excluded elsewhere in Section 2 of this policy.

SECTION 2D – EMPLOYEES' TOOLS AND PERSONAL EFFECTS

9. SECTION 2D – INDEMNITY

The **Insured** is indemnified by Section 2D in accordance with the Operative Clause, but only for physical loss or damage to **Employees' Tools and Personal Effects** whilst on or adjacent to the site of any **Contract**.

SECTION 2 EXCLUSIONS

EXCLUSIONS APPLICABLE TO ALL OF SECTION 2

10. Section 2 does not cover liability for:

- a) Penalties or **Consequential Losses**: Liquidated



- damages, penalties under contract for guarantees of performance or efficiency, delay or non-completion, or **Consequential Loss** or damage of any kind or description, unless specifically provided for elsewhere within Section 2 of this policy;
- b) Unexplained Losses: Unaccountable losses, or losses discovered on the occasion of checks or inventories, unless the **Insured** can produce reasonable proof that such losses are as a result of an identifiable incident;
 - c) Road Vehicles: Loss of or damage to licensed cars, lorries, vans, trucks, or other road vehicles which are used in circumstances requiring insurance under any road traffic legislation other than:
 - i. contractors plant used solely as a tool of trade;
 - ii. as specifically provided for elsewhere within Section 2 of this policy;
 - iii. quad bikes or motorcycles;
 - d) Money or Guarantees of Money: Cash, notes, postal orders or money orders, cheques, stamps, or other securities for money;
 - e) Breakdown: Loss of or damage to any **Insured Property** from its own explosion, mechanical or electrical failure or breakdown, other than where the **Insured** is responsible for such loss under the terms of a hiring agreement;
 - f) Cessation of Works: Physical loss or damage where work ceases on the site of the **Contract** for a continuous period exceeding sixty (60) days unless expressly agreed by the **Insurer** in writing;
 - g) Loss or Damage - Underground or Underwater: Loss or damage nor abandonment or recovery costs in respect of any item of **Insured Property** underground or underwater;
 - h) Intentional Acts: Loss or damage caused by or arising out of:
 - i. any intentional act or wilful omission of the **Insured** (other than an act or omission the purpose of which is an exceptional measure to prevent injury, loss or damage) which having regard to the nature and circumstances of the act or omission could reasonably be expected to cause, contribute to or exacerbate any loss or damage;
 - ii.
 - 1. intentional overloading;
 - 2. testing or experiments involving the imposition of any abnormal conditions;
 - i) Wear and Tear: Loss or damage caused directly by:
 - i. wear and tear, gradual deterioration or rust;
 - ii. gradually developing defects;
 - iii. scratching or chipping of painted or polished surfaces;
 - iv. erosion or corrosion
 but this shall not exclude resultant loss or damage not otherwise excluded;
 - j) Application of Tools: Loss or damage caused by or arising out of the direct application of any tool or process during the course of repair, maintenance, inspection, modification or overhaul;

- k) Guarantees of Performance: Liquidated damages, penalties for delay or detention, or in connection with guarantees of performance or efficiency;
- l) War Risks: Any loss or damage directly or indirectly caused by, or in consequence of, war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, or confiscation or nationalisation or requisition or destruction of or damage to **Insured Property** by, or under the order of, any government or public or local authority;
- m) Terrorist Acts :
 - i. Any consequence of civil commotion assuming the proportion of, or amounting to, a popular rising, martial law, or the act of any lawfully constituted authority;
 - ii. Loss or damage caused by, or happening through, or in consequence, directly or indirectly, of Terrorism;
 - iii. Loss or damage directly or indirectly caused by, resulting from, or in connection with any action taken in controlling, preventing, suppressing, or in any way relating to any act of Terrorism;
 - iv. Loss or damage in Northern Ireland occasioned by, or happening through, or in consequence, directly or indirectly, of riot, strike, civil commotion, locked out workers, or persons taking part in labour disturbances.
 For the purposes of Section 2 of this policy, Terrorism shall mean any act of any person or group of persons acting alone or on behalf of, or in connection with, any organisation or government with activities directed towards the overthrowing or influencing of any government force, or violence and/or putting the public, or any section of the public, in fear.
 In any action, suit, or other proceedings where the **Insurer** allege that, by reason of this definition, any loss or damage is not covered by Section 2 of this policy (or is covered only up to a specified **Indemnity Limit**) the burden of proving that such loss or damage is covered (or is covered beyond that **Indemnity Limit**) shall be upon the **Insured**;
- n) Riot Strike and Civil Commotion: Loss or damage occurring at the premises of the **Insured** caused by, or arising from, riot, strike, lock-out, or civil commotion;
- o) Nuclear Risks: Loss, destruction, or damage to **Insured Property**, or expense or **Consequential Loss**, nor any legal liability caused by, or arising from:
 - i. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
 - ii. the radioactive, toxic, explosive, or other hazardous properties of any explosive nuclear assembly or nuclear component;



- p) Sonic Bang: Loss or damage directly caused by the pressure waves of aircraft or other aerial devices travelling at sonic or supersonic speeds;
- q) Airborne and Waterborne Craft: Loss of or damage to airborne or waterborne vessels, craft, platforms, or rigs or any **Insured Property** situated thereon, or being loaded onto or offloaded therefrom;
- r) Electronic Risks:
 - i. Loss or damage to any computer or other equipment or component or system or item which processes, stores, transmits, retrieves, or receives data, 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;
 - ii. **Consequential Loss** directly or indirectly caused by, or arising from, Virus or Similar Mechanism or Hacking or Denial of Service Attack.

Virus or Similar Mechanism shall mean any 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.

Hacking shall mean unauthorised access to any computer or other equipment or component or system or item which processes, stores, transmits, retrieves, or receives data, whether it be the property of the **Insured** or not.

Denial of Service Attack shall mean 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;

- s) Pollution or Contamination: Loss or damage caused by or arising from pollution or contamination.

This Exclusion shall not apply to costs arising from pollution or contamination of **Insured Property** caused directly by an occurrence which is insured by Section 2 of this policy provided that

the liability of the **Insurer** shall be limited to a maximum of GBP50,000 in respect of pollution or contamination.

EXCLUSIONS APPLICABLE TO SECTION 2A

11. Section 2A does not cover liability for:

- a) Completed, Pending Sale: Physical loss of or damage to the **Insured Property** after completion, pending sale or lease, except as provided for under any relevant Additional Cover applying to Section 2A;
- b) Completed, Taken Into Use: Physical loss of or damage to the **Insured Property** after such property has been completed, handed over, taken into use or for which a certificate of completion has been issued, other than as provided for under any relevant Additional Cover applying to Section 2A;
- c) Existing Structures: Physical loss of, or damage to, any property or part of any property which has formed part of any structure prior to commencement of the **Contract**;
- d) Defective Property: Physical loss of, or damage to, and the costs necessary to replace, repair, or rectify **Insured Property**:
 - i. which is in a defective condition due to a defect in design, plan, specification, materials, or workmanship of such **Insured Property**;
 - ii. which is necessary to enable the replacement, repair, or rectification of **Insured Property** excluded by d) i) above
 provided d) i) above shall not apply to other **Insured Property** which is free of the defective condition and is damaged as a consequence. For the purpose of Section 2 of this policy and not merely this Exclusion, the **Insured Property** shall not be regarded as lost or damaged solely by virtue of the existence of any defect in design, specification, materials, or workmanship in the **Insured Property** or any part of the **Insured Property**;
- e) Refractory Linings: Loss of or damage to refractory linings from the first application of heat;
- f) Non-Ferrous Metals: Loss resulting from theft in respect of unfixed, non-ferrous metals of any description unless at the time of theft either:
 - i. an authorised **Employee** of the **Insured** is actually on the site; or
 - ii. such property is contained in a securely closed and locked hut or building.

EXCLUSIONS APPLICABLE TO SECTIONS 2B AND 2C

12. Sections 2B and 2C do not cover liability for excluded parts, being the loss of, or damage to:

- i. brickwork, masonry, foundations, and supporting structures;
- ii. tyres, tools, cutting edges, moulds, dies, patterns, non-metallic linings, glass, pulverising and



crushing surfaces, flexible pipes, trailing cables, drive belts, or parts requiring periodic renewal, unless arising from a malicious act or forming part of other insured loss or damage for which liability has been accepted by the **Insurer**;

- iii. underground or buried piping;
- iv. safety or protective devices due to their functioning.

EXCLUSIONS APPLICABLE TO SECTION 2D

13. Section 2D does not cover liability for: Articles of jewellery, being the loss of, or damage to, gold or silver articles, jewellery, or watches.

SECTION 2 EXTENSIONS

14. ADDITIONAL COVER APPLYING TO SECTION 2

- a) Debris Removal: In respect of each claim for loss or damage for which liability is accepted, the cover provided by Section 2 of this policy extends to include costs incurred in the removal of debris and protection of the **Insured Property** following indemnifiable damage not exceeding GBP25,000 or twenty percent (20%) of the indemnifiable loss or damage, whichever is the lower;
- b) Loss Avoidance Measures: Subject to the **Indemnity Limit(s)**, the **Insurer** will pay reasonable costs incurred in taking exceptional measures to prevent or mitigate impending loss or damage for which indemnity is provided by Section 2 of this policy, provided that:
 - i. loss or damage would reasonably be expected if such measures were not implemented;
 - ii. the **Insurer** is satisfied that loss or damage has been avoided or mitigated by means of the exceptional measures;
 - iii. the amount payable will be limited to the cost of loss or damage which would have otherwise occurred;
 - iv. the terms, conditions and exclusions of Section 2 of this policy apply as if loss or damage had occurred;
- c) Automatic Reinstatement: **Sums Insured** or **Indemnity Limits** will be reinstated from the date of occurrence of any claim subject to the payment of an additional premium, such additional premium being waived if the total cost of the claim does not exceed GBP25,000;
- d) Expediting Costs: The **Insurer** will pay costs necessarily and reasonably incurred in making temporary repairs upon and / or expediting the repair, reinstatement or replacement of **Insured Property** as a result of indemnifiable loss or damage, provided that the liability of the **Insurer** shall not exceed fifty percent (50%) of the cost of such loss or damage or GBP50,000, whichever is the lower;
- e) Repair Costs Investigation: With their prior

written agreement, the **Insurer** will pay costs relating to repair, investigations, and tests following indemnifiable damage to **Insured Property** by consulting engineers, not exceeding GBP25,000 in any one period of insurance.

The **Insurer** shall not be liable under this Additional Cover for fees incurred in preparing a claim under Section 2 of this policy.

SECTION 2 CONDITIONS

CONDITIONS APPLICABLE TO ALL OF SECTION 2

15. a) Claims Settlement:

- i. the **Insurer** may, at its option, repair, reinstate, replace, or pay-in money for any loss or damage covered by Section 2 of this policy. The amount stated as the **Excess** or the loss sustained by the **Insured** during any Time Exclusion shown in a relevant **Schedule** will be deducted from the settlement and be borne by the **Insured**;
 - ii. the **Insured** may proceed with minor repairs, subject to compliance with the claims procedures applicable to Section 2;
 - iii. the **Insurer** shall be entitled to take over, defend, or settle any claim in the name of the **Insured**;
 - iv. to the extent that the **Insured** is accountable to the tax authorities for Value Added Tax, all claims settlements shall be exclusive of such tax;
- b) Payments on Account: Notwithstanding the claims procedures applicable to Section 2, where liability is accepted, the **Insured** shall be entitled to receive interim payments as agreed between the **Insured** and the **Insurer**;
 - c) Average: If any item of **Insured Property** has an individual **Sum Insured** set against it, and at the time of any loss or damage to the item its value exceeds that **Sum Insured**, then the **Insured** shall be considered his own insurer for the difference and shall bear a rateable proportion of the loss or damage accordingly;
 - d) Suspension of Cover: The **Insurer** reserves the right to suspend this insurance at any time by written notice to the **Insured's** last known address until the **Insurer's** requirements have been fulfilled;
 - e) Arbitration: If any difference arises as to the amount to be paid under Section 2 of this policy (liability having been accepted), the difference shall be referred to an arbitrator to be appointed by both parties in accordance with the statutory provisions applicable.
The making of an award against the **Insurer** shall be paramount over any right of action against it;
 - f) Abandonment: The **Insured** shall not be entitled



to abandon any **Insured Property** to the **Insurer** whether or not taken possession of by it;

- g) Multiple Lifting Operations: For the insurance provided under Section 2 of this policy to be operative during any operation in which a load is shared between any items of lifting plant or lifting equipment (whether insured under Section 2 of this policy or not), the lifting operation must be conducted in accordance with BS7121;
- h) Liability:
 - i. no liability shall attach to Section 2 of this policy for any physical loss or damage not notified to the **Insurer** within three (3) calendar months of the occurrence;
 - ii. no liability shall be admitted and no offer, promise, or payment be made without the written consent of the **Insurer**;
- i) Loss Reduction: The **Insured** shall carry out, and permit to be taken, any action which may be reasonably practicable to prevent further loss or damage.

CONDITIONS APPLICABLE TO SECTION 2A

- 16. a) Insured **Contracts**: The insurance provided under Section 2A of this policy applies during the period of insurance to any **Contract** that is current at the beginning of the period of insurance and any **Contract** that is undertaken during the period of insurance. The liability of the **Insurer** shall cease at the end of the period of insurance unless specifically allowed for elsewhere within Section 2 of this policy or upon cancellation of the insurance at any time during the period of insurance;
- b) Housing Grants Construction and Regeneration Act 1996 (Adjudication scheme): The **Insured** shall, upon the receipt of a Notice of Adjudication relating to any circumstances which have given rise to a claim under Section 2 of this policy, provide notice without delay to GB Underwriting via their broker.

A Notice of Adjudication means any notice issued by a party to the **Contract** to which the Housing Grants Construction and Regeneration Act 1996 applies stating the intention to refer a dispute under the **Contract** to adjudication.

CONDITIONS APPLICABLE TO SECTION 2B

- 17. Hiring Conditions: Whenever **Owned Plant** is let out on hire, the hire shall be subject to:
 - i. written conditions which make the hirer responsible for physical loss or damage; or
 - ii. specific conditions agreed by the **Insurer** in writing and endorsed hereon.

CONDITIONS APPLICABLE TO SECTION 2C

- 18. Hiring Conditions: The insurance provided by Section 2C will indemnify the **Insured** to the extent required by:
 - i. the Model Conditions for the Hiring of Plant recommended by the Construction Plant-hire Association or the Scottish Plant Owners Association, or conditions not more onerous; or
 - ii. specific conditions agreed by the **Insurer** in writing and endorsed hereon.

In the event of a loss involving hire conditions more onerous than those covered by this condition, the indemnity provided will be limited to liability under i. or ii. above as applicable.

Any **Hired In Plant** which is re-hired must be hired out under conditions no less onerous than those of the original hire to the **Insured**.

ADDITIONAL CONDITIONS APPLICABLE TO SECTIONS 2B, 2C AND 2D

- 19. Losses from Vehicles Limitation: The liability of the **Insurer** in respect of losses of machine, attachments, power tools, hand tools, and manually powered implements from vehicles shall not exceed GBP5,000 in the aggregate across Sections 2B, 2C and 2D, prior to the application of the **Excess**, in respect of any one loss or series of losses arising from one event involving theft or malicious damage.



SECTION 3 - ESSENTIAL BUSINESS LEGAL

Please read this policy section carefully and in full to familiarise yourself with the terms and conditions, as well as the:

- Legal and tax advice helpline
- Business legal services website
- Claims procedure.

The terms, conditions and definitions in this policy section are unique to this policy section. If **you** are unsure about anything in this document, please contact whoever **you** purchased **your** policy from.

Make a claim 0117 917 1698

Report a claim between 9am and 5pm weekdays (except bank holidays) or go online www.arag.co.uk/newclaims

Telephone helplines

24/7 legal advice on business matters within EU law
0344 571 7978

Redundancy approval 9am to 5pm weekdays (except bank holidays) **0117 917 1698**

UK tax advice 9am to 5pm weekdays (except bank holidays)
0344 571 7978

Crisis communication 0344 571 7964

Confidential counselling 0333 000 2082

Business Legal Service

Register today at:

www.araglegal.co.uk and enter the voucher code shown in your policy schedule to access the law guide and download legal documents to help with commercial legal matters.

Main benefits of Essential Business Legal

Cover empowers **you** to protect **your** legal rights in the future. With support from ARAG **you** could be protected from legal costs arising from:

- employment disputes (including TUPE) & compensation awards
- employment restrictive covenants
- tax investigations & VAT disputes
- legal nuisance, trespass or damage to property
- legal defence
- compliance & regulation
- statutory licence appeals
- loss of earnings
- employees' extra protection & identity theft
- crisis communication
- contract & debt recovery (optional).

Who is ARAG?

ARAG's UK operation provides a nationwide service from **our** Bristol Head Office. **We** are part of ARAG SE, a global leader in legal expenses insurance which generates annual premium income in excess of €1.5 billion.

It has always been **our** vision to enable everyone, not just those that can afford it, to assert their legal rights. With this aim in mind **we** provide innovative and affordable products to both companies and individuals.

We are committed to providing **our** customers with guidance, advice and security, both now and in the future. **We** recognise that **we** will only grow by ensuring that **we** provide excellent products and an outstanding service to **our** customers.

IMPORTANT INFORMATION

Helplines (All subject to fair and reasonable use).

Legal and tax advice 0344 571 7978

If **you** have a legal or tax problem relating to **your** business, **we** recommend **you** call **our** confidential legal and tax advice helpline. Legal advice is available 24/7, and tax advice is available between 9am and 5pm on weekdays (except bank holidays).

The advice covers business-related legal matters within EU law or tax matters within the UK. **Your** query will be dealt with by a qualified specialist experienced in handling legal and tax-related matters. Use of this service does not constitute reporting of a claim.

Redundancy approval 0117 917 1698

We can arrange for specialist advice if **you** are planning redundancies. This will assist **you** to implement a fair selection process and ensure that the redundancy notices are correctly served. This service is available between 9am and 5pm on weekdays (except bank holidays), subject to a charge.

