

# Commercial Combined Insurance Policy - Ireland



**QBE**

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# 1 Our agreement in general

## 1.1 Parties to this agreement

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

## 1.2 Words in bold

Words in bold typeface used in this **policy** document, other than in the headings, have specific meanings attached to them as set out in the General definitions and interpretation.

## 1.3 Primary purpose of the policy

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

- 1.3.1 indemnify the **insured** up to the **limit of liability** or **sum insured**, as appropriate and/or indemnify the **insured** up to the **limit of indemnity** for all sums that the **insured** becomes legally liable to pay as damages, including claimant costs recoverable from the **insured**;
- 1.3.2 pay **costs and expenses**, some of which **costs and expenses** are expressly stated to be in addition to the **limit of indemnity**;
- 1.3.3 to the extent more fully described in each **insured section** set out in clauses 2 - 3 and 5 - 10 below and stated as insured in the **schedule**.

## 1.4 Policy structure

- 1.4.1 Each **insured section** sets out the scope of the main coverage and the circumstances in which the **insurer's** liability to the **insured** is limited or may be excluded. Further, each **insured section** sets out other terms and conditions relevant to that **insured section**. The cover provided by each **insured section** is only operative if stated as 'insured' in the **schedule**. Where any **schedule** heading or sub-heading states 'n/a', 'not applicable' or 'not insured' then no cover applies for that item.
- 1.4.2 Additional clauses set out terms, exclusions or limitations that may apply to more than one **insured section**.
- 1.4.3 The following general terms apply to all **insured sections**, clauses and endorsements:
  - a) Duties in event of a claim or potential claim;
  - b) General terms and conditions;
  - c) General definitions and interpretation; and
  - d) Complaints.

## 1.5 Policy period and premium

- 1.5.1 The **policy** will provide insurance as described herein for the **period of insurance** provided the premium(s) and other charges are paid to and accepted by the **insurer** on or before the payment date shown in the **schedule**. Taxes, levies and other relevant fiscal charges are payable in addition to the premium.
- 1.5.2 The premium is deemed paid and accepted on receipt by the **insurer** or the broker appointed to place this insurance with the **insurer**.
- 1.5.3 If any premium (including a premium instalment) is not paid and accepted by the **insurer** on or before its payment date shown in the **schedule** the **insurer** may give written notice to cancel the **policy** ten (10) days after the notice is posted to the **insured's** address shown on the **schedule**. This will have the effect of cancelling all cover from the inception of the policy. However if the **insurer** or broker receives the full payment due before the ten (10) days have elapsed, the **policy** will continue in force.

## 1.6 Cooling off period

- 1.6.1 Where the **insured** is a private individual or sole trader, including a partnership, then the **insured** has a right to cancel **insured section C** during a period of fourteen (14) days either from the day of purchase of the insurance, or the day on which policy documentation was received, whichever is the later. This right will be deemed to be irrevocably waived by the **insured** in the event that the **insured** makes or notifies the **insurer** of a claim or potential claim under this insurance within the applicable fourteen (14) day period.
- 1.6.2 The **insured** must give notice of cancellation under clause 1.7.1 by writing to the **insurer's** address or telephoning the number shown on the schedule under the Claim Notification. On receipt of the notice of cancellation, the **insurer** will refund any premiums paid for **insured section D** less a charge of EUR60. If this right is not exercised the insurance will continue for the full term but the **insurer** may cancel this insurance in accordance with the cancellation provisions above and at clause 15.4.
- 1.6.3 Alternatively, and where the **insured** is not an individual or sole trader then this **policy** may be cancelled only in accordance with the cancellation provisions above and at clauses 2.6.16 (Conditions precedent for property: Reasonable precautions), 5.5.1 (Other personal accident terms and conditions: Change in circumstances) and 14.4 (General terms and conditions: Cancellation).

## 1.7 Signature

In evidence of the **insurer's** intention to be bound by this insurance, it prints the signature of its Chief Executive Officer.

A handwritten signature in black ink, appearing to read 'R. W. O' followed by a stylized flourish.

## 2 Insured section A - Property

### 2.1 Property insurance

#### 2.1.1 Accidental damage

If there is accidental **damage** to the **property insured**, the **insurer** will at its option indemnify the **insured**, reinstate or replace the **property insured** or any part thereof provided that:

- a) **damage** occurs during the **period of insurance** and arises from an **insured peril** that is not otherwise subject to an exclusion; and
- b) the **property insured** is located at an **insured's premises** within the **territorial limits**; and
- c) the liability of the **insurer** under this **Insured section A** will not exceed the **sum insured** or the **limit of liability** as applicable and stated in the **schedule**; and
- d) unless expressly stated to the contrary cover granted by clauses 2.1 to 2.3 to this **insured section A** do not increase the **sums insured** or the **limit of liability**. Any sub-limits stated form part of and are not additional to the **sums insured** or the **limit of liability**.

#### 2.1.2 Capital additions

Except for **stock and materials in trade** and provided that the **insured** pays an appropriate additional premium on demand from the **insurer**, **property insured** includes:

- a) any **buildings** and other **property insured** acquired or erected after inception of this **policy** anywhere within the **territorial limits**; and
- b) alterations, additions and improvements to **buildings** and **property insured** but excluding appreciation in value.

Where 'reinstatement day 1 basis' is not applicable the **insured** must advise the **insurer**:

- i) as soon as practicable of any such **property insured** or **buildings** acquired and/or erected after inception of this **policy**; and in addition
- ii) annually prior to each renewal of this **policy** of any alterations, additions and improvements at each **premises** that increase the value insured.

The **insurer's** liability under this Capital additions clause will be in addition to the **sum insured** or **limit of liability**, but the **insurer's** total liability for such amount payable under this Capital additions clause will not exceed EUR725,000 in the aggregate during the **period of insurance** or as shown on the **schedule**.

#### 2.1.3 Glass, glass surrounds and washroom facilities

To the extent that they are present at the **premises**, and for the purposes of clause 2.1.3 (a) - (d) excluding stock in trade, **property insured** includes:

- a) fixed glass, including polycarbonate and other synthetic substitutes, and fixed glass in showcases, shelves, counters and display cabinets;
- b) window and door frames;
- c) fixed wash basins, lavatory bowls, cisterns, baths, shower trays and shower screens or cabinets;
- d) neon, plastic or decorative signs;

- e) goods incidental to the **business** damaged by breakage of glass if not insured elsewhere in this section,  
owned by the **insured** or for which the **insured** is responsible.

#### 2.1.4 **Metered water**

The **insurer** will pay to the **insured** any charges that the **insured** is responsible for and unable to recover from any other party, in respect of loss of metered water or gas, provided that:

- a) loss of water or gas is due to **damage** at the **premises** which is covered as accidental **damage** under clause 2.1.1.
- b) the lost water or gas is measured by the utility meter; and
- c) the **insured** maintains a record of readings from the utility meter at intervals of not more than ninety (90) days; and
- d) the **insurer's** liability in respect of any one insured **premises** is limited to such excess water or gas charges demanded by the utility undertaking in consequence of **damage** and will not exceed EUR2,500 in all.

#### 2.1.5 **Rent**

The **insurer** will pay to the **insured** an amount for **rent** if it is specified in the **schedule** as being payable in respect of any **building** covered by this **insured section A**, but only if the **buildings** are, or any part thereof is, unfit for **occupation** in consequence of accidental **damage** which is covered under clause 2.1.1 provided that the liability of the **insurer** will not exceed such proportion of the **sum insured on rent** as the period necessary for reinstatement bears to the term of **rent** stated in the **schedule**.

#### 2.1.6 **Theft damage to buildings**

If the **insured** is responsible for the cost of **damage** to buildings that are not insured by the **policy**, the **insurer** will pay to the **insured** an amount in respect of **damage**, arising from theft or any attempted theft, to:

- a) Buildings;
- b) security lighting, security cameras and other security or fire protection devices, affixed signs, television, radio, satellite receiving aerials, communication aerials, their fittings and masts affixed to the buildings' walls gates fences fixed poles or fixed pylons at the premises;

except that the **insurer** will not be liable for any amount in excess of EUR10,000 during any one **period of insurance**.

#### 2.1.7 **Valuables**

The **property insured** under the heading of **machinery, plant and all other contents** includes:

- a) gold, silver, jewellery, precious stones, works of art, rare books, sculptures, curios and collections for an amount not exceeding EUR5,000 in the aggregate; and
- b) **tobacco, cigars, cigarettes** and **wines and spirits**; but for an amount not exceeding EUR1,000 in the aggregate;

or such larger amount as is specified in the **schedule**.

#### 2.1.8 **Deterioration of stock covered**

In event of food while contained within refrigerating units suffering deterioration or putrefaction due to or arising from **change of temperature** or contamination caused by accidental leakage of refrigerant or refrigerant fumes from the unit then the **insurer** will pay the **insured** the value of food at the time of its deterioration, putrefaction or contamination providing that:

- a) the food is the property of the **insured** or held in trust for which they are responsible;
- b) the deterioration, putrefaction or contamination occurs during the **period of insurance**.

In respect of each occurrence of deterioration, putrefaction or contamination the liability of the **insurer** under this **insured section** will not exceed EUR3,500 or such increased **limit of liability** as may be stated in the **schedule**.

## 2.2 Additional Property Costs and Expenses

In respect of any accidental **damage** which is covered by clause 2.1.1 the **insurer** will also pay to the **insured** the following additional **costs and expenses**:

### 2.2.1 Architects', surveyors', consulting engineers' and other fees

An amount for legal and other fees of architects, surveyors and consulting engineers, for estimates, plans, specifications, quantities, tenders and supervision necessarily incurred in the reinstatement of loss in the event of **damage** by any **insured peril** except that the **insurer** will not be liable for such fees incurred in preparing any claim made under this **policy**.

### 2.2.2 Debris removal

**Costs and expenses** necessarily incurred by the **insured** with the consent of the **insurer** in removing from the **damaged** property site and area within two hundred and fifty (250) metres of the perimeter of the **damaged** property site:

- a) debris from or cleaning or clearing drains, sewers and/or gutter of, or dismantling and/or demolishing of, or shoring up, propping and/or fencing the portion or portions of the **property insured** that has been **damaged** by an **insured peril**;
- b) extraneous materials from machinery, plant and or equipment whether or not such machinery, plant and / or equipment has been **damaged**;
- c) except that the **insurer** will not be liable for any **cost and expenses**:
  - i) relating to debris not attributable to **damage to property insured**;
  - ii) arising from pollution or contamination of property not insured by this policy;
  - iii) of temporary boarding up of windows as part of a claim for breakage of glass.

### 2.2.3 Public authorities' clause

In respect of **buildings, machinery, plant and all other contents** and **office contents**, the additional cost of reinstatement of the **damaged property insured** as may be incurred solely by reason of the necessity to comply with building or other regulations under or framed in pursuance of any Act of the Oireachtas or with bye-laws of any public authority except that the amount recoverable under this clause will not include:

- a) the cost incurred in complying with any such regulations, bye-laws or directive:
  - i) in respect of **damage** occurring prior to inception;
  - ii) in respect of **damage** not insured by this **insured section A**;
  - iii) under which notice has been served upon the **insured** prior to the happening of the **damage**;
  - iv) in respect of undamaged **property insured** or undamaged portions of **property insured** other than foundations (unless foundations are specifically excluded from the insurance by this **insured section**) of that portion of the property **damaged**;

- b) the additional cost that would have been required to make good the property **damaged** to a condition equal to its condition when new had the necessity to comply with any of the aforesaid regulations;
- c) the amount of any rate, tax, duty, development or other charge or assessment arising out of capital appreciation which may be payable in respect of the property or by the owner thereof by reason of compliance with any of the aforesaid regulations, bye-laws or directives;
- d) if the liability of the **insurer** in respect of any item of **property insured** apart from this clause is reduced by the application of any of the terms and conditions of this insurance or this clause then the liability of the **insurer** under this clause in respect of any such **property insured** will be reduced in like proportion;
- e) the **insurer** will have no liability under this clause unless the work of reinstatement is commenced and carried out with reasonable despatch (which may be carried out upon another site and in any manner suitable to the requirements of the **insured** subject to the liability of the **insurer** not being thereby increased);
- f) the total amount recoverable under this clause in respect of any item of **property insured** will not exceed:
  - i) in respect of undamaged portions of **property insured** other than foundations, fifteen per cent (15%) of the total amount which the insurer would have been liable had the **building**, items or contents been totally destroyed; and
  - ii) in respect of damaged portions of **property insured**, the applicable **sum insured** or **limit of liability**.

#### 2.2.4 **Fire extinguishment expenses and emergency services damage**

An amount for:

- a) extinguishment expenses reasonably incurred by the **insured** in order to minimise **damage**;
- b) expenses incurred in recharging or repairing **damage** to any gas or sprinkler fire extinguishment system;
- c) damage to lawns gardens playing surfaces and landscaped areas car parks private roads and pathways at the **premises** caused by emergency service vehicles while attending an incident involving **damage** for which the **insurer** has accepted a claim under this **insured section A**;
- d) Fire Brigade attendance charges as may be levied by any Local Authority in dealing with any fire which results in a claim under this **insured section A**;
- e) costs and expenses reasonably incurred by the **insured** to upgrade or improve any gas or sprinkler fire extinguishment rendered necessary to comply with regulation introduced after the installation of the original system following an incident involving **damage** for which the **insurer** has accepted a claim under this **insured section A**;

except that the **insurer's** liability for costs and expenses relating to:

- i) a), b),c) or d) above and **damage** will not exceed EUR50,000; or
- ii) e) above will not exceed EUR100,000,

during any one **period of insurance**.



2.2.5 **Glass, glass surrounds and washroom facilities**

Reasonable expenses the **insured** incurs with the **insurer's** consent for the cost of boarding up necessary before the replacement of damaged glass; the replacement or reinstatement of frames or glass supports arising from the loss, destruction or damage; the reinstatement of intruder alarm protection equipment if the damage includes breakage of the glass to which it is fixed; the contents of display windows and cabinets if the damage includes breakage of such display windows and cabinets; and if not insured elsewhere in this **insured section A**, damage to lettering or other ornamental work, and the removal or replacement of fixtures and fittings in order to replace the glass as a result of the breakage.

2.2.6 **Lock replacement**

The reasonable cost of replacing external locks, safe or strong room locks at the **premises** following theft of keys from the **premises**, the **insured's** home or the home of any authorised **employee**, or, following a hold-up while the keys are in the **insured's** personal custody or that of any authorised **employee**:

except that the **insurer** will not be liable for any amount in excess of EUR3,500 for any one claim.

2.2.7 **Machinery re-erection**

To the extent that the **property insured** includes machinery, the cost of re-erection and re-setting of the machinery as a direct result of **damage** insured by this **insured section**.

2.2.8 **Temporary repairs following damage**

Following **damage** at the **premises**, the reasonable cost of boarding-up of fixed glass in windows, doors, fan lights and skylights that is necessary to make the building secure; the installation of temporary doors made necessary for weather-proofing or securing the building; weather-proofing buildings and securing the site.

2.2.9 **Trace and access**

Costs necessarily and reasonably incurred with the consent of the **insurer** in locating the source of any escape of water from any fixed water services, heating installation or fuel oil used for domestic purpose only including the repair to walls, floors or ceilings necessary as a direct result of the location work except that the **insurer** will not be liable:

- a) under clauses 2.2.1 or 2.2.9 for the cost of repairs to any fixed domestic water services or heating installation; or
- b) for any amount in excess of EUR10,000 during any one **period of insurance**.

2.2.10 **Transfer expenses – goods in transit**

The insurance provided by this **insured section A** will include additional **costs and expenses** reasonably and necessarily incurred by the **insured** in transferring the **goods in transit** to another vehicle, or reloading on the original vehicle for onward delivery or return to the point of origin and removal of debris due to fire, explosion, collision or overturning of the carrying vehicle, subject to a limit of EUR2,000 any one event.

## 2.3 Property cover away from premises

The **insurer** will pay to the **insured**:

### 2.3.1 Documents removal

If the **schedule** states that **machinery plant and all other contents** are insured by this **insured section A** the reasonable **costs and expenses** of reinstating **documents** where reasonably possible, in the event that **documents** are **damaged** while temporarily removed to any **premises**, not in the **insured's** occupation, or in **transit** by road, rail or inland waterway except that the **insurer** will not be liable for:

- a) **damage** that occurs during temporary removal or transit outside the Republic of Ireland and United Kingdom;
- b) **damage** that is recoverable under any other insurance or in any other way;
- c) **damage** caused by theft or attempted theft but this exclusion will not apply where the theft or attempted theft takes place from a building or a hard covered motor vehicle and the theft or attempt theft meets the following conditions:
  - i) if the theft or attempted theft takes place from a building the theft or attempted theft must involve entry to or exit from the building by violent and forcible means or must arise from robbery or attempted robbery; or
  - ii) if the theft or attempted theft takes place from a hard covered motor vehicle (not being any soft-top or open-top motor vehicle) belonging to or under the control of the **insured** the vehicle must be:
    - I. occupied by the **insured** or employee of the **insured**; or
    - II. if unattended all doors windows and other means of entry must be closed and locked and all keys must be removed to a place of safety; and
    - III. when the vehicle is left unattended between the hours of 9pm and 6am the vehicle must be parked in a securely locked building or garage or in a security compound that is permanently manned and protected by a controlled security barrier or the vehicle is fitted with an immobiliser approved by the insurer and brought into operation;
- d) any amount in excess of EUR250,000, any one claim.

### 2.3.2 Exhibition and Trade Fairs

For **damage to property insured** while at exhibitions and trade fairs including **transit** anywhere in the European Union (including air and sea **transit** within the European Union territories on recognised passenger and freight carriage routes unless more specifically insured) except that the **insurer** will not be liable for:

- a) **damage** to watches, **tobacco, cigars, cigarettes, wines and spirits, documents, audio equipment, radios, televisions, video equipment and pictures**;
- b) **damage** caused by theft or pilferage by an **employee** either as a principal or accessory;
- c) **damage** resulting directly from defective packing, faulty assembly or dismantling;
- d) **damage** recoverable under any other insurance or in any other way;
- e) **damage** caused by theft or attempted theft but this exclusion will not apply where the theft or attempted theft takes place from a building or a hard covered motor vehicle and the theft or attempt theft meets the following conditions:

- i) if the theft or attempted theft takes place from a building the theft or attempted theft must involve entry to or exit from the building by violent and forcible means or must arise from robbery or attempted robbery; or
- ii) if the theft or attempted theft takes place from a hard covered motor vehicle (not being any soft-top or open-top motor vehicle) belonging to or under the control of the **insured** the vehicle must be:
  - I. occupied by the **insured** or employee of the **insured**; or
  - II. if unattended all doors windows and other means of entry must be closed and locked and all keys must be removed to a place of safety; and
  - III. when the vehicle is left unattended between the hours of 9pm and 6am the vehicle must be parked in a securely locked building or garage or in a security compound that is permanently manned and protected by a controlled security barrier or the vehicle is fitted with an immobiliser approved by the insurer and brought into operation;
- f) any amount in excess of EUR10,000 any one claim.

### 2.3.3 Temporary removal

For **damage** which would otherwise have been covered under clause 2.2.1 to **property insured** while temporarily removed from the **insured's premises** for cleaning, renovation, repair or similar purpose, elsewhere on the same or to any other **premises** except that the **insurer** will not be liable for:

- a) temporary removal outside the **territorial limits**;
- b) motor vehicles and motor chassis licensed for normal road use;
- c) transit of the **property insured**;
- d) **damage** by theft or attempted theft of the property insured unless involving entry to or exit from a building by violent and forcible means or by robbery or attempted robbery;
- e) **damage** recoverable under any other insurance or in any other way;
- f) any amount in excess of:
  - i) 10% (ten per cent) of the **sum insured** or **limit of liability** applicable to each item of property insured or EUR250,000 which ever is the lesser;
  - ii) EUR500,000 in the aggregate in respect of any one event.

### 2.3.4 Goods in transit

In event of **goods in transit** being accidentally **damaged** the **insurer** will pay to the **insured** the value of the **goods in transit** at the time of its **damage** provided that:

- a) **damage** occurs in **transit**; and
- b) during the **period of insurance**; and
- c) within the **territorial limits**; and

the **insurer** may at its option indemnify, reinstate or replace the **goods in transit** or any part thereof, and the liability of the **insurer** under this clause will not exceed the **sum insured** or the **limit of liability** stated in the **schedule**.

### 2.3.5 Ropes/Sheets

**Goods** is extended to include ropes, sheets, tarpaulins, trolleys and the like while in **transit** subject to a limit of EUR1,500 any one event.

