



**X<sup>L</sup> Insurance**

Sport & Leisure

# Policy

## Combined Liability

Form SL-CL 0119 - CICL

January 2019



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# 1 Introduction

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This policy consists of the Policy Definitions, Extensions, Exclusions and Conditions, the **Schedule**, the coverage Sections stated as operative in the **Schedule** and endorsements, if any, all of which are a single document and are to be read as one contract. In deciding to accept this policy and in setting the terms and premium **We** have relied on the information which **You** have provided to **Us**.

**We** will, in consideration of the payment of the premium, insure **You**, subject to the terms and conditions of this policy, against the events set out in the operative Sections and occurring in connection with the **Business** during the **Period of Insurance** or any subsequent period for which **We** agree to accept payment of premium.

Please read this policy carefully and make sure that it meets **Your** needs. If any corrections are necessary **You** should contact **Your** broker through whom this policy was arranged.

Please keep this policy in a safe place – **You** may need to refer to it if **You** have to make a **Claim**.

## 1.1 Policy Format

Upon request **We** can provide Braille, audio or large print versions of the policy and the associated documentation including the Key Facts document. If **You** require an alternative format **You** should contact **Your** broker through whom this policy was arranged.

## 1.2 Fair Processing Notice

This Privacy Notice describes how XL Catlin Insurance Company UK Limited (together, “**we**”, “**us**” or the “**Insurer**”) collect and use the personal information of insureds, claimants and other parties (“**you**”) when we are providing our insurance and reinsurance services.

The information provided to the **Insurer**, together with medical and any other information obtained from **You** or from other parties about **You** in connection with this policy, will be used by the **Insurer** for the purposes of determining **Your** application, the operation of insurance (which includes the process of underwriting, administration, claims management, analytics relevant to insurance, rehabilitation and customer concerns handling) and fraud prevention and detection. **We** may be required by law to collect certain personal information about **You**, or as a consequence of any contractual relationship **We** have with **You**. Failure to provide this information may prevent or delay the fulfilment of these obligations.

Information will be shared by the **Insurer** for these purposes with group companies and third party insurers, reinsurers, insurance intermediaries and service providers. Such parties may become data controllers in respect of **Your** personal information. Because **We** operate as part of a global business, **We** may transfer **Your** personal information outside the European Economic Area for these purposes.

**You** have certain rights regarding **Your** personal information, subject to local law. These include the rights to request access, rectification, erasure, restriction, objection and receipt of **Your** personal information in a usable electronic format and to transmit it to a third party (right to portability).

If **You** have questions or concerns regarding the way in which **Your** personal information has been used, please contact: [compliance@axaxl.com](mailto:compliance@axaxl.com)

**We** are committed to working with **You** to obtain a fair resolution of any complaint or concern about privacy. If, however, **You** believe that **We** have not been able to assist with **Your** complaint or concern, **You** have the right to make a complaint to the UK Information Commissioner's Office.

For more information about how **We** process **Your** personal information, please see **Our** full privacy notice at: <http://axaxl.com/footer/privacy-and-cookies>.



### 1.3 **Third Party Rights**

A person who is not a party to this contract of insurance has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this contract of insurance but this does not affect any right or remedy of a third party that exists or is available apart from that Act.

### 1.4 **Law and Jurisdiction**

The parties are free to choose the law applicable to this contract of insurance. Unless specifically agreed to the contrary this contract of insurance shall be governed by English law and subject to the exclusive jurisdiction of the courts of England and Wales.

The language of this contract of insurance and all communications relating to it will be in English.

### 1.5 **Cancellation and Cooling-Off Period**

#### (a) **Your Right to Cancel during the Cooling-Off Period**

**You** are entitled to cancel this policy by notifying **Us** in writing within fourteen (14) days of either:

- (i) the date **You** receive this policy; or
- (ii) the start of **Your Period of Insurance**;

whichever is the later.

A full refund of any premium paid will be made unless **You** have made a **Claim** in which case the full annual premium is due.

#### (b) **Your Right to Cancel after the Cooling-Off Period**

**You** are entitled to cancel this policy after the cooling-off period by notifying **Us** in writing. Any return of premium due to **You** will be calculated at a proportional daily rate depending on how long the policy has been in force unless **You** have made a **Claim** in which case the full annual premium is due.

#### (c) **Our Right to Cancel**

**We** are entitled to cancel this policy, if there is a valid reason to do so, including

- (i) any failure by **You** to pay the premium; or
- (ii) a change in risk which means **We** can no longer provide **You** with insurance cover; or
- (iii) non-cooperation or failure to supply any information or documentation **We** request, such as details of a claim:

by giving **You** fourteen (14) days' notice in writing. Any return of premium due to **You** will be calculated at a proportional daily rate depending on how long the policy has been in force unless **You** have made a **Claim** in which case the full annual premium is due.

### 1.6 **Information You Have Given Us**

In deciding to accept this policy and in setting the terms including premium **We** have relied on the information which **You** have provided to **Us**. **You** must take care when answering any questions **We** ask by ensuring that any information provided is accurate and complete.

If **We** establish that **You** deliberately or recklessly provided **Us** with untrue or misleading information **We** will have the right to:

- (a) treat this policy as if it never existed;
- (b) decline all **Claims**; and
- (c) retain the premium.

If **We** establish that **You** carelessly provided **Us** with untrue or misleading information **We** will have the right to:

- (i) treat this policy as if it never existed, refuse to pay any **Claim** and return the premium **You** have paid, if **We** would not have provided **You** with cover;



- (ii) treat this policy as if it had been entered into on different terms from those agreed, if **We** would have provided **You** with cover on different terms;
- (iii) reduce the amount **We** pay on any **Claim** in the proportion that the premium **You** have paid bears to the premium **We** would have charged **You**, if **We** would have charged **You** more.

**We** will notify **You** in writing if (i), (ii) and/or (iii) apply.

If there is no outstanding **Claim** and (ii) and/or (iii) apply, **We** will have the right to:

- (1) give **You** thirty (30) days' notice that **We** are terminating this policy; or
- (2) give **You** notice that **We** will treat this policy and any future **Claim** in accordance with (ii) and/or (iii), in which case **You** may then give **Us** thirty (30) days' notice that **You** are terminating this policy.

If this policy is terminated in accordance with (1) or (2), **We** will refund any premium due to **You** in respect of the balance of the **Period of Insurance**.

#### 1.7 **Change in Circumstance**

**You** must tell **Us** within fourteen (14) days of **Your** becoming aware of any changes in the information **You** have provided to **Us** which happen before or during any **Period of Insurance**.

When **We** are notified of a change **We** will tell **You** if this affects **Your** policy. For example **We** may cancel **Your** policy in accordance with the Cancellation and Cooling-Off Provisions, amend the terms of **Your** policy or require **You** to pay more for **Your** insurance. If **You** do not inform **Us** about a change it may affect any **Claim You** make or could result in **Your** insurance being invalid.

#### 1.8 **Fraud**

If **You**, or anyone acting for **You**, makes a **Claim** which is fraudulent and/or intentionally exaggerated and/or supported by a fraudulent statement or other device, **We** will not pay any part of **Your Claim** or any other **Claim You** have made or may make under this policy. In addition, **We** will have the right to:

- (a) treat this policy as if it never existed, or at **Our** option terminate this policy, without returning any premium that **You** have paid; and
- (b) recover from **You** any amounts that **We** have paid in respect of any **Claim**, whether such **Claim** was made before or after the fraudulent **Claim**; and
- (c) refuse any other benefit under this policy.

#### 1.9 **Questions and Complaints Procedure**

**We** are dedicated to providing a high quality service and **We** want to ensure that **We** maintain this at all times.

If **You** have any questions or concerns about the policy or the handling of a claim please contact **Your** broker through whom this policy was arranged.

If **You** wish to make a complaint **You** can do so at any time by referring the matter to:

Complaints Manager  
XL Catlin Insurance Company UK Limited.  
20 Gracechurch Street  
London  
EC3V 0BG  
United Kingdom

Telephone Number: +44 (0)20 7743 8487  
E-mail: [axaxlukcomplaints@axaxl.com](mailto:axaxlukcomplaints@axaxl.com)

If **You** remain dissatisfied after the Complaints Manager has considered **Your** complaint, or **You** have not received a final decision within eight (8) weeks, **You** can refer **Your** complaint to the Financial Ombudsman Service at:

Exchange Tower



London  
E14 9SR  
United Kingdom

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

**From within the United Kingdom**

Telephone Number: 0800 0234 567 (free for people phoning from a “fixed line”, for example, a landline at home)

Telephone Number: 0300 1239 123 (free for mobile-phone users who pay a monthly charge for calls to numbers starting 01 or 02)

**From outside the United Kingdom**

Telephone Number: +44 (0)20 7964 1000

Fax Number: +44 (0)20 7964 1001

The Financial Ombudsman Service can look into most complaints from consumers and small businesses. For more information contact them on the above number or address, or view their website: [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

1.10 **Financial Services Compensation Scheme**

**We** are covered by the Financial Services Compensation Scheme. **You** may be entitled to compensation from the Scheme if **We** are unable to meet **Our** obligations under this contract of insurance. If **You** were entitled to compensation under the Scheme, the level and extent of the compensation would depend on the nature of this contract of insurance. Further information about the Scheme is available from the Financial Services Compensation Scheme (10<sup>th</sup> Floor, Beaufort House, 15 St Botolph Street, London, EC3A 7QU) and on their website: [www.fscs.org.uk](http://www.fscs.org.uk).



