companion

Small Business and Consultants Liability Policy Wording

moorhouse Group Ltd

Arranged by
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DEFINITIONS

1. **Bodily Injury** shall mean

   a. in respect of Section 1A & 1B death bodily injury illness disease shock mental injury mental anguish false eviction false arrest wrongful detention discrimination and malicious prosecution

   b. in respect of Sections 2 death bodily injury illness disease shock mental injury and mental anguish

2. **Territorial Limits** shall mean

   a. in respect of Sections 1A, 1B & 2 Great Britain Northern Ireland the Channel Islands and the Isle of Man or an offshore Installation within the territorial waters around Great Britain Northern Ireland the Isle of Man and the Channel Islands

   b. in respect of Section 3A & 3B Great Britain Northern Ireland, the Channel Islands and the Isle of Man

3. **Offshore** shall mean from the time an **Employee** 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

4. **Pollution** shall mean pollution or contamination of the atmosphere or of any water land or other tangible property

5. **Defence Costs** shall mean all costs fees and expenses incurred by the **Insured** in the defence or settlement of any claim under this Policy

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

7. **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 or 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

8. **Product** shall mean any property after it has left the custody or control of the **Insured** which has been designed specified formulated manufactured sold supplied or distributed by or on behalf of the **Insured** in isolation to any contract work executed by or on behalf of the **Insured**

9. **Business** shall mean the Business stated in the Schedule and

   a. the ownership repair and maintenance of the Policyholder's own property

   b. the provision of canteen sports social welfare organisations and first aid medical or ambulance services for the benefit of any customer or **Employee**

   c. fire and security services for the protection of the premises owned or occupied by the Policyholder

   d. private work undertaken by an **Employee** on behalf of any director or partner of the Policyholder

   e. attendance at trade fairs shows and exhibitions in connection with the **Business**

10. **Insured** shall mean

    a. the Policyholder

    b. the personal representatives of the Policyholder in respect of legal liability incurred by the Policyholder

    c. at the request of the Policyholder

       i. any principal of the Policyholder as required under contract in respect of work carried out by the Policyholder

       ii. any director or partner of the Policyholder

       iii. any **Employee**

       iv. any other party where required by contract subject to the prior written agreement of the Underwriters

against legal liability in respect of which the Policyholder would have been entitled to indemnity had the claim been made against the Policyholder

v. any officer committee or member of the Policyholder's canteen sports social welfare organisations and fire security first aid medical or ambulance services in their respective capacities as such but not including medical practitioners while working in a professional capacity each of whom shall as though the Policyholder be subject to the terms and conditions contained herein as far as they can apply

11. **Average** shall mean

If at the time of any loss the total Sum Insured specified in the Schedule is less than 85% of the total value of the property insured Underwriters shall bear only that proportion of the Loss which the total Sum Insured bears to the total of the property insured.

12. **Employee(s)** shall mean

a. any person under a contract of service or apprenticeship with the Policyholder

b. whilst under the direct control and supervision of the Policyholder any

i. labour master and persons supplied by him

ii. labour only sub-contractors

iii. temporary employees

iv. self-employed persons

v. voluntary workers

vi. individual hired to or borrowed by the Policyholder

vii. person undertaking study or work experience with the Policyholder

13. **Tool(s)** shall mean

Hand tools and hand held portable power tools the property of or hired in by an Insured Person for use in connection with the **Business**

SECTION 1A – PUBLIC/PRODUCTS LIABILITY

OPERATIVE CLAUSE

The Underwriters will indemnify the **Insured** in accordance with the law of any country but not in respect of any judgement 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 judgement 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 Underwriters which shall be signified by specific endorsement to this Policy against their liability to pay **Damages** (including claimants' costs fees and expenses) and **Defence Costs** in respect of

1. accidental **Bodily Injury** to any person
2. accidental loss of or damage to tangible property
3. nuisance trespass or interference with any easement right of air light water or way other than where arising due to a deliberate act by the Policyholder

occurring during the Period of Insurance in connection with the **Business** and

a. within the **Territorial Limits** or

b. during the course of non-manual temporary visits anywhere in the world other than the USA or Canada (unless indicated by way of Endorsement to this Policy that such a restriction does not apply) or

c. arising out of any **Product** anywhere in the world other than the USA or Canada (unless indicated by way of Endorsement to this Policy that such a restriction does not apply)