Crisis communication 0344 571 7964

Where **you** need help to respond to negative publicity or media attention **you** can access professional public relations support and crisis communication services.

Counselling assistance 0333 000 2082

For an **employee** (including family members permanently living with them) needing confidential help and advice, **our** qualified counsellors are available to provide telephone support on any matter that is causing **your employee** upset or anxiety from personal problems to bereavement.

Claims procedure

If **you** need to make a claim, **you** must notify **us** as soon as possible.

1. Under no circumstances should **you** instruct **your** own lawyer or accountant as the **insurer** will not pay any costs incurred without **our** agreement.
2. **You** can request a claim form between 9am and 5pm Monday to Friday (except bank holidays) by telephoning 0117 917 1698 or by downloading one at www.arag.co.uk/newclaims
3. **We** will issue **you** with a written acknowledgement



- within one working day of receiving **your** claim form.
4. Within five working days of receiving all the information needed to assess the availability of cover under this policy section, **we** will write to **you** either:
 - a) confirming the appointment of a qualified representative who will promptly progress the claim for **you**; or
 - b) if the claim is not covered, explaining in full why and whether **we** can assist in another way.
 5. When a lawyer is appointed they will try to resolve **your** dispute without delay, arranging mediation whenever appropriate. Matters cannot always be resolved quickly particularly if the other side is slow to cooperate or a legal timetable is decided by the courts.

What happens if the insurer cannot meet its liabilities?

Brit Syndicate 2987 at Lloyd's is covered by the Financial Services Compensation Scheme (FSCS). **You** may be entitled to compensation of up to ninety percent (90%) of the cost of **your** claim, in the unlikely event that the **insurer** cannot meet its obligations. Further information about compensation scheme arrangements is available from the FSCS.

Essential Business Legal

This policy section is evidence of the contract between **you** and the **insurer**. This policy section and schedule shall be read together as one document. Terms that appear in bold face type have special meanings. Please read **Meanings of Words & Terms** for more information.

Your policy section cover

Following an Insured event, the **insurer** will pay **legal costs & expenses** (and compensation awards under Insured event 2 Employment compensation awards) up to the limit of indemnity and aggregate limit specified in **your** policy schedule for all claims related by time or originating cause including the cost of appeals subject to all the following requirements being met:

1. **You** have paid the insurance premium;
2. The **insured** keeps to the terms of this policy section and cooperates fully with **us**;
3. The Insured event arises in connection with the business shown in the schedule and occurs within the **territorial limit**;
4. The claim:
 - a) always has **reasonable prospects of success**;
 - b) is reported to **us**:
 - i. during the **period of insurance**
 - ii. as soon as the **insured** first becomes aware of circumstances which could give rise to a claim;
5. Unless there is a conflict of interest, the **insured** always agrees to use the **appointed advisor** chosen by **us** in any claim:
 - a) to be heard by the **small claims court** or an Employment Tribunal; and/or
 - b) before proceedings have been or need to be issued;

6. Any dispute will be dealt with through mediation or by a court, tribunal, Advisory, Conciliation and Arbitration Service or a relevant regulatory or licensing body.

A claim is considered to be reported to **us** when **we** have received the **insured's** fully completed claim form.

INSURED EVENTS COVERED A – LEGAL EXPENSES

1. Employment

A dispute between **you** and **your employee**, ex-**employee**, or a prospective **employee**, arising from a breach or an alleged breach of their:

- a) contract of service with **you**; and/or
- b) related legal rights.

A claim can be made under this policy section provided that all internal procedures as set out in the:

- i. ACAS Code of Practice for Disciplinary and Grievance Procedures; or
- ii. Labour Relations Agency Code of Practice on Disciplinary and Grievance Procedures in Northern Ireland

have been or ought to have been concluded.

What is not covered under Insured event 1

Any claim relating to:

1. the pursuit of an action by **you** other than an appeal against the decision of a court or tribunal;
2. redundancy, alleged redundancy or unfair selection for redundancy, occurring during the first 180 days of this policy section, except where **you** have had equivalent cover in force up until the start of this policy section;
3. **legal costs & expenses** for preparation and representation at an internal disciplinary hearing, grievance or appeal;
4. a pension scheme where actions are brought by 10 or more **employees** or ex-**employees**.

2. Employment compensation awards

Following a claim **we** have accepted under Insured event 1 Employment, the **insurer** will pay any:

- a) basic and compensatory award;
- b) Employment Tribunal fees under Schedule 3 of the Employment Tribunals and the Employment Tribunal Fees Order 2013

awarded against **you** by a tribunal; or

- c) an amount agreed by **us** in settlement of a dispute.

Provided that:

- i. **reasonable prospects of success** exist for a wholly successful defence throughout; and
- ii. compensation is:
 - agreed through mediation or conciliation or under a settlement approved in advance by



us; or

- awarded by a tribunal judgment after full argument unless given by default

What is not covered under Insured event 2

Compensation awards and settlements relating to:

1. trade union membership or non-membership, industrial or labour arbitration, collective bargaining agreements, trade union recognition or matters concerning a European Works Council;
2. money due owed under a contract to an **employee** under a contract or a statutory provision relating thereto;
3. civil claims or statutory rights relating to trustees of occupational pension schemes.

3. Employment restrictive covenants

- a) A dispute with **your employee** or ex-**employee** which arises from their breach of a restrictive covenant where **you** are seeking financial remedy or damages, provided that the restrictive covenant:
 - i. is designed to protect **your** legitimate business interests; and
 - ii. is evidenced in writing and signed by **your employee** or ex-**employee**; and
 - iii. extends no further than is reasonably necessary to protect the business interests; and
 - iv. does not contain restrictions in excess of 12 months.
- b) A dispute with another party who alleges that **you** have breached their legal rights protected by a restrictive covenant.

4. Tax protection

- a) A formally notified enquiry into **your** tax affairs, or into the personal tax affairs of **your** directors and/or partners.
- b) A dispute about **your** compliance with regulations relating to:
 - i. Value Added Tax; or
 - ii. Pay As You Earn; or
 - iii. Social Security; or
 - iv. National Insurance Contributions; or
 - v. the Construction Industry Scheme; or
 - vi. IR35following a compliance check by HM Revenue & Customs.
- c) An enquiry into **your** tax affairs, or into the personal tax affairs of **your** directors and/or partners, arising from an alleged discovery by HM Revenue & Customs provided that:
 - i. all returns are completed and have been submitted within the statutory timescales permitted;
 - ii. **you** keep proper records in accordance with statutory requirements;
 - iii. in respect of any appealable matter **you** have requested an Internal Review from HM Revenue & Customs where available.

What is not covered under Insured event 4

Any claim relating to:

1. tax returns which result in HM Revenue & Customs imposing a penalty or which contain careless or deliberate misstatements;
2. an investigation by the Fraud Investigation Service of HM Revenue & Customs;
3. where the Disclosure of Tax Avoidance Scheme Regulations apply or should apply to the **insured's** financial arrangements;
4. any enquiry that concerns assets, monies or wealth outside of Great Britain and Northern Ireland;
5. **your** failure to register for VAT.

5. Property

A dispute relating to material property which **you** own or is **your** responsibility:

- a) following an event which causes physical damage to **your** material property;
- b) following a public or private nuisance or trespass;
- c) which **you** wish to recover or repossess from an **employee** or ex-**employee**.

What is not covered under Insured event 5

Any claim relating to:

1. a contract between **you** and a third party except for a claim under 5 c)
2. goods in transit or goods lent or hired out;
3. compulsory purchase, demolition restrictions, controls or permissions placed on land or property by any government, local or public authority;
4. a dispute with any party other than the party who caused the damage, nuisance or trespass.

6. Legal defence

- a) A criminal investigation and/or enquiry by:
 - i. the police;
 - ii. a health & safety authority; or
 - iii. other body with the power to prosecute where it is suspected that an offence may have been committed that could lead to the **insured** being prosecuted.
- b) An offence or alleged offence which leads to the **insured** being prosecuted in a court of criminal jurisdiction.
- c) A motor prosecution brought against **your** directors and/or partners that arises from the use of any vehicle for personal, social or domestic purposes or to commute to or from their place of work.

What is not covered under Insured event 6

Any claim relating to a parking offence.

7. Compliance & regulation

- a) Receipt of a Statutory Notice served against which **you** wish to appeal.
- b) Notice of a formal investigation or disciplinary hearing by any professional or regulatory body.



- c) A civil action alleging wrongful arrest arising from an allegation of theft.
- d) A claim against **you** for compensation under Article 82 of Regulation (EU) 2016/679 (the “General Data Protection Regulation” or the “GDPR”) and equivalent provision under the Data Protection Act 2018 (all as amended, updated or re-enacted from time to time) including compensation awarded against **you** provided that **you** are registered with the Information Commissioner.

What is not covered under Insured event 7

Any claim relating to:

1. the pursuit of an action by **you** other than an appeal;
2. a routine inspection by a regulatory authority;
3. a Health and Safety Executive Fee for Intervention.

8. Statutory licence appeals

An appeal against a decision by the relevant authority to alter, suspend, revoke or refuse to renew **your** statutory licence or compulsory registration.

9. Loss of earnings

The **insured’s** absence from work to attend court, tribunal, arbitration, a professional body’s disciplinary hearing or regulatory proceedings at the request of the **appointed advisor** or whilst on jury service which results in loss of earnings.

What is not covered under Insured event 9

Any sum which can be recovered from the court or tribunal.

10. Employees’ extra protection

At **your** request:

- a) where civil proceedings are issued against **your employee**:
 - i. for unlawful discrimination; or
 - ii. in their capacity as a trustee of a pension fund set up for the benefit of **your employees**;
- b) where an **insured** or a member of their family suffers physical bodily injury or death as a result of a sudden event;
- c) a claim arising from personal identity theft targeted at **your** directors and/or partners.

What is not covered under Insured event 10a) & b)

Any claim relating to:

1. defending **you**;
2. a condition, illness or disease which develops gradually over time.

11. Crisis communication

Following an event which causes **your** business significant adverse publicity or reputational damage which is likely to have a widespread financial impact on **your** business, **we** will:

- a) liaise with **you** and **your** solicitor (whether the

solicitor is an **appointed advisor** under this policy section, or acts on **your** behalf under any other policy), to draft a media statement or press release; and/or

- b) arrange, support and represent an **insured** at a press conference; and/or
- c) prepare communication for **your** customers and/or a telephone or website script or social media messaging

provided that **you** have sought and followed advice from **our** Crisis communication helpline.

What is not covered under Insured event 11

Any claim relating to:

1. **legal costs & expenses** in excess of GBP10,000;
2. matters that should be dealt with through **your** normal complaints procedures.

Optional cover

12. Contract & debt recovery

A breach or alleged breach of an agreement or alleged agreement which has been entered into by **you** or on **your** behalf relating to the purchase, hire, hire purchase, lease, servicing, maintenance, testing, sale or provision of goods or services, provided that if **you** are claiming for an undisputed debt **you** have exhausted **your** normal credit control procedures.

What is not covered under Insured event 12

Any claim relating to:

1. an amount which is less than GBP200;
2. the letting, leasing or licensing of land or buildings where **you** act as the landlord;
3. the sale or purchase of land or buildings;
4. loans, mortgages, endowments, pensions or any other financial product;
5. computer hardware, software, internet services or systems which:
 - a) have been supplied by **you**; or
 - b) have been tailored to **your** requirements;
6. a breach or alleged breach of a professional duty by an **insured**;
7. the settlement payable under an insurance policy;
8. a dispute relating to an **employee** or **ex-employee**;
9. adjudication or arbitration.

WHAT IS NOT COVERED BY THIS POLICY SECTION (APPLICABLE TO THE WHOLE POLICY SECTION)

The **insured** is not covered for any claim arising from or relating to:

1. **legal costs & expenses** or compensation awards incurred without **our** consent;
2. any actual or alleged act, omission or dispute happening before, or existing at the start of this policy section,



and which the **insured** knew or ought reasonably to have known could lead to a claim;

3. an allegation against the **insured** involving:
 - a) assault, violence, indecent or obscene materials, dishonesty, malicious falsehood or defamation (except in relation to Insured event 11 Crisis Communication);
 - b) the manufacture, dealing in or use of alcohol, illegal drugs, illegal immigration;
 - c) offences under Part 7 of the Proceeds of Crime Act 2002 (money laundering offences);
4. defending a claim in respect of damages for personal injury (other than injury to feelings in relation to Insured event 1 Employment), or loss or damage to property owned by the **insured**;
5. patents, copyright, passing-off, trade or service marks, registered designs and confidential information (except in relation to Insured event 3 Employment restrictive covenants);
6. a dispute with any subsidiary, parent, associated or sister company or between shareholders or partners;
7. franchise or agency agreements;
8. a judicial review;
9. a dispute with **us**, the **insurer** or the party who arranged this cover not dealt with under Condition 6;
10.
 - a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel;
 - b) radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
 - c) war, invasion, act of foreign enemy hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection or military or usurped power;
 - d) pressure waves from aircrafts or other aerial devices travelling at sonic or supersonic speed;
 - e) any terrorist action (regardless of any other cause or event contributing concurrently or in any other sequence to the liability) or any action taken in controlling, funding, preventing or suppressing terrorist action. If the **insurer** alleges that by reason of this exclusion any liability or loss is not covered by this policy section, the burden of proving the contrary shall be upon the **insured**;
11. The payment of fines, penalties or compensation awarded against the **insured** (except as covered under Insured event 2 Employment compensation awards or 7d) or costs awarded against the **insured** by a court of criminal jurisdiction.

POLICY SECTION CONDITIONS

Where the **insurer's** risk is affected by the **insured's** failure to keep to these conditions, the **insurer** can cancel this policy section, refuse a claim, or withdraw from an ongoing claim. The **insurer** also reserves the right to claim back **legal costs & expenses** from the **insured** if this happens.

1. The insured's responsibilities

An **insured** must:

- a) tell **us** immediately of anything that may make it more costly or difficult for the **appointed advisor** to resolve the claim in **your** favour;
- b) cooperate fully with **us**, give the **appointed advisor** any instructions required, and keep them updated with progress of the claim and not hinder them;
- c) take reasonable steps to claim back **legal costs & expenses** and, where recovered, pay them to the **insurer**;
- d) keep **legal costs & expenses** as low as possible;
- e) allow the **insurer** at any time to take over and conduct in the **insured's** name, any claim.

2. Freedom to choose an appointed advisor

- a) In certain circumstances as set out in 2.b) below, the **insured** may choose an **appointed advisor**. In all other cases no such right exists and **we** shall choose the **appointed advisor**.
- b) If:
 - i. **we** agree to start proceedings or proceedings are issued against an **insured**; or
 - ii. there is a conflict of interestthe **insured** may choose a qualified **appointed advisor** except where the **insured's** claim is to be dealt with by the Employment Tribunal or **small claims court** where **we** shall always choose the **appointed advisor**.
- c) Where the **insured** wishes to exercise the right to choose, the **insured** must write to **us** with their preferred representative's contact details. Where the **insured** chooses to use their preferred representative, the **insurer** will not pay more than **we** agree to pay a solicitor from **our** panel. (**Our** panel solicitor firms are chosen with care and **we** agree special terms with them including rates which may be lower than those available from other firms).
- d) If the **insured** dismisses the **appointed advisor** without good reason, or withdraws from the claim without **our** written agreement, or if the **appointed advisor** refuses with good reason to continue acting for an **insured**, cover will end immediately.
- e) In respect of pursuing a claim under Insured event 12 Contract & debt recovery **you** must enter into a **conditional fee agreement** (unless the **appointed advisor** has entered into a **collective conditional fee agreement**) where legally permitted.



3. Consent

- a) The **insured** must agree to **us** having sight of the **appointed advisor's** file relating to the **insured's** claim. The **insured** is considered to have provided consent to **us** or **our** appointed agent to have sight of their file for auditing and quality and cost control purposes.
- b) An **insured** must have **your** agreement to claim under this policy section.

4. Settlement

- a) The **insurer** can settle the claim by paying the reasonable value of the **insured's** claim.
- b) The **insured** must not negotiate, settle the claim or agree to pay **legal costs & expenses** without **our** written agreement.
- c) If the **insured** refuses to settle the claim following advice to do so from the **appointed advisor** the **insurer** reserves the right to refuse to pay further **legal costs & expenses**.

5. Barrister's opinion

We may require the **insured** to obtain and pay for an opinion from a barrister if a dispute arises regarding the merits or value of the claim. If the opinion supports the **insured**, then the **insurer** will reimburse the reasonable costs of that opinion. If that opinion conflicts with advice obtained by **us**, then the **insurer** will pay for a final opinion which shall be binding on the **insured** and **us**. This does not affect the **insured's** right under Condition 6 below.

6. Arbitration

If any dispute between the **insured** and **us** arises from this policy section, the **insured** can make a complaint to **us** as described on the back page of this policy section and **we** will try to resolve the matter. If **we** are unable to satisfy the **insured's** concerns and the matter can be dealt with by the Financial Ombudsman Service, the **insured** can ask them to arbitrate over the complaint.

If the dispute cannot be dealt with by the Financial Ombudsman Service, it can be referred for independent arbitration to a qualified person agreed upon by both parties. The loser of the dispute shall be liable to pay the costs incurred.

If **we** fail to agree on a suitable person to arbitrate the matter, **we** will ask the President of the relevant Law Society to nominate. The arbitration shall be subject to the Arbitration Acts and the arbitrator's decision shall be binding on the parties.

7. Other insurance

The **insurer** will not pay more than their fair share (rateable proportion) for any claim covered by another policy, or any claim that would have been covered by any other policy if this policy section did not exist.

8. Fraudulent claims and claims tainted by dishonesty

- a) If the **insured** makes any claim which is fraudulent or false, this policy section shall become void and all benefit under it will be lost.
- b) An **insured** shall at all times be entirely truthful and open in any evidence, disclosure or statement they give and shall act with complete honesty and integrity at all times. Where, on the balance of probabilities and having considered carefully all the facts of the claim, it appears that the **insured** has breached this condition and that the breach has:
 - i. affected **our** assessment of **reasonable prospects of success**; and/or
 - ii. prejudiced any part the outcome of the **insured's** claim

the **insurer** shall have no liability for **legal costs & expenses** under this policy section irrespective of whether the breach has or is likely to have made a difference to the outcome of any part of the **insured's** claim.

