

Public and Products Liability Section

Definitions

1 Injury

- A Bodily injury, death, disease, illness, mental injury, mental anguish or nervous shock
- B invasion of the right of privacy, false arrest, false imprisonment, false eviction or malicious prosecution of any person.

2 Employee

- A Any person under a contract of service or apprenticeship with the Insured
- B Any of the following persons whilst working for the Insured in connection with the Business
 - i any labour master or labour only subcontractor or person supplied by him
 - ii any self-employed person providing labour only
 - iii any home worker or outworker
 - iv any trainee or person undergoing work experience
 - v any voluntary helper
 - vi any person who is borrowed by or hired to the Insured
 - vii any person working under the Community Offenders Act 1978, the Community Service by Offenders (Scotland) Act 1978 or similar legislation
 - viii any prospective employee being assessed by the Insured as to their suitability for employment
 - ix any person a court of law in the United Kingdom deems to be an employee

3 Business

The Business specified in the Schedule conducted solely from the United Kingdom and including

- A the ownership repair and maintenance of Premises used in connection therewith
- B the provision and management of
 - i canteen, social, sports or welfare organisations for the benefit of Employees
 - ii fire and security services of the Insured
 - iii ambulance, first aid and medical services
- C the execution of private duties by Employees for any director partner or senior official of the Insured
- D the repair and/or servicing of the Insured's motor vehicles
- E the training or retraining of any Employee at Government or other training centres
- F participation at trade shows, exhibitions or conferences
- G the organisation of or participation by the Insured in fund raising or other charitable events
- H the provision of nursery crèche or child care facilities where incidental to the Business
- I the provision of car parking for the benefit of Employees customers and visitors

4 Territorial Limits

- A the United Kingdom
- B in respect of Injury, loss or damage caused by or arising from
 - i manual and non-manual work occurring during any temporary visit or journey anywhere in the world (other than the United States of America or Canada) and
 - ii non-manual work occurring during any temporary visit or journey to the United States of America or Canada

by any partner, director or Employee of the Insured normally resident within the United Kingdom

- C anywhere in the world in respect of Products.

5 Products

Any goods or other property (including their containers, packaging, labelling and instructions for use) sold, supplied, delivered, installed, erected, repaired, altered, treated or tested by the Insured in connection with the Business and not in the charge or control of the Insured.

6 Pollution or Contamination

- A All pollution or contamination of buildings or other structures or of water or land or the atmosphere; and
- B all Injury, loss or damage directly or indirectly caused by such pollution or contamination.

All Pollution or Contamination which arises out of one incident shall be deemed to have occurred at the time such incident takes place.

7 Offshore Installations

- A Any installation in the sea or tidal waters which is intended for underwater exploitation of mineral resources or exploration with a view to such exploitation
- B any installation in the sea or tidal waters which is intended for the storage or recovery of gas
- C any pipe or system of pipes in the sea or tidal waters
- D any installation which is intended to provide accommodation for persons who work on or from the locations specified in 7.A., 7.B. or 7.C. above.

8 An Act of Terrorism

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

9 Asbestos

Asbestos or fibres or particles of asbestos or any material containing asbestos.

Cover

The Insurer will indemnify the Insured against legal liability to pay compensation and claimants' costs and expenses in respect of accidental

- a Injury to any person
 - b loss of or damage to material property
 - c nuisance, trespass, obstruction or interference with any right of way, light, air or water
- occurring within the Territorial Limits during the Period of Insurance in connection with the Business.

In addition the Insurer will pay costs and expenses incurred by the Insurer or with the written consent of the Insurer

- a in connection with the defence of any claim
- b for representation of the Insured
 - i at any coroners inquest or fatal accident inquiry in respect of death
 - ii at proceedings in any court of summary jurisdiction or on indictment in any higher court in respect of any alleged breach of statutory duty resulting in Injury, loss or damage

which may be subject of indemnity under this Section.

Limit of Indemnity

- A The Insurer's liability for all compensation payable in respect of
 - i any one occurrence or all occurrences of a series consequent on or attributable to one source or original cause
 - ii all Injury, loss and damage occurring during any one Period of Insurance and caused by or arising from Products
 - iii all Pollution or Contamination which is deemed to have occurred during any one Period of Insurance

shall not exceed the Limit of Indemnity stated in the Schedule.