LIMITS OF INDEMNITY

Underwriters 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 or series of occurrences arising out of one originating cause

Defence Costs will be payable in addition to the Limits of Indemnity

In the event of any one originating cause giving rise to an occurrence or series of occurrences which form the subject of indemnity under this Section and Section 1B each Section shall apply separately and be subject to its own separate Limits of Indemnity provided always that the total amount of Underwriters' liability shall be limited to the greatest Limits of Indemnity available under either Section providing indemnity for the occurrence or series of occurrences

EXCLUSIONS TO SECTION 1A

This Section does not provide indemnity in respect of liability

1. for **Bodily Injury** sustained by any **Employee** in connection with the **Business**
2. arising out of **Pollution**
3. for loss or damage to property owned leased or hired by or under hire purchase or on loan to the **Insured** or in the **Insured's** care custody and control other than
   a. **Employees'** and visitors clothing and personal effects
   b. premises (including contents thereof) not owned nor rented by the **Insured** but temporarily occupied by them for the purpose of work therein or thereon
   c. premises tenanted by the **Insured** to the extent that the **Insured** would be held liable in the absence of any specific agreement
4.
   a. 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
      1) 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)
      2) 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 **Business** unless indemnity is provided
      i. to the **Employee** or
      ii. to the third party or
      iii. to the **Insured** under any other insurance
      iv. 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
   b. caused by the ownership or operation by or on behalf of the **Insured** of any waterborne craft hovercraft aircraft drone unmanned aerial vehicle or rail borne vehicle
5. arising out of liquidated damages clauses penalty clauses or performance warranties unless proven that liability would have attached in the absence of such clauses or warranties
6. for loss or damage to and/or the costs of repair reconditioning removal replacement or recall of any **Product** or part thereof or any contract work executed by the **Insured** caused by any defect therein or unsuitability thereof for its intended purpose
7. which is the inevitable or unavoidable consequence of the performance of a contract
8. for loss of or damage to cables pipes or other services located underground unless the **Insured** has
   a. taken or caused to be taken all reasonable measures to identify the location of such cables pipes and services before any work is commenced which may involve a risk of damage thereto (reasonable measures include contacting the appropriate authorities where it is possible cables pipes or services are under the site)
   b. retained a written record of the measures which were taken to locate such cables pipes or other services
   c. conveyed the location of such cables pipes and services to those who are carrying out such work on behalf of the **Insured**
9. arising out of an act of **Terrorism**
10. arising out of exposure or alleged exposure to asbestos or materials containing asbestos
11. 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
12. arising as a result of advice design specification or formula or other breach of professional duty by the **Insured**
13. for the cost of remedying any defect or alleged defect in premises disposed of
14. arising out of any **Product** intended for incorporation into any aircraft
15. arising out of any **Product** intended for incorporation into any vehicle licensed for road use where the **Product** is critical to the safety of such vehicle

16. arising out of any **Product** intended for incorporation into any waterborne craft where the **Product** is critical to the safety of such craft

17. 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)

18. for loss of damage to deterioration or corruption (whether permanent or temporary) of loss of use of reduction in functionality of repair of replacement of or restoration or reproduction of any “Data” or for any monetary amount pertaining to the value of such “Data”

    For the purpose of this Exclusion the following definitions apply:

    “Computer Systems” means any computer hardware software communications system electronic device (including but not limited to smart phone laptop tablet wearable device) server cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input output “Data” storage device networking equipment or back up facility

    “Data” means information facts concepts code or any other information of any kind that is recorded or transmitted in a form to be used accessed processed transmitted or stored by “Computer Systems”

19. in any way connected with Iron Sulphides including but not limited to Iron (II) sulphide, Greigite, Pyrrhotite, Troilite, Mackinawite, Marcasite and Pyrite

