

***Crew Cover***

***Crew Cover Public  
and Products Liability  
Insurance***

Policy Wording

vs.2\_1.2018

## **Contents**

Page

<b>3</b>	<b><i>Our policy guide &amp; agreement in general</i></b>
<b>8</b>	<b><i>Insured section A - Public liability</i></b>
<b>9</b>	<b><i>Insured section B - Products liability</i></b>
<b>10</b>	<b><i>Insured section C - Coverage extensions to insured sections A and B</i></b>
<b>13</b>	<b><i>Exclusions to insured sections A, B and C</i></b>
<b>16</b>	<b><i>Conditions precedent to insured sections A, B and C</i></b>
<b>18</b>	<b><i>Duties in the event of a claim or potential claim</i></b>
<b>20</b>	<b><i>General terms and conditions</i></b>
<b>23</b>	<b><i>General definitions and interpretation</i></b>
<b>28</b>	<b><i>Complaints</i></b>

## **1. Our Policy Guide and agreement in general**

### Important:

Do not wait until you have a claim before you read and understand this policy – please read it now and keep it in a safe place. In particular make sure that:

- **All the details shown in the schedule are correct (let your insurance broker or your intermediary know immediately if any changes are necessary)**
- **You have read the conditions relating to those insured sections covered including the exclusions and general terms and conditions**
- **You understand the notes on how to make a claim as stated in clause 7 duties in the event of a claim or potential claim and your duties in respect of Ministry of Justice Portal Claims as outlined in this guide below**
- **You understand the notes and how to make a complaint as stated in the clause 10 Complaints**

If you have any queries about the policy, do not understand any part of it, or feel that it does not meet your requirements please consult your insurance broker or your Intermediary.

This policy has been issued to you based on the information supplied about yourself, your business and in the statement of fact and other material information declared which forms the basis of the contract between yourself and the insurers.

It is therefore very important that you let your insurance broker know immediately of any changes that affect the information you have disclosed to us.

For example in respect of legal liability exposures any material alterations such as changes in your business/trade that affects the information you have disclosed to us, such as working temporarily in North America having previously not selected this coverage option.

In the event of a general enquiry or query relating to your policy, you the insured should in the first instance contact your insurance broker or your intermediary who arranged this insurance or contact Carroll Insurance Group Ltd at the address below:

**Carroll Insurance Group Ltd**

**2 White Lion Court**

**Cornhill**

**London EC3V 3NP**

**Email: [gavin.day@carrollinsurance.co.uk](mailto:gavin.day@carrollinsurance.co.uk)**

**Tel: 0207 645 5368**

In the event of a claim or any circumstance that is likely to result in a claim you must immediately notify the following:

**Claims Management Services Ltd (CMSL)**

**Unit 3, Station Road**

**Northfield**

**Birmingham B31 3TE**

**Email: [robin.judd@cmsl-uk.com](mailto:robin.judd@cmsl-uk.com)**

**Tel: +44 (0)121 475 4110**

## For Ministry of Justice (MOJ) Portal Claims (Duties owed by the insured)

For claims arising in England and Wales on or after the 31st July 2013 new processes apply for most low value Employers Liability and Public Liability claims whereby the claims will be handled through a web based portal on behalf of the Ministry of Justice.

Insureds are required to advise enquiring Claimants and/or Claimants representatives of the identity of their Employers Liability insurers or Public Liability insurers who are on risk for the date of incident/accident.

In addition there is a very strict and tight time constraint if an insured receives a Claim Notification Form (CNF) direct from the Claimants representatives. The requirement is that an acknowledgement (which must be by email) is immediately sent to the Claimant or Claimants representatives by the next working day after receipt of the CNF. The acknowledgement must also confirm that the CNF has been passed to CMSL (insurer's third party administrators whose contact details are shown above).

It is anticipated the Claimant and/or Claimants representatives may be able to identify CMSL as the relevant Claims Administrators under the Portal Scheme and if this is the case they will send an electronic Claim Notification Form to CMSL Portal Account at which time CMSL will acknowledge the CNF and commence the process immediately.

However the Claimant and/or Claimants representatives are still required to send a "Defendant Only Claims Notification Form" to you for information purposes only. If the Notification is marked "Defendant Only CNF" you do not need to take any action other than to prepare all available documentation on the accident for CMSL or any other nominated adjuster.

Once a claim has been acknowledged CMSL will only have a limited number of days to investigate and determine whether liability should be accepted or denied. It is therefore vital that full co-operation and assistance is provided to CMSL so that they can complete their investigation within the very tight time constraints. Furthermore in the event that acceptance of the claim is made through the Portal then loss of earnings details must be provided within 20 days on Employers Liability claims. It is therefore vital that when applicable loss of earnings details are provided as soon as it has been agreed to make a settlement offer to the Claimant.

Please note your failure to report a claim or potential claim immediately or to provide our appointed claims administrators CMSL with full cooperation in the claims investigation process and provision of all requested documents within the timeframe specified by them could result in the support from this policy being withdrawn.

### ***Credit Reference Agencies***

Your information may be linked to, and your application assessed using credit reference agency records relating to anyone with whom you have a joint account or similar financial association.

### ***Fraud Prevention Agencies***

If false or inaccurate information is provided and fraud is identified or suspected, details may be passed to fraud prevention agencies. Law enforcement agencies may access and use this information.

We and other organisations may also access and use this information to prevent fraud and money laundering when for example:

- ***checking applications for and managing credit and other facilities and recovering debt***
- ***checking insurance proposals and claims***
- ***checking details of job applicants and Employees***

We and other organisations that may access and use information recorded by fraud prevention agencies may do so from other countries.

