

# Liability Insurance

## POLICY WORDING

### POLICY DEFINITIONS

1. **Bodily Injury** shall mean
  - a. in respect of Section 1 death bodily injury illness disease shock mental injury and mental anguish
  - b. in respect of Sections 2 & 3 death bodily injury illness disease shock mental injury mental anguish false eviction false arrest wrongful detention discrimination and malicious prosecution
2. **Territorial Limits** shall mean Great Britain Northern Ireland the Channel Islands and the Isle of Man or an offshore Installation within the territorial waters around Great Britain Northern Ireland the Isle of Man and the Channel Islands
3. **Offshore** shall mean from the time an **Employee** embarks onto a conveyance at the point of final departure to an offshore rig or offshore platform until such time the **Employee** disembarks from the conveyance onto land upon return from an offshore rig or an offshore platform
4. **Pollution** shall mean pollution or contamination of the atmosphere or of any water land or other tangible property
5. **Defence Costs** shall mean all costs fees and expenses incurred by the **Assured** in the defence or settlement of any claim under this Policy
6. **Damages** shall mean monetary compensation capable of being awarded in civil proceedings but excluding aggravated and exemplary damages
7. **Terrorism** shall mean an activity that (1) 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 (2) appears to be intended to (i) intimidate or coerce a civilian population or (ii) disrupt any segment of the economy of a government de jure or de facto state or country or (iii) overthrow influence or affect the conduct or policy of any government de jure or de facto by intimidation or coercion or (iv) affect the conduct of a government de jure or de facto by mass destruction assassination kidnapping or hostage-taking
8. **Product** shall mean any property after it has left the custody or control of the **Assured** which has been designed specified formulated manufactured sold supplied or distributed by or on behalf of the **Assured** in isolation to any contract work executed by or on behalf of the **Assured**
9. **Business** shall mean the Business stated in the Schedule and
  - a. the ownership repair and maintenance of the Policyholder's own property
  - b. the provision of canteen sports social welfare organisations and first aid medical or ambulance services for the benefit of any customer or **Employee**
  - c. fire and security services for the protection of the premises owned or occupied by the Policyholder
  - d. private work undertaken by an **Employee** on behalf of any director or partner of the Policyholder
  - e. attendance at trade fairs shows and exhibitions in connection with the **Business**
10. **Assured** shall mean
  - a. the Policyholder
  - b. the personal representatives of the Policyholder in respect of legal liability incurred by the Policyholder
  - c. at the request of the Policyholder
    - (i) any principal of the Policyholder as required under contract in respect of work carried out by the Policyholder
    - (ii) any director or partner of the Policyholder
    - (iii) any **Employee**
    - (iv) any other party where required by contract subject to the prior written agreement of the Underwriters against legal liability in respect of which the Policyholder would have been entitled to indemnity had the claim been made against the Policyholder
    - (v) any officer committee or member of the Policyholder's canteen sports social welfare organisations and fire security first aid medical or ambulance services in their respective capacities as such but not including medical practitioners while working in a professional capacityeach of whom shall as though the Policyholder be subject to the terms and conditions contained herein as far as they can apply
11. **Employee(s)** shall mean
  - a. any person under a contract of service or apprenticeship with the Policyholder
  - b. whilst under the direct control and supervision of the Policyholder any
    - (i) labour master and persons supplied by him
    - (ii) labour only sub-contractors
    - (iii) self-employed persons
    - (iv) voluntary workers
    - (v) individual hired to or borrowed by the Policyholder
    - (vi) person undertaking study or work experience with the Policyholder

# SECTION 1 - EMPLOYERS LIABILITY

## OPERATIVE CLAUSE

The Underwriters will indemnify the **Assured** in accordance with the law of the Courts of Law of Great Britain Northern Ireland the Isle of Man and the Channel Islands against their liability to pay **Damages** (including claimants' costs fees and expenses) and **Defence Costs** in respect of **Bodily Injury** sustained by an **Employee** arising out of the **Business** and caused during the Period of Insurance

The indemnity provided shall only apply to **Bodily Injury** sustained

1. within the **Territorial Limits**
2. by any **Employee** during temporary visits abroad provided that such **Employee** is ordinarily resident in the **Territorial Limits**
3. by a person who although resident outside the **Territorial Limits** is under a written contract of service with the Policyholder entered into in the **Territorial Limits** subject to prior written agreement of the Underwriters

