

PROFESSIONAL INDEMNITY COMBINED INSURANCE POLICY



ArgoGlobal
Syndicate 1200

Professional Indemnity Combined Insurance Policy

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Welcome to Argo

We are dedicated to providing you with a high quality service. This **policy** is designed to provide you with cover through specialised coverage sections. You can identify the cover you have purchased by looking at the **policy's schedule**. This **policy** will form the contract between **you** as the insured and **us, your** insurers, subject to the terms and conditions detailed below.

The headings used in this **policy** are for ease of reference and identification purposes only. Any **endorsement** or other variation which relates to this **policy** is subject to the terms and conditions below. Words and phrases in bold have been given specific meanings and can be found in the definitions section of the **policy**.

Your duty of disclosure

In deciding to accept this **policy** and in setting the terms and **premium**, **we** have relied on the information **you** have given us. **You** must take care when answering any questions **we** (and **your** broker) have asked by ensuring that all information provided is accurate and complete.

If **we** establish that **you** deliberately or recklessly provided **us** with false or misleading information **we** will treat this **policy** as if it never existed and decline all claims.

If we establish that **you** carelessly provided us with false or misleading information it could adversely affect **your policy** and any claim. For example, **we** may;

- Treat this policy as if it had never existed and refuse to pay all claims and return the **premium** paid. **We** will only do this if **we** provided **you** with insurance cover which we would not otherwise have offered;
- Amend the terms of **your** insurance. **We** may apply these amended terms as if they were already in place;
- Reduce the amount **we** pay on a claim in the proportion the **premium you** have paid bears to the **premium we** would have charged **you**; or
- Cancel **your** policy in accordance with the right to cancel clause below.

We or **your** broker will write to **you** if we;

- Intend to treat **your policy** as if it never existed; or
- Need to amend the terms of **your policy**.

If **you** become aware that information **you** have given us is inaccurate, **you** must inform **your** broker as soon as practicable.

How to make a complaint

Our aim is to ensure that all aspects of **your** insurance are dealt with promptly, efficiently and fairly. If you have any questions or concerns about your **policy** or the handling of a claim **you** should, in the first instance contact **your** broker. In the event that **you** remain dissatisfied and wish to make a complaint, **you** can do so at any time by referring the matter to; The Compliance Officer at;

Argo Global
Exchequer Court
33 St. Mary Axe
London EC3A 8AA

If **you** remain dissatisfied **you** can refer **your** complaint to the Complaints Team at Lloyd's. The address for the Complaints Team at Lloyd's is;

Complaints Team
Lloyd's,
Fidentia House, Walter Burke Way,
Chatham Maritime, Kent ME4 4RN

Tel; 020 7327 5693
Fax; 020 7327 5225
Email: complaints@lloyds.com
Website: www.lloyds.com/complaints

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

The contact details for the FOS are: The Financial Ombudsman Service, Exchange Tower, London E14 9SR. Telephone 0800 023 4567 (calls to this number are free from "fixed lines" in the UK) or 0300 1239123 (calls to this number are charged at the same rate as 01 and 02 numbers on mobile phone tariffs in the UK). Email complaint.info@financial-ombudsman.org.uk.

The FOS is an independent service in the UK for settling disputes between consumers and businesses providing financial services. **You** can find out more information on the FOS at www.financial-ombudsman.org.uk;

Making a complaint does not affect your right to take legal action.

How to notify a claim

All notices from the **Insured** to the **Insurers** in respect of this **Policy**, including notice of **Claims** or **Circumstances** shall be sent in writing as soon as reasonably practicable or at the latest within 21 days of receipt of any claim made against **you**, or awareness of an **occurrence** which may give rise to a claim covered under this **policy**. They shall be sent to:

Professional Lines Claims Manager
Mr. Neil Read
Argo Global Exchequer Court 33
St Mary Axe London EC3A 8AA
United Kingdom
Neil.Read@argo-global.com

For any occurrence or RIDDOR incident you and any person acting on your behalf must:

- i. not admit responsibility, liability, make an offer or promise, nor offer payment or indemnity without **our** written consent;
- ii. not incur any expense without **our** consent;
- iii. give all such information, assistance and forward all documents to enable **us** to investigate, settle or resist any claim as **we** may require;
- iv. 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 with the claim
- v. not destroy evidence or supporting information or documentation without **our** 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**.

Legal defence and settlement

- i. **We** are entitled but not obliged to assume the legal defence of any claim covered under this **policy** in **your** name. We shall have full discretion in managing any negotiation or proceedings as to the resolution of such claim.
- ii. **We** shall be entitled to select and appoint the lawyers and other representatives that will defend and represent **you** in respect of any claim.

- iii. Subject to the General Conditions of this **policy**, **we** shall be entitled to settle a claim if **we** choose;
- iv. You agree in relation to any claim or **occurrence** not to admit liability for or settle any such **claim**, make any admission, offer payment or assume any obligation or incur any costs without **our** consent;
- v. **You** must not disclose the nature or terms of this Insurance to any person unless required to do so by law or in compliance with the rules of your regulatory body. When negotiating a contract with any client you must request **our** consent to such disclosure in writing;
- vi. **We** shall not be liable for any settlement, costs, admission, offer, payment or assumed obligation that you have agreed without **our** consent. **You** must request **our** consent before **you** reach any agreement;
- vii. **We** may at any time pay to **you** the **limit of indemnity** (having deducted any sums already paid) or any lesser amount for which such claim may be settled and having paid such sum **we** shall relinquish the control of such claim and be under no further liability in connection with the claim except for **defence costs and expenses** incurred prior to the date of such payment and for which we may be responsible under this agreement for matters arising prior to the date of payment;
- viii. Prior to settling any claim within the **excess (or deductible)** as stated in the **policy**, **you** shall obtain from the claimant a signed form of discharge in full and final settlement of the claim and **you** shall advise us of the final amount for which the claim was settled or resolved.

How we use personal information

All personal information (including sensitive personal data such as health details or criminal convictions) provided in connection with this **policy** will be processed in accordance with the *Data Protection Act 1998*. **You** consent to all personal information being used for these purposes and being disclosed to the parties set out below;

Where personal information is provided about another person, **you** are required to inform that person of **our** identity, and why their personal information will be processed and disclosed. **You** are also required to obtain their written consent to the processing of their personal information in this way and provide **us** with such consent if **we** request. Personal information is used:

- i. to administer the policy, including underwriting, renewal information, validation of claims history and claims handling;
- ii. for research, analysis, statistic creation, and customer profiling;
- iii. for fraud prevention and debt recovery.

Personal information may be disclosed to:

- i. other members of **our** group;
- ii. other insurance entities interested in the risk written under this **policy**;
- iii. agents and service providers appointed by **us** to carry out activities in connection with the **policy**;
- iv. credit reference and fraud databases;
- v. law enforcement and other statutory bodies;
- vi. potential purchasers of the whole or part of **our** business.

If false or inaccurate information is provided and fraud is suspected this fact will be recorded and the information will be available to other organisations that have access to the fraud databases.

Personal information may be transferred to third parties in countries outside the European Economic Area which may not have the same standards of protection for personal information as the United Kingdom. **We** will ensure that such transfers comply with the data protection law and that personal information is kept securely and protected from unauthorised access.