***Certification***

This Certificate is issued by the Coverholder identified within this Certificate in accordance with the authorisation granted to the Coverholder under the Binding Authority Agreement with the Unique Market Reference stated within this Certificate.

## **1 Our Policy Guide and agreement in general (cont.)**

### **1.1 Parties to this agreement**

This Crew Cover Public and Products Liability Insurance Policy is between the insured and the insurer as declared in the schedule. This document, together with its schedule and any attached endorsements is the policy which sets out this insurance. It is a legal contract so please read all of it carefully.

### **1.2 Primary purpose of the policy**

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

- 1.2.1** indemnify the insured up to the limit of indemnity for all sums that the insured becomes legally liable to pay as damages, including claimant costs recoverable from the insured;
- 1.2.2** pay costs and expenses, some of which are expressly stated to be in addition to the limit of indemnity;
- 1.2.3** the full extent of the insurance by this policy is described in each insured section set out in clauses **2 - 3** below and stated as insured in the schedule.

### **1.3 Policy structure**

- 1.3.1** Clauses **2 - 3** set out the scope of main coverage of each insured section; additional costs and expenses; extra coverage and the circumstances in which the insurer's liability to the insured is limited, or may be excluded. Also, each clause sets out other terms and conditions.
- 1.3.2** Clause **4** sets out cover extensions shared by insured sections A and B;
- 1.3.3** Clause **5** sets out limitations and exclusions shared by insured sections A, B and C;
- 1.3.4** Clause **6** sets out circumstances in which the insurer's liability to the insured is conditional on the insured meeting specified conditions precedent;
- 1.3.5** Clauses **7-10** are applicable to all insured sections and set out the insurer's;
  - a)** claims handling terms and conditions, including further conditions precedent;
  - b)** general terms and conditions, including further conditions precedent;
  - c)** definitions;
  - d)** complaints procedure.

### **1.4 Policy period and premium**

- 1.4.1** The policy will provide insurance, as described in clauses **1.2** and **1.3** above, for the period of insurance provided the premium and other charges are paid to and accepted by the insurer on or before the payment date shown in the schedule. Taxes, levies and other relevant fiscal charges are payable in addition to the premium.
- 1.4.2** The premium is deemed paid and accepted on receipt by the insurer or the intermediary appointed to place this insurance with the insurer.

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

## **1.5 Basis for the policy**

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

**1.5.2** It is a further condition of the policy that any material change in, or material addition to, the information mentioned in clause **1.5.1**, either before or during the period of insurance, shall be notified in writing as soon as practical after the insured becomes aware of any such change or addition to the insurer who will continue the policy on such terms and conditions as it may determine.

**1.5.3** In the event of a breach of any provision of this clause **1.5**, and without prejudice to any other rights of the insurer, the insurer may reject or reduce claims connected with the breach and continue the policy on such terms as it may determine.

## **1.6 Privacy**

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

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

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

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

## **2 Insured section A - Public liability**

### **2.1 Public liability cover**

**2.1.1** The insurer agrees to indemnify the insured by the terms of this insured section against legal liability to pay damages, including claimant costs recoverable from the insured, as a result of bodily injury, personal injury, advertising injury, damage or denial of access that occurs during the period of insurance and arises out of and in connection with the business.

### **2.2 Additional public liability costs and expenses**

**2.2.1** Following any event which is or may be the subject of indemnity under this insured section the insurer agrees to indemnify the insured for costs and expenses:

- a)** which are inclusive and form part of the limit of indemnity in respect of any judgment, award, payment, costs and expenses or settlement delivered, made or incurred within countries which operate under the laws of North America (or to any order made anywhere in the world to enforce such judgment, award, payment, costs and expenses or settlement either in whole or in part); or
- b)** which are payable in addition to the limit of indemnity in respect of liability incurred under any other jurisdiction.

**2.2.2** Except where the limit of indemnity is inclusive of costs and expenses, if payment exceeding the limit of indemnity has to be made to dispose of a claim, the insurer's liability to pay all costs and expenses shall be limited to such proportion of the said costs and expenses as the limit of indemnity bears to the total amount paid to dispose of the claim.

### **2.3 Public liability extensions**

#### **2.3.1** Data Protection Act 1998

The insurer will indemnify the insured in respect of their liability under the Data Protection Act 1998 ('DPA') to pay:

- a)** compensation in respect of damage or distress under section 13 of Part II of the DPA including defence costs and expenses;
- b)** defence costs in relation to a prosecution brought under section 21 of Part III of the DPA; in relation to claims made by any person not being an employee, provided that:
- c)** the insured has registered in accordance with the terms of the DPA;
- d)** the claim arises from damage or distress occurring or prosecution commenced during the period of insurance;
- e)** this extension will not apply in respect of:
  - i)** the cost of replacing, reinstating, rectifying or erasing any personal data;
  - ii)** liability caused by or arising from a deliberate or intentional act by or omission of any party entitled to indemnity by this insurance the effect of which will knowingly result in liability under the DPA;
  - iii)** claims which arise out of circumstances notified to any previous insurer or known to the insured at inception of this policy;
  - iv)** liability for which indemnity is provided under any other insurance.