## 2 Policy Definitions

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All the individual policy Sections are subject to the following definitions except where stated below.

2.1 **Business** means the business and/or activities stated in the **Schedule** conducted by the **Insured** at or from premises of the Insured, and extends to include:

- (a) the ownership, repair and maintenance of the **Insured's** own property including vehicles and plant owned and used by the **Insured**;
- (b) provision and management of canteen, social, sports, medical and welfare organisations and fire fighting and security services principally for the benefit of **Employees** and for the protection and promotion of the **Business** as stated in the **Schedule**;
- (c) the participation by the **Insured** in exhibitions.

For the purposes of the Professional Liability Section **Business** means only the professional services performed or the advice given by the **Insured** in relation to those activities stated in the **Schedule**.

2.2 **Claim** means:

- (a) a written demand for damages or other remedy made by a third party in accordance with the laws of a territory specified in the **Schedule** as a Covered Jurisdiction; or
- (b) where applicable, proceedings brought under the jurisdiction of a competent court or tribunal within a territory specified in the **Schedule** as a Covered Jurisdiction; or
- (c) an award made by a competent court or tribunal anywhere in the world to enforce a judgement, award or settlement made in accordance with the laws of or under the jurisdiction of a territory specified in the **Schedule** as a Covered Jurisdiction.

2.3 **Damage** means accidental loss of, accidental loss of possession of or physical damage to tangible property.

2.4 **Defence Costs** means costs, fees and expenses incurred by or on behalf of the **Insured** with the written consent of the **Insurer** in the investigation, defence or settlement of any **Claim**, suit or proceedings which are or would, if successful, be covered under this policy. **Defence Costs** also includes legal expenses in respect of representation at any coroner's inquest or inquiry arising out of matters covered by this policy.

**Defence Costs** do not include:

- (a) the **Insured's** own costs, fees or expenses or value attributable to the time spent in dealing with a **Claim** or a circumstance; or
- (b) legal costs and expenses incurred in the defence of any criminal proceedings brought against the **Insured** or in an appeal against conviction by the **Insured**.

2.5 **Document** means records arising from the **Business**, whether kept in paper, magnetic or electronic form, for which the **Insured** is legally responsible, whilst in the custody of the **Insured** or in the custody of any person other than the owner to or with whom they have been entrusted, lodged or deposited by the **Insured** in the ordinary course of the **Business**.

2.6 **Employee** means any:

- (a) person under a contract of service or apprenticeship with the **Insured**;
- (b) labour only sub-contractor and persons supplied by them;
- (c) person employed by labour only sub-contractors;
- (d) self-employed person;
- (e) person hired to or borrowed by the **Insured**; or
- (f) person undertaking study or work experience, voluntary work or a youth training scheme with the **Insured**;

working for and under the control of the **Insured** in connection with the **Business**.



- For the purposes of the Professional Liability Section **Employee** does not include any partner, principal, director or member of the **Insured**.
- 2.7 **Excess** means the first part of each and every **Claim**, for which the **Insured** is responsible as stated in the Schedule.
- 2.8 **Extranet** means a restricted-access group of inter-connected networks accessible via service providers or online service providers using dial-up telephone service, digital subscriber lines, integrated service digital network lines, cable modem access or similar transfer mediums.
- 2.9 **Injury** means:
- (a) accidental:
    - (i) death, bodily injury, illness, disease or medically recognised psychiatric injury of or to a person;
    - (ii) trespass, nuisance, invasion of the right of privacy or interference with any right of way, air, light, water or other easement;
  - (b) wrongful arrest, wrongful detention, false imprisonment or malicious prosecution.
- 2.10 **Insured / You / Your** means:
- (a) in respect of the Professional Liability Section, any firm, company or limited liability partnership named in the **Schedule**, including any of their predecessors in business; their principals, partners, directors or members (including any former principal, partner, director or member) and their legal representatives, estate or heirs in the event of their bankruptcy, incapacity or death;
  - (b) in respect of all other Sections:
    - (i) the person, persons or corporate body or other entity named in the **Schedule**;
    - (ii) subsidiary companies of the **Insured** notified to and accepted in writing by the **Insurer**.
- 2.11 **Insured Person** means the **Insured** or any partner, director or **Employee**.
- 2.12 **Insurer / We / Us** means XL Catlin Insurance Company UK Limited.
- 2.13 **Internet** means the worldwide group of inter-connected networks accessible via service providers or online service providers using dial-up telephone service, digital subscriber lines, integrated service digital network lines, cable modem access or similar transfer mediums.
- 2.14 **Intranet** means one or more inter-connected networks with restricted access to the **Insured** via service providers or online service providers using dial-up telephone service, digital subscriber lines, integrated service digital network lines, cable modem access or similar transfer mediums.
- 2.15 **Occurrence** means an event or series of events having a common originating cause, including continuous or repeated exposure to substantially the same general harmful conditions.
- 2.16 **Period of Insurance** means the period stated in the **Schedule**.
- 2.17 **Pollution** means any pollution, seepage, discharge, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including for example smoke, vapours, soot, dust, fibres, fungi, mould, fumes, acids, alkalis, chemicals and waste (including for example material to be recycled, reconditioned or reclaimed) or contamination of any kind of the atmosphere or of any water, land, buildings or other tangible property
- 2.18 **Product** means any tangible property after it has left the custody or control of the **Insured** which has been, sold, supplied, distributed, leased, loaned or free issued by or on behalf of the **Insured**. **Product** does not include food and drink provided mainly for consumption by **Employees**.
- 2.19 **Schedule** means the document entitled **Schedule** that relates to and forms part of this policy.



- 2.20 **Terrorism** means an act, including the use of force or violence and/or the 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.
- 2.21 **United Kingdom** means England, Wales, Scotland, Northern Ireland, the Isle of Man and the Channel Islands.



### 3 Policy Extensions

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All the individual policy Sections are subject to the following extensions except where stated below.

#### 3.1 Automatic Acquisitions

The policy shall apply automatically to any entity acquired, established or created during the **Period of Insurance**.

Provided always that:

- (a) the turnover of such entity is no more than 10% of the total turnover of the **Insured**;
- (b) the **Insured** shall notify the **Insurer** in writing as soon as practicably possible but no later than ninety (90) days of such acquisition, establishment or creation;
- (c) the **Insurer** shall have the right to accept or refuse cover at the time of notification and to alter the terms and conditions of this policy accordingly including the charging of an additional premium;
- (d) the **Insurer** shall not be liable:
  - (i) where the business of such entity differs from the **Business**; and
  - (ii) where cover is provided under any other insurance. This policy shall only apply in excess of such other insurance to the extent of such part of the Limit of Liability as exceeds the limit under the other insurance.

#### 3.2 Court Attendance Costs

The **Insurer** will reimburse the **Insured's** loss by paying a daily amount as stated below for each day on which attendance is required in the event of any director, partner or **Employee** attending court as a witness at the request of the **Insurer** in connection with a **Claim** which is covered under the Public Liability, Product Liability and Employers' Liability Sections of this policy:

- (a) GBP 250 per day for each day attendance is required for any director or partner of the **Insured**; and
- (b) GBP 100 per day for each day attendance is required for any **Employee** who is not a director or partner.

#### 3.3 Cover for Others

The cover granted under the Public Liability and Product Liability Sections extends to:

- (a) **Employees** in their **Business** capacity for legal liabilities arising out of the performance of the **Business**;
- (b) the officers, committees and members of the **Insured's** canteen, social, sports, medical, fire fighting, security services and welfare organisations for legal liabilities incurred in their respective capacity as such (but excluding medical practitioners while working in a professional capacity);
- (c) any person or firm for legal liabilities arising out of the performance of a contract with the **Insured** constituting the provision of labour only;
- (d) any principal for legal liabilities arising out of work carried out by the **Insured** under a contract or agreement in respect of which the **Insured** would have been entitled to cover under this policy if the **Claim** had been made against the **Insured**;
- (e) the personal representatives of any person insured by reason of this Cover for Others clause in respect of legal liability incurred by such person;

Provided always that all such persons or parties shall observe, fulfil and be subject to the terms of this policy as though they were the **Insured**.



### 3.4 Criminal Proceedings Legal Defence Costs

The **Insurer** will cover the **Insured** and, at the request of the **Insured**, any director or partner or **Employee** in respect of legal costs and expenses incurred with the **Insurer's** prior written consent in the defence of any criminal proceedings brought or in an appeal against conviction arising from such proceedings in respect of

- (a) a breach of the Health and Safety at Work etc. Act 1974 or the Health and Safety at Work (Northern Ireland) Order 1978, or any similar **United Kingdom** Health and Safety legislation and regulation; or
- (b) an alleged offence under the Corporate Manslaughter and Corporate Homicide Act 2007 or any subsequent amending legislation.