- B In respect of all claims against the Insured made within the legal jurisdiction of the United States of America or Canada or any dependency or trust territory the Limit of Indemnity shall be inclusive of the amount of all
 - i claimants' costs and expenses
 - ii costs and expenses incurred by the Insurer or with the written consent of the Insurer in connection with the defence of such claims.

Provided that

- i in respect of an Act of Terrorism the liability of the Insurer shall not exceed the Limit of Indemnity stated in the Schedule or £5,000,000 (whichever is the lesser).

If the Insurer alleges that by reason of this limitation any loss damage cost or expense is not covered the burden of proving the contrary shall be upon the Insured.

- ii in respect of the indemnity provided under this Section for Extension K – Corporate Manslaughter and Corporate Homicide Act 2007 Legal Defence Costs:

- a** the liability of the Insurer shall not exceed £5,000,000 or the Limit of Indemnity stated in the Schedule (whichever is the lesser) in any one Period of Insurance
- b** all amounts payable will form part of and not be in addition to the Limit of Indemnity stated in the Schedule
- c** where the Insurer has already indemnified the Insured in respect of legal costs or expenses incurred in connection with the defence of any criminal proceedings (including appeals against conviction arising from such proceedings) arising out of the same cause or occurrence which gave rise to said proceedings under another Section of the Policy the amount paid under that Section shall contribute to the maximum amount payable under this Section.

Extensions

(Subject to the terms limits conditions and exclusions of this Section and the Policy)

A Indemnity to Other Parties

The indemnity provided by this Section will also apply:

- a in the event of the death of the Insured, to any personal representative of the Insured in respect of liability incurred by the Insured

and if the Insured so request the Insurer will indemnify the following parties

- b any officer or committee member or other member of the Insured's canteen, social, sports, welfare organisations, fire and security services or ambulance, first-aid and medical services against liability incurred in such capacity
- c any partner, director or Employee of the Insured against liability incurred in such capacity and in respect of which the Insured would have been entitled to indemnity under this Section if the claim had been made against the Insured

as though each party was individually named as the Insured in this Section

- d any principal for whom the Insured have agreed to execute work under contract or agreement against liability arising out of the performance of such work by the Insured and in respect of which the Insured are legally liable and would have been entitled to indemnity under this Section if the claim had been made against the Insured.

Provided that

- i each such party shall observe fulfil and be subject to the terms and conditions of this Section in so far as they can apply
- ii the Insurer's liability to the Insured and all parties indemnified shall not exceed in total the Limit of Indemnity stated in the Schedule.

B Joint Insured – Cross Liabilities

If more than one party is named as the Insured this Section shall apply as though each were insured separately provided that the Insurer's liability to all parties indemnified shall not exceed in total the Limit of Indemnity stated in the Schedule.

C Overseas Personal Liability

The Business is extended to include personal activities (not connected with any gainful occupation or profession nor with the ownership or tenure of any land or building) of any partner, director or Employee of the Insured or family member of such partner, director or Employee normally resident within the United Kingdom in the course of any journey or temporary visit to any other country made in connection with the Business.

D Motor Contingent Liability

The Insurer will indemnify the Insured in the terms of this Section against liability arising out of the use in connection with the Business of any vehicle not owned, provided or being driven by the Insured but this Section does not cover liability

- a** in respect of loss of or damage to such vehicle
- b** arising out of any such use in any country outside the European Union
- c** incurred by any party other than the Insured
- d** incurred by any party identified in Extension A. (Indemnity to Other Parties) other than an Employee.

For the purpose of this cover Exclusion 1. (Injury to Employees) does not apply.

E Health and Safety at Work – Legal Defence Costs

The Insurer will indemnify the Insured and if the Insured so request any partner, director or Employee of the Insured in the terms of this Section in respect of

- a** costs and expenses incurred with the Insurer's written consent
- b** costs and expenses of the prosecution awarded against any such party

in connection with criminal proceedings or an appeal against conviction arising from such proceedings brought in respect of any offence under the Health and Safety at Work etc. Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978 committed or alleged to have been committed during the Period of Insurance in connection with the Business

Provided that

- i** the proceedings relate to the health, safety or welfare of any person other than an Employee
- ii** the Insurer shall have the conduct and control of all the said proceedings and appeals.