### 2.3.2 Defective Premises Act 1972

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

### 2.3.3 Overseas liability

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

## 2.4 **Public liability limitations and exclusions**

In addition to the limitations and exclusions applicable to this insured section in clause **5**, this insured section excludes and does not cover:

### 2.4.1 Pollution and products

bodily injury, personal injury, advertising injury, damage or denial of access arising out of or from or:

- a)** brought about by or contributed to by pollution;
- b)** in connection with the insured's products;

### 2.4.2 Work away

- a)** damage to materials, parts or equipment furnished in connection with performance of the work away but this limitation shall not be applied to products previously supplied under any previous contract; or
- b)** damage to property that is removed, repaired, adjusted, altered, reinstated, withdrawn or disposed of in the course of and necessitated by the performance of the work away; or
- c)** any expenditure incurred by the insured or others for the removal, repair, adjustment, alteration, reinstatement, withdrawal, inspection or disposal of the work away as a result of any defect (suspected or known) in or unsuitability for the intended purpose of the work away.

## 3 **Insured section B - Products liability**

### 3.1 **Products liability cover**

**3.1.1** The insurer agrees to indemnify the insured by the terms of this insured section against legal liability to pay damages, including claimant costs recoverable from the insured as a result of bodily injury, personal injury, advertising injury, damage or denial of access that occurs during the period of insurance and arising out of or from or in connection with the insured's products.

### 3.2 **Additional products liability costs and expenses**

**3.2.1** Following any event which is or may be the subject of indemnity under this insured section the insurer agrees to indemnify the insured for costs and expenses:

- a)** which are inclusive and form part of the limit of indemnity in respect of any judgment, award, payment, costs and expenses or settlement delivered, made or incurred within countries which operate under the laws of North America (or to any order made anywhere in the world to enforce such judgment, award, payment, costs and expenses or settlement either in whole or in part); or
- b)** which are payable in addition to the limit of indemnity in respect of liability incurred under any other jurisdiction

**3.2.2** Except where the limit of indemnity is inclusive of costs and expenses, if payment exceeding the limit of indemnity has to be made to dispose of a claim, the insurer's liability to pay all costs and expenses shall be limited to such proportion of the said costs and expenses as the limit of indemnity bears to the total amount paid to dispose of the claim.

### **3.3 Products liability extensions**

Not applicable to this insured section B.

### **3.4 Products liability limitations and exclusions**

In addition to the limitations and exclusions applicable to this insured section in clause **5**, this insured section excludes and does not cover:

#### **3.4.1 Aircraft**

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

#### **3.4.2 Pollution**

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

## **4 Insured section C - Coverage extensions to insured sections A and B**

### **4.1 Contractual liability**

Subject always to the exclusion set out in clause **5.20**, where any contract or agreement entered into by the insured so requires the insurer will:

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

### **4.2 Cross liabilities**

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

### **4.3 Motor liability**

**4.3.1** Notwithstanding exclusion **5.23** to insured sections A, B and C , the insurer agrees to indemnify the insured in respect of liability arising out of or from:

- a)** the use of any mechanically propelled vehicle as a tool or plant; or
- b)** the loading or unloading of any mechanically propelled vehicle or trailer when carried out beyond the limits of any carriageway or thoroughfare by a person other than the driver or attendant of any such vehicle or trailer; or
- c)** the movement of any mechanically propelled vehicle not owned hired or borrowed by or leased to the insured on or under any premises occupied by the insured where such vehicle is causing an obstruction and interfering with the performance of the business; or

**4.3.2** except always that the indemnity provided by this clause excludes liability for which insurance is necessary to comply with the Road Traffic Act 1998 as amended by The Motor Vehicles (Compulsory Insurance) Regulations 1992 or any alteration to such regulations or any similar legislation applying to Northern Ireland, the Isle of Man or the Channel Islands or to any other territory consequent on the Third Council Directive 90/232/EEC of 14/05/1990 relating to insurance against civil liability in respect of the use of motor vehicles or similar legislation in any country outside the European Union.

### **4.4 Motor contingent liability**

**4.4.1** Notwithstanding exclusion **5.23** to insured sections A, B and C, the insurer agrees to indemnify the insured in respect of liability arising out of or from the operation or use of any mechanically propelled vehicle not owned hired or borrowed by or leased to the insured and used in the course of business, provided that this clause excludes and the insurer will not be liable for:

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

### **4.5 Principals**

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

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

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

**4.6.1** Notwithstanding the exclusions at clauses **2.4.2** **3.4.2** or **5.24** the insurer agrees to extend coverage under insured sections A, B and C to indemnify the insured in respect of liability arising out of or from:

- a)** damage to personal effects (including vehicles and their contents) of the insured's employees, directors, officials, visitors or guests; or

- b)** damage to premises including landlord's contents, fixtures and fittings not owned by the insured but leased or rented by them in the course of business, but always excluding liability which attaches by way of any contract or agreement that would not have attached in the absence of such contract or agreement; or
- c)** contractual liability that arises from an agreement requiring insurance to be maintained in force in respect of loss of or damage to such premises and their fixtures and fittings;
- d)** damage to:
  - i)** premises or the contents thereof not belonging to or leased to or rented to the insured or otherwise in the insured's custody or control but temporarily occupied by the insured for work away;
  - ii)** that part of the property on which the insured is working and which arises out of such work away; but always excluding liability for:
  - iii)** any liability where indemnity is available under any other insurance benefiting the insured,
  - iv)** any liability where the insured has been required to effect adequate property insurance covering damage in respect of customers goods by way of agreement or contract.