We maintain protections and procedures in the storage and disclosure of personal information to keep it secure and prevent unauthorised access to or loss of such information.

We may monitor and record all communications with **you** for compliance and training purposes.

Should **you** wish to see the information held, or have any queries in relation to the way such information is used or discover any inaccuracies, **you** should write to the Compliance Officer at Argo International, 4th Floor, Exchequer Court, 33 St Mary, Axe, London, EC3A 8AA.

Payment of premium

You undertake that the **premium** will be paid in full to **us** within 30 days of inception of this **policy** (or, in respect of instalment **premiums**, when due).

If the **premium** due under this **policy** has not been paid to **us** by the 30th day from the inception of this **policy** (and, in respect of instalment premiums, by the date they are due) **we** shall have the right to cancel this **policy** by notifying **you** via **your** broker in writing. In the event of cancellation, premium is due to **us** on a pro rata basis for the period that **we** are on risk but the full **policy** premium shall be payable to **us** if there is a loss or a notification of a claim or **occurrence** prior to the date of termination which later gives rise to a valid claim under this **policy**.

We will give **you** not less than 14 days prior notice of cancellation via **your** broker. If **premium** due is paid in full to **us** before the notice period expires, notice of cancellation shall automatically be revoked. If not, the **policy** shall automatically terminate at the end of the notice period.

If any provision of this clause is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability will not affect the other provisions of this clause which will remain in full force and effect.

Our Agreement

1. **We** will provide cover to **you** against **your** legal liability to pay damages (including claimants' costs, fees and expenses) for;
 - a. **Bodily injury, denial of access, advertising injury;**
 - b. **Property damage;**
 - c. **Pollution;** and
 - d. **Employers' liability**

occurring within the **territorial limits** during the **period of insurance**.

- e. This cover applies to legal liability as defined by each section of this **policy** arising out of **your business**, subject to the terms, conditions and exclusions of the **policy**, including any **endorsements**.
- f. No cover shall be provided in respect of any judgment, award, payment or settlement made within any country or territory which operate under the laws of the United States of America (or to any order made anywhere in the world to enforce such judgment, award, payment or settlement either in whole or in part).
- g. **Acquisitions**

This **policy** is automatically extended to indemnify any firm acquired or created by **you** during the **period of insurance** for a period of 60 days, provided that:

 - i. In the 12 month period immediately preceding an acquired firm's acquisition, its turnover did not exceed 10% of **your** declared turnover for the last financial year
 - ii. The activities of an acquired firm are of a similar type as those undertaken by **you**
 - iii. In the 5 year period immediately preceding the acquisition, the acquired firm has had no **claim** or loss of the nature covered by this **policy** and has not been aware of **circumstances** which may give rise to a **claim** or loss of the nature covered by this **policy**
 - iv. **You** have undertaken due diligence prior to any such acquisition and that the due diligence exercise has not identified any potential liabilities which could result in a **claim** under this **policy**
 - v. An acquired firm is both incorporated in the UK and carries on all its **business** activities outside of the USA or Canada

The indemnity provided under this section will only be given to the extent afforded by this **policy**, after the date of the acquisition or creation, unless specifically agreed by **us**. Any further indemnity provided by **us** beyond the 60 days above shall be on terms as specifically agreed by **us** on receipt of full details of the acquisition.
- h. **Compensation for court attendance**

This **policy** is automatically extended to indemnify **you** for the cost of attendance at a formal hearing or formal interview in connection with a claim notified to **us** where such attendance is considered by **us** as necessary and beneficial to reduce liability which may result in a payment under this **policy**. The formal hearing or formal interview will be at the behest of a third party not acting either on behalf of **you** or **us**. The indemnity is subject to;

- i. **Us** having given **our** consent to the attendance. **Our** consent will not be unreasonably withheld;
 - ii. Cover for costs under this extension is restricted to GBP 250 per person per day;
 - iii. **Our** maximum liability under this extension will be GBP 10,000 for each claim, such amount being within the total **limit of indemnity** available under this **policy**.

- 2. **Limits of cover for each section**
 - a. **Our** total liability under this **policy** shall not exceed the **limit of indemnity** stated in the **schedule** for all **occurrences** of a series consequent upon or attributable to one source or original cause;
 - b. If any **occurrence** gives rise to liability under more than one section, **our** total liability for all claims and **occurrences** of a series consequent upon or attributable to one source or original cause, shall not exceed the single greatest **limit of indemnity** available under the sections providing cover.

- 3. **Excess for each section**
 - a. The **excess** applies to all **occurrences**;
 - b. **Our limit of indemnity** is over and above the **excess**;
 - c. The **excess** or **deductible** applies in respect of **defence costs and expenses**;
 - d. If any claim gives rise to liability under more than one section **your** maximum liability will be the highest applicable **excess**.

Section A Professional Indemnity

In consideration of the payment of the premium shown in the Schedule and in reliance on the particulars and statements contained in the Proposal, which is the basis of this Policy and which is incorporated into and forms part of this Policy, the Insurers agree to indemnify the Insured subject to the terms, conditions, limitations and exclusions of this Policy as set out below.

1 .INSURING CLAUSE

1.1 The **Insurers** will indemnify any **Insured** for **Loss** and **Defence Costs** resulting from any **Claim** first made against the **Insured** during the **Policy Period** and notified to the **Insurers** in accordance with the Claims Conditions of this **Policy** for:

- (a)**Breach of Technology Contract**;
- (b)**Breach of System Security**;
- (c)Inadvertent transmission of a **Virus**;
- (d)negligence or breach of professional duty;
- (e)negligent misstatement or negligent misrepresentation;
- (f)defamation, libel or slander;
- (g)infringement of any intellectual property rights, other than patents and trade secrets;
- (h)dishonest or fraudulent acts or omissions of any present or former **Employee**(subject to the provisions of Exclusion 5.4);
- (i)breach of any contractual or common law obligation of confidentiality, including invasion of privacy;
- (j)any other civil liability;

in the conduct of the **Professional Business**

EXTENSIONS

The indemnity provided by the Insuring Clause of this **Policy** is extended to include the following:

2.1 Loss of Documents

The **Insurers** will indemnify any **Insured** for any reasonable and necessary costs and expenses incurred in order to restore or replace any **Documents** destroyed, damaged, lost or mislaid in the conduct of the **Professional Business** which the **Insured** is legally liable to pay as a result of any **Claim** first made against the **Insured** during the **Policy Period** and notified to the **Insurers** in accordance with the Claims Conditions of this **Policy**.

The **Excess** does not apply to this Extension.

2.2 Fee Waiver

The **Insurers** will indemnify any **Insured** for any fees owed to the **Insured**, including amounts legally owed by the **Insured** to sub-contractors, which the **Insured's** client has refused to pay for work done by the **Insured** in the conduct of the **Professional Business** provided the **Insurers** consider that:

- (a)such client has reasonable grounds for being dissatisfied with the work done by the **Insured** and a **Claim** for more than the fees owed is first made or threatened by

such client against the **Insured** during the **Policy Period** and notified to the **Insurers** in accordance with the Claims Conditions of this **Policy**; and

(b)a **Claim** covered by this **Policy** against the **Insured** by such client for more than the fees owed may be settled or avoided if the **Insured** agrees not to pursue the fees owed.