20. for loss of or damage to

    a) any "Superstructure" and or

    b) any other property building or structure caused by the failure or deterioration from any cause of any "Structural Building Product" that is part of included in or attached to such property building or structure

    For the purpose of this Exclusion the following definitions apply:

    "Superstructure" means any property building or structure relying on the support provided by any foundation underpinning and or piling work performed by or on behalf of the **Insured**

    "Structural Building Product" means any brick building block steel concrete cement mortar or any other structural **Product**

21. loss of or damage to property lifted and/or moved by cranes or other lifting devices

22. directly or indirectly arising out of the failure of any **Product** to fulfil the function for which it is intended

23. arising out of or in connection with the failure to adequately secure any premises for which the **Insured** is responsible for. For the avoidance of doubt failure to secure shall include the failure to correctly set any alarm/intruder system

24. arising out of or in connection with physical, emotional or Sexual Abuse. For the purpose of this exclusion “Sexual Abuse” is defined as an action deemed to be an offence under the provisions of the Sexual Offences Act 1956 Section 1 (1) of the Indecency with Children Act 1964 Section 54 of the Criminal Law Act 1977 Section 1 of the Protection of Children Act 1978 and all Sections of the Sex Offenders Act 1997.

25. arising out of or in connection with or contributed to directly or indirectly by the existence of or exposure to magnetic electric or electromagnetic fields or radiation howsoever caused or generated

26. arising out of or in connection with the provision of or omission to provide any medical clinical or surgical diagnosis advice treatment remedy or prescription or any other breach of professional duty provided that this exclusion shall not apply in respect of the provision of emergency first aid for the benefit of any **Employee**, customer or visitor

27. arising out of or in connection with any **Product** in the United States of America

28. arising out of or in connection with any filming or film / television production activities unless undertaken by a bona fide subcontractor. For the purposes of this condition the term bona fide subcontractors means any independent subcontractor engaged by the **Insured** under a contract for services

29. arising directly or indirectly out of or in any way involving the combustibility or fire performance of any cladding.

30. arising directly or indirectly with the contamination of any goods transported or otherwise in the care custody or control of the **Insured**

31. The giving of or application of any hair or beauty treatment

32. any work undertaken **Offshore**

33. arising out of exposure or alleged exposure to or directly or indirectly caused by any kind of fungus mould mildew or any spores or mycotoxins

34. in any way connected with reinforced autoclaved aerated concrete

EXTENSIONS TO SECTION 1A

1. Data Protection

Underwriters will also indemnify the **Insured** against their legal liability to pay **Damages** (including claimants' costs fees and expenses) arising from any claim or claims for material or non-material damage under Article 82 of the UK General Data Protection Regulations (as defined by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019) first made against the **Insured** in writing during the Period of Insurance provided always that the indemnity shall not apply to

i. liability caused by or arising from any incident or circumstances known to the **Insured** at the inception of this cover and which could reasonably have been expected to give rise to a claim

ii. any claim or claims made by or on behalf of any director partner or **Employee** of the **Insured** in connection with their employment in the **Business**

iii. proceedings consequent upon any deliberate act or omission by or on behalf of the **Insured** if the result could reasonably have been expected having regard to the nature and circumstances of such act or omission

iv. any fines or penalties of any kind

Underwriters' liability under this extension shall not exceed £50,000 in respect of all claims made against the **Insured** during the Period of Insurance and the **Insured** shall pay the first £2,500 each and every claimant in respect of **Damages** (including claimants' costs fees and expenses) before Underwriters shall be liable to make any payment

It is a condition precedent to liability under this Extension that the **Insured** can demonstrate that it has taken reasonable steps to comply with the requirements of the UK General Data Protection Regulations (as defined by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019)

2. Temporary Employees

We will indemnify You in respect of temporary **Employees**. Cover is provided under this Clause to a maximum of 50 man-days worked in any one Period of Insurance. This Clause does not remove the need to declare changes in **Employee** numbers as required by Alteration in the number of workers (General Conditions 18)

3. Additional Directors Partners or Employees

Notwithstanding the total number of persons or **Employees** stated in the Schedule this Policy is extended to include additional partners directors or **Employees** provided that the total number of partners directors and Employees does not exceed 10. If You fail to notify Us within 14 days of the engagement of any such additional person other than in respect of temporary Employees We shall not be liable for the first £500 of each and every claim in addition to any other excess provided for in this Section.