## LIMITS OF INDEMNITY

Underwriters liability to pay **Damages** (including claimants' costs fees and expenses) and **Defence Costs** shall not exceed the sum stated in the Schedule in respect of any one occurrence or series of occurrences arising out of one originating cause

## EXCLUSIONS TO SECTION 1

This Section does not provide indemnity

1. in respect of any liability for which compulsory motor insurance or security is required under the Road Traffic Act 1988 as amended by the Motor Vehicles (Compulsory Insurance) Regulations 1992 and the Road Traffic (Northern Ireland) Order 1981 as amended by the Motor Vehicles (Compulsory Insurance) Regulations (Northern Ireland) 1993 or any other Compulsory Road Traffic Legislation
2. in respect of work undertaken **Offshore** unless indicated in the Schedule that this Exclusion is not applicable

## EXTENSION TO SECTION 1

### Unsatisfied Court Judgments

The Underwriters will at the request of the Policyholder pay to the **Employee** or the personal representatives of the **Employee** the amount of any **Damages** and awarded costs to the extent that they remain unsatisfied in whole or in part six months after the date of a judgment being obtained within any court in Great Britain Northern Ireland the Channel Islands or the Isle of Man

- a) by any **Employee** or the personal representatives of any **Employee** in respect of **Bodily Injury** sustained by the **Employee** arising out of and in the course of their employment by the Policyholder in the **Business** and caused during the Period of Insurance

and

- b) against any company or individual operating from premises within Great Britain Northern Ireland the Channel Islands or the Isle of Man

provided always that

- (i) there is no appeal outstanding against such judgment
- (ii) if any payment is made under the terms of this Extension the **Employee** or the personal representatives of the **Employee** shall assign the benefits of such judgment to the Underwriters

The liability of the Underwriters for all amounts payable under this Extension relating to any claimant or number of claimants in respect of an occurrence or series of occurrences arising out of one originating cause shall not exceed the Limit of Indemnity stated in the Schedule

## CONDITION APPLICABLE TO SECTION 1

### Employers' Liability Compulsory Insurance Clause

The indemnity granted by this Section is deemed to be in accordance with the provisions of any law relating to compulsory insurance of liability to **Employees** in Great Britain Northern Ireland the Isle of Man the Island of Jersey the Island of Guernsey the Island of Alderney and offshore installations in territorial waters around Great Britain and its Continental Shelf BUT the **Assured** shall repay to the Underwriters all sums paid by the Underwriters which the Underwriters would not have been liable to pay but for the provisions of such law ordinance or statute

This Condition shall not apply in respect of claims arising by virtue of paragraph 3. of the Operative Clause

## **SPECIAL NOTICE APPLICABLE TO SECTION 1**

### **Employers' Liability Tracing Office (ELTO)**

***This Notice does not form part of your contract of insurance and is for information purposes only***

Certain information relating to your insurance policy including, without limitation, the policy number(s), employers' names and addresses (including subsidiaries and any relevant changes of name), coverage dates, employer's reference numbers provided by Her Majesty's Revenue and Customs and Companies House Reference Numbers (if relevant), will be provided to the Employers' Liability Tracing Office, (the "**ELTO**") and added to an electronic database, (the "**Database**").

This information will be made available in a specified and readily accessible form as required by the Employers' Liability Insurance: Disclosure by Insurers Instrument 2010. This information will be subject to regular periodic updating and certification and will be audited on an annual basis.

The Database will assist individual consumer claimants who have suffered an employment related injury or disease arising out of their course of employment in the UK for employers carrying on, or who carried on, business in the UK and who are covered by the employers' liability insurance of their employers, (the "**Claimants**"):

- to identify which insurer (or insurers) was (or were) providing employers' liability cover during the relevant periods of employment; and
- to identify the relevant employers' liability insurance policies.

The Database will be managed by the ELTO.

The Database and the data stored on it may be accessed and used by the Claimants, their appointed representatives, insurers with potential liability for UK commercial lines employers' liability insurance cover and any other persons or entities permitted by law.

