
CIPD PROFESSIONAL MULTI RISK INSURANCE

PMR CIPD 0613

BASIS OF THE CONTRACT

The Proposal shall be the basis of and incorporated in this contract.

GENERAL DEFINITIONS

For the purposes of this Policy the words or terms that appear in **bold** will be interpreted as follows:

Employee

is:

- a) any person employed by the **Insured** under a contract of service, training or apprenticeship; and
- b) any voluntary worker; and
- c) any locum, seasonal or temporary personnel; and
- d) any self employed person, who is not an independent contractor; and
- e) any person supplied or remunerated through a contract hire company or agency, who is not an independent contractor but is employed by the contract hire company on a supply only basis, working as a member of the **Insured's** staff;

but only if such person is working under the **Insured's** direction, control and supervision.

Insured

is any person or firm stated in the Schedule and includes any current or previous partner, director, principal, member or **Employee** of any firm or company stated in the Schedule and any other person who becomes a partner, director, principal, member or **Employee** of the firm.

Insurer

means HCC International Insurance Company PLC.

Period of insurance

is that as stated in the Schedule.

Personal appointment

is any individual appointment of a professional nature arising out of the ordinary professional activities of the **Insured** other than any appointment as a director or officer of a company or as a trustee.

Professional business

is the business of the **Insured** as stated in the Schedule including the holding of any **Personal appointment**.

Proposal

shall mean the written proposal and any renewal declaration signed by the **Insured** together with any other information supplied by the **Insured** to the **Insurer** before inception or renewal of this Policy.

GENERAL CONDITIONS

1. Policy construction and disputes

Any phrase or word in this Policy and the Schedule will be interpreted in accordance with the laws of

England and Wales. The Policy and the Schedule shall be read together as one contract and any word or expression to which a specific meaning has been attached in any part of this Policy or the Schedule shall bear such specific meaning wherever it may appear.

Any dispute concerning the interpretation of the terms, Conditions or Exclusions contained herein is understood and agreed by both the **Insured** and the **Insurer** to be subject to the laws of England and Wales. Each party agrees to submit to the jurisdiction of any court of competent jurisdiction within England and Wales and to comply with all requirements necessary to give such court jurisdiction. All matters arising hereunder shall be determined in accordance with the law and practice of such court.

2. Fraudulent claims

If the **Insured** shall submit any claim knowing the same to be false or fraudulent as regards amount or otherwise this Policy shall become void and all claims hereunder shall be forfeited.

3. Contracts (Rights of Third Parties) Act 1999

The **Insured** and the **Insurer** are the only parties to this contract and no other person has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Policy but this does not affect any right or remedy of a third party which exists or is available apart from that Act.

The **Insured** shall not assign or transfer their rights under the Policy without the written agreement of the **Insurer**.

4. Cancellation

This Policy may be cancelled by or on behalf of the **Insurer** by thirty days notice given in writing to the **Insured** on the basis of the **Insurer** receiving or retaining payment of premium pro rata to the period that the **Insurer** will have been on risk.

5. Invalidity

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

6. Notices

Notice shall be deemed to be duly received in the course of post if sent by pre-paid letter post properly addressed to:

- a) in the case of the **Insured**, either to the **Insured's** last known address or the last known address of the **Insured's** broker;
- b) in the case of the **Insurer**, to HCC International Insurance Company PLC at Walsingham House, 35 Seething Lane, London EC3N 4AH

7. Reasonable Steps to Avoid Loss

Without prejudice to the Notification and Claims Conditions in this Policy, the **Insured** shall take all reasonable steps to avoid or mitigate any loss, damage or liability that may result in any claim or **Circumstance** notifiable under this Policy.

8. Premium Payment Clause

If the premium due under this Policy has not been so paid to **Insurers** by the 60th day from the inception of this Policy, (and, in respect of instalment premiums, by the date they are due), **Insurers** shall have the right to cancel this Policy by notifying the **Insured** via their broker in writing. In the event of cancellation, premium is due to **Insurers** on a pro rata basis for the period that **Insurers** are on risk but the full policy premium shall be payable to **Insurers** in the event of a loss or occurrence prior to the date of termination which gives rise to a valid claim under this Policy.

It is agreed that **Insurers** shall give not less than 15 days prior notice of cancellation to the **Insured** via their broker. If premium due is paid in full to **Insurers** before the notice period expires, notice of cancellation shall automatically be revoked. If not, this Policy shall automatically terminate at the end of the notice period.

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

COMPLAINTS

We are dedicated to providing you with a high quality service and we want to ensure that we maintain this at all times. If you feel that we have not offered you a first class service please write and tell us and we will do our best to resolve the problem. If you have any questions or concerns about your policy or the handling of a claim you should in the first instance contact the person who arranged the Policy for you. If you remain unhappy then our Compliance Officer will be pleased to investigate your complaint and you should write to:

*The Compliance Officer
HCC International Insurance Company PLC
Walsingham House
35 Seething Lane
London EC3N 4AH*

In the event that we are unable to resolve your complaint it may be possible for you to refer it to the Financial Ombudsman Service. Further details will be provided at the appropriate stage of the complaints process.

SECTION 1 - PROFESSIONAL INDEMNITY INSURANCE

DEFINITIONS APPLICABLE TO SECTION 1

For the purposes of this Section the words or terms that appear in **bold** will be interpreted as follows:

Circumstance

shall mean any circumstance or state of affairs or event which might reasonably be expected to give rise to a claim against the **Insured** or a claim by the **Insured** under this Section.