SECTION 1B - POLLUTION LIABILITY

The Underwriters will indemnify the **Insured** in accordance with the law of the Courts of Law of Great Britain Northern Ireland the Isle of Man and the Channel Islands against their liability to pay **Damages** (including claimants' costs fees and expenses) and **Defence Costs** in respect of

1. accidental **Bodily Injury** to any person
2. accidental loss of or damage to tangible property
3. nuisance trespass or interference with any easement right of air light water or way other than where arising due to a deliberate act by the **Insured**

arising out of **Pollution** occurring in its entirety during the Period of Insurance within the **Territorial Limits** in connection with the **Business** but only to the extent that the **Insured** can demonstrate that such **Pollution**

a. was the direct result of a sudden specific and identifiable event occurring during the Period of Insurance and

b. was not the direct result of the **Insured** failing to take reasonable precautions to prevent such **Pollution**

LIMITS OF INDEMNITY

Underwriters liability to pay **Damages** (including claimants' costs fees and expenses) shall not exceed the sum stated in the Schedule in respect of all occurrences

Defence Costs will be payable in addition to the Limits of Indemnity

In the event of any one originating cause giving rise to an occurrence or series of occurrences which form the subject of indemnity under this Section and Section 1A each Section shall apply separately and be subject to its own separate Limits of Indemnity provided always that the total amount of Underwriters' liability shall be limited to the greatest Limits of Indemnity available under either Section providing indemnity for the occurrence or series of occurrences

EXCLUSIONS TO SECTION 1B

This Section is subject to the Exclusions to Section 1A (apart from Exclusion 2.) and also does not provide indemnity in respect of liability for loss of or damage to

1. premises presently or at any time owned or tenanted by the **Insured**
2. 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

CONDITIONS APPLICABLE TO SECTIONS 1A & 1B

1. Burning Welding and Cutting Conditions

It is a condition precedent to liability under this Section that the following precautions shall be adhered to on each occasion where the **Insured** or persons acting on behalf of the **Insured** are using any oxy-acetylene or electric welding or cutting/grinding equipment or blow lamp or blow torch or hot air gun away from the **Insured's** own premises

1. the immediate area in which the operation is to be carried out must be segregated to the greatest practicable extent by the use of screens made of metal and/or fire retardant material
2. the whole of this segregated area must be adequately cleaned and freed from combustible material before operations commence
3. if work is to be carried out overhead the area beneath must be similarly cleaned and combustible material removed
4. combustible floors/substances in or surrounding this segregated area must be liberally covered with sand or protected by overlapping sheets of incombustible material
5. where work is being carried out in any enclosed area an additional **Employee** of the **Insured** or an **Employee** of the occupier shall be present at all times to guard against an outbreak of fire
6. no work should be carried out unless specifically authorised by the occupier who should also be asked to approve the safety arrangements
7. the following must be kept available for immediate use near the scene of operations
    a. suitable and fully charged fire extinguishers and/or
    b. a hose connected up to the nearest hydrant with water turned on and controllable at the nozzle of the hose in readiness for immediate use and tested prior to the commencement of the work
8. a thorough examination must be made in the vicinity of the work approximately one hour after the termination of each operation In the event that it is not practicable for such examination to be carried out by the **Insured's** own **Employee** then appropriate arrangements must be made with the occupier
9. before "burning off" metal work built into or projecting through walls or partitions an examination should be made to confirm that the other end of the metal is not in a hazardous proximity to combustible material which may be ignited by the conduction of heat

Furthermore where the **Insured** or persons acting on behalf of the **Insured** burns debris it is a Condition precedent to liability under this Policy that the following precautions shall be taken on each occasion

1. Fires to be in a cleared area and at a distance of at fifteen metres from any property
2. Fires not to be left unattended at any time
3. A suitable fire extinguisher to be kept available at the scene of the operations for immediate use
4. Fires to be extinguished at least one hour prior to leaving site at the end of each working day