9. Cancellation

- a) **You** may cancel this policy section:
 - i. within 14 days of the date of its purchase with a full refund of premium paid provided a claim has not been accepted; or
 - ii. at any other time by giving **us** at least 21 days written notice and the **insurer** will refund the premium for the unexpired period unless a claim has been or is later accepted by **us** in which case no return of premium shall be allowed.
- b) Where there is a valid reason for doing so, the **insurer** has the right to cancel this policy section at any time by giving at least 21 days written notice to **you**.

The **insurer** will refund the premium for the unexpired term. **We** will set out the reason for cancellation in writing. Valid reasons may include but are not limited to:

- i. where the party claiming under this policy section fails to co-operate with or provide information to **us** or the **appointed advisor** in a way that materially affects **our** ability to process a claim, or **our** ability to defend the **insurer's** interests;
 - ii. where the **insured** uses threatening or abusive behaviour or language, or intimidates or bullies **our** staff or suppliers;
 - iii. where **we** reasonably suspect fraud.
- c) The **insurer** may also cancel this policy section and refund the premium for the unexpired period if at any time **you**:
 - i. enter into a voluntary arrangement or a deed of arrangement;
 - ii. become bankrupt, are placed into administration, receivership or liquidation;
 - iii. have **your** affairs or property in the care or control of a receiver or administrator.



The **insurer** also reserves the right to withdraw from any claim.

10. Acts of parliament, statutory instruments, civil procedure rules & jurisdiction

All legal instruments and rules referred to within this policy section shall include equivalent legislation in Scotland, Northern Ireland, the Isle of Man and the Channel Islands and any subsequent amendment or replacement legislation. This policy section will be governed by English law.

11. Data Protection

Please refer to the Personal Information section under NOTICE TO THE INSURED at the front of this policy.

12. Contracts (Rights of Third Parties) Act 1999

A person who is not an **insured** under this contract has no right to enforce the terms and conditions of this policy section under the Contracts (Rights of Third Parties) Act 1999.

MEANING OF WORDS & TERMS IN THIS SECTION

Certain words and terms contained in this policy section have been defined as they have the same meaning wherever they appear.

Appointed advisor

The solicitor, accountant, mediator or other advisor appointed by **us** to act on behalf of the **insured**.

Collective conditional fee agreement

A legally enforceable agreement entered into on a common basis between the **appointed advisor** and **us** to pay their professional fees:

- a) in full where the **insured's** claim is successful; or
- b) in part or not at all where the **insured's** claim is unsuccessful.

Conditional fee agreement

A legally enforceable agreement between the **insured** and the **appointed advisor** for paying their professional fees:

- a) in full where the **insured's** claim is successful; or
- b) in part or not at all where the **insured's** claim is unsuccessful.

Employee

A worker who has or alleges they have entered into a contract of service with **you**, provided they have been declared to **us**.

Insured

1. **You, your** directors, partners, managers, officers and **employees** of **your** business.
2. The estate, heirs, legal representatives or assigns of any persons mentioned in 1. in the event of such person dying.
3. A person declared to **us**, who is contracted to perform

work for **you**, who in all other respects **you** have arranged to insure on the same basis as **your** other **employees** and who performs work under **your** supervision.

Insurer

Brit Syndicate 2987 at Lloyd's (written under unique market reference B0356KA233D12A000 or replacement thereof).

Legal costs & expenses

1. Reasonable legal costs and disbursements reasonably and proportionately incurred by the **appointed advisor** on the standard basis and agreed in advance by **us**. The term "standard basis" can be found within the Courts' Civil Procedure Rules Part 44.
2. In civil claims, other side's costs, fees and disbursements where the **insured** has been ordered to pay them or pays them with **our** agreement.
3. Reasonable accountancy fees reasonably incurred under Insured event 4 Tax by the **appointed advisor** and agreed by **us** in advance.
4. **Your employee's** basic wages or salary under Insured event 9 Loss of earnings in the course of their employment with **you** while attending court or tribunal at the request of the **appointed advisor** or whilst on jury service where **you** do not pay for time lost and lost wages or salary cannot be claimed back from the court or tribunal.
5. The professional fees and expenses of an **appointed advisor** selected by **us** to reduce the actual or anticipated adverse or negative publicity or media attention directed towards **you** under Insured event 11 Crisis communication.

Period of insurance

The period shown in the schedule to which this policy section attaches.

Reasonable prospects of success

1. Other than as set out in 2. and 3. below, a greater than fifty percent (50%) chance of the **insured** successfully pursuing or defending the claim and, if the **insured** is seeking damages or compensation, a greater than fifty percent (50%) chance of enforcing any judgment that might be obtained.
2. In criminal prosecution claims where the **insured**
 - a) pleads guilty, a greater than fifty percent (50%) chance of reducing any sentence or fine or
 - b) pleads not guilty, a greater than fifty percent (50%) chance of that plea being accepted by the court.
3. In all claims involving an appeal, a greater than fifty percent (50%) chance of the **insured** being successful. Where it has been determined that reasonable prospects of success as set out in 1., 2. and 3. above do not exist, the **insured** shall be liable to pay any legal costs incurred should they pursue or defend their claim irrespective of the outcome.



Small claims court

A court in England & Wales that hears a claim falling under the small claims track in the County Court as defined by Section 26.6 (1) of the Civil Procedure Rules 1999; a court in Scotland that uses the simple claims procedure as set out by the Courts Reform (Scotland) Act 2014, a court in Northern Ireland where the sum in dispute is less than GBP3,000 or the equivalent jurisdiction in the United Kingdom where the policy section applies.

Territorial limit

For Insured events 6 Legal defence, 7 Compliance & regulation and 12 Contract & debt recovery the United Kingdom, Channel Islands, Isle of Man, Norway, Switzerland and countries in the European Union. For all other Insured events the United Kingdom, Channel Islands and the Isle of Man.

We/Us/Our

ARAG plc who is authorised under a binding authority agreement to administer this insurance on behalf of the **insurer**, Brit Syndicate 2987 at Lloyd's.

You/Your

The business named in the schedule, including any subsidiary and/or associated companies declared to **us**.

Signed by



Managing Director of ARAG plc

HOW WE HANDLE COMPLAINTS

Step 1

ARAG is committed to providing a first class service at all times. However, if a complaint arises, this should be addressed to **our** Customer Relations Department who will arrange to have it reviewed at the appropriate level. **We** can be reached in the following ways:

Telephone: 0117 917 1561

(hours of operation are 9am-5pm, Mondays to Fridays excluding bank holidays, for our mutual protection and training purposes, calls may be recorded).

Email: customerrelations@arag.co.uk

Post: ARAG plc, 9 Whiteladies Road, Clifton, Bristol, BS8 1NN

Step 2

Should **you** remain dissatisfied **you** can pursue **your** complaint further with Lloyd's. They can be reached in the following ways:

Telephone: 0207 327 5693

Fax: 0207 327 5225

Email: complaints@lloyds.com

Website: www.lloyds.com/complaints

Post: Lloyd's, One Lime Street, London EC3M 7HA.

Step 3

If Lloyd's is not able to resolve the complaint to **your** satisfaction then **you** may refer it to the Financial Ombudsman Service (FOS) provided that it falls within their jurisdiction. The FOS can normally deal with complaints from small businesses with an annual turnover of less than €2 million. They can be contacted at:

Telephone: 0800 023 4567 if calling from a landline or

Telephone: 0300 123 9123 if calling from a mobile

Email: complaint.info@financial-ombudsman.org.uk

Post: Financial Ombudsman Service, Exchange Tower, London, E14 9SR

The FOS is an independent service in the UK for settling disputes between consumers and businesses providing financial services. **You** can find out more information on the Financial Ombudsman Service at www.financial-ombudsman.org.uk

The FOS's decision is binding upon the **insurer**, but **you** are free to reject it without affecting **your** legal rights.

ARAG plc is registered in England number 02585818. Registered address: 9 Whiteladies Road, Clifton, Bristol BS8 1NN. ARAG plc is authorised and regulated by the Financial Conduct Authority firm registration number 452369. ARAG plc is authorised to administer this insurance on behalf of the **insurer** Brit Syndicate 2987 at Lloyd's (written under unique market reference B0356KA233D12A000 or replacement thereof). Brit Syndicates Limited, the managing agent for Brit Syndicate 2987 at Lloyd's, is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and Prudential Regulation Authority. This can be checked by visiting the FCA website at www.fca.org.uk/register or by contacting the FCA on 0800 111 6768 (freephone), or 0300 500 8082.

ARAG plc and Brit Syndicate 2987 at Lloyd's are covered by the Financial Ombudsman Service.

www.arag.co.uk

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SECTION 4 - MANAGEMENT LIABILITY

SECTION 4 SPECIAL NOTICE:

This section of the policy is claims made, which applies only to claims for wrongful acts first made against the Insureds during the period of insurance, or if applicable, the discovery period. The limit of indemnity available to pay damages or settlements will be reduced, and may be exhausted by the payment of costs and expenses and investigation costs. Costs and expenses and investigation costs will be applied against the retention (if any). The Insurer under this section of the policy has no duty to defend any Insured.

GENERAL CONDITIONS APPLYING TO SECTION 4

- a) **Definitions:** For purposes of these General Conditions, any defined term has the meaning set out in the definitions of the applicable sub-section of this policy section;
- b) **Limit of Indemnity:**
- i. The amounts shown in the **Schedule** are separate **Limits of Indemnity** for each sub-section of this policy section;
 - ii. A payment under one sub-section of this policy section shall not reduce the **Insurer's Limit of Indemnity** under another sub-section of this policy section;
 - iii. Any sub-limit specified in each sub-section shall be the **Insurer's** maximum aggregate liability under such sub-limit irrespective of the number of claims under such sub-section, the amount claimed or the number of **Insureds** who claim. Any sub-limit shall be part of and not in addition to the **Limit of Indemnity** specified in the relevant sub-section of the **Schedule**;
 - iv. In the event of any **Loss** being covered under more than one insurance clause, the **Insurer** applies the lowest **Limit of Indemnity** (including any sub-limit of indemnity) to the relevant **Loss** to the extent such limit has not been exhausted.
- In this event, Section 4A Extension s) Reinstatement of Limit for **Directors and Officers**, shall not apply;
- c) **Claims Reporting Provisions Applying to sub-Sections 4A, 4B and 4C only:**
- i. Written notice of any **Claim** or **Employment Claim** should be given by the **Insured** to the **Insurer** as soon as practicable and in any event during the **Period of Insurance** (or, if applicable, during the **Discovery Period**). If it has not been practicable for the **Insured** to give such notice during the **Period of Insurance**, then written notice given up to forty-five (45) days after the expiry date of this policy section will be deemed to have been given during the **Period of Insurance**.

If during the **Period of Insurance** the **Insured** first becomes aware of a circumstance which might reasonably be expected to give rise to a **Claim** or **Employment Claim**, written notice of such circumstance should be given by the **Insured** to the **Insurer**, stating the reasons for anticipating such **Claim** or **Employment Claim** and including full particulars such as dates and persons involved. Any subsequent **Claim** or **Employment Claim** arising out of the circumstance so notified shall be deemed to have been made during the **Period of Insurance**.

Notice and all information shall be sent in writing to GB Underwriting via the **Insured's** broker.

Such notice shall be effective on the date of actual receipt by GB Underwriting;

- ii. The **Insured** shall give to GB Underwriting such information and co-operation as the **Insurer** may reasonably require;
- iii. The **Insured** shall not admit liability for or settle or attempt to settle any **Claim** or **Employment Claim** or incur any **Costs and Expenses** in connection with any **Claim** or **Employment Claim** without the **Insurer's** prior written consent (such consent not to be unreasonably withheld or delayed). Subject to iv. below, the **Insureds** may, subject to the **Insurer's** prior written consent (such consent not to be unreasonably withheld or delayed), appoint solicitors or counsel to represent them in defending any **Claim** or **Employment Claim**, but where the same or a similar **Claim** or **Employment Claim** is made against more than one **Insured** the same solicitors and counsel shall be appointed to defend all **Insureds** unless there is a conflict of interest between them;
- iv. Except as otherwise provided in this clause, the **Insured** shall defend **Claims** or **Employment Claims**. The **Insurer** shall be entitled to participate fully in the defence and in the negotiation of any settlement that appears reasonably likely to involve the **Insurer**;
- v. If a **Claim** is brought against an **Insured Person** by a **Company** or as applicable an **Outside Entity**:
 1. the **Insurer** shall have no duty or obligation to communicate with any other **Insured Person** or the **Company** (or **Outside Entity**) in relation to that **Claim**;
 2. if such **Claim** is brought outside the United States of America, its territories or possessions, the **Insurer** shall have the right to defend the **Claim** on behalf of such **Insured Person**;
- vi. The **Insurer** shall be entitled to prosecute in the name of the **Insureds** for their own benefit any



claim for payment, indemnity or damages or otherwise against any third party;

vii. The **Insurer** shall pay covered **Costs and Expenses** prior to the final resolution of any **Claim** or **Employment Claim**. If such payment is made, the **Insureds** shall refund such **Costs and Expenses** if it is established at a later date that they are not entitled to indemnity under this policy section;

viii. Notwithstanding iv. above, the **Insureds** shall not be required to contest any **Claim** or **Employment Claim** unless a Queen's Counsel or equivalent in the relevant jurisdiction (to be mutually agreed upon by the **Insureds** and the **Insurer**, or, in default of agreement, to be appointed by the President for the time being of the Law Society of England & Wales or equivalent in the relevant jurisdiction) shall advise that such **Claim** or **Employment Claim** should be contested.

d) Confidentiality: The **Insureds** shall not disclose the terms of this policy section to anyone without the **Insurer's** prior written consent, which shall not be unreasonably withheld or delayed, save to the extent that such disclosure is required by law (and for the avoidance of doubt a requirement to disclose the existence of this policy section is not a requirement to disclose its terms);

e) Interrelated Claims: If a single **Wrongful Act**, or **Employment Wrongful Act** or act or series of **Wrongful Acts**, or **Employment Wrongful Acts** or acts which are attributable to the one originating source or underlying cause give rise to a claim under any sub-section of this policy section or any other policy or policy section of which this policy is a successor, then all **Claims** arising out of such similar or related **Wrongful Acts** or **Employment Wrongful Acts** or acts attributable to the same originating source or underlying cause shall be treated as single **Claim** and shall attach to the earliest policy or policy section where notice is first given;

f) **Discovery Period**: If the **Company** shown in the **Schedule** refuses to renew this policy section, it may purchase the **Discovery Period** (a) stated in Section 4 of the **Schedule**.

If the **Insurer** refuses to renew this policy section, the **Company** shown in the **Schedule** may purchase the **Discovery Period** (b) stated in Section 4 of the **Schedule**.

The **Discovery Period** may be purchased provided that this policy section is not replaced by any broadly equivalent insurance, and:

i. the **Insured** shall within thirty (30) days after the **Period of Insurance** give notice in writing to **Insurer** and shall pay the additional premium

specified in the **Schedule** within thirty (30) days after the **Period of Insurance**;

ii. the right to a **Discovery Period** is not exercisable on or after the takeover or **Merger** of the **Company** or on or after the appointment of any liquidator, provisional liquidator, administrator or receiver of the **Company** or where this policy section is cancelled by the **Insurer** for non-payment of premium;

iii. the **Limit of Indemnity** shall not in any way be increased by virtue of the **Discovery Period**.

The **Discovery Period** shall only apply to:

1. any **Claim** or **Employment Claim** first made against the **Company** before or during the **Discovery Period**, but only in respect of **Wrongful Acts** committed prior to expiry of the **Period of Insurance**;

2. any **Investigation** first commenced before or during the **Discovery Period**, but only in respect of actual or alleged conduct undertaken prior to expiry of the **Period of Insurance**;

The **Insurer's** offer of renewal terms, conditions, **Limit of Indemnity** or premium different from those of the expiring policy section shall not constitute a refusal to renew;

g) Other insurance: This policy section shall be in excess of any more specific available insurance, and in the case of Section 4A Operative Clause 1 e), shall also only apply in respect of **Loss** which, by reason of a prohibition in the applicable law, or insolvency, the **Outside Entity** is unable to indemnify;

h) Subrogation: In the event the **Insurer** makes any payment under this policy section, the **Insurer** shall be subrogated to all of the **Insured's** rights of recovery, and the **Insured** shall co-operate with the **Insurer** in securing such rights. The **Insured** shall not do anything to prejudice the **Insurer's** ability to assert such rights.

The **Insurer** shall not exercise any rights of subrogation against an **Insured Person** unless it is established that such **Insured Person** has committed a deliberate criminal act or obtained any profit or advantage to which such **Insured** was not legally entitled;

i) Non-Assignment: No change in, modification of, or assignment of interest under this policy section shall be effective unless agreed in writing by the **Insurer**;

j) Cancellation: If the premium has not been paid, the **Insurer** may cancel this policy section by giving fifteen (15) days written notice to the **Company** or to the **Insured's** broker. If the premium is paid in full to the **Insurer** before the notice period expires, notice of cancellation shall automatically be revoked. If not, this policy section shall automatically terminate at the end of the notice period. In the event of such cancellation,



premium is due to the **Insurer** on a pro rata basis for the period that the **Insurer** was on risk but the full premium shall be payable in the event of notification of a **Claim** or of any circumstances before the effective date of termination;

- k) Contracts (Rights of Third Parties) Act 1999: Notwithstanding m) i. below, no person other than an **Insured Person** shall have any rights under this policy section whether pursuant to the Contracts (Rights of Third Parties) Act 1999, or otherwise;
- l) Severability: All information which any **Insured Person** has provided to the **Insurer** shall be construed as a separate application by each **Insured Person** and no statement or omission in the information nor any other knowledge, act or omission by any one **Insured Person** shall be imputed to any other **Insured Person** for the purpose of determining the availability of any payment under this policy section. With respect to the **Company**, only statements made and information or knowledge possessed by any of the Chairman, Chief Executive, Managing Director or Finance Director of the **Company** or any other person who is authorised by the **Company** to make statements or complete the proposal shall be imputed to the **Company** for the purposes of determining cover under this policy section. In addition, any statements made (whether in the proposal or otherwise) and information possessed by any **Insured Person** who is the subject of the **Claim** under this policy section shall also be imputed to the **Company** for the sole purpose of determining if cover is available for indemnifiable **Loss** with respect to such **Insured Person**.