### 2.3.6 Clothing or personal effects

In event of **damage** to clothing or personal effects of an **insured person** directly due to any such theft or attempted theft, the **insurer** will indemnify the **insured person** in respect of such **damage** up to a maximum amount of EUR1,000.

### 2.3.7 Money

In the event of **money** belonging to the **insured** or for which the **insured** is responsible being accidentally **damaged**, or an **insured person** being **assaulted**, the **insurer** will pay to the **insured** the value of **money damaged** or compensation for **assault** in accordance with the following table of benefits, provided that:

- a) **damage** or **assault** occurs within the **territorial limits**;
- b) **damage** or **assault** occurs during the **period of insurance**;
- c) for each category of **damage** the liability of the **insurer** will not exceed the **limit of liability** stated in the **schedule**.

**Table of Benefits**

<b>Item</b>	<b>Injury</b>	<b>Compensation Payable EUR per insured person</b>
A.	Death	15,000
B.	Loss of eye or irrecoverable loss of use of one or both eyes	15,000
C.	Loss of limb or irrecoverable loss of use of one or more limbs	15,000
D.	<b>Permanent total disablement</b>	15,000
E.	<b>Temporary total disablement</b> for each week of its continuance not exceeding a <b>benefit period</b> of 104 weeks	150

Death, loss of limb, loss of eye, **permanent total disablement** or **temporary total disablement** must follow within twenty (24) months from the date of the **accident**. The amount of compensation payable in respect of item E will not exceed eighty per cent (80%) of the **insured person's** normal gross weekly remuneration.

### 2.3.8 Employees' Effects

In so far as the same are not otherwise insured the **insurer** will pay to the **insured** the value of **damage** to **employees'** personal property arising from **goods in transit** or the carrying of **money** and due to fire, explosion, theft, collision or overturning of the carrying vehicle subject to a limit of EUR1,000 any one **employee** any one event.

## 2.4 Property Limitations and Exclusions

In addition to the limitations and exclusions applicable to this **insured section** in clause 4, the following are excluded from and not covered by the insurance under **insured section A**:

- 2.4.1 **Consequential loss**  
consequential loss of any kind or description except **rent** if insured hereby;
- 2.4.2 **Dishonesty damage** which is in any way caused or facilitated by the dishonesty of any director or partner of the **insured** or any person in the service of or employed by the **insured**;
- 2.4.3 **Fidelity guarantee insurance damage** otherwise covered by an in force fidelity guarantee insurance;
- 2.4.4 **Glass, glass surrounds and washroom facilities**  
in respect of clauses 2.1.3 and 2.2.5:
- a) breakage or damage caused by chipping or scratching only;
  - b) breakage or damage caused by repairs or alterations to the buildings at the **premises**;
  - c) breakage or damage caused at any empty or unoccupied building at the **premises**;
  - d) any glass broken or defective at the commencement of the insurance;
  - e) stained, engraved or armoured glass;
  - f) any amount in excess of EUR20,000 for any one claim;
- 2.4.5 **Interest**  
interest on any **claim payment** or compensation benefit for any reason whatsoever;
- 2.4.6 **Marine Insurance cover damage** regarding import shipments until fully discharged or until marine insurance has ceased to cover whichever last occurs;
- 2.4.7 **Multiple benefits from assault**  
payment of more than one item of benefit under the table of benefits to any one **insured person**;
- 2.4.8 **Property insured elsewhere damage** to, or **costs and expenses** in respect of any **property insured** which is otherwise is more specifically insured by or on behalf of the **insured**;
- 2.4.9 **Sports and pastimes**  
payment of benefit where the claim for benefit is due solely to an inability to take part in sports, pastimes or hobbies;

### Deterioration of stock

- 2.4.10 **Deliberate act of the electricity utility undertaking**  
deterioration of stock due to failure of the electricity utility undertaking due to:
- a) its deliberate act unless performed for the sole purpose of safeguarding life or protecting any part of the utility undertaking systems; or

- b) any scheme of rationing not necessitated solely by accidental **damage** to the utility undertaking's generating or supply equipment;
- 2.4.11 **Gradually developing defects**  
deterioration due to wear and tear, deterioration or gradually developing flaws or defects in the unit or incorrect setting of thermostats and automatic controls;
- 2.4.12 **Refrigerating equipment over 10 years old**  
the use of a refrigerating unit over ten (10) years old unless specifically agreed by the **insurer** in writing;
- 2.4.13 **Thirty minutes loss of power**  
deterioration of stock due to failure of the electricity supply services which does not exceed thirty (30) consecutive minutes;

#### Goods in transit

- 2.4.14 **Dangerous Goods**  
in respect of **goods in transit, damage** caused by or in respect of **goods** detailed in the Special Classification of Explosives and other Dangerous Goods carried by the Railway Companies at Owner's Risks only, according to the General Railway Classification of Goods List;
- 2.4.15 **Food, change in temperature**  
**goods** conveyed in a refrigerated, frozen, chilled or insulated condition as a result of deterioration due to any variation in temperature unless as a result of an **accident** to the conveying vehicle;
- 2.4.16 **Fragile articles**  
in respect of **goods in transit**, breakage of clocks, scientific instruments, china, glass, marble, earthenware, articles of value or the like unless consequent upon an **accident** in which the carrying vehicle, vessel or aircraft is damaged;
- 2.4.17 **Goods in transit**  
**damage** arising to **property insured** while in **transit** except as specifically stated as being insured in clause 2.3.4 or the **schedule**;
- 2.4.18 **Inadequate packing**  
in respect of **goods in transit, damage** caused by or attributable to defective or inadequate packing or stacking or protection against climatic conditions (other than by lightning) or incorrect and insufficient addressing of any parcel or package;
- 2.4.19 **Mechanical breakdown, pollution, insects, loss of weight**  
in respect of **goods in transit, damage** caused by or consisting of moth, vermin, insects, damp, mildew, rust, loss in weight, evaporation, taint, leakage or spillage, pollution, contamination, deterioration, depreciation, mechanical or electrical breakdown or derangement, unless arising as a consequence of fire, explosion, or **accident** to the carrying vehicle, vessel or aircraft and not otherwise excluded;
- 2.4.20 **Open sided/curtained vehicles**  
**damage** to **goods** caused by theft, attempted theft or malicious damage carried in or on open sided / curtained vehicles, or on any vehicle that cannot be secured;
- 2.4.21 **Theft**  
in respect of **goods in transit**, theft or any attempt thereat arising while any vehicle belonging to or under the control of the **insured** and containing the **goods** is left unattended unless:

- a) for the work day or shift period - breaks taken during the transit:
  - i) all doors have been securely locked and all windows and other openings securely and adequately fastened; and
  - ii) any immobiliser and any alarm fitted to the said vehicle is correctly set to operate; and
  - iii) all keys removed; and
- b) after the last business **transit** of the work day or shift:
  - iv) all keys removed after the until collected by the driver for the next business **transit**; and
  - v) the vehicle is housed in a securely locked building of substantial construction or a compound which has secure walls and/or fences and securely locked gates;
- c) for the purpose of this exclusion unattended means that the carrying vehicle is out of sight of the driver and / or more than one minute's walking distance from the driver;

#### 2.4.22 **Valuables and Business Records**

in respect of **goods in transit, damage** of or to jewellery, clocks, watches, precious stones, bullion, furs or curiosities, precious metals, works of art or rare books, tobacco, cigarettes, alcohol, audio DVD, digital music players, video equipment, cameras, computer games equipment, televisions, or documents, manuscripts, computer systems records or business books;

#### Money

#### 2.4.23 **Coin operated gaming machines and unattended vehicles**

**damage to money** contained in coin operated gaming devices/machines or in any unattended vehicle;

#### 2.4.24 **Errors**

**damage to money** occasioned by errors or omissions;

#### 2.4.25 **Money**

**damage to money** except as specifically stated as being insured in clause 2.3.7 or the **schedule**;

#### 2.4.26 **Security carrier**

**damage to money** recoverable from a specialist security carrier.

## 2.5 **Other Property Terms and Conditions**

### 2.5.1 **Fire protection, extinguishing and sprinkler installation appliances**

The premium for this **insured section A** has been calculated after taking into consideration the fire extinguishing, fire protection appliances and the standard of sprinkler installation at the **premises**, and the insured acknowledges the condition precedent relating to fire extinguishing appliances and/or sprinkler installation set out in clause 2.6 below.

### 2.5.2 **Material alteration**

Solely in relation to this **insured section A** the general conditions 'material alteration' clause is deleted and the following substituted:

'The **insurer** may declare this **policy** to be void with respect to any item of **property insured** if after the commencement of this insurance:

- a) such item is removed;
- b) the **insured's** interest in such item ceases except by will or operation of law;
- c) the risk of **damage** thereto is increased (whatsoever the reason for such increase even if there is no change in the use or physical alteration of such item) but only from the time that the **insured** becomes aware of, or with reasonable prudence could have become aware of, an increased risk of **damage**;

unless such change of circumstance has been expressly acknowledged and accepted by written memorandum signed for and on behalf of the **insurer**.'

#### 2.5.3 **Reinstatement of property**

If the **insurer** elects or becomes bound to reinstate or replace any property, the **insured** will, at their own expense, produce and give to the **insurer** all such plans, documents, books and information as the **insurer** may require. The **insurer** will not be bound to reinstate exactly or completely but only as circumstances permit, and in reasonably sufficient manner, and will not in any case be bound to expend in respect of any of the **property insured** more than the **sum insured** or **limit of indemnity** thereon.

#### 2.5.4 **Average**

If the **schedule** specifies that this insurance is provided on a sum insured basis, each of the **sums insured** by this **insured section A** except any **sums insured** on private dwellings, fees, **rent** or **stock debris removal** is declared to be separately subject to the following condition of Average:

'Whenever a **sum insured** is declared to be subject to average, if the property insured thereby will at the breaking out of any fire or at the commencement of any **damage** to such property by any **insured peril**, be collectively of greater value than such **sum insured**, then the **insured** will be considered as being their own **insurer** for the difference and will bear a rateable proportion of the loss accordingly.'

#### 2.5.5 **Contract price**

In respect of **goods** sold, but not delivered, for which the **insured** is responsible under a contract of sale, if the contract of sale is cancelled by reason of the fire or any other **insured peril** either wholly or to the extent of the damage, the liability of the **insurer** will be based on the contract price of the **goods**, and for the purpose of average the value of all **goods** to which the clause would in the event of damage be applicable, will be ascertained on the same basis.

#### 2.5.6 **Contracting purchaser**

If at the time of **damage** to any **building** insured under this **insured section A** the **insured** has contracted to sell its interest in such **building** and the purchase has not, but is thereafter completed, the purchaser will be entitled (on completion of the purchase, and then only so far as the property is not otherwise insured by or on behalf of the purchaser against such **damage**) to the benefit of this **insured section A** insofar as it relates to such **damage**, without prejudice to the rights and liabilities of the **insured** or the **insurer** under this section up to the date of completion.

#### 2.5.7 **Designation**

For the purpose of determining where necessary the heading under which any property is insured, it is agreed to accept the designation under which such property has been entered in the **insured's** books.



#### 2.5.8 **Non-invalidation**

If the risk of **damage** is increased by any act or omission, or by any alteration, that occurs without the **insured's** knowledge, such increase will not invalidate this insurance, provided that the **insured** immediately on such act, omission or alteration coming to their knowledge, gives notice thereof to the **insurer** and pays such extra premium as the **insurer** may require.

#### 2.5.9 **Other parties**

The interest of such other parties including, as the case may be lessors, mortgagees, banks, hire purchase companies specified in the **schedule** (or notified by the **insured** to the **insurer** in writing from time to time) is noted in this insurance, but only to the extent of their financial interest in the **property insured**, but not as joint **insured**.

In the event of any claim the:

- a) **insured** will immediately declare to the **insurer** the names of such interested parties; and
- b) **insurer** will consult with such declared interested parties as regards the manner and method of any indemnity so as to protect the direct financial interests of such parties.

#### 2.5.10 **Reinstatement**

- a) This clause does not apply to the insurance on **stock and materials in trade** nor to insurance of motor vehicles or motor chassis or of employees', directors' or visitors' property, but will apply to tools used on the **insured's** behalf by the **insured's** employees at the **premises**;
- b) Subject to 2.5.10(a) above, and unless stated in the **schedule** to the contrary, if **property insured** is **damaged**, the **insurer's** liability to the **insured** is to be calculated on the basis of reinstatement of the property **damaged**, subject always to the terms and conditions of this **insured section A** and in particular, the Reinstatement Special Provisions set out in 2.5.10(d), below
- c) For the purposes of the insurance under this clause 'reinstatement' will mean:
  - i) where property is lost or destroyed, the rebuilding of the **property insured** if a building or, in the case of other property, its replacement by similar property, in either case in a condition equal to but not better or more extensive than its condition when new; and/or
  - ii) 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.
- d) Reinstatement Special Provisions
  - i) The work of reinstatement (which may be carried out upon another site and in any manner suitable to the requirements of the **insured** subject to the liability of the **insurer** not being thereby increased) must be commenced and carried out with reasonable despatch otherwise no payment will be made beyond the amount which would have been payable under this **insured section** if this clause 2.5.10 had not been incorporated.
  - ii) When the **property insured** under this clause is damaged in part only the liability of the **insurer** will not exceed the sum representing the cost which the **insurer** could have been called upon to pay for reinstatement if such **property insured** had been wholly destroyed.

- iii) The **insurer** will have no liability to pay any amount beyond the amount that would have been payable under this **insured section A** if this clause 2.5.10 had not been incorporated until such time as the cost of reinstatement has actually been incurred.
- iv) Each item of **property insured** covered is to the extent specified in the **schedule** as being covered on a 'sum insured basis', subject to the following condition of Average:
 

If at the time of reinstatement the sum representing eighty five per cent (85%) of the cost that would have been incurred in reinstatement, if the whole of the item of **property insured** had been destroyed, exceeds the **sum insured** thereon at the breaking out of any fire or at the commencement of any loss, destruction of or **damage** to such property by any other cause hereby insured against, then the **insured** will be considered as being their own **insurer** for the difference between the **sum insured** and the sum representing the cost of reinstatement of the whole of the property and will bear a rateable proportion of the loss accordingly.
- v) The **insurer** will have no liability to pay any amount beyond the amount that would have been payable under this **insured section A** if this clause 2.5.10 had not been incorporated, if at the time of any **damage** to any **property insured**, such property is covered by any other insurance effected by or on behalf of the **insured** that is not on an identical basis of reinstatement to the terms of this clause 2.5.10.
- vi) Where by reason of any of the above special provisions no payment is to be made beyond the amount which would have been payable under this **insured section A** if this clause had not been incorporated, the rights and liabilities of the **insurer** and the **insured** in respect of the **damage** will be subject to the terms and conditions of this **insured section A**, including any condition of Average as if this clause had not been incorporated.

#### 2.5.11 Reinstatement day one basis

For each item of **property insured** specified as 'Day 1 operative' in the **schedule** the **insurer** agrees to calculate the premium upon the **declared value** provided that:

- a) at inception of this insurance and the commencement of each subsequent **period of insurance** the **insured** notifies the **insurer** of the **declared value** of each such item (in the absence of such a notification the last amount declared by the **insured** will be taken as the **declared value** for the ensuing **period of insurance**).
- b) The Reinstatement Special Provisions set out in clause 2.5.10(d) also apply to this clause 2.5.11, except that for the purposes of this clause 2.5.11, the provisions of clauses 2.5.10(d)(iv) and (vi) are amended to read:

'Each item of **property insured** under this clause is declared to be separately insured subject to the following condition of Average:

- iv) If at the time of loss the **declared value** of the **property insured** is less than the cost of reinstatement at inception of the **period of insurance** then the **insurer's** liability for any loss hereby insured will be limited to that proportion thereof which the **declared value** bears to the cost of reinstatement.
- vi) Where by reason of any of the above special provisions no payment is to be made beyond the amount which would have been payable under this **Insured section A** if this clause had not been

incorporated, the rights and liabilities of the **insurer** and the **insured** in respect of loss, destruction or **damage** will be subject to the terms and conditions of this **insured section** including any condition of Average as if this clause had not been incorporated, except that the **sums insured** will be limited to one hundred and fifteen per cent (115%) of the **declared value** (or such other percentage uplift as specified in the **schedule**).

- c) In the event of **damage** the liability of the **insurer** in respect of **property insured** to which this clause applies will not exceed the **sum insured** in respect of each separate **premises**.
- d) 'Reinstatement' for the purposes of this clause 2.5.11, has the same meaning as in clause 2.5.10.

#### 2.5.12 **Reinstatement of sum insured following loss**

In respect of **property insured** on a 'sum insured' basis, in consideration of this insurance not being reduced by the amount of any loss under this **insured section A** the **insured** will pay such additional premium to the **insurer** as may be required.

#### 2.5.13 **Stock declaration**

In respect of **stock and materials in trade** and any item of stock more specifically insured hereby where the Stock declaration condition is stated as 'operative' in the **schedule**, this insurance is subject to the following special provisions:

- a) the first and annual premiums are provisional and are subject to adjustment as described below;
- b) the value of such stock and materials in trade on the last day of each month or of each quarter, whichever period has been agreed, will be declared in writing by the **insured** to the **insurer** within thirty days thereafter and if no declaration is given the **Insured** will be deemed to have declared the maximum **sum insured** as the value;
- c) on the expiry of each **period of insurance** the actual premium payable will be calculated at the rate agreed upon the average **sum insured**, i.e. the total of the **sums insured** declared divided by the number of declarations. If the premium due is greater than the provisional premium the **insured** will pay the difference or if it is less, the difference will be repaid to the **insured**;
- d) in consideration of the insurance not being reduced by the amount of any loss the **insured** will pay such extra premium as may be required;
- e) it is a condition of this insurance that every insurance on **stock and materials in trade** or stock more specifically insured is identical in purpose with this insurance.

#### 2.5.14 **Subrogation waiver**

In the event of a claim arising under this **insured section** the **insurer** agrees to waive any rights, remedies or relief to which they might become entitled by subrogation, following **damage** covered by this **insured section A**, against:

- a) any company standing in the relation of parent to subsidiary (or subsidiary to parent) to the **insured** as defined in section 155 of the Companies Act 1963, as appropriate, current at the time of the loss; and
- b) any company that is a subsidiary of a parent company of which the **insured** are themselves a subsidiary, in each case within the meaning of section 155 of the Companies Act 1963, as appropriate, current at the time of the loss.

2.5.15 **Unoccupied or vacant buildings**

The **insured** will give notice to the **insurer** forthwith if a **building** or portion thereof becomes unoccupied or vacant and if an unoccupied or vacant **building** or portion thereof is again occupied. The **insured** will pay such extra premium as the **insurer** may require in consideration for the continuance in force of this insurance.

2.5.16 **Workmen**

Workmen may be employed to carry out new erections or alterations, repair, decoration, plant installation, general maintenance and the like in all or any of the **buildings** at the **premises** without prejudice to the insurance hereby.

2.5.17 **Claim discharge**

The **insured's** or the **insured's** personal representatives' receipt will discharge the **insurer**.

2.5.18 **Compromised settlements**

If the **insured** compromises with the **insurer** any claim under this insurance, where more than one party has an interest in the **insured person** the benefit will represent the total amount payable in respect of that person for all interests covered by this **insured section**.

2.5.19 **Average (Under-insurance)**

If at the time of the commencement of any **damage** the total value of the **goods in transit** in or upon any vehicle, vessel or aircraft exceeds the **limit of liability** then the **insurer's** liability will be proportionately reduced.

2.5.20 **Reasonable Precautions**

The **insured** will take all reasonable precautions in maintaining vehicles under their control in an efficient and roadworthy condition and ensure the suitability of the vehicles for the purpose used employing competent and honest persons who can be entrusted with the **goods in transit**, packaging, labelling and addressing the **goods in transit**.

## 2.6 **Conditions precedent for Property**

2.6.1 Where the **insured** has procured this insurance in the capacity of landlord but does not occupy or otherwise use the **premises** then the duties imposed by this clause 2.6 apply from the time the **insured** or any agent of the **insured** acquires knowledge of non-compliance.

2.6.2 **Automatic sprinkler installations**

In relation to **property insured** being protected by an automatic sprinkler installation in accordance with details declared to the **insurer** at inception of each **period of insurance**, it is agreed as a condition precedent to the **insurer's** liability under this **insured section A** that the **insured** will procure that the following work is carried out:

- a) the said installation will be maintained in full working order during the currency of this insurance;
- b) a test will be made every week for the purpose of ascertaining that the alarm is in working order and that the stop valves controlling the water supplies of the installation are fully open;
- c) if required by the **insurer** quarterly or half yearly tests will be made for the purpose of ascertaining that each water supply is in order and the particulars of each test will be recorded;

- d) any defect whether revealed by such tests or otherwise will be remedied immediately;
- e) the **insured** will notify the **insurer** immediately should the water supplies be turned off or the sprinkler installation be rendered inoperative from any cause.