Provided that the proceedings relate to an offence alleged to have been committed during the **Period of Insurance** and in the course of the **Business**.

The cover will not apply:

- (i) to fines or penalties of any kind;
- (ii) to liability assumed under a contract or agreement which would not have attached in the absence of such contract or agreement;
- (iii) to proceedings consequent upon any deliberate act or omission.

The **Insurer's** liability under this extension shall be limited to GBP 1,000,000 in the aggregate in any one **Period of Insurance**. This limit will form part of and not be in addition to the relevant Limit of Liability stated in the **Schedule**.

## 4 Policy Exclusions

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All the individual policy Sections are subject to the following exclusions.

This policy does not apply to or include cover for or arising out of or relating to:

### 4.1 Asbestos

the manufacture, mining, processing, distribution, testing, remediation, removal, storage, disposal, sale, use of or exposure to asbestos or materials or products containing asbestos whether or not there is another cause of loss which may have contributed concurrently or in any sequence to a loss or in respect of that part of any property insured by this policy which consists of asbestos.

### 4.2 Cyber

any electronic means including the failure or impairment of any computer or other electronic device, computer hacking or the introduction of any form of computer virus or corrupting or unauthorised instructions or code or the use of any electromagnetic weapon.

### 4.3 Data Protection

compensation, damages, losses, costs, expenses, fines, penalties or any other sum arising out of breach of privacy rules or legislation including for example the Data Protection Act 2018, whether the liability of the **Insured** arises directly or indirectly.

This exclusion does not apply to the cover provided by Extensions 6.4.3 – Data Protection Act 1998, 6.4.4 – Data Protection Act 2018, 9.4.1 – Data Protection Act 1998 and 9.4.2 – Data Protection Act 2018.



#### 4.4 **Known Prior Circumstances**

circumstances which the **Insured** or person insured knew or ought to have known was likely to give rise to a **Claim** prior to the inception date of this policy.

#### 4.5 **Liquidated Damages**

liquidated damages clauses, penalty clauses, performance warranties or similar provision in a contract unless it is proven that liability would have attached in the absence of such clauses, warranties or similar provisions.

#### 4.6 **Punitive Damages**

any award of punitive or exemplary damages including fines, penalties, multiplication of compensatory awards or damages or in any other form whatsoever.

#### 4.7 **Radioactive Contamination**

- (a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
- (b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

#### 4.8 **Terrorism**

any act of **Terrorism** regardless of any other cause or event contributing concurrently or in any other sequence to the loss.

This exclusion also applies to any action taken in controlling, preventing, suppressing or in any way relating to any act of **Terrorism**.

In the event that any portion of this exclusion is found to be invalid or unenforceable, the remainder shall remain in full force and effect.

#### 4.9 **Tobacco**

raw, dried or cured tobacco or tobacco which has been otherwise processed in any way, cigars, cigar wrappers, pipe tobacco, cigarette filter or filter materials, snuff, chewing tobacco, "smokeless" tobacco products, cigarettes and cigarette paper, tobacco smoke, gaseous or solid residues or by-products of tobacco, tips or filters, any chemical, mineral or other product sprayed on, applied to or found within or used in conjunction with any tobacco, smoking pipes, cigarette holders and any ingredients found within or used in conjunction with tobacco or any of its constituent parts (collectively "tobacco").

This exclusion shall not apply to liability arising from **Injury** or **Damage** by fire caused by lit tobacco;

#### 4.10 **War**

war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.

## 5 **Policy Conditions**

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All the individual policy Sections are subject to the following conditions.

#### 5.1 **Assistance and Co-operation**

The **Insured** and any person insured must provide the **Insurer** with such information, assistance and co-operation as the **Insurer** and/or its representative may request. The **Insurer** shall be entitled to refuse to pay any **Claim** under this policy in its entirety if the **Insured** or any person insured fails to do so.

#### 5.2 **Cancellation**

The **Insured** shall give notice as soon as practicably possible to the **Insurer** and, unless otherwise agreed in writing by the **Insurer**, all Sections of this policy will automatically be cancelled in the event of any of the following:



- (a) the presentation of a petition seeking the appointment of a receiver or the making of a winding up order or the appointment of an administrator over the **Insured** or the making of any court order to that effect;
- (b) the passing of a resolution for the appointment of a liquidator, receiver or administrator or on the appointment of a liquidator, receiver or administrator over any of the **Insured's** assets;
- (c) the suspension by the **Insured** of payment of its debts or any threat by the **Insured** to do so or the entering into of a voluntary arrangement or other scheme of composition with its creditors by the **Insured**; or the equivalent court application, order, appointment or arrangement in any jurisdiction in which the **Insured** may be domiciled or any territory within the specified territory or territories.

For the purpose of this condition, the **Insured** shall mean only the firm or company named in the **Schedule**.

In such cases, the **Insured** shall be entitled to the return of a proportionate part of the premium in respect of the unexpired **Period of Insurance**, unless the **Insured** has made a **Claim** under any section of this policy in which case the full annual premium shall be due and no return of premium will be made.

### 5.3 **Claim Notification**

The **Insured** must give to the **Insurer** notice as soon as practicably possible in writing of:

- (a) any **Claim** made against any **Insured** or any person insured which is likely to fall within the scope of this policy;
- (b) any circumstances of which the **Insured** or any person insured becomes aware which are likely to give rise to such a **Claim** being made against the **Insured**.

Where the Section Trigger is shown as Claims Made and Notified in the **Schedule** if a circumstance occurring subsequent to the Section Retroactive Date and before the expiry date of the policy is notified to the **Insurer** during the **Period of Insurance** and in accordance with this Policy Condition, the **Insurer** will not deny any subsequent **Claim** arising out of that circumstance solely because the **Claim** was made after the expiry date of the policy.

The **Insurer** shall be entitled to refuse to pay any **Claim** under this policy in its entirety if such notice is not received.

### 5.4 **Documents Relevant to a Claim**

The **Insured** or any person insured must ensure that all documents relevant to any **Claim** and any circumstance which is likely to give rise to a **Claim** are not destroyed or otherwise disposed of. The **Insurer** shall be entitled to refuse to pay any **Claim** under this policy in its entirety if the **Insured** or any person insured fails to do so.

### 5.5 **Entitlement to Defend**

The **Insurer** is entitled, but not obliged, to take over and conduct in the name of the **Insured** or any person insured the defence or settlement of any **Claim** or to prosecute in the name of the **Insured** or any person insured for its own benefit any **Claim** for reimbursement or damages or otherwise. The **Insurer** shall have full discretion in the conduct of any proceedings and in the settlement of any **Claim**.

### 5.6 **Limit of Liability**

- (a) **Occurrence**  
The **Insurer's** total liability to pay damages (including claimants' costs, fees and expenses) shall not exceed the sum stated in the **Schedule** in respect of any one **Occurrence**.
- (b) **Occurrence Limit**  
The Occurrence Limit applicable to each Section is stated in the **Schedule**.



Where an Occurrence Limit is shown as being combined then for any **Occurrence** which involves liability under more than one Section, the **Insurer's** total liability in respect of that **Occurrence** for all of the Sections combined shall not exceed the largest single Limit of Liability available under such Sections.

Where an Occurrence Limit is shown as being protected then for any **Occurrence** which involves liability under more than one Section, each Section shall not be affected or eroded by loss under any other Section.

(c) **Aggregate**

Where an aggregate Limit of Liability is stated in the **Schedule** to apply, the **Insurer's** total liability to pay damages (including claimants' costs, fees and expenses) in respect of the entire **Period of Insurance** shall not exceed the stated aggregate Limit of Liability regardless of the number or severity of **Occurrences** or **Claims**.

(d) **Excess**

No cover shall be granted under any liability Section for the amount of the **Excess** stated in the **Schedule** in respect of the first amount of each **Occurrence**. The **Excess** amount includes any **Defence Costs**. The Limits of Liability stated in the **Schedule** are in excess of and not reduced by the amount of any **Excess**. Where the Limits of Liability are subject to Occurrence Limit – Combined in accordance with Policy Condition 5.6(b), only the largest **Excess** of the relevant Sections shall apply in the event of a loss under more than one Section.

(e) **Contribution**

If at the time of a **Claim** there is any other insurance effected by or on behalf of the **Insured** covering the same risk or part thereof, the liability of the **Insurer** shall not be liable for more than their rateable proportion thereof.

If any such other insurance is subject to any provision whereby it is excluded from ranking concurrently with this policy, either in whole or in part or from contributing rateably, the liability of the **Insurer** under this policy shall be limited to such proportion of **Claim** as the cover under this policy bears to the total cover available to the **Insured**.

5.7 **Non-Admission of Liability**

No admission, offer, promise or payment is to be made or given by or on behalf of the **Insured** or any person insured without the written consent of the **Insurer**. The **Insurer** shall be entitled to refuse to pay any **Claim** under this policy in its entirety if any such admission, offer, promise or payment is made.