If a **Claim** is nonetheless pursued by such client, any amounts paid by the **Insurers** in respect of this Extension shall form part of any indemnity payable to the **Insured** for **Loss** resulting from such **Claim** pursuant to the Insuring Clause of this **Policy**. If the **Insured** recovers the fees owed from such client, then the amounts paid by the **Insurers** must be repaid less the **Insured's** reasonable expenses of recovering the fees owed.

The **Excess** does not apply to this Extension.

2.3 Legal Representation Expenses

The **Insurers** will indemnify any **Insured** in respect of any reasonable and necessary costs and expenses incurred by the **Insured** with the prior written consent of the **Insurers** for representation at any inquiry or other proceeding arising out of any **Claim** first made against the **Insured** during the **Policy Period** and notified to the **Insurers** in accordance with the Claims Conditions of this **Policy** in respect of the conduct of the **Professional Business** covered by this **Policy** and which are not indemnified as **Defence Costs**.

The liability of the **Insurers** in respect of this Extension shall not exceed £10,000 any one inquiry or other proceeding. The **Excess** does not apply to this Extension.

2.4 Data Protection Expenses

The **Insurers** will indemnify any **Insured** in respect of any reasonable and necessary costs and expenses incurred by the **Insured** with the prior written consent of the **Insurers** in the defence of any criminal proceedings under the Data Protection Act 1998 or similar legislation brought against the **Insured** during the **Policy Period** and notified to the **Insurers** in accordance with the Claims Conditions of this **Policy** provided that the **Insured's** act, error or omission giving rise to such criminal proceedings was in the conduct of the **Professional Business**.

The liability of the **Insurers** in respect of this Extension shall not exceed £50,000 in the aggregate. The **Excess** does not apply to this Extension.

2.5 Attendance at Court Proceedings

The **Insurers** will indemnify the **Policyholder** in the event that a principal, director, officer, partner, member of the **Insured** or **Employee** is required by the **Insurers** or legal advisors appointed by the **Insurers** to attend any court, arbitration, adjudication or similar hearing as a witness in connection with a **Claim** covered by this **Policy** at the following rates for each day or part of a day:

(a)any principal, director, officer, partner or member of the **Insured**£250

(b)any **Employee**£150

The **Excess** does not apply to this Extension.

3.LIMITS OF INDEMNITY AND EXCESSES

3.1 Limit of Indemnity

The **Insurers** will indemnify the **Insured** for the amount of any **Loss** in respect of any one **Claim** up to the **Limit of Indemnity**. **Defence Costs** will be indemnified by the **Insurers** in addition to the **Limit of Indemnity**.

Each sub-limit specified in the **Schedule** or in this **Policy** is the maximum amount for which the **Insurers** will indemnify the **Insured** in respect of cover to which the sub-limit applies. Sub-limits are part of and not payable in addition to the **Limit of Indemnity**.

3.2 Excess

The **Insurers** will only indemnify the **Insured** for the amount of any **Loss** that exceeds the applicable **Excess**. The **Insured** will be liable for the **Excess** which will remain uninsured.

The **Excess** will apply to all amounts payable in respect of any one **Claim**. The **Excess** does not apply to **Defence Costs**.

4. TERRITORIES

The indemnity provided under this **Policy** is in respect of the conduct of the **Professional Business** by the **Insured** and **Claims** made worldwide, except in the United States of America (including its territories and/or possessions) and Canada, unless this **Policy** is specifically endorsed to the contrary.

The **Insurers** shall not indemnify the **Insured** in respect of or in connection with any **Claim** made or pending within the United States of America (including its territories and / or possessions) and Canada, or in respect of or in connection with any judgment, arbitration, award, settlement or payment which is delivered or made in any of those countries, or in respect of or in connection with any order or judgment made to enforce such judgment, arbitration, award, settlement or payment.

5. EXCLUSIONS

The **Insurers** are not liable to make any payment under this **Policy** arising directly or indirectly out of, based upon or attributable to:

5.1 Bodily injury and Property Damage

(a) Bodily injury, sickness, disease, psychological injury, emotional distress, nervous shock or death sustained by any person, including any principal, director, officer, partner, member or **Employee**, except that this Exclusion shall not apply to any **Claim** for which indemnity is provided under Insuring Clause 1.1(c) (defamation, libel or slander).

(b) Damage to or loss, destruction or impairment of any property or loss of use thereof, except that this Exclusion shall not apply to any **Claim** for which indemnity is provided under Extension 2.1 (Loss of Documents).

5.2 Contractual Liability

(a) Any liability assumed by any **Insured** under any express contract, agreement, indemnity, penalty clause, liquidated damages clause, guarantee or warranty except to the extent that such liability would have attached to such **Insured** in the absence

of such express contract, agreement, indemnity, penalty clause, liquidated damages clause, guarantee or warranty.

(b) Any liability under any contract where the **Insured** failed to take all reasonable steps prior to entering into such contract to ensure that it could fulfil all of the obligations there under in accordance with the terms of the contract and/or any pre-contractual representations.

5.3 Controlling Interest

Any **Claims** brought by, in the right of or on behalf of:

(a) any **Insured**, or successors or assigns of any **Insured**

(b) any entity that is owned, operated, managed or controlled by any **Insured**

(c) any parent company or any associated company of any **Insured**

unless such **Claim** emanates from an independent third party.

5.4 Deliberate or Dishonest Acts

Any deliberate, intentional or reckless acts or omissions, or any criminal, dishonest or fraudulent acts or omissions, except that this Exclusion shall not apply to any **Claim** for which indemnity is provided

under Insuring Clause 1.1(e) (dishonest or fraudulent acts or omissions), subject to the following conditions:

(a) no indemnity shall be given under Insuring Clause 1.1(e) (dishonest or fraudulent acts or omissions) if any principal, director, officer, partner or member of any **Insured** committed or condoned or conspired to commit any such act or omission;

(b) the **Policyholder** shall use all reasonable means to obtain reimbursement from any person responsible for the **Loss** caused by any such act or omission;

(c) the **Policyholder** shall have in place, at the time of the relevant act or omission, appropriate controls for the prevention of any such act or omission.

5.5 Directors and Officers

Any acts, errors or omissions by any **Insured** in the capacity of a principal, director, officer, partner, member, trustee and/or officer of any trust.

5.6 Employees

Any breach of any obligation owed by any **Insured** as an employer to any actual, former or prospective principal, director, officer, partner, member or **Employee**, including but not limited to employment related defamation, libel or slander, humiliation, harassment or discrimination, wrongful, unfair or constructive dismissal or breach, repudiation or termination of any contract of employment or apprenticeship or similar conduct.

5.7 Financial Advice

Any advice upon and/or sale of any investment or financial products, including but not limited to life assurance, pensions and investment activities as more fully described in the Financial Services and Markets Act 2000 or similar legislation in any other jurisdiction, or the arrangement of any finance, credit or leasing agreement

5.8 Insolvency

The insolvency, administration, receivership, liquidation, failure or bankruptcy of any **Insured**.