Computer system

shall mean any computer, data processing equipment, media or part thereof, or system of data storage and retrieval, or communications system, network, protocol or part thereof, or any computer software (including but not limited to application software, operating systems, runtime environments or compilers), firmware or microcode, or any electronic documents utilised in the ownership, security and management of the **Insured's** electronic communications system, world-wide web site, internet site, intranet site, extranet site or web address(es).

Defence costs and expenses

shall mean all costs and expenses incurred, with the prior consent of the **Insurer**, in the investigation, defence and settlement of any claim first made against the **Insured** or of any **Circumstance** first notified during the **Period of insurance**.

Documents

shall mean digitised data, information recorded or stored in a format for use with a computer, microcode, deeds, wills, agreements, maps, plans, records, written or printed books, letters, certificates, written or printed documents or forms of any nature whatsoever (excluding any bearer bonds or coupons, bank or currency notes, share certificates, stamps or other negotiable paper).

Excess

is the first amount paid in respect of each claim as stated in the Schedule under Section 1. The **Excess** is not payable in respect of **Defence costs and expenses**.

Financially associated person or entity

shall mean:

- a) any business controlled or managed by the **Insured** or in which the **Insured** has an executive interest;
- b) any company in which the **Insured** directly or indirectly owns or controls more than 15% of the issued share capital;
- c) any person having an executive or managerial role in the **Insured** or who would be considered to be a shadow director (as defined in s.251 of the Insolvency Act 1986) of the **Insured**;
- d) any company that directly or indirectly owns or controls any of the issued share capital of the **Insured** or any of whose issued share capital is directly or indirectly owned or controlled by any other company or person who directly or indirectly owns or controls any of the issued share capital of the **Insured**.

Indemnity limit

shall mean the **Insurer's** total liability to pay damages, claimant's costs, fees and expenses, and shall not exceed (except where specific sums are stated in the Insuring Clauses of this Section) the sum(s) stated in the Schedule against Section 1 in respect of any one claim or series of claims arising out of one originating cause regardless of the number of persons claiming an indemnity from the **Insurer** under the terms of this Section.

Virus

shall mean any unauthorised executable code that replicates itself through a **Computer system** or network whether termed a virus, logic bomb, worm, Trojan Horse or known by any other name.

INSURING CLAUSES

In consideration of the premium having been paid to the **Insurer**, the **Insured** is indemnified as follows:

1. Indemnity

Up to the **Indemnity limit** for claims first made against the **Insured** during the **Period of insurance** for which the **Insured** is legally liable to pay damages (including claimant's costs and expenses) and arising out of the ordinary course of the **Professional business**, in consequence of:

- a) Breach of professional duty;
- b) Dishonest, fraudulent or malicious act or omission of any former or present **Employee** (which term, for the purpose of this clause alone, shall not include any principal, partner, member or director of the **Insured**) provided that no indemnity shall be given under this Section in the event that any principal, partner, member or director of the **Insured** conspired to commit or condoned any such dishonest, fraudulent or malicious act or omission;
- c) Libel or slander;
- d) Unintentional breach of confidentiality;
- e) Unintentional infringement of intellectual property rights;
- f) The loss of or damage to **Documents**;
- g) Any other civil liability.

2. Costs for prosecuting infringement of the Insured's intellectual property rights

Up to a maximum of GBP 25,000 in the aggregate in the **Period of insurance**, for claims first made by the **Insured** during the **Period of insurance** for reasonable and necessary costs and expenses incurred with the **Insurer's** prior consent in prosecuting any claim for infringement of intellectual property rights first discovered during the **Period of insurance** where the ownership of such rights is vested in the **Insured**.

For the purposes of this Insuring Clause **Insurers** will only give prior consent where the **Insured** has provided, at their own expense, an opinion from a solicitor, barrister or suitably qualified intellectual property agent evidencing the existence of the **Insured's** intellectual property rights, the infringement of those rights, a measurable loss and a reasonable prospect of success.

3. Costs for representation

All legal costs incurred with the **Insurer's** prior consent for representation at any inquiry or other proceeding which has, in the **Insurer's** sole opinion, a direct relevance to any claim, **Circumstance** or event which could form the subject of indemnity under this Section.

For the avoidance of doubt, Costs for representation cover does not apply to Insuring Clause 2.

4. Irrecoverable fees

For claims first notified by the **Insured** during the **Period of insurance** relating to amounts owed to the **Insured**, including amounts legally owed by the **Insured** to sub-contractors or suppliers, due to the refusal of the **Insured's** client to pay for work done by the **Insured** for them where such client has reasonable grounds for being dissatisfied with the work and threatens to bring a claim for more than the amount owed. In such circumstances, if it is possible to settle the dispute by agreeing not to pursue the outstanding amount, the **Insurer** will agree to pay the amount owed if they consider that it will avoid a legitimate claim for a greater amount. If, following this, a claim still arises then the amount paid under this Clause will be deducted from the **Indemnity limit**. If the **Insured** eventually recovers the debt then the amount paid by the **Insurer** must be repaid to them less the **Insured's** reasonable expenses of recovering the debt due.