### 2.6.3 Sprinkler Leakage

In respect of cover provided by this **insured section A** in respect of **damage** caused by sprinkler leakage, the following additional conditions precedent to the **insurer's** liability under this **insured section A** shall apply:

- a) the **insured** will at all times take reasonable steps to prevent frost and other **damage** to the automatic sprinkler installation in so far as his responsibility extends to maintain the installation and will maintain the automatic external alarm signal in efficient working order;
- b) in the event of any discharge or leakage the **insured** will do and permit to be done all things practicable whether by removal or otherwise to save and protect the **property insured**;
- c) whenever it is the intention to make any changes, repairs or alterations to the installation the **insured** will give written notice to the **insurer** and obtain their permission in writing;
- d) the **insured** will procure that the **insurer** has access to the **premises** at all reasonable times for the purposes of inspection and if the **insurer** notifies the **insured** of any defects in the condition of the installation the **insurer** may at its option suspend sprinkler leakage cover until the defects have been remedied and approved by the **insurer**.

### 2.6.4 Fire extinguishing appliances

In relation to **property insured** being protected by fire extinguishing appliances in accordance with details declared to the **insurer** at inception of each **period of insurance**, it is agreed as a condition precedent to the **insurer's** liability under this **insured section A** that the **insured** will procure that the following work is carried out:

- a) the **insured** will inspect the appliances regularly for the purposes of ascertaining that they are maintained in proper working order and keep a written record thereof;
- b) the **insured** will remedy any defect promptly, whether disclosed by any such inspection or otherwise;
- c) the **insured** will establish and maintain a training programme for the operation of fire extinguishing appliances and retain a documented register of all such training for inspection by the **insurer** on request.

### 2.6.5 Maintenance Agreements

It is agreed as a condition precedent to the **insurer's** liability under this **insured section A** that the **insured** will procure that sprinkler installations and fire extinguishers will be subject to maintenance agreements with the manufacturers or installers, and subject thereto cover provided by this **insured section A** will not be invalidated by any defect in the said appliances due to circumstances beyond the control of the **insured**.

### 2.6.6 Hot work permit

It is agreed as a condition precedent to the **insurer's** liability under this **insured section A** that before the use of a naked flame or other heat source or oxyacetylene, electric arc or similar welding, cutting, grinding or other spark emitting equipment is used by any

person (whether a third party contractor, an employee or other) at the **premises** (other than in connection with the **insured's** trade processes) the **insured** will procure that:

- a) a hot work permit is completed jointly by the person responsible for carrying out the work and the **insured's** safety officer (or nominated person); and
- b) the precautions and systems of work shown on the designated hot work permit are complied with.

#### 2.6.7 **Oily rags**

It is agreed as a condition precedent to the **insurer's** liability under this **insured section A** that all oily and greasy cleaning waste and wipes are kept in metal receptacles with hinged metal lids and removed from the **premises** regularly each week.

#### 2.6.8 **Unoccupied or vacant premises**

It is agreed as a condition precedent to the **insurer's** liability under this **insured section A** in respect of **buildings** that become unoccupied, vacant or disused for period of thirty (30) or more consecutive days at the **premises** that:

- a) all main services are turned off at the mains and water tanks drained and emptied; and
- b) all combustible materials not forming part of the landlords fixtures and fittings are removed from inside and outside the **buildings**; and
- c) all ground floor windows and letterboxes are securely boarded over, and
- d) all reasonable precautions are taken to secure the **buildings** against unauthorised entry.

Further the **excess** in respect of any such claim referred to in the **schedule** is increased to EUR 7,500.

#### 2.6.9 **Waste**

It is agreed as a condition precedent to the **insurer's** liability under this **insured section A** that waste and any other trade refuse will be:

- a) kept in closed metal receptacles outside working hours, or
- b) swept up daily and removed from the **premises** and not allowed to accumulate around the **premises**.

#### 2.6.10 **Intruder and fire alarm**

As regards **damage** caused by, arising from or contributed to by **insured perils** of fire, explosion, subterranean fire and theft it is agreed as a condition precedent to the **insurer's** liability under this **insured section A** that in relation to any intruder and or fire alarm specified and required by the **insurer** under the terms of this **policy** the **insured** will:

- a) ensure the alarm system is installed in accordance with the manufacturer's specification and any other specifications of the **insurer** and no alteration or variation of the system or any structural alteration to the **premises** which would affect the system will be made without the prior written consent of the **insurer**;
- b) ensure that the intruder and or fire alarm is in full and efficient working order at all times and regularly serviced under the manufacturer's maintenance contract and any other maintenance requirements of the **insurer**;

- c) notify the **insurer** forthwith of any defects that arise in such alarm systems, procure that such defects are remedied as soon as is practicable and notify the **insurer** forthwith once such defects are remedied;
- d) ensure that the intruder alarm is tested and fully set whenever the alarmed portion of the **premises** is closed for **business** or not attended by the **insured** or any competent adult authorised by the **insured** to be responsible for the security of the **premises**;
- e) ensure that the fire alarm is tested at least weekly and continually set in active mode;
- f) notify the **insurer** immediately of any disconnection or failure of, or downgrading of police or fire brigade response to the system likely to leave any area unprotected;
- g) ensure that there are available keyholders notified to all appropriate services.

The **insurer** will not be liable for **damage** caused by **insured perils** of fire, explosion, subterranean fire and theft subsequent to the **insured** receiving a written notification from an intruder and/or fire alarm company that the maintenance is suspended or from the relevant police authority or fire brigade that alarm signals from the **premises** will no longer be answered.

Cover provided by this **insured section A** will not be invalidated by any defect in the said systems due to circumstances beyond the control of the **insured** arising after the systems have been properly set.

#### 2.6.11 Reasonable precautions

It is agreed as a condition precedent to the **insurer's** liability under this **insured section A** that the **insured** will take all reasonable precautions to prevent **damage** and failure to do so will preclude any payment under this **insured section A**.

Further all security devices, fire protection devices and other monitoring devices must be maintained in good working order and put into use at all times that general business practice prescribes that they should be operational.

Where the **insurer** specifies certain precautions or other risk improvements to be carried out to an explicit timetable then if the precautions or improvement are not completed as required, the **insurer** can give written notice to the **insured** at its address shown on the **schedule** cancelling the **policy** with effect from the seventh (7<sup>th</sup>) day after the notice has been served, but that cancellation will be prevented from taking effect and the **policy** continue if the precautions or improvement are completed as required before the cancellation takes effect. Upon demand the **insurer** will return to the **insured** a part of any premium paid in excess of that proportionate to the pre-cancelled portion of the **policy**. Without prejudice to other forms of service, the notice of cancellation is deemed to be served on the third (3<sup>rd</sup>) day after being posted if sent by pre-paid letter post properly addressed.

#### 2.6.12 Security of money

It is a condition precedent to liability for any claim under this **insured section** that:

- a) all protections and procedures for the safety of **money** while in the **premises** existing at the inception date of this **policy** or undertaken at the request of the **insurer** are maintained and operated; and
- b) the keys for all protections and the keys of any safes containing **money** are removed from the **premises** out of **business hours** and held by designated keyholders;

- c) the following minimum standards of precaution for the safety of **money** in transit (other than by specialist security carrier) are operated at all times;
- i) the times of transits, routes and conveyances used will be varied as far as possible;
  - ii) all persons engaged in the transit of **money** will be able-bodied adults;
  - iii)

Amount in Transit	Minimum number of able-bodied persons to accompany transits
Up to EUR4,000	1
Over EUR4,000 but not exceeding EUR8,000	2
Over EUR8,000 but not exceeding EUR15,000	3

    - but in no case exceeding EUR6,000 per person;
  - iv) transits of amounts exceeding EUR15,000 will be transported by specialist security carrier;

and any failure to comply with these conditions will bar any claim under this **insured section A**.

#### 2.6.13 **Medical evidence**

It is a condition precedent to liability for any claim under this **insured section A** that:

- a) in event of **injury** the **insured person** will be attended by a duly qualified medical practitioner as soon as possible after an **assault** which may give rise to a claim under clause 2.3.7;
- b) all certificates, information and evidence required must be provided free of charge and in a form prescribed by the insurer;
- c) that the **insured person** will if requested submit to medical examination at the expense of the **insurer** in connection with any claim;

and failure to comply with this condition in full will bar any claim under this **insured section A**.

#### 2.6.14 **Maintenance**

It is a condition precedent to the **insurer's** liability under this **insured section** that there is in force a planned maintenance program for the servicing of the refrigerating machine at regular intervals by the manufacturer or a competent refrigeration engineer and that a proper record is kept. Any defects arising during the **period of insurance** must be addressed immediately but where this is not possible the **insurer** must be notified immediately.



## 3 Insured section B - Business interruption

### 3.1 Business interruption cover

3.1.1 In the event that any building or other property used by the **insured** at the **premises** for the purpose of the **business** is **damaged** by an **insured peril** during the **period of insurance** and in consequence the **business** carried on by the **insured** at the **premises** is interrupted or interfered with then the **insurer** will pay in respect of each item of Business interruption insurance stated in the **schedule** the amount of loss resulting from such interruption or interference provided that at the time the **damage** occurs:

- a) there is in force an insurance policy covering the interest of the **insured** in the property at the **premises** against such **damage**;
- b) the **insured** has claimed under the policy referred to in clause 3.1.1(a), and the relevant **insurer** has paid such claim in full or admitted liability for such claim, or would have done so but for the operation of a proviso in such insurance policy excluding liability for losses below a specified amount.

3.1.2 Further, the **insurer** agrees that if any records of accounts receivable used by the **insured** at the **premises** for the purpose of the **business** be **damaged** by an **insured peril** during the **period of insurance** and in consequence income is lost resulting from the **insured's** inability to trace or establish their **outstanding debit balances** then the **insurer** will pay the loss of income resulting from the **insured's** inability to trace or establish their **outstanding debit balances** as a direct result of **damage** by any **insured peril** provided that:

- a) the liability of the **insurer** under this **insured section** shall not exceed the **sum insured** or **limit of liability** stated in the Business Interruption section of the **schedule**;
- b) if at the time of any **damage** the **sum insured** by this item of **outstanding debit balances** be less than the actual balances, the amount payable by the **insurer** will be proportionately reduced.

In addition the **insurer** will pay expenses incurred with their consent in tracing and establishing customers' debit balances after the **damage**.

### 3.2 Additional business interruption costs and expenses

#### 3.2.1 Alternative trading

If during the **indemnity period** goods are sold or services rendered elsewhere than at the **premises** for the benefit of the **business**, either by the **insured** or by others on the **insured's** behalf, the **money** paid or payable in respect of such sales or services will be brought into account in calculating the **turnover** during the **indemnity period**.

#### 3.2.2 Professional Accountants

- a) Any particulars or details contained in the **insured's** books of account or other **business** books or documents which may be required by the **insurer** under clause 13 (Duties in the event of a claim or potential claim) of this **policy** for the purpose of investigating or verifying any claim made under this **policy** may be produced by professional accountants if at the time they are regularly acting as such for the **insured** and their report will be prima facie evidence of the particulars and details to which such report relates.

- b) The **insurer** will pay to the **insured** the reasonable charges payable by the **insured** to their professional accountants for producing such particulars or details or any other proofs, information or evidence as may be required by the **insurer** under the terms of clause 13 (Duties in the event of a claim or potential claim) of this **policy** and reporting that such particulars or details are in accordance with the **insured's** books of account or other **business** books or documents.

### 3.2.3 **Research and Development**

The **insurer** will pay to the **insured** the additional expenditure incurred as a result of **damage** by an **insured peril** under **insured section A** to property at the **premises** that interrupts the current research and development programme of the **business** except that:

- a) cover will be limited to the additional expenditure necessary to reinstate research and development projects to the stage they were at immediately prior to the **damage**;
- b) the **insurer's** liability under this clause 3.2.3 will not exceed EUR25,000 for any one claim.

## 3.3 **Additional business interruption cover away from premises**

The **insurer** will pay to the **insured**:

### 3.3.1 **Damage to property at contract sites**

Loss resulting from interruption of or interference with the **business** in consequence of **damage** by an **insured peril** covered under the **insured section A** to property at any **premises** in the **territorial limits** not occupied by the **insured** but where the **insured** is carrying out a contract, except that the **insurer's** liability for such loss will not exceed EUR10,000 any one claim.

### 3.3.2 **Denial of access**

Loss resulting from interruption of or interference with the **business** in consequence of **damage** by an **insured peril** covered under **insured section A** to property within two hundred and fifty (250) metres of the perimeter of the **premises** which prevents or hinders the use of the **premises**, or access to the **premises** whether the **premises** or property of the **insured** therein are **damaged** or not, except that the **insurer's** liability under this clause will not exceed EUR10,000 any one claim.

### 3.3.3 **Supply utilities**

Loss resulting from interruption of or interference with the **business** in consequence of:

- a) **damage** by an **insured peril** to property at any:
  - i) generating station or sub-station of the electricity supply undertaking;
  - ii) land based premises of the gas supply undertaking or of any natural gas producer linked directly therewith;
  - iii) water works or pumping station of the water supply undertaking;
  - iv) land based premises of the telecommunications undertaking;from which the **insured** obtains electricity, gas, water or telecommunication services.
- b) accidental failure at the **premises** of:
  - i) the terminal ends of the electricity supply utility service feeders ;

- ii) the supply of gas at the supply utility meters ;
- iii) the supply of water at the supply utility main stopcock;
- iv) the supply of telecommunication services at the incoming line terminal or receivers.

The maximum amount payable in respect of any one occurrence under this clause 3.3.3 will not exceed EUR10,000.

#### 3.3.4 **Infectious diseases/murder or suicide**

Loss resulting from interruption of or interference with the **business** in consequence of any of the following events:

- a) any occurrence of a **notifiable disease** at the **premises** or attributable to food or drink supplied from the **premises**;
- b) any discovery of any organism at the **premises** likely to result in the occurrence of a **notifiable disease**;
- c) any occurrence of a **notifiable disease** within a radius of 25 (twenty five) miles of the **premises**;
- d) the discovery of vermin or pests at the **premises** which cause restrictions on the use of the **premises** on the order or advice of the competent local authority;
- e) any accident causing defects in the drains or other sanitary arrangements at the **premises** which causes restrictions on the use of the **premises** on the order or advice of the competent local authority;
- f) any occurrence of murder or suicide at the **premises**;

provided that the

- g) **insurer** shall not be liable for any costs incurred in cleaning, repair, replacement, recall or checking of property;
- h) **insurer** shall only be liable for loss arising at those **premises** which are directly subject to the incident;
- i) **insurer's** maximum liability under this cover extension clause in respect of any one claim shall not exceed EUR50,000 or fifteen per cent (15%) of the total **sum insured** (or **limit of liability**) for this **insured section**, whichever is the lesser, any one claim and EUR10,000 any one **period of insurance**.

#### 3.3.5 **Loss of attraction**

The **insurer** will pay the **insured** loss resulting from interruption of or interference with the **business** in consequence of diminution of attraction to the premises following loss of or damage to property by any **insured peril** covered under **insured section A**; occurring at any other premises within a five hundred (500) metre radius of any of the **insured's premises** provided that:

- a) the **insurer** shall not be liable for loss relating to the first seven (7) days of each and every interruption or interference; and
- b) **insurer's** maximum liability under this cover extension clause in respect of any one claim shall not exceed EUR50,000 or fifteen per cent (15%) of the total **sum insured** (or **limit of liability**) for this **insured section**, whichever is the lesser, and EUR10,000 any one **period of insurance**.

### 3.4 Business interruption limitations and exclusions

In addition to the limitations and exclusions applicable to this **insured section** in clause 4, the following are excluded from and not covered by the insurance under **insured section B**:

#### 3.4.1 Fines or penalties

Fines or damages for breach of contract for late or non-completion of orders or any penalties of whatsoever nature are excluded from and not covered by the insurance under **insured section B**.

#### 3.4.2 Supply utilities

The **insurer** will not be liable under clause 3.3.3 or elsewhere under this insurance for interruption or interference with the **business** caused by **damage** resulting from:

- a) the deliberate act of any supply utility undertaking or the exercise by any such utility undertaking of its power to withhold or restrict supply or services;
- b) strikes or any labour or trade dispute;
- c) drought;
- d) any other atmospheric or weather conditions, but not excluding accidental failure due to damage to supply utility equipment caused by such conditions;
- e) where the period of interruption or interference is less than twenty four (24) hours.

#### 3.4.3 Uninsured standing charges

If any standing charges of the **business** deducted in arriving at the **gross profit** are not insured under this **insured section B**, then in computing the amount recoverable as increased cost of working, the amount of additional expenditure that will be taken into account will be reduced by the proportion that the **gross profit** bears to the sum of the **gross profit** and the uninsured standing charges.

#### 3.4.4 Limit of liability

The liability of the **insurer** under this **insured section B** will not exceed the lesser of:

- a) in the whole the total **sums insured**; or
- b) in respect of any item of settlement specification, its **sum insured** at the time of the damage; or
- c) any other **limit of liability** stated in the **schedule** at the time of the **damage**;
- d) the **sum insured** (or **limit of liability**) remaining after deduction for any other interruption or interference consequent upon **damage** occurring during the same **period of insurance**, unless the **insurer** has agreed to reinstate any such **sum insured** (or **limit of liability**).

#### 3.4.5 Gross profit/estimated gross profit

The **insurer's** liability in respect of **gross profit** is limited to loss of **gross profit** caused by a reduction in **turnover** or an increase in cost of working. The **insurer's** liability under clause 3.1.1 will be:

- a) in respect of reduction in **turnover**: the sum produced by applying the **rate of gross profit** to the amount by which the **turnover** during the **indemnity period** will, in consequence of the **damage**, fall short of the **standard turnover**;

- b) in respect of increase in cost of working: the additional expenditure (subject to the provisions of the uninsured standing charges clause) necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in **turnover** which but for that expenditure would have taken place during the **indemnity period** in consequence of the **damage**, but not exceeding the sum produced by applying the **rate of gross profit** to the amount of the reduction thereby avoided;
- c) minus, regardless of whether the calculation is based on clause 3.4.5(a) or (b), any sum saved during the **indemnity period** in respect of such of the charges and expenses of the **business** payable out of **gross profit** as may cease or be reduced in consequence of the **damage**;
- d) except that, in either case, if the **sum insured** in respect of **gross profit** is less than the sum produced by applying the **rate of gross profit** to the **annual turnover** (or to a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months) the **insurer's** liability will be proportionately reduced.

#### 3.4.6 **Gross revenue/estimated gross revenue**

The **insurer's** liability in respect of **gross revenue** is limited to loss of **gross revenue** and increase in cost of working and the **insurer's** liability under clause 3.1.1 in respect of **gross revenue** will be:

- a) in respect of loss of **gross revenue**: the amount by which the **gross revenue** during the **indemnity period** will, in consequence of the **damage**, fall short of the **standard gross revenue**;
- b) in respect of increase in cost of working: the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the reduction in **gross revenue** which but for that expenditure would have taken place during the **indemnity period** in consequence of the **damage**, but not exceeding the amount of the reduction thereby avoided;
- c) minus, regardless of whether the calculation is based on clause 3.4.6(a) or (b), any sum saved during the **indemnity period** in respect of such of the charges and expenses of the **business** payable out of **gross revenue** as may cease or be reduced in consequence of the **damage**;
- d) except that, in either case, if the **sum insured** in respect of **gross revenue** is less than the **annual gross revenue** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months) the **insurer's** liability will be proportionately reduced.

#### 3.4.7 **Increased cost of working**

The **insurer's** liability in respect of Increased Cost of Working is limited to the increase in cost of working and the amount payable under clause 3.1.1. in respect of Increased Cost of Working will be the additional expenditure necessarily and reasonably incurred by the **insured** in consequence of the **damage** in order to prevent or minimise the interruption of the **business** during the **indemnity period**.

#### 3.4.8 **Additional increased cost of working**

The **insurer's** liability in respect of Additional Increased Cost of Working is limited to additional increased cost of working and the amount payable under clause 3.1.1 in respect of Additional Increased Cost of Working will be the additional expenditure necessarily and reasonably incurred during the **indemnity period** in consequence of the **damage** for the sole purpose of preventing or minimising a reduction in **turnover** or resuming or maintaining normal **business** operations for an amount not exceeding the **sum insured** by this item.