5.9 Joint Ventures

The operation or existence of any consortium or joint venture, except that this Exclusion shall not apply to the liability of an **Insured** in respect of such **Insured's** own acts, errors or omissions whilst acting in a consortium or joint venture provided that the written agreement of the **Insurers** to the **Insured's** participation in such consortium or joint venture has been obtained and an endorsement added to this **Policy**.

5.10 Official Action or Investigation

Any official action or investigation by or decision or order of any public, local, regulatory or government body or authority, except that this Exclusion shall not affect any indemnity provided under Extension 2.4.

5.11 Patents and Trade Secrets

Any infringement, use or disclosure of a patent, or any use, disclosure or misappropriation of a trade secret.

5.12 Pensions and Employee Benefit Schemes

Any liability in respect of the operation or administration of any pension fund, profit-sharing or employee benefit scheme or trust fund.

5.13 Pollution, Contamination and Asbestos

(a) Any actual, potential or threatened pollution, seepage, discharge or contamination of any kind or any costs or expenses incurred in testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralising any actual, potential or threatened pollution, discharge seepage or contamination except that this Exclusion shall not apply to any **Claim** for which indemnity would but for this Exclusion be given under Insuring Clause 1.1 provided that

(i) such pollution, seepage, discharge or contamination is directly caused by a sudden, identifiable, unintended and unexpected happening during the **Policy Period**, and directly results from the **Insured's** negligence or breach of professional duty, and

(ii) the indemnity given shall be up to a sub-limit of £1million which shall apply to any one **Claim** and in the aggregate inclusive of **Defence Costs**.

(b) Any actual, potential or threatened ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel or the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

(c) Asbestos or material containing asbestos in whatever form or quantity except that this Exclusion shall not apply to any **Claim** for which indemnity would but for this Exclusion be given under Insuring Clause 1.1 provided that

(i) such **Claim** directly results from the **Insured's** negligence or breach of professional duty, and

(ii) the indemnity given shall be up to a sub-limit of £250,000 which shall apply to any one **Claim** and in the aggregate inclusive of **Defence Costs**.

(d) Asbestos inspections or surveys.

5.14 Pre-existing Claim or Circumstance

(a) Any **Claim** or **Circumstance** of which any **Insured** was, or ought reasonably to have been, aware prior to inception of this **Policy**.

(b) Any **Claim** or **Circumstance** of which notice has been given, or ought to have been given, under any policy of which this **Policy** is a renewal or replacement or which it may succeed in time.

(c) Any **Claim** or **Circumstance** disclosed in the **Proposal**.

5.15 Products

(a) Any goods or products sold, supplied, repaired, altered, manufactured, installed, treated or maintained by or on behalf of any **Insured**.

(b) Any costs and expense incurred by the **Insured** or any third party in the recall, repair or replacement of any product.

5.16 Property Liability

The ownership, possession or use by or on behalf of any **Insured** of any:

(a) land, buildings, structures, premises or property;

(b) aircraft, watercraft, vessels or other mechanically propelled vehicles.

5.17 Restricted Recovery Rights

Any **Claim** where the **Insured's** right of recovery from any third party has been unreasonably limited by the terms of any contract entered into by the **Insured**.

5.18 Retroactive Date

Any actual or alleged act, error, omission or event committed or occurring prior to the **Retroactive Date**.

5.19 Stocks and Shares

Any liability in respect of the sale or purchase of or dealing in any stocks, shares or securities or the misuse of any information relating to them, or any breach of any legislation or regulation relating to them

5.20 Taxation, Competition, Restraint of Trade

The breach of any taxation, competition, restraint of trade or anti-trust legislation or regulation.

5.21 Third Party Default

Any defect in any product or service supplied by a third party or any failure by a third party to supply a product or service on time or at all, save to the extent that the **Insured** shall be entitled to recover damages for breach of contract from such third party.

5.22 Trading Losses

(a) Any trading debt, trading loss or trading liability of any **Insured** or any business managed by or carried on by any **Insured**.

(b) Any guarantee or undertaking given by any **Insured** for any debt or performance of any other obligation by a third party.

(c) Any actual or alleged overcharging or improper receipt of fees by any **Insured**.

5.23 Viruses

Any **Virus** or malicious or inappropriate software or emails except to the extent insured under Insuring Clause 1.1(g) (inadvertent transmission of a **Virus**).

5.24 War, Riot and Terrorism

(a) War, invasion, acts of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power, or the confiscation or nationalisation, requisition or destruction of or damage to property by or under the order of any government or public or local authority.

(b) Riot or civil unrest.

(c) Act of terrorism, including but not limited to the use of force or violence for political, religious or other ends directed towards overthrowing or influencing of any government or for the purpose of putting the public in fear by any means or persons acting alone or on behalf or in connection with any organisation.

Section B Public Liability

1. **We** agree to cover **you** against **your** legal liability to pay damages, including claimants' costs in respect of any **occurrence** during the **period of insurance**.
2. **Defence costs and Expenses**
We shall cover **you** for all **defence costs and expenses**.

If a payment in excess of the indemnity has to be made to dispose of any **claim** or if **you** become under an obligation to pay a sum over the cover available for any **claim**, **our** liability for **defence costs and expenses** shall be a proportion only of the indemnity under this policy to dispose of the claim or the amount which **you** are obliged to pay.

Public Liability exclusions

3. The cover provided by this **policy** will not apply to any liability, as follows;
 - a. For **pollution**;
 - b. Any **product**. In respect of loss or damage to **products** owned by or in **your** care, custody or control or any **employees**, this exclusion extends to;
 - i. damage to materials, parts or equipment furnished in connection with performance of the work;
 - ii. rectification of defective work including **your** expenditure for the removal, repair, adjustment, alteration, reinstatement, withdrawal, inspection or disposal of any **property** furnished in connection with the performance of work as well as a result of any defect (suspected or known) or any unsuitability for its intended purpose.
 - c. Any contractual liability which attaches by virtue of a contract or agreement but any liability which would have attached in the absence of such contract or agreement is covered under this section;
 - d. For **property damage** where loss or damage to **property** owned by **you** or in **your** care, custody or control or any **employees** other than;
 - i. **Employees**, directors, partners or visitors' personal effects including vehicles and their contents;
 - ii. Premises and their contents not owned by or leased or rented to **you** at which **you** are undertaking work in connection with **your business**;
 - iii. Premises and their fixtures and fittings leased or rented to **you** unless such legal liability attaches by virtue of an agreement and would not have attached in the absence of the agreement;
 - e. For **bodily injury** to or **financial loss** sustained by an **employee** arising out of and in the course of his or her employment or engagement by **you** in the **business**;
 - f. For the use of, ownership by, or on **your** behalf, or any person entitled to cover of any;
 - i. mechanically propelled vehicles unless used as a tool of trade, unless where cover is provided for any motor insurance contract, or where insurance is required by law;
 - ii. drilling platform, rig, or offshore installation.

- g. Directly or indirectly caused by or contributed to, or arising in any way whatsoever from;
 - i. ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
 - ii. Radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component.