5.8 **Payment in Full**

The **Insurer** may at any time pay to the **Insured** in connection with any **Claim** or series of **Claims** under this policy to which a Limit of Liability applies the amount of such Limit after deduction of any sums already paid or any lesser amount for which such **Claims** can be settled. Upon such payment being made the **Insurer** shall relinquish the conduct and control of and be under no further liability in connection with such **Claims** except for the payment of **Defence Costs** incurred prior to the date of such payment where such **Defence Costs** are stated as being payable in addition to the Limit of Liability.

5.9 **Premium Adjustment**

Where the premium is provisionally based on the **Insured's** estimates, the **Insured** shall keep accurate records and within ninety (90) days of expiry of the **Period of Insurance** declare such details as the **Insurer** requires. The premium shall then be adjusted and any difference paid or allowed to the **Insured** as the case may be. Failure to declare such details to the **Insurer** will entitle the **Insurer** to make its own estimate and adjust the premium accordingly.



#### 5.10 **Sanctions**

The Insurer shall not provide any benefit under this policy to the extent of providing cover, payment of any Claim or the provision of any benefit where doing so would breach any sanction, prohibition or restriction imposed by law or regulation.

#### 5.11 **Subrogation**

In the event of any payment by the **Insurer** under this policy, the **Insurer** shall be entitled, up to the amount of such payment, to exercise all the rights of recovery of the **Insured** or any person insured against any third party, provided always that they shall not exercise any such rights against any **Employee** or former **Employee** unless the loss was caused or contributed to by a fraudulent, dishonest or malicious act or omission by said person.

The **Insured** and any person insured shall, without charge, provide such assistance as the **Insurer** may require for the purpose of exercising any rights of recovery and shall at all times protect and preserve any such rights for the benefit of the **Insurer**. The **Insurer**, at its option, may have the conduct of any proceedings to recover monies paid or payable by them, whether or not the **Insured** or person insured has an interest in such proceedings by reason of any uninsured losses.

#### 5.12 **United States of America and Canada Jurisdiction**

Where the Covered Jurisdiction applicable to any Section is shown in the **Schedule** as Worldwide then in respect of any judgment, award or settlement made within countries which operate under the laws of the United States of America or Canada or to any order made anywhere in the world to enforce such judgment, award or settlement either in whole or in part:

- (a) the Section does not cover any liability:
  - (i) for and/or arising out of **Pollution**;
  - (ii) for the cost of removing, nullifying or cleaning-up seeping, polluting or contaminating substances.
- (b) the Limits of Liability stated in the **Schedule** are inclusive of **Defence Costs**.
- (c) any dispute concerning the interpretation of the terms, conditions, limitations and/or exclusions contained herein is subject to the law and exclusive jurisdiction of England and Wales.
- (d) the **Insurer** shall not be liable for the amount shown as the applicable **Excess** in the **Schedule**, being the first amount of each and every **Claim**. For the purpose of this condition “**Claim**” shall include compensatory awards or damages, claimants’ costs, fees and expenses and associated **Defence Costs**.

The Section shall not apply to nor insure against the loss of any **Insured** domiciled or registered in the United States of America or Canada or any country which operates under the laws of the United States of America or Canada, other than in respect of sales offices of the **Insured** where prior agreement has been sought from the **Insurer**.

#### 5.13 **Insured’s Obligations**

The **Insured** must throughout the **Period of Insurance**:

- (a) comply with all legal requirements, regulations, rules and guidelines imposed on the **Insured** by any competent authority (including for example the Health & Safety Executive, the Department for Environment, Food & Rural Affairs, and any sporting or industry governing body);
- (b) take all practical steps to prevent and minimise accidents, loss, injury and damage;
- (c) take all practical steps to maintain property in a good state of repair;
- (d) take care in the selection and supervision of **Employees**; and
- (e) maintain accounts with a complete record of purchases and sales.

The **Insurer** shall be entitled to refuse to pay any **Claim** under this policy in its entirety if the **Insured** or any person insured fails to comply with the provisions stated above.



## 6 Public Liability Section

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### 6.1 Operative Clause

The **Insurer** will cover the **Insured** for all sums they are legally liable to pay as damages (including claimants' costs, fees and expenses) for **Injury** and/or **Damage** in the conduct of the **Business**, and arising from **Claims** made against them in the Covered Jurisdictions stated in the **Schedule**, subject to all other terms and conditions of this policy.

### 6.2 Defence Costs

The **Insurer** will also pay **Defence Costs**, provided that the **Insurer** shall not be liable for any fines or penalties imposed as a consequence of any **Claim**, suit or proceedings. **Defence Costs** will be payable inclusive as part of and not in addition to the Limit of Liability as stated in the **Schedule**.

### 6.3 Trigger

This Section applies only to **Injury** or **Damage** occurring during the **Period of Insurance**.

### 6.4 Extensions

These extensions are subject otherwise to the terms, exclusions and conditions of the policy.

#### 6.4.1 Contingent Motor Liability

Exclusion 6.5.8 – Motor Vehicles shall not apply to legal liability arising out of the ownership, possession or use by or on behalf of the **Insured** or any person entitled to insurance of any motor vehicle or trailer:

- (a) caused by the use of any tool or plant forming part of or attached to or used in connection with any motor vehicle or trailer;
- (b) arising beyond the limits of any carriageway or thoroughfare caused by the loading or unloading of any motor vehicle or trailer; or
- (c) arising out of any motor vehicle or trailer temporarily in the **Insured's** custody or control for the purpose of parking.

Provided always that no cover is granted against liability for which compulsory insurance or security is required by legislation or for which the government or other authority has accepted responsibility;

#### 6.4.2 Cross Liabilities

Each person or party specified as the **Insured** in the **Schedule** is separately covered in respect of **Claims** made against any of them by any other such person or party subject to the **Insurer's** total liability not exceeding the stated Limits of Liability.

#### 6.4.3 Data Protection Act 1998

The **Insurer** will cover the **Insured** against loss under this Section in respect of the **Insured's** liability to pay compensation in respect of any claim under Section 13 – Compensation of the Data Protection Act 1998. Such liability shall be considered as **Injury** for the purposes of this Section and the **Injury** shall be considered as having occurred when the claimant first knew or alleges that they knew that the subject information was inaccurate or the date or alleged date the information had been disclosed without authorisation, as the case may be.

This extension applies where **Claims** are made against the **Insured** during the **Period of Insurance** arising from **Injury** occurring on or after the Retroactive Date specified in the **Schedule** and before the expiry date of the policy. If a circumstance occurring subsequent to the Retroactive Date and before the expiry date of the policy is notified to the **Insurer** in accordance with Policy Condition 5.3 – Claim Notification, the **Insurer** will not deny any subsequent **Claim** arising out of that circumstance solely because the **Claim** was made after the expiry date of the policy.



The **Insurer's** liability under this extension shall be limited to GBP 250,000 any one **Occurrence** and in the aggregate for the **Period of Insurance** which shall be a part of and not in addition to the Limit of Liability stated in the **Schedule**.

The **Excess** under this extension shall be 10% of each **Claim** subject to a minimum of GBP 1,000.

#### **Exclusions**

The **Insurer** shall not provide cover:

- (a) against liability caused by or arising from a deliberate act by or omission of any person entitled to insurance under this Section if the result could have been expected having regard to the nature and circumstances of such act or omission;
- (b) for the costs of replacing, reinstating, rectifying or erasing any Personal Data, as defined in the Data Protection Act 1998;
- (c) against liability caused by or arising from the recording, processing or provision of data for reward or the determining of the financial status of a person;
- (d) against liability which attaches by virtue of a contract or agreement but which would not have attached in the absence of such contract or agreement.

#### **Condition**

The **Insurer** shall be entitled to refuse to pay any **Claim** under this extension in its entirety if the **Insured** has not registered in accordance with the terms of the said Act or having applied for such registration it has been refused or withdrawn.

#### 6.4.4 **Data Protection Act 2018**

This Sub-Section extends to cover the **Insured** for legal liability in respect of any **Claim** for compensation as a result of **Injury** and/or **Damage** under Section 168 of the Data Protection Act 2018.

Cover in respect of such **Claims** shall be available only under the terms and conditions of this extension and nowhere else in this policy.

For the purposes of this extension non-material damage which is the subject of such **Claim** shall be considered as **Injury** and will be treated as having occurred when the claimant first had knowledge or alleges that they had knowledge of the event giving rise to that **Injury**.

This extension applies where **Claims** are made against the **Insured** during the **Period of Insurance** arising from **Injury** and/or **Damage** occurring on or after the Retroactive Date specified in the **Schedule** and before the expiry date of the policy. If a circumstance occurring subsequent to the Retroactive Date and before the expiry date of the policy is notified to the **Insurer** in accordance with Condition 7.3.2 – Claim Notification, the **Insurer** will not deny any subsequent **Claim** arising out of that circumstance solely because the **Claim** was made after the expiry date of the policy.

The **Insurer's** liability under this extension shall be limited to GBP 50,000 any one **Occurrence** and in the aggregate, inclusive of **Defence Costs**, which shall be a part of and not in addition to the Limit of Liability stated in the **Schedule**.

The **Excess** under this extension shall be 10% of each **Claim** subject to a minimum of GBP 1,000 and shall be applicable to **Defence Costs**.