### 3.4.9 Rent receivable

The **insurer's** liability in respect of **rent receivable** and increased cost of working and the amount payable under clause 3.1.1 in respect of Rent receivable 5 will be:

- a) in respect of loss of **rent receivable**: the amount by which in consequence of the **damage**, the **rent receivable** during the **indemnity period**, falls short of the **standard rent receivable**;
- b) in respect of increased cost of working: the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the loss of **rent receivable** which but for that expenditure would have taken place during the **indemnity period** in consequence of the **damage**, but not exceeding the amount of the reduction in **rent receivable** thereby avoided;
- c) minus any sum saved during the **indemnity period** in respect of such of the expenses and charges payable out of **rent receivable** as may cease or be reduced in consequence of the **damage**;
- d) except that if the **sum insured** in respect of **rent receivable** is less than the annual **rent receivable** (or a proportionately increased multiple thereof where the maximum **indemnity period** exceeds twelve months) the **insurer's** liability will be proportionately reduced.

### 3.4.10 Outstanding debt balances.

The insurance is limited to loss of **outstanding debt balances**.

## 3.5 Other business interruption terms and conditions

### 3.5.1 Material alteration

As regards this **insured section B** the General condition Material alteration at clause is deleted and the following substituted:

'This **insured section B** will be void if

- a) the **business** is wound up; or
- b) carried on by a liquidator, administrator or receiver; or
- c) permanently discontinued; or
- d) the **insured's** interest ceases otherwise than by death; or
- e) any alteration is made either in the **business** or in the **premises** or property therein whereby the risk of **damage** is increased (whatsoever the reason for such increase and even if there is no change in the use or physical alteration of the said **premises** or property) but only from the time that the **insured** becomes aware of, or with reasonable prudence could have become aware of, an increased risk of **damage**;

at any time after the commencement of this insurance, unless the **insurer** agrees by memorandum signed by or on behalf of the **insurer** that this **insured section B** will continue in force'.

### 3.5.2 Declaration linked condition

In respect of sums insured specified as 'declaration linked condition operative' in the **schedule**:

- a) The **insured** will prior to each renewal furnish the **insurer** with the **estimated gross profit** or **estimated gross revenue** to be insured. Such amounts are to be calculated on the basis of the respective amounts for the financial year most nearly concurrent with ensuing period of insurance;
- b) The first and annual premiums in respect of **schedule** items 1 or 2 as insured by this **insured section B** are provisional and calculated on the basis of the **estimated gross profit** or **estimated gross revenue**.
- c) The **insured** will furnish to the **insurer** not later than six months after the expiry of each **period of insurance** a declaration certified by the **insured's** professional accountants of the **gross profit** or **gross revenue** earned during the financial year most nearly concurrent with the **period of insurance**.
- d) If at or prior to the date of the certified declaration under clause 3.5.2(c) **damage** has occurred giving rise to a claim for loss of **gross profit** or **gross revenue** the amount of **gross profit** or **gross revenue** certified in such declaration will be deemed by the **insurer** for the purpose of premium calculation to have been increased by the amount by which the **gross profit** or **gross revenue** was reduced in consequence of the **damage** during the financial year.
- e) If the amount of **gross profit** or **gross revenue** certified in the declaration (adjusted as provided above and proportionately increased where the **maximum indemnity period** exceeds twelve months) is less than the **estimated gross profit** or **estimated gross revenue** as insured hereby for the relative **period of insurance** the **insurer** will allow a pro rata return of the premium paid on the **estimated gross profit** or **estimated gross revenue** as insured, but not exceeding fifty per cent of such premium; or
- f) If the amount of **gross profit** or **gross revenue** certified in the declaration (adjusted as provided above and proportionately increased where the **maximum indemnity period** exceeds twelve months) is greater than the **estimated gross profit** or **estimated gross revenue** as insured hereby for the relative **period of insurance** the **insured** will pay a pro rata extra premium on the **estimated gross profit** or **estimated gross revenue** as insured.
- g) the liability of the **insurer** will in no case exceed:
  - i) in respect of **gross profit** or **gross revenue** the percentage uplift shown in the **schedule** applied to the **estimated gross profit** or **estimated gross revenue**; or in respect of each other item one hundred per cent (100%) of the sum stated in the **schedule**; or
  - ii) for all items insured by this **section** the sum of the percentage uplift applied to each item of **estimated gross profit** or **estimated gross revenue** and one hundred per cent (100%) of the **sums insured** for all other items specified;.
- h) In the absence of written notice by the **insured** or the **insurer** to the contrary the **insurer's** liability will not be reduced by the amount of any loss and the insured will pay such extra premiums, as the **insurer** requires for such automatic reinstatement of cover.
- i) The averaging provisions in clause 3.4.5 (d) and 3.4.6 (d) are deleted and of no effect.

### 3.5.3 **Delayed Loss**

In adjusting any loss, the **insurer** will take account and make an equitable allowance if any reduction in **turnover** due to the **damage** is postponed by reason of the **turnover** being temporarily maintained from accumulated stocks of finished **goods**.

### 3.5.4 **Automatic reinstatement**

In consideration of the insurance hereby not being reduced by the amount of any loss under this **insured section B**, the **insured** will pay such additional premium as may be required.

### 3.5.5 **Departmental**

#### a) **Gross profit**

If the **business** is conducted in departments and the independent trading results of each department are ascertainable and can be distinguished from each other department, the provisions of this **section** will apply separately to each department affected by the **damage**, except that if the **sum insured** is less than the aggregate of the sums produced by applying the **rate of gross profit** for each department of the **business** (whether affected by the **damage** or not) to its relative **annual turnover** (or to a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months (12)), the **insurer's** liability will be reduced pro rata accordingly.

#### b) **Gross revenue**

If the **business** is conducted in departments, and the independent trading results of each department are ascertainable and can be distinguished from each other department, the provisions of this **section** will apply separately to each department affected by the **damage** except that if the **sum insured** is less than the aggregate of the sums of the **gross revenue** for each department of the **business** (whether affected by the **damage** or not) the **insurer's** liability will be reduced pro rata accordingly.

### 3.5.6 **Refund of premium**

Where the **schedule** specifies 'Refund of premium Yes', then in the event of the **gross profit** or **gross revenue** during the financial year most nearly concurrent with any **period of insurance** being less than the **sum insured** a pro rata return of premium will be made in respect of the difference provided that the **gross profit** or **gross revenue** earned is certified by the **insured's** professional accountants, proportionately increased if the **indemnity period** exceeds twelve (12) months. In any event, the return of premium will not exceed fifty per cent (50%) of the premium paid on such **sum insured** for such **period of insurance**.

### 3.5.7 **Salvage sale**

If following **damage** giving rise to a claim under this **insured section B**, the **insured** holds a salvage sale during the **indemnity period**, clause 3.4.5(a) will for the purpose of such claim read as follows:

'In respect of reduction in **turnover**: the sum produced by applying the **rate of gross profit** to the amount by which the **turnover** during the **indemnity period** (less the **turnover** for the period of the sale) in consequence of the **damage**, falls short of the **standard turnover** from which will be deducted the **gross profit** actually earned during the period of the salvage sale.'



### 3.5.8 **Subrogation waiver**

In the event of a claim arising under this **insured section B**, the **insurer** agrees to waive any rights, remedies or relief to which they might become entitled by subrogation against:

- a) any company standing in the relation of parent to subsidiary (or subsidiary to parent) to the **insured** as defined in the Companies Act 1963, as appropriate, current at the time of the **damage**;
- b) any company which is a subsidiary of a parent company of which the **Insured** is themselves a subsidiary, in each case within the meaning of the Companies Act 1963, as appropriate, current at the time of the **damage**.

### 3.5.9 **Payments on account**

Payments on account may be made to the **insured** monthly during the **indemnity period** if desired.

### 3.5.10 **Reimbursement of amounts recovered**

After payment of any claim hereunder all amounts recovered by the **insured** on accounts receivable for which the **insured** has been indemnified under clause 3.1.2 will belong and be paid immediately to the **insurer** by the **insured** up to the total amount of loss paid by the **insurer**.

### 3.5.11 **Inspection of records**

The **insurer** will be permitted to inspect the **premises** and the receptacles in which the records of accounts receivable are kept by the **insured**, and to examine and audit the **insured's** books and records at any time during the **period of insurance** and within 3 years after the final termination of this **insured section**, as far as they relate to the premium basis or the subject matter of this insurance, and to verify the statements of any outstanding record of accounts receivable submitted by the **insured** and the amount of accounts receivable on which the **insurer** has made any settlement.

## 3.6 **Conditions precedent for business interruption**

### 3.6.1 **Insured section A conditions**

All the conditions precedents of **insured section A** at clause 2.6 are deemed to apply to this **insured section B**, as if printed below in full with all references to **insured section A** replaced by references to **insured section B**, unless otherwise provided in this **insured section B**.

## 4 Insured section A and B exclusions

The **insurer** is not liable under **insured sections A and B**, for the amount of the **excess** as stated in the **schedule** as applicable to each respective **insured section**.

In addition and subject to the amendment that clauses 4.1 - 4.10 shall not exclude any subsequent **damage** resulting from any ensuing cause which is not otherwise excluded, **insured sections A and B** exclude and do not cover **damage** or loss caused by or interruption or interference caused by **damage** resulting from:

### 4.1 Aircraft travelling at supersonic speeds

or consisting of, pressure waves caused by aircraft, other aerial device or satellite travelling at sonic or supersonic speeds;

### 4.2 Boiler explosion and failure

4.2.1 explosion, failure or collapse of a boiler (but not a boiler used for domestic purposes only) economiser or other vessel, machine, apparatus or pipe work at the **premises** in which internal pressure is due to steam only belonging to or under the control of the **insured**;

4.2.2 joint leakage failure of welds cracking fracturing collapse or overheating of boilers economisers super heaters pressure vessels of any range of steam and feed piping in connection therewith;

4.2.3 but this exclusion clause 4.2 will not apply to consequential loss as described by **insured section B**.

### 4.3 Defective design

defective design, latent defect, the use of defective materials, the misapplication of tools or other defective workmanship;

### 4.4 Electrical or mechanical breakdown

electrical or mechanical breakdown or failure or derangement including but not limited to overrunning, overheating or short-circuiting, but not excluding any other **damage** resulting from such breakdown, failure or derangement.

### 4.5 Frost

frost or freezing;

### 4.6 Gradual change

corrosion, gradual change or deterioration, change of temperature, colour, texture, finish, inherent vice, rust, shrinkage, infestation, insects or vermin;

### 4.7 Processing

the **property insured**:

4.7.1 undergoing any process including but not limited to cleaning, repairing, restoring, renovating, testing, commissioning or packaging;

4.7.2 itself undergoing any heating process or any process involving the application of heat,

### 4.8 Theft and fraud

4.8.1 theft or attempted theft unless involving entry to or exit from the buildings at the premises by forcible and violent means or by violence or threat of violence to the **insured** or any **employee** of the **insured** provided that this exclusion will not apply to:

- a) security lighting, security cameras and other security or fire protection devices, affixed signs, television, radio, satellite receiving aerials, communication aerials, their fittings and masts affixed to the **buildings'** walls gates fences fixed poles or fixed pylons at the **premises**;
  - b) Lock Replacement endorsement clause, if any;
  - c) **Money**;
  - d) **Goods in transit**.
- 4.8.2 dishonesty of the **insured's employees** but this will not exclude theft or attempted theft as defined above;
- 4.8.3 any fraudulent or dishonest accessing, extraction, distortion, misappropriation or corruption of information or data contained in any computer or **electronic data** equipment or system;
- 4.8.4 for the purpose of this insurance forcible and violent entry to or exit from or through an internal door, office, cage, compartment or store within the **buildings** will not satisfy the rider to this theft exclusion unless the internal door, office, cage, compartment or store is the sole part of the **buildings** occupied by the **insured**;

#### 4.9 **Water table level**

change in water table level;

#### 4.10 **Wear and tear**

wear and tear, marring or scratching;

#### 4.11 **Disused, unoccupied or vacant buildings**

- a) escaping water from any pipe, tank, water system or automatic sprinkler installation;
- b) riot, civil commotion or malicious damage;
- c) theft or theft damage;

in respect of any **building** which is unoccupied, vacant or disused for period of thirty (30) or more consecutive days.

#### 4.12 **Electronic risks**

or contributed to by, directly or indirectly, distortion, erasure, corruption, or alteration of **electronic data** from any cause whatsoever (including but not limited to **virus or similar mechanism, hacking or denial of service attack**) or loss of use, reduced functionality, cost, expense of whatsoever nature resulting therefrom regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

#### 4.13 **Excluded property**

4.13.1 or in connection with the following property unless specified to the contrary in the schedule:

- a) livestock, bloodstock, fishstock, growing crops or trees;
- b) watercraft or aircraft, other aerial devices or satellites;
- c) motor vehicles or their contents, accessories, caravans or trailers;
- d) **money**, bullion, foreign coins counterfeit or substitute **money** other than as stated in **insured section A**;
- e) land, piers, jetties, bridges, culverts or excavations;

4.13.2 or in connection with the following property unless the **damage** is caused by fire, lightning, aircraft, explosion, riot, civil commotion, malicious persons, impact or earthquake:

- a) moveable property in the open, gates or fences;
- b) any motor vehicle the use of which is not permanently confined to the **premises**;
- c) property in the course of erection or installation;

#### **4.14 Explosives**

**damage** of or to explosives;

#### **4.15 Excess**

the amount of the **excess** as stated in the **schedule**;

#### **4.16 Ionising radiation**

in whatever form, directly or indirectly, or contributed to, by or in connection with, **nuclear hazards**;

#### **4.17 Non specific loss or damage**

- 4.17.1 loss resulting from disappearance or which is not identifiable by the insured with a specific occurrence or is unexplained and which has not been notified under the terms of clause 13 (Duties in event of a claim or potential claim);
- 4.17.2 loss revealed only during an inventory or stocktaking;
- 4.17.3 loss arising from misfiling or misplacing of property, information or data;

#### **4.18 Northern Ireland**

- 4.18.1 or happening through or in consequence directly or indirectly of riot or civil commotion occurring in Northern Ireland.

#### **4.19 Pollution**

pollution or contamination except **damage** to **property insured** by:

- 4.19.1 pollution or contamination which itself results from a defined peril;
- 4.19.2 a defined peril which itself results from pollution or contamination;

(and for the purpose of this exclusion defined peril means fire lightning explosion earthquake aircraft, other aerial device or satellite or articles dropped therefrom, riot civil commotion strikers locked out workers person taking part in labour disturbances malicious persons other than thieves storm flood escape of water or oil from any tank or pipe sprinkler leakage theft or impact by any vehicle or animal);

#### **4.20 Subsidence or collapse**

in respect of **buildings**:

- 4.20.1 subsidence, ground heave or landslide;
- 4.20.2 normal settlement, bedding down of new structures;
- 4.20.3 collapse.

#### **4.21 War and terrorism**

or contributed to, by or in connection with, in whatever form, directly or indirectly, any act of **war** or **terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the loss nor will the **insurer** have any liability for loss, **damage**, costs and expenses directly or indirectly caused by, contributed to by, resulting from, or arising out of or in connection with any action controlling, preventing, suppressing, retaliating against or responding to any act of **war** or **terrorism**.

## 5 Insured section C - Personal accident

### 5.1 Personal accident cover

5.1.1 The **insurer** agrees to pay the **beneficiary** the **benefits** listed in the schedule of compensation in the **schedule** in the event the **insured person**:

- a) dies within twelve (12) months as a result of **injury**;
  - b) sustains **permanent total disablement** within twelve (12) months as a result of **injury**;
  - c) sustains **temporary total disablement** as a result of **injury**;
- provided that the
- d) **injury** occurs during the **period of insurance** and during the **policy operative time**;
  - e) **injury** may occur anywhere in the world;
  - f) **benefits** listed are also limited by the terms of clauses 5.5 and 5.6.

### 5.2 Additional personal accident costs and expenses

Not applicable to this **insured section C**.

### 5.3 Extended personal accident losses cover

Not applicable to this **insured section C**.

### 5.4 Personal accident limitations and exclusions

This **insured section C** excludes and does not cover:

#### 5.4.1 Accumulated injury

death or **disablement** directly or indirectly resulting from or consequent upon **injury** arising due to the accumulation of a series of **accidents** and/or traumas;

#### 5.4.2 Accumulation limit

any payment in excess of the **accumulation limit** specified in the **schedule**;

#### 5.4.3 Air Travel

death or **disablement** directly or indirectly resulting from or consequent upon the **insured person** engaging in air travel, except as a fare paying passenger in a commercially licensed aircraft;

#### 5.4.4 Alcohol and drugs

death or **disablement**, directly or indirectly resulting from or consequent upon the **insured person**:

- a) being over the legal limit for alcohol, as defined by the motor vehicle laws of the state in which this **policy** was delivered or issued for delivery;
- b) being under the influence of drugs or narcotics that are not lawfully available, unless prescribed for the **insured person** by a **healthcare practitioner**;
- c) using any drugs or substances in violation of the rules or regulations of the governing body of the sport in which the **insured person** plays;

- d) using performance enhancing substances, including but not limited to anabolic steroids, stimulants and corticosteroids, regardless of whether or not prescribed by a **healthcare practitioner**;

5.4.5 **Arthritis**

death or **disablement** directly or indirectly resulting from or consequent upon osteoarthritis, arthritis or any other degenerative process of the joints, bones, muscles, tendons or ligaments;

5.4.6 **Deliberate exposure**

death or **disablement**, directly or indirectly resulting from or consequent upon deliberate or reckless exposure to danger (except in an attempt to save human life), or the **insured person's own criminal act**;

5.4.7 **Epilepsy and emotional disorders**

death or **disablement** directly or indirectly resulting from or consequent upon stress (work related or otherwise), neuroses, psychoneuroses, psychopathies, psychoses, post traumatic stress disorder or mental or emotional diseases or disorders of any type, or epilepsy;

5.4.8 **Elimination period**

the number of consecutive days as stated in the **schedule** from the date the **insured person** suffers **temporary total disablement**, during which period no **benefits** are payable;

5.4.9 **Excluded activities**

death or **disablement** directly or indirectly resulting from or consequent upon the **insured person** engaging in or taking part in:

- a) naval, military or air force service or operations, winter sports (other than on piste skiing, on piste snowboarding, skating and curling), skin diving involving the aid of breathing apparatus, snorkelling, rock climbing or mountaineering normally involving the use of ropes or guides, potholing, parachuting, hunting on horseback, or driving or riding in any kind of race, driving or riding on motor cycles or motor scooters other than mopeds, hang gliding, paragliding and parasailing;
- b) any practices or activities excluded by the **insured person's** professional sports contract in connection with his **occupation**;
- c) any other activity, specifically excluded by endorsement attached to or incorporated in the **schedule** to this insurance;

5.4.10 **Natural causes**

death directly or indirectly resulting from or consequent upon, or attributable to **sickness** or natural causes;

5.4.11 **Nuclear risks**

death or **disablement** directly or indirectly resulting from or consequent upon **nuclear hazards**;

5.4.12 **Pre-existing Condition**

death or **disablement** directly or indirectly resulting from or consequent upon any **pre-existing condition** not declared to and accepted in writing by **insurer**, or any **injury** or **sickness** contributed to or aggravated by any specifically excluded or **pre-existing condition**, and any condition or body part specifically excluded by endorsement attached to or incorporated in the **schedule** to this insurance;

#### 5.4.13 **Repetitive strain**

death or **disablement** directly or indirectly resulting from or consequent upon repetitive strain **injury** or syndrome or any other gradually operating cause;

#### 5.4.14 **Sickness or illness**

death or **disablement** directly or indirectly resulting from or consequent upon

- a) venereal disease;
- b) Hepatitis B, Human Immunodeficiency Virus (HIV), Acquired Immune Deficiency Syndrome (AIDS) or AIDS Related Complex (ARC) or their sequelae howsoever the aforementioned conditions have been acquired or maybe named.

#### 5.4.15 **Suicide and self-inflicted injury**

death or **disablement** directly or indirectly resulting from or consequent upon suicide or attempted suicide, intentional self-inflicted **injury** including self-inflicted **injury** arising from mental illness or intentional **injury** of the **insured person** by the **insured**;

#### 5.4.16 **War and terrorism**

death or **disablement** directly or indirectly resulting from or consequent upon **war** and/or **terrorism**.