Section C Employers' Liability

- 1 **We** agree to cover **you** against **your** legal liability to pay damages, including claimants' costs for **bodily injury** to an **employee** in the course of employment which occurs during the **period of insurance** arising out of an **occurrence**, provided that the cover under this section is in accordance with the provisions of law relating to compulsory insurance of liability to **employees**, but **you** shall repay to **us** all sums paid by **us** which **we** would not have been liable to pay but for the provisions of such law.
- 2 **We** shall cover **you** for all **Defence costs and expenses**.

Employers' Liability exclusions

- 3 The cover provided by this **policy** will not apply to any liability, as follows;
 - a. Liability for which compulsory motor insurance or security is required under any road traffic legislation within the **territorial limits**;
 - b. Any liability arising from **bodily injury** in connection with work or visits outside the **territorial limits**;
 - c. Any liability arising under workers compensation social security or health insurance legislation save for any compensation recovery unit payments that may be required by the Social Security Act 1989 and 1990.
 - d. for your directors', officers' partners or **employees** for which **you** would not have been entitled to indemnity if the claim had been made against **you**.

General extensions for each section of the policy

Extension 1 Cross Liabilities

Each named company, legal entity or subsidiary set out in the **schedule** will be separately indemnified in respect of claims made against any of them by any other, subject to **our** total liability not exceeding the stated **limit of indemnity**.

Extension 2 Statutory Defence Costs

We agree to cover **you** in respect of **defence costs and expenses** incurred with **our** prior consent in defending:

- a. any alleged breach of statutory duty or criminal proceedings brought under the legislation below in clauses (i) to (ix); and / or
- b. any allegations (whether under common law or statute) of manslaughter, corporate manslaughter or corporate homicide made against **you**;

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**; and
- ii. **Bodily injury** or a potential claim for **bodily injury** to persons other than **employees** including their health, safety and welfare.

We will also cover **you** for:

- i. **Defence costs and expenses** of an appeal including appeal against improvement and prohibition notices incurred with **our** prior consent;
- ii. **Prosecution costs** awarded against **you**.

But cover under this **extension** excludes;

- i. **finances or penalties** of any kind;
- ii. where cover is provided by any other insurance;
- iii. **Defence costs and expenses** and **prosecution costs** in excess of the sub-limit of indemnity stated in the **schedule**.

The following statutes are included within the statutes or regulations contemplated for which **defence costs and expenses** are covered by this clause;

- i. Health and Safety at Work, etc. Act 1974, but only sections 2 to 8,
- ii. Health and Safety at Work (Northern Ireland) Order 1978,
- iii. The Trade Description Act 1968
- iv. Part II of the Consumer Protection Act 1987
- v. Part II of the Food Safety Act 1990.
- vi. Corporate Manslaughter Act 2007
- vii. Consumer Protection Act 1987

- viii. Part II of the Data Protection Act 1998
- ix. Defective Premises Act 1972, section 3.

Extension 3 Contingent liability for employee's vehicles

We will indemnify **you** notwithstanding exclusion 21 caused by or in connection with any vehicle owned by an **employee** which is being used in the course of **your business** but excluding liability;

- a) arising when such vehicle is being driven;
 - (i) by **you**
 - (ii) with **your** consent by anyone whom **you** know does not hold a licence to drive such vehicle unless such person has held and is not disqualified from holding or obtaining such a licence;
- b. for physical loss of or damage to any such vehicle
- c. for any use outside the **territorial limits**.

Extension 4 Overseas personal liability

We will indemnify **you** if;

- a. any of **your** directors, officers, partners or **employees**
- b. any spouse or child of **your** directors, officers, partner or **employees** accompanying **you** or accompanying such director, officer, partner or **employee**.

incur legal liability (including **defence costs and expenses**) in a personal capacity while **you** or any of **your** directors, officers, partners, or **employees** are visiting a country anywhere in the world in connection with **your** business, but excluding any liability;

- (i) arising from any contract or agreement unless liability would have existed otherwise
- (ii) arising out of the ownership or occupation of land or buildings
- (iii) arising from the carrying on of any trade or profession
- (iv) where indemnity is provided by any other insurance
- (v) arising from the ownership possession or use of wild animals firearms (other than sporting guns) mechanically-propelled vehicles aircraft or watercraft

Important conditions for each section of the policy

Where there has been a failure to comply with one or more of the following, other than a condition that defines the risk as a whole, and compliance with such condition would tend to reduce the risk of loss of a particular kind and/or loss at a particular location and/or loss at a particular time, **we** cannot rely on the breach of such term to exclude, limit or discharge our liability if **you** show that the failure to comply with such term could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred

In addition, coverage may be suspended under this **policy** from the time of **your** failure to comply with one or more of the following until the time when the breach is remedied (if it is capable of being remedied). **We** will have no liability to **you** for any loss which occurs, or which is attributable to something happening, during the period when **our** liability is suspended.

1. Assignment

Assignment of interest under this **policy** will not bind **us** unless **we** have consented in writing.

2. Contract (Rights of Third Parties) Act 1999

This **policy** does not confer or create any right enforceable under the *Contracts (Rights of Third Parties) Act 1999* or any amending or subsequent legislation by any person who is not named as an insured and both **you** and **us** may amend, cancel or lapse this insurance without giving notice to, or requiring the consent of, any other third party. However, this will not preclude rights enforceable under the *Third Parties (Rights against Insurers) Act 2010*.

3. Inspection and audit

We will be permitted but not obligated to inspect **your** property and operations at any time on giving **you** reasonable notice. **Our** right to make inspections or any report produced does not constitute an undertaking for **your** benefit or others to determine or warrant that such property, product or operations are safe.

4. Records

We 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.

5. Representation

Where more than one entity is designated as an insured, the first named insured will act on **your** behalf and other parties covered under this **policy** with respect to the giving and receiving of any notices from **us** including any notice of cancellation. The payment to the first named insured of any return premium that may be payable under this **policy** will satisfy **our** obligations to return premium to any other party covered by this insurance.

6. Sanction limitation and exclusion

We shall not provide cover nor be liable to pay any **claim** or provide any benefit under this insurance if the provision of such cover, payment of a claim or provision of any benefit would expose **us** or any member of **our** group to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of any country.

7. Subscribing insurer

Our obligations under this **policy** are severable and not joint and are limited solely to the extent of **our** individual subscription. 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.

8. Sub-contractors insurance checks

Whenever work is undertaken on **your** behalf by any of **your** subcontractors, **you** will establish and maintain an administrative procedure for obtaining evidence that **your** subcontractors have in place public liability insurance that covers the work to be undertaken by the subcontractor. The cover must be subject to a **limit of indemnity** of not less than GBP 5,000,000, and will include an 'indemnity to principals' clause, and this evidence will be revalidated every 12 months throughout the duration of their contract with **you**.

9. Fork lift truck conditions

All **your** drivers must be at least 18 years of age and all drivers must:

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

Whenever a fork lift truck is left unattended;

- a) the ignition keys must be removed, or
- b) the vehicle otherwise immobilised,

to prevent unauthorised use. Unattended means that the fork lift truck is out of sight of the driver and / or more than one (1) minute's walking distance from the driver to prevent unauthorised use;

The carriage of passengers, unauthorised use or application as a tool in excess of the design capabilities of the vehicle is prohibited. All drivers must engage all operational safety systems in accordance with the manufacturers' recommendations.

