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SPECIMEN

## PREAMBLE

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In consideration of the Premium having been paid to Underwriters, We agree to pay or indemnify to the extent and in the manner herein provided subject to the terms, limitations, exclusions and conditions of this Policy.

An Insuring Clause is only operative if stated as such in the Schedule.

The headings of each Insuring Clause, Addendum, Exclusion or Condition are for ease of identification only.

The General Definitions, General Exclusions, Claims Conditions and General Conditions of the Policy apply to all Insuring Clauses in addition to the Definitions, Exclusions and Conditions applicable under each individual Insuring Clause, unless endorsed hereon to the contrary.

SPECIMEN

# GENERAL DEFINITIONS

## (Applicable to the Policy as a whole)

**"Insured/You/Your/Yours"** shall (for the purpose of the General Exclusions, Claims Conditions, General Conditions and all other General Definitions) have the same meaning as that given in the applicable Insuring Clause under which payment or indemnity is being sought.

**"Business"** shall mean the activities, profession or occupation declared to and accepted by Us.

**"Claim"** shall mean

- (i) any claim form, writ or summons or other application of any description whatsoever or counter claim issued against or served upon You, or
- (ii) any communication or allegation communicated to You which might result in a Loss.

**"Computer Equipment"** shall mean any computer or other electronic data processing device, equipment or system, any hardware, software programme instruction, data or component utilised or intended to be utilised in/by any such item.

**"Computer Virus"** shall mean a set of corrupting, harmful or otherwise unauthorised instructions or code including a set of maliciously introduced unauthorised instructions or code, programmatic or otherwise, that propagates themselves through a computer system or network of whatsoever nature including (but not limited to) 'Trojan Horses', 'worms' and 'time or logic bombs'.

**"Contamination"** shall mean the contamination, poisoning or preventing and/or limitation of use of objects due to the effects of chemical and/or biological substances.

**"Costs and Expenses"** shall mean all legal costs and expenses reasonably incurred by Us or by You with Our written consent (such consent not to be unreasonably withheld) other than

- (i) damages and costs awarded against You
- (ii) remuneration of whatsoever nature due to You.

**"Electronic Data"** shall mean facts, concepts and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.

**"Jurisdiction"** shall mean those territories stated in the Schedule in respect of the Insuring Clause under which payment or indemnity is being sought.

**"Mould"** shall mean any permanent or transient fungus (not being "dry rot"), mould, mildew or mycotoxin, or any of the spores, scents or by-products resulting therefrom that exist, emanate from or move anywhere indoors or outdoors, regardless of whether they are proved to cause disease, injury or damage.

**"Mould Event"** shall mean any actual, alleged or threat of contact with, exposure to, or inhalation, ingestion, absorption, discharge, dispersal, seepage, migration, release, escape, presence, growth or reproduction of Mould.

**"Our / Us / We"** shall mean the Underwriters.

**"Policyholder"** shall mean the person named in the Schedule.

**"Pollution"** shall mean the discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including (but not limited to) smoke, vapours, soot, fumes, acids, alkalis, chemicals and waste (including, but not limited to, material to be recycled, reconditioned or reclaimed).

**"Premium"** shall mean the amount stated in the Schedule.

**"Proposal"** shall mean all information supplied to Us (whether by written, electronic or any other means) for the purpose of effecting this contract of insurance.

**"Terrorism"** shall mean any act of terrorism, including but not limited to the use or threat of force or violence, of any person or group of persons whether acting alone or on behalf of or in connection with any organisation or government committed for political, religious, ideological or similar purposes including the intention to influence or overthrow any government de jure or de facto and/or put the public or any section of the public in fear.

**"United Kingdom"** shall mean England, Scotland, Wales, Northern Ireland, the Isle of Man and the Channel Islands.

**"Unlawful Association"** shall mean any organisation which is engaged in Terrorism and includes any organisation which at any relevant time is a proscribed organisation within the meaning of The Terrorism Act 2000 or any amendment or re-enactment thereof.

**"War"** shall mean war, invasion, act of foreign enemies, hostilities or warlike operations (whether war be declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportions of or amounting to an uprising, mutiny or usurped power.

# INSURING CLAUSE 1 – PROFESSIONAL LIABILITY

## (Civil Liability)

*N.B. This Insuring Clause is on a 'claims made' basis which provides cover for claims which are made and notified to Us during the Period of Insurance*

We agree to indemnify You against Loss, arising from any Claim made against You during the Period of Insurance in respect of a Wrongful Act in or about the conduct of the Professional Services.

provide compensation to You at the following rates for each day on which attendance is required

(a) any director or partner £250 per day

(b) any Employee £150 per day

### LIMIT AND EXCESS

Our liability under this Insuring Clause for Loss (other than Costs and Expenses) shall not exceed the Limit of Indemnity.

In the event that Loss (other than Costs and Expenses) exceeds the Limit of Indemnity Our liability for such Costs and Expenses shall not exceed the proportion of such Loss (exclusive of such Costs and Expenses) as is represented by the Limit of Indemnity.

Our liability for Loss resulting directly or indirectly from Pollution not herein excluded shall not exceed the Limit of Indemnity.

We shall only be liable for that part of each Loss which exceeds the Excess.

### DEFINITIONS APPLICABLE TO INSURING CLAUSE 1

**"Insured/You/Your/Yours"** shall mean the person, persons, firm and all partners and former partners in the firm (or in the event of the death, incompetency, incapacity, bankruptcy or insolvency of any of the foregoing, their estate, heirs, legal representatives or assigns), limited liability partnership, trust or company named as the Policyholder in the Schedule.

In addition, if You so require, We will indemnify any director or member of Yours or any Employee in like manner to You, provided always that such persons shall, as though they were the Insured, observe, fulfil and be subject to the terms, conditions and exclusions of this Policy in so far as they can apply.

### ADDENDA APPLICABLE TO INSURING CLAUSE 1

#### (1) Loss of Documents

The indemnity provided by this Insuring Clause is extended to include expenditure incurred by You in the replacement or restoration of any Document which has been physically destroyed or damaged, lost or mislaid and which after diligent search cannot be found.

Provided always that

- Insuring Clause 5 (Property Damage) is inoperative
- such destruction, damage, loss or misplacement is reported to Us during the Period of Insurance
- the total amount payable under this Addendum in the Period of Insurance shall not exceed £10,000
- notwithstanding the Definition of "Excess" we shall only be liable for that part of each and every occurrence of such destruction, damage, loss or misplacement which exceeds £100
- We shall not be liable to pay or indemnify You in respect of expenditure incurred by You in the replacement or restoration of any Document arising directly or indirectly from the failure or inefficacy of any programme, instruction or data for use in any computer or other electronic data processing device, equipment or system occasioned other than through its physical destruction or damage

#### (2) Compensation for Court Attendance

In the event of any director or partner of Yours or any Employee attending court at Our request as a witness in connection with any claim in respect of which You are entitled to indemnity under this Insuring Clause We will

**"Document"** shall mean

- all documents excluding stamps, currency, coins, bank notes and bullion, travellers cheques, cheques, postal orders, money orders, securities, negotiable instruments and the like,
- separable programme, instruction or data for physical incorporation into any computer system,

belonging to You or for which You are legally responsible, whilst in Your custody or in the custody of any person to or with whom they have been entrusted, lodged or deposited by You in the ordinary course of Your Professional Services.

**"Employee"** shall mean any person, other than a director of Yours, who was or is or may hereafter be

- under a contract of service or apprenticeship with You or the Company, or
- under any work experience or similar scheme, or
- supplied to or hired in or borrowed by You, or
- self-employed persons

working for You under Your direct control in connection with the Professional Services.

**"Excess"** shall mean the amount stated in the Schedule in respect of this Insuring Clause.

**"Injury"** shall mean bodily injury, mental injury, emotional distress, shock, sickness, disease or death.

**"Jurisdiction"** shall mean those territories stated in the Schedule in respect of this Insuring Clause.

**"Limit of Indemnity"** shall mean the amount stated in the Schedule in respect of this Insuring Clause.

“**Loss**” shall mean

- (i) Your legal liability for damages and costs awarded against You
  - (ii) Costs and Expenses
- resulting from or attributable to the same originating cause.

“**Period of Insurance**” shall mean the period stated in the Schedule and in the event that

- (i) We refuse to renew the cover afforded by this Insuring Clause for reasons other than non-payment of premium to Us or Your failure to comply with or observe the terms, provisions and Conditions of this Policy, or
- (ii) You and/or any natural person with effective control of the Insured decline to accept the renewal terms offered by Us in so far as they relate to this Insuring Clause

a further single period of thirty days from the expiry date of the period stated in the Schedule but only in respect of Loss arising from a Wrongful Act committed or allegedly committed prior to the expiry of the period stated in the Schedule.

The further period referred to in this Definition is not applicable to the extent that other insurance policies have been purchased with the intention of providing equivalent cover for any part of such period.

“**Product**” shall mean any goods or products (including their containers, labelling and instructions provided in connection therewith), sold, supplied, processed, installed, serviced, repaired, altered, treated or renovated by You or any person, firm, limited liability partnership or company acting on Your behalf.

“**Professional Services**” shall mean those professional services performed by You or on Your behalf in connection with Your Business and which have been declared to and accepted by Us.

“**Retroactive Date**” shall mean the date which this Insuring Clause was first inceptioned, or where equivalent cover to that provided under this Insuring Clause has continuously been maintained in full force and effect immediately prior to the inception of this Insuring Clause, the date which applied to such equivalent cover.

“**Wrongful Act**” shall mean any actual or alleged wrongful act or omission resulting in a civil liability.

## **EXCLUSIONS APPLICABLE TO INSURING CLAUSE 1**

We shall not be liable to pay or indemnify You against Loss

### **(1) OTHER INSURANCE**

in respect of which You are entitled to indemnity under any other insurance.

Notwithstanding the above, this Insuring Clause shall contribute in excess of such other insurance, provided always that if such other insurance is also provided by Us the Limit of Indemnity under this Insuring Clause shall be deemed reduced by any amount payable under such other insurance.

### **(2) LEGAL ACTION**

- (a) where the Claim is brought in a court of law outside the Jurisdiction, and/or
- (b) where action is brought in a court of law within the Jurisdiction to enforce a foreign judgment, whether by way of reciprocal agreement or otherwise.

### **(3) EMPLOYERS LIABILITY**

which results

- (a) directly or indirectly from Injury sustained by any Employee arising out of and in the course of his/her employment by You, or
- (b) for any breach of any obligation owed by You as an employer to any Employee or prospective Employee.

### **(4) PROPERTY**

which results directly or indirectly from the ownership, possession or use by You or on Your behalf of any land, buildings, aircraft, watercraft, vessel or mechanically propelled vehicle.

### **(5) DISHONEST AND MALICIOUS ACTS**

which result from any dishonest, fraudulent, criminal or malicious act or omission committed by any person after the discovery of reasonable cause for suspicion of such act or omission in relation to that person.

Furthermore,

- (a) no person shall be entitled to payment or indemnity under this Policy in respect of any Loss resulting from their dishonest, fraudulent, criminal or malicious act or omission or from condoning such an act or omission
- (b) the following shall be deducted from any amount payable by Us
  - (i) any monies which but for such act would be due from You to the person committing or condoning such act
  - (ii) any monies held by You and belonging to such person
  - (iii) any monies recovered following action in accordance with General Condition 2 of this Policy.

### **(6) CONTRACTUAL LIABILITY**

resulting from any agreement entered into by You to pay penalties or liquidated damages in so far as liability under such agreement exceeds that which would be implied by statute or common law.

### **(7) CONSORTIA AND JOINT VENTURES**

resulting from Your association with others whilst acting in consortia or joint ventures, other than in respect of Loss arising from Your own acts or omissions.

### **(8) CIRCUMSTANCES KNOWN AT INCEPTION**

brought about by, or contributed to, or consequent upon any circumstances existing prior to the date when this Insuring Clause became operative and which You ought reasonably to have known might give rise to a Loss.

### **(9) RETROACTIVE DATE**

arising from the carrying out of Your Professional Services, prior to the Retroactive Date.

### **(10) POLLUTION**

based upon, arising out of or relating directly or indirectly from, in consequence of or in any way involving Pollution.

**(11) INJURY/PROPERTY DAMAGE**

arising from any Claim or Claims

- (a) for Injury sustained by any person (other than emotional distress arising from any libel, slander or defamation), or
- (b) for any loss, damage or destruction of property including loss of use thereof (other than as provided by Addendum 1 of this Insuring Clause)

unless the basis of such Claim is a Wrongful Act in the provision of Professional Services.

**(12) PRODUCTS**

arising from any Claim caused by or through or in connection with any Product.

**(13) INSOLVENCY/BANKRUPTCY**

as a result of or relating directly or indirectly from Your insolvency or bankruptcy.

**(14) FINANCIAL INTEREST**

arising from any Claim made against You by

- (a) any parent company, ultimate holding company or subsidiary company, or
- (b) any person or entity having a financial, executive or controlling interest in Your operation, or
- (c) any company or entity in which You or any director, member or partner of Yours has a financial, executive or controlling interest

unless such Claim or Claims are for an indemnity or contribution in respect of a Claim made by an independent third party against such company, person or entity.

**(15) TRADING LOSSES**

as a result of, or in connection with, any trading losses or liabilities or any debts incurred by any business managed by or carried on by You.

**(16) DIRECTORS AND OFFICERS**

as a result of or in connection with the performance or non-performance by You, any director or member of Yours or any Employee, of any duties as a director or officer of any company.

**(17) ASBESTOS**

resulting directly from, in consequence of or in any way involving the manufacture, mining, processing, distribution, testing, remediation, removal, storage disposal, sale, use of or exposure to asbestos or materials or products containing asbestos.

**(18) INTELLECTUAL PROPERTY RIGHTS**

arising from any Claim alleging infringement of copyright, patent, registered design, trade mark or passing off and/or any other intellectual property rights (other than unintentional breach of confidentiality and/or unintentional breach of copyright).

# INSURING CLAUSE 2 – GENERAL LIABILITY

## (a) PUBLIC LIABILITY

We agree to indemnify You against Loss arising from any Claim in respect of a Wrongful Act happening in connection with Your Business and occurring during the Period of Insurance within the European Union other than any Loss caused by or through or in connection with any Product.

## (b) PRODUCTS LIABILITY

We agree to indemnify You against Loss arising from any Claim in respect of a Wrongful Act happening in connection with Your Business and occurring during the Period of Insurance anywhere in the world, caused by or through or in connection with any Product initially sold or supplied by You from within the United Kingdom.