***By entering into this insurance policy you will be deemed to specifically consent to the use of your insurance policy data in this way and for these purposes.***

## SECTION 2 – PUBLIC/PRODUCTS LIABILITY

### OPERATIVE CLAUSE

The Underwriters will indemnify the **Assured** in accordance with the law of any country but not in respect of any judgement award payment or settlement made within countries which operate under the laws of the United States of America or Canada (or to any order made anywhere in the world to enforce such judgement award payment or settlement either in whole or in part) unless the **Assured** has requested that there shall be no such limitation and has accepted the terms offered by Underwriters which shall be signified by specific endorsement to this Policy

against their liability to pay **Damages** (including claimants' costs fees and expenses) and **Defence Costs** in respect of

1. accidental **Bodily Injury** to any person
2. accidental loss of or damage to tangible property
3. nuisance trespass or interference with any easement right of air light water or way other than where arising due to a deliberate act by the Policyholder occurring during the Period of Insurance in connection with the **Business** and
  - a) within the **Territorial Limits** or
  - b) during the course of temporary visits anywhere in the world other than the USA or Canada (unless indicated by way of Endorsement to this Policy that such a restriction does not apply) or
  - c) arising out of any **Product** anywhere in the world other than the USA or Canada (unless indicated by way of Endorsement to this Policy that such a restriction does not apply)

### LIMITS OF INDEMNITY

Underwriters liability to pay **Damages** (including claimants' costs fees and expenses) shall not exceed the sum stated in the Schedule in respect of any one occurrence or series of occurrences arising out of one originating cause

**Defence Costs** will be payable in addition to the Limits of Indemnity

In the event of any one originating cause giving rise to an occurrence or series of occurrences which form the subject of indemnity under this Section and Section 3 each Section shall apply separately and be subject to its own separate Limits of Indemnity provided always that the total amount of Underwriters' liability shall be limited to the greatest Limits of Indemnity available under either Section providing indemnity for the occurrence or series of occurrences

### EXCLUSIONS TO SECTION 2

This Section does not provide indemnity in respect of liability

1. for **Bodily Injury** sustained by any **Employee** in connection with the **Business**
2. arising out of **Pollution**
3. for loss or damage to property owned leased or hired by or under hire purchase or on loan to the **Assured** or in the **Assured's** care custody and control other than
  - a) **Employees'** and visitors clothing and personal effects
  - b) premises (including contents thereof) not owned nor rented by the **Assured** but temporarily occupied by them for the purpose of work therein or thereon
  - c) premises tenanted by the **Assured** to the extent that the **Assured** would be held liable in the absence of any specific agreement
4. a) arising out of ownership possession or use of any mechanically propelled vehicle where a Certificate of Motor Insurance or surety is required under any Road Traffic Act or similar legislation other than
  - (1) vehicles designed primarily to operate as tools of trade (which term shall be deemed to include any plant primarily designed to operate on or about a contract site)
  - (2) other vehicles brought on to site for use on site

This exclusion shall not apply in respect of the use of vehicles belonging to **Employees** or third parties in connection with the **Business** unless indemnity is provided

  - (i) to the **Employee** or
  - (ii) to the third party or
  - (iii) to the **Assured** under any other insurance
  - (iv) in respect of loss of or damage to any vehicle of any **Employee** or third party to whom the indemnity is provided or any property conveyed therein or thereon
- b) caused by the ownership or operation by or on behalf of the **Assured** of any waterborne craft (other than safety boats hand-propelled craft or other craft up to 15 metres in length whilst on inland waterways or up to 3 miles offshore) hovercraft aircraft or rail borne vehicle
5. arising out of liquidated damages clauses penalty clauses or performance warranties unless proven that liability would have attached in the absence of such clauses or warranties
6. for loss or damage to and/or the costs of repair reconditioning removal replacement or recall of any **Product** or part thereof or any contract work executed by the **Assured** caused by any defect therein or unsuitability thereof for its intended purpose
7. which is the inevitable or unavoidable consequence of the performance of a contract
8. for loss of or damage to cables pipes or other services located underground unless the **Assured** has
  - a) taken or caused to be taken all reasonable measures to identify the location of such cables pipes and services before any work is commenced which may involve a risk of damage thereto (reasonable measures include contacting the appropriate authorities where it is possible cables pipes or services are under the site)
  - b) retained a written record of the measures which were taken to locate such cables pipes or other services
  - c) conveyed the location of such cables pipes and services to those who are carrying out such work on behalf of the **Assured**
9. arising out of an act of **Terrorism**
10. arising out of exposure or alleged exposure to asbestos or materials containing asbestos
11. arising out of work on any part of any aerodrome or airport provided for take off or landing of aircraft or the movement of aircraft or parking of aircraft including associated surface roads and ground equipment parking areas
12. arising out of or in connection with advice design specification formula or other breach of professional duty by the **Assured** arising as a result of advice design or specification given by the Assured for a fee
13. for the cost of remedying any defect or alleged defect in premises disposed of
14. arising out of any **Product** intended for incorporation into any aircraft