The **Insurer** irrevocably waives any right it may have to rescind or avoid this policy section, or any severable part of it, on the grounds of innocent or negligent non-disclosure or innocent or negligent misrepresentation;

- m) Policy Interpretation and Dispute Resolution:
- i. The parties to this policy section are the **Insurer** and the **Insureds** to the extent of their respective insured interests. A person who is not a party to this contract has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this contract, but this does not affect any right or remedy of a third party which exists or is available from that Act;
 - ii. The construction of the terms of this policy section shall be informed by the following:
 1. headings are descriptive only, not an aid to interpretation;
 2. singular includes the plural, and vice versa;
 3. the male includes the female and neuter;
 4. all references to specific legislation include amendments to and re-enactments of such legislation and equivalent relevant non-UK legislation; and

5. reference to positions, offices or titles shall include their equivalents in any relevant jurisdiction;
- iii. This policy section is governed by the laws of England and Wales and except as provided by c) Claims Reporting Provisions viii, the **Insurer** and the **Insureds** agree to submit any dispute in relation to this policy section to binding arbitration in accordance with the Arbitration Act 1996.

Arbitration proceedings shall be commenced by the service of an Arbitration Notice upon the other party. Within thirty (30) days of the service of the Arbitration Notice the **Insurer** and the **Insureds** shall agree the appropriate arbitration procedure in any given dispute according to the precise circumstances but in default of agreement the following shall apply:

The **Insurer** and the **Insureds** shall appoint one person as an arbitrator and the two arbitrators thus appointed shall appoint a third arbitrator as chairman. The two party-appointed arbitrators shall be persons with no less than ten years' experience of insurance within the industry or as lawyers or other professional advisers serving the industry. The chairman shall be a present or former member of the English Commercial Court Bar with experience in insurance law who has attained the status of Queen's Counsel or equivalent. The seat of the arbitration shall be London. The rules of the conduct of the arbitration shall, subject to the provisions of the Arbitration Act 1996 as amended from time to time, be at the discretion of the arbitrators.

Any arbitration proceedings commenced against the **Insurer** shall be served upon the Claims Manager, Arch Insurance (Europe) Limited, 5th Floor, Plantation Place South, 60 Great Tower Street, London, EC3R 5AZ;

- n) Sanctions: The **Insurer** shall not be deemed to provide cover, be liable to pay any sum or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the **Insurer**, or its parent to any sanction, prohibition or restriction implemented pursuant to United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.



SECTION 4A – MANAGEMENT LIABILITY & COMPANY REIMBURSEMENT

1. SECTION 4A OPERATIVE CLAUSE

In consideration of the payment of the premium and subject to all terms, conditions and limitations of this policy section, the **Insurer** agrees with the **Insured** as follows:

- a) To pay on behalf of any **Director** or **Officer** his/her **Loss** arising from any **Claim** first made against him/her during the **Period of Insurance** except where the **Company** has paid such **Loss**;
- b) To pay on behalf of the **Company** the **Loss** of a **Director** or **Officer** arising from any **Claim** first made against him/her during the **Period of Insurance**, when and to the extent that the **Company** has indemnified such **Director** or **Officer**;
- c) To pay on behalf of any **Director** or **Officer** his/her **Loss** arising from any **Investigation** within the **Period of Insurance** except where the **Company** has paid such **Loss**;
- d) To pay on behalf of the **Company** the **Loss** of a **Director** or **Officer** arising from any **Investigation** within the **Period of Insurance**, when and to the extent that the **Company** has indemnified such **Director** or **Officer**;
- e) To pay on behalf of any **Outside Entity Director** his/her **Loss** arising from any **Claim** first made against him/her during the **Period of Insurance**.

2. SECTION 4A LIMIT AND RETENTION

- a) Except where provided pursuant to Section 4A Extension s) the **Insurer's** total aggregate liability under this policy section including any endorsements to this policy section (inclusive of **Costs and Expenses**) shall not exceed the **Limit of Indemnity** stated in Section 4a of the **Schedule**, irrespective of the number of **Claims** made and the number of **Insured Persons** against whom such **Claims** may be made, except only to the extent Section 4A Extension s) applies.
- b) The **Insurer** shall only be liable for **Loss** in excess of the Retentions (if any) stated in the **Schedule** applicable to each insurance clause which Retentions apply to each and every **Loss** for each individual **Insured Person** subject to the aggregate (if any) stated in the **Schedule**. Such Retentions include all **Costs and Expenses** and are to be borne by the **Insured Person** or the **Company** (as the case may be) and are not to be insured.
- c) If indemnity by the **Company** is permitted by applicable law the Retention applicable to Section 4A Operative Clause 1. b) and 1. d) shall apply as if indemnity had been provided to the fullest extent permitted, regardless of whether or not indemnity is actually made, unless the **Company**

is unable to make indemnity solely by reason of its insolvency. Where the **Company** is permitted to indemnify and does not do so for reasons other than its insolvency, the **Insurer** shall pay **Loss** on behalf of any **Director** or **Officer** without regard to the Retention, but the **Company** shall reimburse **Insurer** for such amounts up to the Retention stated in the **Schedule** upon demand.

- d) Any sub-limit specified in this policy section shall be the **Insurer's** maximum aggregate liability under such sub-limit irrespective of the number of **Claims** under this policy section, the amount claimed or the number of **Insured Persons** who claim. Any sub-limit shall be part of and not in addition to the **Limit of Indemnity** shown in Section 4a of the **Schedule**.

3. SECTION 4A DEFINITIONS

For the purposes of this section:

- a) **Asset or Liberty Proceeding** means any proceeding made against an **Insured Person** in his/her capacity as such, as a result of which an order of the type referred to in Section 4A Extension q) may be made;
- b) **Bribery Offence** means any actual or alleged offence as provided for in the Bribery Act 2010;
- c) **Claim** means:
 - i. any written demand or claim form, writ, summons, arbitration proceeding or other civil application of any description whatsoever including any cross-claim or counter claim, for a **Wrongful Act**;
 - ii. any regulatory or criminal proceeding, for a **Wrongful Act**;
 - iii. a **Bribery Offence**;
 - iv. an **Extradition Proceeding**;
 - v. an **Asset and Liberty Proceeding**;
 - vi. a **Health and Safety/Manslaughter Claim**

first made during the **Period of Insurance** or **Discovery Period**, if applicable, against an **Insured Person**;

- d) **Company** means the company stated in the **Schedule** and includes all **Subsidiaries**;
- e) **Confidential Information** means all information intended by the **Company** to remain confidential which is available to its **Directors** or **Officers**. **Confidential Information** shall not include any information that is or becomes generally available to the public (other than as a result of its unauthorised disclosure) or was available to a recipient on a non-confidential basis prior to disclosure by the **Company**, or was lawfully in the possession of the recipient before the information



was disclosed to it; or the relevant parties agree in writing it is not confidential or may be disclosed, or is developed by or for the recipient independently of the information disclosed, or is trivial, obvious or of no use;

- f) **Costs and Expenses** means the reasonable and necessary fees and expenses incurred by any **Insured Person** with the **Insurer's** prior written consent (such consent not be unreasonably withheld or delayed) resulting solely from the participation in an **Investigation** and/or the defence and/or monitoring and/or settlement of any **Claim** and appeals therefrom.

Costs and Expenses does not include salaries, commissions, expenses or other benefits of any **Insured Person**;

- g) **Data** means machine-readable information in digital format (excluding software), irrespective of the way it is used or rendered, including but not limited to text, voice recordings and images;
- h) **Director** and/or **Officer** means:
- i. any natural person who is, was or during the **Period of Insurance** becomes a director or officer of the **Company** including a shadow director (as defined in section 251 Companies Act 2006, or such equivalent in the relevant jurisdiction) and any natural person who is construed to be a director or officer within the meaning of any applicable law or regulation governing such matters; and
 - ii. any natural person who is, was, or during the **Period of Insurance** becomes a managerial or supervisory **Employee** of the **Company**;

- i) **Discovery Period** means the period(s) stated in Section 4 of the **Schedule** from the date on which the **Period of Insurance** expires;
- j) **Employee** means any natural person who is a full-time, part-time, seasonal or temporary worker of the **Company** who works under a contract of service with the **Company**, whom such **Company** has the right to govern and direct in the performance of such services, and whom the **Company** compensates by way of salary, wages and/or commissions.

Employee does not include any person who is not on the **Company's** payroll;

- k) **Employment Wrongful Act(s)** means any actual or alleged violation of employment laws or any other legal provisions relating to an individual's actual or prospective employment relationship with the **Company**, or any harassment of or

discrimination against any natural person third party who is not an **Employee**;

- l) **Extradition Proceeding** means a proceeding against an **Insured Person** in his/her capacity as such pursuant to the United Kingdom Extradition Act 2003 or such equivalent in any other jurisdiction, including all appeals whether in the same or separate proceedings.

A **Wrongful Act** is not required for cover for an **Extradition Proceeding**;

- m) **Health and Safety/Manslaughter Claim** means a proceeding against an **Insured Person** alleging involuntary, constructive or gross negligence manslaughter or any claim under the provisions of the Health and Safety at Work Act 1974 or under the provisions of the Corporate Manslaughter and Corporate Homicide Act 2007;

- n) **Insured(s)** means:
- i. all or any **Insured Persons**; and
 - ii. the **Company**;

- o) **Insured Person(s)** means a natural person who was, now or becomes during the **Period of Insurance**:
- i. a **Director** or **Officer**;
 - ii. a shadow director;
 - iii. a de facto director;
 - iv. an **Outside Entity Director**;
 - v. an **Employee**;
 - vi. the estate, heir or legal representative of a deceased **Director** or **Officer** or **Employee**;
 - vii. the legal representative of a **Director** or **Officer** or **Employee** in the event of the incapacity, insolvency or bankruptcy of such **Director** or **Officer** or **Employee**;
 - viii. management committee member, member of a supervisory or management board, but only when and to the extent that such **Insured Person** is acting for and on behalf of the **Company** in any of the capacities referred to above;
 - ix. any lawful spouse or domestic partner of a **Director** or **Officer** or **Employee**, but only where the **Claim** results from the **Wrongful Act** of such **Director** or **Officer** or **Employee** and only when and to the extent that such **Director** or **Officer** or **Employee** is acting for and on behalf of the **Company** in that capacity.

Insured Person does not include an external auditor;

- p) **Insurer** means Arch Insurance Company (Europe) Limited and this definition shall apply to all of Section 4 sub-sections;



- q) **Investigation(s)** means any formal or official hearing, investigation or inquiry into the affairs of the **Company**, or into the conduct of a **Director** or **Officer** in his/her capacity as such by a regulator, governmental body or third party with legal rights to do so, once the **Director** or **Officer** has received a written request to attend a meeting or provide information during the **Period of Insurance** or **Discovery Period**;
- r) **Limit of Indemnity** means the amount stated in Section 4a of the **Schedule**;
- s) **Loss** means any amount which an **Insured Person** is legally and personally obligated to pay including but not limited to:
- i. damages or costs awarded against the **Insured Person(s)** by a competent court or tribunal, including aggravated, punitive or exemplary damages where insurance against liability to pay such damages is lawful under the laws of the territory in which the award was made;
 - ii. settlements entered into by the **Insured Person(s)** in respect of his/her liability for damages with the **Insurer's** prior written consent (such consent not to be unreasonably withheld or delayed);
 - iii. **Costs and Expenses**;
 - iv. Emergency costs and expenses;
 - v. **Assets and Liberty Proceeding** costs and expenses;
 - vi. **Pre-Investigation** costs and expenses;
 - vii. Deprivation of Assets costs and expenses;
 - viii. Bail Bond and civil costs and expenses;
 - ix. Public Reputation costs and expenses;
 - x. Civil fines and penalties;
 - xi. **Bribery Offence** costs and expenses;
 - xii. Court Compensation costs and expenses;
 - xiii. **Extradition Proceedings** costs and expenses;
 - xiv. Mitigation of Loss costs and expenses;
 - xv. **Health and Safety/Manslaughter Claim** costs and expenses;
 - xvi. Tax;
 - xvii. Cyber Privacy and Confidentiality.

Loss does not include:

1. any obligation to repay any monies wrongfully received by the **Insured(s)** or any criminal fines or penalties; or
2. taxes except as provided under Section 4A Extension o); or
3. any **Costs or Expenses** incurred in testing for, monitoring, cleaning up, removing, containing, treating, neutralising, detoxifying or assessing the effects of **Pollution** or restoring natural resources or property to their original state; or
4. any remuneration of any **Director** or **Officer** or **Employee** of the **Company**; or

5. any matter not insurable.

Notwithstanding 3. above, the **Insurer** shall pay up to the sub-limit stated in Section 4a of the **Schedule**, indemnifiable **Pollution Costs and Expenses** outside the U.S.A.;

- t) **Merger** means the combination of two or more entities such that none of them:
- i. controls the composition of the board of directors; or
 - ii. controls more than half of the voting power; or
 - iii. holds more than half of the issued share capital;
- u) **Non-Indemnifiable Loss** means **Loss** where a **Company** is unable to indemnify an **Insured Person** due to:
- i. legal prohibition; or
 - ii. a prohibition in the Articles of Association, charter, bylaws, contract or similar documents of such **Company**; or
 - iii. insolvency under section 123 of the Insolvency Act 1986 or the equivalent law in any other jurisdiction;
- v) **Outside Entity** means any entity other than the **Company** that:
- i. is not domiciled in the United States of America, its territories or possessions, or does not have any securities listed on an exchange in the United States of America; and
 - ii. is not a bank, investment company, investment adviser/manager, hedge or mutual fund, private equity or venture capital company, stock brokerage firm, insurance company or similar entity providing financial services;
- w) **Outside Entity Director** means any **Director** or **Officer** who, at the specific request of the **Company**, becomes a director or officer of an **Outside Entity**;
- x) **Period of Insurance** means the period stated in the **Schedule**;
- y) **Pollution** means the discharge, dispersal, release or escape of any substance exhibiting any hazardous characteristics as defined by or identified on a list of hazardous substances issued by the Pollution Prevention and Control Act 1999, the Pollution Prevention and Control (England and Wales) Regulations 2000 as may be amended from time to time and any equivalent EU or US equivalent. Such substances shall include, without limitation, solids, liquids, gaseous, or thermal irritants, contaminants or smoke, vapours, soot, dust, fibres, fungi, viruses, bacteria, fumes, acids, alkalis, chemicals and



waste (including, but not limited to material to be recycled, reconditioned or reclaimed), asbestos or asbestos product, noise, odour and any electric, magnetic or electromagnetic field. **Pollution** also includes ionizing radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; or radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

- z) **Pre-Investigation** means:
- i. a raid or on-site visit to any **Insured** by an official body, established under statute, first occurring during the **Period of Insurance** that involves the production, review, copying or confiscation of records or interviews of any **Insured Person**; or
 - ii. any formal notification by any **Insured** or an **Insured Person** to an official body, established under statute, first given during the **Period of Insurance** where the **Insured** or **Insured Person** reasonably considers that:
 1. a material breach of the **Insured's** legal or regulatory duty has occurred, may have occurred or may occur in the foreseeable future; or
 2. an event has occurred which the **Insured** or **Insured Person** reasonably considers is an event of which the official body expects notice as set out in the official body's rules and regulations;
 - iii. an internal inquiry conducted by the **Insured** if and to the extent such an inquiry is requested by such regulator, following a formal notification given in ii. above;
- aa) **Retired Director** or **Retired Officer** means any **Director** or **Officer** (other than one who has been disqualified from holding office as a company director) who voluntarily retires or ceases to act in the capacity of an **Insured Person** during the **Period of Insurance**;
- bb) **Schedule** means the schedule attached to and forming part of this policy;
- cc) **Security** or **Securities** means any security representing debt of or equity interests in the **Company**;
- dd) **Subsidiary** means:
- i. any company in respect of which the **Company** (either directly or indirectly through one or more of its **Subsidiaries**) on or before the inception date of this policy:
 1. controls the composition of the board of directors; or
 2. controls more than half of the voting power; or

3. holds more than half of the issued share capital

provided that this policy section shall only apply in respect of a **Wrongful Act** by any **Director** or **Officer** of such company, or a circumstance giving rise to an **Investigation**, while a **Subsidiary**;

- ii. any other company specifically named in the **Schedule** or in any endorsement to this policy section as a **Subsidiary**.

Subsidiary excludes any entity which has all or any part of its **Securities** listed on any stock exchange;

- ee) **Transaction** means a **Merger** or takeover or an event as a result of which another entity:
- i. controls the composition of the board of directors; or
 - ii. controls more than half of the voting power; or
 - iii. holds more than half of the issued share capital

of the **Company** shown in the **Schedule**.

A **Transaction** shall also deem to have occurred if the **Company** shown in the **Schedule** merges with or consolidates into any other entity, or lists its **Securities** on any stock exchange;

- ff) **Wrongful Act(s)** means any actual or alleged libel, slander, breach of trust, error, omission, misrepresentation, misstatement, misleading statement, neglect or breach of duty, breach of fiduciary duty, breach of warranty of authority or any other matter claimed against an **Insured Person** by reason of their acting in the capacity of an **Insured Person**. **Wrongful Act(s)** shall also mean **Employment Wrongful Act(s)**.

Related or continuous or repeated or causally connected **Wrongful Acts** shall constitute a single **Wrongful Act**.