## LIMIT AND EXCESS

Our liability under Insuring Clause 2(a) (Public Liability) for Loss (other than Costs and Expenses) shall not exceed the Limit of Indemnity.

Our total aggregate liability under Insuring Clause 2(b) (Products Liability) in the Period of Insurance in respect of all Loss (other than Costs and Expenses) shall not exceed the Limit of Indemnity.

In the event that Loss (other than Costs and Expenses) exceeds the Limit of Indemnity, Our liability for such Costs and Expenses shall not exceed the proportion of such Loss (exclusive of such Costs and Expenses) as is represented by the Limit of Indemnity.

Under Insuring Clause 2(a) (Public Liability) We shall only be liable for that part of each Loss resulting from loss of or damage to Property which exceeds the Excess.

## ADDENDA APPLICABLE TO INSURING CLAUSE 2

### (1) Compensation for Court Attendance

In the event of any director or partner of Yours or any Employee attending court at Our request as a witness in connection with any claim in respect of which You are entitled to indemnity under this Insuring Clause We will provide compensation to You at the following rates for each day on which attendance is required

- (a) any director or partner      £250 per day
- (b) any Employee                      £150 per day

### (2) Health and Safety at Work

The indemnity provided by this Insuring Clause is extended to include Costs and Expenses in the defence of any criminal proceedings (including a charge of manslaughter) brought for a breach of the Health and Safety at Work Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978 or any amendment or re-enactment thereof, committed or alleged to have been committed in the course of Your Business during the Period of Insurance, including Costs and Expenses in an appeal against conviction and/or prosecution costs awarded against You arising from such proceedings.

Provided always that

- (a) the proceedings relate to the health, safety and welfare of any person other than an Employee.
- (b) The total amount payable under this Addendum shall not exceed £250,000 in any one Period of Insurance.

### (3) Consumer Protection and Food Safety

The indemnity provided by Insuring Clause 2(b) (Products Liability) is extended to include Costs and Expenses in the defence of any Claim brought for a breach of

- (a) Part II of the Consumer Protection Act 1987 or any amendment or re-enactment thereof, or
- (b) Section(s) 7, 8, 14 and/or 15 of the Food Safety Act 1990 or any amendment or re-enactment thereof

committed or alleged to have been committed in the course of Your Business during the Period of Insurance including Costs and Expenses in an appeal against conviction arising from such proceedings.

Provided always that We shall not be liable to pay or indemnify You where the Claim arises out of Your wanton, wilful, reckless or intentional disregard of Your duties under these Acts.

### (4) Damage to Hired or Rented Premises

Notwithstanding Exclusion 3(b) (Property Damage) of this Insuring Clause the indemnity provided by Insuring Clause 2(a) (Public Liability) is extended to include Loss arising from loss of or damage to premises (and/or fixtures and fittings of such premises) hired or rented by You for the purposes of Your Business.

Provided always that We shall not be liable to pay or indemnify You

- (a) against Loss resulting from any tenancy or other agreement entered into by You in so far as liability under such agreement exceeds that which would have attached to You in the absence of such agreement
- (b) for the first £100 of such Loss unless the loss or damage results from fire or explosion.

### (5) Defective Premises Act 1972

The indemnity provided by Insuring Clause 2(a) (Public Liability) is extended to include Loss arising from any Claim made against You by reason of breach of Section 3 of the Defective Premises Act 1972 or any amendment or re-enactment thereof or Section 5 of the Defective Premises (Northern Ireland) Order 1975 or any amendment or re-enactment thereof in connection with premises which have been disposed of by You.

Provided always that We shall not be liable to pay or indemnify You for the cost of rectifying any damage or defect in the premises disposed of.

### (6) Motor Contingent Liability

Notwithstanding Exclusion 4(a) (Motor Vehicles or Vessels) of this Insuring Clause, the indemnity provided by Insuring Clause 2(a) (Public Liability) is extended to include Loss arising out of the use of any motor vehicle



which is not Your property nor provided by You being used for the purposes of Your Business.

Provided always that We shall not be liable to pay or indemnify You

- (a) for loss of or damage to any such vehicle or to the property therein.
- (b) against Loss which results from such vehicle being driven by the Insured other than an Employee.
- (c) against Loss arising from the use of such vehicle outside the United Kingdom.

#### (7) Product to Product Liability

Notwithstanding Exclusion 11 (Products) of this Insuring Clause, the indemnity provided by Insuring Clause 2(b) (Products Liability) is extended to include Loss arising from loss or damage to a Product after it has left Your charge or control

- (a) caused by another Product supplied, installed or fitted by You or on Your behalf under a separate contract or
- (b) when You are engaged in any operation not connected with the supply, installation or fitting of the original Product.

#### (8) Overseas Liability

The indemnity provided by Insuring Clause 2(a) (Public Liability) is extended to include Loss incurred by You

- (a) elsewhere in the world in respect of non-manual work
- (b) in a personal capacity whilst temporarily outside the United Kingdom in connection with Your Business by reason of injury to any person and/or loss of or damage to Property.

Provided always that

- (i) notwithstanding Exclusion 9 (Legal Action) of this Insuring Clause, where action for damages is brought in a court of law within the jurisdiction of the United States of America or Canada Our liability for such Loss (including Costs and Expenses) shall not exceed the Limit of Indemnity.
- (ii) We shall not be liable to pay or indemnify You against Loss arising out of the ownership of any land or building(s).

#### (9) Cross Liabilities

If the Insured comprise more than one party, Insuring Clause 2(a)(Public Liability) shall be construed as though separate Policies had been issued to each.

Provided always that nothing in this Addendum will operate to increase Our liability beyond the amount for which We would have been liable had this Addendum not applied.

#### (10) Member to Member Liability

In respect of members of Your canteen, social, sports welfare, first aid, fire, medical and security activities, if any action for damages is brought against any such member by any other member and the action is such that if it were brought against You, You would be entitled to indemnity under Insuring Clause 2(a) (Public Liability) We will indemnify such member in like manner to You.

Provided always that

- (a) We shall not be liable to pay or indemnify such member against Loss in respect of which such

member is entitled to indemnity under any other insurance

- (b) such member shall, as though he were the Insured, observe, fulfil and be subject to the terms, conditions, limitations and exclusions of this Policy in so far as they can apply.

- (c) for the purpose of this Addendum, guests and voluntary helpers shall be deemed to be members.

#### (11) Data Protection Act

The indemnity provided by Insuring Clause 2(a) (Public Liability) is extended to include Loss arising from any Claim made against You by reason of breach of Section 13 of the Data Protection Act 1998 or any amendment or re-enactment thereof arising in connection with Your Business during the Period of Insurance.

Provided always that

- (a) You have been accepted and remain registered by the Data Protection Registrar.
- (b) Your Business is not that of a computer bureau.
- (c) We shall not be liable to pay or indemnify such member against Loss
  - (i) which results from any deliberate act or omission by You the result of which could reasonably have been anticipated having regard to the nature and circumstances of such act or omission.
  - (ii) which results from any act of fraud or dishonesty.
  - (iii) to the extent of any costs and expenses of rectifying, rewriting or erasing data.
  - (iv) arising from the recording, processing or provision of data for reward or to determine the financial status of any person.

## DEFINITIONS APPLICABLE TO INSURING CLAUSE 2

“Insured/You/Your/Yours” shall mean

- (i) the person, persons, firm and all partners and former partners (or in the event of the death, incompetency, incapacity, bankruptcy or insolvency of any of the foregoing, their estate, heirs, legal representatives or assigns), limited liability partnership, trust or company named as the Policyholder in the Schedule
- (ii) and, in respect of Insuring Clause 2(a)(Public Liability) any principal to whom an indemnity is required to be provided under a contract for the performance of work by You in connection with Your Business but only to the extent required by such contract.

In addition, if You so require, We will indemnify

- (iii) any director or officer of Yours or any Employee in like manner to You
- (iv) in respect of Insuring Clause 2(a) (Public Liability), any officer or member of Your canteen, social, sports or welfare and other facilities and organisations or ambulance, first aid, fire, medical or security services in their respective capacity as such.

Provided always that such persons shall, as though they were the Insured, observe, fulfil and be subject to the terms, conditions and exclusions of this Policy in so far as they can apply.

“**Business**” shall, in addition to the meaning given in General Definitions, include the following

- (i) Your ownership, occupation and maintenance of land or buildings
- (ii) the provision and management of canteen, social, sports, welfare and other facilities and organisations, including (but not limited to) first aid and medical services for the benefit of Employees
- (iii) the provision and operation of fire and security services for the protection of premises owned or occupied by You.
- (iv) private duties undertaken by an Employee for You or, with Your consent, for any director or partner of Yours or any Employee.

“**Employee**” shall mean any person, other than a director of Yours, who was or is or may hereafter be

- (i) under a contract of service or apprenticeship with You, or
- (ii) under a work experience or similar scheme, or
- (iii) supplied to or hired in or borrowed by You, or
- (iv) self-employed persons

working for You and under Your direct control in connection with Your Business and normally resident in the United Kingdom.

“**Excess**” shall mean, in respect of Insuring Clause 2(a) (Public Liability), £250.

“**Injury**” shall mean bodily injury, mental injury, emotional distress, shock, sickness, disease or death.

“**Limit of Indemnity**” shall mean the amount stated in the Schedule in respect of this Insuring Clause.

“**Loss**” shall mean

- (i) Your legal liability for damages and costs awarded against You,
  - (ii) Costs and Expenses
  - (iii) costs of legal representation at
    - (a) any coroner’s inquest or fatal injury inquiry
    - (b) proceedings in any court of summary jurisdiction arising out of any alleged breach of statutory duty
- reasonably incurred with Our written consent in connection with any matter which may be the subject of indemnity under this Insuring Clause

resulting from or attributable to the same originating cause.

“**Period of Insurance**” shall mean the period stated in the Schedule.

“**Product**” shall mean any goods or products (including their containers, labelling and instructions provided in connection therewith), sold, supplied, processed, installed, serviced, repaired, altered, treated or renovated by You or any person, firm, limited liability partnership or company acting on Your behalf.

“**Property**” shall mean material and tangible property.

“**Vessel or Craft**” shall mean any vessel or craft or object made or intended to float on or in or travel on or through water or air.

“**Wrongful Act**” shall mean

- (i) Injury to any person

- (ii) loss of or damage to Property

and, in respect of Insuring Clause 2(a) (Public Liability)

- (iii) libel, slander or defamation
- (iv) wrongful arrest, imprisonment or eviction of any person or wrongful accusation of shoplifting
- (v) trespass, nuisance or any interference with right of way, by foot, air or water.

## EXCLUSIONS APPLICABLE TO INSURING CLAUSE 2

We shall not be liable to pay or indemnify You against Loss

### (1) EMPLOYERS LIABILITY

which results

- (a) directly or indirectly from injury sustained by any Employee arising out of and in the course of their employment by You.
- (b) from any breach of any obligation owed by You as an employer to any Employee or prospective Employee.

### (2) OTHER INSURANCE

in respect of which You are entitled to indemnity under any other insurance other than Insuring Clause 3 (Directors and Officers Liability) of this Policy of Insurance.

Notwithstanding the above, this Insuring Clause shall contribute in excess of such other insurance, provided always that if such other insurance is also provided by Us the Limit of Indemnity under this Insuring Clause shall be deemed reduced by any amount payable under such other insurance.

### (3) PROPERTY DAMAGE

which results directly or indirectly from loss of or damage to Property

- (a) belonging to You
- (b) in Your charge, custody or control or in the charge, custody or control of any Employee, other than
  - (i) personal property (including motor vehicles) of Your directors, partners, visitors or Employees
  - (ii) premises (including fixtures, fittings and contents) not owned, hired or rented by You but temporarily occupied by You for the purpose of Your Business
- (c) or to that part of any Property on which You or Your agent are or have been working where the loss or damage occurs as a direct result of such work.

### (4) MOTOR VEHICLES OR VESSELS

which results directly or indirectly from the ownership, possession or use by You or on Your behalf of

- (a) any mechanically propelled vehicle for which insurance or security is required under road traffic legislation but this exclusion shall not apply
  - (i) while such vehicle is being used as a tool of trade (other than in respect of liability which is compulsorily insurable under road traffic legislation).

- (ii) in respect of the loading or unloading of such vehicle or the delivery or collection of goods to or from such vehicle.
- (iii) in respect of the movement of any such vehicle not belonging to You which is interfering with the performance of Your Business except where more specifically insured in whole or in part by any other insurance policy or certificate.

(b) any Vessel or Craft, other than hand propelled watercraft not exceeding 8 metres in length and in use on inland waters.

**(5) PROFESSIONAL SERVICES**

resulting directly or indirectly from remedial or professional or other treatment given, administered or omitted by You or on Your behalf for which a fee is or would normally be charged.

**(6) 21.2.1. INSURANCE**

resulting from loss of or damage to Property in respect of which You are required to effect insurance under the terms of clause 21.2.1 of the 1980 edition of the Joint Contracts Tribunal conditions of contract (or any subsequent revision or substitution) or under the terms of any other contract requiring insurance of like kind.

**(7) POLLUTION**

directly or indirectly caused by Pollution including the cost of removing or nullifying or cleaning up the Pollution

- (a) occurring in Canada and/or the United States of America or any dependency or trust territory
- (b) occurring elsewhere in the world unless caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance provided always that
  - (i) all Pollution which arises out of such incident shall be deemed to have occurred at the time such incident takes place and shall be deemed to be one incident irrespective of the number of Periods of Insurance over which such Pollution occurs
  - (ii) Our liability for all damages payable arising out of all Pollution which is deemed to have occurred during any one Period of Insurance shall not exceed in the aggregate the Limit of Indemnity.

**(8) ASBESTOS**

resulting directly from, in consequence of or in any way involving the manufacture, mining, processing, distribution, testing, remediation, removal, storage, disposal, sale, use of or exposure to asbestos or materials or products containing asbestos.

**(9) LEGAL ACTION**

- (a) where the Claim is brought in a court of law outside the jurisdiction of the United Kingdom, and/or
- (b) where action is brought in a court of law within the jurisdiction of the United Kingdom to enforce a foreign judgment, whether by way or reciprocal agreement or otherwise.

**(10) CONSORTIA AND JOINT VENTURES**

resulting from Your association with others whilst acting in consortia or joint ventures, other than in respect of Loss arising from Your own acts or omissions.