#### **Additional Exclusions**

The **Insurer** shall not provide cover:



- (a) against liability caused by or arising from a deliberate act by or omission of any person entitled to insurance under this policy if the result could have been expected having regard to the nature and circumstances of such act or omission;
- (b) for the costs of replacing, reinstating, rectifying or erasing any Personal Data, as defined in Data Protection Act 2018;
- (c) against liability caused by or arising from the recording, processing or provision of data for reward or the determining of the financial status of a person; or
- (d) against liability which attaches by virtue of a contract or agreement but which would not have attached in the absence of such contract or agreement.

#### **Fee Payment Condition**

The **Insurer** shall be entitled to refuse to pay any **Claim** under this extension in its entirety if the **Insured** has not paid any fees required to be paid by any data protection authority.

#### 6.4.5 **Overseas Personal Liability**

This Section shall extend to include the liability of any director, officer or **Employee** in their personal capacity whilst temporarily outside the **United Kingdom** for the purposes of the **Business**.

Provided that the **Insurer** shall not cover such person in respect of:

- (a) liability caused by or arising from the ownership or occupation of land or buildings;
- (b) liability caused by or arising from the use of any motor vehicle.

#### 6.4.6 **Sudden Pollution**

Exclusion 6.5.9 – Pollution shall not apply to **Pollution** which is the direct result of a sudden, identifiable, unintended and unexpected event occurring in its entirety at a specific time and place during the **Period of Insurance**.

The **Insurer** shall be entitled to refuse to pay any **Claim** under this extension:

- (a) if the **Insured** has not taken all practical precautions to prevent **Pollution**; or
- (b) if **Injury** or **Damage** or the entire event giving rise to the **Injury** or **Damage** did not occur during the **Period of Insurance**.

This extension does not apply to any judgment, award or settlement made within countries which operate under the laws of the United States of America or Canada or to any order made anywhere in the world to enforce such judgment, award settlement either in whole or in part.

This extension does not apply to or include legal liability for **Damage** to premises presently or at any time previously owned or tenanted by the **Insured** or from **Damage** to land or water within the boundaries of or below any land or premises presently or at any time previously owned or leased by the **Insured**.

The **Insurer's** liability under this extension for all **Occurrences** combined throughout the **Period of Insurance** shall not exceed the sub-limit for Pollution Liability stated in the **Schedule**, which shall be a part of and not in addition to the Limit of Liability stated in the **Schedule**.

#### 6.4.7 **Work Overseas**

The **Insurer** will cover the **Insured** under this Section for all sums they are legally liable to pay as damages (including claimants' costs, fees and expenses) for **Injury** and/or **Damage** in the conduct of the **Business** outside the **United Kingdom** arising from the activities of:

- (a) any person temporarily engaged by the **Insured**; and



(b) any person on a temporary visit;  
for the purpose of non-manual work anywhere else in the world.

Provided that:

- (i) such person is ordinarily resident within the **United Kingdom**;
- (ii) the **Insurer** shall not provide cover in respect of any temporary visit to the United States of America or any overseas territory or affiliated state of the United States of America; and
- (iii) such temporary engagement or visit does not exceed six (6) consecutive months in duration.

#### 6.4.8 **Cyber**

Notwithstanding Policy Exclusion 4.2, this Section shall extend to include liability of the **Insured** arising out of electronic means including failure or impairment of any computer or other electronic device, computer hacking or the introduction of any form of computer virus or corrupting or unauthorised instructions or code or the use of any electromagnetic weapon.

The **Insurer's** liability under this extension for all **Occurrences** combined throughout the **Period of Insurance** shall not exceed GBP 250,000 which shall be part of and not in addition to the Limit of Liability stated in the **Schedule**.

### 6.5 **Exclusions**

This policy does not apply to or include cover for loss, damage, liability, cost or expense arising out of or relating to:

#### 6.5.1 **Abuse**

the actual or alleged physical, sexual or psychological abuse of any person or the failure to prevent the same.

#### 6.5.2 **Aircraft, Watercraft or Offshore Installations**

the ownership, possession or use by or on behalf of the **Insured** of any aircraft, spacecraft, hovercraft, offshore installation, rig, platform or watercraft (other than watercraft not exceeding 10 metres in length whilst on inland waterways).

#### 6.5.3 **Airside**

any work undertaken in, on or within any aircraft, aerospace system or airport.

#### 6.5.4 **Care, Custody or Control**

any **Damage** to property owned, leased to, hired by, under hire purchase to, on loan to, held in trust by or otherwise in the **Insured's** care, custody or control other than:

- (a) clothing and personal effects of **Employees** and visitors;
- (b) premises (including contents therein) temporarily occupied by the **Insured** for work therein or thereon but no cover shall be granted for **Damage** to that part of the property on which the **Insured** is or has been working and which arises out of such work; or
- (c) premises tenanted by the **Insured** but always excluding liability for **Damage**:
  - (i) arising out of any perils which the tenancy agreement requires the **Insured** to insure against;
  - (ii) to any property which the tenancy agreement requires the **Insured** to insure; or
  - (iii) to any property which the tenancy agreement requires the **Insured** to be responsible for;

except if such **Damage** is the proven consequence of the **Insured's** own negligence.



- 6.5.5 **Defective Premises Act**  
any condition in the **Insured's** premises subsequent to the disposal of such premises by the **Insured**, including liability which is established by application of Section 3 of the Defective Premises Act 1972 or Section 5 of the Defective Premises (Northern Ireland) Order 1975.
- 6.5.6 **Deliberate or Reckless Failure to Avoid Injury or Damage**  
any deliberate or reckless failure by any **Insured Person** to avoid **Injury** or **Damage**.
- 6.5.7 **Injury to Employees**  
any **Injury** to an **Employee** where such **Injury** arises out of and in the course of employment by the **Insured** or any liability arising out of any workers' compensation or any similar legislation anywhere in the world.
- 6.5.8 **Motor Vehicles**  
the ownership, possession or use by or on behalf of the **Insured** or any person or party insured by this policy of any motor vehicle or trailer for which compulsory insurance or security is required by legislation or for which the government or other authority has accepted responsibility.
- 6.5.9 **Pollution**  
**Pollution.**
- 6.5.10 **Products**  
any tangible property after it has left the custody or control of the **Insured** which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, leased, loaned, free issued, altered or repaired by or on behalf of the **Insured**, other than food and drink provided mainly for consumption by **Employees**.
- 6.5.11 **Professional Liability**  
any breach of professional duty or wrongful or inadequate advice given separately for a fee.
- 6.5.12 **Participant to Participant Claims – Contact Sports**  
any **Injury** or **Damage** suffered by one participant caused by another participant in any sport or activity under the direction of the **Insured** where physical contact between participants is an accepted part of play (including for example association football/soccer, Australian rules football, American football, basketball, camogie, floorball, Gaelic football, handball, hockey, hurling, ice hockey, lacrosse, martial arts, rugby league, rugby union and water polo).
- 6.6 **Condition**
- 6.6.1 **Housing Grants, Construction and Regeneration Act 1996**  
The **Insurer** shall not be bound by any adjudication made under the Housing Grants, Construction and Regeneration Act 1996 following a request for adjudication made by or to the **Insured**.



## 7 Product Liability Section

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### 7.1 Operative Clause

The **Insurer** will cover the **Insured** for all sums they are legally liable to pay damages (including claimants' costs, fees and expenses) for **Injury** and/or **Damage** in connection with any **Product**, and arising from **Claims** made against them in the Covered Jurisdictions stated in the **Schedule**, subject to all other terms and conditions of this policy.

### 7.2 Defence Costs

The **Insurer** will also pay **Defence Costs**, provided that the **Insurer** shall not be liable for any fines or penalties imposed as a consequence of any **Claim**, suit or proceedings. **Defence Costs** will be payable inclusive as part of and not in addition to the Limit of Liability as stated in the **Schedule**.

### 7.3 Trigger

This Section applies only to **Injury** or **Damage** occurring during the **Period of Insurance**.

### 7.4 Extensions

These extensions are subject otherwise to the terms, exclusions and conditions of the policy.

#### 7.4.1 Advertising Injury

The **Insurer** will cover the **Insured** against loss in respect of their legal liability to pay damages (including claimants' costs, fees and expenses) arising out of accidental:

- (a) publication (oral or written) of material that slanders or libels a person or organisation or disparages a person's or organisation's products or services; or
- (b) publication (oral or written) of material that violates a person's right of privacy; or
- (c) wrongful use of another's advertising idea or infringement of another's trading style; or
- (d) infringement of copyright, title or slogan;

arising out of the distribution of promotional material to the public at large.

The **Insurer's** liability under this extension shall be limited to GBP 1,000,000 any one **Occurrence** and in the aggregate which shall be a part of and not in addition to the Limit of Liability stated in the **Schedule**.