15. arising out of any **Product** intended for incorporation into any vehicle licensed for road use where the **Product** is critical to the safety of such vehicle
16. arising out of any **Product** intended for incorporation into any waterborne craft where the **Product** is critical to the safety of such craft
17. arising out of or in connection with the design sale or supply of computer software (which shall not include the media or its packaging on which such software is stored)
18. arising out of or in connection with loss damage to deterioration of or corruption of documents data processing media computer systems records or loss distortion or erasure of information contained therein
19. in any way connected with pyrite
20. arising out of loss of or damage to any **Superstructure**  
For the purpose of this Exclusion the term "**Superstructure**" shall mean any building or structure relying on the support provided by any foundation and/or piling work performed by or on behalf of the Assured.
21. loss of or damage to property lifted and/or moved by cranes or other lifting devices
22. arising out of or in connection with or contributed to directly or indirectly by the existence of or exposure to magnetic electric or electromagnetic fields or radiation howsoever caused or generated
23. directly or indirectly arising out of the failure of any **Product** to fulfil the function for which it is intended
24. arising out of or in connection with the failure to adequately secure any premises for which the **Assured** is responsible for. For the avoidance of doubt failure to secure shall include the failure to correctly set any alarm/intruder system
25. arising out of or in connection with Bodily Injury or loss of or damage to tangible property or any other loss cost or expense including but not limited to losses costs or expenses related to arising from or associated with clean-up remediation containment removal or abatement caused directly or indirectly in whole or in part by
  - a) any form of legionella bacteria or
  - b) any toxins created or produced by or emanating from such legionella bacteria or
  - c) any substance vapour gas or other emission or organic or inorganic body or substance produced by or arising out of any legionella bacteria or
  - d) any material product building component building or structure or any concentration of moisture water or other liquid within such material product building component building or structure that contains harbours nurtures or acts as a medium for any legionella bacteria or toxins emanating therefrom
 regardless of any other cause event material product and/or building component that contributed concurrently or in any sequence to that Bodily Injury or loss of or damage to tangible property or other loss cost or expense  
 It is understood that to the extent any coverage may otherwise be provided under this policy or any of its other endorsements the provisions of this exclusion will supercede
26. arising out of or in connection with physical, emotional or Sexual Abuse. For the purpose of this exclusion "Sexual Abuse" is defined as an action deemed to be an offence under the provisions of the Sexual Offences Act 1956 Section 1 (1) of the Indecency with Children Act 1964 Section 54 of the Criminal Law Act 1977 Section 1 of the Protection of Children Act 1978 and all Sections of the Sex Offenders Act 1997.
27. arising out of or in connection with the provision of or omission to provide any medical clinical or surgical diagnosis advice treatment remedy or prescription or any other breach of professional duty provided that this exclusion shall not apply in respect of the provision of emergency first aid for the benefit of any Employee, customer or visitor
28. arising out of or in connection with any **Product** in the United States of America
29. arising directly or indirectly out of or in any way involving the combustibility or fire performance of any cladding.
30. arising directly or indirectly with the contamination of any goods transported or otherwise in the care custody or control of the Insured
31. any work undertaken Offshore

## EXTENSIONS TO SECTION 2

### 1. Data Protection Act

Underwriters will also indemnify the **Assured** against their legal liability to pay **Damages** (including claimants' costs fees and expenses) arising from any claim or claims under Section 13 of the Data Protection Act 1998 first made against the **Assured** in writing during the Period of Insurance provided always that

- a) the **Assured** is registered in accordance with the Act
- b) the indemnity will not apply to
  - (i) liability caused by or arising from any incident or circumstances known to the **Assured** at the inception of this cover and which could reasonably have been expected to give rise to a claim
  - (ii) any claim or claims made by or on behalf of any director partner or **Employee** of the **Assured** in connection with their employment in the **Business**
  - (iii) proceedings consequent upon any deliberate act or omission by or on behalf of the **Assured** if the result could reasonably have been expected having regard to the nature and circumstances of such act or omission
  - (iv) any fines or penalties of any kind

Underwriters liability under this extension shall not exceed the sum stated in the Schedule in respect of all claims made against the **Assured** during the Period of Insurance

## SECTION 3 - POLLUTION LIABILITY

The Underwriters will indemnify the **Assured** in accordance with the law of the Courts of Law of Great Britain Northern Ireland the Isle of Man and the Channel Islands against their liability to pay **Damages** (including claimants' costs fees and expenses) and **Defence Costs** in respect of