4. SECTION 4A EXCLUSIONS

The **Insurer** shall have no liability to make any payment for **Loss** for any **Claim**, **Investigation** or any other insured event:

- a) for any actual or alleged bodily injury, sickness, disease or death of any person or any actual or alleged damage to or destruction of any tangible property, including loss of use thereof, provided that this exclusion shall not apply to:
 - i. a **Claim** against a **Director** or **Officer** by an **Employee** of the **Company** alleging emotional distress caused by a **Wrongful Act** relating to that **Employee's** contract of employment; or
 - ii. a criminal prosecution of any **Insured Person**



for manslaughter in relation to the business of the **Company** (or **Outside Entity**); or
iii. a **Non-Indemnifiable Loss**;

- b) based upon, arising from, attributable to or consequent upon:
 - i. the dishonesty, fraud or deliberately criminal conduct of the **Insured**; or
 - ii. the gaining of a profit or advantage to which the **Insured** was not legally entitled

provided that this exclusion shall only apply to an **Insured** who has been found by a court or other judicial panel to have committed such conduct;

- c) based upon, arising out of, resulting from or in consequence of, or in any way involving any pension or superannuation scheme or programme;
- d) based upon or in any way involving allegations made or any facts in issue or any pending or prior litigation as at the Pending and Prior Date stated in Section 4 of the **Schedule** or arising out of the same or substantially the same facts, circumstances or situations.

For the purposes of this exclusion "litigation" shall mean any civil, administrative, regulatory or criminal proceedings or any investigation, examination, inquiry or disciplinary proceedings, including any correspondence prior to any such proceedings, involving any **Insured**;

- e) based upon, attributable to or arising out of any circumstance notified under any insurance in force prior to the inception date of this policy or which should have been so notified;
- f) based upon, arising out of, resulting from or in consequence of any public offering of any **Securities** during the **Period of Insurance**, or any proposed private or public offering of **Securities** in the U.S.A. or Canada;
- g) for which coverage is provided under any other Section 4 sub-section or would be but for the exhaustion of its **Limit of Indemnity**.

5. SECTION 4A EXTENSIONS

ADDITIONAL COVER APPLYING TO SECTION 4A

- a) Emergency Costs and Expenses: If the **Insurer's** prior written consent cannot reasonably be obtained before **Costs and Expenses** are incurred, the **Insurer** shall approve such costs and expenses up to ten percent (10%) of the **Limit of Indemnity** retrospectively as if prior written consent had been obtained.
- b) Bribery: The **Insurer** shall pay, up to the sub-

limit stated in Section 4a of the **Schedule**, the reasonable and necessary fees and expenses incurred by an **Insured Person** in their capacity as such, or which is paid by the **Insured** on their behalf, with respect to any **Bribery Offence** first occurring during the **Period of Insurance**.

- c) Court Compensation Costs and Expenses: The **Insurer** shall pay the **Insured Person** a rate of GBP 250 per day for each day that an **Insured Person's** attendance is required at court in connection with any **Claim** or **Investigation**.
- d) Mitigation of Loss: The **Insurer** shall pay, up to the sub-limit stated in Section 4a of the **Schedule**, the reasonable and necessary professional fees and expenses incurred by the **Insured Person** in the mitigation or prevention of a potential **Claim** and with the **Insurer's** express prior written consent (not to be unreasonably withheld or delayed).
- e) **Extradition Proceedings**: The **Insurer** shall pay the reasonable and necessary fees and expenses incurred by an **Insured Person** with respect to any **Extradition Proceeding**.
- f) Assets and Liberty Costs: The **Insurer** shall pay, up to the sub-limit stated in Section 4a of the **Schedule**, the reasonable and necessary fees and expenses incurred by an **Insured Person** with the **Insurer's** prior written consent (not to be unreasonably withheld or delayed) in seeking the discharge or revocation of an interim or temporary order of a competent court, arising from an **Asset or Liberty Proceeding** first made during the **Period of Insurance**, which:
 - i. freezes his/her rights of ownership of real or personal property;
 - ii. puts in place a charge over his/her real or personal property;
 - iii. disqualifies him/her from being a **Director** or **Officer** of the **Company** or any company;
 - iv. restricts his/her liberty to a specified residence or facility; and/or
 - v. orders his/her deportation from any country in the world where he/she had valid immigration status which has been revoked for any reason other than a conviction for a criminal offence;
- g) Bail Bond and Civil Bond Expenses: The **Insurer** shall pay, up to the sub-limit stated in Section 4a of the **Schedule**, **Costs and Expenses** including the reasonable and necessary premium paid (but not provide any required collateral) for insurance instruments for appeal, bail or similar bonds arising from any **Claim**.
- h) Damage to Reputation - Public Reputation Costs: The **Insurer** shall pay, up to the sub-limit stated in



Section 4a of the **Schedule**, public relations costs to mitigate any potential damage to the reputation of an **Insured Person** who has successfully defeated a **Claim** and has been exonerated from any fault.

- i) **Retired Directors:** In the event that either the **Insurer** or the **Insured** do not renew this policy section any **Retired Director** or **Retired Officer** shall have the right to a **Discovery Period** of one hundred twenty (120) months for no additional premium in respect of any **Wrongful Act** during or prior to the expiry of the **Period of Insurance**, provided that this policy section is not replaced by any broadly equivalent insurance and the **Limit of Indemnity** shall not in any way be increased by virtue of the **Discovery Period**.
- j) **New Subsidiaries:** In the event a company that is not domiciled or incorporated or listed in the United States of America, its territories or possessions, is acquired or created by the **Company** after inception of this policy and whose total assets are less than twenty percent (20%) of the latest audited total assets of the **Company**, it shall nevertheless constitute a **Subsidiary** if the **Company**:
 - i. controls the composition of the board of directors; or
 - ii. controls more than half of the voting power; or
 - iii. holds more than half of the issued share capital

and this policy section shall apply only in respect of **Wrongful Acts** of its **Directors** or **Officers** or circumstances that become the subject of an **Investigation**, while a **Subsidiary**.

This extension shall automatically extend to include such **Subsidiary** without notice to the **Insurer** or additional premium being payable.

Any **Subsidiary** acquired during the **Period of Insurance** and not covered above shall automatically be covered under this extension for a period of forty-five (45) days from the date of acquisition but only in respect of **Wrongful Acts** after such entity becomes a **Subsidiary**.

With the written agreement of **Insurer** and subject to any additional premium, amended terms and conditions, this extension may include such **Subsidiary** beyond forty-five (45) days, but only in respect of **Wrongful Acts** after such entity becomes a **Subsidiary**.

- k) **Spouses/Estates:** The **Insurer** shall indemnify:
 - i. the **Insured Person's** lawful spouse in respect of enforcement proceedings brought against

him or her to enforce a court judgment against the **Insured Person** provided such judgment constitutes **Loss** and arises from a **Claim**;

- ii. in the event of his/her death, incompetency or bankruptcy, the **Insured Person's** estate, heirs, legal representatives or assigns in respect of **Loss** which arises from a **Claim**

provided the **Insured Person** would have been entitled to an indemnity for such **Loss** hereunder.

- l) **Avoidance Waiver:** The **Insurer** waives any right they may have to avoid or rescind any **Insured Person's** interest in this policy section for material misrepresentation or non-disclosure where such misrepresentation or non-disclosure was free from any dishonest intent, provided that:
 - i. the **Insured** are able to establish to the satisfaction of **Insurer** that such non-disclosure or misrepresentation was innocent and free from any dishonest intent; and
 - ii. the **Insurer** shall be entitled to amend the terms, conditions and premium for this policy section upon review of any information that has not (but should have) been disclosed to the **Insurer** or upon re-review of any information that has been misrepresented to the **Insurer**.
- m) **Health and Safety/Manslaughter:** Notwithstanding Section 4A Exclusions 4. a) the **Insurer** shall pay an **Insured Person's Costs and Expenses** arising from a **Health and Safety/Manslaughter Claim** (or equivalent legislation in any other jurisdiction) against an **Insured Person** for a **Wrongful Act**.
- n) **Mergers and Takeovers Run-Off:** In the event of a **Transaction** taking place, the **Insurer** may extend this policy section to include **Claims** first made or **Investigations** first commenced against an **Insured Person** for matters occurring prior to the effective date of the **Transaction** within a period of seventy-two (72) months from the expiry date of the **Period of Insurance**. Such extension is subject to additional terms, conditions and premium as the **Insurer** may require.
- o) **Tax Extension:** The **Insurer** shall pay, up to the sub-limit stated in Section 4a of the **Schedule**, an **Insured Person's Loss** arising from a **Claim** they are personally liable for the **Company's** unpaid tax liability where the **Company** has become insolvent.
- p) **Civil Fines and Penalties:** The **Insurer** shall pay, up to the sub-limit stated in Section 4a of the **Schedule**, civil fines and penalties imposed by law, unless deemed uninsurable under the law governing this policy section or law governing the



agency imposing the civil fine or penalty.

- q) Deprivation of Assets Expenses: The **Insurer** shall pay, under a covered **Claim** or **Investigation**, up to the sub-limit stated in Section 4a of the **Schedule**, the following services directly to the provider of such services in the event of an interlocutory order confiscating, controlling, suspending or freezing rights of ownership of real property or personal assets of an **Insured Person** or creating a charge over real property or personal assets of the **Insured Person** during the **Period of Insurance**:
- i. Schooling;
 - ii. Housing;
 - iii. Utilities;
 - iv. Personal insurances.

Such expenses will only be payable provided that a personal allowance has been directed by the court to meet such payments and such personal allowance has been exhausted.

Such expenses will be payable after thirty (30) days following the event above for a period of up to twelve (12) months.

- r) **Pre-Investigation** Costs: The **Insurer** shall pay, up to the sub-limit stated in Section 4a (iv) of the **Schedule**, the reasonable and necessary professional fees and expenses incurred by each **Insured Person** (but not including any remuneration of any **Insured Person**) incurred directly with respect to:
- i. any **Pre-Investigation**; and
 - ii. preparing any written notice or reports to any official body in connection with any **Pre-Investigation**.
- s) Reinstatement of Limit for **Directors** and **Officers**:
- i. If the **Limit of Indemnity** as specified in Section 4a of the **Schedule** is exhausted by the payment of **Loss**, the **Insurer** agrees that such **Limit of Indemnity** will be reinstated for any **Loss** of a **Director** or **Officer** without the payment of any additional premium.

The reinstated limit will not apply to **Loss** in connection with a **Claim** or circumstance which is related, within the meaning of Section 4 General Conditions e), to any **Claim** for which the **Insurer** has made any payment of **Loss** under this policy section.

The reinstated limit will be available only as excess of all other valid and collectable directors and officers liability insurance, whether specifically written as excess over the **Limit of Indemnity** of this policy section or otherwise, but will be available prior to any

similar reinstatement provision contained in any insurance specifically excess of this policy section;

- ii. If both the **Limit of Indemnity** and the reinstated **Limit of Indemnity** pursuant to clause s i) above (Reinstatement of Limit) are both exhausted due to payment of **Loss** by the **Insurer**, the **Limit of Indemnity** will be reinstated for a second time for any **Loss** of a **Director** or **Officer** of the **Company** without the payment of any additional premium.

The reinstated limit will not apply to **Loss** in connection with a **Claim** or circumstance which is related, within the meaning of Section 4 General Conditions e), to any **Claim** for which the **Insurer** has made any payment of **Loss** under this policy section.

The second reinstated limit will be available only as excess of all other valid and collectable directors and officers liability insurance, whether specifically written as excess over the **Limit of Indemnity** of this policy section or otherwise, but will be available prior to any similar second reinstatement provision contained in any insurance specifically excess of this policy section.

- t) Cyber Privacy and Confidentiality: The **Insurer** shall pay, up to the sub-limit stated in Section 4a (xi) of the **Schedule**, all **Loss** resulting from a **Claim** against an **Insured Person** as a direct result of:
- i. any invasion, infringement or interference with any right to privacy, including any disclosure of **Data** which amounts to a breach of the relevant legislation;
 - ii. any unauthorised disclosure or use of any **Confidential Information** in **Data** form which is subject to statutory restriction on disclosure or use.

6. SECTION 4A CONDITIONS

- a) Allocation: If a **Claim** is made both against any **Director** or **Officer** and against the **Company** (or otherwise against any **Insured Person** and any other persons not insured under this policy section) the **Insurer** shall pay only **Loss** sustained by such **Insured Person**.

In respect of **Costs** and **Expenses** incurred on behalf of both the **Insured Person** and the **Company** (or any other person not insured under this policy section), the **Insurer** shall pay only such proportion of such **Costs** and **Expenses** as is reasonable, having regard to such **Insured Person's** reasonable potential liability for the **Claim**.

In respect of any liability for **Loss** (excluding **Costs**



and Expenses) under any settlement, the **Insurer** shall pay only such amount as may be just and equitable having regard to the **Insured Person's** responsibility for the same.

The **Company** and any **Insured Person** and the **Insurer** shall use their best efforts to determine a fair and proper allocation of **Loss** as between the **Company** and such **Insured Person** and the **Insurer**, but in default of agreement, the **Insurer** shall pay sums that they state are fair and proper until such time as a Queen's Counsel determines allocation on the principles set out in this condition. The Queen's Counsel is to be mutually agreed upon by the **Insured Person**, the **Company** and the **Insurer** or, in default of agreement, to be appointed by the President for the time being of the Law Society of England and Wales.

- b) Order of Payments: The **Insurer** will pay **Loss** in the order it is presented to the **Insurer** and, as between different **Insureds**, on a "first come first served" basis. If it becomes apparent to the **Insurer** in its absolute discretion that the **Limit of Indemnity** will not be sufficient to cover all expected **Loss** then, still on a "first come first served" basis as between different **Insureds**, the **Insurer** will pay it in the following order:
- i. first, **Loss** in respect of which the **Company** has no obligation to indemnify the **Insured Person**;
 - ii. second, **Loss** for which the **Company** has a legal obligation to indemnify the **Insured Person**.

Notwithstanding the above, the **Insurer** shall have no liability to any **Insured** in connection with the order in which it makes payments, or to any **Insured** in connection with payments it has made to any other **Insured**.

- c) Corporate Transactions:
- i. In the event of the takeover or **Merger** of the **Company** this policy section shall automatically be amended so that it shall apply only to **Wrongful Acts** committed or alleged to have been committed prior to the date of the takeover or **Merger**;
 - ii. In the event of any **Subsidiary** ceasing to be a **Subsidiary** during the **Period of Insurance**, this policy section shall automatically be amended so that it shall apply only to **Wrongful Acts** committed or alleged to have been committed by any **Director** or **Officer** of that **Subsidiary** when it was a **Subsidiary**.

SECTION 4B - CORPORATE LEGAL LIABILITY

1. SECTION 4B OPERATIVE CLAUSE

In consideration of the payment of the premium and subject to all terms, conditions and limitations of this policy section, the **Insurer** agrees with the **Insured** to pay on behalf of the **Company** all **Loss** arising from any **Claim** first made during the **Period of Insurance** against the **Company**.

2. SECTION 4B LIMIT AND RETENTION

- a) The **Insurer's** total aggregate liability under this policy section including any endorsements to this policy section (inclusive of **Costs and Expenses**) shall not exceed the **Limit of Indemnity** stated in Section 4b of the **Schedule**, irrespective of the number of **Claims** made.
- b) The **Insurer** shall only be liable for **Loss** in excess of the Retentions (if any) stated in Section 4 of the **Schedule** applicable to each insurance clause which Retentions apply to each and every **Loss** subject to the aggregate (if any) stated in the **Schedule**. Such Retentions include all **Costs and Expenses** and are to be borne by the **Company** and are not to be insured.
- c) Any sub-limit specified in this policy section shall be the **Insurer's** maximum aggregate liability under such sub-limit irrespective of the number of **Claims** under this section, the amount claimed or the number of **Insured Persons** who claim. Any sub-limit shall be part of and not in addition to the **Limit of Indemnity** shown in Section 4b of the **Schedule**.

3. SECTION 4B DEFINITIONS

For the purposes of this section:

- a) **Bribery Offence** means any actual or alleged offence as provided for in the Bribery Act 2010;
- b) **Claim** means:
 - i. any written demand or claim form, writ, summons, arbitration proceeding or other civil application of any description whatsoever including any cross-claim or counter claim, for a **Wrongful Act**;
 - ii. any regulatory or criminal proceeding, for a **Wrongful Act**;
 - iii. any **Health and Safety/Manslaughter Claim**;
 - iv. a **Bribery Offence**;
 - v. an **Identity Fraud** claim;
 - vi. an **Investigation**

first made during the **Period of Insurance** or **Discovery Period**, if applicable, against the **Company**;

- c) **Company** means the company stated in the



Schedule and includes all **Subsidiaries**;

- d) **Costs and Expenses** means the reasonable and necessary fees and expenses incurred by the **Company** with the **Insurer's** prior written consent (such consent not be unreasonably withheld or delayed) resulting solely from the participation in an **Investigation** and/or the defence and/or monitoring and/or settlement of any **Claim** and appeals therefrom.

Costs and Expenses does not include salaries, commissions, expenses or other benefits of any **Insured Person**;

- e) **Discovery Period** means the period(s) stated in Section 4 of the **Schedule** from the date on which the **Period of Insurance** expires;
- f) **Employee** means any natural person who is a full-time, part-time, seasonal or temporary worker of the **Company** who works under a contract of service with the **Company**, whom such **Company** has the right to govern and direct in the performance of such services, and whom the **Company** compensates by way of salary, wages and/or commissions.