**(11) PRODUCTS**

under Insuring Clause 2(b) (Products Liability)

- (a) arising from any Claim for the cost of repair, alteration, removal, recall or replacement of any Product or for the cost of or reduction in the contract value of any Product.
- (b) arising out of any Product which with Your knowledge is
  - (i) incorporated in any aircraft or aerial device and which could affect the safety, navigation or propulsion of such aircraft or aerial device.
  - (ii) used in the petrochemical industry in direct connection with manufacture, processing or storage.
  - (iii) exported to Canada or the United States of America or any dependency or trust territory.

**(12) CONTRACTUAL LIABILITY**

- (a) under Insuring Clause 2(a) (Public Liability) resulting from any agreement entered into by You unless the conduct and control of Claims is vested in Us
  - (b) under Insuring Clause 2(b) (Products Liability) resulting from any agreement entered into by You, other than liability arising out of a condition of warranty of goods implied by law
- in so far as liability under such agreement exceeds that which would be implied by statute or common law.

# INSURING CLAUSE 3 – DIRECTORS AND OFFICERS LIABILITY

*N.B. This Insuring Clause is on a 'claims made' basis which provides cover for claims which are made and notified to us during the Period of Insurance*

## (a) DIRECTORS AND OFFICERS LIABILITY

We agree to pay on Your behalf and as incurred Loss arising from

- (i) any Claim made against You during the Period of Insurance by reason of a Wrongful Act committed by You in Your capacity of a Director or Officer
  - (a) of the Company, or
  - (b) of any Associated Company or of any Other Concern when You hold such position at the request, order or direction of the Company
- (ii)
  - (a) Disqualification Proceedings which are first ordered or commissioned during the Period of Insurance
  - (b) an Investigation which is first ordered or commissioned during the Period of Insurance
  - (c) Environmental Proceedings which are first ordered or commissioned during the Period of Insurance
  - (d) Extradition Proceedings

except to the extent that such Loss is recoverable by You from the Company under Insuring Clause 3(b) (Company Reimbursement).

## (b) COMPANY REIMBURSEMENT

We agree to pay on behalf of the Company and as incurred Loss arising from

- (i) any Claim made against You during the Period of Insurance by reason of a Wrongful Act committed by You in Your capacity of a Director or Officer of the Company
- (ii)
  - (a) Disqualification Proceedings which are first ordered or commissioned during the Period of Insurance
  - (b) You attending an Investigation which is first ordered or commissioned during the Period of Insurance
  - (c) You attending any Environmental Proceedings which are first ordered or commissioned during the Period of Insurance
  - (d) Extradition Proceedings

but only if and to the extent that the Company shall be required or permitted to indemnify You pursuant to the law or by reason of any indemnity clause in the Memorandum or Articles of Association, trust deed, constitution or charter of the Company.

## LIMIT AND EXCESS

Our total aggregate liability under this Insuring Clause in the Period of Insurance in respect of all Loss shall not exceed the Limit of Indemnity.

We shall only be liable for that part of each Loss which exceeds the Excess.

## ADDENDA APPLICABLE TO INSURING CLAUSE 3

### (1) Public Relations Crisis Management

In the event of a Crisis We shall, at Your request and subject to Our prior agreement, pay

- (a) costs incurred by You in utilising the services of the Crisis Response Service
  - (b) other related and reasonable costs agreed with Us
- For the purpose of this Addendum

(i) "Crisis" shall mean

- (a) the allegation of a Wrongful Act committed by You during the Period of Insurance
- (b) the successful defence of an allegation of a Wrongful Act originally alleged to have been committed by You during the Period of Insurance

where, in Our opinion, there is a risk to Your livelihood as a consequence of adverse press, publicity or media attention.

(ii) "Crisis Response Service" shall mean public relations specialist services provided by Us or on Our behalf

Provided always that

- 1 the total amount payable under this Addendum shall not exceed £25,000 in any one Period of Insurance, which amount shall be in addition to the Limit of Indemnity.
- 2 You shall immediately notify Us of any event or circumstance which might result in You seeking payment or indemnity under this Addendum and comply with Our recommendations or the recommendations of Our public relations specialist as directed.
- 3 You take all reasonable and practical measures to avoid or mitigate costs relating to Crisis.

### (2) Non-Executive Directors

In the event that the Limit of Indemnity under this Insuring Clause and any indemnity to which You are entitled under any one other insurance is exhausted, We will deem the Limit of Indemnity to be increased by a further 10% but only in respect of Costs and Expenses incurred in Your capacity as a non-executive director of the Company.

### (3) Emergency Costs and Expenses

In the event that You are unable to reasonably obtain Our prior written consent to incur Costs and Expenses, We will retrospectively approve such Costs and Expenses provided always that they do not exceed 10% of the Limit of Indemnity.

## DEFINITIONS APPLICABLE TO INSURING CLAUSE 3

**"You/Your/Yours"** shall mean the Director or Officer.

**"Associated Company"** shall mean any body corporate which

- (i) at the time of the Wrongful Act gives rise to the Claim, or
- (ii) at the time of the receipt by You of any intention to instigate Disqualification Proceedings, an Investigation, Environmental Proceedings or Extradition Proceedings

is not a Subsidiary Company or a company domiciled, registered or incorporated in the United States of America.

**"Claim"** shall, in addition to the meaning given in General Definitions, include criminal proceedings which might result in a Loss.

**"Company"** shall mean the limited liability partnership or company named as the Policyholder in the Schedule and the Subsidiary Company.

**"Director or Officer"** shall mean any natural person who was or is or may hereafter be

- (i) a director or officer of the Company, or
- (ii) acting at the request, order or direction of the Company as a director, officer or trustee of, or in any managerial or supervisory capacity in, the Associated Company or Other Concern, or
- (iii) a Shadow Director, or
- (iv) an Employee
  - (a) acting in a managerial or supervisory capacity in the Company, or
  - (b) against whom a Claim is made based upon or arising out of any Employment Wrongful Act, or
  - (c) named in a Claim as co-defendant with a Director or Officer as defined in (i) to (iii) above  
(other than in any capacity as external auditor, liquidator, receiver, administrator or administrative receiver), or
- (v) the lawful spouse or civil partner of any person defined in (i) to (iv) above but only in respect of Loss payable under this Insuring Clause in relation to such person which is by operation of law imputed or transferred to that spouse, or
- (vi) the estate, heirs, legal representatives or assigns of any of the foregoing in the event of the death, incompetency, incapacity, bankruptcy or insolvency of that person.

**"Disqualification Proceedings"** shall mean legal action against You pursuant to which You are liable to be disqualified from continuing to be a director or officer of the Company.

**"Employee"** shall mean any person other than an independent agent, consultant, sub-contractor or professional advisor who was or is

- (i) under a contract of service or apprenticeship with the Company, or
- (ii) under a work experience or similar scheme, or
- (iii) supplied to or hired or borrowed by the Company, or whilst employed or engaged by and under the direct control of the Company in connection with the Business.

**"Employment Wrongful Act"** shall mean any actual or alleged

- (i) act or omission resulting in a dispute concerning the employment of the Employee or any prospective Employee, or
- (ii) Retaliatory Treatment committed or allegedly committed or attempted by You.

**"Environmental Proceedings"** shall mean any prosecution, official investigation, examination, inquiry or other proceedings by any official body or institution that is empowered to investigate the affairs of the Company and/or the Associated Company and/or the Other Concern, arising from any actual or alleged Pollution.

**"Excess"** shall mean the amount stated in the Schedule in respect of this Insuring Clause which amount shall only apply in respect of Insuring Clause 3(b) (Company Reimbursement) where

- (i) action for damages is brought in a court of law of, or Costs and Expenses arise within, the United States of America, or
- (ii) action is brought in a court of law elsewhere to enforce a judgment of a court of law of the United States of America whether by way of reciprocal agreement or otherwise.

**"Extradition Proceedings"** shall mean proceedings brought against You under the Extradition Act 2003, or any amendment or re-enactment thereof, including any appeal relating thereto.

**"Injury"** shall mean bodily injury, mental injury, emotional distress, shock, sickness, disease or death.

**"Investigation"** shall mean any official investigation or examination, inquiry or other proceedings, other than when arising from any actual or alleged Pollution, by any official body or institution that is empowered to investigate the affairs of the Company and/or the Associated Company and/or the Other Concern.

**"Limit of Indemnity"** shall mean the amount stated in the Schedule in respect of this Insuring Clause which amount is inclusive of all Loss under Insuring Clause 3(a)(ii)(c) and 3(b)(ii)(c) for which Our total aggregate liability in the Period of Insurance shall not exceed £250,000.

**"Loss"** shall mean

- (i) for the purpose of Insuring Clauses 3(a)(i) and 3(b)(i)
  - (a) Your legal liability for damages, legal costs, charges or expenses awarded against You
  - (b) Costs and Expenses, it being understood that in the event of a Claim being made against both You and the Company by reason of the same Wrongful Act, and such Wrongful Act not being an Employment Wrongful Act committed in the United States of America, We will pay the Costs and Expenses on Your behalf in full irrespective of whether such Costs and Expenses incidentally benefit the Company
  - (c) punitive or exemplary damages awarded against You for which indemnity can be lawfully provided under this Policy
  - (d) the premium paid by You or on Your behalf for insurance instruments or bonds which, in certain jurisdictions, are required in order to institute an appeal

- (ii) for the purpose of Insuring Clauses 3(a)(ii) and 3(b)(ii), Costs and Expenses

resulting from or attributable to the same originating cause.

“Other Concern” shall mean

- (i) any registered charity and/or any trade, research, promotional, training or similar association or organisation (whether incorporated or not) existing for any non-profit making purpose, not domiciled, registered or incorporated in the United States of America.
- (ii) any profit-sharing or share option committee, sports, social or similar association or organisation, (whether incorporated or not), established or conducted for You or Your family’s and dependant’s benefit or the benefit of any Employee and their families and dependants.

“Period of Insurance” shall mean the period stated in the Schedule and in the event that

- (i) (a) We refuse to renew the cover afforded by this Insuring Clause for reasons other than non-payment of premium to Us or the failure by You or the Company to comply with or observe the terms, provisions and Conditions of this Policy, or
- (b) You and the Company and/or any natural person with effective control of the Company decline to accept the renewal terms offered by Us in so far as they relate to this Insuring Clause.

You and/or the Company shall have the right to a further single period of either

- (c) 30 days from the expiry date of the period stated in the Schedule, or
  - (d) 90 days from the expiry date of the period stated in the Schedule subject to an immediate payment to Underwriters or an additional 25% of the Premium, or
  - (e) 180 days from the expiry date of the period stated in the Schedule subject to an immediate payment to Underwriters of an additional 50% of the Premium, or
  - (f) 12 calendar months from the expiry date of the period stated in the Schedule subject to an immediate payment to Underwriters of an additional 100% of the Premium
- (ii) either We or You or the Company refuse to renew the cover afforded by this Insuring Clause, a Retired Director or Officer shall be automatically entitled to a further single period of seventy-two calendar months from the expiry date of the period stated in the Schedule

but only in respect of Loss arising from

- (iii) a Wrongful Act committed or allegedly committed, and/or
- (iv) Disqualification Proceedings which are first ordered or commissioned, and/or
- (v) an Investigation which is first ordered or commissioned, and/or
- (vi) Environmental Proceedings which are first ordered or commissioned, and/or
- (vii) Extradition Proceedings which are first ordered or commenced

prior to the expiry of the period stated in the Schedule.

Provided always that

- (viii) the right provided by (i) above

- (a) is exercised within 30 days of the expiry of the period stated in the Schedule, and

- (b) can only be exercised once

- (ix) in the event that further periods are provided by both (i) and (ii) above such periods shall run concurrently

- (x) the further periods referred to in this Definition are not applicable to the extent that other insurance policies have been purchased with the intention of providing equivalent cover for any part of such period.

“Retaliatory Treatment” shall mean action taken against an Employee on account of such Employee exercising or attempting to exercise his or her rights under law.

“Retired Director or Officer” shall mean any natural person who voluntarily ceased to be a Director or Officer prior to the expiry of the period stated in the Schedule and who does not subsequently resume a position of Director or Officer.

“Shadow Director” shall mean a person who is deemed to be a shadow director (within the meaning given by section 741(2) of the Companies Act 1985 (UK) or any amendment or re-enactment thereof) of any company solely by reason of any activity of the Company.

“Subsidiary Company” shall mean any body corporate in respect of which the Company or any other subsidiary company of the Company controls, at the time of the Wrongful Act which gives rise to the Claim or Claims or at the time of the receipt by the Director or Officer concerned of notice of any intention to institute, request, order, commission or bring, Disqualification Proceedings, an Investigation, Environmental Proceedings or Extradition Proceedings

- (i) the composition of the board of directors, or
- (ii) more than half of the voting power, or
- (iii) more than half of the voting issued share capital

other than a body corporate (unless agreed by Us in writing) acquired or created subsequent to the inception date of this Policy which is domiciled, registered or incorporated in the United States of America.

“Wrongful Act” shall mean any actual or alleged wrongful act committed or attempted by You or any matter claimed against You solely by reason of You serving in the capacity of Director or Officer.

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

## EXCLUSIONS APPLICABLE TO INSURING CLAUSE 3

We shall not be liable to pay or indemnify You or the Company against Loss

### (1) OTHER INSURANCE

in respect of which You are entitled to indemnity under any other insurance.

Notwithstanding the above this Policy shall contribute in excess of such other insurance, provided always that if such other insurance is also provided by Us the Limit of Indemnity under this Insuring Clause shall be deemed reduced by any amount payable under such other insurance.

**(2) LEGAL ACTION**

- (a) where the Claim is brought in a court of law outside the Jurisdiction, and/or
- (b) where action is brought in a court of law within the Jurisdiction to enforce a foreign judgment, whether by way of reciprocal agreement or otherwise, and/or
- (c) where Disqualification Proceedings, Investigation, Environmental Proceedings or Extradition Proceedings are ordered or commissioned outside the Jurisdiction.

**(3) EMPLOYMENT DISPUTES**

resulting from

- (a) an Employment Wrongful Act
- (b) an Investigation in respect of
  - (i) employment discrimination
  - (ii) health and safety

if the Company is an unincorporated body.

**(4) DISHONEST AND MALICIOUS ACTS**

arising out of Your dishonest, fraudulent or malicious conduct

Provided always that

- (a) such conduct, breach, gain, profit or advantage is either admitted by You or established in a judgment or other final adjudication
- (b) this Exclusion shall not apply to any Loss resulting from any Claim brought by any shareholder or bondholder of the Company, (which are made without any solicitation by, or assistance or participation of any Director or Officer), due solely to any actual or alleged loss in value of the share capital of the Company consequent upon the foregoing.