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

- 4.7.1** The insurer will, with its prior consent which consent will not be unreasonably withheld, indemnify the insured and at the request of the insured any other insured party, in respect of legal costs and expenses incurred defending:
- a)** any alleged breach of statutory duty (including any prosecution brought under sections 2 to 8 of the Health and Safety at Work, etc. Act 1974, Health and Safety at Work (Northern Ireland) Order 1978 or similar legislation in the Isle of Man or the Channel Islands) or criminal proceedings brought; and / or
  - b)** allegations (whether under common law or statute) of manslaughter, corporate manslaughter or corporate homicide made against the insured or any other insured party; provided that the prosecution or proceedings relate to:
    - i)** an offence alleged to have been committed during the period of insurance and in the course of business;
    - ii)** bodily injury to, or potential bodily injury to persons other than the insured and, the insurer will also pay to the insured:
    - iii)** costs and expenses of appeal including appeal against improvement and prohibition notices incurred with its written consent which consent will not be unreasonably withheld;
    - iv)** prosecution costs awarded against the insured;
- 4.7.2** The indemnity by this clause excludes and does not cover circumstances where the insured is entitled to indemnity by any other legal expenses, motor or employment protection policy;
- 4.7.3** For the avoidance of doubt the under noted statutes, whilst not exhaustive, are included within the statutes or regulations contemplated for which defence costs are insured by this clause:
- a)** Health and Safety at Work, etc. Act 1974, but only sections 2 to 8,
  - b)** Health and Safety at Work (Northern Ireland) Order 1978,
  - c)** The Trade Description Act 1968
  - d)** Part II of the Consumer Protection Act 1987
  - e)** Part II of the Food Safety Act 1990.

## **5 Exclusions to insured sections A, B and C**

Insured sections A, B and C exclude and do not cover:

### **5.1 Advertising injury**

advertising injury arising out of:

- 5.1.1** breach of contract (other than liability for unauthorised misappropriation of advertising ideas based upon breach or alleged breach of an implied contract);
- 5.1.2** infringement of registered trademarks, patents, registered designs, service marks or trade name (other than infringement of titles or slogans);
- 5.1.3** the failure of goods, products or services to conform with advertised quality or performance;
- 5.1.4** incorrect description or mistake in advertised price of goods, products or services sold, offered for sale or advertised;
- 5.1.5** advertising activities undertaken on behalf of another party by any insured engaged in the business of advertising or undertaken for a fee;
- 5.1.6** the oral, broadcast, telecast or written publication of material whose first publication took place before the inception of the period of insurance;
- 5.1.7** an offence committed by the insured or whose business is advertising, broadcasting, publishing or telecasting.

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

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

### **5.3 Aircraft and watercraft**

any loss arising out of or from the ownership, possession or use of any aircraft or other aerial device or satellite, or any watercraft;

### **5.4 Asbestos and Hazardous Substances**

liability for any loss cost or expense directly or indirectly arising out of or resulting as a consequence of or related to the manufacture mining processing ownership distribution testing remediation removal storage disposal sale transportation use of or exposure to asbestos or silica or polychlorinated biphenyls or materials or products containing such substances (or any other component building material hazardous to health) whether or not there is another cause of loss which may have contributed concurrently or in any sequence to a loss.

### **5.5 Biological or Chemical Materials**

Loss or Damage costs or expenses of whatsoever nature directly or indirectly caused by resulting from or in connection with the actual or threatened malicious use of pathogenic or poisonous biological or chemical materials regardless of any other cause or event contributing concurrently or in any other sequence thereto.

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

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

### **5.7 Costs of recall or guarantee**

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

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

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

### **5.9 Electronic data / Cyber Liability**

Loss or Damage associated with or caused by a System Failure if a System Failure forms an identifiable element in the chain of events from which the liability arises whether or not it is the proximate cause of the liability.

System Failure shall mean malfunction or non-function of any mechanical and/or electronic system (whether or not the property of the Insured) caused by:

- (a) the response of a computer to any date or date change or
- (b) the failure of a computer to respond to any date or date change or
- (c) the loss of or denial of access to any data either your own or third party or
- (d) any Loss of or Damage to or change or corruption in data or software on a computer or computer system or
- (e) any Computer virus or hacking into or degradation of or breach of security in or denial of access to a computer or computer system or website

Computer includes computer hardware computer software microchip microprocessor any electronic equipment and any device which gives or processes or receives or stores electronic instructions or information.

### **5.10 Employment practices dispute**

Liability which arises out of:

**5.10.1** a dispute between an employer / prospective employer and employee / prospective employee referred or capable of being referred to an Employment Tribunal including such appeal courts or tribunals as are available from an Employment Tribunal as provided by the Employment Rights Act 1986; or

**5.10.2** a settlement or adjudication of or under the auspices of an Employment Tribunal or ACAS; and liability by clause **5.10.1** and / or **5.10.2** which is capable of being insured under a generally available Employment Practices Liability Insurance Policy;

### **5.11 Excess**

The amount of the excess as applicable and stated in the schedule.

### **5.12 Exclusion for Misuse of the Internet and Extra-net**

Liability arising directly or indirectly from the use or misuse of the Intranet Extra-net and/or caused via the insured's own website or internet site or web address and/or via the transmission of mail plans designs photographs or other documents by electronic means.