### 5.5 **Other personal accident terms and conditions**

#### 5.5.1 **Change of circumstances**

- a) Change of material facts

At inception of this insurance certain material information was disclosed. It is a condition of the **policy** that there shall be no material change in, or addition to, that information, either before or during the **period of insurance**, except that if the **insured** or its agent informs the **insurer** immediately of any such material change or addition the **insurer** may agree to continue the **policy** on such terms and conditions as it may determine. Remedies, including cancellation, for breach of this condition are set out in clause 1.6.

- b) Change of occupation

If the **insured person** will engage in any **occupation** or activity in which greater risk may be incurred than in the **occupation** declared in the **schedule** without first notifying the **insurer** and obtaining the written agreement of the **insurer** to the amendment of the **policy** (subject to the payment of such reasonable additional premiums as the **insurer** may require as the consideration for such agreement), then no claim will be payable in respect of any **accident** arising out of or in the course of such **occupation** or activity.

#### 5.5.2 **Schedule of compensation restrictions**

- a) Claiming under more than one item of **benefit**:

- i) If it is possible to claim **benefit** under more than one item of compensation in the schedule of compensation, then the **insured** may elect to claim under any one item of **benefit** that offers the maximum amount of payment except always that the **insurer** is only liable to pay **benefit** under a single item of **benefit** under the schedule of compensation.
- ii) If an **accident** involves the death of the **insured person** prior to the definite settlement of compensation for **disablement**, the **insurer** will pay the **beneficiary** the **benefit** for death as a result of accidental **injury** in the schedule of compensation. If death is not insured no **benefit** will be payable under this insurance.

- iii) If **sickness** involves the death of the **insured person** prior to the definite settlement of compensation for **disablement**, no **benefit** will be payable under this insurance.

b) Interest

No **benefit** payable under this insurance will carry interest.

c) **Benefits** exceeding the **accumulation limit**

Where the aggregate value of **benefit** claimed in respect of all **insured persons** suffering death or **disablement** for the one event exceeds the **accumulation limit**, the amount claim by each **beneficiary** will be reduced in proportion to the ratio that the **accumulation limit** bears to the total amount claimed.

d) **Temporary total disablement**

- i) **Temporary total disablement benefit** payable under this **policy** will not exceed the **insured person's** annual earnings, commissions and bonuses excluding all taxes payable.
- ii) **Temporary total disablement benefit** will only payable in the event of ceased/reduced contractual payment by the **insured person's** employer or sponsor. **Benefit** payable, after taking into account any continuing payments by the **insured person's** employer or sponsor will not lead to the **insured person** receiving payments from the employer or sponsor and the **insurer** that together exceed his net contractual earnings, commissions and bonuses excluding all taxes payable prior to disability.
- iii) No **temporary total disablement benefit** will become payable until the total claim amount has been ascertained and agreed by the **insurer**. If, nevertheless, payment is made for **temporary total disablement benefit**, the amount paid will be deducted from any lump sum becoming payable in respect of accidental death benefit arising from the same **injury** or **permanent total disablement benefit** arising from the same **injury** or **sickness**.
- iv) Payment of the **temporary total disablement benefit** will cease when the **insured person** has made a **recovery** from **temporary total disablement**; or the total maximum **benefit period** is exhausted, or the **insured person** dies or is deemed to be permanently totally disabled by the **insurer**, whichever first occurs.

### 5.5.3 **Medical examination**

After initial notice or submission of an incident or claim, any medical examiner appointed by the **insurer** will be allowed, so often as may be deemed necessary to conduct an examination of the **insured person**; and in the event of accidental death of the **insured person** to conduct an autopsy if legally permitted.

### 5.5.4 **Prior physical disability or condition**

If the consequences of an **injury** or **sickness** are judged by any medical examiner appointed by the **insurer** to be aggravated by any physical disability or condition of the **insured person** which existed before the **injury** or **sickness** occurred, the amount of any benefit payable under this **policy** in respect of the consequences of the **injury** or **sickness** will be reduced by the amount which it is reasonably considered would be attributable to the effect of the prior physical disability or condition of the **insured person** in the course of the claim.



#### 5.5.5 **Conditions on payment**

Payment may be made under **insured section C** only after the **insured** and / or the **beneficiary** or the **beneficiary's** executors or administrators has submitted, through the intermediary as stated in the **schedule**, the completed claim form, a general medical release signed by the **insured person**, any other materials requested by the **insurer**, and only after the **insurer** has completed an investigation of such incident or claim and agreed that the claim is covered under the terms and conditions of this **policy**.

#### 5.5.6 **Refund by beneficiary**

Prior to any claim payment under the **permanent total disablement** section of the schedule of compensation the **beneficiary** will sign an undertaking that in the event the **insured person** subsequently recovers sufficiently to resume his **occupation**, then the **beneficiary** will immediately refund any **permanent total disablement benefits** paid to them under this insurance.

#### 5.5.7 **Claim discharge**

The **insured's** or the **beneficiary's** or the **beneficiary's** executors or administrators' receipt will discharge the **insurer**.

#### 5.5.8 **Third party rights**

The **insured person** or the **insured person's** personal representatives will have no right to claim from or sue the **insurer** in respect of any benefit payable under this **insured section**.

#### 5.5.9 **Compromised settlements**

If the **insured** compromises with the **insurer** any claim under this insurance, where more than one party has an interest in the **insured person** the benefit will represent the total amount payable in respect of that person for all interests covered by this **insured section**.

### 5.6 **Conditions precedent for personal accident**

#### 5.6.1 **Co-existing accident insurance**

It is a condition precedent to the **insurer's** liability under this **insured section C** that the **insured** has no other **accident** insurance with respect to the **insured person** except as specifically declared to the **insurer** at inception or agreed by the **insurer** during the **period of insurance**.

## 6 Insured section D - Employers' liability

### 6.1 Employers' liability cover

6.1.1 The **insurer** agrees to indemnify the **insured** for all sums that the **insured** will become legally liable to pay as damages, including claimant costs recoverable from the **insured**, arising out of **bodily injury** caused during the **period of insurance** and sustained by an **employee** in the course of employment by the **insured** in the **business** except that where such employment is undertaken temporarily outside the Republic of Ireland or the United Kingdom the **employee** must be:

- a) ordinarily resident within the Republic of Ireland or the United Kingdom at the time the **bodily injury** is caused; and
- b) intending to return to the Republic of Ireland or the United Kingdom following completion of the temporary overseas employment, and the temporary overseas employment is not intended or planned to exceed twelve (12) months duration.

### 6.2 Additional employers' liability costs and expenses

6.2.1 Following any event which is or may be the subject of indemnity under clause 6.1.1, whether or not **bodily injury** has occurred, the **insurer** agrees to indemnify the **insured** for **costs and expenses** but the **costs and expenses** form part of the **limit of indemnity** and do not increase the **limit of indemnity**.

### 6.3 Employers' liability extensions

#### 6.3.1 Contractual liability

Where any contract or agreement entered into by the **insured** so requires the **insurer** will:

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

#### 6.3.2 Cross liabilities

For each legal entity comprising the **insured**, the **insurer** will separately indemnify each party under this **insured section** as if a separate **policy** had been issued to each provided that in respect of claims made or **suits** brought against any of them by any other person the **insurer's** total liability to all parties, will not exceed the **limit of indemnity**.

#### 6.3.3 Indemnity to other parties

At the request of the **insured**, the **insurer** will separately indemnify each **other insured party** provided that the:

- a) **insured** would have been entitled to indemnity by this insurance had the claim or **suit** been made against the **insured**;
- b) **other insured party** is not indemnified under any other insurance or in any other way;

- c) **insurer** has the sole conduct and control of any claim;
- d) **other insured party** agrees it will be bound by this **policy** (other than in respect of premium) as if it were the **insured**.

#### 6.3.4 **Medical treatment**

This insurance extends to indemnify the **insured** and any medical doctor or dentist employed by the **insured** in respect of liability to any person under a contract of service or apprenticeship with the **insured** resulting from treatment given provided that any such doctor or dentist shall as though they were the **insured** be subject to the terms of this **policy** so far as they can apply.

#### 6.3.5 **Offshore activities**

The insurance under clause 6 will cover liability to an **employee** for **bodily injury** caused by visits, work or activities undertaken **offshore** provided that the **limit of indemnity** under this clause will not exceed EUR6,500,000 in respect of:

- a) any one claim against the **insured** or series of claims against the **insured**; and
- b) any claim or series of claims made by the **insured** under this **insured section**;

arising out of one occurrence.

#### 6.3.6 **Principals**

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

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

#### 6.3.7 **Defence costs**

The **insurer** will, with its prior consent which consent will not be unreasonably withheld, indemnify the **insured** and at the request of the **insured** any **other insured party**, in respect of legal **costs and expenses** incurred in defending:

- a) any alleged breach of statutory duty (including any prosecution brought under the Safety, Health and Welfare at Work Act 2005 or similar safety legislation of the Republic of Ireland) or criminal proceedings brought; and / or
- b) allegations of manslaughter made against the **insured** or any **other insured party**;

provided that the prosecution or proceedings relate to:

- i) an offence alleged to have been committed during the **period of insurance** and in the course of **business**;
- ii) **bodily injury** to, or potential **bodily injury** to **employees** including their health, safety and welfare;

and, the **insurer** will also pay to the **insured**:

- iii) **costs and expenses** of appeal including appeal against improvement and prohibition notices incurred with its written consent which consent will not be unreasonably withheld;
- iv) prosecution costs awarded against the **insured**;

but the indemnity by this clause excludes and does not cover:

- v) circumstances where the **insured** or any **other insured party** is entitled to indemnity by any other legal expenses, motor or employment protection policy;
- vi) in respect of allegations of manslaughter, any amount in excess of a **limit of indemnity** of EUR1,300,000 any one claim or series of claims arising out of the same prosecution or proceedings.

#### 6.3.8 Unsatisfied court judgments

In the event of a judgment for damages being obtained:

- a) by any **employee**, or the personal representatives of any **employee**, in respect of **bodily injury** to such **employee** that arises out of and in the course of his employment by the **insured** in the **business**, against any person operating from premises in the European Economic Area; and
- b) which remains unsatisfied in whole or in part six (6) months after the date of such judgment;
- c) in any court of law except a court operating under the laws of **North America**;

then at the **insured's** request, the **insurer** will pay the amount of damages or costs awarded to the **employee** or the personal representatives of the **employee** to the extent that they remain unsatisfied provided that:

- i) there is no appeal outstanding; and
- ii) the judgment relates to **bodily injury** which would otherwise be indemnified by this **insured section**; and
- iii) the **insurer** will be entitled to take over and prosecute for its own benefit any claim against any other person and the **insured**, the **employee** or the personal representatives of the **employee** will give the **insurer** all the information and assistance the **insurer** may require.

## 6.4 Employers' liability limitations and exclusions

This **insured section** excludes and does not cover:

### 6.4.1 Asbestos

liability arising from or caused by any work involving the manufacture, mining, processing, use, installation, storage, removal, stripping out, demolition, disposal, distribution, inspection or testing of or exposure to asbestos, asbestos fibres, asbestos dust, or asbestos containing materials;

### 6.4.2 Employment practices dispute

liability which arises out of:

- a) a dispute between an employer / prospective employer and **employee** / prospective **employee** referred or capable of being referred to a Rights Commissioner or the Employment Appeals Tribunal including such appeal courts or tribunals
- b) a settlement or adjudication of or under the auspices of a Rights Commissioner or the Employment Appeals Tribunal;

and which is or is capable of being insured under a generally available Employment Practices Liability Insurance Policy;

#### 6.4.3 **Fines and penalties**

liability for payment of any fines or penalties imposed or ordered to be paid;

#### 6.4.4 **Limit of indemnity**

liability in excess of the **limit of indemnity** stated in the **schedule**;

#### 6.4.5 **North American jurisdiction**

liability for payment of any judgment, award, payment or settlement made within countries which operate under the laws of **North America** (or to any order made anywhere in the world to enforce such judgment, award, payment or settlement either in whole or in part) unless otherwise stipulated in the **schedule**;

#### 6.4.6 **Nuclear hazards**

liability that attaches by or arising from the terms of any contract (other than contracts of employment between the **insured** and its employees) or agreement for **bodily injury** caused by **nuclear hazards**;

#### 6.4.7 **Vehicles**

liability for which insurance is required by any road traffic legislation or any alteration to such regulations or any similar legislation applying in any territory consequent on the Third Council Directive 90/232/EEC of 14/05/1990 relating to insurance against civil liability in respect of the use of motor vehicles;

#### 6.4.8 **War and terrorism**

liability which arises directly or indirectly out of or caused by **war** or **terrorism**;

#### 6.4.9 **Workman's compensation or social security payment**

liability for any claims arising out of **bodily injury** that are payable by reason of any workman's compensation scheme, social security scheme or similar insurance scheme arising in connection with, from or due to employment.

### 6.5 **Other employers' liability terms and conditions**

#### 6.5.1 **Conflict of interest**

In the event of a conflict of interest between the **insured** and any **other insured party** indemnified by this insurance separate representation will be arranged for each party.

#### 6.5.2 **United Kingdom compliance conditions**

It is agreed between the **insurer** and the **insured** that solely as regards bodily injury to an **employee** under contract of employment or otherwise employed by a firm or organisation registered, established or domiciled in the United Kingdom that the following conditions will apply to all claims under this **insured section D**

##### **a) Employers' Liability (Compulsory Insurance) Act 1969**

The indemnity granted by **insured section D** is deemed to be in accordance with the provisions of the Employers' Liability (Compulsory Insurance) Act 1969 and the Employers Liability (Compulsory Insurance) Regulations 1998 or any subsequent amendment or re-enactment or similar legislation in Northern Ireland, the Isle of Man and the Channel Islands. Where any condition precedent, exclusion, term or condition of this **policy** is deemed prohibited by the act or regulations, then the **insurer** will provide an indemnity to the **employee** under the terms of **insured section D** but the **insured** will repay to the **insurer** that part of the **insurer's** indemnity for which it would not otherwise have been liable under this **policy** by reason of any such breach of condition precedent, term, condition or exclusion.

**b) Recovery of benefits**

In the event that the **insured's** liability in damages is reduced because benefits and/or charges included in the damages are to be paid under statute to the Compensation Recovery Unit or its successor, the **insured's** liability in damages for the purposes of this insurance will be deemed to include such benefits and charges.

**c) Excess and restrictive terms**

The **excess** shown in the **schedule** as applicable to **insured section D** is deleted and of no effect. Further clauses 6.4.1;

**d) Offshore injury**

The amount appearing in clause 6.3.5 is deleted and replaced by GBP5,000,000.

**e) War and terrorism**

Notwithstanding clause 6.4.8 the insurance under clause 6 will cover liability to an **employee** arising from or caused by an act of **war** or **terrorism** provided that the **limit of indemnity** under this clause will not exceed:

- a) GBP5,000,000 anywhere in the world except in travel to, travel in, travel from or working in a hostile territory; or
- b) GBP1,000,000 arising directly or indirectly whilst in travel to, travel in, travel from or working in a hostile territory;

in respect of:

- c) any one claim against the insured or series of claims against the **insured**; and
- d) any claim or series of claims made by the **insured** under this **insured section**;

arising out of one occurrence.

But where an **employee** is already working in a territory that is subsequently declared to be a hostile territory the **limit of indemnity** will remain at GBP5,000,000 provided the **insured** takes all reasonable steps immediately following the declaration to repatriate the **employee** or to remove the **employee** to a safe location as determined by the local peace force or the Foreign & Commonwealth Office.

For the purpose of this clause hostile territory means a territory designated by the Foreign and Commonwealth Office as one

- e) to which personnel are 'advised against all travel to';
- f) that personnel should leave having designated the territory 'advised against all travel to'.

**f) Health and Welfare at Work, etc. Act 1974**

Clauses 6.3.6a) is amended to include any alleged breach of statutory duty including any prosecution brought under Health and Welfare at Work, etc. Act 1974 or similar safety legislation of the **United Kingdom**.

**g) Claim notification**

The following clause is added at 13.3.2

For the avoidance of doubt where **bodily injury** arises from and in the course of **business** with the **insured**, the **insured** will give notice by an agreed electronic medium, to the **insurer** not later than forty eight (48) hours from, the **insured's** notification to the authorities of any Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) incident.

**h) Currency**

Any reference in this **policy** to the currency EUR is amended to GBP equivalent at the time of any claim in relation to any indemnity by way of the Employers Liability (Compulsory Insurance) Regulations 1998.

**i) Tax**

As regards the proportion of the premium allocated to the **United Kingdom** entity the **insured** agrees to pay Insurance Premium Tax at the prevailing rate and as advised by the **insurer**.

**j) Certificate of insurance**

In order to comply with the Employers Liability (Compulsory Insurance) Regulations 1998 the **insured** must display an Employers Liability Insurance Certificate at each place of work in the **United Kingdom** or ensure that each relevant employee has reasonable access to it in electronic format. Please ask your intermediary or contact the **insurer** if you do not have a copy of the necessary Employers' Liability Insurance Certificate.

## 7 Insured section E - Public liability

### 7.1 Public liability cover

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

### 7.2 Additional public liability costs and expenses

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

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

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

### 7.3 Public liability extensions

#### 7.3.1 Overseas liability

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

### 7.4 Public liability limitations and exclusions

In addition to the limitations and exclusions applicable to this **insured section** in clause 11, this **insured section** excludes and does not cover:

#### 7.4.1 North America

**bodily injury, damage** or **denial of access** within **North America** but this exclusion will not apply to non-manual visits by the **insured's employees** resident outside **North America** who are temporarily visiting **North America** in the course of their employment;

#### 7.4.2 Pollution and products

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

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



#### 7.4.3 **Work away**

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

## 8 Insured section F - Products liability

### 8.1 Products liability cover

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

### 8.2 Additional products liability costs and expenses

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

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

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

### 8.3 Product liability extensions

Not applicable to this **insured section F**.

### 8.4 Products liability limitations and exclusions

In addition to the limitations and exclusions applicable to this **insured section** in clause 11, this **insured section** excludes and does not cover:

#### 8.4.1 Aircraft

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

#### 8.4.2 North America

liability within **North America**;

#### 8.4.3 Pollution

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

## 9 Insured section G - Pollution liability

### 9.1 Pollution liability

9.1.1 The insurer agrees to indemnify the **insured** by the terms of this **insured section** against legal liability to pay damages, including claimant costs recoverable from the **insured** as a result of **bodily injury, damage or denial of access**, arising out of or from **pollution** occurring during the course of **business** provided that the **pollution** is caused by a sudden, identifiable, unintended and unexpected incident that takes place in its entirety at a specific moment in time and place during the **period of insurance**.

### 9.2 Additional pollution liability costs and expenses

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

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

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

### 9.3 Pollution liability extensions

#### 9.3.1 Legionella

Notwithstanding exclusion 11.14, the **insurer** will indemnify the **insured** and any **other insured party** for all sums (including claimants' costs and expenses) which the **insured** becomes legally liable to pay in respect of any claim(s) first made against the **insured** and notified to the **insurer** during the **period of insurance** resulting from **legionella** causing **bodily injury, damage or denial of access** except that the **insurer** shall not be liable for:

- a) any amount in excess of the sub-**limit of indemnity** any one occurrence and in the aggregate as specified in the **schedule**;
- b) any claims which arise out of any circumstances notified to previous insurers or known to the **insured** at the inception of this **policy**;
- c) any claims for **bodily injury** arising from employment;
- d) any claims made against the **insured** for **legionella** where the occurrence giving rise to the claim happened prior to the inception date (From: date) stated in the **schedule**.

#### 9.3.2 Environmental statutory liability

The insurance by this **insured section** is extended to indemnify the **insured** for all sums, including statutory debts, that the **insured** is legally liable to pay for remediation or **preventative costs** in respect of environmental damage where such liability arises

under an environmental protection directive, statute or statutory instrument, provided that:

- a) liability arises from **pollution** occurring during the course of **business** and is caused by a sudden, identifiable, unintended and unexpected incident that takes place in its entirety at a specific moment in time and place during the **period of insurance**;
- b) the insurance by this extension excludes and does not cover any sum incurred:
  - i) in respect of **preventative costs** for prevention of imminent threat of environmental damage to the **insured's** land, premises, watercourse or body of water whether owned, leased, hired, tenanted or otherwise in the **insured's** care, custody or control; or
  - ii) in respect of primary, complementary or compensatory remediation for damage to the **insured's** land, premises, watercourse or body of water whether owned, leased, hired, tenanted or otherwise in the **insured's** care, custody or control; or
  - iii) in respect of the removal of any significant risk of an adverse effect on human health on the **insured's** land, premises, watercourse or body of water whether owned, leased, hired, tenanted or otherwise in the **insured's** care, custody or control; or
  - iv) in achieving any improvement or alteration in the condition of the land the atmosphere or any watercourse or body of water beyond that required under any relevant and applicable law or statutory enactment at the time remediation commences; or
  - v) in respect of **preventative costs** for prevention of imminent threat of environmental damage where such sums are incurred without there being any actual occurrence of **pollution, damage** or harm to human health; or
  - vi) in excess of the sub **limit of indemnity** of EUR1,300,000 for any one occurrence which sum shall be the maximum the **insurer** will pay, inclusive of all **costs and expenses**, in the aggregate during any one **period of insurance**.