1. accidental **Bodily Injury** to any person
2. accidental loss of or damage to tangible property
3. nuisance trespass or interference with any easement right of air light water or way other than where arising due to a deliberate act by the **Assured**

arising out of **Pollution** occurring in its entirety during the Period of Insurance within the **Territorial Limits** in connection with the **Business** but only to the extent that the **Assured** can demonstrate that such **Pollution**

- a) was the direct result of a sudden specific and identifiable event occurring during the Period of Insurance and
- b) was not the direct result of the **Assured** failing to take reasonable precautions to prevent such **Pollution**

### LIMITS OF INDEMNITY

Underwriters liability to pay **Damages** (including claimants' costs fees and expenses) shall not exceed the sum stated in the Schedule in respect of all occurrences

**Defence Costs** will be payable in addition to the Limits of Indemnity

In the event of any one originating cause giving rise to an occurrence or series of occurrences which form the subject of indemnity under this Section and Section 2 each Section shall apply separately and be subject to its own separate Limits of Indemnity provided always that the total amount of Underwriters' liability shall be limited to the greatest Limits of Indemnity available under either Section providing indemnity for the occurrence or series of occurrences

### EXCLUSIONS TO SECTION 3

This Section is subject to the Exclusions to Section 2 (apart from Exclusion 2.) and also does not provide indemnity in respect of liability for loss of or damage to

1. premises presently or at any time owned or tenanted by the **Assured**
2. land or water within or below the boundaries of any land or premises presently or at any time previously owned or leased by the **Assured** or otherwise in the **Assured's** care custody or control

### EXTENSION TO SECTION 3

#### Clean-up Costs

The indemnity provided by this Section shall be extended to include Clean Up to the extent not already included

Provided that

- a) the indemnity provided by this Extension shall not
  - (i) include Clean Up of any site or watercourse or body of water contained within or on any site or any other tangible property owned by or leased or rented to the **Assured** or formerly owned by or formerly leased or rented to the **Assured**
  - (ii) include the cost of restoration reinstatement or reintroduction of any organism
  - (iii) apply in respect of **Pollution** outside Great Britain Northern Ireland the Channel Islands and the Isle of Man
- b) the **Pollution**
  - (i) was the direct result of a sudden specific and identifiable event occurring during the Period of Insurance and
  - (ii) was not the direct result of the **Assured** failing to take reasonable precautions to prevent such **Pollution**
- c) Underwriters liability under this Extension shall not exceed £250,000 in respect of all occurrences during the Period of Insurance including **Defence Costs** and claimants' costs fees and expenses
- d) The **Assured** agrees to pay the first 20% or £5,000 (whichever is the greater) in respect of each occurrence

For the purpose of this Endorsement the following additional definitions will apply:

**Clean Up** means the cost of Remediation incurred by the **Assured** (or for which they are legally liable) as required by any Enforcing Authority but shall not include the costs of achieving any improvement or alteration in the condition of the land the atmosphere or any watercourse or body of water or any other tangible property beyond that required under any relevant and applicable law or statutory enactment at the time Remediation commences

It shall include the costs reasonably and necessarily incurred by the **Assured** or for which they are legally liable to curtail or minimise **Pollution** once it has occurred to prevent further harm being caused but only to the extent required by any Enforcing Authority.

**Enforcing Authority** means any government or statutory authority or body implementing or enforcing environmental protection legislation

**Remediation** means remedying the effect of **Pollution**

## CONDITIONS APPLICABLE TO SECTIONS 2 & 3

### 1. Burning Welding and Cutting Conditions

It is a condition precedent to liability under this Section that the following precautions shall be adhered to on each occasion where the **Assured** or persons acting on behalf of the **Assured** are using any oxy-acetylene or electric welding or cutting/grinding equipment or blow lamp or blow torch or hot air gun away from the **Assured's** own premises