### **5.13 Financial loss**

Liability for pure financial loss not consequent upon bodily injury or damage;

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

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

### **5.15 Hazardous work**

Liability for any loss arising in connection with any work:

**5.15.1** of demolition;

**5.15.2** of construction, alteration or repair of bridges, towers, steeples, chimney shafts, blast furnaces, viaducts or mines;

**5.15.3** of pile driving, tunnelling or quarrying;

**5.15.4** involving the use of commercial explosives for any purpose except that this exclusion shall not apply to use of explosives and articles pyrotechnic in the operation of special effects for film, television or live events;

### **5.16 Intentional disregard of reasonable precautions**

Any insured event or loss arising or arising out of or continuing from the deliberate, conscious or intentional disregard by the insured's technical or administrative management of the need to take all reasonable precautions to prevent an insured event or loss arising or continuing;

### **5.17 Institute Radioactive Contamination, Chemical, Biological and Electromagnetic Weapons Exclusions Clause**

In no case shall this insurance cover loss damage liability or expense directly caused by or contributed to by or arising from:

**5.17.1** Ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel

**5.17.2** The radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof

**5.17.3** Any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter

**5.17.4** The radioactive, toxic, explosives or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, medical, scientific or other similar peaceful purposes

**5.17.5** Any chemical, biological, bio-chemical, or electromagnetic weapon

### **5.18 Liability from employment**

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

### **5.19 Limit of indemnity**

Liability in excess of the limit of indemnity stated in the schedule except for payment of costs and expenses as provided for by clauses **2.2.1** and **3.2.1**;

### **5.20 Liquidated damages**

Any loss arising out of or from any liquidated damages clauses or penalty clauses or performance warranties in any contract or agreement which the insured has entered into unless it is proven that, and then only to the extent that, liability would have attached in the absence of such clauses or warranties;

### **5.21 North America**

Liability within North America;

### **5.22 Overseas domiciled operations**

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

### **5.23 Ownership or use of mechanically propelled vehicles**

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

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

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

### **5.25 Security and crowd control**

Damage caused by, arising from or in connection with crowd control and security activities;

### **5.26 The product itself**

Liability for damage to the insured's product or any part thereof arising from a defect or unsuitability thereof and pure financial loss arising therefrom;

### **5.27 War or terrorism**

Bodily injury, personal injury, pollution, damage denial of access cost or expense directly or indirectly caused by or contributed to by or arising from war or any act of terrorism.

If the Insurer alleges that by reason of this exclusion any Bodily injury, personal injury, pollution, damage, denial of access, cost or expense is not covered by this insurance then the burden of proving the contrary shall be upon the Insured.

In the event that any part of this exclusion is found to be invalid or unenforceable the remained shall remain in force and effect.

## **6 Conditions precedent to insured sections A, B and C**

### **6.1 Fork lift truck conditions**

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

**6.1.1** all drivers must be at least eighteen (18) years of age;



**6.1.2** all drivers must:

- a)** complete a training course in the safe use of fork lift trucks through an Accredited Training Provider belonging to one of the five accrediting bodies as recognised by the Health & Safety Executive,
- b)** complete a refresher course within five (5) years of the initial training programme, and the insured must retain appropriate documentation verifying completion thereof;

**6.1.3** whenever a fork lift truck is unattended

- a)** the ignition keys must be removed, or
- b)** the vehicle otherwise immobilised, to prevent unauthorised use. For the purpose of this clause unattended means that the fork lift truck is out of sight of the driver and / or more than one (1) minute's walking distance from the driver to prevent unauthorised use;

**6.1.4** the carriage of passengers, unauthorised use or application as a tool in excess of the design capabilities of the vehicle is prohibited at all times;

**6.1.5** all drivers must engage safety restraints.

## **6.2 Heat away from premises**

**6.2.1** It is a condition precedent to the insurer's liability under this insurance that the insured, or persons acting on behalf of the insured, will ensure that when using a naked flame or other heat source including but not limited to:

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

away from the insured's premises, the insured, its employees and its contractors shall take all reasonable precautions to prevent damage.

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

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

**6.2.3** Furthermore where the insured or persons acting on behalf of the insured burns debris away from their premises it is a condition precedent to the insurer's liability under this insurance that the following precautions must be taken on each occasion:

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

## **7 Duties in the event of a claim or potential claim**

The due observance and fulfilment of the provisions of clause **7** is a condition precedent to the insurer's liability for any claim under this policy. Clause **8.14** sets out consequences of a failure to comply with conditions precedent or policy provisions such as clause **7**.

### **7.1 Claim notification**

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

- a)** immediately on or not later than forty eight (48) hours from receipt of notice of any impending inquest, fatal accident inquiry, prosecution or other legal proceedings that includes alleged bodily injury;
- b)** as soon as practical but in any event within seventy two (72) hours from coming in possession of actual knowledge that notice of an Industrial Tribunal hearing includes alleged bodily injury or personal injury;
- c)** immediately on, or not later than seventy two (72) hours from, the insured's actual knowledge of any death or bodily injury to any person not being an employee involving a stay in hospital in excess of three (3) days;
- d)** as soon as practical but in any event within thirty (30) days after any other accident, event or the coming in possession of actual knowledge of bodily injury, personal injury or damage, with full particulars thereof; which may be the subject of indemnity under this policy.

**7.1.2** The insured will give notice by an agreed electronic medium, to the insurer not later than forty eight (48) hours from, the insured's actual knowledge of any RIDDOR incident involving any person not being an employee.