The Insurer will not pay for

- a** fines or penalties of any kind
- b** proceedings or appeals in respect of any deliberate or intentional criminal act or omission
- c** costs or expenses insured by any other insurance.

F Data Protection Act

The Insurer will indemnify the Insured and if the Insured so requests any Employee or director or partner of the Insured for damage or distress occurring as a result of an offence under Section 13 of the Data Protection Act 1998 committed during the Period of Insurance within the United Kingdom and arising in connection with the Business provided that the Insured is a registered user in accordance with the terms of the Data Protection Act 1998.

The Insurer will not pay for

- a** any damage or distress caused by a deliberate act or omission by the Insured the result of which could reasonably have been expected by the Insured having regard to the nature and circumstances of such act or omission
- b** the payment of fines or penalties
- c** the costs and expenses of replacing reinstating rectifying or erasing blocking or destroying any Data or Personal Data
- d** any damage or distress caused by any act of fraud or dishonesty
- e** liability arising from the recording, processing or provision of Data or Personal Data for reward or to determine the financial status of any person.

Data and Personal Data shall have the meaning defined in the Data Protection Act 1998.

G Defective Premises Act 1972

The Insurer will indemnify the Insured in the terms of this Section against liability incurred by the Insured under Section 3 of the Defective Premises Act 1972 or Section 5 of the Defective Premises (Northern Ireland) Order 1975 or the Defective Premises (Landlord's Liability) Act (Northern Ireland) 2001 in connection with premises or land disposed of by the Insured. Provided that this Extension does not cover

- a** the costs of rectifying any damage or defect in the premises or land disposed of
- b** liability for which the Insured is entitled to indemnity under any other insurance
- c** the presence of Asbestos.

H Consumer Protection and Food Safety Acts – Legal Defence Costs

The Insurer will indemnify the Insured and if the Insured so request any partner, director or Employee of the Insured in the terms of this Section in respect of legal costs and expenses incurred with the written consent of the Insurer in connection with the defence of any criminal proceedings or an appeal against conviction arising from such proceedings brought in respect of any offence under

- a Part 2 of the Consumer Protection Act 1987
or
- b Section(s) 7, 8, 14, and/or 15 of the Food Safety Act 1990

committed or alleged to have been committed during the Period of Insurance in connection with the Business

Provided that the Insurer shall have the conduct and control of all the said proceedings and appeals.

The Insurer will not pay for

- a fines or penalties of any kind
- b proceedings or appeals in respect of any deliberate act or intentional act or omission
- c costs or expenses insured by any other policy.

I Court Attendance Compensation

If during the Period of Insurance any partner, director or Employee of the Insured is required to attend court as a witness at the request of the Insurer in connection with a claim which is the subject of indemnity under this Section the Insurer will pay compensation to the Insured on the following scale for each day that attendance is required:

- i any director or partner £750
- ii any Employee £250.

J Contractual Liability

In respect of liability assumed by the Insured by a contract or agreement entered into by the Insured and which would not have attached in the absence of such contract or agreement, the indemnity provided by this Section shall only apply if the sole conduct and control of any claim is vested in the Insurer

Provided that the Insurer shall not in any event provide indemnity

- a under Exclusion 9. a. except as stated therein
- b in respect of liquidated damages or fines or damages imposed by or payable under any penalty clause.

K Corporate Manslaughter and Corporate Homicide Act 2007 – Legal Defence Costs

The Insurer will indemnify the Insured in respect of

- a** legal costs and expenses incurred with the prior written consent of the Insurer and
- b** costs of the prosecution awarded against the Insured

in connection with the defence of any criminal proceedings (including any appeal against conviction arising from such proceedings) brought under The Corporate Manslaughter and Corporate Homicide Act 2007 or any equivalent legislation in the Channel Islands or the Isle of Man in respect of any fatal injury occurring during the Period of Insurance in the course of the Business and which may be the subject of indemnity under this Section

Provided that the Insurer agrees details of the specific solicitor or counsel who are to act on behalf of the Insured prior to their appointment