1. the immediate area in which the operation is to be carried out must be segregated to the greatest practicable extent by the use of screens made of metal and/or fire retardant material
2. the whole of this segregated area must be adequately cleaned and freed from combustible material before operations commence
3. if work is to be carried out overhead the area beneath must be similarly cleaned and combustible material removed
4. combustible floors/substances in or surrounding this segregated area must be liberally covered with sand or protected by overlapping sheets of incombustible material
5. where work is being carried out in any enclosed area an additional **Employee** of the **Assured** or an **Employee** of the occupier shall be present at all times to guard against an outbreak of fire
6. no work should be carried out unless specifically authorised by the occupier who should also be asked to approve the safety arrangements
7. the following must be kept available for immediate use near the scene of operations
  - a) suitable and fully charged fire extinguishers and/or
  - b) a hose connected up to the nearest hydrant with water turned on and controllable at the nozzle of the hose in readiness for immediate use and tested prior to the commencement of the work
8. a thorough examination must be made in the vicinity of the work approximately one hour after the termination of each operation. In the event that it is not practicable for such examination to be carried out by the **Assured's** own **Employee** then appropriate arrangements must be made with the occupier
9. before "burning off" metal work built into or projecting through walls or partitions an examination should be made to confirm that the other end of the metal is not in a hazardous proximity to combustible material which may be ignited by the conduction of heat

Furthermore where the **Assured** or persons acting on behalf of the **Assured** burns debris it is a Condition precedent to liability under this Policy that the following precautions shall be taken on each occasion

1. Fires to be in a cleared area and at a distance of at fifteen metres from any property
2. Fires not to be left unattended at any time
3. A suitable fire extinguisher to be kept available at the scene of the operations for immediate use
4. Fires to be extinguished at least one hour prior to leaving site at the end of each working day

### 2. Bona Fide Subcontractors Condition

It is a condition precedent to liability under this Section that all bona fide subcontractors engaged by the **Assured** shall have in full force and effect throughout the duration of their contract with the **Assured** insurances as follows

1. Employers Liability insurance in respect of their liability at law for **Bodily Injury** to any **Employee**
2. Public/Products Liability insurance in respect of their liability at law for
  - a) **Bodily Injury** to any person
  - b) loss of or damage to tangible property
  - c) nuisance trespass or interference with any easement right of air light water or way

with a Limit of Indemnity of at least £5,000,000 or that shown in the Schedule in respect of Section 2 (whichever is the lower) any one occurrence or series of occurrences arising out of one original cause

and that

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

For the purposes of this Endorsement the term bona fide subcontractors means any independent subcontractor engaged by the **Assured** under a contract for services

### 3. Rights of Recourse

The **Assured** will at all times retain full rights of recourse against those supplying Products or otherwise providing to the **Assured** a service in connection with any **Product** or any component part thereof unless the Underwriters have agreed in writing to the waiver of such rights

## EXCLUSIONS TO ALL SECTIONS

This Policy does not provide indemnity in respect of liability

1. arising in connection with
  - a) any work of demolition involving
    - (i) ball and chain
    - (ii) a method designed and/or intended to demolish any structure or part thereof in one sudden and uninterrupted process
    - (iii) the use of explosives
  - b) structural construction alteration or repair of transport tunnels
  - c) the construction or critical maintenance of hydroelectric or reservoir dams
  - d) the construction alteration or repair of blast furnaces
  - e) work in connection with rail signalling equipment or the laying maintenance or repair of railway track other than private sidings
  - f) any shipbuilding or ship repairing other than contractors working on board a vessel unless such work is critical to the safety of the vessel
  - g) work on the structure or controls of any aircraft
  - h) work on motor vehicles licensed for road use where such work is critical to the safety of the vehicle
2.
  - a) 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 or confiscation or nationalisation or requisition
  - b) 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 but as far as concerns Section 1 this Exclusion will only apply where such legal liability is
      - (1) that of any principal
      - (2) accepted under agreement and would not have attached in the absence of such agreement
3. the amount of any excess shown in the Schedule including costs and expenses
4. 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

## EXTENSIONS TO ALL SECTIONS

### 1. Additional Defence Costs

**Defence Costs** extend to include legal expenses incurred with the Underwriters written consent within the courts of Great Britain Northern Ireland the Isle of Man and the Channel Islands

- a) arising out of representation at any Coroner's Inquest or Fatal Accident inquiry
- b) arising out of any criminal prosecution or proceedings relating to an offence alleged to have been committed during the Period of Insurance and in the course of the **Business** of the **Assured** in respect of matters which may form the subject of indemnity by this Policy (including with the Underwriters prior consent **Employees** partners or directors of the Policyholder)  
provided that
  - (i) Underwriters shall not be liable for any fines or penalties imposed as a consequence of such prosecution
  - (ii) Underwriters shall not be responsible for **Defence Costs** where at the Underwriters discretion they may require the opinion of counsel (whose appointment is at the Underwriters sole discretion) as to whether or not such costs should extend or continue to extend to the support of such defence and where such counsels opinion is that there is no reasonable defence to the prosecution
  - (iii) Underwriters liabilities for **Defence Costs** in cases of breach or alleged breach of the United Kingdom Health & Safety at Work Act 1974 (and/or any legislation of similar effect) are limited to prosecutions under Section 33(1) (a) to (c) of the Act or similar duty imposed under consolidating legislation or legislation in Northern Ireland the Isle of Man or the Channel Islands
- c) arising out of the defence of any proceedings in a Court of Summary Jurisdiction in respect of matters which may form the subject of Indemnity by this Policy