2. Bona Fide Subcontractors Condition

It is a condition precedent to liability under this Section that all "bona fide subcontractors" engaged by the **Insured** shall have in full force and effect throughout the duration of their contract with the **Insured** insurances as follows

1. Employers Liability insurance in respect of their liability at law for **Bodily Injury** to any **Employee**
2. Public/Products Liability insurance in respect of their liability at law for
    a. **Bodily Injury** to any person
    b. loss of or damage to tangible property
    c. nuisance trespass or interference with any easement right of air light water or way

    with a Limit of Indemnity of at least £5,000,000 or that shown in the Schedule in respect of Section 1A (whichever is the lower) any one occurrence or series of occurrences arising out of one original cause

and that

1. such insurances contain an Indemnity to Principals Clause
2. the **Insured** shall have obtained and retained a copy of written evidence of such insurances

For the purposes of this Endorsement the term “bona fide subcontractors” means any independent subcontractor engaged by the **Insured** under a contract for services

3. Rights of Recourse

The **Insured** will at all times retain full rights of recourse against those supplying any **Product** or otherwise providing to the **Insured** a service in connection with any **Product** or any component part thereof unless the Underwriters have agreed in writing to the waiver of such rights

4. Food Preparation Condition

It is a Condition precedent to liability under this Policy that

1. all chefs have passed a food hygiene Level 2 qualification
2. all chefs are registered with the local authority
3. all chefs work to a current and valid food safety management procedure

5. CPA Condition

It is a condition precedent to our liability that all plant hired out by the Insured complies with the Construction Plant Hire Association conditions or equivalent

6. Tar Boiler Conditions

This Policy does not provide indemnity in respect of liability directly or indirectly arising out of the ownership possession or use of asphalt bitumen pitch or tar heaters unless all of the following precautions are adhered to at all times

1) all heating of asphalt bitumen tar or pitch is carried out in a suitable vessel in the open at ground level using bottled gas
2) such vessel is attended at all times whilst being lit and whilst in use
3) a regulation spill tray is in use
4) suitable and approved Fire Extinguishers are kept on hand for immediate use
5) a thorough examination must be made in the vicinity of the work approximately one hour after the completion of the work
6) 2 people should be in close proximity at all times whilst such vessel is in use

SECTION 2 - EMPLOYERS LIABILITY

OPERATIVE CLAUSE

The Underwriters will Indemnify the **Insured** in accordance with the law of the Courts of Law of Great Britain Northern Ireland the Isle of Man and the Channel Islands against their liability to pay **Damages** (including claimants' costs fees and expenses) and **Defence Costs** in respect of **Bodily Injury** sustained by an **Employee** arising out of the **Business** and caused during the Period of Insurance

The indemnity provided shall only apply to **Bodily Injury** sustained

1. within the **Territorial Limits**
2. by any **Employee** during temporary visits abroad provided that such **Employee** is ordinarily resident in the **Territorial Limits**
3. by a person who although resident outside the **Territorial Limits** is under a written contract of service with the Policyholder entered into in the **Territorial Limits** subject to prior written agreement of the Underwriters

LIMITS OF INDEMNITY

Underwriters liability to pay Damages (including claimants' costs fees and expenses) and **Defence Costs** shall not exceed the sum stated in the Schedule in respect of any one occurrence or series of occurrences arising out of one originating cause

EXCLUSIONS TO SECTION 2

This Section does not provide indemnity

1. 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
2. in respect of work undertaken **Offshore** unless indicated in the Schedule that this Exclusion is not applicable

EXTENSION TO SECTION 2

Unsatisfied Court Judgments

The Underwriters will at the request of the Policyholder 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 **Bodily Injury** sustained by the **Employee** arising out of and in the course of their employment by the Policyholder in the **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

i. there is no appeal outstanding against such judgment

ii. 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 Underwriters

The liability of the Underwriters 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 Limit of Indemnity stated in the Schedule