## 9.4 Pollution liability limitations and exclusions

In addition to the limitations and exclusions applicable to this **insured section** in clause 11, this **insured section** excludes and does not cover:

### 9.4.1 North America

liability in respect of or arising from **pollution** within **North America**;

### 9.4.2 Owned or previously owned premises

liability for **damage** or **denial of access** to land or **premises** (including land or water within or below the boundaries of such land or **premises**) that are presently or were at any time previously owned, leased, hired or tenanted by the **insured** or otherwise in the **insured's** care, custody or control.

## 10 Insured section H – Coverage extensions to insured sections E, F and G

### 10.1 Contractual liability

Subject always to the exclusion set out in clause 11.18, where any contract or agreement entered into by the **insured** so requires the **insurer** will:

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

### 10.2 Cross liabilities

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

### 10.3 Indemnity to other parties

- 10.3.1 At the request of the **insured**, the **insurer** will separately indemnify each **other insured party** provided that the:
  - a) **insured** would have been entitled to indemnity by this insurance had the claim or **suit** been made against the **insured**;
  - b) **other insured party** is not indemnified under any other insurance or in any other way;
  - c) **insurer** has the sole conduct and control of any claim;
  - d) **other insured party** agrees it will be bound by this **policy** (other than in respect of premium) as if it were the **insured**.

### 10.4 Motor liability

- 10.4.1 Notwithstanding exclusion 11.21 to **insured sections E, F, G and H**, the **insurer** agrees to indemnify the **insured** and any **other insured party** in respect of liability arising out of or from:
  - a) the use of any mechanically propelled vehicle as a tool or plant; or
  - b) the loading or unloading of any mechanically propelled vehicle or trailer when carried out beyond the limits of any carriageway or thoroughfare by a person other than the driver or attendant of any such vehicle or trailer; or
  - c) the movement of any mechanically propelled vehicle not owned hired or borrowed by or leased to the **insured** or any **other insured party** on or under any **premises** occupied by the **insured** where such vehicle is causing an obstruction and interfering with the performance of the **business**; or
  - d) **damage** to visitors' or **employees'** mechanically propelled vehicle (including contents and/or accessories) while parked within any car park for which the **insured** are responsible or on any **premises** occupied by the **insured** provided that:

- i) such vehicle is not lent or hired to the **insured**; or
  - ii) the **damage** to an **employee's** vehicle does not arise out of the maintenance, operation or use of a vehicle by an **employee**; or
- e) **damage** to any bridge weighbridge road or anything beneath caused by the weight of any mechanically propelled vehicle or trailer or of the load carried thereon;
- 10.4.2 except always that the indemnity provided by this clause excludes liability for which insurance is required by any road traffic legislation or any alteration to such regulations or any similar legislation applying in any territory consequent on the Third Council Directive 90/232/EEC of 14/05/1990 relating to insurance against civil liability in respect of the use of motor vehicles; or similar legislation in any country outside the European Union.

## 10.5 Motor contingent liability

10.5.1 Notwithstanding exclusion 11.21 to **insured sections E, F, G and H**, the **insurer** agrees to indemnify the **insured** and any **other insured party** in respect of liability arising out of or from the operation or use of any mechanically propelled vehicle not owned hired or borrowed by or leased to the **insured** or any **other insured party** and used in the course of **business** provided that this clause excludes and the **insurer** will not be liable for:

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

## 10.6 Personal injury including wrongful arrest

Notwithstanding the exclusions at clause 11.21 agrees to indemnify the **insured** in respect of liability arising out of **personal injury** or shoplifting but the insurance by this extension clause 10.5 excludes and does not cover payment of any amount in excess of EUR50,000 in any one **period of insurance**.

## 10.7 Principals

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

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

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

- 10.8.1 Notwithstanding the exclusions at clauses 7.4.2, 8.4.3 or 11.23, but subject to the exclusion at clause 9.4.2, the **insurer** agrees to extend coverage under **insured sections E, F, G and H** to indemnify the **insured** in respect of liability arising out of or from:
- a) **damage** to personal effects (including vehicles and their contents) of the **insured's employees**, directors, officials, visitors or guests; or
  - b) **damage** to **premises** including landlord's contents, fixtures and fittings not owned by the **insured** but leased or rented by them in the course of **business**, but always excluding liability which attaches by way of any contract or agreement that would not have attached in the absence of such contract or agreement; or
  - c) contractual liability that arises from an agreement requiring insurance to be maintained in force in respect of loss of or **damage** to such **premises** and their fixtures and fittings;
  - d) **damage** to premises or the contents thereof not belonging to or leased to or rented to the **insured** or otherwise in the **insured's** custody or control but temporarily occupied by the **insured** for **work away** therein but no indemnity is provided by this clause for **damage** to that part of the property on which the **insured** is working and which arises out of such **work away**.

## 10.9 Defence costs

- 10.9.1 The **insurer** will, with its prior consent which consent will not be unreasonably withheld, indemnify the **insured** and at the request of the **insured** any **other insured party**, in respect of legal **costs and expenses** incurred in defending:
- a) any alleged breach of statutory duty (including any prosecution brought under the Safety, Health and Welfare at Work Act 2005 or similar safety legislation of the Republic of Ireland) or criminal proceedings brought; and / or
  - b) allegations of manslaughter made against the **insured** or any **other insured party**;
- provided that the prosecution or proceedings relate to:
- i) an offence alleged to have been committed during the **period of insurance** and in the course of **business**;
  - ii) **bodily injury** to, or potential **bodily injury** to persons other than **employees**;
- and, the **insurer** will also pay to the **insured**:
- iii) **costs and expenses** of appeal including appeal against improvement and prohibition notices incurred with its written consent which consent will not be unreasonably withheld;
  - iv) prosecution costs awarded against the **insured**;
- but the indemnity by this clause excludes and does not cover:
- v) circumstances where the **insured** or any **other insured party** is entitled to indemnity by any other legal expenses, motor or employment protection policy;
- in respect of allegations of manslaughter any amount in excess of a **limit of indemnity** of EUR1,300,000 any one claim or series of claims arising out of the same prosecution or proceedings.

## 11 Exclusions to insured sections E, F, G and H

**Insured sections E, F, G and H** exclude and do not cover:

### 11.1 Advertising injury

**advertising injury** arising out of:

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

### 11.2 Advice, design or plans provided for a fee

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

### 11.3 Aircraft and watercraft

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

- 11.3.1 motor barges not exceeding seventy five (75) ton capacity on inland waterways;
- 11.3.2 hand-propelled craft, sailing vessels and motor launches not exceeding fifteen (15) metres in length and only when operated in inland waterways;
- 11.3.3 watercraft not belonging to or chartered by the **insured** but used by them for business entertainment provided that:
  - a) such watercraft is primarily owned and operated as a river cruise vessel;
  - b) such watercraft is insured by the owner or charterer under a policy of marine insurance;
  - c) the **insurer** will not indemnify the **insured** in respect of liability which attaches by way of any contract or agreement that would not have attached in the absence of such contract or agreement;

### 11.4 Asbestos

liability arising from or caused by any work involving the manufacture, mining, processing, use, installation, storage, removal, stripping out, demolition, disposal, distribution, inspection or testing of or exposure to asbestos, asbestos fibres, asbestos dust, or asbestos containing materials;



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

**costs and expenses** incurred in proceedings consequent upon any deliberate act or omission by or on behalf of the **insured** or **other insured party** if the result of such act or omission could reasonably have been expected to constitute an offence under any legislation;

## 11.6 **Costs of recall or guarantee**

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

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

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

## 11.8 **Electronic data**

### 11.8.1 Liability:

- a) arising from loss, alteration or impairment of, or damage to, information and/or data in electronic form;
- b) arising from malicious acts of any person carried out by electronic means;
- c) for defamation or harassment carried out by electronic means;

11.8.2 but this exclusion shall not apply in respect of liability for any ensuing accidental **bodily injury** (save for mental injury or mental disease) or accidental **damage** which is not otherwise excluded;

## 11.9 **Employment practices dispute**

liability which arises out of:

a dispute between an employer / prospective employer and **employee** / prospective **employee** referred or capable of being referred to the Employment Appeals Tribunal including such appeal courts.

## 11.10 **Excess**

the amount of the **excess** as applicable and stated in the **schedule**;

## 11.11 **Financial loss**

liability for pure financial loss that is not consequent upon **bodily injury** or **damage**;

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

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

## 11.13 **Intentional disregard of reasonable precautions**

any insured event or loss arising or arising out of or continuing from the **insured's** deliberate, conscious or intentional disregard of the need to take all reasonable precautions to prevent an insured event or loss arising or continuing;

#### **11.14 Legionella**

**bodily injury, damage or denial of access** arising out of, alleging or attributable to the existence of **legionella** except as stated as insured in clause 9.3.1;

#### **11.15 Liability from employment**

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

#### **11.16 Limit of indemnity**

liability in excess of the **limit of indemnity** stated in the **schedule** except for payment of **costs and expenses** as provided for by clauses 7.2.1, 8.2.1 and 9.2.1;

#### **11.17 Liquidated damages**

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

#### **11.18 North American jurisdiction**

liability in respect of any judgment, award, payment, costs and expenses or settlement delivered, made or incurred within countries which operate under the laws of **North America** (or to any order made anywhere in the world to enforce such judgment, award, payment, costs and expenses or settlement either in whole or in part) unless otherwise stipulated in the **schedule**;

but that this exclusion shall not apply to the insurance provided in respect of non-manual visits under clause 7.4.1 always providing that:

- a) the **insurers** will not be liable to indemnify any entity based in, operating in or domiciled in **North America**; and
- b) the indemnity provided by 11.18.1 a) excludes liability arising under any agreement or contract that would not arise in the absence of any agreement or contract.

#### **11.19 Nuclear risks**

11.19.1 loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss;

11.19.2 any legal liability of whatsoever nature;

11.19.3 any sum which the **insured** becomes legally liable to pay or any loss or expense; directly or indirectly caused by or contributed to by or arising from or, in the case of 11.19.3 above, attributable to **nuclear hazards**.

#### **11.20 Overseas domiciled operations**

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

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

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

**11.22 Personal injury**

liability for **personal injury**;

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

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

**11.24 The product itself**

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

**11.25 War or terrorism**

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

## 12 Conditions precedent to insured sections E, F, G and H

Notwithstanding the above, clauses 12.2, 12.5 and 12.6 shall also apply to **insured section D**.

### 12.1 Bona fide subcontractors insurance check

It is a condition precedent to the **insurer's** liability under this insurance that whenever work is undertaken on behalf of the **insured** by bona fide subcontractors the **insured** will establish and maintain an administrative procedure for obtaining evidence that bona fide subcontractors effect public liability insurance that:

- 12.1.1 covers the work to be undertaken by the bona fide subcontractor;
- 12.1.2 is subject to a **limit of indemnity** of not less than EUR2,600,000;
- 12.1.3 includes an 'indemnity to principals' clause,
- 12.1.4 the insurance is revalidated every twelve (12) months throughout the duration of their contract with the **insured**.

### 12.2 Fork lift truck conditions

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

- 12.2.1 all drivers must be at least eighteen (18) years of age;
- 12.2.2 all drivers must:
  - a) complete a training course in the safe use of fork lift trucks through an Accredited Training Provider belonging to one of the three accrediting bodies as recognised by the Health & Safety Authority,
  - b) complete a refresher course within five (5) years of the initial training programme, and the **insured** must retain appropriate documentation verifying completion thereof;
- 12.2.3 whenever a fork lift truck is unattended
  - a) the ignition keys must be removed, or
  - b) the vehicle otherwise immobilised,

to prevent unauthorised use. For the purpose of this clause unattended means that the fork lift truck is out of sight of the driver and / or more than one (1) minute's walking distance from the driver;
- 12.2.4 the carriage of passengers, unauthorised use or application as a tool in excess of the design capabilities of the vehicle is prohibited at all times;
- 12.2.5 all drivers must engage safety restraints.

### 12.3 Heat away from premises

- 12.3.1 It is a condition precedent to the **insurer's** liability under this insurance that the **insured**, or persons acting on behalf of the **insured**, will ensure that when using a naked flame or other heat source or oxyacetylene, electric arc or similar welding, cutting, grinding or other spark emitting equipment or otherwise applying heat away from the **insured's** premises, the **insured** and its **employees** shall take all reasonable precautions to prevent **damage**.
- 12.3.2 Where the use of heat away from the **insured's** premises involves oxyacetylene, electric arc or similar welding, cutting, grinding or other spark emitting equipment and

the work is subcontracted; then the **insured** shall require the subcontractor to also take all reasonable precautions

12.3.3 The term 'reasonable precautions' in relation to the use of such heat by oxyacetylene, electric arc or similar welding, cutting, grinding or other spark emitting equipment shall include but not be limited to the following:

a) Before Starting Work

- i) a person shall be made responsible for fire safety and for ensuring that reasonable precautions are taken,
- ii) all persons shall be made aware of the location of the site's fire alarms and fire fighting equipment,
- iii) the responsible person shall examine all property within a radius of six (6) metres from where the heat is being applied and where possible remove all combustible materials or otherwise cover and protect by overlapping sheets or screens of non-combustible material.

b) During the Process of Work

- i) a person shall work alongside the operator of the equipment to look out for an outbreak of fire and there shall be available for immediate use a hose connected to the nearest hydrant with water turned on and controllable at the nozzle of the hose. If water is not available or unsuitable then two (2) fully charged fire extinguishers must be available and if used during the process, the heat work must cease until two (2) fully charged fire extinguishers are made available,
- ii) the lighting of equipment shall be in accordance with manufacturers instructions and no piece of lighted equipment shall be left unattended,
- iii) gas cylinders not required for immediate use shall be kept at least six (6) metres from where the heat is being applied.

c) After Ceasing Work

- i) a continuous examination for one (1) hour shall be made of the area within a radius of six (6) metres from where the heat has been applied to ensure that there is no risk of fire.

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

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

## 12.4 Skip hire conditions

12.4.1 It is a condition precedent to the **insurer's** liability under this insurance that:

12.4.2 in connection with the use ownership or hiring out of skips the **insured** must at all times observe and comply with the requirements of the Road Traffic Acts or any other statutory regulations or local bye-laws and must ensure that;

- a) each skip is marked with fluorescent markings which must be kept clean,

- b) each skip deposited on a highway is equipped to be properly lit during the hours of darkness,
- c) no skip is left at or outside any customer's premises or on any working site without delivery being accepted by or on behalf of the customer.

12.4.3 skips must be hired out under the conditions of hire as advised to the **insurer** and a copy of these conditions must be given to the customer and the contents thereof drawn to the customer's attention prior to or at the time of delivery of the skip.

## **12.5 Known incidents**

It is a condition precedent to the **insurer's** liability under this insurance that the **insured** has advised the **insurer** of all incidents which may give rise to a claim on expiring policies.

## **12.6 Safety statement**

It is a condition precedent to the insurer's liability under this insurance that the insured shall have an adequate statement as required by Part 3, Section 20 of the Safety, Health and Welfare at Work Act 2005 No. 10 of 2005;

## 13 Duties in the event of a claim or potential claim

The due observance and fulfilment of the provisions of clause 13 is a condition precedent to the **insurer's** liability for any claim under this **policy**. The Observance clause 14.6 sets out consequences of a failure to comply with conditions precedent or **policy** provision such as clause 13.

### 13.1 Claim notification – insured sections A – B

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

- a) as soon as practical but in any event within thirty (30) days of the event giving rise to the claim in respect of **damage** caused by any **insured peril**; and
- b) as soon as practical but in any event within thirty (30) days of the event giving rise to any other claim.

13.1.2 In respect of **damage** caused by theft or malicious persons the **insured** will give immediate notice to the police authority, and take all practical steps to discover any guilty person or persons and recover the property lost.

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

### 13.2 Claim notification – insured section C

13.2.1 The **insured** will give notice in writing or by an agreed electronic medium, to the **insurer** as soon as reasonably practicable or at least within:

- a) fourteen (14) days from the date of **injury** or manifestation of **sickness** of the **insured person** that causes or may cause **temporary total disablement** insured by this **policy**;
- b) ninety (90) days from the date of **injury** or manifestation of **sickness** of the **insured person** that causes or may cause death or disablement insured by this **policy**.

13.2.2 In the event of **permanent total disablement**, claims other than first notice must be presented to the **insurer** for settlement within twelve (12) months of the date of the original **injury** or **sickness** giving rise to such claim under this **policy**, unless otherwise agreed by the **insurer**.

13.2.3 In the event of the **insured's** death or other incapacity that prevents the **insured** from submitting notice the **beneficiary** or the **beneficiary's** executors or administrators will give notice in writing within ninety (90) days from the date of **injury** or manifestation of **sickness** of the **insured person** to the **insurer** and otherwise act in place of the **insured**.

13.2.4 If an **accident** involves the death of the **insured person** claims must be presented to the **insurer** within twelve (12) months of the date of the original **injury** giving rise to such claim under this insurance, unless otherwise agreed by **insurer**.

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

### 13.3 Claim notification – insured sections D – H

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

- a) immediately on but in any event within three (3) working days from
  - i) receipt of notice of any impending inquest, prosecution or other legal proceedings that includes alleged **bodily injury**;
  - ii) coming into possession of actual knowledge that a claim has been submitted to the InjuriesBoard.ie for alleged **bodily injury** or **personal injury**;
  - iii) the **insured's** actual knowledge of any death or **bodily injury** to any **employee** involving a stay in hospital in excess of three (3) days;
- b) as soon as practical but in any event within thirty (30) days after any other accident, event or the coming in possession of actual knowledge of **bodily injury, personal injury** or **damage**, including circumstances estimated to be within the **excess**, with full particulars thereof;

which may be the subject of indemnity under this **policy**.

The **insured** must fully co-operate with the **insurer** or their appointed agents to enable the **insurers** comply with all obligations placed upon the **insured** pursuant to the provisions of the InjuriesBoard.ie and Civil Liability and Courts Act 2004 including but not limited to the immediate furnishing of all notices and communications received from the InjuriesBoard.ie in regard to the bringing of a claim by any party to the InjuriesBoard.ie the making of an assessment by the InjuriesBoard.ie and the **insured's** acceptance or rejection of such an assessment.

All such notices and correspondence emanating from the InjuriesBoard.ie must be furnished forthwith and without delay to the **insurer**.

13.3.2 The **insured** will give notice by an agreed electronic medium, to the **insurer** not later than forty eight (48) hours from, the **insured's** notification to the authorities of any incident.

13.3.3 Notice to the **insurer** or nominated claims handler must be given to the claims notification addresses specified in the **schedule**.

### 13.4 Insured's duties

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

- a) not admit responsibility, liability, make an offer or promise, nor offer payment or indemnity without the written consent of the **insurer**;
- b) not incur any expense without the consent of the **insurer** except at the **insured's** own cost;
- c) on the happening of any **damage** in consequence of which a claim is or may be made under **insured section B** the **insured** will with due diligence do and concur in doing and permit to be done all things which may be reasonably practicable to minimise or check any interruption of or interference with the **business** or to avoid or diminish the loss;
- d) always act honestly, there being no rights to any form of payment or indemnity under the **policy** in the event that any claim is made fraudulently;
- e) give all such information, assistance and forward all documents to enable the **insurer** to investigate, settle or resist any claim as the **insurer** may require;



- f) provide such proofs and information with respect to the claim as may reasonably be required together with (if demanded) a statutory declaration of the truth of the claim and any matters connected therewith;
- g) not destroy evidence or supporting information or documentation without the **insurer's** prior consent; nor destroy any plant or other property relating to an occurrence, loss or **suit** that may give rise to a claim under this **policy**;

13.4.2 In addition to the above, for each and every claim under **insured section C** it is agreed that:

- a) the **insured** must arrange for the **insured person** to place himself/herself as early as possible under the care of a **health care practitioner**;
- b) the **insured** must fully co-operate with and assist the **insurer** in the investigation and evaluation of the incident or claim including:
  - i) in the event of death by **accident**, obtaining a copy of the death certificate and any other records deemed necessary by the **insurer**,
  - ii) obtaining any other records the **insurer** deems necessary to evaluate the incident or claim;
  - iii) procuring the full co-operation and assistance of the **insured person** and / or the **beneficiary** as required by the **insurer**.