5. Defence costs and expenses

In respect of Insuring Clause 1 the **Insurer** will pay in addition to the **Indemnity limit** all **Defence costs and expenses** provided that:

- a) if a paid claim exceeds the **Indemnity limit** the **Insurer** will only be liable for that proportion of the **Defence costs and expenses** which the **Indemnity limit** bears to the amount of the paid claim;
- b) in the event that the **Insurer** elects to make a payment to the **Insured** pursuant to Notification and Claims Condition 2.2 then the **Insurer** shall have no liability to pay **Defence costs and expenses** incurred after the date upon which such payment is made.

6. Costs of criminal proceedings

Up to a maximum of GBP 125,000 in the aggregate in the Period of insurance, in respect of legal costs and expenses incurred with the Insurer's prior written consent in the defence of any proceedings brought under the prevailing health and safety legislation and any applicable orders or regulations made pursuant to that legislation or any applicable codes of practice or procedures issued by any governing body concerned with health and safety provided always that:

- a) the act, error or omission giving rise to the proceedings shall have been committed by the **Insured** in performance of any **Professional business**;
- b) the **Insurer** shall be entitled to appoint solicitors and counsel to act on behalf of the **Insured**;
- c) the **Insurer** shall have no liability to pay costs incurred subsequent to a plea or finding of guilt on the part of the **Insured**, or in the event that lawyers should advise that there are no reasonable prospects of successfully defending the proceedings, except for costs incurred solely for the purpose of making a plea in mitigation before sentencing or costs incurred in making an appeal if Counsel shall advise that the prospects of a successful appeal if lawyers shall advise that the prospects of a successful appeal following a finding of guilt are reasonable.

7. Compensation for court attendance

In the event of the Insured being required to attend any court or tribunal of enquiry or similar forum having the like power to compel attendances of witnesses in connection with any claim or Circumstance, Insurers will pay compensation to the Insured up to the following maximum rates per day for each day on which attendance is required:

Any principal, partner or director	£750
Any other employee	£500

8. Release of Confidential Information

In the event that any court or tribunal within Great Britain, Northern Ireland, the Isle of man or the Channel Islands shall require that information or notes of a confidential nature in connection with the Professional business of the Insured be disclosed by either the Insured or a client of the Insured the Insurer will indemnify the Insured in respect of additional costs and expenses incurred with the Insurer's prior written consent up to a maximum of GBP 7,500 in the aggregate in the Period of insurance.

- a) to present to the court or tribunal arguments as to why such information or notes should not be disclosed or should be disclosed in a modified form

b) to prepare a report for the court or tribunal

EXCLUSIONS APPLICABLE TO SECTION 1

The **Insurer** shall not be liable to indemnify the **Insured** against any claim:

1. Employers liability

arising directly or indirectly from bodily injury, sickness, disease, psychological injury, emotional distress, nervous shock or death sustained by any **Employee** arising out of or in the course of their employment by the **Insured**, or for any breach of any obligation owed by the **Insured** as an employer to any partner, principal, director, member or **Employee** or applicant for employment;

2. Bodily injury/property damage

for bodily injury, sickness, disease, psychological injury, emotional distress, nervous shock or death sustained by any person or any loss, damage or destruction of property unless such claim emanates from negligent advice, design, specification, formula or other breach of professional duty by the **Insured**;

3. Land buildings etc

arising directly or indirectly from the ownership, possession or use by or on behalf of the **Insured** of any land, buildings, aircraft, watercraft, vessel or mechanically propelled vehicle;

4. Dishonesty

arising directly or indirectly from any dishonest, fraudulent, malicious or illegal act or omission of the **Insured** or any **Employee**, except as covered by Insuring Clause 1b);

5. Contractual liability

arising directly or indirectly from any breach or alleged breach of any contractual duty or duty of care owed or alleged to have been owed by the **Insured** to any third party and which is more onerous than any duty that would otherwise be implied by common law or statute.

6. Products

arising out of or relating to:

- a) goods or products sold, supplied, repaired, altered, manufactured, installed or maintained; or
- b) buildings, building works or physical structures constructed, repaired, installed, erected, removed or demolished;

by the **Insured** or any related company or sub-contractor of the **Insured**;

7. Insolvency/bankruptcy of Insured

arising out of or relating directly or indirectly to the insolvency or bankruptcy of the **Insured**;

8. Seepage and pollution

based upon, arising out of or relating directly or indirectly to, in consequence of or in any way involving seepage, pollution or contamination of any kind;

9. Circumstances known at inception

arising out of any **Circumstance** of which the **Insured** was, or ought reasonably to have been, aware at inception of this Policy, whether notified under any other insurance or not;

10. Other insurance

in respect of which the **Insured** is entitled to indemnity under any other insurance except in respect of any excess beyond the amount which is payable under such other insurance;

11. Geographical limits

in respect of work carried out outside the Geographical Limits stated in the Schedule;

12. Legal action

in respect of an action for damages:

- a) brought outside the Jurisdiction stated in the Schedule (the “Jurisdiction”) (including the enforcement within the Jurisdiction of a judgment or finding of another court or tribunal that is not within the Jurisdiction);
- b) in which it is contended that the governing law is outside the Jurisdiction;
- c) brought outside the Jurisdiction to enforce a judgment or finding of a court or other tribunal in any other jurisdiction.