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

### **7.2 Insured's duties**

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

- a)** not admit responsibility, liability, make an offer or promise, nor offer payment or indemnity without the written consent of the insurer;
- b)** not incur any expense without the consent of the insurer except at the insured's own cost;
- c)** always act honestly, there being no rights to any form of payment or indemnity under the policy in the event that any claim is made fraudulently.
- d)** give all such information, assistance and forward all documents to enable the insurer to investigate, settle or resist any claim as the insurer may require;
- e)** provide such proofs and information with respect to the claim as may reasonably be required together with (if demanded) a statutory declaration of the truth of the claim and any matters connected therewith;

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

### **7.3 Claim Procedure**

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

- 7.3.1** immediately send the insurer copies of any request, demand, order, notice, summons, legal paper and all documents relating thereto in connection with an insured event as soon as received by the insured. In addition the insured must co-operate with the insurer or their appointed agents to allow them to comply with such relevant practice directions and pre-action protocols as may be issued and approved from time to time by the head of civil justice;
- 7.3.2** authorise the insurer to obtain medical records or other pertinent information upon request but only where legally permitted to do so in the event of an insured event involving bodily injury;
- 7.3.3** prove, if it is alleged that an event is not covered or that the indemnity is otherwise limited being war or an act of terrorism that the said exclusion or limit of indemnity does not apply, it being understood and agreed that any portion of an exclusion or limit of indemnity being found invalid, inapplicable or unenforceable will not in any way render the remainder of the exclusion or limit invalid, inapplicable or unenforceable.

### **7.4 Insurer's rights**

- 7.4.1** The insurer will be under no obligation to investigate any potential claims or to undertake the conduct of any proceedings in connection with such claims and will be at liberty in all cases to leave the conduct of such proceedings wholly to the insured upon such conditions as regards the payment of opponent's costs and with such liberty to bind the insurer by compromise as the insurer may in its absolute discretion determine.
- 7.4.2** The insurer may at any time pay the limit of indemnity (after deduction of any sums already paid) or such lesser sum for which the claim can be settled and will relinquish the conduct and control of the claim and be under no further liability except (where payable under the relevant insured section) for payment of costs and expenses incurred prior to the date of payment.

### **7.5 Disputed defence or appeal**

If any dispute arises between the insured and the insurer as to whether a prosecution should be defended or an appeal made, such dispute will be referred to a Queen's Counsel to be mutually agreed between the parties (or in default of agreement to be nominated by the President of the Law Society) whose decision will be final. In the event of conflict between any other insured party separate representation will be arranged for each party.

### **7.6 Excess**

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

## **7.7 Subrogation**

- 7.7.1** Except as provided by clause **4.1**, for each and every claim the insured and any person acting on behalf of the insured must not waive any rights of recourse or recovery against any other person relating to an occurrence, loss or suit that may give rise to a claim under this insurance.
- 7.7.2** The insured will at the request and expense of the insurer do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the insurer for the purpose of enforcing any rights and remedies or of obtaining relief or indemnity from other parties to which the insurer will be or would become entitled or subrogated upon its paying an indemnity under this policy, whether such acts and things will be or become necessary or required before or after their indemnification by the insurer.
- 7.7.3** In the event of any payment under this insurance, the insurer will act in concert with all other interested persons (including the insured) concerned in the exercise of any rights of recovery.
- 7.7.4** The apportioning of any amounts which may be so recovered will follow the principle that any interested persons (including the insured) that will have paid an amount over and above any payment hereunder, will first be reimbursed up to the amount paid by them; the insurer is then to be reimbursed out of any balance then remaining up to the amount paid hereunder; lastly, the interested persons (including the insured) to whom this coverage is in excess shall be entitled to claim the residue, if any.
- 7.7.5** Expenses necessary to the recovery of any such amounts will be apportioned between the interested parties concerned, in the ratio of their respective recoveries as finally settled.

## **8 General terms and conditions**

### **8.1 Applicable law**

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

### **8.2 Assignment**

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

### **8.3 Cancellation**

The insurer may at any time during the period of insurance serve written notice on the insured at the address shown on the schedule cancelling the policy with effect from the thirtieth (30th) day after service of the notice. Such cancellation shall not affect the coverage or premium attributable under this insurance to the period prior to cancellation. Upon demand the insurer will return to the insured a part of any premium paid in excess of that proportionate to the pre-cancelled portion of the policy. Without prejudice to any other forms of service, the notice of cancellation is deemed to be served on the third (3rd) day after being posted if sent by pre-paid letter post properly addressed.

### **8.4 Contract (Rights of Third Parties) Act 1999**

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

## **8.5 Contribution**

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

## **8.6 Document management**

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

## **8.7 Disclosure under the Data Protection Act 1998**

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

**8.7.2** Further, by accessing and updating various databases the insurer may share information with other firms and public bodies, including the police, in order to substantiate information and prevent or detect fraud. If false or inaccurate information is provided and fraud is suspected this fact will be recorded and the information will be available to other organisations that have access to the databases. Details of databases accessed or contributed to are available on request.

## **8.8 Dispute resolution**

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

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

**8.8.3** If any such dispute is not resolved by mediation or the parties cannot agree upon the appointment of a mediator or the form that the mediation will take the dispute will be referred by either party to be determined and be subject to the exclusive jurisdiction of the High Court, London.

## **8.9 Fraud**

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

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

### **8.10 Inspection and audit**

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

### **8.11 Legal action against the insurer**

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

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

### **8.12 Material alteration**

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

### **8.13 Minimisation of risk**

**8.13.1** The insured will take all reasonable steps at its own expense to prevent an insured event arising or continuing.

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

### **8.14 Observance**

**8.14.1** The due observance and fulfilment of the provisions of this policy insofar as they may relate to anything to be done or complied with by the insured, and are not already conditions precedent, will be a condition of this policy. Any waiver by the insurer of any provision will not prevent the insurer from relying on such term or condition or condition precedent in the future.