## 13.5 Claim Procedure

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

13.5.1 For **insured sections A – B**, within thirty (30) days after **damage** (or expiry of the **indemnity period** in the case of **business** interruption) or such further time as the **insurer** may in writing allow, at the **insured's** own expense, deliver to the **insurer** a claim in writing, containing as particular an account as may be reasonably practical of the several articles or portions of property damaged and the amount of the **damage** thereto respectively, having regard to their value at the time of the **damage** together with any details of any other insurance on any **property insured** provide, such proofs and information with respect to the claim as may reasonably be required together with (if demanded) a statutory declaration of the truth of the claim and any matters connected therewith;

13.5.2 For **insured sections D – H**,

- a) as soon as practicable, but in any event within seven (7) working days, of receipt by the **insured** send the **insurer** copies of any request, demand, order, notice, summons, legal paper and all documents relating thereto in connection with an insured event. In addition the **insured** shall provide full details concerning the claim and provide such co-operation and assistance as the **insurer**, its legal representatives or appointed agents may reasonably require;
- b) authorise the **insurer** to obtain medical records or other pertinent information upon request but only where legally permitted to do so in the event of an insured event involving **bodily injury**;

13.5.3 prove, if it is alleged that an event is not covered or that the indemnity is otherwise limited being **war** or an act of **terrorism** that the said exclusion or **limit of indemnity** does not apply, it being understood and agreed that any portion of an exclusion or **limit of indemnity** being found invalid, inapplicable or unenforceable will not in any way render the remainder of the exclusion or limit invalid, inapplicable or unenforceable.

## 13.6 Insurer's rights

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

## 13.7 Disputed defence or appeal

If any dispute arises between the **insured** and the **insurer** as to whether a prosecution should be defended or an appeal made, such dispute will be referred to Senior Counsel of the Irish Bar appointed jointly by the **insurer** and the **insured** or, failing agreement, appointed by the Chairman of the Bar Council of Ireland, whose decision shall be final. In the event of conflict between any **other insured party** separate representation will be arranged for each party.

## 13.8 Excess

- 13.8.1 If the insured event forms the subject of indemnity under more than one of **insured sections D to H**, the **insured's** maximum liability for the **excess** will be the highest applicable **excess**.
- 13.8.2 If settlement of an insured event investigated or defended by the **insurer** under **insured sections E to H** does not exceed the amount of the applicable **excess (damage only)** or the **excess**, the **insured** shall be liable for payment of the **excess** before the **insurer** shall be liable to make any payment under this **policy**.

Provided always that the **insurer** shall refund to the **insured** any amount of the **excess** in full or in part should any claim be ultimately settled for any amount less than such **excess**;

## 13.9 Subrogation

- 13.9.1 Except as provided by clauses 6.3.1 and 10.1, for each and every claim the **insured**, any **other insured party** and any person acting on their behalf must not waive any rights of recourse or recovery against any other person relating to an occurrence, loss or **suit** that may give rise to a claim under this insurance.
- 13.9.2 The **insured** or any **other insured party** will at the request and expense of the **insurer** do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the **insurer** for the purpose of enforcing any rights and remedies or of obtaining relief or indemnity from other parties to which the **insurer** will be or would become entitled or subrogated upon its paying an indemnity under this **policy**, whether such acts and things will be or become necessary or required before or after their indemnification by the **insurer**.
- 13.9.3 In the event of any payment under this insurance, the **insurer** will act in concert with all other interested persons (including the **insured**) concerned in the exercise of any rights of recovery.

- 13.9.4 The apportioning of any amounts which may be so recovered will follow the principle that any interested persons (including the **insured**) that will have paid an amount over and above any payment hereunder, will first be reimbursed up to the amount paid by them; the **insurer** is then to be reimbursed out of any balance then remaining up to the amount paid hereunder; lastly, the interested persons (including the **insured**) to whom this coverage is in excess shall be entitled to claim the residue, if any.
- 13.9.5 Expenses necessary to the recovery of any such amounts will be apportioned between the interested parties concerned, in the ratio of their respective recoveries as finally settled.

## 14 General terms and conditions

### 14.1 Adjustment of premium

Where the premium in whole or part is provisionally based on estimates provided by the **insured**, the **insured** will keep accurate records and declare such information as the **insurer** requires within three (3) months of the expiry of the **period of insurance**. The premium will then be adjusted and any difference paid by or allowed to the **insured** as the case may be but subject to any minimum premium that may apply. The **insurer** reserves the right to request that the **insured** supplies an auditor's certificate with such calculations as are subject to adjustment attesting the accuracy thereof.

### 14.2 Applicable law

Under European law the **insured** and **insurer** may choose which law will apply to this contract. Irish law and jurisdiction will apply unless both parties agree otherwise.

### 14.3 Assignment

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

### 14.4 Cancellation

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

### 14.5 Contract rights of third parties

This insurance does not confer or create any right by any person who is not named as the **insured** and both the **insurer** and **insured** may amend, cancel or lapse this insurance without giving notice to, or requiring the consent of, any other third party.

### 14.6 Contribution

14.6.1 If at the time of any claim under **insured sections A-B** there will be any other insurance covering the same risk or any part thereof the **insurer** will not be liable for more than its rateable proportion. Nothing herein will be construed to make the insurance by this section subject to the terms, limitations, conditions and definitions of any other insurance except that if any other insurance will be subject to any condition of average, then the insurance by any **insured section** if not already subject to a condition of average will be subject to average in like manner.

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

### 14.7 Data Privacy Notice

Any personal data provided to the **insurer** will be processed in compliance with all applicable laws and regulations and in accordance with the privacy notice which can be

found at <https://qbееurope.com/privacy-policy/>. Alternatively the **insured** may contact the **insurer's** Data Protection Officer to request a copy of the full privacy notice by email: [dpo@uk.qbe.com](mailto:dpo@uk.qbe.com) or by writing to the: Data Protection Officer, QBE European Operations, Plantation Place, 30 Fenchurch Street, London EC3M 3BD.

## 14.8 Document management

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

## 14.9 Dispute resolution

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

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

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

## 14.10 Inspection and audit

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

## 14.11 Insurance Act 1936 and Stamp Duties Consolidation Act 1999

All monies which become or may become due or payable by the **insurer** under this **policy** shall in accordance with Section 93 of the Insurance Act 1936 be payable and paid in the Republic of Ireland. Further, the appropriate stamp duty has been or will be paid in accordance with the provisions of Section 5 of the Stamp Duties Consolidation Act 1999.

## 14.12 Language

This **policy** and all communications between the **insured** and the **insurer** shall be in English.

## 14.13 Legal action against the insurer

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

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

#### **14.14 Material inaccuracy**

14.14.1 The information provided by or on behalf of the **insured** in connection with this insurance (whether at inception or otherwise) shall be materially accurate and not omit material information which is known by the **insured's** board members or equivalent and/or the **insured's** risk manager or ought to have been known by them following their reasonable enquiry.

14.14.2 Breach by fraud or dishonesty

If the **insured** or anyone acting on its behalf breaches this condition (whether at inception or otherwise) by fraud or dishonest act or omission, the **insurer** may:

- a) avoid this **policy** from inception; or
- b) impose such terms, conditions and/or additional premium as the **insurer** may in its sole discretion determine; and

any benefit which the **insured** has received under this **policy** which resulted from any such fraud or dishonest act or omission shall immediately be repaid to the **insurer**.

14.14.3 Breach by non-disclosure, misrepresentation (other than fraudulent or dishonest)

If the **insured** or anyone acting on its behalf breaches this condition (other than by fraudulent or dishonest means), the **insurer** may:

- a) impose such terms and conditions (effective at inception or otherwise) as the **insurer** would have imposed in the absence of such breach; and/or
- b) charge such additional premium (effective at inception or otherwise) as the **insurer** would have required in the absence of the breach; and
- c) apply such applicable additional premium, amended terms and conditions or both to any notified **claim** or potential **claim**; and

the **insurer** will promptly give the **insured** written notice of any applicable additional premium, amended terms and conditions or both.

14.14.4 Within fourteen (14) days of receipt of such notice, the **insured** will give the **insurer** written confirmation of:

- a) acceptance of and a promise to pay the applicable additional premium in accordance with the terms of trade applying to this insurance; or
- b) the **insured's** acceptance of the amended terms and conditions; or
- c) both as applicable.

14.14.5 If the **insurer** can show to the **insured's** reasonable satisfaction that the **insurer** would have declined to enter into this insurance at inception or to accept the proposed amendment to this insurance during the **period of insurance** on any terms, the **insurer** may avoid this **policy** from inception and, if no claims have been paid or accepted under this **policy**, the **insurer** shall promptly return to the **insured** all premiums received by the **insurer** at the date of breach; and, if the **insurer** has paid claim monies under this **policy**, the **insured** shall promptly repay all such claim monies to the **insurer**.

#### **14.15 Minimisation of risk**

14.15.1 The **insured** will take all reasonable steps at its own expense to prevent an insured event:

- a) arising (not applicable to **insured section D**); or
- b) continuing.

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

#### **14.16 Observance**

- 14.16.1 The due observance and fulfilment of the provisions of this **policy** insofar as they may relate to anything to be done or complied with by the **insured**, or are already described in the **policy** as conditions precedent, will be a condition of this **policy**. Any waiver by the **insurer** of any provision will not prevent the **insurer** from relying on such term or condition or condition precedent in the future.
- 14.16.2 Further where an indemnity is provided to an **other insured party** the **insured** will arrange for each party to comply with the terms, conditions and conditions precedent of this insurance so far as they can apply providing always that the **other insured party** complies with the terms of clause 13 (Duties in the event of a claim or potential claim).
- 14.16.3 In the event of a breach of any provision in the **policy**, and without prejudice to any other rights of the **insurer**, the **insurer** may reject or reduce claims connected with the breach, providing the **insurer** can demonstrate some prejudice, and continue the **policy** on such terms as it may determine and if any payment on account of any such claim has already been made the **insured** will repay forthwith all payments on account to the **insurer**.

#### **14.17 Representation**

The **insured** will act on behalf of all **other insured parties** under this **policy** with respect to the giving and receiving of any notices from the **insurer** or their representatives including any notice of cancellation. The payment to the **insured** of any return premium that may be payable under this **policy** will satisfy the **insurer's** obligations to return premium to any **other insured party**.

#### **14.18 Sanction limitation and exclusion**

The **insurer** shall not provide cover nor be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the **insurer** or any member of the **insurer's** group to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of any country.

#### **14.19 Subscribing insurer**

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

## 15 General definitions and interpretation

The following words will have the same meaning attached each time they appear in this **policy** in **bold** type face, whether with a capital first letter or not.

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

For **insured section B** the words and expressions used in the **insured's** books and accounts will have the meaning attached to them herein. Any adjustments implemented in current cost accounting will be disregarded. Further to the extent that the **insured** are accountable to the tax authorities for value added tax all terms in **insured section B** will be exclusive of such tax,

### 15.1 Accident

Accident will mean a single and unexpected event, which occurs at an identifiable time and place.

### 15.2 Accumulation limit

Accumulation limit means the maximum amount of **benefits** payable by the **insurer** irrespective of the number of **insureds** and/or **insured persons** claiming where a single event, or series of events in a twenty kilometres radius originating from the same proximate cause, occurs and where:

- 15.2.1 within twenty-four (24) consecutive hours of the event; or
- 15.2.2 within twenty-four (24) consecutive hours of the first event in the series of events causes death, **injury** and/or **sickness** to more than one **insured person**.

### 15.3 Advertising injury

Advertising injury means:

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

### 15.4 All other contents

All other contents means and is deemed to include:

- 15.4.1 **documents**, but only for the value of the materials together with the cost of clerical labour and/or computer time expended in reproducing such records (excluding any expenses in connection with the production of information to be recorded therein) and not for the value to the insured of the information contained therein, for an amount not exceeding EUR50,000;



15.4.2 patterns, models, moulds, plans and designs for an amount not exceeding the cost of the labour and materials expended in reinstatement;

15.4.3 and so far as the same are not otherwise insured, personal property of principals, **employees**, partners or directors of the **insured** or visitors for an amount not exceeding EUR1,300 in respect of the property of any one person.

### **15.5 Annual gross revenue**

Annual gross revenue means the **gross revenue, trend adjusted**, during the twelve months immediately before the date of the **damage**.

### **15.6 Annual rent receivable**

Annual rent receivable means the **rent receivable, trend adjusted**, during the twelve months immediately before the date of the **damage**.

### **15.7 Annual turnover**

Annual turnover means the **turnover** excluding VAT, **trend adjusted**, during the twelve months immediately before the date of the **damage**.

### **15.8 Assault**

Assault means **injury** occurring to an **insured person** directly due to theft or attempted theft of **money**.

### **15.9 Beneficiary**

Beneficiary means the person or entity specified in the **schedule** who will be entitled to payment of **benefits** covered under **insured section D**.

### **15.10 Benefits**

Benefits means the sums stated in the schedule of compensation in the **schedule** being the maximum amount payable by the **insurer**.

### **15.11 Benefit period**

Benefit period means the total period (but not necessarily consecutive period) for which item E of the table of benefits in **insured section A** clause 2.3.7 is payable in respect of any one **accident** to any **insured person**.

### **15.12 Biological**

Biological means any pathogenic (disease producing) micro-organism(s) and / or biologically produced toxin(s) (including genetically modified organisms and chemically synthesised toxins) which cause illness and / or death in humans, animals or plants.

### **15.13 Bodily injury**

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

### **15.14 Buildings**

Buildings mean the fixed permanent structures at the **premises** including:

15.14.1 landlord's fixtures and fittings therein and thereon;

- 15.14.2 outbuildings and annexes together with extensions and canopies adjoining to or communicating therewith;
- 15.14.3 foundations;
- 15.14.4 walls, gates and fences and the adjoining gangways, yards, roadways or pavements constructed of concrete or asphalt around and pertaining thereto drains, sewers and gutters;
- 15.14.5 security lighting, security cameras and other security or fire protection devices, affixed signs, television, radio, satellite receiving aerials, communication aerials, their fittings and masts affixed to the buildings walls gates fences fixed poles or fixed pylons at the **premises**;
- 15.14.6 telephone, gas, water and electricity meters, piping, ducting, trunking, cables, wires and associated control gear, instruments and accessories and the like, including such property for which the **insured** are responsible but which is in or under adjoining yards or roadways extending to the public mains and which partly or wholly serves to supply the **premises**;
- 15.14.7 underground storage tanks; but excluding property more specifically insured.

## 15.15 Business

The activities of the **insured** as stated in the **schedule** and including:

- 15.15.1 provision and management of canteens, sports, social and welfare and medical organisations for the benefit of the **insured's employees** and / or their pensioners, sponsorships, medical, dental, nursing, first aid, fire, rescue and ambulance services, principally in connection with but not limited to the operations of the **insured**;
- 15.15.2 provision of security services for the benefit of the **insured**;
- 15.15.3 provision of nursery, crèche or child care facilities where incidental to the business;
- 15.15.4 provision of educational facilities;
- 15.15.5 property owners, lessors and lessees including repair, refurbishment and maintenance of such property;
- 15.15.6 organisation of and participation in exhibitions, trade fairs, conferences and the like;
- 15.15.7 private work undertaken by any **employee** for any fellow principal **employee**, director or partner or executive of the **insured**;
- 15.15.8 employment of subcontractors for performance of work on behalf of the **insured**;
- 15.15.9 the organisation of charitable events or similar fund raising activities;
- 15.15.10 sponsorship of events, organisations, entities and individuals;
- 15.15.11 repair, maintenance and servicing of own mechanically propelled vehicles, sale or disposal of own property and goods, including owned mechanically propelled vehicles;
- 15.15.12 provision of gifts and promotional material incidental to the business.

## 15.16 Business hours

Business hours means the period during which the **premises** is open for **business** or is otherwise occupied for **business** purposes by the **insured** or an authorised **employee**.

## 15.17 Change of temperature

Change of temperature means the rise or fall in temperatures as a result of

- 15.17.1 the breaking, distortion or burning out of any part of the unit (excluding its own wiring termination including the plug and fuse) arising from mechanical or electrical defects in the unit occurring while the unit is being used under normal working conditions;
- 15.17.2 non-operation of the thermostatic or automatic controlling devices forming part of the unit;
- 15.17.3 accidental failure of the public electricity supply not occasioned by the deliberate act of any utility undertaking.

## 15.18 Chemical

Chemical means any compound which, when suitably disseminated, produces incapacitating, damaging or lethal effects on people, animals, plants or material property.

## 15.19 Claim payment

Claim payment will mean the amount the **insurer** agrees to pay to the **insured** for any one claim.

## 15.20 Combined single limit

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

## 15.21 Computer(s)

Computer means all parts of the **electronic data** processing installation including tapes cards disks and disk packs and any other data carrying media owned by or for which the **insured** is responsible situated anywhere in the world, notified to the **insurer** and described in the **schedule**.

## 15.22 Costs and expenses

Costs and expenses means

- 15.22.1 costs and expenses (other than claimant costs recoverable from the **insured** or any **other insured party**) incurred in the investigation, adjustment, appraisal, defence or settlement of an insured event, including expert, legal, appeal and defence costs;
- 15.22.2 pre-judgment interest awarded against the **insured** on that part of any judgment covered under this **policy** but where the **insurer** offers to pay the **limit of indemnity** in settlement of a claim or suit, the **insurer** will not pay any pre-judgment interest imposed or earned after the date of such offer;
- 15.22.3 all interest earned on that part of any judgment within the **limit of indemnity** after entry of the judgment and before the **insurer** has paid, offered to pay, or deposited in court that part of any judgment that is within the applicable **limit of indemnity**;
- 15.22.4 the cost of attendance in court as a witness at the **insurer's** request, payable at the following rates per day on which attendance is required:
  - a) any principal director or partner of the **insured** – EUR500
  - b) any **other insured party** - EUR250

15.22.5 costs and expenses of legal representation at any coroner's inquest or inquiry in respect of any death which may be the subject of indemnity under this **policy**.

### **15.23 Criminal act**

Criminal act means committing a burglary armed with a weapon; threat or perception of unlawful force; assault or battery; causing actual bodily harm; application of unlawful force; demand with menaces; entry to building as trespasser with intent to commit theft, grievous bodily harm, rape or criminal damage; entry to building as trespasser and attempting to steal; unlawfully destroying / damaging another's property and/or endangering life; causing death by careless driving while unfit through drink or drugs; causing death by dangerous driving; deception; receiving / handling / disposing of stolen goods for the benefit of another; murder, manslaughter or causing recklessly the death of a human being; making off without payment for goods or services; inflicting grievous bodily harm or wounding; dishonestly appropriating property belong to another.

### **15.24 Damage**

Damage means

15.24.1 loss of, destruction of or damage to tangible property;

15.24.2 and/or for **insured sections E - H** loss of use of tangible property that has been lost, destroyed or damaged.

### **15.25 Declared value**

Declared value means the **insured's** assessment of the cost of reinstatement of the **property insured** arrived at in accordance with clause 2.5.11 of **insured section A** at the level of costs applying at inception of the **period of insurance** (ignoring inflationary factors which may operate subsequently) together with due allowance for the additional costs of reinstatement to comply with public authority requirements, professional fees and debris removal costs.

### **15.26 Denial of access**

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

### **15.27 Denial of service attack**

Denial of service attack means any actions or instructions constructed or generated with the ability to damage, interfere with or otherwise affect the availability of networks, network services, network connectivity or information systems. Denial of service attacks include, but are not limited to the generation of excess traffic into network addresses, the exploitation of system or network weaknesses and the generation of excess or non-genuine traffic between and amongst networks.

### **15.28 Disablement**

Disablement means **permanent total disablement** and **temporary total disablement**.

### **15.29 Documents**

Documents means business books and records, deeds, documents (including stamps thereon), manuscripts, plans and writings of every description, books (written or printed) including computer systems, computer tapes and records.

### 15.30 Electronic data

Electronic data means facts, concepts and information converted to a form useable for communication, display, distribution, interpretation or processing by electronic and electromechanical processing or electronically controlled equipment, including programmes, software and other coded instructions for such equipment.

### 15.31 Elimination period

Elimination period means the number of consecutive days as stated in the **schedule** from the date the **insured person** suffers **temporary total disablement** during which no **benefits** are payable. The sum of money represented by such periods will not contribute towards any claim for **benefits** under this insurance.