**(5) REMUNERATION**

to the extent of remuneration of whatsoever nature due to You or any Employee.

**(6) PRIOR AND PENDING LITIGATION**

based upon, arising out of or resulting directly or indirectly from

- (a) any claim form, writ, demand, suit or other proceeding pending, or order, decree or judgment entered against You prior to the date when this Insuring Clause became operative, or the same or any substantially similar fact, circumstance or situation underlying or alleged in such pending or prior proceeding, or
- (b) any Claim or circumstance which have been reported or notified under any contract of insurance which this Insuring Clause renews or replaces.

**(7) POLLUTION**

other than in respect of Insuring Clauses 3(a)(ii)(c) and 3(b)(ii)(c), based upon, arising out of or resulting directly or indirectly from, in consequence of or in any way involving Pollution

Provided always that this Exclusion shall not apply to any Loss resulting from any Claim brought by any shareholder or bondholder of the Company, (which are made without any solicitation by, or assistance or participation of any Director or Officer), due solely to any

actual or alleged loss in value of the share capital of the Company consequent upon Pollution.

**(8) INJURY/PROPERTY DAMAGE**

arising from any Claim

- (a) for Injury sustained by any person, other than
  - (i) emotional distress arising from any libel, slander, defamation, or
  - (ii) Your criminal prosecution for manslaughter in relation to the activities of the Company
- (b) for any loss, damage or destruction of property, including loss of use thereof.

Provided always that this Exclusion shall not apply to any Loss resulting from any Claim brought by any shareholder or bondholder of the Company, (which are made without any solicitation by, or assistance or participation of any Director or Officer), due solely to any actual or alleged loss in value of the share capital of the Company consequent upon the foregoing.

**(9) PENSION FUNDS**

resulting directly from You acting in the capacity as trustee or administrator of any pension, retirement or superannuation scheme or programme created for Your benefit or the benefit of any Employee.

**(10) TAKEOVER OR MERGER**

resulting from

- (a) any Wrongful Act of Yours occurring
- (b) any Disqualification Proceedings, Investigation, Environmental Proceedings or Extradition Proceedings instigated

subsequent to the effective date of the takeover or merger of the Company by or with any other person.

**(11) PROFESSIONAL DUTY TO THIRD PARTIES**

arising from any Claim made by any third party for any breach of any professional duty owed to such third party,

Provided always that this Exclusion shall not apply to any Loss resulting from any Claim brought by any shareholder or bondholder of the Company, (which are made without any solicitation by, or assistance or participation of any Director or Officer), due solely to any actual or alleged loss in value of the share capital of the Company consequent upon such breach.

**(12) ASSOCIATED COMPANY v. INSURED**

arising from any Claim made against You by or on behalf of

- (a) any Associated Company or any Other Concern and/or any other director, officer or trustee of such Associated Company or Other Concern provided, however, that We shall pay
  - (i) Loss arising from any Claim in respect of any Employment Wrongful Act concerning the employment of the director, officer or trustee by the Associated Company or Other Concern
  - (ii) Loss resulting from any Claim brought by any shareholder or bondholder of any Associated Company or of any Other Concern, (which are made without the solicitation by, or assistance or participation of any director, officer or trustee), due solely to any actual or alleged loss

in value of the share capital of the Associated Company or Other Concern

- (iii) Costs and Expenses incurred by or on Your behalf in the defence of such Claim
- (iv) Loss arising from any Claim brought or maintained by any director, officer or trustee for contribution or indemnity if such Claim directly results from the payment of any other Loss under this Policy
- (v) Loss arising from any Claim brought or maintained by a person who is no longer a director or officer of the Associated Company or Other Concern
- (vi) Loss arising from any Claim brought or maintained by or on behalf of a liquidator, receiver or administrative receiver due to the insolvency of the Associated Company or Other Concern.

- (b) any person who controls more than 15% of the issued share capital of any Associated Company or Other Concern.

### (13) PUNITIVE AND EXEMPLARY DAMAGES (EMPLOYMENT)

to the extent of any punitive or exemplary damages awarded in relation to any Claim based upon or arising out of any Employment Wrongful Act (other than exemplary damages in respect of employment related libel, slander or defamation).

## CONDITIONS APPLICABLE TO INSURING CLAUSE 3

### (1) DISCLOSURE CLAUSE

You or the Company must have provided the Proposal with reasonable skill and care and after having made all reasonable and appropriate enquiries.

- (a) If You or the Company have made any misrepresentation or non-disclosure of any material facts or circumstances then we will not seek to avoid Insuring Clause 3 (Directors and Officers Liability) of this Policy

- (i) unless either:

- (1) We reasonably believe such misrepresentation or non-disclosure was deliberate or reckless: or
- (2) We would not have underwritten Insuring Clause 3 (Directors and Officers Liability) of this Policy on any terms if the facts or circumstances had been disclosed or not misrepresented

- (ii) and provided that

- (1) where You or the Company should have notified Us during a preceding Period of Insurance of a Claim or the instigation of Disqualification Proceedings, Investigation, Environmental Proceedings or Extradition Proceedings and the cover to which You or the Company would have been entitled was in any way more restrictive than that provided at the date of notification We shall only be liable to the extent available during such preceding Period of

### Insurance

- (2) Where You or the Company have prejudiced the handling or settlement of any Loss, Disqualification Proceedings, Investigation, Environmental Proceedings or Extradition Proceedings the amount payable in respect of such Loss, Disqualification Proceedings Investigation, Environmental Proceedings or Extradition Proceedings shall be reduced to such sum as in Our opinion would have been payable in the absence of such prejudice

- (b) Subject to the above, if You or the Company made any misrepresentation or non-disclosure of any material facts and We would still have underwritten Insuring Clause 3 (Directors and Officers Liability) of this Policy but on different terms had the facts been disclosed or not misrepresented, then We may instead:

- (i) reduce proportionately the amount paid or payable on any Loss by reference to the ratio which the premium actually charged bears to the premium which We would have charged had You or the Company told Us about a material fact or circumstance. The same reduction shall be applied to any Losses which have already been paid and any overpayment of such Losses by Us and shall be repaid by You or the Company, and/or

- (ii) treat Insuring Clause 3 (Directors and Officers Liability) of this Policy as if it had included such additional terms (other than terms relating to Premium) as We would have imposed had You or the Company told Us about a material fact or circumstance. Any such additional terms apply equally to existing, past and future Losses.

- (c) We shall not deny payment or indemnity on the grounds of the breach of Claims Condition 1 or 2 of this Policy subject to provisos (a)(ii)(1) and (a)(ii)(2) of this clause.

### (2) INSTRUCTIONS

Neither You nor the Company shall have any right to require cancellation of Insuring Clause 3 (Directors and Officers Liability) or any material reduction in the cover afforded hereunder, and any such cancellation or reduction sought shall be granted only at and to the extent of Our absolute discretion and shall not be effected unless and until We are reasonably satisfied that such cancellation or reduction has been sanctioned by all Directors or Officers whose rights under this Insuring Clause at that time are or may be affected thereby.

### (3) OFFERING

If during the Period of Insurance the Company decides to make a public or private offering of its shares or other equity interest, the Company shall provide Us with any prospectus, offering statement or other relevant information to enable Us to amend the terms, limitations, exclusions and/or conditions of this Insuring Clause and/or charge an additional premium, if so required.



(4) **SEVERABILITY**

Nothing in the Proposal or otherwise known or done by any Director or Officer shall be imputed to any other person in determining any right or obligation of the Director or Officer under this Insuring Clause. In no case shall a Director or Officer be prevented from pursuing any point in his or her defence only because it is inimical to the interests of any other Director or Officer.

SPECIMEN

# INSURING CLAUSE 4 – EMPLOYERS LIABILITY

*The indemnity provided by this Insuring Clause is deemed to be in accordance with the provisions of any law relating to compulsory insurance of liability to Employees in the United Kingdom*

We agree to indemnify You against Loss arising from any Claim made against You by reason of Injury sustained by any Employee while employed in or temporarily outside the United Kingdom caused during the Period of Insurance and arising out of and in the course of their employment by You in Your Business.

Provided always that an action for damages is brought against You under the Jurisdiction of a court within the United Kingdom.

## LIMIT

Our liability under this Insuring Clause for Loss shall not exceed the Limit of Indemnity.

## ADDENDA APPLICABLE TO INSURING CLAUSE 4

### (1) Compensation for Court Attendance

In the event of any director or partner of Yours or any Employee attending court at Our request as a witness in connection with any claim in respect of which You are entitled to indemnity under this Insuring Clause, We will provide compensation to You at the following rates for each day on which attendance is required

- (a) any director or partner      £250 per day
- (b) any Employee                      £150 per day

### (2) Health and Safety at Work

The indemnity provided by this Insuring Clause is extended to include Costs and Expenses in the defence of any criminal proceedings (including a charge of manslaughter) brought for a breach of the Health and Safety at Work Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978 or any amendment or re-enactment thereof, committed or alleged to have been committed in the course of Your Business during the Period of Insurance, including Costs and Expenses in an appeal against conviction and/or prosecution costs awarded against You arising from such proceedings.

Provided always that

- (a) the proceedings relate to the health, safety and welfare of Employees.
- (b) the total amount payable under this Addendum shall not exceed £250,000 in any one Period of Insurance.

### (3) Unsatisfied Court Judgments

In the event of a judgment for damages being obtained in any court in the United Kingdom

- (a) by an Employee or the personal representatives of such Employee, in respect of Injury to the Employee caused during the Period of Insurance and arising out of and in the course of employment by You in Your Business, against any company or person operating from premises within the United Kingdom and

- (b) remaining unsatisfied in whole or in part six months after the date of such judgment

We will, at Your request, pay to the Employee or the personal representatives of the Employee the amount of such damages and awarded costs to the extent that they remain unsatisfied.

Provided always that

- (i) there is no appeal outstanding.
- (ii) the Employee or personal representatives of the Employee shall assign the judgment to Us in the event of any payment being made under the terms of this Addendum.

## DEFINITIONS APPLICABLE TO INSURING CLAUSE 4

“Insured/You/Your/Yours” shall mean

- (i) the person, persons, firm and all partners and former partners in the firm (or in the event of the death, incompetency, incapacity, bankruptcy or insolvency of any of the foregoing, their estate, heirs, legal representatives or assigns), limited liability partnership, or company named as the Policyholder in the Schedule.
- (ii) any principal to whom an indemnity is required to be provided under a contract for the performance of work by You in connection with Your Business but only to the extent required by such contract.

In addition, if You so require, we will indemnify

- (iii) any director or member of Yours or any Employee in like manner to You
- (iv) any officer or member of Your canteen, social, sports or welfare and other facilities and organisations or ambulance, first aid, fire, medical or security services in their respective capacity as such.

Provided always that such persons shall, as though they were the Insured, observe, fulfil and be subject to the terms, conditions and exclusions of this Policy in so far as they can apply.

“Business” shall, in addition to the General Definition of “Business”, include

- (i) Your ownership, occupation and maintenance of land or buildings
- (ii) the provision and management of canteen, social, sports, welfare and other facilities and organisations including, but not limited to, first aid and medical services for the benefit of Employees
- (iii) the provision and operation of fire and security services for the protection of premises occupied by You
- (iv) private duties undertaken by an Employee for You or, with Your consent, for any director or partner of Yours or any Employee.

## CONDITIONS APPLICABLE TO INSURING CLAUSE 4

“**Employee**” shall mean any person who was or is or may hereafter be

- (i) under a contract of service or apprenticeship with You, or
- (ii) under a work experience or similar scheme, or
- (iii) supplied to or hired in or borrowed by You, or
- (iv) self-employed persons

working for You under Your direct control in connection with Your Business and normally resident in the United Kingdom.

“**Injury**” shall mean bodily injury, mental injury, emotional distress, shock, sickness, disease or death.

“**Limit of Indemnity**” shall mean the amount stated in the Schedule in respect of this Insuring Clause.

“**Loss**” shall mean

- (i) Your legal liability for damages and costs awarded against You
  - (ii) Costs and Expenses
  - (iii) costs of legal representation at
    - (a) any coroner’s inquest or fatal injury inquiry
    - (b) proceedings in any court of summary jurisdiction arising out of any alleged breach of statutory duty
- reasonably incurred with Our written consent in connection with any matter which may be the subject of indemnity under this Insuring Clause

resulting from or attributable to the same originating cause.

“**Period of Insurance**” shall mean the Period stated in the Schedule.

## EXCLUSIONS APPLICABLE TO INSURING CLAUSE 4

We shall not be liable to pay or indemnify You against Loss

### (1) OFFSHORE

for Injury from the time of embarkation by the Employee upon a conveyance at the point of final departure to an offshore rig or offshore platform until disembarkation from the conveyance onto land upon their return from such offshore rig or platform.

### (2) OTHER INSURANCE

in respect of which You are entitled to indemnity under any other insurance.

Notwithstanding the above, this Insuring Clause shall contribute in excess of such other insurance, provided always that if such other insurance is also provided by Us the Limit of Indemnity under this Insuring Clause shall be deemed reduced by any amount payable under such other insurance.

### (1) CERTIFICATE OF EMPLOYERS LIABILITY

If the insurance cover provided by this Insuring Clause is cancelled by You or Us, any certificate of Employers Liability insurance issued hereunder is similarly cancelled from the same date.

# INSURING CLAUSE 5 – PROPERTY DAMAGE

If the Property, or any part of such Property, shall sustain Damage during the Period of Insurance We agree to pay You the value of the Property at the time of Damage or, at Our option, repair, reinstate or replace the Property or any part of such Property.

## LIMIT AND EXCESS

Our total liability under this Insuring Clause in the Period of Insurance shall not exceed

(a) in respect of Property, the Sum Insured for such Property

(b) in respect of all Damage, the Overall Sum Insured.

We shall only be liable for that part of each and every occurrence of Damage at each separate Premises which exceeds the Excess.

## ADDENDA APPLICABLE TO INSURING CLAUSE 5

### (1) Professional Fees

Unless more specifically insured the indemnity provided by this Insuring Clause in respect of Buildings, Computer Equipment and Office Contents includes an amount for architects', surveyors', consulting engineers', legal and other professional fees necessarily and reasonably incurred in the reinstatement of the Property consequent upon Damage but not for preparing any request for payment or indemnity.