Employee does not include any person who is not on the **Company's** payroll;

- g) **Employment-Related Benefits** means perquisites, fringe benefits, health benefits, permanent health insurance benefits, amounts due or payments made in connection with an employee benefit plan or pension scheme, share or stock options or any other right to purchase, acquire or sell shares or stock, incentives or deferred compensation and any other obligation or payment other than basis remuneration made to or for the benefit of an **Insured Person**;
- h) **Employment Wrongful Act(s)** means any actual or alleged violation of employment laws or any other legal provisions relating to an individual's actual or prospective employment relationship with the **Company**, or any harassment of or discrimination against any natural person third party who is not an **Employee**;
- i) **Health and Safety/Manslaughter Claim** means a proceeding against any **Company** alleging involuntary, constructive or gross negligence manslaughter or any claim under the provisions of the Health and Safety at Work Act 1974 or under the provisions of the Corporate Manslaughter and Corporate Homicide Act 2007;

- j) **Identity Fraud** means an agreement entered into by any third party representing themselves as the **Company** for the purpose of committing a criminal or malicious act;

- k) **Insured(s)** means:
- i. all or any **Insured Persons**; and
 - ii. the **Company**;

- l) **Insured Person(s)** shall mean the same as which appears within the definitions of Section 4A Management Liability & Company Reimbursement;

- m) **Investigation(s)** means any formal or official hearing, investigation or inquiry into the affairs of the **Company** by a regulator, governmental body or third party with legal rights to do so, once the **Company** has received a written request to attend a meeting or provide information during the **Period of Insurance** or **Discovery Period**;

- n) **Limit of Indemnity** means the amount set out in Section 4b of the **Schedule**;

- o) **Loss** means any amount which the **Company** is legally and personally obligated to pay including but not limited to:

- i. damages or costs awarded against the **Company** by a competent court or tribunal, including aggravated, punitive or exemplary damages where insurance against liability to pay such damages is lawful under the laws of the territory in which the award was made;
- ii. settlements entered into by the **Company** in respect liability for damages with the **Insurer's** prior written consent (such consent not to be unreasonably withheld or delayed);
- iii. **Costs and Expenses**;
- iv. Public Reputation costs and expenses;
- v. Emergency costs and expenses;
- vi. **Bribery Offence** costs and expenses;
- vii. Court Compensation costs and expenses;
- viii. Regulatory Crisis Response costs and expenses;
- ix. Mitigation of Loss costs and expenses;
- x. Pension Administration costs and expenses;
- xi. **Health and Safety/Manslaughter Claim** costs and expenses;
- xii. **Identity Fraud** costs and expenses.

Loss does not include:

1. any obligation to repay any monies wrongfully received by the **Insured(s)** or any civil, regulatory or criminal fines or penalties; or
2. amounts which are uninsurable under the applicable law of the **Claim**; or
3. taxes; or
4. **Employment-Related Benefits**;



- p) **Outside Entity** shall mean the same as which appears within the definitions of Section 4A Management Liability & Company Reimbursement;
- q) **Period of Insurance** means the period stated in the **Schedule**;
- r) **Pollution** means the discharge, dispersal, release or escape of any substance exhibiting any hazardous characteristics as defined by or identified on a list of hazardous substances issued by the Pollution Prevention and Control Act 1999, the Pollution Prevention and Control (England and Wales) Regulations 2000 as may be amended from time to time and any equivalent EU or US equivalent. Such substances shall include, without limitation, solids, liquids, gaseous, or thermal irritants, contaminants or smoke, vapours, soot, dust, fibres, fungi, viruses, bacteria, fumes, acids, alkalis, chemicals and waste (including, but not limited to material to be recycled, reconditioned or reclaimed), asbestos or asbestos product, noise, odour and any electric, magnetic or electromagnetic field. **Pollution** also includes ionizing radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; or radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;
- s) **Schedule** means the schedule attached to and forming part of this policy;
- t) **Security** or **Securities** means any security representing debt of or equity interests in the **Company**;
- u) **Subsidiary** means:
- i. any company in respect of which the **Company** (either directly or indirectly through one or more of its **Subsidiaries**) on or before the inception date of this policy section:
 1. controls the composition of the board of directors; or
 2. controls more than half of the voting power; or
 3. holds more than half of the issued share capital;

provided that this policy section shall only apply in respect of a **Wrongful Act** by any **Director** or **Officer** of such company or circumstance giving rise to an **Investigation**, while a **Subsidiary**;
 - ii. any other company specifically named in the **Schedule** or in any endorsement to this policy section as a **Subsidiary**.

Subsidiary excludes any entity which has all or any part of its **Securities** listed on any stock exchange;

- v) **Wrongful Act(s)** means any actual or alleged, libel, slander, breach of trust, error, omission, misrepresentation, misstatement, misleading statement, neglect or breach of duty, breach of fiduciary duty, breach of warranty of authority or any other matter claimed against the **Company**.

Related or continuous or repeated or causally connected **Wrongful Acts** shall constitute a single **Wrongful Act**.

4. SECTION 4B EXCLUSIONS

The **Insurer** shall have no liability to make any payment for **Loss** for any **Claim, Investigation** or any insured event:

- a) for any actual or alleged bodily injury, sickness, disease or death of any person or any actual or alleged damage to or destruction of any tangible property, including loss of use thereof;
- b) based upon, arising from, attributable to or consequent upon:
 - i. the dishonesty, fraud or deliberately criminal conduct of the **Company**; or
 - ii. the gaining of a profit or advantage to which the **Company** was not legally entitled

provided that this exclusion shall only apply if it is established by a court or other judicial panel or any written admission by the **Company** or any person authorised to make such a statement on behalf of the **Company** that the relevant conduct had been committed;

- c) based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any actual or alleged seepage, **Pollution** or contamination of any kind, provided that this exclusion shall not apply to **Costs and Expenses** for a **Claim** brought against the **Company** up to the sub-limit specified in Section 4b of the **Schedule**;
- d) based upon, arising out of, resulting from or in consequence of any private placement or public offering of any **Securities** during the **Period of Insurance**;
- e) based upon or in any way involving allegations made or any facts in issue or any pending or prior litigation as at the Pending and Prior Litigation Date stated in Section 4 of the **Schedule** or arising out of the same or substantially the same facts, circumstances or situations.
For the purposes of this exclusion "litigation"



shall mean any civil, administrative, regulatory or criminal proceedings or any investigation, examination, inquiry or disciplinary proceedings, including any correspondence prior to any such proceedings, involving any **Insured**, the **Company**, an **Outside Entity** or an **Insured Person**;

- f) based upon, arising out of, resulting from or in consequence of the performance or failure to perform professional services or failure to render advice to a customer or client of the **Company** or any act, error or omission relating thereto;
- g) based upon, arising out of, resulting from or in consequence of any actual or alleged contractual liability assumed by the **Company** under any contract or agreement whether actual or implied, written or oral.

This exclusion shall not apply to **Costs and Expenses** for a **Claim** brought against the **Company** up to the sub-limit shown in Section 4b (iii) of the **Schedule**;

- h) based upon, attributable to or arising out of any circumstance notified under any insurance in force prior to the inception date of this policy or which should have been so notified;
- i) based upon, attributable to or arising out of any circumstance involving, directly or indirectly, any **Employment Wrongful Act**;
- j) based upon, attributable to or arising out of any circumstance involving, directly or indirectly, tax obligations of any kind;
- k) based upon, attributable to or arising out of any circumstance notified relating to the actual or alleged infringement of patent, trade mark, infringement of copyright, intellectual property right, registered design of any products, technologies or services;
- l) based upon, attributable to or arising out of any circumstance notified relating to the actual or alleged violation of any law, rule or regulation relating to competition, activities in restraint of trade, or deceptive acts and practices in trade and commerce;
- m) based upon, attributable to or arising out of any circumstance notified relating to the operation or administration of any pension, profit sharing, health, welfare or any other employee benefit programme established by the **Company** including any matter arising out of the failure to fund such programme.

This exclusion shall not apply to **Costs and**

Expenses for a **Claim** brought against the **Company** up to the sub-limit shown in Section 4b (ix) of the **Schedule**;

- n) for which coverage is provided under any other policy section or would be but for the exhaustion of its **Limit of Indemnity**.

5. SECTION 4B EXTENSIONS

ADDITIONAL COVER APPLYING TO SECTION 4B

- a) Emergency Costs and Expenses: If the **Insurer's** prior written consent cannot reasonably be obtained before **Costs and Expenses** are incurred, the **Insurer** shall approve such costs and expenses up to ten percent (10%) of the **Limit of Indemnity** retrospectively as if prior written consent had been obtained.
- b) Bribery: The **Insurer** shall pay, up to the sub-limit stated in Section 4b (viii) of the **Schedule**, the reasonable and necessary fees and expenses incurred by the **Company** with respect to any **Bribery Offence** first occurring during the **Period of Insurance**.
- c) Court Compensation Costs and Expenses: The **Insurer** shall pay the **Insured Person** a rate of GBP 250 per day for each day that an **Insured Person's** attendance is required at court in connection with any **Claim** or **Investigation**. The sub-limit of indemnity for all payments under this extension is stated in Section 4b (ii) of the **Schedule**.
- d) Regulatory Crisis Response: The **Insurer** shall pay, up to the sub-limit stated in Section 4b (iv) of the **Schedule**, the reasonable and necessary professional fees and expenses (excluding salaries, commissions, expenses or other benefits of any **Insured Person** or **Employee** of the **Company**) incurred by the **Company** in dealing with any Regulatory Crisis Event first occurring during the **Period of Insurance**.
- e) Mitigation of Loss: The **Insurer** shall pay, up to the sub-limit stated in Section 4b (vi) of the **Schedule**, the reasonable and necessary professional fees and expenses incurred by the **Company** in the mitigation or prevention of a potential **Claim** and with the **Insurer's** express prior written consent (not to be unreasonably withheld or delayed).
- f) Pension Administration Cover: The **Insurer** shall pay up to the sub-limit stated in Section 4b (ix) of the **Schedule**, the reasonable and necessary fees and expenses incurred by the **Company** resulting from any **Claim** made against them in connection with the operation, administration or sponsorship of any pension or employee benefit scheme.



- g) Damage to Reputation - Public Reputation Costs: The **Insurer** shall pay, up to the sub-limit stated in Section 4b (v) of the **Schedule**, public relations costs to mitigate any potential damage to the reputation of the **Company** who has successfully defeated a **Claim** and has been exonerated from any fault, incurred in the aggregate for any one **Claim**.
- h) Health and Safety/Manslaughter: Notwithstanding Section 4B Exclusions 4. a) the **Insurer** shall pay any **Company's Costs and Expenses** in respect of an **Investigation** arising from a **Health and Safety/Manslaughter Claim** against the **Company**.
- i) **Identity Fraud**: If any party other than any **Insured Person** enters into any agreement with any third party entity fraudulently representing themselves as the **Company**, the **Insurer** shall pay, up to the sub-limit stated in Section 4b (vii) of the **Schedule**, the reasonable and necessary **Costs and Expenses** incurred by the **Company** in establishing that such fraudulent misrepresentation has occurred, should the third party entity seek to enforce such agreement against the **Company**.
- j) Cyber Privacy and Confidentiality: The **Insurer** shall pay, up to the sub-limit stated in Section 4b (x) of the **Schedule**, all **Loss** resulting from a **Claim** against the **Company** as a direct result of:
- i. any invasion, infringement or interference with any right to privacy, including and disclosure of Data which amounts to a breach of the relevant legislation;
 - ii. any unauthorised disclosure or use of any Confidential Information in Data form which is subject to statutory restriction on disclosure or use.

6. SECTION 4B CONDITIONS

- a) Order of Payments: The **Insurer** will pay **Loss** in the order it is presented to the **Insurer** and, as between different **Insured** entities, on a "first come first served" basis.

Notwithstanding the above, the **Insurer** shall have no liability to any **Insured** in connection with the order in which it makes payments, or to any **Insured** entity in connection with payments it has made to any other **Insured** entity.

- b) Corporate Transactions:
- i. In the event of the takeover or **Merger** of the **Company** this policy section shall automatically be amended so that it shall apply only to **Wrongful Acts** committed or alleged to have been committed prior to the date of the takeover or **Merger**;
 - ii. In the event of any **Subsidiary** ceasing to be a **Subsidiary** during the **Period of Insurance**, this policy section shall automatically be amended so that it shall apply only to **Wrongful Acts**

committed or alleged to have been committed by that company when it was a **Subsidiary**.

SECTION 4C – CORPORATE EMPLOYMENT PRACTICE LIABILITY

1. SECTION 4C OPERATIVE CLAUSE

In consideration of the payment of the premium and subject to all terms, conditions and limitations of this policy section, the **Insurer** agrees with the **Insured** to pay on behalf of the **Company** all **Loss** arising from any **Employment Claim** first made during the **Period of Insurance** against the **Company**.

2. SECTION 4C LIMIT AND RETENTION

- a) The **Insurer's** total aggregate liability under this policy section including any endorsements to this policy section (inclusive of **Costs and Expenses**) shall not exceed the **Limit of Indemnity** stated in Section 4c of the **Schedule**, irrespective of the number of **Employment Claims** made.
- b) The **Insurer** shall only be liable for **Loss** in excess of the Retentions (if any) stated in Section 4 of the **Schedule** applicable to each insurance clause which Retentions apply to each and every **Loss** subject to the aggregate (if any) stated in the **Schedule**. Such Retentions include all **Costs and Expenses** and are to be borne by the **Company** and are not to be insured.
- c) Any sub-limit specified in this policy section shall be the **Insurer's** maximum aggregate liability under such sub-limit irrespective of the number of **Claims** under this policy section, the amount claimed or the number of **Insured Persons** who claim. Any sub-limit shall be part of and not in addition to the **Limit of Indemnity** shown in Section 4c of the **Schedule**.

3. SECTION 4C DEFINITIONS

For the purposes of this section:

- a) **Company** means the company stated in the **Schedule** and includes all **Subsidiaries**;
- b) **Costs and Expenses** means the reasonable and necessary fees and expenses incurred by the **Company** (including the cost of an appeal) with the **Insurer's** prior written consent (such consent not be unreasonably withheld or delayed) during the **Period of Insurance** that are necessary to defend or appeal an **Employment Claim**.

Costs and Expenses do not include salaries, commissions, expenses or other benefits of any **Insured Person**;

- c) **Discovery Period** means the period(s) stated in Section 4 of the **Schedule** from the date on which the **Period of Insurance** expires;



- d) **Employee** means any natural person who is a full-time, part-time, seasonal or temporary worker of the **Company** who works under a contract of service with the **Company**, whom such **Company** has the right to govern and direct in the performance of such services, and whom the **Company** compensates by way of salary, wages and/or commissions.

Employee does not include any person who is not on the **Company's** payroll;

- e) **Employment Claim** means:
- i. any written demand or claim form, writ, summons, arbitration proceeding or other civil application of any description whatsoever including any cross-claim or counter claim; or
 - ii. any formal administrative, regulatory or criminal proceeding

first made during the **Period of Insurance** or **Discovery Period**, if applicable, against the **Company** alleging an **Employment Wrongful Act**;

- f) **Employment-Related Benefits** means perquisites, fringe benefits, health benefits, permanent health insurance benefits, amounts due or payments made in connection with an employee benefit plan or pension scheme, share or stock options or any other right to purchase, acquire or sell shares or stock, incentives or deferred compensation and any other obligation or payment other than basis remuneration made to or for the benefit of an **Employee**;

- g) **Employment Wrongful Act(s)** means any actual or alleged violation of employment laws or any other legal provisions relating to an individual's actual or prospective employment relationship with the **Company**;

- h) **Insured(s)** means:
- i. all or any **Insured Persons**; and
 - ii. the **Company**;

- i) **Insured Person(s)** shall mean the same as which appears within the definitions of Section 4A Management Liability & Company Reimbursement;

- j) **Investigation(s)** means any formal or official hearing, investigation or inquiry into the affairs of the **Company** by a regulator, governmental body or third party with legal rights to do so, once the **Company** has received a written request to attend a meeting or provide information during the **Period of Insurance** or **Discovery Period**;

- k) **Limit of Indemnity** means the amount set out in

Section 4c of the **Schedule**;

- l) **Loss** means any amount which the **Company** is legally and personally obligated to pay including but not limited to:

- i. damages or costs awarded against the **Company** by a competent court or tribunal, including aggravated, punitive or exemplary damages where insurance against liability to pay such damages is lawful under the laws of the territory in which the award was made;
- ii. settlements entered into by the **Company** in respect liability for damages with the **Insurer's** prior written consent (such consent not to be unreasonably withheld or delayed);
- iii. **Costs and Expenses**;

"Loss" does not include:

1. any obligation to repay any monies wrongfully received by the **Insured(s)** or any civil, regulatory or criminal fines or penalties; or
2. amounts which are uninsurable under the applicable law of the claim; or
3. taxes; or
4. **Employment-Related Benefits**;

- m) **Outside Entity** shall mean the same as which appears within the definitions of Section 4A Management Liability & Company Reimbursement;

- n) **Period of Insurance** means the period stated in the **Schedule**;

- o) **Pollution** means the discharge, dispersal, release or escape of any substance exhibiting any hazardous characteristics as defined by or identified on a list of hazardous substances issued by the Pollution Prevention and Control Act 1999, the Pollution Prevention and Control (England and Wales) Regulations 2000 as may be amended from time to time and any equivalent EU or US equivalent. Such substances shall include, without limitation, solids, liquids, gaseous, or thermal irritants, contaminants or smoke, vapours, soot, dust, fibres, fungi, viruses, bacteria, fumes, acids, alkalis, chemicals and waste (including, but not limited to material to be recycled, reconditioned or reclaimed), asbestos or asbestos product, noise, odour and any electric, magnetic or electromagnetic field. **Pollution** also includes ionizing radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel; or radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof;

- p) **Retaliation** means any actual or alleged action by the **Company** against an **Employee** as a result of the **Employee** exercising or attempting to



exercise their rights under law;

- q) **Schedule** means the schedule attached to and forming part of this policy;
- r) **Security** or **Securities** means any security representing debt of or equity interests in the **Company**;
- s) **Subsidiary** means:
 - i. any company in respect of which the **Company** (either directly or indirectly through one or more of its **Subsidiaries**) on or before the inception date of this policy:
 - 1. controls the composition of the board of directors; or
 - 2. controls more than half of the voting power; or
 - 3. holds more than half of the issued share capital

provided that this policy section shall only apply in respect of a **Wrongful Act** by any **Director** or **Officer** of such company or circumstance giving rise to an **Investigation**, while a **Subsidiary**;

- ii. any other company specifically named in the **Schedule** or in any endorsement to this policy section as a **Subsidiary**.

Subsidiary excludes any entity which has all or any part of its **Securities** listed on any stock exchange;

- t) **Wrongful Act(s)** means any actual or alleged, libel, slander, breach of trust, error, omission, misrepresentation, misstatement, misleading statement, neglect or breach of duty, breach of fiduciary duty, breach of warranty of authority or any other matter claimed against the **Company**.

