

# Contractors All Risks Insurance

## POLICY WORDING

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### OPERATIVE CLAUSE

The Underwriters will indemnify the Assured as stated in the Schedule by payment or at Underwriters option reinstatement or repair in respect of physical loss or physical damage arising from any cause not otherwise excluded and occurring anywhere within the Territorial Limits during the Period of Insurance to property which is being used or is intended for use in connection with the works on any contract site which is the subject of this Policy. Such property shall include

1. The works whether permanent or temporary materials incorporated or for incorporation therein other than property insured by item 2. below being the property of the Assured or for which the Assured are responsible including all transits in respect of any contract or work undertaken whether such contract or work was commenced during the Period of Insurance or otherwise. Provided that Underwriters shall be under no liability in respect of contracts originally scheduled to be of longer than two years (exclusive of the maintenance period) or with an estimated contract value at inception not exceeding GBP 2,000,000 unless otherwise agreed.
2. Contractors' plant tools and equipment demountable and temporary buildings and/or caravans and/or other items of a like nature and materials and/or any other property of whatsoever nature used or intended for use in connection with any contract works being undertaken by the Assured and insured under this Policy all being the property of the Assured or hired by the Assured under the Contractors Plant Association conditions or conditions no more onerous including transit by road, rail or inland waterways.
3. Employees Effects for which the Assured is responsible whilst on any site or for which the Assured is responsible under the terms of any joint working agreement. The indemnity provided is limited to GBP 500 per Employee unless otherwise agreed.

### TERRITORIAL LIMITS

Shall mean Great Britain Northern Ireland the Channel Islands and the Isle of Man

### EXCLUSIONS

No indemnity is provided in respect of

1. consequential loss loss of use penalties for delay or non-completion or liquidated damages
2. loss of or damage to
  - a) aircraft aero spatial devices or hovercraft
  - b) waterborne craft or vessels other than safety boats non-self propelled craft or other craft up to 20 feet in length on or about the contract site
3. loss of or damage to mechanically propelled vehicles other than
  - a) vehicles designed primarily to operate as tools of trade (which shall be deemed to include any plant primarily designed to operate on or about a contract site)
  - b) other vehicles brought on to a site for use only on such site
4. all costs rendered necessary by defects of material workmanship design plan or specification and should damage occur to any portion of the Insured property containing any of the said defects the cost of replacement or rectification which is hereby excluded is that cost which would have been incurred if replacement or rectification of the Insured property had been put in hand immediately prior to the said damage  
for the purposes of this Policy and not merely this Exclusion the property insured shall not be regarded as lost or damaged solely by virtue of the existence of any defect in design plan specification materials or workmanship in the property insured or any part thereof
5. the cost of making good
  - a) mechanical or electrical breakdown or derangement
  - b) wear tear gradual deteriorationbut this Exclusion shall be limited to the parts immediately affected and shall not apply to accidental loss or damage arising in consequence thereof
6. the cost of making good any form of corrosion erosion rust oxidation mildew howsoever the same may arise
7. loss of or damage to stock materials in trade and/or materials for incorporation into the contract works whilst away from any contract site unless in transit
8. loss of or damage to cash notes postal and/or money orders cheques stamps or negotiable instruments of whatsoever nature or other securities for money
9. loss of or damage to any part of the property insured arising out of the works being taken into use or occupation (except for testing and commissioning when applicable) unless the Assured shall give notice to Underwriters as soon as possible and shall agree to pay such additional premium as Underwriters may reasonably require  
This Exclusion shall not apply
  - a) to the use of any property as a show house with a value of up to GBP 250,000 and contents with a value up to GBP 50,000
  - b) during the period of 14 days from the date of issue by the Engineer of a Certificate of Completion when a contract is subject to the latest Standard Conditions of Contract of the Institute of Civil Engineers and /or JCT or equivalent conditions of contract
10. any loss of property either by disappearance or by shortage if such disappearances or shortage is only revealed when a routine inventory is made or is not traceable to an individual event or occurrence
11. destruction or damage directly occasioned by pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds
12. loss or damage arising for which the Assured is relieved of responsibility under the terms of any contract
13. loss or damage arising from directional drilling operations unless otherwise agreed by Underwriters
14. the cost of normal upkeep or normal making good