Where no Jurisdiction is specified in the Schedule then the Jurisdiction shall be Worldwide but excluding:

1. the United States of America, its territories and/or possessions; or
2. Canada;

13. Fines and penalties

for penalties, fines, multiple, exemplary, liquidated or other non-compensatory damages awarded other than in actions brought for defamation as far as they are covered by this Policy;

14. Claims by financially associated persons or entities

made upon the **Insured** by any **Financially associated person or entity** whether alone or jointly with any other person or entity. However, this exclusion shall not apply to any claim brought against such **Financially associated person or entity** by an independent third party and which would, but for this exclusion, be covered by this Policy;

15. Retroactive date

made by or against the **Insured** arising from any act or omission that occurred prior to the Retroactive Date stated in the Schedule;

16. Radioactive contamination or explosive nuclear assemblies

directly or indirectly caused by or contributed to by or arising from

- a) ionising radiation 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;

17. Excess

for an amount less than the **Excess**. The **Excess** shall be deducted from each and every claim paid under this Policy;

18. War

arising directly or indirectly out of, happening through or in consequence of, war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority;

19. Terrorism

arising directly or indirectly out of, happening through or in consequence of any act or acts of force or violence for political, religious or other ends directed towards the overthrowing or influencing of any government, or for the purpose of putting the public in fear by any person or persons acting alone or on behalf of or in connection with any organisation.

In the event of any dispute as to whether or not this exclusion applies the **Insured** shall have the burden of proving that this exclusion does not apply;

20. Asbestos

arising directly or indirectly out of or resulting from or in consequence of or in any way involving asbestos or any materials containing asbestos in whatever form or quantity.

21. Other appointments

made against any **Insured** in the capacity of:

- a) director or officer of the **Insured** or of any other company or arising out of the management of the **Insured** or of any other company; or
- b) trustee of any trust or as officer or employee of any pension fund or any other employee benefit scheme, whether for the benefit of members or **Employees** of the **Insured** or otherwise;

22. Trading losses

arising out of:

- a) any trading loss or trading liability incurred by any business managed or carried on by the **Insured** (including the loss of any client account or business);
- b) the actual or alleged over-charging or improper receipt of fees by the **Insured**;

23. Virus

arising directly or indirectly from any **Virus**;

24. Patents

notwithstanding Insuring Clause 1e), arising directly or indirectly from the infringement of any patent;

25. Obscenity

arising directly or indirectly from any obscenity, blasphemy or pornographic material;

26. Libel and slander

for damages for libel or slander arising directly or indirectly from statements made or published by the **Insured** unless the **Insured** can demonstrate that it neither knew nor ought reasonably to have known that the statement was defamatory at the time that it was published;

27. Restricted recovery rights

where the **Insured's** right of recovery from any third party in respect of that claim has been restricted by the terms of any contract entered into by the **Insured**;

28. Contractual remedies

for any award of, or liability to pay, compensation or damages where the **Insured** has assumed an obligation to pay compensation or damages in excess of any amount that would otherwise be awarded under statute or common law;

29. Financial advice

arising directly or indirectly from the provision by the **Insured** of any investment or financial advice or arrangements made by or on behalf of the **Insured** in respect of any finance, credit or leasing agreement;

30. Employee benefit schemes / stocks and shares

arising directly or indirectly from the operation or administration of any pension or other employee benefit scheme or trust fund, or the sale or purchase or dealing in any stocks, shares or securities or the misuse of any information relating to them or the breach of any related legislation or regulation;

31. Taxation, competition, restraint of trade

arising directly or indirectly from the breach of any taxation, competition, restraint of trade or anti-trust legislation or regulation;

32. Official action or investigation

arising from any official action or investigation by or decision or order of any public, local or government body or authority;

33. Loss, damage or destruction of bearer bonds or coupons

arising from the loss, damage or destruction of any bearer bonds, coupons, bank or currency notes, share certificates, stamps or other negotiable paper;

34. Deliberate acts

arising directly or indirectly from any deliberate or reckless breach, act, omission or infringement committed, condoned or ignored by the Insured, except as covered under Insuring Clause 1b).

NOTIFICATION AND CLAIMS CONDITIONS APPLICABLE TO SECTION 1**1. Claim/circumstance notification**

As conditions precedent to their right to be indemnified under Section 1 of this Policy the **Insured**:

- 1.1 shall inform the **Insurer** as soon as possible, and in any event within 28 days (provided always that such notification is received by the **Insurer** before the expiry of the **Period of insurance**) of the receipt, awareness or discovery of:
- a) any claim made against them;
 - b) any notice of intention to make a claim against them;
 - c) any **Circumstance**;
 - d) the discovery of reasonable cause for suspicion of dishonesty or fraud.

Such notice having been given as required in b), c) or d) above, any subsequent claim made shall be deemed to have been made during the **Period of insurance**;

- 1.2 shall not, in the event of a claim, or the discovery of information which may give rise to a claim, admit liability for or settle any claim, or incur any costs or expenses in connection therewith, without the written consent of the **Insurer**; and
- 1.3 shall, as soon as practicable given the circumstances, give all such information and assistance as the **Insurer** may require and provide their full co-operation in the defence or settlement of any such claim.

Every letter of claim, writ, summons or process and all documents relating thereto and any other written notification of claim shall be forwarded, unanswered, to the **Insurer** immediately they are received. The **Insured** shall at all times, in addition to their obligations set out above, afford such information to and co-operate with the **Insurer** to allow the **Insurer** to be able to comply with such relevant Practice Directions and Pre-Action Protocols as may be issued and approved from time to time by the Head of Civil Justice.