### (2) Automatic Increase in Sum Insured

Notwithstanding the "Limit and Excess" clause and/or Condition 1 (Average), the indemnity provided by this Insuring Clause extends to include inflationary increases in the value of the Property

Provided always that

- (a) the Sum Insured of the Property at the commencement of the Period of Insurance is not less than the value of the Property
- (b) the total amount payable under this Addendum during the Period of Insurance in respect of Computer Equipment shall not exceed £10,000.

### (3) Reinstatement of Loss

Notwithstanding the clause headed "Limit and Excess", in the event of Damage insured by this Insuring Clause, the Sum(s) Insured will be automatically reinstated in full from the date of such Damage provided that You

- (a) pay any additional premium We may require
- (b) comply with any reasonable recommendations We may make to prevent further Damage.

### (4) Temporary Removal

The indemnity provided by this Insuring Clause is extended to include Property whilst temporarily removed for cleaning, renovation, repair or other similar purposes

- (a) elsewhere on the same Premises

- (b) to any other location not occupied by You and whilst in transit to and from such location by road, rail or inland waterway in the United Kingdom.

Provided always that

- (i) in the event of Damage occurring elsewhere than the Premises the amount payable under this Addendum shall not exceed 15% of the Sum Insured
- (ii) We shall not be liable to pay or indemnify You for Damage to Property in the open or in transit caused by storm or flood.

### (5) Loss Of Documents

The indemnity provided by this Insuring Clause extends to include Damage or, notwithstanding Exclusion 13 (Loss of Documents) of this Insuring Clause, the mislaying of any Document which after diligent search cannot be found.

Provided always that

- (a) for the purpose of this Addendum "Document" shall mean
  - (i) all documents excluding stamps, currency, coins, bank notes and bullion, travellers cheques, postal orders, money orders, securities, negotiable instruments and the like
  - (ii) separable programmes, instructions or data for physical incorporation into any computer system

belonging to You or for which You are legally responsible, whilst in Your custody or in the custody of any person to or with whom they have been entrusted, lodged or deposited by You in the ordinary course of Your Business.

- (b) the total amount payable under this Addendum in the Period of Insurance shall not exceed £10,000.
- (c) notwithstanding the definition of "Excess", We shall only be liable for that part of each and every occurrence of Damage and/or mislaying of such Documents which exceeds £100.
- (d) We shall not be liable to pay or indemnify You in respect of expenditure incurred by You in the replacement or restoration of any Document arising directly or indirectly from the failure or inefficacy of any programme, instruction or data for use in any computer or other electronic data processing device, equipment or system occasioned other than through its physical destruction or damage.

### (6) Temporary Removal of Computer System Records

The indemnity provided by this Insuring Clause extends to include computer system records for an amount not exceeding £1,000 whilst temporarily removed to any other location not occupied by You and whilst in transit to or from such location by road, rail or inland waterway in the United Kingdom.

Provided always that We shall not be liable to pay or indemnify You for Damage to property in the open or in transit caused by storm or flood.

## (7) Interested Parties

The interest of Mortgagors of the Buildings or those supplying Property to You under a hiring, leasing or similar agreement is noted, provided always that in the event of Damage to such Property You will disclose to Us the nature and extent of such interest.

## (8) Computer Breakdown

Notwithstanding Exclusion (5)(b)(ii) (Leakage, Mechanical/Electrical Breakdown etc) of this Insuring Clause, the indemnity provided by this Insuring Clause extends to include breakdown of Your Computer Equipment for an amount not exceeding £5,000, provided always that

- (a) such Computer Equipment is subject to a manufacturer's guarantee and/or a maintenance contract providing free parts and labour in the event of breakdown
- (b) We will not be liable to pay or indemnify You for
  - (i) gradual deterioration, wear and tear or inherent defect
  - (ii) Computer Equipment that is more than 10 years old from the date of manufacture.

## (9) Exhibitions

The indemnity provided by this Insuring Clause extends to include Damage to the Property whilst at any exhibition including whilst being erected or dismantled anywhere in the United Kingdom other than whilst in any premises owned or occupied by You.

Provided always that

- (a) the total amount payable under this Addendum in respect of Damage to Property at any one exhibition shall not exceed £5,000
- (b) the total amount payable under this Addendum in respect of Damage to any one item shall not exceed £1,000
- (c) We will not provide an indemnity under this Addendum in respect of Damage for which an indemnity is provided under any other contract of insurance.

## DEFINITIONS APPLICABLE TO INSURING CLAUSE 5

**"Insured/You/Your/Yours"** shall mean the person named as the Policyholder in the Schedule.

**"Buildings"** shall mean the buildings at the Premises owned or occupied solely or in part by You in connection with Your Business and/or as a private dwelling or offices which shall unless stated otherwise be constructed of brick, stone or concrete and roofed with slates, tiles, metal, concrete, asphalt, asbestos or other non-combustible materials.

Furthermore such buildings shall include landlord's fixtures and fittings in or on the buildings and, other than for the application of Exclusion 7(a) (Theft) of this Insuring Clause,

- (i) walls, gates and fences, car parks, yards, private roads, pavements and paths all on the same Premises.
- (ii) small outside buildings, annexes, loading bays, conveniences, external fire escapes, staircases, gangways and pedestrian ways attaching or belonging to the buildings.

- (iii) services, which shall mean lowering and loading apparatus, water and fuel tanks and ancillary equipment, service pipes, trunking, piping, ducting, cables, wires and their associated control gear and accessories extending from the buildings to the public mains all for which You are responsible and so far as they are not otherwise insured.

**"Damage"** shall mean accidental loss, destruction or damage.

**"Defined Peril(s)"** shall mean fire, lightning, explosion, earthquake, subterranean fire, riot, civil commotion, strikers, locked-out workers, persons taking part in labour disturbances, malicious persons (other than thieves), aircraft or other aerial devices or articles dropped therefrom, storm, flood, escape of water from any tank, apparatus or pipe and impact by any road vehicle or animal.

**"Employee"** shall mean any person, other than a director of Yours, who was or is or may hereafter be

- (i) under a contract of service or apprenticeship with You, or
- (ii) under a work experience or similar scheme, or
- (iii) supplied to or hired in or borrowed by You, or
- (iv) self-employed persons

working for You under Your direct control in connection with Your Business and normally resident in the United Kingdom.

**"Excess"** shall mean

- (i) £1,000 in respect of Damage caused by Subsidence
- (ii) £ 250 in respect of all other Damage.

**"Office Contents"** shall mean

- (i) stationery and office furniture and machinery within the Buildings at the Premises other than
- (ii) any item which is insured under Insuring Clause 6 (Business Equipment) or which would be insured under that clause but for the operation of any Limit of Indemnity, Excess, Exclusion or Condition
- (iii) Computer Equipment

and, in so far as they are not otherwise or more specifically insured

- (iv) money and stamps (other than National Insurance Stamps) for an amount not exceeding £1,000 (but this is limited to £500 following theft other than from a locked safe or strongroom).
- (v) National Insurance Stamps including stamps affixed to cards.
- (vi) patterns, models, moulds, plans and designs.
- (vii) Employees', directors', partners', customers' and visitors' pedal cycles, tools and other personal effects for an amount not exceeding £500 in respect of any one person.

but excluding

- (viii) landlords fixtures and fittings.
- (ix) vehicles licensed for road use including their accessories and equipment.
- (x) property more specifically insured.

**"Overall Sum Insured"** shall mean the amount stated in the Schedule.

“**Period of Insurance**” shall mean the period stated in the Schedule.

“**Premises**” shall mean the premises stated in the Schedule.

“**Property**” shall mean the property specified in the Schedule in respect of this Insuring Clause.

“**Subsidence**” shall mean subsidence, ground heave or landslip.

“**Sum(s) Insured**” shall mean the amount(s) stated in the Schedule in respect of this Insuring Clause.

“**Unoccupied**” shall mean untenanted, empty or not in use.

## **EXCLUSIONS APPLICABLE TO INSURING CLAUSE 5**

We shall not be liable to pay or indemnify You for

### **(1) OTHER INSURANCE**

more than Our rateable proportion of any Damage where You are entitled to payment or indemnity under any other insurance for such Damage.

### **(2) WEAR AND TEAR**

Damage caused by or consisting of

- (a) inherent vice, latent defect, gradual deterioration, wear and tear, frost, change in water table level, faulty or defective design or materials
- (b) the bursting of a boiler (other than a boiler used for domestic purposes only), economiser or other vessel, machine or apparatus, belonging to You or under Your control, in which internal pressure is due to steam only

other than subsequent Damage which itself results from a cause not otherwise excluded.

### **(3) DEFECTIVE WORKMANSHIP**

Damage caused by or consisting of faulty or defective workmanship, operational error or omission, by You or on the part of any of Your Employees, other than subsequent Damage resulting from another cause.

### **(4) FRAUD OR DISHONESTY OF EMPLOYEES**

Damage by or consisting of acts of fraud or dishonesty by Your Employees other than subsequent Damage resulting from a Defined Peril.

### **(5) LEAKAGE, MECHANICAL / ELECTRICAL BREAKDOWN ETC**

- (a) Damage caused by or consisting of corrosion, rust, wet or dry rot, shrinkage, evaporation, loss of weight, dampness, dryness, change in temperature, colour, flavour, texture or finish, marring, scratching, vermin or insects
- (b) Damage consisting of
  - (i) joint leakage, failure of welds, cracking, fracturing, collapse or overheating of boilers, economisers, superheaters, pressure vessels or any range of steam and feed piping in connection therewith
  - (ii) mechanical or electrical breakdown or derangement

other than subsequent Damage resulting from another cause.

### **(6) POLLUTION**

Damage caused by Pollution other than Damage caused by

- (a) Pollution which results from a Defined Peril
- (b) a Defined Peril which results from Pollution.

### **(7) THEFT**

Damage caused by theft or any attempted theft

- (a) (i) by any person lawfully on the premises
- (ii) by deception
- (iii) from any outbuilding

unless such theft or attempted theft involved entry to or exit from the Buildings by forcible and violent means

- (b) to Property in any yard, car park, open space or open sided building
- (c) whilst the Buildings are Unoccupied other than Damage consequent upon and in connection with assault or violence or threat thereof to You or any of Your Employees
- (d) expedited or in any way brought about by You, any member of Your family, or any director, partner of Yours or any Employee unless resulting from assault or violence or threat thereof to such persons

Provided always that this Exclusion shall not apply to any subsequent Damage resulting from a Defined Peril.

### **(8) VALUABLE AND FRAGILE PROPERTY**

Damage to

- (a) (i) jewellery, precious stones, precious metals, bullion, furs, curiosities, works of art or rare books
- (ii) property in transit
- (iii) money, cheques, stamps, bonds or credit cards other than Damage caused by a Defined Peril.
- (b) securities of any description unless stated otherwise in this Insuring Clause or the Schedule.
- (c) glass, marble or other fragile or brittle objects other than Damage caused by a Defined Peril or theft or any attempted theft.

### **(9) VEHICLES**

Damage to vehicles and their accessories and equipment, caravans, trailers, railway locomotives, rolling stock, watercraft or aircraft unless stated otherwise in this Insuring Clause or the Schedule.

### **(10) MARINE INSURANCE**

Property which at the time of the Damage is insured (or would be but for the existence of this Insuring Clause), by any marine insurance policy or certificate other than in respect of any excess beyond the amount which would have been payable under the marine insurance policy or certificate had this insurance not been effected.

### **(11) PROPERTY MORE SPECIFICALLY INSURED**

any Property more specifically insured by You or on Your behalf.

### **(12) CONSEQUENTIAL LOSS**

consequential loss of any kind or description.

**(13) UNEXPLAINED SHORTAGES**

Damage caused by or consisting of unexplained disappearance or inventory shortage, misfiling or misplacing of information.

**(14) FALSE PRETENCE**

Damage caused by the voluntary parting with title or possession of any Property insured if induced by any fraudulent scheme, trick, device or false pretence.

**(15) SUBSIDENCE**

Damage caused by Subsidence to any Property situated within the Isle of Wight.

**(16) COMPONENT SELF IGNITION**

Damage of the component part of any dynamo, electric motor or other electrical plant installation, apparatus or conductor caused by its own self-heating or self-ignition.

**(17) FLAT ROOFS**

Damage resulting directly or indirectly from flat roof sections of the Property where the flat roof

- (a) has not been adequately maintained, or
- (b) is greater than 10 years old.

**CONDITIONS APPLICABLE TO INSURING CLAUSE 5**

**(1) AVERAGE**

Other than in respect of rent, debris removal and professional fees where specifically insured, the Sum Insured for each Property of this Insuring Clause is separately subject to the following:

If at the commencement of any Damage the Sum Insured of the Property is less than the value of the Property, the amount payable by Us in respect of such Damage shall be proportionately reduced.

**(2) REINSTATEMENT BASIS OF SETTLEMENT**

In the event of Damage to the Property the basis upon which the amount We shall pay You is calculated shall be the Reinstatement of the Damaged Property.

Notwithstanding the Definition of "Property", for the purpose of this Addendum "Property" shall mean the property specified in the Schedule other than employee's, director's, partner's, customer's and visitor's pedal cycles, tools and other personal effects.

For the purpose of this Addendum "Reinstatement" shall mean the carrying out of the following work

- (a) where the Property is lost or destroyed its replacement by similar property in a condition equal to but not better or more extensive than its condition when new.
- (b) where Property is damaged, the repair of the damage and the restoration of the damaged portion of the Property to a condition substantially the same as but not better or more extensive than its condition when new.

Provided always that

- (i) the work or Reinstatement must be commenced and carried out with reasonable despatch.
- (ii) where the work or Reinstatement is carried out at another site and/or in any manner suitable to your

requirements Our liability to pay You shall not thereby be increased.

- (iii) in respect of any Property which is Damaged in part only, Our liability to pay You shall not exceed the amount we would have paid for Reinstatement if such Property had been wholly destroyed.
- (iv) no payment beyond the amount which would have been payable had this Addendum not been incorporated herein shall be made until the cost of reinstatement shall have been actually incurred.
- (v) Notwithstanding Condition (1) (Average) of this Insuring Clause, if at the time of Damage the Sum Insured of the Property represents less than 85% of the full cost of Reinstatement of the Property We shall only pay for that proportion of the Damage which the Sum Insured bears to the full cost of Reinstatement.
- (vi) unless any other contract of insurance effected by You or on Your behalf in respect of the Property is subject to an identical basis of Reinstatement We shall not pay You any amount beyond that which We would have paid under this Insuring Clause had this Addendum not been incorporated therein.