15. loss or damage which under the terms or conditions of the contract is the responsibility of the Employer unless the Assured has agreed under the terms or conditions of the said contract to accept responsibility to indemnify or to arrange insurance on the Employer's behalf in respect of such liability loss or damage
  16. loss or damage caused by the wilful act or wilful negligence of the Assured
  17. loss or damage to existing structures and/or existing property being worked upon unless otherwise agreed
  18. loss or damage arising from transits by sea or air
  19. loss or damage caused by contamination of asbestos or asbestos dust
  20. theft from unattended vehicles away from the Assureds premises unless
    1. the vehicle is secured by all factory fitted locks and alarm / immobiliser (where fitted) and
    2. the keys have been removed from the vehicleor  
the vehicle is in a locked and secure compound or garage
  21. loss or damage to any contract or plant or equipment or materials within the High Radio Active Zone (HRZ) of any nuclear installation
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## GENERAL EXCLUSIONS

### 1. NUCLEAR EXCLUSION CLAUSE

No indemnity is provided

- (a) for loss destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising there from or any consequential loss
  - (b) against any liability of whatsoever nature
- 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
  - ii) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof
  - iii) any weapon of war employing atomic or nuclear fission or fusion or like reaction or radioactive force or matter

### 2. WAR EXCLUSION CLAUSE

No indemnity is provided in respect of loss or damage directly or indirectly occasioned by happening through 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 confiscation nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority

### 3. TERRORISM EXCLUSION CLAUSE

Notwithstanding any provision to the contrary within this Policy or any endorsement thereto unless an endorsement is issued that expressly overrides the provisions contained herein the Policy does not provide indemnity

- (a) for loss destruction of or damage to any property whatsoever or any loss or cost or expense of whatsoever nature resulting or arising there from or any consequential loss
  - (b) against any legal liability of whatsoever nature
- directly or indirectly caused by resulting from or contributed to by or arising from or in connection with
- i) any act of terrorism regardless of any other cause or event contributing concurrently or in any other sequence to the loss
  - ii) any action taken in controlling preventing suppressing or in any way relating to any act of terrorism

For the purpose of this clause an act of terrorism means an act including but not limited to the use of force or violence and/or the threat thereof of any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) committed for political religious ideological or similar purposes including the intention to influence any government and/or to put the public or any section of the public in fear

If the Underwriters allege that by reason of this exclusion any loss liability damage cost or expense or consequential loss is not covered by this Policy the burden of proving the contrary shall be upon the Assured

### 4. ELECTRONIC RISK EXCLUSION

Notwithstanding anything that appears to the contrary in this Policy and subject always to the terms exceptions and conditions of this Policy this Policy does not cover

- a) any damage to data which shall include but shall not be limited to
  - i) loss destruction or corruption of data whether in whole or in part
  - ii) unauthorised appropriation use access to or modification of data
  - iii) unauthorised transmission of data to any third parties
  - iv) damage arising out of any misinterpretation use or misuse of data
  - v) damage arising out of any operator error in respect of data
- b) any damage to the property insured arising directly or indirectly from
  - i) the transmission or impact of any Virus
  - ii) unauthorised access to a System

- iii) interruption of or interference with electronic means of communication used in the conduct of the Assured's business including but not limited to any diminution in the performance of any website or electronic means of communication
- iv) failure of a System
- v) any of the matters described in paragraph (a) above

but this shall not exclude damage to the property insured caused by fire lightning explosion earthquake aircraft or other aerial devices or articles dropped therefrom riot civil commotion except in Northern Ireland strikers locked-out workers persons taking part in labour disturbances storm flood escape of water from any tank apparatus or pipe impact by any road vehicle or animal accidental escape of water from any automatic sprinkler installation subsidence ground heave or landslip provided that such damage does not arise by reason of any malicious act or omission or theft

#### Definitions for Electronic Risk Exclusion

Damage	means for the purpose of this exclusion accidental loss or destruction of or damage to the property insured and any accidental loss or destruction or damage to data
Data	means information represented or stored electronically including but not limited to code or series of instructions operating systems software programs and firmware
Failure of a System	means the complete or partial failure or inability whether in terms of availability functionality and/or performance or otherwise of a System whether or not owned by the Assured to operate at any time as desired as specified or as required in the circumstances of the Assured's business
System	includes computers other computing and electronic equipment linked to computer hardware electronic data processing equipment Microchips and anything which relies on a Microchip for any part of its operation and includes for the avoidance of doubt any computer installation
Microchip	a unit of packaged computer circuitry manufacture in small scale and made for program logic and/or computer memory purposes and expressly including integrated circuits and microcontrollers
Virus	programming code or series of instructions designed to achieve an unexpected unauthorised and/or undesirable effect or operation when loaded onto a System transmitted between Systems by transfer between computer systems via networks extranets internet or electronic mail or attachments thereto or via floppy diskettes or CD-ROMS or otherwise and whether involving self replication or not