2. Conduct of claims

- 2.1 Following notification under condition 1. above the **Insurer** shall be entitled at its own expense to take over and within its sole discretion to conduct in the name of the **Insured** the defence and settlement of any such claim.

Nevertheless neither the **Insured** nor the **Insurer** shall be required to contest any legal proceedings unless a Queens Counsel (to be mutually agreed upon by the **Insured** and the **Insurer**) shall advise that such proceedings should be contested.

- 2.2 The **Insurer** may at any time in connection with any claim made, pay to the **Insured** the **Indemnity limit** (after deduction of any sums already paid) or any lesser sum for which, in the sole opinion of the **Insurer**, the claim can be settled and upon such payment being made the **Insurer** shall relinquish the conduct and control of and have no further liability in connection with the claim. For the avoidance of doubt the **Insurer** shall have no liability to pay **Defence costs and expenses** incurred after the date upon which any such payment is made.
- 2.3 **Waiver of subrogation against Employees**
The **Insurer** shall not exercise any right of subrogation against any former or present **Employee**, unless the **Insurer** shall have made a payment brought about or contributed to by any act or omission of the **Employee** or former **Employee** which was dishonest, fraudulent or malicious or the **Employee** or former **Employee** conspired to commit or condoned any such dishonest, fraudulent or malicious act.
- 2.4 **Dishonest or Fraudulent act or Omission**
In the event of a loss or claim which involves the dishonest, fraudulent or malicious act or omission of any former or present **Employee** the **Insured** shall take all reasonable action (including legal proceedings) to obtain reimbursement from the **Employee** concerned (and from any **Employee** who may have conspired to commit or have condoned such act) or from the estate or legal representatives of such **Employee**. Any monies which but for such dishonest, fraudulent or malicious act or omission would be due to such **Employee** from the **Insured** or any monies held by the **Insured** for such **Employee** shall be deducted from any amount payable under this Policy.
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SECTION 2 – GENERAL LIABILITY INSURANCE

DEFINITIONS APPLICABLE TO SECTION 2

For the purposes of this Section the words or terms that appear in **bold** will be interpreted as follows:

Damage

shall mean loss of possession of or damage to tangible property.

Damages

shall mean monetary compensation capable of being awarded in civil proceedings but excluding aggravated and exemplary damages.

Defence costs

shall mean all costs and expenses incurred by the **Insured** with the **Insurer's** prior written consent in the investigation, defence or settlement of any claim under this Section other than in respect of any actions in the United States of America or Canada and shall include legal expenses:

1. arising out of representation at any Coroner's Inquest or Fatal Accident Inquiry;
2. arising out of any criminal prosecution or proceedings relating to an offence alleged to have been committed during the **Period of insurance** and in the course of the **Professional business** in respect of matters which may form the subject of indemnity by this Section (including with the **Insurer's** prior consent **Employees**, partners or directors of the **Insured**) provided that:
 - 2.1 the **Insurer** shall not be liable for any fines or penalties imposed as a consequence of such prosecution;
 - 2.2 the **Insurer** shall not be responsible for **Defence costs** where at the **Insurer's** discretion they may require the opinion of counsel (whose appointment is at the **Insurer's** sole discretion) as to whether or not such costs should extend or continue to extend to the support of such defence and where such counsel's opinion is that there is no reasonable defence to the prosecution;
 - 2.3 the **Insurer's** liability for **Defence costs** in cases of breach or alleged breach of the United Kingdom Health & Safety at Work Act 1974 (and/or any legislation of similar effect) are limited to prosecutions under Section 33(1)(a) to (c) of the Act or similar duty imposed under legislation in Northern Ireland, the Isle of Man or the Channel Islands;
 - 2.4 the **Insurer's** liability for **Defence costs** in cases of breach or alleged breach of Part II of the Consumer Protection Act 1987 will be limited to proceedings not consequent upon a deliberate act or omission arising out of the defence of any proceedings in a Court of Summary Jurisdiction in respect of matters which may form the subject of Indemnity by this Section.

Excess

is the first amount paid in respect of each claim as stated in the Schedule under Section 2. The **Excess** is not payable in respect of **Defence costs**.

Injury

shall mean death, bodily injury, illness or disease of or to any person.

Offshore

shall mean from the time an **Employee** of the **Insured** embarks onto a conveyance at the point of final departure to an offshore rig or offshore platform until such time the **Employee** disembarks from the conveyance onto land upon return from an offshore rig or an offshore platform.

Pollution

shall mean pollution or contamination of the atmosphere or of any water, land or other tangible property.

Product

shall mean any 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, altered or repaired by or on behalf of the **Insured**.

Terrorism

shall mean an activity that (1) involves a violent act or the unlawful use of force or an unlawful act dangerous to human life, tangible or intangible property or infrastructure or a threat thereof and (2) appears to be intended to (i) intimidate or coerce a civilian population or (ii) disrupt any segment of the economy of a government de jure or de facto state or country; or (iii) overthrow, influence or affect the conduct of policy of any government de jure or de facto by intimidation or coercion; or (iv) affect the conduct of a government de jure or de facto by mass destruction, assassination, kidnapping or hostage-taking.