10. Working at height

This condition applies to Section D Employers' Liability only. If any of your **employees** work at heights exceeding 5 meters above floor level you must ensure that;

- a) They use fall-arrest equipment consisting of a full-body harness, shock absorbing lanyard and connecting hook, carabiner or ring; or
- b) They use a work positioning system that prevents a fall from height consisting of a waist belt, full-body or chest harness, rope or web lanyard and connecting hook, carabiner or ring or;
- c) They are undertaking roped access work in accordance with the provisions of the Code of Practice For the Use of Rope Access Methods For Industrial Purposes BS7985 2002.

In any event, you must;

- a) Maintain a formal record of the equipment supplied to and received by them;
- b) Ensure the equipment conforms to BS EN standards.

11. Heat away from premises

When **you** use a naked flame or other heat source including but not limited to; oxyacetylene; electric arc or similar welding, cutting, grinding or other spark emitting equipment; blow lamps; otherwise applying heat away from **your** premises, **you** and **your employees** shall take all reasonable precautions to prevent damage.

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

- a) Before starting work:
 - i) a person shall be made responsible for fire safety and for ensuring that reasonable precautions are taken;
 - ii) all persons shall be made aware of the location of the site's fire alarms and fire-fighting equipment;
 - iii) the responsible person shall examine all property within a radius of 6 metres from where the heat is being applied and where possible, remove all combustible materials or otherwise cover and protect by overlapping sheets or screens of non-combustible material.
- b) During the process of work
 - i) a person shall work alongside the operator of the equipment to look out for an outbreak of fire and there shall be available for immediate use a hose connected to the nearest hydrant with water turned on and controllable at the nozzle of the hose. If water is not available or unsuitable or provision of such a hose is not practical, then 2 fully charged fire extinguishers (complying with BS EN 3) must be available and if used during the process, the heat work must cease until those fire extinguishers are made available,
 - ii) the lighting of equipment shall be in accordance with manufacturer's instructions and no piece of lighted equipment shall be left unattended,
 - iii) gas cylinders not required for immediate use shall be kept at least 6 metres from where the heat is being applied.
- c) After ceasing work a continuous examination for one (1) hour shall be made of the area within a radius of 6 metres from where the heat has been applied to ensure that there is no risk of fire.

Furthermore where you or persons acting on your behalf burn debris away from their premises, the following precautions must be taken on each occasion:

- a) fires to be in a cleared area and at a distance of at least 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. Reasonable precautions

You, or **your** risk manager or senior management shall take all reasonable precautions to prevent an insured event or loss arising or continuing. **You** will act in a manner so as not to promote a

loss arising or continuing from the deliberate, conscious or intentional disregard by **you** of the need to take reasonable care.

13. Skip hire conditions

In connection with the use, ownership or hiring out of skips, **you** must at all times observe and comply with the requirements of the *Roads (Scotland) Act 1984* or the *Highways Act 1980* or any other statutes, regulations or local bye-laws and must ensure that:

- i. each skip is marked with fluorescent markings which must be kept clean;
- ii. each skip deposited on a highway is equipped to be properly lit during the hours of darkness;
- iii. 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.

Skips must be hired out under the conditions of hire as advised to **us** and a copy of the 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.

14. Subrogation

Unless there is a 'Waiver of subrogation' clause, for each and every **claim**, **you** must not waive any rights of recourse or recovery against any other person which may give rise to an action under this **policy**;

- i. **You** will, at **our** request and expense, allow **us** to enforce any rights and remedies.
- ii. In the event of any payment under this insurance, **we** will act in concert with all other interested persons (including **you**) concerned in the exercise of any rights of recovery.
- iii. The apportioning of any amounts which may be recovered will follow the principle that any interested persons (including **you**) who will have paid an amount over and above any payment hereunder will first be reimbursed up to the amount paid by them; **we** are then to be reimbursed out of any balance then remaining up to the amount paid; lastly, the interested persons (including **you**) to whom this coverage is in excess shall be entitled to claim the residue, if any.
- iv. 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.

15. Timing of bodily Injury or damage (Only applicable where a retroactive date has been inserted in the schedule)

Where it is not possible to ascertain the timing of **bodily injury** or **damage**, then for the purpose of determining the cover granted by this **policy**, **bodily injury** will be deemed to have occurred when the claimant first consulted a qualified medical practitioner regarding such **bodily injury**, whether or not it was correctly diagnosed at that time. If no consultation took place then the **bodily injury** will be deemed to have occurred when **you** first became aware of the **circumstance** or received the **claim**, whichever is the earlier.

General exclusions for each section of the policy

The cover provided by this **policy** excludes;

1. **Abuse**

any **claim** arising from actual or alleged **abuse**.

2. **Advertising Injury**

Liability arising out of **Advertising Injury** unless specifically covered.

3. **Advice, design or plans and professional services**

Liability arising out of or from advice, design, plans, specifications, formulae, surveys or dimensions prepared or given by **you** or others or any professional services rendered by **you**, but this shall not exclude liability arising in conjunction with products supplied.

4. **Aircraft, watercraft and mechanically propelled vehicles**

Liability arising out of or from the ownership, possession, maintenance or use of any aircraft or other aerial device or satellite, spacecraft or any watercraft, or any mechanically propelled vehicle other than:

- a. motor barges not exceeding seventy five (75) ton capacity on inland waterways;
- b. hand-propelled craft, sailing vessels and motor launches not exceeding fifteen (15) metres in length and only when operated on inland waterways;
- c. watercraft not belonging to or chartered by **you** but used by **you** for business entertainment provided that;
 - i. such watercraft is primarily owned and operated as a river cruise vessel;
 - ii. such watercraft is insured by the owner or charterer under a policy of marine insurance;
 - iii. **we** will not indemnify **you** 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.

5. **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. Costs of recall or guarantee

Expenditure, whether incurred by **you** or others, for the withdrawal, recall, disposal, removal, repair, adjustment, alteration, reconditioning, replacement or reinstatement of any **product** or part (or any other **product** or part of which **your product** forms, or is intended to form, a part or ingredient) and/or **financial loss** consequent upon the necessity for such withdrawal, recall, disposal, removal, repair, adjustment, alteration, reconditioning, replacement or reinstatement.

7. Deliberate acts

- a. Damages or compensation, including claimants' costs and any associated **defence costs**, which result from **personal injury, damage, denial of access** either expected or intended by **you** but this exclusion does not apply to **bodily injury** resulting from the use of reasonable force to protect persons or **property**.
- b. Other **defence costs** incurred in proceedings except in respect of manslaughter, corporate manslaughter or corporate homicide consequent upon any deliberate act or omission by **you**, if the result of such act or omission could reasonably have been expected to constitute an offence under any legislation.

This exclusion shall not apply to any individual person or company if the **bodily injury, property damage, denial of access** is not expected or intended by that party.

8. Cyber liability

Liability arising directly or indirectly from, or in connection with, or consisting of any loss, destruction or damage, failure or loss of data resulting directly or indirectly from or in connection with:

- (i) **virus or similar mechanism**,
- (ii) **denial of service attack**,
- (iii) unauthorised access to or use of **computer and electronic equipment**,
- (iv) the failure of any equipment to correctly recognise the date or change of date.