The indemnity applies only to such liability as defined by each Insured Section of this Policy arising out of the **Business** of the **Assured** as stated in the Schedule subject always to the terms Conditions limitations and Exclusions of such Section and of the Policy as a whole

### 2. Cross Liability Clause

It is hereby declared and agreed that where more than one party is named in the Schedule as the Policyholder indemnity shall apply as though individual insurances have been issued to each party provided always that the Underwriters' total liability shall not exceed the sums stated in the Schedule as the Limits of Indemnity

### 3. Housing Grants Construction and Regeneration Act, 1996 - Applicable to Sections 2 & 3

The indemnity granted by this Policy is extended to apply to any process of adjudication or decision of any adjudicator pursuant to the Act provided always that as a condition precedent to Underwriters liability under this Policy the **Assured** agrees to comply with Conditions (a) and (b) as follows

- a) Policy Conditions  
The **Assured** shall
  - (i) notify Underwriters immediately upon receipt (and in no event later than two working days thereafter) of any notice of intention to refer a dispute to adjudication ("notice of adjudication") or of the service by the **Assured** of any notice of adjudication in circumstances which will lead to or are likely to lead to a claim being made against the **Assured** (whether under a process of adjudication or otherwise)
  - (ii) promptly forward to Underwriters all information relating to any dispute referred to adjudication including copies of all documentation made available to the **Assured** or subsequently by the **Assured** to the adjudicator
  - (iii) allow the Underwriters to appoint advisers or representatives and to have conduct (including the right but not the obligation to take over the



- conduct) of the adjudication as they deem appropriate and provide such assistance as the Underwriters may reasonably require
- (iv) meet any request direction or timetable of the adjudicator
- (v) satisfy the Underwriters that any dispute referred to adjudication is or would be the subject of indemnity under this Policy and that the decision reached by the adjudicator represents the award against the **Assured** of a payment of money by the **Assured** which constitutes compensatory damages which form the subject of such indemnity
- (vi) not agree to accept the decision of the adjudicator as finally determining the dispute without the prior written consent of the Underwriters
- (vii) in the event of a decision reached by the adjudicator that such an award as described in v) above is payable give the Underwriters every assistance in instituting legal proceedings (or arbitration if applicable in accordance with the **Assured's** contract) in order to challenge reopen stay the enforcement of or overturn such adjudicator's decision or otherwise to recover such award if the Underwriters deem it appropriate

The Underwriters shall have sole conduct of all such proceedings

b) Conditions relating to contracts

Any provisions relating to adjudications pursuant to the Act in any contract entered into by the **Assured** shall

- (i) provided that the adjudicator must be independent of the parties to the contract
- (ii) not allow for any decision of the adjudicator to be binding or to determine any dispute finally
- (iii) not allow the adjudicator to disregard the legal entitlements of the parties in order to reach a decision based on commercial considerations
- (iv) not prohibit the assistance or representation by advisers or representatives (whether legally qualified or not) at any adjudication
- (v) not place any conditions upon the timing of commencement of legal or arbitration proceedings (other than adjudications pursuant to the Act)

Any dispute or difference arising hereunder between the **Assured** and the Underwriters shall be referred to the arbitration of a Queen's Counsel to be agreed upon by both parties or in the absence of agreement by a QC nominated by the Chairman of the Bar Council The Underwriters agree to pay the costs of such referral except where indemnity has been denied by the Underwriters and the QC upholds such decision

#### 4. Automatic Acquisitions

The **Assured** shall include any entity acquired by the Policyholder provided that

- a. the **Business** is similar to that of the Policyholder
  - b. full underwriting information constituting a fair presentation of the risk (including previous claims information) is provided to Underwriters within 30 days of the acquisition
- c. the Policyholder accepts any additional terms and conditions required by Underwriters and agrees to pay any additional premium