The Insurer will not pay for

- i** any fines or penalties imposed on the Insured or the cost of implementing any remedial order or publicity order
- ii** legal costs and expenses in connection with an appeal unless a solicitor or counsel advise that there are strong prospects of succeeding in the appeal or recovering costs awarded against the Insured at all times throughout the appeals process. Any change to such prospect of success during the appeals process may result in cover being removed
- iii** costs and expenses provided by another source or any other insurance or where but for the existence of this Extension would have been provided by such source or insurance
- iv** costs and expenses in connection with the defence of any criminal proceedings brought in any country other than in the United Kingdom
- v** costs and expenses in connection with the defence of any criminal proceedings resulting from any deliberate or intentional criminal act or omission by the Insured or any partner or director of the Insured or any Employee.

L Obstructing Mechanically Propelled Vehicles

If a mechanically propelled vehicle which is not the property or responsibility of the Insured causes an obstruction within the United Kingdom to the extent of interfering with the carrying out of the Business then notwithstanding Exclusion 5 (Mechanically Propelled Vehicles) the Insurer will indemnify the Insured in the terms of this Section in respect of the legal liability of the Insured for Injury or loss of or damage to material property arising from the movement of such vehicle by the Insured or by any Employee

Provided that

- a** such movement shall be limited to the minimum necessary to clear the obstruction
- b** the indemnity will not apply to loss of or damage to such vehicle or its contents
- c** this Extension shall not apply to circumstances for which a certificate of insurance or security is required in accordance with road traffic legislation.

Exclusions

This Section does not cover

1 Injury to Employees

Liability in respect of Injury to any Employee arising out of and in the course of the employment or engagement of such person by the Insured.

2 Work on Offshore Installations

Liability in respect of Injury, loss or damage arising in connection with work on or travel to or from Offshore Installations.

3 Fines, penalties, liquidated, punitive, exemplary or aggravated damages

Liability in respect of

- a fines, penalties or liquidated damages
- b punitive, exemplary or aggravated damages or any damages resulting from the multiplication of compensatory damages.

4 Pollution or Contamination

Liability in respect of

- a Pollution or Contamination occurring in the United States of America or Canada or any dependency or trust territory
- b Pollution or Contamination occurring elsewhere unless caused by a sudden identifiable unintended and unexpected incident which takes place in its entirety at a specific time and place during the Period of Insurance.

5 Mechanically Propelled Vehicles

Liability arising out of the ownership, possession or use by or on behalf of the Insured of any mechanically propelled vehicle (or trailer attached thereto) which is required by any road traffic legislation to be the subject of compulsory insurance or other security but this Exclusion shall not apply

- i while such vehicle is being used as a tool of trade (other than in respect of liability which is compulsorily insurable under road traffic legislation)
- ii in respect of the loading or unloading of such vehicle or the delivery or collection of goods to or from such vehicle

except where more specifically insured by any other policy.

6 Vessels or Craft

liability arising out of the ownership, possession or use by or on behalf of the Insured of any

- a aircraft or other aerial device made or intended to travel through air or space
- b any water-borne vessel or craft other than
 - i those used for business entertainment purposes within inland waters
 - ii hand propelled or sailing watercraft whilst within inland waters and not exceeding 75 feet in length

7 Property in the charge or control of the Insured

Liability in respect of loss of or damage to any property belonging to or in the charge or control of the Insured other than

- a personal effects or vehicles of any partner, director or Employee of or visitor to the Insured
- b premises (and their contents) not belonging, leased, rented or hired to the Insured but temporarily in the charge of the Insured for the purpose of carrying out work
- c Premises (including their fixtures and fittings) leased, rented or hired to the Insured but this Section does not cover liability attaching to the Insured solely under the terms of any tenancy or other agreement.

8 Damage to Goods Supplied

Liability in respect of

- a loss of or damage to any goods or other property sold, supplied, delivered, installed or erected by or on behalf of the Insured
- b all costs of or arising from the need for making good, removal, repair, rectification, replacement or recall of
 - i any such goods or property
 - ii any defective work executed by or on behalf of the Insured

except that 8a and 8bi above shall not apply to liability in respect of loss of or damage to the said goods or property if such loss or damage is caused by or arises from

- 1 any alteration, repair or servicing work executed
 - 2 any other goods or property sold, supplied, delivered, installed or erected
- by the Insured under a separate contract.