INDEMNITY CLAUSES**1. SECTION 2A – EMPLOYERS’ LIABILITY**

The **Insurer** will indemnify the **Insured** against their liability to pay **Damages** (including claimant’s costs and expenses) and **Defence costs** according to the laws of Great Britain, Northern Ireland, the Isle of Man and the Channel Islands and not to judgments obtained elsewhere nor to judgments or orders obtained in the said courts for the enforcement of foreign judgments whether by way of reciprocal agreements or otherwise.

2. SECTION 2B, C and D – PUBLIC, PRODUCTS and POLLUTION LIABILITY

The **Insurer** will indemnify the **Insured** against their liability to pay **Damages** (including claimant’s costs and expenses) and **Defence costs** in accordance with the law of any country but not in respect of any judgment, award, payment 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, payment or settlement either in whole or in part) unless the **Insured** has requested that there shall be no such limitation and has accepted the terms offered by the **Insurer** in granting such cover which offer and acceptance must be signified by specific endorsement to this Policy.

The indemnity applies only to such liability as defined by each insured Section of Section 2 of this Policy arising out of the **Professional business** subject always to the terms, Conditions and Exclusions of such Section and of the Policy as a whole.

INDEMNITY LIMITS

IN RESPECT OF SECTION 2A

The **Insurer's** liability to pay **Damages** (including claimant's costs and expenses) and **Defence costs** shall not exceed the sum stated in the Schedule against Section 2A in respect of any one occurrence or series of occurrences arising out of one originating cause.

IN RESPECT OF SECTIONS 2B, C and D

The **Insurer's** liability to pay **Damages** (including claimant's costs and expenses) shall not exceed the sum stated in the Schedule against each Section in respect of any one occurrence or series of occurrences arising out of one originating cause but under Section 2C and Section 2D the Indemnity Limits represent the **Insurer's** total liability in respect of all occurrences.

Defence costs will be payable in addition to the Indemnity Limits unless this Policy is specifically endorsed to the contrary.

In the event of any one originating cause giving rise to an occurrence or series of occurrences which form the subject of indemnity by more than one Section of Section 2, each Section shall apply separately and be subject to its own separate Indemnity Limit provided always that the total amount of the **Insurer's** liability shall be limited to the greatest Indemnity Limit available under one of the Sections affording indemnity for the occurrence or series of occurrences.

INSURING CLAUSES

SECTION 2A – EMPLOYERS' LIABILITY

The **Insured** is indemnified by this Section in accordance with INDEMNITY CLAUSE 1 but only for **Injury** to any **Employee** arising out of and in the course of their employment with the **Insured** where such **Injury** is caused during the **Period of insurance**.

The indemnity granted by this Section is deemed to be in accordance with the provisions of any law relating to compulsory insurance of liability to **Employees** in Great Britain, Northern Ireland, the Isle of Man, the Island of Jersey, the Island of Guernsey, the Island of Alderney and offshore installations in territorial waters around Great Britain and its Continental Shelf but the **Insured** shall repay to the **Insurer** all sums paid by the **Insurer** which the **Insurer** would not have been liable to pay but for the provisions of such law, ordinance or statute.

SECTION 2B - PUBLIC LIABILITY

The **Insured** is indemnified by this Section in accordance with INDEMNITY CLAUSE 2 for **Injury** and/or **Damage** occurring during the **Period of insurance** but not against liability:

1. arising out of or in connection with any **Product**;
2. arising out of **Pollution**;
3. arising out of **Terrorism**.

SECTION 2C - PRODUCTS LIABILITY

The **Insured** is indemnified by this Section in accordance with INDEMNITY CLAUSE 2 for **Injury** and/or **Damage** occurring during the **Period of insurance** but only against liability arising out of or in connection with any **Product** and not against liability arising out of **Pollution**.

SECTION 2D - POLLUTION LIABILITY

The **Insured** is indemnified by this Section in accordance with INDEMNITY CLAUSE 2 for **Injury** and/or **Damage** occurring in its entirety during the **Period of insurance** and arising out of **Pollution** but only to the extent that the **Insured** can demonstrate that such **Pollution**:

1. was the direct result of a sudden, specific and identifiable event occurring during the **Period of insurance**; and
2. was not the direct result of the **Insured** failing to take reasonable precautions to prevent such **Pollution**.

EXCLUSIONS

EXCLUSIONS APPLICABLE TO SECTIONS 2A, B, C and D

These Sections do not provide indemnity in respect of liability:

1. arising in connection with:
 - a) any work of demolition except demolition solely undertaken with hand held tools and of structures not exceeding 5 metres in height by **Employees** in the direct service of the **Insured** when such work forms an ancillary part of a contract for construction, alteration or repair carried out by the **Insured**;
 - b) the construction, alteration or repair of bridges, towers, steeples, chimney shafts, blast furnaces, viaducts, mines, dams or transport tunnels;
 - c) pile driving, tunnelling or quarrying;
 - d) the use of explosives for any purpose;
 - e) excavations below 3 metres in depth;
 - f) any work carried out at a height in excess of 15 metre;
 - g) ship repair/ship breaking and/or work on vessels or aircraft;
2. directly or indirectly arising from:
 - a) ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
 - b) the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof but as far as concerns Section 2A this Exclusion will only apply where such legal liability is:
 - i that of any principal;
 - ii accepted under agreement and would not have attached in the absence of such agreement;
3. which forms the subject of insurance by any other Policy and this Policy shall not be drawn into contribution with such other insurance;
4. arising directly or indirectly out of, happening through or in consequence of, war, invasion, acts of foreign enemies, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority.