**8.14.2** In the event of a breach of any provision in the policy, and without prejudice to any other rights of the insurer, the insurer may reject or reduce claims connected with the breach providing the insurer can demonstrate some prejudice, and continue the policy on such terms as it may determine and if any payment on account of any such claim has already been made, the insured will repay forthwith all payments on account to the insurer.

### **8.15 Sanctions**

The insurers shall not be deemed to provide cover and no insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover payment of such claim or provision of such benefit would expose that insurer to any sanction prohibition or restriction under United Nations resolutions or the trade or economic sanctions laws or regulations of the European Union United Kingdom or United States of America.

### **8.16 Subscribing insurer**

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

The proportion of liability under this contract underwritten by an insurer (or in the case of a Lloyd's syndicate the total of the proportions underwritten by all the members of the syndicate taken together) is shown in this contract. In the case of Lloyd's syndicate each member of the syndicate (rather than the syndicate itself) is a company.

Each member has underwritten a proportion of the total shown for the syndicate (that total itself being the total of the proportions underwritten by all the members of the syndicate taken together). The liability of each member of the syndicate is several and not joint with other members. A member is liable only for that member's proportion. A member is not jointly liable for any other members' proportion. Nor is any member otherwise responsible for any liability of any other Insurer that may underwrite this contract.

Although reference is made at various points in this clause to "this contract" in the singular where the circumstances so require this should be read as a reference to contracts in the plural.

## **9 General definitions and interpretation**

The following words will have the same meaning attached each time they appear in this policy.

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

### **9.1 Advertising injury**

Advertising injury means:

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

### **9.2 Bodily injury**

Bodily injury means death, disease, illness, physical and mental injury of or to an individual.

### **9.3 Business**

The activities of the insured as stated in the schedule.

### **9.4 Combined single limit**

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

### **9.5 Costs and expenses**

Costs and expenses means:

- 9.5.1** costs and expenses (other than claimant costs recoverable from the insured) incurred in the investigation, adjustment, appraisal, defence or settlement of an insured event, including expert, legal, appeal and defence costs;
- 9.5.2** pre-judgment interest awarded against the insured on that part of any judgment covered under this policy but where the insurer offers to pay the limit of indemnity in settlement of a claim or suit, the insurer will not pay any pre-judgment interest imposed or earned after the date of such offer;
- 9.5.3** all interest earned on that part of any judgment within the limit of indemnity after entry of the judgment and before insurer has paid, offered to pay, or deposited in court that part of any judgment that is within the applicable limit of indemnity;
- 9.5.4** the cost of attendance in court as a witness at the insurer's request, payable to the insured at GBP250 per day on which attendance is required;
- 9.5.5** costs and expenses of legal representation at any coroner's inquest or inquiry in respect of any death which may be the subject of indemnity under this policy.

## **9.6 Damage**

Damage means:

- 9.6.1** destruction of or damage to tangible property; and/or
- 9.6.2** for insured sections A – C loss of use of tangible property that has been destroyed or damaged.

## **9.7 Denial of access**

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

## **9.8 Excess**

The limit of indemnity is additional to the excess and excess means:

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

## **9.9 Excess (damage only)**

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



### **9.10 Insured**

Insured means:

- 9.10.1** the company or other organisation including any subsidiary companies of the insured that are in existence at the inception date of the insurance and have been declared to the insurer until such time as they may be sold or otherwise disposed (but not excluding any liabilities incurred prior to disposal), and;
- 9.10.2** the person or people shown as insured in the schedule;
- 9.10.3** including in either case the legal or personal representatives of the insured in respect of any claim under this policy incurred on behalf of the insured.

### **9.11 Insured section**

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

### **9.12 Insurer**

Insurer means the party specified as insurer in the schedule and any other subscribing insurers.

### **9.13 Limit of indemnity**

Limit of indemnity means:

- 9.13.1** the amount stated in the schedule which is the maximum amount of the insurer's liability for any one (1) occurrence regardless of the number of:
  - a)** persons or organisations bringing claims or suits; or
  - b)** claims against the insured or series of claims against the insured, or claims or series of claims made by the insured;
- 9.13.2** where two (2) insured sections are subject to a combined single limit, then the combined single limit is the maximum the insurer will pay for any insured event to which such insured sections apply in combination, and;
- 9.13.3** where a limit of indemnity is stated in the schedule as in the aggregate, that aggregate is the maximum the insurer will pay for all insured events during the period of insurance.

### **9.14 North America**

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

### **9.15 Nuclear hazards**

Nuclear hazards means:

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

### **9.16 Offshore**

Offshore means:

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

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

### **9.17 Period of insurance**

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

### **9.18 Personal injury**

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

**9.18.1** false arrest;

**9.18.2** detention or imprisonment;

**9.18.3** malicious prosecution;

**9.18.4** wrongful entry into, or eviction of a person from a room, dwelling or premises that the person occupies;

**9.18.5** invasion of the right of privacy;

**9.18.6** libel and slander.

### **9.19 Policy**

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

### **9.20 Pollutant**

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

### **9.21 Pollution**

Pollution means:

**9.21.1** the actual, alleged or threatened discharge, seepage, migration, dispersal, release or escape of pollutants at any time;

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

### **9.22 Premises**

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

### **9.23 Product**

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

### **9.24 Proposal**

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

### **9.25 Schedule**

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

### **9.26 Suit**

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

**9.26.1** an arbitration proceeding in which such damages are claimed; or

**9.26.2** any other alternative dispute resolution proceeding in which such damages are claimed.

### **9.27 Terrorism**

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

**9.27.1** intimidate or coerce a civilian population, or;

**9.27.2** disrupt any segment of the economy of a government de jure or de facto, state, or country, or;

**9.27.3** overthrow, influence, or affect the conduct or policy of any government de jure or de facto by intimidation or coercion, or;

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

### **9.28 Territorial limits**

As stated in schedule.