**(3) EXPLOSION**

It is a condition precedent to Your right to payment or indemnity under this Insuring Clause for Damage to any vessel, machinery or apparatus (or the contents therein) belonging to You or under Your control caused by an explosion originating therein that where such vessel, machinery or apparatus is required to be examined to comply with any statutory regulations such compliance is observed.

# INSURING CLAUSE 6 – BUSINESS EQUIPMENT (“ALL RISKS”)

If the Property or any part of such Property, shall sustain Damage during the Period of Insurance We agree to pay You the value of the Property at the time of Damage or, at Our option, reinstate or replace the Property or any part of the Property.

## LIMIT AND EXCESS

Our total liability under this Insuring Clause during the Period of Insurance shall not exceed the Sum Insured.

We shall only be liable for that part of each and every occurrence of Damage which exceeds the Excess.

## ADDENDA APPLICABLE TO INSURING CLAUSE 6

### (1) Inflationary Increases

Notwithstanding the “Limit and Excess” clause the indemnity provided by this Insuring Clause extends to include inflationary increases in the value of the Property.

Provided always that

- (a) the Sum Insured of the Property at the commencement of the Period of Insurance is not less than the value of the Property
- (b) the total amount payable under this Addendum during the Period of Insurance shall not exceed £10,000.

### (2) Reinstatement of Loss

In the event of Damage insured by this Insuring Clause, the Sum(s) Insured will be automatically reinstated in full from the date of said Damage provided that You

- (a) pay any additional premium We may require
- (b) comply with any reasonable recommendations We may make to prevent further Damage.

## DEFINITIONS APPLICABLE TO INSURING CLAUSE 6

“Insured/You/Your/Yours” shall mean the person named as the Policyholder in the Schedule.

“Damage” shall mean accidental loss, destruction or damage.

“Excess” shall mean £250.

“Period of Insurance” shall mean the period stated in the Schedule.

“Property” shall mean portable equipment owned by You or for which You are responsible used in connection with Your Business (including but not limited to computer equipment, photographic equipment, mobile telephones), other than

- (i) equipment whilst fitted to a vehicle
- (ii) works of art, items of gold, silver or other precious metals, or personal effects (including but not limited to jewellery and watches).

“Sum Insured” shall mean the amount stated in the Schedule in respect of this Insuring Clause.

## EXCLUSIONS APPLICABLE TO INSURING CLAUSE 6

We shall not be liable to pay or indemnify You for

### (1) OTHER INSURANCE

more than Our rateable proportion of any Damage where You are entitled to payment or indemnity under any other insurance for such Damage.

### (2) WEAR AND TEAR

Damage caused by or consisting of wear and tear, depreciation, gradual deterioration, vermin, moth or insects, fungus, condensation, any gradually operating cause or any process of cleaning, dyeing, repairing or renovation.

### (3) UNEXPLAINED SHORTAGES

Damage caused by or consisting of unexplained disappearance or inventory shortage.

### (4) UNATTENDED PROPERTY

Damage to Property caused by or consisting of

- (a) unexplained shortage or disappearance
  - (b) theft or attempted theft whilst the Property is left unattended, other than
    - (i) theft or attempted theft of Property from an unattended vehicle or
    - (ii) theft of Property where the vehicle is stolen at the same time
- Provided always that
- (iii) the Property is concealed in a locked boot or stowage area within the vehicle; and
  - (iv) all points of access to the vehicle are securely locked and security devices put in full and proper operation; and
  - (v) force is used to gain entry to the vehicle and such entry causes external and visible damage to the vehicle.

### (5) MECHANICAL / ELECTRICAL BREAKDOWN

Damage caused by or consisting of mechanical or electrical breakdown or derangement of the Property unless caused by accidental damage to the exterior of the Property.

### (6) CONSEQUENTIAL LOSS

Consequential loss of any kind or description.

### (7) FALSE PRETENCE

Damage caused by the voluntary parting with title or possession of any Property insured if induced by any fraudulent scheme, trick, device or false pretence.



## CONDITIONS APPLICABLE TO INSURING CLAUSE 6

### (1) REINSTATEMENT BASIS OF SETTLEMENT

In the event of Damage to the Property the basis upon which the amount We shall pay You is calculated shall be the Reinstatement of the Damaged Property.

For the purpose of this Addendum "Reinstatement" shall mean the carrying out of the following work:

- (a) where the Property is lost or destroyed its replacement by similar property in a condition equal to but not better or more extensive than its condition when new.
- (b) where Property is damaged, the repair of the damage and the restoration of the damaged portion of the Property to a condition substantially the same as but not better or more extensive than its condition when new.

SPECIMEN

# INSURING CLAUSE 7 – BUSINESS INTERRUPTION

If, during the Period of Insurance, an Insured Event occurs and in consequence the Business carried on by You at the Premises is interrupted or interfered with then We agree to pay You

## (a) Income

the reduction in Income and/or increase in cost of working resulting from such interruption or interference, or

## (b) Additional Trading Expenses

the Additional Trading Expenses resulting from such interruption or interference.

Provided always that

- (i) Insuring Clause 7(a) (Income) and 7(b) (Additional Trading Expenses) are only operative if a Sum Insured is shown under such Clause in the Schedule
- (ii) (in respect of Damage occurring at the Premises) payment shall have been made or liability admitted for the Damage under either Insuring Clause 5 (Property Damage) or Insuring Clause 6 (Business Equipment) or would have been made but for the operation of the Excess.

## LIMIT

Our total liability under this Insuring Clause in the Period of Insurance shall not exceed the Sum Insured.

Provided always that

- (a) the amount payable under Insuring Clause 7(a) (Income) in respect of
  - (i) reduction in Income shall be the amount by which the Income during the Indemnity Period shall, in consequence of the Insured Event, fall short of the Standard Income.
  - (ii) increase in cost of working shall be the additional expenditure, subject to the provisions of Condition 5 (Savings) of this Insuring Clause, necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in Income which, but for that expenditure, would have taken place during the Indemnity Period in consequence of the Insured Event, but not exceeding the loss of Income thereby avoided.
- (b) the amount payable under Insuring Clause 7(b) (Additional Trading Expenses) shall be the Additional Trading Expenses necessarily and reasonably incurred or payable for the purpose of avoiding or diminishing the reduction in Income which but for that expenditure would have taken place during the Indemnity Period in consequence of the Insured Event.

## ADDENDA APPLICABLE TO INSURING CLAUSE 7

### (1) Alternative Trading

If, during the Indemnity Period, goods shall be sold, accommodation provided or services shall be rendered elsewhere than at the Premises for the benefit of Your

Business, either by You or by others on Your behalf the money paid or payable in respect of such sales, accommodation or services shall be brought into account in arriving at the Income or rent receivable during the Indemnity Period.

### (2) Professional Accountant's Charges

We will pay the reasonable charges payable by You to Your professional accountants for producing any particulars or details or any other proofs, information or evidence, as may be required by Us under the terms of this Insuring Clause, and reporting that such particulars or details are in accordance with Your books of accounts or other Business books or documents.

### (3) Reinstatement of Loss

In the event of Damage insured by this Insuring Clause, the Sum(s) Insured will be automatically reinstated in full from the date of such Damage provided that You

- (a) pay any additional Premium We may require.
- (b) comply with any reasonable recommendations We may make to prevent further Damage.

## DEFINITIONS APPLICABLE TO INSURING CLAUSE 7

**"Insured/You/Your/Yours"** shall mean the person named as the Policyholder in the Schedule.

**"Additional Trading Expenses"** shall mean the additional expenditure necessarily and reasonably incurred by You in order to minimise the interruption or interference of Your Activities.

Such expenditure includes but is not limited to:

- (i) the cost of moving to and from temporary premises and the additional rent, rates and taxes thereon
- (ii) expenses incurred in equipping temporary premises to make them suitable for Your Activities
- (iii) additional costs in respect of lighting, heating and water
- (iv) additional costs in respect of additional staff and overtime and allowances to existing staff

**"Annual Income"** shall mean the Income during the twelve months immediately before the commencement of the Damage.

Providing always that adjustments shall be made, as may be necessary, to provide for the trend of Your Business and for variations in or other circumstances affecting Your Business either before or after the Damage or which would have affected Your Business had the Damage not occurred, so that the figures thus adjusted shall represent, as nearly as may be reasonably practicable, the results which but for the Damage would have been obtained during the relevant period after the Damage.

**"Damage"** shall mean accidental loss, destruction or damage.

**"Income"** shall mean the money paid or payable to You in respect of work done and services rendered in the course of Your Business at the Premises.

**“Indemnity Period”** shall mean the period beginning with the occurrence of the Insured Event and ending not later than 12 calendar months thereafter during which the results of Your Business shall be affected in consequence of such Insured Event.

**“Insured Event”** shall mean

- (a) Damage at the Premises to property used by You for the purpose of Your Business, or
- (b) Damage at or to property in the vicinity of the Premises preventing or hindering You from using or accessing Your Premises for the purpose of Your Business, or
- (c) Damage at or to property at Your suppliers’ premises within the United Kingdom
- (d) accidental failure occurs to Your supply of electricity, gas, water or telecommunications services.

**“Period of Insurance”** shall mean the period stated in the Schedule.

**“Premises”** shall mean the premises stated in the Schedule.

**“Standard Income”** shall mean the Income during that period in the twelve months immediately before the commencement of the Damage which corresponds with the Indemnity Period.

Providing always that adjustments shall be made, as may be necessary, to provide for the trend of Your Business and for variations in or other circumstances affecting Your Business either before or after the Damage or which would have affected Your Business had the Damage not occurred, so that the figures thus adjusted shall represent, as nearly as may be reasonably practicable, the results which but for the Damage would have been obtained during the relevant period after the Damage.

**“Sum(s) Insured”** shall mean the amount(s) stated in the Schedule in respect of this Insuring Clause, which amount is inclusive of

- (i) all payments consequent upon Damage at or to property at Your suppliers’ premises for which Our total aggregate liability in the Period of Insurance shall not exceed £100,000.
- (ii) all payments consequent upon the breakdown of Your Computer Equipment for which Our total aggregate liability in the Period of Insurance shall not exceed £5,000.

## EXCLUSIONS APPLICABLE TO INSURING CLAUSE 7

We shall not be liable to pay or indemnify You for loss of Income or increase in cost of working

### (1) OTHER INSURANCE

more than Our rateable proportion where You are entitled to payment or indemnity under any other insurance for such loss of Income or increase in cost of working.

### (2) FAILURE OF SUPPLY

consequent upon Damage caused by

- (a) the deliberate act of a supply undertaking in withholding the supply of water, gas, electricity, fuel or telecommunication services (unless such discontinuation is due to a deliberate act of the supply authority for the sole purpose of safeguarding life or protecting any part of the supply

system or a scheme of rationing due to Damage to the supply authority’s premises), other than loss resulting from subsequent Damage which itself results from a cause not otherwise excluded

- (b) the accidental failure of Your supply of electricity, gas, water or telecommunications
  - (i) which does not involve a cessation of supply for at least twenty-four consecutive hours
  - (ii) caused by
    - (a) strikes of any labour or trade disputes
    - (b) drought.

## CONDITIONS APPLICABLE TO INSURING CLAUSE 7

### (1) AVERAGE

If at the commencement of Damage the Sum Insured is less than the Annual Income the amount payable by Us shall be proportionally reduced.

### (2) VALUE ADDED TAX CLAUSE

To the extent that You are accountable to the tax authorities for Value Added Tax all terms shall be exclusive of such tax.

### (3) CURRENT COST ACCOUNTING

Any adjustment implemented in current cost accounting shall be disregarded.

### (4) PROFESSIONAL ACCOUNTANTS

Any particulars or details contained in Your books of account or other Business books or documents which may be required by Us under the Conditions of this Policy for the purpose of investigating or verifying any claim may be produced by professional accountants, if at the time they are regularly acting as such for You, and their report shall be prima facie evidence of the particulars and details to which such report relates.

### (5) SAVINGS

If any of the charges or expenses of Your Business cease or reduce in consequence of Damage the amount of such savings during the Indemnity Period shall be deducted from the amount payable.

# INSURING CLAUSE 8 – MONEY AND PERSONAL ASSAULT

## (a) MONEY

We agree to indemnify You against loss of Money occurring during the Period of Insurance within the United Kingdom whilst the Money is

- (i) in transit
- (ii) in the custody of collectors for 24 hours from the time of receipt or until the next working day
- (iii) in the Premises
- (iv) in any Private Residence
- (v) on contract or exhibition sites whilst Employees are working thereat
- (vi) in the night safe at a bank.

## (b) PERSONAL ASSAULT

If the Insured Person suffers Injury, or loss of or damage to clothing and personal effects during the Period of Insurance as a direct result of robbery or attempted robbery in the course of Your Business We agree to pay You the appropriate benefit as set out in the Scale of Benefits.

## LIMIT AND EXCESS

Our total liability under Insuring Clause 8(a) (Money) in respect of any one loss shall not exceed:

- (a) £5,000 for loss of Negotiable Money, other than for loss
  - (i) from the custody or any one collector
  - (ii) from any Private Residence whilst not in a locked safe or strongroom
  - (iii) of any one package in transit by registered post when the total amount payable shall not exceed £500, or
  - (iv) a locked safe or strongroom at the Premises when the total amount payable shall not exceed £2,500
  - (v) from any Private Residence whilst in a locked safe or strongroom when the total amount payable shall not exceed £1,000.
- (b) (i) £1,000 per card in any one Period of Insurance for loss resulting from the fraudulent use of any company credit or debit card issued for use in connection with Your Business
- (ii) £250,000 in respect of all other Non-Negotiable Money.
- (c) The cost of repair or reinstatement of any safe, strongroom, cash register, cash carrying case, bag or security waistcoat or franking machine lost or damaged by theft or attempted theft of Money

Provided always that We shall only be liable for that part of each and every loss which exceeds the Excess.

## SCALE OF BENEFITS

The amount payable for each person under Insuring Clause 8(b) (Personal Assault) shall be

- (a) in respect of Death £10,000
- (b) in respect of Loss of Limbs £10,000
- (c) in respect of Loss of Sight or Speech or Hearing £10,000
- (d) in respect of Permanent Total Disablement £10,000
- (e) in respect of Temporary Total Disablement £ 100 for each week of disablement
- (f) in respect of loss of, or damage to, clothing and personal effects belonging to an Insured Person. The amount of the loss or damage up to a maximum of £500
- (g) Medical Expenses Incurred costs up to a maximum of £250 per Injury

Provided always that:

- (1) We shall pay benefit for only one of items (a) to (d) inclusive for any one Insured Person.
- (2) Permanent Total Disablement must commence within 104 weeks of suffering the Injury.
- (3) benefit (d) shall not be payable until 104 weeks after the date of suffering the Injury.
- (4) to qualify for benefit (e) the Insured Person must have received medical attention from and continued under the care of a qualified medical practitioner.
- (5) benefit (e) is payable for a maximum of 104 weeks from the date of suffering the Injury.
- (6) benefit (e) is no longer payable once benefit (a), (b) or (c) becomes claimable.