#### 5. WET WORK AND TUNNELS

Unless specifically agreed this Policy excludes any contracts involving work in on over or adjacent to tidal waters tunnels (but not cut and cover) galleries with an estimated contract value greater than GBP 25,000

#### 6. SANCTION LIMITATION AND EXCLUSION CLAUSE

Underwriters will not provide cover be liable to pay any claim or provide any benefit if to do so would expose Underwriters (or any parent company direct or indirect holding company of Underwriters) to any penalty or restriction (including extraterritorial penalties or restrictions so far as such do not contradict laws applicable to the Underwriters) arising out of any trade and economic sanctions laws or regulations which are applicable to Underwriters

## MEMORANDA TO THE POLICY

#### 1. PROFESSIONAL FEES

This Policy includes architects' surveyors' consulting engineers' and other professional fees necessarily incurred in connection with the reinstatement of property insured

Provided that

- a) such fees shall not exceed those authorised under the scale of the appropriate professional body or institute regulating such charges subject to a maximum of 15% of the estimated contract value or GBP 250,000 whichever is the less
- b) the Underwriters shall not provide indemnity against any fees incurred in preparing or pursuing any claim

#### 2. DEBRIS REMOVAL

This Policy includes costs and expenses necessarily incurred in respect of removal of debris dismantling demolition (including off site storage) shoring propping and clearance of drains and sewers following loss or damage insured up to 10% of the amount of the loss

#### 3. SPECULATIVE HOUSING

In the event of speculative housing being completed but unsold cover under this Policy shall continue for a period of six months unless otherwise agreed from the date of practical completion but the Underwriters liability shall not exceed GBP 250,000 any one occurrence

#### 4. PLANS

The property insured by Paragraph 1 of the Operative Clause shall be deemed to include plans and specifications or other contract documentation of the works or temporary works but only for the cost of reproducing such plans specifications and documentation up to a maximum limit of GBP 10,000

5. NEW ACTIVITIES AND/OR SUBSIDIARIES

This Policy will automatically include new activities and/or subsidiaries of the Assured provided always that Underwriters herein shall receive notification within 30 days of the new or intended activity and/or subsidiary company and subject to terms and conditions as the Underwriters may require

6. GENERAL INTEREST

This Policy duly notes the interest of any Bank Finance Company Building Society and any other institution or concern that have a financial interest in the property insured by this Policy

7. MAINTENANCE

Where required by contract this Policy includes physical loss or physical damage

- a) Occurring during the maintenance period (not exceeding twenty four months unless otherwise agreed) from a cause arising before the issue of a certificate of practical completion
- b) Occasioned by the Assured in the course of fulfilling his obligations during the maintenance period as required by the terms of the contract

8. OCCURRENCE

The word "occurrence" shall mean all individual losses arising out of and directly occasioned by one event However the duration and extent to any "occurrence" so defined shall be limited to

72 consecutive hours as regards hurricane typhoon windstorm rainstorm hailstorm and/or tornado

72 consecutive hours as regards earthquake seaquake tidal wave and/or volcanic eruption

9. PRINCIPALS CLAUSE

Where the Assured so requests the Underwriters agree to indemnify any Principal of the Assured but only to the extent that such liability arises solely out of the work performed for the Principal by or on behalf of the Assured Such Principal shall be subject to and comply with the terms and conditions of the Policy and this clause shall in no way operate to increase the Sums Insured as stated in the Schedule

10. EXCESS

Where an excess is stated in the Schedule the Assured shall be responsible for the first amount so specified

11. EMPLOYEES EFFECTS DEFINITION

It is understood and agreed that for the purpose of this Policy the Assured's employees effects shall include physical loss of or physical damage to tools clothing and personal effects (but not furs money and jewellery) belonging to any

- a) director or employee of the Assured
- b) clerk of works resident engineer or his employee