### 15.32 Employee

Employee means any person whilst:

- 15.32.1 engaged under a contract of service or apprenticeship with the **insured**;
- 15.32.2 acting in the capacity of non executive director of the **insured**;
- 15.32.3 not under a contract of service or apprenticeship who is, at the requirement of the **insured**, supplied to, hired or borrowed by the **insured** in the course of **business** and under the control of the **insured**, including but not limited to:
  - a) persons on secondment from another company that is not an insured under this **policy**;
  - b) labour masters or persons supplied by them;
  - c) labour only subcontractors;
  - d) self-employed persons;
  - e) drivers or operators of hired-in plant;
  - f) persons engaged under work experience, training, study, exchange or similar schemes;
  - g) any officer, member or voluntary helper of the organisations or services stated in the business;
  - h) voluntary workers, helpers and instructors;
  - i) employee(s) elected on any industry users committee;
  - j) outworkers or homeworkers employed under contracts to personally execute any work in connection with business while they are engaged in that work;
  - k) prospective employees who are being assessed by the **insured** as to their suitability for employment;
  - l) any person a Court of Law in the European Union deems to be an employee; provided that the **insured** can always request that any such person is not treated as an employee.

### 15.33 Estimated gross profit

Estimated gross profit means the amount declared by the **insured** to the **insurer** as representing not less than the **gross profit** which it is anticipated will be earned by the **business** during the financial year most nearly concurrent with the **period of insurance** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months).

### 15.34 Estimated gross revenue

Estimated gross revenue means the amount declared by the **insured** to the **insurer** as representing not less than the **gross revenue** which it is anticipated will be earned by the **business** during the financial year most nearly concurrent with the **period of insurance** (or a proportionately increased multiple thereof where the **maximum indemnity period** exceeds twelve months).

### 15.35 Excess

15.35.1 For **insured sections A and B**: the **limit of liability** or **sum insured**, as applicable, is additional to the excess and excess means the first amount payable by the **insured** in respect of each and every claim or potential claim to be applied to each and every **premises** as ascertained after the application of all other terms and conditions of this insurance. The excess shall not apply to any claim under clause 2.3.7 - **Money**.

15.35.2 For **insured sections D – H**: the **limit of indemnity** is additional to the excess and excess means

- a) the first amount payable by the **insured** in respect of damages, **costs and expenses**, claimant's costs, fees and expenses and loss adjuster's fees for each and every claim or potential claim as ascertained after the application of all other terms and conditions of this insurance or
- b) in the case of a claim or potential claim that involves **damage**, and if specified in the **schedule** and applicable, the **excess (damage only)**.

### 15.36 Excess (damage only)

Excess (damage only) means the amount, if any, specified in the **schedule** as excess (damage only) which if so specified is the first amount payable by the **insured** in respect of damages, **costs and expenses**, claimant's costs, fees and expenses and loss adjuster's fees for each and every **damage** claim or potential **damage** claim as ascertained after the application of all other terms and conditions of this insurance.

### 15.37 Goods

Goods means **stock and materials in trade** and any other property specified in the **schedule**, belonging to the **insured** or for which the **insured** are responsible and connected with the **business**.

### 15.38 Gross profit

Gross profit means the amount by which the sum of the amount of the **turnover** and the amounts of the closing stock and work in progress will exceed the sum of the amounts of the opening stock and work in progress and the amount of the **specified working expenses**.

### 15.39 Gross revenue

Gross revenue means the **money** paid or payable to the **insured** for services rendered in the course of the **business** at the **premises**.

### 15.40 Hacking

Hacking means unauthorised access to any computer or other equipment or component or system or item which processes stores or retrieves data, whether the property of the **insured** or not.

#### **15.41 Healthcare practitioner**

Healthcare practitioner means a qualified licensed member of the medical profession as approved by the governing medical association of the country in which the healthcare practitioner resides who is not an **insured person**, a member of the **insured person's** family or an **employee** of the **insured**.

#### **15.42 Indemnity period**

Indemnity period means the period beginning with the occurrence of the **damage** and ending not later than the **maximum indemnity period** thereafter during which the results of the **business** will be affected in consequence of the **damage**.

#### **15.43 Injury**

Injury will mean a specific injury which

- 15.43.1 is sustained by the **insured person** during the **period of insurance**, and is caused by an **accident**, and
- 15.43.2 solely and independently of any other cause, causes death or disablement of the **insured person**.

#### **15.44 Insured**

Insured means:

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

#### **15.45 Insured peril**

Insured peril means any cause not otherwise excluded.

#### **15.46 Insured person**

Insured person means:

- 15.46.1 the **insured** or any principal, director, partner or **employee** of the **insured**; or
- 15.46.2 any person acting on behalf of the **insured** other than an **employee** of a security company or organisation not being over seventy (70) years of age nor being under sixteen (16) years of age;

#### **15.47 Insured section**

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

#### **15.48 Insurer**

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

## 15.49 Legionella

Legionella means any discharge release or escape of legionella or other airborne pathogens from water tanks, water systems, air-conditioning plants, cooling towers and the like.

## 15.50 Limit of indemnity

Limit of indemnity means:

- 15.50.1 for **insured section D** the amount stated in the **schedule** which is the maximum amount of the **insurer's** liability arising out of one (1) occurrence regardless of the number of:
- a) **other insured parties**; or
  - b) persons or organisations bringing claims or **suits**; or
  - c) claims against the **insured** or series of claims against the **insured**, or claims or series of claims made by the **insured**;
- 15.50.2 for **insured sections E - H** the amount stated in the **schedule** which is the maximum amount of the **insurer's** liability arising out of one occurrence or series of occurrences arising out of one (1) originating cause regardless of the number of:
- a) **other insured parties**; or
  - b) persons or organisations bringing claims or **suits**; or
  - c) claims against the **insured** or series of claims against the **insured**, or claims or series of claims made by the **insured**;
- 15.50.3 where two (2) or more **insured sections** are subject to a **combined single limit**, then the **combined single limit** is the maximum the **insurer** will pay for any insured event to which such **insured sections** apply in combination, and;
- 15.50.4 where a limit of indemnity is stated in the **schedule** as in the aggregate, that aggregate is the maximum the **insurer** will pay for all insured events during the **period of insurance**.

## 15.51 Limit of liability

Limit of liability means the amount stated in the **schedule** which is the maximum amount of the **insurer's** liability for any one event regardless of the number of persons claiming an indemnity.

## 15.52 Machinery, plant and all other contents

Machinery, plant and all other contents means machinery, plant, tenants' improvements and alterations, above ground storage tanks, **office contents** and **all other contents** at the **premises** which are the property of the **insured** or held by them in trust for which they are responsible but excluding;

- 15.52.1 landlord's fixtures and fittings therein and thereon;
- 15.52.2 **stock and materials in trade, money**; and
- 15.52.3 property more specifically insured;

## 15.53 Manifest

Manifest will mean the date when a **sickness** is reasonably capable of diagnosis by a **health care practitioner**.

## 15.54 Matches/tournament

Matches/tournament will mean competitive games played according to the laws of the game and the regulations of the governing organisation where the **insured person** participates.



### **15.55 Maximum indemnity period**

Maximum indemnity period means the period stated in the **schedule**.

### **15.56 Money**

Money means both **negotiable money** and **non-negotiable money**.

### **15.57 Negotiable money**

Negotiable money means cash bank and currency notes uncrossed cheques giro cheques including pre-authenticated giro cheques uncrossed warrants uncrossed postal and money orders current postage and revenue stamps National Savings stamps and certificates holiday with pay stamps and gift tokens National Insurance stamps (whether affixed to cards or not) debit card sales vouchers trading stamps luncheon vouchers and bills of exchange securities for money travel warrants and authenticated travel tickets phonecards and mobile phone vouchers for use by the **insured** or any partner director or **employee** or the **insured** in connection with the **insured's business** consumer redemption vouchers and company sales vouchers and unexpired units in franking machines all belonging to the **insured** or for which the **insured** has accepted responsibility.

### **15.58 Non-negotiable money**

Negotiable money means crossed warrants crossed cheques crossed giro drafts crossed postal and money orders crossed bankers' drafts crossed National Girobank cash cheques premium bonds savings bonds stamped National Insurance cards National Savings Certificates VAT purchase invoices and credit card sales vouchers all belonging to the **insured** or for which the **insured** has accepted responsibility.

### **15.59 Non-ferrous metals**

Non-ferrous metals means **stock and materials in trade** consisting of non-ferrous metals other than aluminium.

### **15.60 North America**

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

### **15.61 Notifiable disease**

Notifiable disease means illness sustained by any person resulting from:

- 15.61.1 food or drink poisoning, or
- 15.61.2 any human infectious or human contagious disease, an outbreak of which the competent local authority has stipulated shall be notified to them excluding Acquired Immune Deficiency Syndrome (AIDS), an AIDS related condition or avian influenza

### **15.62 Nuclear hazards**

Nuclear hazards means:

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

### **15.63 Occupation**

Occupation means the occupation of the **insured person** as stated in the **schedule (insured section C)**.

## 15.64 Office contents

Office Contents means office contents the property of the **insured** or held by them in trust for which they are responsible including

- 15.64.1 fixtures, fittings, furniture and
- 15.64.2 office equipment, tenants' improvements and alterations,
- 15.64.3 telephone, telex, facsimile, computer and ancillary equipment and computer installations.

## 15.65 Offshore

Offshore means:

- 15.65.1 work in or on any offshore rig or platform or support or accommodation vessel for any offshore rig or platform;
- 15.65.2 in transit to and from or between any offshore rig or platform or support or accommodation vessel from the time of embarkation onto a conveyance at the point of final departure to an offshore rig or platform until disembarkation from the conveyance onto land upon return from an offshore rig or platform.

## 15.66 Other insured party

Other insured party means any of the following parties:

- 15.66.1 any director, partner, **employee** or a former **employee** of the **insured**;
- 15.66.2 any officers, members' committee and/or **employee** paid and voluntary helpers of the **insured's** canteen and welfare organisations, nursery, crèche or child care facilities, sports and social organisations, in their respective capacities as such;
- 15.66.3 any officers and members of the **insured's** security, rescue, first aid, fire and ambulance services, medical organisation other than any doctor, surgeon or dentist while working in a professional capacity in their respective capacities as such;
- 15.66.4 any director or partner or executive of the **insured** in respect of private work undertaken by any **employee** for a director, partner or executive of the **insured**;
- 15.66.5 any officers or trustees of the **insured's** pension scheme(s).

## 15.67 Outstanding debit balances

Outstanding debit balances means the **money** owed to the **insured** by their customers at the date of the **damage** but adjusted to take account of bad debts, owed amounts not passed through the books during the period between the last record and the date of the **damage**, and abnormal trading conditions affecting the **business** the **insured's** last record of amounts owed by customers.

## 15.68 Period of insurance

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

## 15.69 Permanent total disablement

Permanent total disablement will mean irrecoverable disablement arising from **injury** which permanently and totally incapacitates the **insured person** for a continuous period of twelve (12) months, and that as a result of the **injury** the **insured person** is medically determined to the **insurer's** satisfaction to have no likelihood of improvement sufficient to participate in his **occupation** ever again.

## 15.70 Personal injury

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

- 15.70.1 false arrest;
- 15.70.2 detention or imprisonment;
- 15.70.3 malicious prosecution;
- 15.70.4 wrongful entry into, or eviction of a person from a room, dwelling or premises that the person occupies;
- 15.70.5 invasion of the right of privacy;
- 15.70.6 libel, slander or defamation.

## 15.71 Policy

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

## 15.72 Policy operative time

Policy operative time shall mean whilst the **insured person** is undertaking his/her occupation at his/her normal place of business, coverage granted is twenty four (24) hours whilst the **insured person** is working on behalf of the **insured** away from his/her normal place of business.

## 15.73 Pollutant

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

## 15.74 Pollution

Pollution means:

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

## 15.75 Pre-existing condition

Pre-existing condition will mean illness, malady, disease, physical impairment, defect, degenerative process or infirmity of the **insured person** existing prior to the **policy** inception date. For the purpose of this definition an illness, malady, disease, physical impairment, defect, degenerative process or infirmity exists prior to the **policy** inception date if it has been diagnosed by a **health care practitioner** prior to the **policy** inception date, or in the event that it has not been so diagnosed then in the opinion of a **health care practitioner** the **insured person** could reasonably have been expected to be aware of its existence on the **policy** inception date.

#### **15.76 Premises**

For **insured sections A - B**; premises means the land occupied by the **insured** for the purpose of the **business** at (an) address(es) specified in the **schedule**.

For **insured sections E - H**; premises means the buildings or land that are owned, leased, hired or tenanted by or on loan to the **insured** for the purpose of the **business**.

#### **15.77 Preventative costs**

Preventative costs means sums that the **insured** is liable to pay for prevention of imminent threat of environmental damage as provided for in any law of the Republic of Ireland implementing the EU Environmental Liability Directive.

#### **15.78 Product**

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

#### **15.79 Property insured**

Property insured means tangible property described in the **schedule** to this **policy** that includes a specific **sum insured** or **limited of liability** against each or all of them and more specifically defined herein.

#### **15.80 Proposal**

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

#### **15.81 Rate of gross profit**

Rate of gross profit means the rate of gross profit earned, **trend adjusted**, on the **turnover** during the financial year immediately before the date of the **damage**.

#### **15.82 Recovery**

Recovery will mean the **insured person** having made a recovery when he is able to **participate** in his regular **occupation**, and perform the major duties thereof, even if he chooses not to.

#### **15.83 Rent**

Rent means the **money** paid or payable to the **insured** for rent and other charges and for services rendered in the course of the **business** at the **premises**.

#### **15.84 Rent receivable**

Rent receivable means the amount of the rent received or receivable from the letting of the property at the **premises**.

#### **15.85 Schedule**

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

## 15.86 **Sickness**

Sickness means any known physical illness, disease or malady which first **manifests** itself during the **period of insurance** and is diagnosed by a **health care practitioner**.

## 15.87 **Specified working expenses**

Specified working expenses means:

- 15.87.1 purchases (less discounts received);
- 15.87.2 discounts allowed;
- 15.87.3 carriage, packing and freight.

## 15.88 **Standard gross revenue**

Standard gross revenue means the **gross revenue, trend adjusted**, during that period in the twelve (12) months immediately before the date of the **damage** which corresponds with the **indemnity period**.

## 15.89 **Standard rent receivable**

Standard gross revenue means the **rent receivable, trend adjusted**, during the period in the twelve (12) months immediately before the date of the **damage** which corresponds with the **indemnity period**.

## 15.90 **Standard turnover**

Standard turnover means the **turnover** excluding VAT, **trend adjusted**, during that period in the twelve (12) months immediately before the date of the **damage** which corresponds with the **indemnity period**.

## 15.91 **Stock and materials in trade**

Stock and materials in trade means stock and materials in trade including work in progress and contents of storage tanks at the **premises** the property of the **insured** or held by them in trust or on commission for which they are responsible, excluding property more specifically insured.

## 15.92 **Stock debris removal**

Stock debris removal means costs and expenses necessarily incurred by the **insured**, with the consent of the **insurer**, in removing debris of the **stock and materials in trade damaged** by any **insured peril**. The **insurer** will not pay for any costs or expenses incurred

- 15.92.1 in removing debris except from the site of such **damage** and the area immediately adjacent to such site,
- 15.92.2 arising from **pollution** or contamination of property not insured by this policy.

## 15.93 **Suit**

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

- 15.93.1 an arbitration proceeding in which such damages are claimed and to which an **other insured party** must submit or does submit with the **insurer's** consent; or
- 15.93.2 any other alternative dispute resolution proceeding in which such damages are claimed and to which an **other insured party** submits with the **insurer's** consent.

## 15.94 **Sum insured**

Sum insured means the sum specified as the sum insured in the **schedule**.

### 15.95 Tobacco, cigars, cigarettes

Tobacco, cigars and cigarettes means that part of **stock and materials in trade** consisting of tobacco, cigars and cigarettes.

### 15.96 Temporary total disablement

Temporary total disablement means the **insured person** being totally disabled and prevented from attending to the whole of his business or **occupation** as a result of **injury** not being **permanent total disablement**, loss of limbs or sight as otherwise defined in the scale of compensation or table of **benefits** as applicable.

### 15.97 Transit

Transit means being carried to its destination, but outside the **premises**, by any vehicle including trailers and containers and whether the **insured's** vehicle or by road haulage and or post or parcel post or rail including:

- 15.97.1 conveyance by canal craft, sea going vessel and aircraft,
- 15.97.2 loading and unloading, and
- 15.97.3 while temporarily housed in the course of being carried to its destination.

### 15.98 Territorial limits

Territorial limits means the Republic of Ireland.

### 15.99 Terrorism

An act of terrorism includes any act, or preparation in respect of action, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological, or similar purposes to intimidate the public or a section of the public of any nation by any person or group (s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and which:

- a) endangers life other than that of the person committing the action; or
- b) involves violence against one or more persons; or
- c) involves **damage** to property; or
- d) creates a risk to health or safety of the public or a section of the public; or
- e) is designed to interfere with or to disrupt an electronic system.

### 15.100 Trend adjusted

Trend adjusted means adjustments will be made to figures as may be necessary to provide for the trend of the **business** and for variations in or circumstances affecting the **business** either before or after the **damage** or which would have affected the **business** had the **damage** not occurred, so that the figures thus adjusted will represent as nearly as may be reasonable practicable the results which but for the **damage** would have been obtained during the relative period after the **damage**.

### 15.101 Turnover

Turnover means the money paid or payable to the **insured** for goods sold and delivered and for services rendered in the course of the **business** at the **premises**.

### **15.102 Virus or similar mechanism**

Virus or similar mechanism means program code, programming instruction or any set of instructions intentionally constructed with the ability to damage, interfere with or otherwise adversely affect computer programs, data files or operations, whether involving self-replication or not. The definition of virus or similar mechanism includes but is not limited to trojan horses worms and logic bombs.

### **15.103 War**

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

### **15.104 Wines and spirits**

Wines and spirits means **Stock and materials in trade** consisting of wines, spirits, beer and other alcoholic liquids.

### **15.105 Work away**

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

## 16 Complaints

### 16.1 How the insured can complain

The **insured** can complain about this **policy** by first contacting the broker. If the **insured** wishes to contact the **insurer** directly the **insured** can:

- a) where the **insurer** is QBE Europe SA/NV write to Customer Relations, QBE Europe SA/NV, Regentlaan 37 Boulevard du Régent, 1000 Brussels, Belgium, e-mail: [complaints@be.qbe.com](mailto:complaints@be.qbe.com), telephone: +32 2 504 82 11 or fax: +32 2 504 82 00;
- b) where the **insurer** is QBE UK Limited write to Customer Relations, QBE European Operations, Plantation Place, 30 Fenchurch Street, London EC3M 3BD; email: [CustomerRelations@uk.qbe.com](mailto:CustomerRelations@uk.qbe.com), telephone 020 7105 5988; or
- c) where the **insurer** is or includes a Lloyd's syndicate, e-mail: [complaints@lloyds.com](mailto:complaints@lloyds.com), write to Lloyd's Complaints, Fidentia House, Walter Burke Way, Chatham Maritime, Kent ME4 4RN, or telephone 020 7327 5693.

### 16.2 The UK Financial Ombudsman Service (UK FOS)

If the **insured** feels that its complaint has not been satisfactorily resolved, the **insured** may be eligible to contact the UK FOS to review the complaint.

To be an eligible complainant, the **insured** must be:

- a) a consumer;
- b) a micro-enterprise – a business that has an annual turnover of under EUR2million employing fewer than ten (10) employees;
- c) a charity with an annual income of less than GBP1million; or
- d) a trustee of a trust with net assets of less than GBP1million.

If eligible, the **insured** can contact the UK FOS via its website: <http://www.financial-ombudsman.org.uk/consumer/complaints.htm>, write to the UK FOS, Exchange Tower, London E14 9SR, or telephone 0300 123 9 123 or 0800 023 4567.

Where applicable the **insured** must refer its complaint to the UK FOS (a) within six (6) months of the **insurer's** final response letter or (b) when the **insurer** has failed to resolve the issue within eight (8) weeks.

The UK FOS provides impartial advice free of charge and contacting them will not affect the **insured's** legal rights.

### 16.3 Financial Services Compensation Scheme (FSCS)

Where the **insurer** is [QBE UK Ltd] the **insured** may be entitled to compensation from the FSCS if the **insurer** is unable to meet its obligations under this **policy**.

Entitlement to FSCS compensation depends on the type of business insured and the circumstances of the claim. Further information is available from [www.fscs.org.uk](http://www.fscs.org.uk), or the **insured** can write to the Financial Services Compensation Scheme, PO Box 300, Mitcheldean, GL17 1DY.



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