EXCLUSIONS APPLICABLE TO SECTION 2A – EMPLOYERS’ LIABILITY

1. This Section does not provide any indemnity in respect of any liability for which compulsory motor insurance or security is required under the Road Traffic Act 1988 as amended by the Motor Vehicles (Compulsory Insurance) Regulations 1992 and the Road Traffic (Northern Ireland) Order 1981 as amended by the Motor Vehicles (Compulsory Insurance) Regulations (Northern Ireland) 1993 or any other Compulsory Road Traffic Legislation.

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2. This Section does not provide indemnity in respect of:
- a) medical costs and expenses incurred by the **Insured** and/or any employee of the **Insured**
 - b) repatriation costs and expenses incurred by the Assured and/or any employee of the **Insured** who is injured outside Great Britain Northern Ireland the Channel Islands or the Isle of Man.
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EXCLUSIONS APPLICABLE TO SECTION 2B – PUBLIC LIABILITY

This Section does not provide indemnity in respect of liability:

1. arising out of ownership, possession or use of any mechanically propelled vehicle where a Certificate of Motor Insurance or surety is required under any Road Traffic Act or similar legislation other than:
 - a) vehicles designed primarily to operate as tools of trade (which term shall be deemed to include any plant primarily designed to operate on or about a contract site);
 - b) other vehicles brought on to site for use on site.

This exclusion shall not apply in respect of the use of vehicles belonging to **Employees** or third parties in connection with the **Professional business** unless indemnity is provided:

- a) to any **Employee**;
 - b) to third parties;
 - c) to the **Insured** under any other insurance;
 - d) in respect of loss of or damage to any vehicle of any **Employee** or third party to whom the indemnity is provided or any property conveyed therein or thereon;
2. arising out of the ownership, possession or use by or on behalf of the **Insured** of any aircraft, watercraft or hovercraft (other than watercraft not exceeding 15 metres in length and then only whilst on inland waterways);
 3. for **Damage** to property owned, leased or hired by or under hire purchase or on loan to the **Insured** or otherwise in the **Insured's** care, custody or control other than:
 - a) premises (or the contents thereof) temporarily occupied by the **Insured** for work therein (but no indemnity is granted for **Damage** to that part of the property on which the **Insured** is working and which arises out of such work);
 - b) **Employees'** and visitors' clothing and personal effects including vehicles and their contents;
 - c) premises tenanted by the **Insured** to the extent that the **Insured** would be held liable in the absence of any specific agreement.
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EXCLUSIONS APPLICABLE TO SECTION 2C – PRODUCTS LIABILITY

This Section does not provide indemnity in respect of liability:

1. for **Damage** to any **Product** or part thereof;
 2. for costs incurred in the repair, reconditioning or replacement of any **Product** or part thereof and/or any financial loss consequent upon the necessity for such repair, reconditioning or replacement;
 3. arising out of the recall of any **Product** or part thereof;
 4. arising out of any **Product** which with the **Insured's** knowledge is intended for incorporation into the structure, machinery or controls of any aircraft except where specifically stated to be included in the **Professional business**;
 5. arising out of **Terrorism**;
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6. arising out of any **Product** which is intended for incorporation into any marine equipment upon which the navigation or safety of a waterborne vessel depends except where specifically stated in the **Professional business**;
 7. arising out of any **Product** which is intended for use in a motor vehicle except where especially stated to be included in the **Professional business**;
 8. arising out of any **Product** which is intended for use in connection with railways or tramways except where especially stated to be included in the **Professional business**.
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EXCLUSIONS APPLICABLE TO SECTION 2D – POLLUTION LIABILITY

This Section is subject to the Exclusions to Sections 2B and 2C and also does not provide indemnity in respect of liability:

1. for **Damage** to premises presently or at any time previously owned or tenanted by the **Insured**;
 2. for **Damage** to land or water within or below the boundaries of any land or premises presently or at any time previously owned or leased by the **Insured** or otherwise in the **Insured's** care custody or control.
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EXCLUSIONS APPLICABLE TO SECTIONS 2B, C and D – PUBLIC, PRODUCTS and POLLUTION LIABILITY

These Sections do not provide indemnity in respect of liability:

1. for Injury to any Employee;
 2. arising out of the deliberate, conscious or intentional disregard by the **Insured's** technical or administrative management of the need to take all reasonable steps to prevent **Injury or Damage**;
 3. arising out of liquidated damages clauses, penalty clauses or performance warranties until proven that liability would have attached in the absence of such clauses or warranties;
 4. arising from exposure or alleged exposure to asbestos or materials or products containing asbestos;
 5. for an amount less than the **Excess**. The **Excess** shall be deducted from each and every claim paid under the Policy;
 6. arising out of or in connection with the design, sale or supply of computer software (which shall not include the media or its packaging on which such software is stored);
 7. arising out of or in connection with advice, design, specification, formula or other breach of professional duty by the **Insured**;
 8. for loss, damage, deterioration of or corruption (whether permanent or temporary) to computer programs or electronic data including consequential or pure financial loss;
 9. arising out of work on any part of any aerodrome or airport provided for take off or landing of aircraft or the movement of aircraft or parking of aircraft including associated surface roads and ground equipment parking areas.
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EXTENSIONS TO SECTION 2

1. PRINCIPALS

Where the **Insured** so requests the **Insurer** agrees to indemnify any Principal of the **Insured** but only to the extent that such liability arises solely out of the work performed for the Principal by or on behalf of the **Insured** and such Principal shall be subject to and comply with the terms, Conditions and Exclusions herein and this clause shall in no way operate to increase the Indemnity Limits as stated in the Schedule.