Whilst on or about any contract site

12. ADJUDICATION AWARDS CLAUSE

a) The Underwriters will indemnify the Assured against an award (or any part thereof) made in respect of a construction dispute and resulting from an adjudication procedure which complies with the provisions of the Housing Grants Construction and Regeneration Act 1996

- i) indemnity shall only apply to the extent that such an award relates to loss damage or liability for which an indemnity is provided by this Policy
- ii) any payment made by the Underwriters in respect of such an award shall be made without prejudice to any other rights of the Underwriters under this Policy

b) It is a condition precedent to any liability of the Underwriters to make any payment under this Memorandum where there is a construction contract dispute relating to loss damage or liability for which an indemnity is or may be provided by this Memorandum

- i) any notice received by the Assured from any party of intention to refer such a dispute for adjudication shall be forwarded to the Underwriters within five days of receipt
- ii) the Assured shall provide prior notice to the Underwriters of any intention by them to refer any such dispute for adjudication
- iii) the Assured shall not accept any award made by an adjudicator to such a dispute as being final without the prior agreement of the Underwriters

13. JOINT CODE OF PRACTICE

In respect of all contracts or work whose estimated value (including free issue materials) exceeds GBP 1,000,000 the Assured undertakes to comply with the Joint Code of Practice on the Protection from Fire of Construction Sites and Buildings Undergoing Renovation Fifth Edition dated January 2000 (the Joint Code) or any subsequent edition thereof

The appointed representatives of the Underwriters shall have the right at all reasonable times to enter and inspect any such contract site for the purpose of ensuring that the conditions of such sites or work in all respects comply with the Joint Code

For the purpose of Paragraph 6.3 of the Joint Code any building site including those where demolition alterations fitting out renovations refurbishment or repair work is carried out whose estimated value (including free issue materials) exceeds GBP 20,000,000 shall be deemed to be a "Large Project"

In the event of a breach of the Joint Code the Underwriters may inform the Employer and management of the Assured the nature of the breach and may specify the required remedial measures (the Remedial Measures) and the reasonable period of time in which such Remedial Measures are to be completed If the Assured should fail to complete such Remedial Measures within the specified time the Underwriters may confirm the same by notice in writing given by actual delivery or by registered post or by recorded delivery to both the Employer and the Assured at their respective addresses nominated by the Assured at the inception of cover or as otherwise subsequently amended

Such notice shall at the discretion of the Underwriters either suspend or cancel the Policy from the date named in the notice which shall not be less than 30 days from the date of delivery of such notice it being understood the Policy may be reinstated with effect from the date on which the Underwriters are satisfied that the Remedial Measures have been completed

This Memorandum shall not prejudice waive or remove the rights of the Underwriter or the Assured under the terms exceptions and conditions of this Policy

14. EUROPEAN UNION AND PUBLIC AUTHORITIES REQUIREMENTS

The Underwriters will indemnify the Assured for such additional costs of reinstatement of the works as may be incurred with the Underwriters written consent in complying with the stipulations of European Union legislation or building or other regulations under or framed in pursuance of any Act of Parliament or bye-laws of any public authority first imposed upon the Assured following loss or damage provided that the reinstatement is completed within twelve months of the occurrence of the loss or damage or within such further time as the Underwriters may in writing allow

Provided that the Underwriters shall not be liable in respect of costs for

- a) requirements relating to any undamaged part of the works other than foundations (unless foundations are specifically excluded from this Policy)
- b) any rate tax duty development or other charge or assessment which may arise out of capital appreciation as a result of complying with any of the regulations or requirements referred to

15. EXPEDITING EXPENSES

In the event of loss of or damage to Items 1 and 3 of the property insured the cost of repair reinstatement or replacement admitted under this Policy shall subject to the consent of the Underwriters include the additional costs of overtime weekend shift working plant hire charges express delivery (including air freight) necessarily and reasonably incurred in expediting repair reinstatement or replacement of such loss or damage (but excluding any such costs to expedite the completion of any construction erection or installation of property not lost or damaged) provided that the liability of the Underwriters shall not exceed GBP 50,000 in respect of each and every loss or series of losses arising out of one originating cause

16. CONTINUING HIRE CHARGES

Cover under this Policy is extended to indemnify the Assured in respect of their legal liability for the payment of hiring charges in respect of plant hired in by the Assured under Contractors Plant Association and/or British Crane Hire Corporation Conditions of Hire or conditions imposing similar liability whilst such plant is out of use following loss or damage for which an indemnity is provided by this Policy (or which would be provided thereunder but for the application of an Excess Clause)