#### Exclusions

This policy does not apply to or include cover for or arising out of or relating to:

- (i) any publication or utterance made with the **Insured's** knowledge of its falsity;
- (ii) any material that was first published prior to the Retroactive Date, if any, specified in the **Schedule**;
- (iii) wilful commission of a crime by or with the consent of the **Insured**;
- (iv) a contract, where the liability would not have arisen in the absence of that contract;
- (v) breach of contract, other than misappropriation of advertising ideas under an implied contract;
- (vi) failure to conform with advertised quality or performance;
- (vii) incorrect pricing;
- (viii) internet advertising.

#### 7.4.2 Consumer Protection and Food Safety Acts

The **Insurer** will cover the **Insured** against loss in respect of legal costs and expenses incurred in the defence of any criminal proceedings for a breach of Part II of the Consumer Protection Act 1987 or Part II of the Food Safety Act 1990 including such legal costs and



expenses incurred in an appeal against conviction arising from such proceedings and prosecution costs awarded in connection therewith.

This extension applies where proceedings are first brought during the **Period of Insurance** in respect of a breach or alleged breach occurring on or after the Retroactive Date specified in the **Schedule** and before the expiry date of the policy.

Cover shall extend to the **Insured** and, at the request of the **Insured**, any director, partner or **Employee** of the **Insured**.

The **Insurer's** liability under this extension shall be limited to GBP 250,000 any one **Occurrence** and in the aggregate which shall be a part of and not in addition to the Limit of Liability stated in the **Schedule**.

#### **Exclusions**

This policy does not apply to or include cover for or arising out of or relating to:

- (a) proceedings consequent upon a deliberate act by or omission of any person insured under this Section if the result could have been expected having regard to the nature and circumstances of such act or omission; or
- (b) proceedings which arise out of any activity or risk excluded from this Section.

#### **Condition**

The director, partner or **Employee** shall as though they were the **Insured** be subject to all the terms and conditions of this policy insofar as they can apply.

#### **7.4.3 Cross Liabilities**

Each person or party specified as the **Insured** in the **Schedule** is separately covered under this Section in respect of **Claims** made against any of them by any other such person or party subject to the **Insurer's** total liability not exceeding the stated Limit of Liability.

#### **7.4.4 Defective Premises Act**

The **Insurer** will cover the **Insured** against loss in respect of their liability arising out of any condition in the **Insured's** premises subsequent to the disposal of such premises by the **Insured**, including liability which is established by application of Section 3 of the Defective Premises Act 1972 or Section 5 of the Defective Premises (Northern Ireland) Order 1975. Such loss shall be treated as arising out of a **Product** for the purposes of this Section.

#### **7.4.5 Sudden Pollution**

Exclusion 7.5.7 – Pollution shall not apply to **Pollution** which is the direct result of a sudden, identifiable, unintended and unexpected event occurring in its entirety at a specific time and place during the **Period of Insurance**.

The **Insurer** shall be entitled to refuse to pay any **Claim** under this extension:

- (a) if the **Insured** has not taken all practical precautions to prevent **Pollution**; or
- (b) if **Injury** or **Damage** or the entire event giving rise to the **Injury** or **Damage** did not occur during the **Period of Insurance**.

This extension does not apply to any judgment, award or settlement made within countries which operate under the laws of the United States of America or Canada or to any order made anywhere in the world to enforce such judgment, award settlement either in whole or in part.

This extension does not apply to or include legal liability arising directly or indirectly from **Damage** to premises presently or at any time previously owned or tenanted by the **Insured** or from **Damage** to land or water within the boundaries of or below any land or premises presently or at any time previously owned or leased by the **Insured**.

The **Insurer's** liability under this extension for all **Occurrences** combined throughout the **Period of Insurance** shall not exceed the sub-limit for Pollution Liability stated in the **Schedule**, which shall be a part of and not in addition to the Limit of Liability stated in the **Schedule**.



## 7.5 Exclusions

This policy does not apply to or include cover for or arising out of or relating to:

### 7.5.1 Aircraft or Watercraft

any **Product** which with the **Insured's** knowledge is intended for incorporation into the structure, machinery or controls of any aircraft, other aerial device, hovercraft or waterborne craft.

### 7.5.2 Care, Custody or Control

any **Damage** to property owned, leased to, hired by, under hire purchase to, on loan to, held in trust by or otherwise in the **Insured's** care, custody or control other than:

- (a) clothing and personal effects of **Employees** and visitors;
- (b) premises (including contents therein) temporarily occupied by the **Insured** for work therein or thereon but no cover shall be granted for **Damage** to that part of the property on which the **Insured** is or has been working and which arises out of such work; or
- (c) premises tenanted by the **Insured** but always excluding liability for **Damage**:
  - (iv) arising out of any perils which the tenancy agreement requires the **Insured** to insure against;
  - (v) to any property which the tenancy agreement requires the **Insured** to insure; or
  - (vi) to any property which the tenancy agreement requires the **Insured** to be responsible for;

except if such **Damage** is the proven consequence of the **Insured's** own negligence.

### 7.5.3 Contracts or Agreements

any contract or agreement other than a warranty of fitness or quality of the **Product** established or implied by virtue of the Sale of Goods Act 1979 or equivalent legislation or a warranty that work done will be performed in a workmanlike manner.

This exclusion shall not apply to any contract or agreement:

- (a) where the liability of the **Insured** would have existed to the same extent in the absence of such contract or agreement; or
- (b) where the **Insurer** has given its prior written approval to the extension of the **Insured's** liability, as defined by this Section, under the contract or agreement beyond the extent which would have existed in the absence of such contract or agreement.

### 7.5.4 Deliberate or Reckless Failure to Avoid Injury or Damage

any deliberate or reckless failure by any **Insured Person** to avoid **Injury** or **Damage**.

### 7.5.5 Injury to Employees

any **Injury** to an **Employee** where such **Injury** arises out of and in the course of employment by the **Insured** or any liability arising out of any workers' compensation or any similar legislation anywhere in the world.

### 7.5.6 Motor Vehicles

the ownership, possession or use by or on behalf of the **Insured** or any person or party insured by this policy of any motor vehicle or trailer for which compulsory insurance or security is required by legislation or for which the government or other authority has accepted responsibility.

### 7.5.7 Pollution

**Pollution.**



7.5.8 **Products**

any **Product** which has been designed, specified, formulated, manufactured, constructed, installed, treated, serviced, altered or repaired by or on behalf of the **Insured**.

7.5.9 **Products Supplied Before Retroactive Date**

any **Product** which has left the custody or control of the **Insured** prior to the Retroactive Date, if any, stated in the **Schedule**.

7.5.10 **Professional Liability**

any breach of professional duty or wrongful or inadequate advice given separately for a fee.

7.5.11 **Recall**

- (a) the recall of any **Product** or part thereof; or
- (b) the recall of any product manufactured, distributed or handled by a customer of the **Insured** of which the **Product** becomes an ingredient or a component part.

7.5.12 **Repair or Replacement**

any costs and/or expenses incurred by or on behalf of the **Insured** in the repair, reconditioning or replacement of any **Product** or part thereof which is or is alleged to be defective.

7.5.13 **Rides**

any sale by or on behalf of the **Insured** of property consisting of rides, including fairground and amusement rides, and associated machinery, plant and equipment.

## 8 Employers' Liability Section

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8.1 **Operative Clause**

The **Insurer** will cover the **Insured** for all sums they are legally liable to pay as damages (including claimants' costs, fees and expenses) for **Injury** to any **Employee** arising out of and in the course of that person's employment by the **Insured**, and arising from **Claims** made against them in the Covered Jurisdictions stated in the **Schedule**, subject to all other terms and conditions of this policy.

The cover granted applies only to such liability:

(a) **United Kingdom**

as is compulsorily insurable under the Employers' Liability (Compulsory Insurance) Act 1969 as amended and any corresponding legislation applicable in Northern Ireland, the Isle of Man, the Island of Guernsey, the Island of Jersey and the Island of Alderney, except as specially extended by this Section. Where the Policy Exclusions and Policy Conditions would operate to provide less cover than is compulsory under the above Act, then this Section is extended to provide the cover compulsorily insurable subject always to the Limit of Liability stated in the **Schedule**.

(b) **Work Overseas**

as would otherwise be covered under the **United Kingdom** section above but for **Injury** caused to an **Employee** whilst temporarily engaged in non-manual work anywhere else in the world.

Provided that:

- (i) such **Employee** is ordinarily resident within the **United Kingdom**;
- (ii) the **Insurer** shall not provide cover in respect of any amount payable under Workmen's Compensation, Social Security or Health Insurance legislation;
- (iii) such temporary work does not exceed six (6) consecutive months in duration.



## 8.2 **Defence Costs**

The **Insurer** will also pay **Defence Costs**, provided that the **Insurer** shall not be liable for any fines or penalties imposed as a consequence of any **Claim**, suit or proceedings. **Defence Costs** will be payable in addition to or inclusive of the Limit of Liability as stated in the **Schedule**. Where **Defence Costs** are payable in addition to the Limit of Liability, if the amount required in settlement of the third party **Claim** is greater than the Limit of Liability available in respect of such **Claim**, then the **Insurer** will not pay more than its corresponding proportional share of the associated **Defence Costs**.