2. INDEMNITY TO OTHERS

At the request of the **Insured** the indemnity granted extends to:

- a) any party who enters into an agreement with the **Insured** for any purposes of the **Professional business** but only to the extent required by such agreement to grant such indemnity and subject always to Exclusion 3.c) to Section 2B and Exclusion 3. to Sections 2B, C and D;
- b) officials of the **Insured** in their business capacity arising out of the performance of the **Professional business** and/or in their private capacity arising out of their temporary engagement of the **Insured's Employees**;
- c) any person or firm arising out of the performance of a contract with the **Insured** constituting the provision of labour only;
- d) the officers, committee and members of the **Insured's** canteen, social, sports, medical, fire fighting and welfare organisations in their respective capacity as such;
- e) the personal representatives of any person indemnified by reason of this Extension in respect of liability incurred by such person;

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

3. CROSS LIABILITIES

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

4. UNSATISFIED COURT JUDGMENTS (applicable only to Section 2A)

The **Insurer** at the request of the **Insured** will pay to the **Employee** or the personal representatives of the **Employee** the amount of any **Damages** and awarded costs to the extent that they remain unsatisfied in whole or in part six months after the date of a judgment being obtained within any court in Great Britain, Northern Ireland, the Channel Islands or the Isle of Man:

- a) by any **Employee** or the personal representatives of any **Employee** in respect of **Injury** sustained by the **Employee** arising out of and in the course of their employment by the **Insured** in the **Professional business** and caused during the **Period of Insurance**; and
- b) against any company or individual operating from premises within Great Britain, Northern Ireland, the Channel Islands or the Isle of Man, provided always that:
 - there is no appeal outstanding against such judgment; and
 - if any payment is made under the terms of this Extension the **Employee** or the personal representatives of the **Employee** shall assign the benefits of such judgment to the **Insurer**.

The liability of the **Insurer** for all amounts payable under this Extension relating to any claimant or number of claimants in respect of an occurrence or series of occurrences arising out of one originating cause shall not exceed the Indemnity Limit stated in the Schedule against section 2A.

5. COMPENSATION FOR COURT ATTENDANCE

In the event of any of the persons stated below attending court as a witness at the request of the **Insurer** in connection with a claim in respect of which the **Insured** is entitled to indemnity under these sections the **Insurer** will provide compensation to the **Insured** at the following rates per day for each day on which attendance is required:

- a) any director or partner of the **Insured**: GBP 750;
- b) any **Employee** of the **Insured**: GBP500.

NOTIFICATION AND CLAIMS CONDITIONS APPLICABLE TO SECTION 2

Conditions 1, 2, 3 and 4 below are conditions precedent to the **Insured's** right to be indemnified under Section 2 of this Policy.

1. The **Insured** shall give written notice to the **Insurer** as soon as reasonably practicable of any occurrence that may give rise to a claim under this Policy and shall give all such additional information as the **Insurer** may require. Every letter of claim, writ, summons or process and all documents relating thereto and any other written notification of claim shall be forwarded unanswered to the **Insurer** immediately they are received.

The **Insured** shall at all times, in addition to their obligations set out above, afford such information to and co-operate with the **Insurer** or their appointed agents to allow the **Insurer** to be able to comply with such relevant Practice Directions and Pre-Action Protocols as may be issued and approved from time to time by the Head of Civil Justice.

2. No admission, offer, promise or payment shall be made or given by or on behalf of the **Insured** without the written consent of the **Insurer** who shall be entitled to take over and conduct in the name of the **Insured** the defence or settlement of any claim or to prosecute in the name of the **Insured** for their own benefit any claim for indemnity or **Damages** or otherwise and shall have full discretion in the conduct of any proceedings and in the settlement of any claim and the **Insured** shall give all such information and assistance as the **Insurer** may reasonably require.
3. The **Insured** shall give notice, as soon as reasonably practicable, of any fact or event which materially affects the risks insured by this Policy.
4. Where the premium is provisionally based on the **Insured's** estimates the **Insured** shall keep accurate records and after expiry of the **Period of insurance** declare as soon as possible such details as the **Insurer** requires. The premium shall then be adjusted and any difference paid by or allowed to the **Insured** as the case may be subject to any minimum premium that may apply. Where such estimates include remuneration to **Employees** the required declaration shall also include remuneration to persons engaged by the **Insured** to perform a contract constituting the provision of labour only.
5. The **Insurer** may at any time in connection with any claim made, pay to the **Insured** the Indemnity limit (after deduction of any sums already paid) or any lesser sum for which, in the sole opinion of the **Insurer**, the claim can be settled and upon such payment being made the **Insurer** shall relinquish the conduct and control of and have no further liability in connection with the claim. For the avoidance of doubt, the **Insurer** shall have no liability to pay **Defence costs** and expenses incurred after the date upon which any such payment is made.

6. Except where the Indemnity Limit is inclusive of **Defence costs** if a payment exceeding the Indemnity Limit has to be made to dispose of a claim the liability of the **Insurer** to pay all **Defence costs** in connection therewith shall be limited to such proportion of the said **Defence costs** as the Indemnity Limit bears to the amount paid to dispose of a claim.
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