The Underwriters will not be liable under this extension for

- a) liability for a period longer than three months or GBP 50,000 whichever is the least
- b) the first 7 days such plant is out of use

17. NEGLIGENT BREAKDOWN

The Underwriters will indemnify the Assured in respect of liability assumed under Clause 9(d) of the Model Conditions for the Hiring of Plant of the Construction Plant-Hire Association or any similar liability assumed under the Scottish Plant Owners Association Conditions or other Conditions no more onerous than these

18. IMMOBILISED PLANT

In the event of constructional plant and/or equipment becoming unintentionally immobilised in any physical situation in or about the site of an insured contract the necessarily incurred cost of recovery and/or withdrawal shall be "damage" within the meaning of this Policy

Always provided that the total liability in respect of the actual damage and the recovery cost shall not exceed the total value of the item at the time of the damage

No indemnity shall be provided hereon in respect of the cost of recovery and/or withdrawal following electrical or mechanical breakdown or derangement where such is the sole reason for the recovery and/or withdrawal

19. INCREASE

If during the Period of Insurance the actual reinstatement value of the property insured shall be in excess of the sum insured stated in the Schedule then the sum insured shall be deemed to be increased by the amount of such excess but not exceeding in all 110% of the sum insured stated in the Schedule

20. OFFSITE STORAGE

Notwithstanding Exclusion 7. Underwriters will indemnify the Assured in respect of physical loss of or physical damage to finished materials or goods designated for and awaiting incorporation into specific contract works while such goods are temporarily held in store away from the contract site but not while such materials or goods are being worked upon subject to a limit of GBP 50,000 any one loss

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## GENERAL CONDITIONS ATTACHING TO THIS POLICY

1. ADJUSTMENT OF PREMIUM

If any of the Premium for this Policy has been calculated on estimates furnished by the Assured the Assured shall keep accurate records containing all particulars relative thereto and shall at all times allow the Underwriters to inspect such records. The Assured shall within three months from the expiry of each Period of Insurance furnish such particulars to the Underwriters and the premium for such period shall thereupon be adjusted and the difference paid by or allowed to the Assured as the case may be subject to any minimum premium required. The Underwriters reserve the right to request that the Assured supplies an auditors statement with such calculations that are the subject of adjustment under this Policy attesting to the accuracy thereof. Such calculations shall include all remuneration paid to employees and all payments made to self-employed persons or employees of labour only sub-contractors for whom liability is assumed or on such other basis as may be agreed

2. CLAIMS PROCEDURE

On the happening of an event which could result in a claim the Assured shall

- a) Make no admission of liability or promise without the Underwriters written consent
- b) Notify the Police immediately in respect of plant or equipment of any loss or damage by theft riot arson or wilful or malicious damage
- c) Notify The National Plant & Equipment Register Bath & West Buildings Lower Bristol Road Bath BA2 3EG Tel No: 01225464599 in respect of theft of any plant or equipment

It is a condition precedent to liability that the Assured shall give written notice to the Underwriters as soon as reasonably practicable

of any incident that may give rise to a claim under this Policy and shall give all such additional information as the Underwriters may require. Every claim writ summons or process and all documents relating thereto shall be forwarded to the Underwriters immediately they are received

In the event of any occurrence giving rise to loss or damage insured under this Policy the Assured shall take such immediate action as is necessary to minimise the loss and in the case of property which has been lost stolen or wilfully or maliciously damaged the Assured shall give immediate notice to the Police and take all practicable steps to recover property lost and to discover the person or persons responsible for such loss or damage

No admission offer promise or payment shall be made or given by or on behalf of the Assured without written consent of the Underwriters who shall be entitled to take over and conduct in the name of the Assured the defence or settlement of any claim or to prosecute in the name of the Assured 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 and the Assured shall give all such information and assistance as the Underwriters may reasonably require

If the Assured shall make any claim knowing the same to be fraudulent or false as regards the amount or otherwise this Policy shall become void and all claims hereunder shall be forfeited

If any difference shall arise as to the amount to be paid under this Policy (liability being otherwise admitted) such difference shall be referred to an Arbitrator to be appointed by the parties in accordance with the statutory provisions for the time being in force Where any difference is by this Condition to be referred to arbitration the making of an Award shall be a condition precedent to any right of action against the Underwriters