The following definitions are relevant to this exclusion;

Virus or similar mechanism means program code, programming instruction or any set of instructions with the ability to damage, interfere with, or otherwise adversely affect Computer and Electronic Equipment or Data, whether involving self-replication or not, including, but not limited to trojan horses, worms and logic bombs.

Denial of service attack means any actions or instructions with the ability to damage, interfere with, or otherwise affect the availability of Computer and Electronic Equipment or Data, including but 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 within, between or amongst networks.

Computer and electronic equipment means all computers, computer installations and systems, microchips, integrated circuits, microprocessors, embedded systems, hardware, and any electronic equipment, data processing equipment, information repository,

telecommunication equipment, computer controlled or programmed machinery, equipment capable of processing data and/or similar devices, whether physically or remotely connected thereto.

9. **Employment practices disputes**

Liability which arises out of employment practice disputes directly or indirectly related to employment or prospective employment of any person or persons by you including but not limited to:

- a. wrongful unfair or constructive dismissal;
- b. denial of natural justice, defamation, misleading representation or advertising;
- c. refusal to employ a suitably qualified applicant or failure to promote;
- d. coercion, demotion, evaluation, relocation, punishment, slander, humiliation, harassment or discrimination.

10. **Financial loss**

Liability for pure economic loss not consequent upon **bodily injury** or **property damage**, but this exclusion shall not apply to financial loss as a consequence of;

- a. a **bodily Injury, advertising injury**;
- b. **denial of access**; or
- c. cover as provided by the *Data Protection Act 1998* under the Statutory defence costs extension.

11. **Fees for intervention**

Any payments raised under the *Health and Safety (Fees) Regulations 2012* relating to 'fees for intervention'.

12. **Fines and penalties**

Taxes, fines or penalties, punitive, aggravated, multiple, exemplary or other non-compensatory damages or the consequences of non-payment of any additional damages under *Section 97(2)* of the *Copyright, Design and Patents Act 1988* or any statutory successor to that section or any **claim** deemed uninsurable by law.

13. **Human Immune Deficiency (HIV)**

Any liability caused by or arising out of, or related to HIV; Acquired Immune Deficiency Syndrome Related Complex; Acquired Immune Deficiency Syndrome and any virus, complex or syndrome that is related to the foregoing which results from the manufacture supply of blood or blood products. **Blood or blood products** include blood preparations, sera, plasma, cellular products and whole blood to the extent that they derived from human blood and are intended for use as a drug.

14. **Liability from employment**

Bodily injury caused to or sustained by any **employee** arising out of or in the course of employment by the insured in the **business**, unless covered under Section D Employers' Liability.

15. Limit of Indemnity

Liability in excess of the **limit of indemnity** stated in the **schedule** and any extension stated in the **schedule**.

16. 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 **you** or any 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.

17. Mildew mould spore(s) or allergens

Liability directly or indirectly occasioned by, arising out of any fungus of any kind whatsoever, including but not limited to; mildew, mould, spore(s) or allergens; or any costs or expenses associated, in any way, with the abatement, mitigation, remediation, containment, detoxification, neutralization, monitoring, removal, disposal, or any obligation to investigate or assess the presence or effects of fungus of any kind whatsoever, including but not limited to mildew, spore(s), or allergens; or any obligations or duty to defend any actions directly or indirectly occasioned by, arising out of any fungus of any kind whatsoever, including but not limited to mildew mould spore(s) or allergens irrespective of the cause of such fungus, mildew, mould, spore(s) or allergens, and whenever or wherever occurring.

18. Nuclear risks

- a. Loss or destruction of or damage to any **property** whatsoever or any loss or expense whatsoever resulting or however arising or any consequential loss;
- b. any legal liability of whatsoever nature;
- c. ionising radiation or contamination by radioactivity from any nuclear fuel or nuclear waste from the combustion of nuclear fuel;
- d. radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component;
- e. any sum which **you** become legally liable to pay or any loss or expense, directly or indirectly caused by or contributed to, or arising from or attributable to nuclear hazards.

19. Overseas operations

Your subsidiary companies, branch offices or representatives with power of attorney that are domiciled outside of the United Kingdom.

20. Property in the insured's care custody and control

Damage to property owned, leased, hired or held in trust by **you** or under hire, purchase or on loan to **you** or held otherwise in **your**, custody or control except that this exclusion shall not apply in respect of and to the extent of the indemnity provided by any expressly stated coverage extension.

21. Prior knowledge

Any liability under this **policy** in respect of any;

- a. Claims or losses (including **defence costs and expenses**) first made, threatened or intimated against **you** prior to the **period of insurance**;
- b. Circumstances of which **you** first became aware prior to the **period of insurance** or which **you** ought reasonably to have been aware of prior to the **period of insurance** which may give rise to a liability under this **policy** and which was known or ought to have been known to **you** prior to the **period of insurance**.

22. **Statutory defence costs**

Liability for **defence costs and defence costs** arising out of or in respect of any alleged breach of statutory duty or any allegation of manslaughter, corporate manslaughter or corporate homicide except as stated in the **schedule** as covered under 'Statutory defence costs.'

23. **Silica**

Any liability for or arising out of existence of the presence, proliferation, discharge, dispersal, seepage, migration, release, escape, or exposure to **silica**.

24. **The product itself**

Liability for damage to **your** product or any part arising from a defect or unsuitability and economic loss or other loss of any kind arising from the damage.

25. **Tobacco products**

Any **bodily injury** caused as a result of the use or consumption of tobacco products.

26. **War and terrorism**

Any liability directly or indirectly caused by or contributed to or arising from war, invasion, act of foreign enemy hostilities (whether war has been declared or not) civil war, rebellion, revolution, insurrection, military or usurped power or any act of **terrorism**. This Exclusion shall apply to Section D – Employers Liability to the extent that it is necessary to comply with the minimum requirements of the law in the United Kingdom of Great Britain and Northern Ireland including the Channel Islands and the Isle of Man relating to compulsory insurance of liability to employees and provided that the maximum Limit of Indemnity for all **occurrences** of a series consequent upon or attributable to one source or original cause shall not exceed the **Limit of Indemnity**.