9 Products

In respect of Injury, loss or damage caused by or arising from Products

- a any liability which attaches to the Insured solely under the terms of an agreement other than
 - i under any warranty of goods implied by law
 - ii under any indemnity clause in any agreement between the Insured and any independent carrier in respect of Injury, loss or damage caused by Products entrusted to such carrier for transit by road, rail or waterway
- b any Product installed or incorporated in any craft designed to travel in or through air or space and which to the Insured's knowledge was intended to be installed or incorporated in any such craft
- c any claim made against the Insured in any country outside the European Union in which the Insured occupy premises or are represented by any resident Employee or holder of the Insured's power of attorney.

10 Advice and Design

Liability for Injury, loss or damage arising out of or in connection with advice, design, formula, specification, inspection, certification or testing provided or performed for a fee by or on behalf of the Insured other than where provided or performed in connection with any Product.

11 Contract Works and J.C.T. Clause 6.5.1

Liability in respect of loss of or damage to any property

- a comprising or to be incorporated in the contract works in respect of any contract undertaken by the Insured
- b against which the Insured are required to effect insurance under the terms of Clause 6.5.1. of the J.C.T. (R.I.B.A) Conditions of Contract or of any other contract condition requiring insurance of a like kind.

12 Computer Date Recognition

Liability arising directly or indirectly from the failure of any computer or other equipment or system for processing, storing or retrieving data, whether the property of the Insured or not, to achieve any or all of the purposes and consequential effects intended by the use of any number to denote a date including the failure

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

13 Asbestos

- a liability in any way caused by, arising from or contributed to by
 - i exposure to or inhalation of Asbestos
 - ii fear of the consequences of exposure to or inhalation of Asbestos
- b liability for the costs of management (including those of any persons under any statutory duty to manage), removal, repair, alteration, recall, replacement or reinstatement of any property arising out of the presence of Asbestos

14 Excess

The amount of any Excess specified in the Schedule.

Section Conditions

1 Other Insurances

The Insurer will not indemnify the Insured in respect of liability which is insured by or would but for the existence of this Section be insured by any other policy or section except in respect of any excess beyond the amount payable under such other policy or section or which would have been payable under such other policy or section had this Section not been effected.

2 Alteration in Risk

The Insured must notify the Insurer as soon as possible if during the Period of Insurance there is any alteration:

- a in or to the Business
- b in the ownership of the Insured
- c to the facts or matters set out in the Schedule or otherwise comprising the risk presentation made by the Insured to the Insurer at inception, renewal or variation of the Policy

which materially increases the risk of legal liability to pay costs and expenses as insured by this Section.

Upon being notified of any such alteration, the Insurer may, at its absolute discretion

- a continue to provide cover under this Section on the same terms
- b restrict the cover provided under this Section
- c impose additional terms
- d alter the premium
- e cancel this Section and the Policy.

If the Insured fails to notify the Insurer of any such alteration, the Insurer may

- a treat this Section and the Policy as if it had come to an end as at the date of the alteration of the risk, returning a proportionate amount of the premium for the unexpired Period of Insurance, if the Insurer would have cancelled this Section and the Policy had it known of the increase in risk
- b treat this Section and the Policy as if it had contained such terms (other than relating to premium) or other restrictions (if any) from the date of the alteration in risk as the Insurer would have applied had it known of the increase in risk
- c reduce proportionately the amount paid or payable on any claim, the proportion for which the Insurer is liable being calculated by comparing the premium actually charged as a percentage of the premium which the Insurer would have charged had it known of the increase in risk.

3 Declaration Condition

If the premium or part of any premium is calculated on estimates supplied to the Insurer by or on behalf of the Insured the Insured shall keep a record of all such relevant particulars and shall allow the Insurer to inspect such records at any reasonable time.

The Insured shall furnish the Insurer with such information as the Insurer may require at the expiry of each Period of Insurance, within the period specified by the Insurer. The premium shall be adjusted annually and any difference shall be paid by or returned to the Insured subject to any agreed minimum or deposit premium specified in the Schedule.