For the safety of the property insured and to prevent loss or damage in the event of an occurrence giving rise or which may give rise to a claim under this Policy the Assured shall at his own expense take such immediate action as is necessary to minimise any loss and prevent repetition

### 3. ALTERATIONS IN RISK

It is a condition precedent to liability that the Assured is required to notify the Underwriters as soon as reasonably practicable of all material facts or alterations in the risk which come to his knowledge or arise during the currency of this Policy and the Underwriters reserve the right to amend the terms and conditions of the Policy

### 4. OTHER INSURANCE

If any claim covered by this Policy is also covered in whole or in part by any other insurance the liability of the Underwriters shall apply excess of and not as contributory with such other insurance

### 5. CANCELLATION CLAUSE

Underwriters may cancel this Policy by sending thirty days' written notice to the Assured's last known address whereupon the Assured shall become entitled to a refund of a proportionate part of the premium

### 6. DISPUTES CLAUSE

Any dispute concerning the interpretation of the terms Conditions Limitations or Exclusions contained herein is understood and agreed by both the Assured and the Underwriters to be subject to the laws of England and Wales Each party agrees to submit to the jurisdiction of any court of competent jurisdiction within England and Wales and to comply with all requirements necessary to give such court jurisdiction All matters arising hereunder shall be determined in accordance with the law and practice of such court

### 7. PRECAUTIONS

The Assured shall take all reasonable precautions or steps

- a) to observe and comply with all Statutory or local authority laws obligations and requirements
- b) In the selection of employees or sub-contractors
- c) to see that construction plant equipment and machinery are substantial and sound and in proper order and fit for the purposes for which they are used

### 8. TEMPORARY PRECAUTIONS

If any defect in the Contract Works or construction plant equipment and machinery shall be discovered the Assured shall until such defect has been made good cause temporary precautions to be taken as the circumstances may require

The Assured shall at all times take all reasonable precautions to prevent accidents injury loss or damage

### 9. SUBROGATION

Any claimant under this Policy shall at the request and at the expense of the Underwriters do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the Underwriters for the purpose of enforcing any rights and remedies or obtaining relief or indemnity from other parties to which the Underwriters shall be or would become entitled or subrogated upon its paying for or making good any damage insured by this Policy whether such acts and things shall be or become necessary or required before or after their indemnification by the Underwriters

### 10. AUTOMATIC REINSTATEMENT

In consideration of the Sums Insured not being reduced by the amount of any loss or damage the Assured shall pay the appropriate additional premium calculated at pro rata of the applicable rate on the amount of the loss or damage from the date thereof to the expiry of the Period of Insurance such additional premium to be disregarded for the purposes of adjustment in accordance with General Condition 1

### 11. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999 CLARIFICATION CLAUSE

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 agreement but this does not affect any right or remedy of a third party which exists or is available apart from that Act

### 12. FRAUDULENT CLAIMS

If the Assured shall make any claim knowing the same to be fraudulent or false as regards the amount or otherwise (including the provision of false or fraudulent documents or statements) then

Underwriters will:

- a) refuse to pay the whole of the claim and
- b) recover from the Insured any sums that it has already paid in respect of the claim

Underwriters may also notify the Assured that it will be treating all sections of this policy as having terminated with effect from the date of the earliest of any of the fraudulent act In that event the Assured will

- a) have no cover under the Policy from the date of termination and
- b) not be entitled to any refund of premium

### 13. DUE OBSERVANCE

If the Assured does not comply with any part of any condition which makes payment of any claim conditional upon such compliance Underwriters will not pay the claim except where:

1. compliance would tend to reduce the risk of loss of a particular kind or at a particular time or location and
2. the Assured has demonstrated that the non-compliance could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred

### NOTICE

The Assured must make a fair presentation of the risk at inception renewal and variation of this Policy

If the Assured fails to make such a fair presentation of the risk

- a) Underwriters may avoid this Policy and refuse all claims if
  - (i) such failure was deliberate or reckless and/or
  - (ii) Underwriters would not have entered into this Policy on any terms if the Assured had made a fair presentation of the risk

Should Underwriters avoid the Policy Underwriters shall return the premium paid to the Assured unless such failure was deliberate or reckless