General Definitions

The following words or expressions shall carry the meaning shown below wherever they appear in bold in the **policy**, **schedule**, any **endorsement** or any **proposal** or statement of fact. Where the defined words are shown in the plural they take the same meaning as shown below in the plural;

Word	Definition
Abuse	Any direct or indirect act or failure to act that intentionally harms or injures a third party. For the purposes of this policy , abuse shall include any form of physical, sexual and psychological harm or injury arising in the course of your business .
Advertising Injury	a. libel, slander or defamation; b. any infringement of copyright or of title or of slogan; c. piracy or unfair competition or idea misappropriation under an implied contract; d. any invasion of right of privacy; e. any of the foregoing alleged by any other name: committed or alleged to have been committed during the period of insurance in any advertisement, publicity article, broadcast or telecast by or on your behalf and arising out of the your business .
Bodily injury	sickness, disability or disease. Bodily injury shall also mean mental injury, mental anguish, shock or death if directly resulting from bodily injury , sickness, disability or disease.
Business	means the business as specified in the schedule and/or declared in the proposal .
Deductible	forms part of the limit of indemnity or sub-limit of indemnity and means the amount payable by you in respect of one occurrence . Where more than one deductible could be applied to any one claim only the one deductible , the highest deductible, will be applied.
Defence costs and expenses or defence costs	any fees, expenses, costs and disbursements incurred in investigating, adjusting, settling or defending a claim that may be covered by this policy . Your internal or overhead expenses or the cost of your time is not included.
Denial of access	nuisance, trespass or interference with any easement or right of air, light, water or way.
Documents	deeds, wills, agreements, maps, plans, books, letters, policies, certificates, forms and other documents of any nature, whether printed, written or reproduced by any method including computer records and electronically stored data but does not mean bonds or coupons, stamps, bank or currency notes, money or any negotiable instrument.

Employee	any person employed by you under a contract of service or apprenticeship during or prior to the commencement of the period of insurance .
Endorsement	a change to the terms of the policy
Excess	means the first amount payable by you in respect of one occurrence . Where more than one excess could be applied to one claim, only the one excess, the highest excess, will be applied.
Extension	any additional cover selected under this policy
Financial loss	a pure economic loss or expense sustained by a third party resulting from your business that is not consequent upon bodily injury, denial of access, property damage and pollution .
Investigation	a civil, criminal, administrative or regulatory examination, investigation or other proceeding conducted by any official body or institution empowered under statute to investigate your affairs. Investigation does not mean routine regulatory supervision, inspection or compliance reviews. Proceeding includes an appeal against the outcome of any initial proceedings.
Limit of indemnity	the amount stated in the schedule which is the maximum amount of our liability for any one claim regardless of the number of: i. insureds; or ii. persons or organisations bringing claims; or iii. Occurrences or claims of a series consequent upon or attributable to one source or original cause; Where two or more insured sections are subject to a combined single limit, then the combined single limit is the maximum we will pay for any insured event to which insured sections apply in combination, and where a limit of indemnity is stated in the schedule as in the aggregate, that aggregate is the maximum we will pay for all insured events during the period of insurance. Sub limit of indemnity means the same save in respect to a specified section of this policy.
Nominee	the name and address stated in the schedule
Occurrence	an event, including continuous or repeated exposure to substantially the same general conditions, which results in bodily injury, denial of access, advertising injury, property damage, pollution or any liability covered under any selected extension , that is neither expected nor intended by you .
Period of insurance	the time for which this policy is in force as stated in the schedule .
Policy	this policy wording, the schedule and any endorsements noted as included in the schedule .
Pollution or Pollutants	any substance, solid, liquid, gaseous or thermal irritant or contaminant including but not limited to smoke, vapours, soot, fumes, acids, alkalis, chemicals and waste materials. Waste materials include, but are not limited

	to, recycled, reconditioned or reclaimed materials. However, pollution shall not include asbestos or radiation or contamination as described.
Pollution incident	any pollutant which is released to land, air or water that could harm people or the environment.
Premium	the amount stated against the premium in the schedule
Product	any property after it has left your custody or control which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by you or on behalf. Any food or drink supplied by or on your behalf primarily to your employees as a staff benefit is not a product .
Property damage	physical injury to tangible property, including all resulting loss of use, possession or control of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it. For the purposes of this insurance, electronic data is not tangible property.
Proposal	the written proposal made by you to us together with any other related particulars and statements that have been supplied to us and which have been taken into consideration by us when deciding whether to provide this Insurance and upon what terms.
Prosecution costs	costs incurred by the prosecution in prosecuting a criminal action against you and caused directly by a breach (or alleged breach) of the named statutes in the Statutory Defence cover extension.
Retroactive date	the date specified against the Retroactive date in the schedule . If no retroactive date is stated in the schedule , the retroactive date will be the date the policy incept.
RIDDOR	an event that gives rise to your duty to report an incident under the Reporting of <i>Injuries, Diseases and Dangerous Occurrences Regulations</i> 2013.
Schedule	the document attaching to or incorporated into this policy wording and headed schedule and bearing the policy number applicable to this insurance.
Silica	Silica means the mineral, silicon dioxide, and any type or form of it including, but not limited to, silica-containing products, goods, fibers or materials, silica dust, fine particulate dust of siliceous or silicic minerals, and any gases, vapours, scents or by-products produced or released by silica, silica dust or silica-containing products, goods, fibers or materials. Siliceous or silicic minerals include, but are not limited to, sand, quartz, slate, granite and flint.
Territorial Limits	the territory or location specified in the schedule . If the territorial limits are not stated in the schedule then the territorial limits will be the territory where you are domiciled.
Terrorism	an act of terrorism including but limited to the use of force or violence and/or the threat thereof, of any person or group of persons, whether acting alone or on behalf of or in connection with any organisation or government, committed for political, religious, ideological or similar purposes including the intention to influence any government and/or to put the public, or any section

	of the public in fear.
We, us, our	the Lloyd's underwriters subscribing to this insurance noted in the schedule
You, your	a. the insured specified in the schedule as named insured; b. the named insured subsidiaries, owned or controlled companies which have been declared to and accepted by us, other than any Joint Ventures in which such subsidiary, owned or controlled company has an interest; c. any director or employee of the insured but only for acts within the scope of their employment; d. with regard to any Joint Venture in which the named insured or a subsidiary, owned or controlled company of the named insured has an interest and which interest has been declared to and accepted by us, your interest in any joint venture is subject always to the following: Our liability under this policy shall be limited to (a) your percentage interest in the joint venture and (b) the total limit of liability afforded to you by this policy. Where your percentage interest in the joint venture is not set out in writing, the percentage to be applied shall be that which would be imposed by law at the inception of the joint venture. Such percentage shall not be increased by the insolvency of others interested in the joint venture; and e. Your officers, committee and members of the canteen, social, sports, medical, fire-fighting and welfare organisations in their respective capacity as such; f. Your legal or personal representative(s) in their capacity as such, in respect of liability incurred by you, provided that if cover is extended to any such party, that party shall be subject to the terms of this policy so far as they can apply.

Governing Law and Disputes Clause

Any dispute between **you** and the **insurer** arising out of or in connection with this **policy** shall be referred to arbitration before a sole arbitrator (to be mutually agreed upon by **you** and **us** or failing agreement to be appointed by the Chairman for the time being of the Bar Council) whose decision shall be final and binding on both parties.

As an alternative to the above paragraph, disputes arising from or in connection with this **policy** may be referred to a recognised mediation service if the parties to this contract agree in writing.

Disputes arising from or in connection with this **policy** shall be subject to the jurisdiction and law of England and Wales.

Interpretation

In this **policy**;

- a. reference to any Act, statute or statutory provision shall include a reference to that provision as amended, re-enacted or replaced from time to time whether before or after the date of the inception of this **policy**;
- b. if any term, condition, exclusion or **endorsement** or part is found to be invalid or unenforceable the remainder shall be in full force and effect;
- c. headings are for reference only and shall not be considered when determining the meaning of this **policy**.