4. SECTION 4C EXCLUSIONS

The **Insurer** shall have no liability to make any payment for **Loss** for any **Employment Claim**, **Investigation** or any insured event:

- a) for any actual or alleged bodily injury, sickness, disease or death of any person or any actual or alleged damage to or destruction of any tangible property, including loss of use thereof, provided however, that this exclusion shall not apply to an **Employment Claim** against the **Company** by an **Employee** of the **Company** alleging emotional distress and/or injury to feelings caused by an **Employment Wrongful Act** relating to that **Employee's** contract of employment or **Employment Claims** for compensation for psychiatric injury suffered as a result of

unlawful discrimination;

- b) based upon, arising from, attributable to or consequent upon the dishonesty, fraud or deliberately criminal conduct of the **Company**, provided however, that this exclusion shall only apply if it is established by a court or other judicial panel or any written admission by the **Company** or any person authorised to make such a statement on behalf of the **Company** that the relevant conduct had been committed.

For the purposes of this exclusion, the **Employment Wrongful Act** of one **Company** shall not be imputed to any other **Company**;

- c) based upon or in any way involving allegations made or any facts in issue or any pending or prior litigation as at the Pending and Prior Litigation Date stated in Section 4 of the **Schedule** or arising out of the same or substantially the same facts, circumstances or situations.

For the purposes of this exclusion, "litigation" shall mean any civil, administrative, regulatory or criminal proceedings or any investigation, examination, inquiry, disciplinary proceedings or employment investigations, including any correspondence prior to any such proceedings, involving the **Company**, an **Outside Entity** or an **Insured Person**;

- d) based upon, arising out of, resulting from or in consequence of any actual or alleged contractual liability assumed by the **Company** under any contract or agreement whether actual or implied, written or oral.

This exclusion shall not apply to **Costs and Expenses** for an **Employment Claim** brought against the **Company** up to the sub-limit shown in Section 4c (i) of the **Schedule**;

- e) based upon, attributable to or arising out of any **Employment Wrongful Act** or series of **Employment Wrongful Acts** or circumstance notified under any insurance in force prior to the inception date of this policy or which should have been so notified;
- f) based upon, attributable to or arising out of any **Employment Wrongful Act** or series of **Employment Wrongful Acts** brought or maintained in whole or in part in the U.S.A.;
- g) based upon, attributable to or arising out of any collective bargaining, collective agreements and trade union membership, provided however, that this exclusion shall not apply to any **Employment Claim** for **Retaliation**;



- h) based upon, attributable to or arising out of any responsibility, duty or obligation imposed by law in relation to health & safety, unemployment, social security, retirement or disability benefits or any similar law whether statutory or common law or the equivalent in any other jurisdiction provided, however that this exclusion shall not apply to any **Employment Claim** for **Retaliation**;
- i) for which coverage is provided under any other policy section or would be but for the exhaustion of its **Limit of Indemnity**.

5. SECTION 4C CONDITIONS

- a) Order of Payments: The **Insurer** will pay **Loss** in the order it is presented to the **Insurer** and, as between different **Insured** entities, on a “first come first served” basis.

Notwithstanding the above, the **Insurer** shall have no liability to any **Insured** in connection with the order in which it makes payments, or to any **Insured** entities in connection with payments it has made to any other **Insured** entity.

- b) Corporate Transactions:
 - i. In the event of the takeover or **Merger** of the **Company** this policy section shall automatically be amended so that it shall apply only to **Employment Wrongful Acts** committed or alleged to have been committed prior to the date of the takeover or **Merger**;
 - ii. In the event of any **Subsidiary** ceasing to be a **Subsidiary** during the **Period of Insurance**, this policy section shall automatically be amended so that it shall apply only to **Employment Wrongful Acts** committed or alleged to have been committed by that **Subsidiary** when it was a **Subsidiary**.
- c) Advancement and Allocation of Costs and Expenses:
 - i. The **Insurer** shall advance **Costs and Expenses** on an ongoing basis prior to the final payment or settlement of any **Employment Claim** provided that:
 - 1. such **Costs and Expenses** are incurred with the written consent of the **Insurer**; and
 - 2. such advance payments by the **Insurer** shall be repaid to the **Insurer** in the event that the **Company** is not entitled to payment of such **Loss** or part of such **Loss** under this policy section (the **Limit of Indemnity** shown in Section 4c of the **Schedule** shall be reduced by such amount until repaid to the **Insurer**).
 - ii. In the event of:
 - 1. an **Employment Claim** not being wholly

- covered by this policy section; and/or
- 2. an **Employment Claim** being also made against one or more persons who are not an **Employee**

the **Insurer** and the **Company** shall use their best efforts to determine a fair and proper allocation of **Loss** that is covered under this policy section and loss that is not covered. In default of agreement the **Insurer** shall pay sums that they state are fair and proper until such time as a Queen’s Counsel determines allocation on the principles set out in this condition. The Queen’s Counsel is to be mutually agreed upon by the **Insured Person**, the **Company** and the **Insurer** or, in default of agreement, to be appointed by the President for the time being of the Law Society of England and Wales.

SECTION 4D – EMPLOYEE DISHONESTY

1. SECTION 4D OPERATIVE CLAUSE

In consideration of the payment of the premium and subject to all terms, conditions and limitations of this policy section the **Insurer** agrees with the **Insured** to pay on behalf of the **Company** all **Direct Financial Loss** due to **Employee Dishonesty** first **Discovered** and first notified to the **Insurer** during the **Period of Insurance**, provided that there was clear intention to cause the **Company** financial loss or damage and for that **Employee** to obtain a personal and financial gain other than salary, bonus, commission, fees, promotion, award, profit sharing, pension or any other employment benefit.

2. SECTION 4D LIMIT AND RETENTION

- a) The Aggregate Limit in Section 4d of the **Schedule** is the **Insurer’s** maximum aggregate liability under this policy section irrespective of the number of **Claims** under this policy section, the amount claimed, or when such claims are made under this section of the policy.
- b) The acts of one **Employee** or a group of **Employees** in collusion will constitute a single act of **Employee Dishonesty**, whether or not **Direct Financial Loss** is sustained in one or more than one **Period of Insurance**.
- c) The Retention stated in Section 4d of the **Schedule** shall be applied to each and every act of **Employee Dishonesty**.

3. SECTION 4D DEFINITIONS

For the purposes of this section:

- a) **Company** means the company stated in the **Schedule** and includes all **Subsidiaries**;
- b) **Direct Financial Loss** means loss of any property,



money or securities sustained by the **Company** as a direct result of a single act or series of related, continuous or repeated acts of **Employee Dishonesty**;

- c) **Discovery or Discovered** means the time at which the **Company** or one of its senior **Employees** becomes aware of matters which may constitute a **Direct Financial Loss**;
- d) **Employee Dishonesty** means an act or acts of fraud or dishonesty committed by an **Employee** acting alone or in collusion with others, which results in an actual personal gain for the **Employee** (other than salary, bonus, commission, fees, bonus, promotion, award, profit sharing, pension or any other employment benefit);
- e) **Employee** means any natural person who is a full-time, part-time, seasonal or temporary worker of the **Company** who works under a contract of service with the **Company**, or who is undertaking work experience, whom such **Company** has the right to govern and direct in the performance of such services, and whom the **Company** compensates by way of salary, wages and/or commissions.

Employee shall also mean any natural person, independent contractor, or natural person seconded to the **Company**, if such individual is under the direction and supervision of the **Company** and the **Company** provides indemnification to such individual in the same manner as is provided to the **Employees** referred to above;

- f) **Limit of Indemnity** means the amount set out in Section 4d of the **Schedule**;
- g) **Period of Insurance** means the period stated in the **Schedule**;
- h) **Schedule** means the schedule attached to and forming part of this policy;
- i) **Subsidiary** means:
 - i. any company in respect of which the **Company** (either directly or indirectly through one or more of its **Subsidiaries**) on or before the inception date of this policy section:
 1. controls the composition of the board of directors; or
 2. controls more than half of the voting power; or
 3. holds more than half of the issued share capitalprovided that this policy section shall only apply in respect of **Employee Dishonesty**

by an **Employee** of such company while a **Subsidiary**;

- ii. any other company specifically named in the **Schedule** or in any endorsement to this policy section as a **Subsidiary**.

Subsidiary excludes any entity which has all or any part of its **Securities** listed on any stock exchange.

4. SECTION 4D EXCLUSIONS

The **Insurer** shall have no liability to make any payments for any **Direct Financial Loss** or for any other payment:

- a) in respect of any **Discovery** before the commencement of the **Period of Insurance**;
- b) for any loss for acts that occur after **Discovery**;
- c) for any loss caused by or involving any person who owns or controls more than twenty percent (20%) of the issued share capital of the **Company**;
- d) for any fees, costs or expenses incurred by the **Company** in establishing the existence or value of a loss covered under this policy section;
- e) for any loss arising from, or in connection with, any actual or alleged breach of any intellectual property rights, trade secrets, propriety information or confidential processing methods;
- f) in respect of a liability to others assumed by the **Company** under any contract or agreement, either oral or written;
- g) for any loss that can only be proved solely by a profit and loss computation or comparison or a comparison of inventory records with an actual physical count;
- h) for indirect or consequential loss;
- i) for loss of potential income or profit and/or business interruption;
- j) for which coverage is provided under any other policy section or would be but for the exhaustion of its **Limit of Indemnity**.

5. SECTION 4D CONDITIONS

- a) Notification of **Direct Financial Loss**: The **Company** shall give written notice to GB Underwriting via the **Insured's** broker of such **Direct Financial Loss** within forty-five (45) days of **Discovery**, giving full particulars including relevant dates, events, circumstances and persons involved, including the amount of the alleged or potential **Direct Financial Loss**.

Notice and all information shall be sent in writing to GB Underwriting via the **Insured's** broker and such notice shall be effective on the date of actual receipt by GB Underwriting.

- b) Basis of Valuation: The **Insurer** will not be liable for more than:
 - i. the actual market value of negotiable



- instruments, money or precious metals at the close of business on the day the covered loss was first **Discovered**, or the actual cost of replacing the negotiable instruments, money or precious metals, whichever is the less;
- ii. the actual cash value of other property (not referred to in i. above) at the close of business on the day the loss was first **Discovered**, or the actual cost of replacing the property with property of a like quality or value, whichever is the less.

SECTION 5 – CYBER RISK

1. SECTION 5 OPERATIVE CLAUSE

For the purposes of '1. Cyber liability' of the Operative Clause, references to 'the **Insured**' also mean any of **Employees** or **Directors and Officers**.

1. Cyber liability

The **Insurer** will pay **Damages** and **Defence Costs** arising from a claim first made against the **Insured** during the **Period of Insurance** and in the course of the **Insured's Business** as the result of:

- a) the **Insured** or their **Service Provider** failing to secure, or prevent unauthorised access to, publication of or use of **Data** (including any interference with any right to privacy or publicity, breach of confidence or the **Insured's Data Privacy Obligations**);
- b) the **Insured** unintentionally transmitting, or failing to prevent or restrict the transmission of a **Computer Virus**, **Hacking** attack or **Denial of Service Attack** from the **Insured's Computer System** to a third party; or
- c) loss of reputation (including that of a product) or intellectual property rights being breached as a result of:
 - i. the content of any emails distributed by the **Insured's Computer System**;
 - ii. the content of the **Insured's** website;
 - iii. online promotional marketing material; or
 - iv. other **Data** processed or distributed by the **Insured's Computer System**.

2. Data-breach expense

If during the **Period of Insurance** the **Insured** has failed to keep to their **Data Privacy Obligations**, the **Insurer** will pay the following:

- a) the cost of hiring professional legal and forensic information-technology services to investigate and tell the **Insured** how they should respond;
- b) the cost of informing affected parties, the data privacy regulator and other relevant third parties or organisations worldwide;
- c) the cost of providing the following support

services to affected parties as the result of the **Insured** failing to keep to their **Data Privacy Obligations**:

- i. credit file monitoring, identity theft assistance and helping the affected parties to correct their credit records and take back control of their personal identity;
- ii. providing a helpline to respond to enquiries after informing affected parties.

These services will only be provided for twelve (12) months, and only if:

- iii. the **Data Privacy Obligations** the **Insured** has failed to keep to relate to **Personal Data**; or
- iv. the **Insured** must provide the relevant service under their **Data Privacy Obligations**;
- d) public-relations and crisis-management expenses, if the **Insurer** has given their written permission, for communicating with the media, the **Insured's** customers and the public to minimise damage to brands and business operations, and any damage to the **Insured's** reputation.

3. Computer system damage, data, extra cost and business income

The **Insurer** will pay for the following arising as a result of a **Cyber Event** the **Insured** discovers during the **Period of Insurance**:

- a) the cost of investigating, reconfiguring and rectifying any **Damage** to the **Insured's Computer System** or the **Computer System** of a **Service Provider**, and restoring and recreating **Data**; and
- b) extra costs to prevent or reduce the disruption to the functions carried out by the **Insured's Computer System** during the **Indemnity Period**; and
- c) the **Insured's** loss of **Business Income** during the **Indemnity Period**.

The amount of loss of **Business Income** the **Insurer** pays will be based on the **Insured's Business Income** during the twelve (12) months before the **Cyber Event**, as recorded in the **Insured's** accounts. The **Insurer** will make adjustments to reflect trends and circumstances which may affect the **Business Income**, or which would have affected the **Business Income** whether or not the **Cyber Event** had happened.

This does not include the value of **Data** to the **Insured**, even if the **Data** cannot be restored or recreated.



4. Cyber crime

The **Insurer** will pay for the following which arise during the **Period of Insurance**:

- a) The **Insured's** financial loss as the result of a fraudulent input, destruction or modification of **Data** in the **Insured's Computer System**, or the **Computer System** of their **Service Provider**, which results in:
 - i. money being taken from any account;
 - ii. goods, services, property or financial benefit being transferred; or
 - iii. any credit arrangement being made

as long as the **Insured** has not received any benefit in return, and they cannot recover the loss from a financial institution or other third party.

The **Insurer** will also pay the cost of proving that transactions are fraudulent and that contracts or agreements were entered into fraudulently;

- b) The **Insured's** liability to make any payment to their telephone service provider as the result of **Hacking** into the **Insured's Computer System**;
- c) The cost of employing specialist support to verify that a threat is genuine and to help the **Insured** to respond, and with the **Insurer's** written agreement pay a ransom demand, if anyone has or threatens to:
 - i. cause **Damage** to or disrupt the **Insured's Computer System** by introducing a **Computer Virus**, or to initiate a **Hacking** attack or **Denial of Service Attack** against the **Insured**;
 - ii. release, publish, corrupt, delete or alter **Data** from the **Insured's Computer System** if this would cause the **Insured** commercial or financial harm or damage the **Insured's** reputation; or
 - iii. fraudulently or maliciously use the **Insured's Computer System** to cause a loss to the **Insured** or a third party

as long as the **Insured** can demonstrate that they have good reason to believe that the threat is not a hoax, and the **Insured** has reported it to the police.

2. SECTION 5 INDEMNITY LIMITS

The most the **Insurer** will pay for all claims the **Insurer** accepts under this policy section in total for the **Period of Insurance** is stated in the **Schedule** plus any 'Extra cover limits' shown below, regardless of the number of claims or claimants.

Defence Costs

Any **Defence Costs** the **Insurer** pays will be within, not on top of, the **Sum Insured**.

Paying Out the Sum Insured

For any and all claims arising for the **Period of Insurance** the **Insurer** may pay the full **Sum Insured** that applies.

When the **Insurer** has paid the full **Sum Insured**, the **Insurer** will not pay any further amounts for any claims or for associated **Defence Costs** arising after the **Insurer** pays the full **Sum Insured**.