- b) if Underwriters would have entered into the Policy but on different terms had the Assured made a fair presentation of the risk Underwriters may
  - (i) reduce proportionately the amount to be paid on any claim if Underwriters would have charged a higher premium calculated by applying the percentage that the actual premium charged bears to the premium that would have been charged had the Assured made a fair presentation of risk and/or
  - (ii) treat the Policy as entered into on any such different terms (other than relating to the premium) that Underwriters would have entered into had the Assured made a fair presentation of risk

### COMPLAINTS

We are dedicated to providing you with a high quality service and we want to ensure that we maintain this at all times. If you feel that we have not offered you a first class service please write and tell us and we will do our best to resolve the problem. If you have any questions or concerns about your policy or the handling of a claim you should in the first instance contact

*Compliance Officer*  
*Tokio Marine HCC*  
*1 Aldgate*  
*London*  
*EC3N 1RE*

### The Financial Ombudsman Service (FOS)

Should you be dissatisfied with the outcome of your complaint, you may have the right to refer your complaint to the Financial Ombudsman Service. The FOS is an independent service in the UK for settling disputes between consumers and businesses providing financial services. Contacting the FOS does not affect your right to take legal action.

The FOS's contact details are as follows:

Financial Ombudsman Service  
Exchange Tower  
London E14 9SR

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

Telephone: +44 (0)30 0123 9123

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

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

If you were sold this product online or by other electronic means and within the European Union (EU) you may refer your complaint to the EU Online Dispute Resolution (ODR) platform. Upon receipt of your complaint the ODR will escalate your complaint to your local dispute resolution service - this process is free and conducted entirely online. You can access the ODR platform on <http://ec.europa.eu/odr>. This platform will direct insurance complaints to the Financial Ombudsman Service. However, you may contact the FOS directly if you prefer, using the details as shown above.

### DATA PROTECTION NOTICE

Tokio Marine HCC respects your right to privacy. In our Privacy Policy (available at <https://www.tmhcc.com/en/legal/privacy-policy>) we explain who we are, how we collect, share and use personal information about you, and how you can exercise your privacy rights. If you have any questions or concerns about our use of your personal information, then please contact [DPO@tmhcc.com](mailto:DPO@tmhcc.com).

We may collect your personal information such as name, email address, postal address, telephone number, gender and date of birth. We need the personal information to enter into and perform a contract with you. We retain personal information we collect from you

where we have an ongoing legitimate business need to do so (please note that reference to "you" or "your" herein encompasses non-exhaustively "you, your company, employees and / or customers").

We may disclose your personal information to:

- our **group companies**;
- **third party services providers and partners** who provide data processing services to us or who otherwise process personal information for purposes that are described in our Privacy Policy or notified to you when we collect your personal information;
- any **competent law enforcement body, regulatory, government agency, court or other third party** where we believe disclosure is necessary (i) as a matter of applicable law or regulation, (ii) to exercise, establish or defend our legal rights, or (iii) to protect your interests or those of any other person;
- a **potential buyer** (and its agents and advisers) in connection with any proposed purchase, merger or acquisition of any part of our business, provided that we inform the buyer it must use your personal information only for the purposes disclosed in our Privacy Policy; or
- any **other person with your consent** to the disclosure.

your personal information may be transferred to, and processed in, countries other than the country in which you are resident. These countries may have data protection laws that are different to the laws of your country. We transfer data within the Tokio Marine group of companies by virtue of our Intra Group Data Transfer Agreement, which includes the EU Standard Contractual Clauses.

We use appropriate technical and organisational measures to protect the personal information that we collect and process about you. The measures we use are designed to provide a level of security appropriate to the risk of processing your personal information.

You are entitled to know what data is held on you and to make what is referred to as a **Data Subject Access Request ('DSAR')**. You are also entitled to request that your data be **corrected** in order that we hold accurate records. In certain circumstances, you have other data protection rights such as that of **requesting deletion, objecting to processing, restricting processing** and in some cases **requesting portability**. Further information on your rights is included in our Privacy Policy.

You can **opt-out of marketing communications** we send you at any time. You can exercise this right by clicking on the "unsubscribe" or "opt-out" link in the marketing e-mails we send you. Similarly, if we have collected and processed your personal information with your consent, then you can **withdraw your consent** at any time. Withdrawing your consent will not affect the lawfulness of any processing we conducted prior to your withdrawal, nor will it affect processing of your personal information conducted in reliance on lawful processing grounds other than consent. You have the **right to complain to a data protection authority** about our collection and use of your personal information.