## 8.3 **Trigger**

This Section applies where **Injury** is caused during the **Period of Insurance**. In the case of an accident or exposure to harmful conditions manifesting itself as **Injury** after the **Employee** has left the employ of the **Insured**, this policy will apply, subject to all the terms and conditions of this policy, to such **Injury** regardless of whether this policy is still in force at the time of such manifestation.

## 8.4 **Extensions**

These extensions are subject otherwise to the terms, exclusions and conditions of the policy.

### 8.4.1 **Cover for Principals**

To the extent that any contract or agreement entered into by the **Insured** with any principal so requires, the **Insurer** will, at the request of the **Insured**:

- (a) cover the **Insured** against loss in respect of liability assumed by the **Insured**;
- (b) cover the loss of the principal in like manner to the **Insured** in respect of the liability of the principal;

arising out of the performance by the **Insured** of such contract or agreement.

Provided always that:

- (i) the conduct and control of **Claims** is vested in the **Insurer**;
- (ii) the principal shall observe fulfil and be subject to all the terms and conditions of this policy.

Cover for any principal shall only apply in respect of liability for which the **Insured** would have been entitled to cover if the **Claim** had been made directly against the **Insured**.

For purposes of this extension the term principal shall include any partner, co-venturer, subsidiary or affiliated or parent company to the principal but only to the extent that the contract between the principal and the **Insured** requires these additional parties to be covered in a like manner to the **Insured**.

### 8.4.2 **Terrorism**

Notwithstanding Policy Exclusion 4.7 - Terrorism, this Section will apply, subject to all its terms and conditions, to liability arising from **Terrorism** to the extent that cover is required in accordance with the provisions of any law relating to compulsory insurance of liability to **Employees** in the **United Kingdom** and subject to the sub-limit of liability specified in the **Schedule**.

### 8.4.3 **Asbestos**

Notwithstanding Policy Exclusion 4.1 - Asbestos, this Section will apply, subject to all its terms and conditions, to liability arising from asbestos or materials or products containing asbestos to the extent that cover is required in accordance with the provisions of any law relating to compulsory insurance of liability to **Employees** in the **United Kingdom**, and subject to the sub-limit of liability specified in the **Schedule**.

### 8.4.4 **Cyber**

Notwithstanding Policy Exclusion 4.2 - Cyber, this Section will apply, subject to all its terms and conditions, to liability arising from electronic means (including failure or impairment of any computer or other electronic device, computer hacking or the introduction of any form of computer virus or corrupting or unauthorised instructions or code or the use of any



electromagnetic weapon) to the extent that cover is required in accordance with the provisions of any law relating to compulsory insurance of liability to **Employees** in the **United Kingdom**.

#### 8.4.5 **Unsatisfied Court Judgements**

Where a judgement for damages has been obtained by any **Employee** or the legal personal representatives of any **Employee**:

- (a) in respect of **Injury** sustained by the **Employee** arising out of and in the course of employment by the **Insured** in the **Business**; or
- (b) against any company or individual operating from or resident in premises within the **United Kingdom**; and
- (c) such judgement remains unsatisfied in whole or in part six (6) months after the date of judgement;

then at the request of the **Insured** the **Insurer** will pay to the **Employee** or the said legal personal representatives the amount of any such damages and any awarded costs to the extent that they remain unsatisfied.

Provided that:

- (i) there is no appeal outstanding;
- (ii) if any payment is made by the **Insurer** the **Employee** or the said legal personal representatives shall assign the judgement to the **Insurer**;
- (iii) this Section is operative at the time that such **Injury** is caused; and
- (iv) the liability of the **Insurer** for damages costs and expenses shall not exceed the amount stated as the Limit of Liability in the **Schedule**.

#### 8.5 **Exclusions**

This policy does not apply to or include cover for or arising out of or relating to:

##### 8.5.1 **Airside**

any work undertaken in, on or within any aircraft, aerospace system or airport.

##### 8.5.2 **Offshore**

any work on and/or visits to any offshore rig and/or installation and/or platform from the time of embarkation onto a conveyance at the point of final departure to such offshore rig and/or installation and/or platform until disembarkation from the conveyance from such offshore rig and/or installation and/or platform.

##### 8.5.3 **Road Traffic Act**

legal liability in respect of which compulsory insurance or security is required to be arranged under the Road Traffic Act 1988 or the Road Traffic (Northern Ireland) Order 1981 or any subsequent legislation amending or replacing such Act or Order.

#### 8.6 **Condition**

##### 8.6.1 **Employers' Liability Tracing Office Notice**

Certain information relating to this Section, namely:

- (a) the Policy Number;
- (b) employers' names and addresses, including subsidiaries and any relevant changes of name;
- (c) coverage dates and;
- (d) if relevant, the employer's reference numbers provided by Her Majesty's Revenue and Customs and Companies House Reference Numbers;



will be provided to the Employers' Liability Tracing Office, (the "ELTO") and added to the Employers' Liability Database (ELD).

It is understood by the **Insured** that the above named information provided to the **Insurer** will be processed by the **Insurer** for the purpose of providing the ELD, in compliance with the provisions of the Employers' Liability Insurance: Disclosure by Insurers Instrument 2010.

The ELTO may provide such information to third parties to assist individuals with claims arising out of their course of employment in the **United Kingdom** for employers carrying on, or who carried on, business in the **United Kingdom**, to identify an insurer or insurers that provided employers' liability insurance.



## 9 Professional Liability Section

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### 9.1 Operative Clause

The **Insurer** will cover the **Insured** for all sums they are legally liable to pay as damages (including claimants' costs, fees and expenses), subject to all other terms and conditions of this policy, in respect of **Claims** arising out of the conduct of the **Business** and made against the **Insured** in the Covered Jurisdictions stated in the **Schedule**, for breach of a professional duty of care consisting of:

- (a) any negligent act, negligent error or negligent omission by the **Insured** or by any **Employee** or by any other person, firm or company directly appointed by and acting for or on behalf of the **Insured**;
- (b) any dishonest or fraudulent act or omission, but only on the part of any **Employee**;
- (c) libel or slander committed unintentionally but only by the **Insured** or by any **Employee**;
- (d) any unintentional:
  - (i) breach of confidentiality; or
  - (ii) loss of a **Document**; or
  - (iii) passing-off or infringement of intellectual property rights including copyright, design right, trade mark, know how, broadcasting right, domain name or personality right; committed by the **Insured** or by any **Employee** or by any other person, firm or company directly appointed by and acting for or on behalf of the **Insured**;
- (e) any other civil liability unless excluded herein.

### 9.2 Defence Costs

The **Insurer** will also pay **Defence Costs**, provided that the **Insurer** shall not be liable for any fines or penalties imposed as a consequence of any **Claim**, suit or proceedings. **Defence Costs** will be payable inclusive as part of and not in addition to the Limit of Liability as stated in the **Schedule**.

### 9.3 Trigger

This Sub-Section applies only to **Claims** first made against the **Insured** and notified to the **Insurer** during the **Period of Insurance** or within the number of days of the expiry date of the policy stated in the **Schedule** and in accordance with Policy Condition 5.3 – Claim Notification arising from any act, error or omission occurring on or after the Retroactive Date specified in the **Schedule** and before the expiry date of the policy.

However, this Section does not apply to any **Claim** that is covered under any subsequent insurance the **Insured** acquires, or would be covered but for the exhaustion of the Limit of Liability applicable to such **Claim**.

### 9.4 Extensions

These extensions are subject otherwise to the terms, exclusions and conditions of the policy.

#### 9.4.1 Data Protection 1988

The Insurer will cover the Insured against loss in respect of Defence Costs and expenses resulting from any prosecution first brought against the Insured and/or any Employee during the Period of Insurance which arises out of the conduct of the Business in respect of any offences or alleged offences under sections 21(1), 21(2), 22(6) or 47(1) of the Data Protection Act 1998. Provided always that cover shall only apply in respect of any offence or alleged offence occurring on or after the Retroactive Date specified in the Schedule and before the expiry date of the policy.

The **Insurer's** liability under this extension shall be limited to GBP 250,000 any one **Occurrence** and in the aggregate which shall be a part of and not in addition to the Limit of Liability stated in the **Schedule**.

The **Excess** stated in the **Schedule** shall not apply to this extension.



#### 9.4.2 **Data Protection Act 2018**

This Sub-Section extends to cover the **Insured** for legal liability in respect of any **Claim** for compensation under Section 168 of the Data Protection Act 2018 in respect of any breach of professional duty by the **Insured** or anyone acting on their behalf in the scope of the **Insured's Business**.

Cover in respect of such **Claims** shall be available only under the terms and conditions of this extension and nowhere else in this policy.

This extension applies where **Claims** are made against the **Insured** during the **Period of Insurance** arising from a breach of professional duty occurring on or after the Retroactive Date specified in the **Schedule** and before the expiry date of the policy. If a circumstance occurring subsequent to the Retroactive Date and before the expiry date of the policy is notified in accordance with Condition 7.3.2 – Claim Notification, the **Insurer** will not deny any subsequent **Claim** arising out of that circumstance solely because the **Claim** was made after the expiry date of the policy.