## ADDENDA APPLICABLE TO INSURING CLAUSE 8

### (1) Business Visits Abroad

The indemnity provided by Insuring Clause 8(a) (Money) extends to include loss of Money occurring outside of the United Kingdom and arising out of visits in connection with Your Business by You or any director or partner of Yours or any Employee.

Provided always that the total amount payable shall not exceed £500 in respect of any one loss.

## DEFINITIONS APPLICABLE TO INSURING CLAUSE 8

**"Insured/You/Your/Yours"** shall mean the person named as the Policyholder in the Schedule.

**"Insured Person"** shall mean any principal, partner, director, officer or Employee of Yours or any member of their family.

**"Death"** shall mean death resulting solely and directly from, and within 104 weeks of sustaining, the Injury.

**"Employee"** shall mean any person, other than a director of Yours, who was or is or may hereafter be

- (i) under a contract of service or apprenticeship with You, or
- (ii) under a work experience or similar scheme, or
- (iii) supplied to or hired in or borrowed by You, or
- (iv) self-employed persons

working for You under Your direct control in connection with Your Business and normally resident in the United Kingdom.

**"Excess"** shall mean £250.

**"Injury"** shall mean bodily injury caused solely and directly by violent, external and visible means.

**"Loss of Limbs"** shall mean total loss of use of one or more hands or feet resulting solely and directly from, and within 104 weeks of suffering, the Injury.

**"Loss of Sight or Speech or Hearing"** shall mean total and irrecoverable loss of

- (i) all sight in one or both eyes, or
- (ii) the power of speech, or
- (iii) the sense of hearing

resulting solely and directly from, and within 104 weeks of suffering, the Injury.

**"Medical Expenses"** shall mean reasonably incurred costs of surgical or other remedial attention, treatment or appliances given or prescribed by a qualified member of the medical profession together with hospital, nursing home and ambulance charges following Injury for which a benefit is payable under this Insuring Clause.

**"Money"** shall mean Negotiable Money and Non-Negotiable Money for which You are responsible and used for the purposes of Your Business.

**"Negotiable Money"** shall mean current coin, bank and currency notes, uncrossed cheques, uncrossed postal and money orders, unused postage stamps, unused National Insurance Stamps, National Savings Stamps and Certificates, unexpired units in franking machines, luncheon and customer redemption vouchers, trading stamps, holiday with pay stamps, telephone cards and travel tickets (solely for Your personal use, or use by any director or partner of Yours or any Employee).

**"Non-Negotiable Money"** shall mean crossed cheques (including crossed giro cheques and drafts but excluding pre-signed blank cheques), crossed bankers' drafts, crossed postal and money orders, crossed warrants, used National Insurance Stamps, VAT purchase invoices, company credit and/or debit cards, credit and debit card sales vouchers and Premium Bonds.

**"Period of Insurance"** shall mean the period stated in the Schedule.

**"Permanent Total Disablement"** shall mean permanent total disablement (other than Loss of Limb or Loss of Sight or Speech or Hearing) resulting solely and directly from Injury which necessarily and continuously prevents the Insured Person from attending to business or occupation of any description and, having lasted for 104 weeks from the date of suffering the Injury, is beyond hope of improvement.

**"Premises"** shall mean the premises stated in the Schedule.

**"Private Residence"** shall mean the private residence, away from the Premises, where You or any director or partner of Yours or any Employee or Your authorised representative (who is entrusted with money) permanently reside.

**"Temporary Total Disablement"** shall mean temporary total disablement resulting solely and directly from Injury which necessarily prevents the Insured Person from attending to his/her usual business or occupation or, if the Insured Person has no occupation, necessarily confines the person to a private dwelling or other location where he/she is under treatment.

**"Working Hours"** shall mean Your normal working hours including overtime, during which You or any Employees who are entrusted with money are

- (i) in that portion of the Premises used solely for the purpose of Your Business
- (ii) for contract or exhibition sites, on the contract or exhibition site.

## EXCLUSIONS APPLICABLE TO INSURING CLAUSE 8

We shall not be liable to pay or indemnify You

### (1) OTHER INSURANCE

for more than Our rateable proportion of any loss of Money, Injury, loss or damage where You are entitled to payment or indemnity under any other insurance for such loss of Money, Injury, loss or damage.

### (2) GAMING MACHINES

for loss of Money in gaming, amusement, change giving or vending machines.

### (3) FRAUD OR DISHONESTY

for loss due to fraud or dishonesty of Employees unless the loss is discovered within 30 days of it occurring.

### (4) SHORTAGES

for shortages due to mysterious disappearance, unexplained shortage or shortages, accounting or clerical error or omission.

### (5) UNATTENDED MOTOR VEHICLES

for loss of Money from unattended motor vehicles.

### (6) DEPRECIATION / COUNTERFEIT MONEY

for consequential loss of any kind or description or loss due to depreciation in value or to the use of counterfeit Money.

### (7) FALSIFICATION OF ACCOUNTS

for loss due to falsification of accounts.

### (8) FIDELITY GUARANTEE

for loss of Money where You are entitled to indemnity under a Fidelity Guarantee or similar insurance policy or certificate.

**(9) UNREGISTERED POST**

for loss of Money in transit sent in unregistered post.

**(10) CREDIT CARDS**

for loss due to the use of any company credit or debit card if the provisions, conditions and other terms under which such cards have been issued have not been fully complied with.

**(11) CHILDBIRTH AND AGE**

- (a) for Injury in so far as it is directly or indirectly due to, or prolonged by, pregnancy or childbirth.
- (b) to any Insured Person under the age of 16 years or over the age of 70 years.
- (c) in respect of property belonging to any Insured Person under the age of 16 years or over the age of 70 years.

**CONDITIONS APPLICABLE TO INSURING  
CLAUSE 8**

**(1) RECORD OF MONEY**

As a condition precedent to Your right to payment of indemnity under this Insuring Clause You shall ensure that a complete record is kept of

- (a) Money in transit
- (b) Money in any Premises at which Money is covered under this Insuring Clause

and that such record is deposited in some place other than in any safe or strongroom containing Money.

**(2) KEYS AND COMBINATION CODES**

As a condition precedent to Your right to payment or indemnity under this Insuring Clause You shall ensure that no keys or combination codes of any safe or strongroom containing Money are in the Premises out of Working Hours unless they or any director or partner of theirs or any Employee (who is entrusted with Money) permanently reside at the Premises, and/or no keys or combination codes of any safe or strongroom containing Money shall, out of Working Hours, be

- (a) in the Business portion of the Premises.
- (b) in or about that particular portion of the Premises in which such safe or strongroom is kept or situated.

**(3) ESCORTED MONEY**

As a condition precedent to Your right to payment or indemnity under this Insuring Clause You shall ensure that each single transit of Negotiable Money above £2,500 is escorted by at least 2 responsible able-bodied adults.

# GENERAL EXCLUSIONS

## (Applicable to the Policy as a whole)

We shall not be liable to pay or indemnify You or the Company

### (1) FINES AND PENALTIES

to the extent of any

- (a) fine or penalty
- (b) other than in respect of Insuring Clause 3 (Directors and Officers Liability) non-compensatory damages.

### (2) RADIOACTIVE CONTAMINATION AND SONIC BANGS ETC

against any Loss, Injury, expense, consequential loss, or any Damage to property directly or indirectly caused by or contributed to by or arising from

- (a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel
- (b) the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof
- (c) pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds and in Northern Ireland and the Republic of Ireland only
- (d) riot, civil commotion, strikers, labour or political disturbances, vandals or malicious persons.

### (3) WAR RISKS AND TERRORISM

against any Loss, Injury, expense, consequential loss, or any Damage to property based upon, arising out of or relating directly or indirectly from, in consequence of or in any way involving

- (a) War and/or Terrorism
- (b) any action taken in controlling, preventing or suppressing War and/or Terrorism
- (c) any unlawful, wanton or malicious act committed maliciously by a person or persons acting on behalf of or in connection with any Unlawful Association

regardless of any other cause or event contributing concurrently or in any other sequence to such Loss, expense, consequential loss, destruction or damage.

- (d) Contamination due to Terrorism

Provided always that

- (i) if We allege that by reason of this Exclusion, any Loss, Injury, expense, consequential loss or any Damage to property is not covered by this Policy the burden proving the contrary shall be upon You and/or the Company.
- (ii) in the event that any portion of this Exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

### (4) CONFISCATION ETC

other than under Insuring Clauses 1 (Professional Liability) and 3 (Directors and Officers Liability), against Loss, Damage, loss of Money, Injury or loss of Income and/or increase in cost of working that is directly caused

by, contributed to by or arising from confiscation, requisition, nationalisation, seizure, detention or destruction by any government, public, local or customs authority.

### (5) ELECTRONIC DATA

other than under Insuring Clauses 1 (Professional Liability) and 3 (Directors and Officers Liability) against loss, destruction, damage, distortion, erasure, corruption or alteration of Electronic Data from any cause whatsoever (including but not limited to Computer Virus) or loss of use, reduction in functionality, cost, expense of whatsoever nature resulting therefrom, regardless of any other cause or event contributing concurrently or in any other sequence to such loss, destruction, damage, distortion, erasure, corruption or alteration.

Provided always that, this Exclusion shall not exclude physical loss, destruction, damage, distortion, erasure, corruption or alteration directly caused by fire or explosion.

### (6) COMPUTER DATE RECOGNITION

(a) under Insuring Clauses 1 (Professional Liability), 2 (General Liability) and 3 (Directors and Officers Liability) against Loss brought about by or consequent upon any failure of any computer or other electronic data processing device, equipment or system, any hardware, software, programme, instruction, data or component utilised or intended to be utilised therein or thereby, or any actual or intended function of or process performed by any of the foregoing, (by whomsoever owned or operated), to recognise or respond to, correctly and effectively, any particular date or period of time (continuous or otherwise).

(b) under all other Insuring Clauses, against any Damage, loss of Money, Injury or loss of Income and/or increase in cost of working directly or indirectly caused by or consisting of or arising from the failure of any computer system, hardware, programme or software or any microchip, integrated circuit or similar device in computer or non-computer equipment, whether Your property or not, and whether occurring before, during or after the year 2000,

- (i) to correctly recognise any date as its true calendar date
- (ii) to capture, save or retain and/or correctly to manipulate, interpret or process any data or information or command or instruction as a result of treating any date otherwise than as its true calendar date
- (iii) to capture, save, retain or correctly to process any data as a result of the operation of any command which has been programmed into any computer software, being a command which causes the loss of data or the inability to capture, save, retain or correctly to process such data on or after any date

but this shall not exclude

(iv) any ensuing physical loss or damage to property insured resulting from a Defined Peril (other than subterranean fire) or theft not otherwise excluded

or

(v) any consequential loss which may arise from such ensuing physical loss or damage and which is otherwise covered under this insurance,

Provided always that nothing in this exclusion or any other provision, Addendum or extension of this insurance shall be construed to extend Our liability to cover any costs and expenses, whether preventative, remedial or otherwise arising out of or relating to change, alteration or modification of any computer system, hardware, programme or software or any microchip, integrated circuit or similar device in computer or non-computer equipment, whether Your property or not.

**(7) MOULD**

against any Loss, Damage, loss of Money, Injury or loss of Income and/or increase in cost of working directly or indirectly caused by or contributed to by or arising from Mould or a Mould Event.

**(8) SANCTIONS**

to the extent that the provision of such payment or indemnity would expose Us to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanction, laws or regulations of the European Union, United Kingdom or United States of America.



# CLAIMS CONDITIONS

## (Applicable to the Policy as a whole)

### (1) NOTIFICATION OF CLAIMS

You or the Company shall, as a condition precedent to Your right to payment or indemnity, give Us immediate notice in writing (or within 7 days for riot Damage) and, in respect of Insuring Clauses 1 (Professional Liability) and 3 (Directors and Officers Liability), within the Period of Insurance, of

- (i) any Claim made against You or the Company,
- (ii) the receipt of any notice of an intention to make a Claim against You or the Company,
- (iii) any circumstances of which You or the Company shall become aware which is likely to give rise to
  - (a) a Claim against You or the Company, or
  - (b) the instigation of Disqualification Proceedings, Investigation or Environmental Proceedings, or
  - (c) the seeking by You or the Company of any payment or indemnity under this Policy,

giving reasons for the anticipation of such Claim, Disqualification Proceedings, Investigation or Environmental Proceedings or request for payment or indemnity, together with full particulars as to dates and persons involved.

Such notice having been given as required by (ii) or (iii) above, any subsequent Claim made, or any Disqualification Proceedings, Investigation, Environmental Proceedings instigated, or request for payment or indemnity shall be deemed to have been made or instigated during the Period of Insurance.

### (2) GENERAL CLAIMS HANDLING

You or the Company shall, as a condition precedent to Your right to payment or indemnity under this Policy

- (i) give Us such information and co-operation as We may reasonably require
- (ii) take no action which might prejudice Us
- (iii) take all reasonable steps to prevent further Loss, Damage or interruption of or interference with Your Business
- (iv) neither admit liability for or settle any Claim or incur any Costs or Expenses in connection therewith or in connection with any Disqualification Proceedings, Investigation or Environmental Proceedings without Our written consent
- (v) tell the police as soon as reasonably possible of any Damage or Loss involving theft or any attempted theft, malicious damage or vandalism or any loss of Money.

### (3) DEFENCE OF CLAIMS

- (i) We shall be entitled to take over and conduct in Your name the defence or settlement of any Claim or Loss
- (ii) in respect of Insuring Clause 1 (Professional Liability) You shall not be required to contest any legal proceedings unless a mutually agreed counsel

shall advise that such proceedings should be contested.