3. SECTION 5 DEFINITIONS

For the purposes of this policy section:

- a) **Act of Terrorism** means an act or threat any person or group (whether acting alone or in connection with any organisation or government) commits for political, religious, ideological or similar purposes, including to influence any government or frighten the public;
- b) **Business** means the **Insured's** business activities relating to the 'Business description' shown in the schedule;
- c) **Business Income** means:
 - i. the amount of net income (profit or loss before taxes) which the **Insured** would have earned after the **Time Excess** if the **Cyber Event** had not happened;
 - ii. normal operating expenses that continue, including ordinary payroll;
- d) **Computer Equipment** means computers and associated equipment, telecommunications equipment and software and programs used to process **Data**, but not including:
 - i. **Portable Equipment**;
 - ii. **Electronic Office Equipment**;
 - iii. equipment controlling manufacturing processes, or forming part of machinery; or
 - iv. equipment held as stock or which the **Insured** have manufactured and is intended for sale or repair in the course of the **Insured's Business**;
- e) **Computer System** means **Hardware**, **Data**, computer networks, websites, intranet and extranet sites;
- f) **Computer Virus** means any malware, program code or programming instruction designed to have a damaging effect on a **Computer System**;
- g) **Cyber Event** means:
 - i. loss, corruption, accidental or malicious deletion of or change to, unauthorised access



- to, or theft of **Data**;
- ii. **Damage** to websites, intranet or extranet sites;
- iii. **Damage** or disruption caused by **Computer Virus, Hacking** or **Denial of Service Attack**; or
- iv. failure of or variation in the supply of electricity or telecommunications

affecting the **Insured's Computer System**, the **Computer System** of a **Service Provider** or customer of the **Insured**;

- h) **Damage** means total or partial loss, damage, destruction, breakdown or corruption;
- i) **Damages** means:
 - i. financial compensation the **Insured** has to pay, except for fines, penalties, liquidated damages (contractual penalties), punitive or exemplary damages (extra damages to punish the **Insured**) or aggravated damages (more severe damages to reflect the seriousness of an offence); or
 - ii. third parties' costs and expenses the **Insured** has to pay as a result of a claim being brought against the **Insured**;
- j) **Data** means facts, concepts, information, ideas, text, recordings and images which are converted to a form which can be processed by **Hardware**, but not including software and programs;
- k) **Data Privacy Obligations** means legal obligations relating to securing, managing and preventing unauthorised access or use of **Data**, and arising under:
 - i. applicable data-protection regulations anywhere in the world associated with the confidentiality of, access to, control of and use of **Personal Data** which are in force at the time of the occurrence;
 - ii. guidance from the Information Commissioner's Office or similar organisations worldwide;
 - iii. the Payment Card Industry Data Security Standard or other contractual obligations relating to handling credit card and debit card information;
 - iv. privacy statements and confidentiality agreements;
- l) **Defence Costs** means costs and expenses the **Insurer** agrees to in writing for investigating, settling or defending a claim against the **Insured**;
- m) **Denial of Service Attack** means malicious and unauthorised attack which overloads any **Computer System**;

- n) **Directors and Officers** means directors, officers, principals, partners or members while they are employed by the **Insured** and under the **Insured's** control in connection with the **Business**;
- o) **Electronic Office Equipment** means photocopiers, fax machines, shredders, addressing machines, franking machines, televisions and associated equipment, DVD and CD recorders and players, video and audio conferencing and projection equipment and associated software and programs;
- p) **Employee** means any:
 - i. person employed, borrowed or hired by the **Insured**, including apprentices;
 - ii. labour master or labour-only subcontractor (or a person supplied by any of them);
 - iii. self-employed person;
 - iv. person taking part in any government or otherwise authorised work experience, training, study, exchange or similar scheme;
 - v. person doing voluntary work for the **Insured**; or
 - vi. person supplied to the **Insured** under a contract or agreement which states that they are in the **Insured's** employment

when they are working for the **Insured** in connection with the **Insured's Business**, but not including the **Insured's Directors and Officers**;

- q) **Hacking** means unauthorised or malicious access to any **Computer System** by electronic means;
- r) **Hardware** means **Computer Equipment, Portable Equipment** and **Electronic Office Equipment** and software;
- s) **Indemnity Period** means the period during which the **Insured** suffers a loss of **Business Income** or has to pay extra costs, starting on the date of the **Cyber Event** and ending no later than the last day of the **Indemnity Period** shown in the schedule;
- t) **Insured** means the company stated in Item 1 of the schedule and includes all subsidiaries;
- u) **Insurer** means HSB Engineering Insurance Limited;
- v) **Period of Insurance** means the period of time, as shown in the schedule, during which the **Insured** is covered by the policy, unless it is cancelled;
- w) **Personal Data** means information which could identify a person or allow identity theft or other fraud to take place;
- x) **Portable Equipment** means laptops, palmtops,



notebooks and tablet computers, removable satellite-navigation systems, digital cameras and smartphones and associated software and programs;

- y) **Service Provider** means a business that the **Insured** hires under a written contract to perform services on its behalf in connection with the **Business**;
- z) **Sum Insured** means the amount shown in 'Section 5 Indemnity Limits';
- aa) **Time Excess** means the time period, as shown in the schedule, for which the **Insurer** will not pay any loss of **Business Income**.

4. SECTION 5 EXCLUSIONS

The **Insurer** will not pay for any claim, cost or loss under this section of the policy caused by or resulting from the following:

- a) any claim brought against the **Insured** by:
 - i. another person named as 'insured' in the schedule;
 - ii. any of the **Insured's** parent or subsidiary companies; or
 - iii. any company which the **Insured** are a director, officer, partner or employee of and have a financial interest in.

This exclusion does not apply to **Personal Data** relating to **Employees** or **Directors and Officers** as long as any benefit they receive is no more than any third party would receive;

- b) for '4. Cyber crime' of the Operative Clause – any financial loss resulting from actual or alleged fraudulent use of credit card or debit card;
- c) defamatory or disparaging statements or publications made deliberately or recklessly if it could be anticipated by a reasonable person that the statements could result in a claim against the **Insured**;
- d) the **Insured** failing to keep to any obligation they have to their **Employees** or **Directors and Officers**, unless this is specifically insured by the **Insured's** policy after the **Insured's Data Privacy Obligations** have not been met;
- e) any mistakes in financial statements or representations concerning the **Insured's Business**;
- f) the **Insured** actually or allegedly breaking any taxation, competition, restraint of trade, or anti-trust law or regulation;

- g) infringement of any patent without the patent holder's permission;
- h) goods, products or software the **Insured** has sold, supplied, manufactured, constructed, installed, maintained, repaired, altered or treated, or any inadequate or incorrect advice or services the **Insured** has provided;
- i) the cost of correcting any failings in procedures, systems or security;
- j) loss of **Business Income** or extra cost arising during the **Time Excess**;
- k) the amount specified as the 'Excess' in the schedule;
- l) circumstances which existed before any cover provided by this policy started, and which the **Insured** knew about and/or claims or circumstances which the **Insured** have already reported, or which the **Insured** should have reported, to a previous insurer before the **Period of Insurance**;
- m) the **Insured's** property being confiscated or **Damaged** by, or under the order of, any government, public or police authority, other than:
 - i. to protect life or prevent damage to property; or
 - ii. as the result of a regulatory investigation after the **Insured** has failed, or allegedly failed, to keep to their **Data Privacy Obligations**;
- n) any extortion, blackmail or ransom payments or demands, other than in connection with cover provided by '4. Cyber crime' of the Operative Clause;
- o) any fines, penalties, punitive or exemplary damages (extra damages to punish the **Insured**);
- p) penalties the **Insured** has to pay under a contract for any delay or in connection with guarantees of performance or efficiency;
- q) any intentional act, or failure to act, by the **Insured** or their **Directors and Officers**, unless the act or failure to act is a measure to prevent or minimise injury, **Damage** to the **Insured's Hardware**, loss of **Business Income** or a claim for **Damages**;
- r)
 - i. ionising radiation from, or contamination by, radioactivity from any nuclear fuel or nuclear waste, or from burning nuclear fuel;
 - ii. the radioactive, toxic, explosive or other dangerous properties of any nuclear installation, reactor or other nuclear



- equipment, or any nuclear part of them;
 - iii. any weapon or device using atomic or nuclear fission, fusion or similar reaction, or radioactive force or material;
 - iv. the radioactive, toxic, explosive or other dangerous properties of any radioactive material;
 - s) the cost of normal **Computer System** maintenance;
 - t) atmospheric or environmental conditions causing temporary interference with any satellite signal;
 - u)
 - i. any **Act of Terrorism**, regardless of any other cause or event contributing to the **Damage**, loss of **Business Income** or other loss;
 - ii. civil commotion in Northern Ireland;
 - iii. any action taken to control, prevent, suppress or in any way deal with any **Act of Terrorism**.

Computer Virus, Hacking or Denial of Service Attack will not be regarded as an **Act of Terrorism**;

- v) the **Insured's** commercial decision to stop trading, or the decision of a **Service Provider**, customer or supplier of the **Insured's** to stop or reduce trade with them or restrict services;
- w) war, invasion, hostilities (whether war is declared or not), civil war, rebellion, revolution or uprising.

Notwithstanding exclusion m), this exclusion shall not apply to any **Damage**, loss of **Business Income** or other loss resulting from, or caused by, weapons of war which were not discovered before the start of the **Period of Insurance**, as long as there is no war in the country the **Insured's Hardware** is in during the **Period of Insurance**;

- x) losses due to:
 - i. wear and tear, gradual deterioration or rust;
 - ii. scratching or chipping of painted or polished surfaces;
 - iii. erosion or corrosion; or
 - iv. gradual reduction in performance.

However, the **Insurer** will pay for loss resulting from the causes above which the **Insurer** would otherwise have paid under this policy;

- y) the **Insured's** insolvency or bankruptcy;
- z) for '3. Computer system damage, data, extra cost and business income' of the Operative Clause – the failure or interruption of or damage to any electrical power supply network or telecommunication network not owned and operated by the **Insured** including, but not limited

to, the internet, internet service providers, DNS service providers, cable and wireless providers, internet exchange providers, search engine providers, internet protocol networks (and similar networks that may have different designations) and other providers of telecommunications or internet infrastructure. This exclusion shall not apply to any cost or loss caused by or resulting from physical damage if otherwise insured by this policy section, to the electrical power supply network, telecommunications or other property.

5. SECTION 5 EXTENSIONS

The **Insurer** will provide the extra cover below. For each extra cover the **Insurer** will not pay more than GBP 5,000 for all occurrences in total during the **Period of Insurance**.

- a) **Avoiding Corruption**
If the **Insurer** has agreed in writing:
 - i. the **Insurer** will pay the cost of locating and removing a **Computer Virus** from the **Insured's Computer System** which has not necessarily caused any **Damage** or disruption; and
 - ii. where a **Computer Virus** or **Hacking** attack has affected the **Insured's Computer System** during the **Period of Insurance**, the **Insurer** will pay the cost of hiring professional consultants to make recommendations on how to prevent the **Insured's Computer System** from being infected by **Computer Virus** or to prevent **Hacking**;
- b) **Security Audit**
If the failure to keep to **Data Privacy Obligations** insured by this policy section resulted from security weaknesses in the **Insured's Computer System**, the **Insurer** will pay the cost of a professional consultant carrying out an audit of the **Insured's Computer System** to assess the security weaknesses and advise the **Insured** on how to make improvements;
- c) **Investigation Cost**
If the **Insurer** accepts a claim for **Damage** or other loss, and they agree in writing, the **Insurer** will pay the cost of investigating possible repair, replacement or restoration;
- d) **Loss-prevention Measures**
The **Insurer** will pay the cost of preventing or minimising actual or expected **Damage** or other loss covered by this policy section, as long as:
 - i. **Damage** or other loss would be expected if the measures were not taken;
 - ii. the **Insurer** is satisfied that the **Damage** or other loss has been prevented or minimised by these measures; and
 - iii. the cost is limited to the cost of **Damage** or



other loss which would have been caused.

The full terms and conditions of this policy section apply as if **Damage** or other loss covered by this policy section had arisen;

- e) Temporary and Fast-tracked Repair
If the **Insurer** accepts a claim for **Damage** or other loss, the **Insurer** will pay the cost of making temporary repairs and fast-tracking a permanent repair, replacement or restoration;
- f) Accountants' Fees
The **Insurer** will pay the cost of the **Insured** providing the information the **Insurer** needs to work out the amount the **Insurer** should pay as a result of:
 - i. extra staffing costs; and
 - ii. extra fees charged by the **Insured's** usual auditors or accountants.

6. SECTION 5 CONDITIONS

The **Insured** must keep to the following conditions whenever they need to make a claim under this policy section. If the **Insured** does not meet these conditions, and this reduces the **Insurer's** legal or financial rights under this policy section, the **Insurer** may refuse to pay part or all of the **Insured's** claim.

- a) Reporting a Claim
As soon as the **Insured** knows about any incident or circumstance that may result in a claim they must:
 - 1. take all reasonable steps and precautions to prevent further **Damage**, loss of **Business Income** or other loss covered by this policy section;
 - 2. immediately tell the police about any loss or damage relating to crime and get a crime reference number;
 - 3. tell the person who arranged this policy (or the **Insurer**), providing full details, as soon after the incident or circumstances as possible;
 - 4. tell the person who arranged this policy (or the **Insurer**), providing full details, within fourteen (14) days in the case of the **Insured** knowing about an incident or circumstance that has resulted in or may result in the **Insured** receiving:
 - i. a claim against the **Insured**;
 - ii. a demand for **Damages**;
 - iii. a notice of regulatory action against the **Insured**;
 - iv. a notice of other arbitration process seeking **Damages**;
 - 5. tell the person who arranged this policy (or the **Insurer**), providing full details, within fourteen (14) days in the case of **Damage**, loss of **Business Income** or other loss

covered by this policy and caused by riot, civil commotion, strikers, locked-out workers or people taking part in labour disturbances;

- 6. immediately send the **Insurer** every letter, writ, summons or other document the **Insured** receives in connection with the claim or circumstance, and record all information relating to a claim against the **Insured** covered under '1. Cyber liability' of the Operative Clause;
- 7. keep any **Damaged Hardware**, other property covered by this policy section and other evidence, and allow the **Insurer** to inspect it;
- 8. co-operate with the **Insurer** fully and provide all the information the **Insurer** needs to investigate the **Insured's** claim or circumstance;
- 9. give the **Insurer** details of any other insurances the **Insured** may have which may cover **Damage**, loss of **Business Income**, **Damages**, **Defence Costs** or other loss covered by this policy section; and
- 10. tell the **Insurer** if the **Insured** recovers money from a third party (the **Insured** may need to give the money to the **Insurer**).

The **Insured** must not admit responsibility or liability, or agree to pay any money or provide any services on the **Insurer's** behalf, without the **Insurer's** written permission.

- b) Fraudulent Claims
If the **Insured** (or anyone acting for the **Insured**) makes a claim that the **Insured** knows is in any way false or exaggerated, the **Insurer** will not pay the claim and the **Insurer** may cancel this policy from the time of the fraudulent act relating to the claim (see 'General Condition 8. Fraud' on page 05 of this policy). The **Insurer** may also cancel any other policies the **Insured** has with the **Insurer**;
- c) Enforcing the **Insured's** Rights
The **Insurer** may, at their expense, take all necessary steps to enforce the **Insured's** rights against any third party. The **Insurer** can do this before or after the **Insurer** pays a claim.

The **Insured** must take reasonable steps to make sure that they protect their rights to recover amounts from third parties.
- d) Protecting Data
The **Insured** must make sure that the appropriate procedures are in place for disposing of and destroying **Hardware** and hard copy files in order to protect **Data**;
- e) Controlling Defence
The **Insurer** can, but does not have to, take



control of investigating, settling or defending any claim made against the **Insured**. The **Insurer** would take this action in the **Insured's** name. If necessary, the **Insurer** will appoint an adjuster, solicitor or any other appropriate person to deal with the claim. The **Insurer** may appoint the **Insured's** solicitor, but only on a fee basis similar to that of the **Insurer's** own solicitor, and only for work done with the **Insurer's** permission in writing. The **Insurer** will only defend claims if they think that there is a reasonable chance of being successful, and after taking the costs of the defence into account;

f) Other Insurances

If there is any other insurance covering the **Insured's** claim, the **Insurer** will only pay their share, even if the other insurer refuses to pay the claim;

g) Salvage and Recoveries

If the **Insured** has made a claim and they later recover money from a third party, they must tell the **Insurer** immediately. If the **Insurer** has paid the claim, the **Insured** may have to give the money to the **Insurer**;

If the **Insurer** has paid a claim and the **Insurer** then recovers money from a third party, the **Insurer** will give the **Insured** any proceeds above the amount the **Insurer** paid the **Insured** in connection with the claim.

Any amount due from the **Insured** or the **Insurer** must be paid as soon as reasonably possible;

h) Reasonable Care

The **Insured** must:

1. make sure that their **Hardware** is maintained, inspected and tested as recommended by the manufacturer;
2. keep a record of all maintenance and **Data** back-up procedures and maintenance carried out, and let the **Insurer** check those records;
3. take all reasonable steps and precautions to prevent or reduce **Damage** or other loss covered by this policy section; and
4. not continue to use **Hardware** after **Damage**, unless the **Insurer** has given their written permission.

If the **Insured** does not keep to this condition the **Insurer** may:

- a) refuse to pay part or all of the **Insured's** claim; and
- b) cancel this policy section (see 'Cancellation' provisions on page 02 of this policy);

i) Change in Risk

The **Insured's** cover will not be affected by any

act, failure to act or change in circumstance which increases the risk of **Damage**, loss of **Business Income** or a claim for **Damages** or other loss covered by this policy section and which the **Insured** could not have known about or controlled.

As soon as the **Insured** (or anyone acting for the **Insured**) becomes aware of any act, failure or change in circumstance which may affect the policy, they must tell the **Insurer** as soon as possible and keep to any extra terms and conditions the **Insurer** sets. This applies to any change of circumstance which arises, whether before or during the **Period of Insurance**, including before the **Insurer** renews this policy;

j) Defence Software

The **Insured's Computer System** must be protected by a virus-protection software package which is:

1. licensed to the **Insured**;
2. paid for and not freely available; and
3. updated at least every seven (7) days.

The **Insured's Computer System** must also be protected by a firewall on all external gateways to the internet, and that firewall must be maintained;

k) Contracts (Rights of Third Parties) Act 1999

Any person or company who is not named in the schedule has no right under the Contracts (Rights of Third-Parties) Act 1999 (or any other law) to enforce any term of the policy;

l) Data Backup

The **Insured** must back up original **Data** at least every seven (7) days.

If a **Service Provider** processes or stores **Data** for the **Insured**, the **Insured** must make sure that the terms of the contract between them and the **Service Provider** allow **Data** to be backed up in line with this condition.

The **Insured** must take precautions to make sure that all **Data** is stored safely.

If the **Insured** has failed to keep to this condition, the **Insurer** may still pay a claim if the **Insured** can show that formal procedures are in place to keep to this condition and that the failure was an accidental oversight or as a result of circumstances beyond the **Insured's** control;

m) Fraud and Misrepresentation

In addition to the terms of 'General Condition 8. Fraud' on page 05 of this policy, the **Insurer** may also report the matter to the police and notify any other relevant organisations of the circumstances;



n) More Than One **Insured**

If more than one 'Insured' is named in the schedule, the first named insured will receive all notices and agree any changes to this policy section and will be treated as acting for all the named insureds. The **Insurer** will not remove any named insured without their permission.

For any claim, the total amount the **Insurer** will pay will not be more than the **Sum Insured** or **Limit of Liability**, regardless of the number of people or organisations insured by the policy;

o) Paying the Premium

The **Insured** must pay the premium on or before the start of the **Period of Insurance** or on dates agreed by the **Insurer**.

If the **Insured** does not pay a premium on time, the **Insurer** may cancel this policy section;

p) Right to Survey

If the **Insurer** asks, the **Insured** must give the **Insurer** access to the **Insured's** premises at an agreed date and time to carry out a risk survey.

If the **Insured** does not keep to this condition the **Insurer** may cancel this policy section;

q) Tax

Any claim the **Insurer** pays will not include VAT, unless the **Insured** cannot recover part or all of the VAT they have paid.





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