#### 5. Overseas Personal Liability

The indemnity provided by this Policy shall apply to

- a) the Policyholder
- b) at the request of the Policyholder
  - (i) any director official or **Employee** of the Policyholder
  - (ii) any spouse or child of the persons stated in a) or b) i) above who are accompanying such persons

in respect of liability incurred by such persons in a personal capacity in connection with an occurrence happening during the Period of Insurance in any country whilst on a temporary visit to such country in connection with the **Business**

Provided that

- 1) any person entitled to indemnity under this Extension shall as though they were the **Assured** be subject to the terms conditions and limitations of this Policy insofar as they can apply
- 2) nothing in this Extension shall increase the liability of the Underwriters to pay any amount exceeding the Limit of Indemnity regardless of the number of persons claiming to be indemnified
- 3) the Underwriters shall not provide indemnity against
  - a) contractual Liability
  - b) liability for which indemnity is provided by any other insurance
  - c) liability in respect of loss of or damage to property belonging to or in the custody or under the control of any person entitled to indemnity under this Extension
  - d) liability in respect of **Bodily Injury** (as defined for Sections 2 & 3) to any person entitled to indemnity under this Extension
  - e) liability caused by or arising from
    - (i) the ownership or occupation of land or buildings
    - (ii) the carrying on of any business profession trade or employment
    - (iii) the ownership possession or use of animals other than horses or domestic dogs or cats

#### 6. Compensation for Court Attendance

In the event of any of the persons stated below attending court as a witness at the request of the Underwriters in connection with a claim in respect of which the Policyholder is entitled to indemnity under this Section the Underwriters will provide compensation to the Policyholder at the following rates per day for each day on which attendance is required

- a) any director or partner of the Policyholder £250
- b) any **Employee** £100

All General Extensions are subject otherwise to the Policy terms Conditions Limitations and Exclusions

# CONDITIONS APPLICABLE TO ALL SECTIONS

(Conditions 1, 2, 3, and 12, are precedent to Underwriters' liability to provide indemnity under this Policy)

## 1. Claims Procedure

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 letter of claim writ summons or process and all documents relating thereto **and any other written notification of claim** shall be forwarded **unanswered** to the Underwriters immediately they are received

*The Assured shall at all times in addition to their obligations set out above afford such information to and co-operate with the Underwriters or their appointed agents to allow the Underwriters to be able 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*

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 the 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

## 2. Alterations in Risk

The **Assured** is required to notify the Underwriters of all material facts or alterations in the risk which come to his knowledge or arise during the currency of this Policy

## 3. Adjustment of Premium

If any of the Premium for this insurance has been calculated on estimates furnished by the Policyholder the Policyholder shall keep accurate records containing all particulars relative thereto and shall at all times allow the Underwriters to inspect such records The Policyholder shall within three months from the expiry of each Period of Insurance furnish such particulars to Underwriters and the premium for such period shall thereupon be adjusted and the difference paid by or allowed to the Policyholder as the case may be subject to any minimum premium required The Underwriters reserve the right to request that the Policyholder supplies an auditor's certificate with such calculations that are the subject to adjustment under this Policy attesting to the accuracy thereof Such calculations shall include all remuneration paid to any **Employee**

## 4. Discharge of liability

The Underwriters may at any time pay to the **Assured** in connection with any claim or series of claims under this Policy to which a Limit of Indemnity applies the amount of such Limit (after deduction of any sums already paid) or any lesser amount for which such claims can be settled and upon such payment being made the Underwriters shall relinquish the conduct and control of and be under no further liability in connection with such claims

## 5. Apportionment of Defence Costs

Except where the Limit of Indemnity is inclusive of **Defence Costs** if a payment exceeding the Limit of Indemnity has to be made to dispose of a claim the liability of the Underwriters to pay all **Defence Costs** in connection therewith shall be limited to such proportion of the said **Defence Costs** as the Limit of Indemnity bears to the amount paid to dispose of a claim

## 6. Policy Interpretation

Any phrase or word in this Policy and the Schedule will be interpreted in accordance with the laws of England and Wales The Policy and the Schedule shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or the Schedule shall bear such specific meaning wherever it may appear

## 7. Other Insurance

If any claim covered by this Policy is also covered in whole or in part by any other insurance Underwriters shall have no liability to contribute to such claim

## 8. 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

## 9. Cancellation Clause

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

## 10. 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

## 11. Policy 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

## 12. Premium Payment

It is a condition precedent to liability that all Premiums due to Underwriters are paid within 60 days of inception of this Policy. Non-receipt by Underwriters of such Premiums by midnight of the Premium Due Date shall render this Policy void with effect from inception

## 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 - International Group  
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.