- (iii) You shall be entitled at your own risk to contest any Claim or legal proceedings which in Our opinion should be compromised or settled provided that We shall not be liable for any Loss incurred directly or indirectly as a result of Your refusal to compromise or settle such Claim or legal proceedings.
- (iv) In respect of Insuring Clause 3 (Directors and Officers Liability):
  - (a) it is Your or the Company's duty to defend any Claim, Disqualification Proceedings, Investigation or Environmental Proceedings. We have the right, but not the obligation, to actively associate with You or the Company in the settlement or handling of any Claim, Disqualification Proceedings, Investigation or Environmental Proceedings.
  - (b) subject to Our written consent You have the right to appoint any appropriately qualified legal representative to deal with any Claim notified to Us in accordance with Claims Condition 1.

### (4) BUSINESS INTERRUPTION

As a condition precedent to Your right to payment or indemnity under Insuring Clause 7 (Business Interruption) of this Policy You shall

- (i) at Your expense within one month after the expiry of the Indemnity Period or within such further time as We may allow, deliver to Us in writing particulars of Your request for payment or indemnity.
- (ii) at Your expense deliver to Us such books of account and other Business books, vouchers, invoices, balance sheets and other documents, proofs, information, explanation and other evidence that We may reasonably ask for together with, (if We ask), a statutory declaration of the truth of the claim and of any matters connected with it.

### (5) SALVAGE

We may enter any Building in which Damage has occurred and deal with the salvage. However no property may be abandoned to Us.

### (6) PAYMENT OF INDEMNITY LIMIT

In respect of Insuring Clauses 1 (Professional Liability), 2 (General Liability), 3 (Directors and Officers Liability), and 4 (Employers Liability):

We shall be entitled at any time to pay to You or the Company the Limit of Indemnity (or as much of it as remains available), or any lesser sum for which any Loss can be settled, whereupon We shall be under no further liability to You or the Company in respect of such Loss.

### (7) ELECTRONIC DATA PROCESSING MEDIA VALUATION

Notwithstanding any provision relating to the basis of settlement of any request for payment or indemnity under this Policy, should electronic data processing media insured by this Policy suffer physical Damage

insured by this Policy then the basis of valuation shall be the cost of the blank media plus the cost of copying the Electronic Data from back-up or from originals of a previous generation.

If the media is not repaired, replaced or restored the basis of valuation shall be the cost of the blank media.

Such costs will not include

- (i) research and engineering nor any costs of recreating, gathering or assembling such Electronic Data.
- (ii) any amount pertaining to the value of such Electronic Data to You or any other party even if the Electronic Data cannot be recreated, gathered or assembled.

**(8) MEDICAL EXAMINATIONS**

As a condition precedent to Your right to payment under Insuring Clause 8(b) (Personal Assault) the Insured Person must agree to any medical examination which We may require at Our expense. In the event of Death We may arrange a post-mortem examination at Our expense.

**(9) LOSS OF DOCUMENTS**

Any payment or indemnity for expenditure under Addendum 1 (Loss of Documents) of Insuring Clause 1 (Professional Liability) or Addendum 5 (Loss of Documents) of Insuring Clause 5 (Property Damage) incurred by You in replacing or restoring Documents shall be supported by bills or accounts which shall be subject to Our approval.

# GENERAL CONDITIONS

## (Applicable to the Policy as a whole)

### (1) CANCELLATION

Other than in respect of Insuring Clause 3 (Directors and Officers Liability)

- (a) this Policy may be cancelled by Us or on Our behalf by giving You 30 days' written notice.
- (b) this Policy may be cancelled by You by giving Us 30 days' written notice, provided always that We have not, within the Period of Insurance, been notified by You of
  - (i) any Claim made against You or the Company,
  - (ii) any notice of an intention to make a Claim against You or the Company,
  - (iii) any circumstances of which You or the Company are aware which is likely to give rise to
    - (a) a Claim against You or the Company, or
    - (b) the instigation of Disqualification Proceedings, Investigation, or Environmental Proceedings, or
    - (c) You or the Company seeking payment or indemnity under this Policy

whereupon the Premium hereon shall be adjusted on the basis that We receive or retain pro rata premium.

(If the Premium for the Policy is paid by instalments, please read carefully General Condition (3) (Premium Payment)).

### (2) SUBROGATION

We shall be subrogated to all Your or the Company's rights of recovery against any person before or after any payment or indemnity under this Policy.

You or the Company shall give all such assistance in the exercise of rights of recovery as We may reasonably require, and

- (a) Under Insuring Clause 1 (Professional Liability):

We agree not to exercise any such rights against any director or member of Yours or any Employee unless the Claim is brought about or contributed to by the dishonest, fraudulent, criminal or malicious act or omission of the director, member or Employee.

- (b) Other than in respect of Insuring Clauses 1 (Professional Liability), 2 (General Liability), 3 (Directors and Officers Liability), and 4 (Employers Liability):

We agree not to exercise any such rights against any company standing in relation of subsidiary to parent or parent to subsidiary to You in each case as defined by current legislation.

### (3) PREMIUM PAYMENT

When premium payment has been arranged on a deferred basis with a premium finance company which has entered into a contractual agreement with Markel (UK) Limited to provide premium credit facilities and

notwithstanding any other conditions in relation to cancellation it is hereby understood and agreed that

- (i) in the event of payment of any instalment to such premium finance company being overdue, Markel (UK) Limited may, in accordance with the authority granted to the premium finance company by You under the terms of the signed and dated Credit Agreement, accept cancellation instructions from the premium finance company and will allow a return pro-rata premium to the premium finance company provided there have been no claims or circumstances known or reported to Us during the Period of Insurance
- (ii) all premiums due or returned shall be processed by the premium finance company in accordance with the signed and dated Credit Agreement.

### (4) FRAUDULENT CLAIMS

If You or the Company makes any request for payment or indemnity under this Policy knowing it to be fraudulent in any respect, then We:

- (a) are not liable to pay or indemnify You or the Company in respect of the fraudulent request, and
- (b) may recover from You or the Company any sums paid to You or the Company in respect of the fraudulent request, and
- (c) may by notice to You or the Company treat this Policy as having been terminated with effect from the time of the fraudulent act.

Furthermore

- (d) if we exercise Our right under (c) above:
  - (i) We shall not be liable to You or the Company in respect of any relevant event occurring after the time of the fraudulent act. A relevant event is whatever gives rise to Our liability under the Policy (such as Loss, Claim, an occurrence of Damage, request for payment or indemnity or the notification of any Claim or circumstance), and
  - (ii) We need not return any of the Premium paid.
- (e) where this Policy provides cover for any person who is not a party to this contract of insurance (a 'Covered Person'), and a fraudulent request for payment or indemnity is made under the Policy by or on behalf of the Covered Person, We may exercise Our rights set out in (a), (b) and (c) above as if there were an individual contract of insurance between us and the Covered Person. However, the exercise of any of those rights shall not affect the cover provided under this Policy for any other person.

Provided always that

- (f) in respect of Insuring Clause (3) (Directors and Officers Liability)
  - (i) We shall only exercise Our rights as set

out in (a) and (b) above against the Director or Officer or Company making the fraudulent request for payment or indemnity

(ii) We shall not exercise Our rights as set out in (c) above

(g) Nothing in this General Condition (4) is intended to vary the position under the Insurance Act 2015.

#### (5) LAW OF CONTRACT

The contract of insurance evidenced by this Policy shall be governed by the law of England and Wales or the law of Scotland and subject to the exclusive jurisdiction of such English and Welsh or Scottish courts.

#### (6) NOTICE

Notice under this Policy shall be deemed duly given

(a) by any person to Us if sent by first class prepaid post to Markel (UK) Limited, at the address specified in the NOTICE of this Policy, or such other address as has been notified to that person for the purpose from time to time,

(b) to You or the Company if sent by post to the last known address thereof.

#### (7) CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

A person who is not a party to this contract has no right under the Contracts (Rights of Third Parties) Act 1999 or any amendment or re-enactment thereof to enforce any term of this contract but this does not affect any right or remedy of a third party which exists or is available other than by virtue of this Act.

#### (8) ALTERATION

No payment or indemnity will be provided under this Policy if, after the commencement of this insurance, there is any alteration which results in

(a) the risk of Loss, Damage, loss of Money or Injury being increased

(b) Your interest ceasing other than by a will or the operation of the law

(c) Your Business being wound up, carried on by a liquidator or receiver or permanently discontinued unless We are notified and agree to such alteration.

#### (9) MULTIPLE INSUREDS

Our liability under each Insuring Clause shall be the liability specified therein which shall not be varied or deemed varied by virtue of the number or type of Insureds or claims thereunder.

#### (10) CALIBRATION PROCEDURES & MAINTENANCE

Other than in respect of Insuring Clause 4 (Employers Liability) You shall, as a condition precedent to Your right to payment or indemnity, ensure that all equipment utilised for the purpose of Your Business and/or Professional Services is calibrated and/or maintained in accordance with the manufacturer's recommendations.

#### (11) MAINTENANCE OF RIGHTS AND REMEDIES

As a condition precedent to Your right to payment or indemnity under this Policy You shall ensure that You

maintain all Your rights and remedies against all designers, consultants or contractors engaged by You.

#### (12) NON-AGGREGATION

If payment or indemnity is available under more than one Insuring Clause the total amount payable under any one Insuring Clause shall be reduced by any amount payable under any other Insuring Clause.

#### (13) SECURITY PROTECTIONS

As a condition precedent to Your right to payment or indemnity under

(a) Insuring Clause 5 (Property Damage) and/or

(b) Insuring Clause 6 (Business Equipment) in respect of Damage to Property at the Premises (as defined under Insuring Clause 5)

You shall ensure that the following security protections (and/or any subsequently installed or fitted at Our request) shall be in full and proper use at all times when the Premises are closed for business or left unattended and shall be maintained in proper working order throughout the currency of this insurance

(a) all external doors (and any internal doors leading to any part of the Buildings not in Your sole occupation) to be secured with either

(i) if an aluminium door: a cylinder mortice deadlock, or

(ii) if an armoured plate door: the door manufacturer's locks as supplied, or

(iii) if a UPVC door: a multi-point locking system incorporating a minimum of 3 deadbolts

(iv) if any other type of single leaf door

(1) where the door thickness is at least 4.5 cm: a five lever mortice deadlock to at least British Standard 3621 together with a 17.5 cm boxed steel striking plate

(2) where the door is less than 4.5 cm thick: a deadlocking rim latch keyed into the deadlock position or a mortice deadlock and two key operated security bolts engaging with the door frame and with internal operation only

(v) if double leaf doors:

(1) the standing leaf secured with internal surface mounted key operated security bolts or concealed flush bolts sited top and bottom engaging with the door frame and the floor, and

(2) the final closing leaf secured with either a lock fitted as above dependent on door type or both leaves fitted with a coach-bolted locking bar secured with a close shackle padlock (or, if the locking bar is sited internally, either a close or open shackle padlock) having at least five levers

(vi) if a designated fire door: either

- (1) a panic bar locking system incorporating bolts which engage both the head and sill of the door frame, or
  - (2) a mortice lock having specific application for emergency exit doors and which is operated from the inside by means of a conventional handle and/or thumb turn mechanism.
- (b) all external ground floor windows accessible windows and/or skylights, originally designed to open to be secured with either
- (i) key operated window locks, or
  - (ii) adequately secured metal bars or grills, external or internal metal shutters or internal collapsible metal security grills, or
  - (iii) screwed shut

**(14) BREACH OF TERMS NOT RELEVANT TO THE ACTUAL LOSS**

Where

- (a) there has been a failure to comply with a term (expressed or implied) of this Policy, other than a term that defined the risk as a whole, and
- (b) compliance with such terms would tend to reduce the risk of loss
  - (i) of a particular kind, and/or
  - (ii) at a particular location, and/or
  - (iii) at a particular time

We cannot rely on the breach of such term to exclude, limit or discharge Our liability under this Policy if You or the Company show that the failure to comply with such term could not have increased the risk of loss which actually occurred in the circumstances in which it occurred.

**(15) INFORMATION PROVIDED TO US**

- (a) if, prior to entering into this insurance contract, You or the Company shall
  - (i) deliberately or recklessly provide Us with false or misleading information
    - (1) We may avoid the Policy and refuse all request for payment or indemnity, and
    - (2) We need not return the Premium paid
  - (ii) carelessly provide Us with false or misleading information, our remedy shall depend upon what We would have done if You or the Company had not provided such false or misleading information
    - (1) if We would not have entered into the contract of insurance at all We may avoid the Policy and refuse all requests for payment or indemnity and will return the Premium paid
    - (2) If we would have entered into the contract of insurance but on different

terms (other than terms relating to the Premium), the contract will be treated as if it had been entered into on those different terms from the outset

- (3) In addition, if We would have entered into the contract but would have charged a higher premium, We may proportionately reduce the amount to be paid under this Policy and, if applicable, any amount already paid in the same proportion as the premium We would have charged bears to the premium actually charged

- (b) if, prior to entering into a variation of this contract of insurance, You or the Company shall
  - (i) deliberately or recklessly provide Us with false or misleading information
    - (1) We may by notice to You or the Company treat this Policy as having been terminated from the time the variation was concluded, and
    - (2) We need not return the Premium paid
  - (iii) carelessly provide Us with false or misleading information, our remedy shall depend upon what We would have done if You or the Company had not provided such false or misleading information
    - (1) if We would not have agreed to the variation at all We may treat the contract as if the variation was never made and will return the extra premium paid
    - (2) If we would have agreed to the variation but on different terms (other than terms relating to the Premium), the variation will be treated as if it had been entered into on those different terms from the outset

In addition

- (3) if either
  - (i) We would have increased the premium by more than We did or at all, or
  - (ii) We would not have reduced the premium as much as We did or at all, then

We may proportionally reduce the amount to be paid under this Policy arising out of events after the variation

Provided always that nothing in this General Condition (15) is intended to vary the position under the Insurance Act 2015.

# NOTICE

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## COMPLAINTS

If at any time You have any query or complaint regarding Your contract of insurance You should in the first instance contact Us either

- by email at [customerservice@markeldirect.co.uk](mailto:customerservice@markeldirect.co.uk), or
- write to Us at Customer Services, Markel (UK) Limited, 2<sup>nd</sup> Floor, Verity House, 6 Canal Wharf, Leeds, LS11 5AS

quoting Your Policy Number.

We will

- acknowledge your complaint in writing, within 5 working days of receipt of Your complaint
- send You a copy of Our complaints procedure
- advise You who is dealing with Your complaint.

If we cannot resolve matters to Your satisfaction you can refer Your complaint to the Financial Ombudsman Service within 6 months of receiving our final response:

The Financial Ombudsman Service  
Exchange Tower  
London  
E14 9GE

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

Telephone: 0800 0234 567 or 0300 123 9 123

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