The **Insurer's** liability under this extension shall be limited to GBP 250,000 each and every **Claim** and in the aggregate (including defence costs and expenses), which shall be a part of and not in addition to the Limit of Liability stated in the **Schedule**.

The **Excess** under this extension shall be GBP 1,000 each and every **Claim** and shall be applicable to **Defence Costs**.

#### **Additional Exclusions**

The **Insurer** shall not provide cover:

- (e) against liability caused by or arising from bodily injury, sickness, disease, emotional distress, mental anguish, mental stress or the death of any person;
- (f) against liability caused by or arising from any damage to or destruction or loss of any property including loss of use;
- (g) against liability caused by or arising from a deliberate act by or omission of any person entitled to insurance under this policy if the result could have been expected having regard to the nature and circumstances of such act or omission;
- (h) for the costs of replacing, reinstating, rectifying or erasing any Personal Data, as defined in Data Protection Act 2018;
- (i) against liability caused by or arising from the recording, processing or provision of data for reward or the determining of the financial status of a person; or
- (j) against liability which attaches by virtue of a contract or agreement but which would not have attached in the absence of such contract or agreement.

#### **Fee Payment Condition**

The **Insurer** shall be entitled to refuse to pay any **Claim** under this extension in its entirety if the **Insured** has not paid any fees required to be paid by any data protection authority



#### 9.4.3 **Repair, Replacement or Reconstitution of Documents**

The **Insurer** will cover the **Insured** against loss in respect of the necessary costs of repair, replacement or reconstitution of any **Document** which has been unintentionally destroyed, damaged, lost or mislaid and which after diligent search cannot be found. Cover only applies where the loss, destruction or damage is notified to the **Insurer** during the **Period of Insurance**. This extension shall not apply to stamps, currency, bank notes and instruments, travellers cheques, cheques, postal orders, money orders, securities and the like.

The word 'necessary' as used above shall be understood to include that the loss of such **Document** must be such as will imminently give rise to a **Claim** being made against the **Insured** for damages if nothing further is done to prevent it or that such a **Claim** has already been made.

This extension excludes the repair, replacement or reconstitution of any **Document** as a result of an order of any government or public or local authority or where loss, destruction or damage results from wear or tear, the action of vermin, gradual deterioration or magnetic flux or loss of magnetism, except where caused by lightning.

The **Insurer's** liability under this extension shall be limited to GBP 250,000 any one **Occurrence** and in the aggregate which shall be a part of and not in addition to the Limit of Liability stated in the **Schedule**.

The **Excess** stated in the **Schedule** shall not apply to this extension.

#### 9.5 **Exclusions**

This policy does not apply to liability arising directly or indirectly out of:

##### 9.5.1 **Damage**

**Damage.**

##### 9.5.2 **Deliberate or Reckless Acts**

any deliberate or reckless breach, act, omission or infringement committed, condoned or ignored by the **Insured**.

##### 9.5.3 **Depreciation of Investments**

depreciation or loss of investment when such depreciation or loss arises from fluctuations in any financial stock or commodity or other markets or any express or implied warranty or guarantee relating to the financial return of any investment or portfolio of investments or in connection with any investment advice given or services performed which have not been authorised where such authorisation is required under any statutory regulation by the relevant statutory authority.

##### 9.5.4 **Directors, Officers or Trustees**

the liability of the **Insured** in their respective capacities as a director, officer and/or trustee.

##### 9.5.5 **Employer Obligations**

any breach of any obligation owed by the **Insured** as an employer to any **Employee** or former **Employee** or applicant for employment.

##### 9.5.6 **Fraudulent Acts**

the dishonest or fraudulent act or omission of any former or present partner, principal, director, member, consultant or sub-contractor of the **Insured**:

- (a) in respect of any person committing or condoning such dishonest or fraudulent act or omission;
- (b) in the amounts recoverable from the dishonest or fraudulent person or persons or their estates or legal representatives;



- (c) arising after the discovery of justifiable cause for suspicion of dishonesty or fraud by the dishonest or fraudulent person or persons; or
- (d) in the amount equivalent to:
  - (i) any monies owed by the **Insured** to any person committing, condoning or contributing to the dishonest or fraudulent act or omission;
  - (ii) any monies held by the **Insured** and belonging to such person;
  - (iii) any monies recovered in accordance with Condition 9.6.1 – Dishonest or Fraudulent Claim Recovery.

9.5.7 **Infringement of Intellectual Property Rights**

any infringement of trade secret or patent.

9.5.8 **Injury**

**Injury**, mental anguish or mental stress of or to a person other than emotional distress arising from any libel or slander. This exclusion shall not apply to **Injury** directly caused by the provision of professional sports advice, coaching or instruction in connection with the **Business**.

9.5.9 **Insolvency**

the insolvency or bankruptcy of the **Insured**.

9.5.10 **Internet Business**

any **Business** conducted and/or transacted via the **Internet, Intranet, Extranet** and/or via the **Insured's** own website, **Internet** site, web-address and/or via the transmission of electronic mail or documents by electronic means. This exclusion shall not apply if the liability to the **Insured** would have attached in the absence of the fact that the **Business** was conducted and/or transacted via the **Internet, Intranet, Extranet** and/or via the **Insured's** own website, **Internet** site, web-address and/or via the transmission of electronic mail or documents by electronic means.

9.5.11 **Joint Ventures**

any association or joint venture conducted with any third party other than in respect of any **Claim** or circumstance arising from the **Business**, provided that such **Claim** or circumstance emanates from a wholly independent third party.

9.5.12 **Mould or Fungus**

- (a) the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of any fungi, moulds, spores or mycotoxins of any kind;
- (b) any action taken by any party in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, moulds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, moulds, spores or mycotoxins; or
- (c) any governmental or regulatory order, requirement, directive, mandate or decree that any party take action in response to the actual, potential, alleged or threatened formation, growth, presence, release or dispersal of fungi, moulds, spores or mycotoxins of any kind, such action to include investigating, testing for, detection of, monitoring of, treating, remediating or removing such fungi, moulds, spores or mycotoxins.

9.5.13 **Pollution**

**Pollution.**



9.5.14 **Products**

any tangible property after it has left the custody or control of the **Insured** which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, leased, loaned, free issued, altered or repaired by or on behalf of the **Insured**, other than food and drink provided mainly for consumption by **Employees**.

9.5.15 **Related Entities**

any circumstance concerning or **Claim** brought by or on behalf of the **Insured** or any parent or subsidiary company of the **Insured** or any person having a financial, executive or controlling interest in the **Insured** (unless the financial interest is less than 5%) or by or on behalf of any entity controlled or managed by the **Insured** or where the **Insured** has greater than a 5% financial interest or where the **Insured** has accepted a financial interest, irrespective of the amount, in any entity in exchange for fees incurred.

9.5.16 **Trading Losses**

any trading losses or trading liabilities incurred by the **Insured** or any business managed by or carried on by or on behalf the **Insured** or any guarantee given by the **Insured** for a debt.

9.5.17 **Transport or Property**

the ownership, possession or use of any aircraft, watercraft, hovercraft, motor vehicle, trailer or other means of transport or any buildings, structures, premises or land or any property (mobile or immobile).

9.5.18 **Warranties or Guarantees**

any performance warranty, guarantee, penalty clause, liquidated damages clause or similar provision unless the liability of the **Insured** would have existed to the same extent in the absence of such warranty, guarantee or clause or similar provision.

9.6 **Conditions**

9.6.1 **Dishonest or Fraudulent Claim Recovery**

Where a **Claim** or circumstance involves the dishonest or fraudulent act or omission of any **Employee** of the **Insured**:

- (a) the **Insured** shall at the request and expense of the **Insurer** take all practical steps to obtain reimbursement from such person;
- (b) any monies which but for the dishonest or fraudulent act or omission would be due to such persons from the **Insured** or any monies of such persons held by the **Insured** shall be retained by the **Insured** and allocated to reducing the amount of a **Claim**;
- (c) nothing in this policy shall preclude the **Insurer** from exercising any right of subrogation against any person committing or condoning such dishonest or fraudulent act or omission;
- (d) no payment shall be made by the **Insurer** under this Section until after the final ascertainment of the amount of any recovery from the dishonest or fraudulent person or persons or their estates or legal representatives.



#### 9.6.2 **Limit of Liability**

All **Claims** (including costs sought under Extension 9.4.1 – Data Protection 1998 or Extension 9.4.3 – Repair, Replacement or Reconstitution of Documents) whether made against or sought by one or more **Insured**, wholly or substantially arising from or having any connection with or relation to the acts, errors, omissions or breaches of a single person or persons acting together or in which such person or persons is or are concerned or implicated, shall be treated as one **Claim** (or single application for costs under the under Extension 9.4.1 – Data Protection Act 1998 or Extension 9.4.3 – Repair, Replacement or Reconstitution of Documents) for the purposes of deciding the applicable Limit of Liability and the application of the **Excess** under this Section. The **Insurer** shall be the sole judge as to whether the provisions of this condition shall operate in relation to any **Claim** or application for costs under Extension 9.4.1 – Data Protection Act 1998 or Extension 9.4.3 – Repair, Replacement or Reconstitution of Documents.



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