### **9.29 United Kingdom**

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

### **9.30 War**

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

### **9.31 Work away**

Work away means work, operations, installation or services performed by or on behalf of the insured but not on premises.

## 10 Complaints

### 10.1 What the insured should do?

Complaints are handled with the utmost importance and care at Munich Re Syndicate Limited. We aim to resolve all complaints in an efficient manner whilst ensuring compliance with the complaints handling procedural requirements set out by the Financial Conduct Authority (FCA), Lloyds and other applicable regulatory bodies. At first instance, if you have any questions or concerns about your policy or the handling of a claim please contact your broker, intermediary or retail agent.

If you would like to make a complaint to Munich Re Syndicate Limited please provide us with the following information, written or verbally, so that we can deal with your complaint as effectively as possible:

- Your policy number and/or claim reference number (if applicable)
- Your full name, address and contact telephone number
- Details of any previous correspondence you have had with Munich Re Syndicate Limited
- Full details of your complaint and who it is against

Our contact details in relation to handling complaints are as follows:

#### **Claims Department**

**Munich Re Syndicate Limited**

**St Helen's**

**1 Undershaft**

**London EC3A 8EE**

**Tel: +44 (0)20 7886 3925**

**Email: [wtk.claims@mrunderwriting.com](mailto:wtk.claims@mrunderwriting.com)**

#### **Lloyd's multi-stage complaints process**

As all Munich Re Syndicate Limited policies are underwritten at Lloyd's of London we have a multi-stage complaints process, in which, if you are still not satisfied that your complaint has been adequately dealt with upon contacting us using the details above, you can also direct your complaint at any time to the Lloyd's Complaints Department.

Their contact details are as follows:

#### **Complaints**

**Fidentia House**

**Walter Burke Way**

**Chatham Maritime**

**Chatham**

**Kent ME4 4RN**

**Tel: +44 (0)20 7327 5693**

**Email: [complaints@lloyds.com](mailto:complaints@lloyds.com)**

Details of Lloyd's complaints procedure are set out in a leaflet "Your Complaint – How We Can Help" available at [www.lloyds.com/complaints](http://www.lloyds.com/complaints) and are also available from the above address. If you remain dissatisfied after Lloyd's has considered your complaint, you can also refer your complaint to the Financial Ombudsman Service.

#### **Financial Ombudsman Service**

If you remain dissatisfied with our response to your complaint, or we have not completed our investigation after eight weeks, you are entitled to refer your complaint to the Financial Ombudsman Service. Their contact details are as follows:

#### **Financial Ombudsman Service**

**Exchange Tower**

**Harbour Exchange Square**

**London E14 9SR**

**Tel: 0800 023 4567 or 0300 123 9123**

**Email: [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)**

**Website: [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)**

If you are unsure whether the Financial Ombudsman Service will consider your complaint, please contact them directly for advice. The service is free and impartial and contacting them at any stage does not affect your legal rights.

### ***The European Commission Online Dispute Resolution Platform (ODR)***

You are also entitled to raise a complaint in relation to any products or services purchased online by registering your complaint with the Online Dispute Resolution (ODR) platform. Further details on this are provided on the ODR's website (<http://ec.europa.eu/odr>).

Syndicate 457 at Lloyd's, managed by Munich Re Syndicate Limited is authorised by Prudential Regulation Authority and regulated by the Financial Conduct Authority and Prudential Regulation Authority. We of course aim to provide first class service. However if the Policyholder feels that the Company's service has fallen short of their expectations, the Policyholder may contact the Company at any time with their complaint.

## ***10.1 About the Financial Ombudsman Service (FOS)***

**10.2.1** Eligible complainants are:

- a)** private individuals, or
- b)** micro-enterprises'.

'Micro-enterprises' will be able to bring complaints to the ombudsman as long as they have a turnover or annual balance sheet of not more than two million euros and fewer than ten employees, a charity with less than £1m annual income or a trustee of a trust with net asset value of less than £1m an annual turnover of under EUR2 million and fewer than ten (10) employees.

**10.2.2** The FOS will only consider a complaint if the insured is an eligible complainant and if:

- a)** the insurer has been given an opportunity to resolve it, and
- b)** the insurer has sent the insured a final response letter and the insured has referred its complaint to the FOS within six (6) months of the insurer's final response letter, or
- c)** the insurer has not responded to the insured's complaint with a decision within forty (40) days.

## ***10.3 Financial Services Compensation Scheme***

The Company Market and Lloyd's underwriters are covered by the Financial Services Compensation Scheme.

The insured may be entitled to compensation from the Scheme if the insurer is unable to meet its obligations under this contract.

Entitlement to compensation under the Scheme depends on the type of business and circumstances of the claim.

Further information about compensation scheme arrangements is available from:

### ***The Financial Services Compensation Scheme***

***7th floor, Lloyds Chambers***

***Portsoken Street***

***London E1 8BN***

***Tel: 0207 8927 301***

***www.fscs.org.uk***

***Carroll Insurance Group Ltd***

***2 White Lion Court***

***Cornhill***

***London EC3V 3NP***

***Email: [gavin.day@carrollinsurance.co.uk](mailto:gavin.day@carrollinsurance.co.uk)***

***Tel: +44 (0)207 645 5368***

***www.carrollinsurance.co.uk***