Temporary Employees

We will indemnify You in respect of temporary Employees. Cover is provided under this Clause to a maximum of 50 man-days worked in any one Period of Insurance. This Clause does not remove the need to declare changes in Employee numbers as required by Alteration in the number of workers (General Conditions 18)

CONDITION APPLICABLE TO SECTION 2

Confined Space Works Condition

It is a Condition precedent to liability under this Policy that

1. all work must be carried out in accordance with the Confined Spaces Regulations 1997 and
2. operatives engaged in this work have suitable protective clothing including breathing apparatus, where required and
3. a suitably equipped operative is on standby whilst work is undertaken and
4. as far as reasonably practicable, gas free certificates are issued prior to work in any chamber, tank, vat, silo, pit, trench, pipe, sewer, flue, well or other similar space

Employers' Liability Compulsory Insurance Clause

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 Underwriters all sums paid by the Underwriters which the Underwriters would not have been liable to pay but for the provisions of such law ordinance or statute

This Condition shall not apply in respect of claims arising by virtue of paragraph 3. of the Operative Clause

EXTENSIONS TO SECTIONS 1A, 1B & 2

1. Additional Defence Costs

Defence Costs extend to include legal expenses incurred with the Underwriters written consent within the courts of Great Britain Northern Ireland the Isle of Man and the Channel Islands

a. arising out of representation at any Coroner's Inquest or Fatal Accident inquiry

b. 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 **Business** of the **Insured** in respect of matters which may form the subject of indemnity by this Policy (including with the Underwriters prior consent **Employees** partners or directors of the Policyholder)

provided that

i. Underwriters shall not be liable for any fines or penalties imposed as a consequence of such prosecution

ii. Underwriters shall not be responsible for **Defence Costs** where at the Underwriters discretion they may require the opinion of counsel (whose appointment is at the Underwriters sole discretion) as to whether or not such costs should extend or continue to extend to the support of such defence and where such counsels opinion is that there is no reasonable defence to the prosecution

iii. Underwriters liabilities 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 consolidating legislation or legislation in Northern Ireland the Isle of Man or the Channel Islands

c. 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 Policy

The indemnity applies only to such liability as defined by each Insured Section of this Policy arising out of the **Business** of the **Insured** as stated in the Schedule subject always to the terms Conditions limitations and Exclusions of such Section and of the Policy as a whole

2. Cross Liability Clause

It is hereby declared and agreed that where more than one party is named in the Schedule as the Policyholder indemnity shall apply as though individual insurances have been issued to each party provided always that the Underwriters' total liability shall not exceed the sums stated in the Schedule as the Limits of Indemnity

3. Housing Grants Construction and Regeneration Act, 1996

The indemnity granted by this Policy is extended to apply to any process of adjudication or decision of any adjudicator pursuant to the Act provided always that as a condition precedent to Underwriters liability under this Policy the **Insured** agrees to comply with Conditions (a) and (b) as follows

a. Policy Conditions

The **Insured** shall

i. notify Underwriters immediately upon receipt (and in no event later than two working days thereafter) of any notice of intention to refer a dispute to adjudication ("notice of adjudication") or of the service by the **Insured** of any notice of adjudication in circumstances which will lead to or are likely to lead to a claim being made against the **Insured** (whether under a process of adjudication or otherwise)

ii. promptly forward to Underwriters all information relating to any dispute referred to adjudication including copies of all documentation made available to the **Insured** or subsequently by the **Insured** to the adjudicator

iii. allow the Underwriters to appoint advisers or representatives and to have conduct (including the right but not the obligation to take over the conduct) of the adjudication as they deem appropriate and provide such assistance as the Underwriters may reasonably require

iv. meet any request direction or timetable of the adjudicator

v. satisfy the Underwriters that any dispute referred to adjudication is or would be the subject of indemnity under this Policy and that the decision reached by the adjudicator represents the award against the **Insured** of a payment of money by the **Insured** which constitutes compensatory damages which form the subject of such indemnity

vi. not agree to accept the decision of the adjudicator as finally determining the dispute without the prior written consent of the Underwriters

vii. in the event of a decision reached by the adjudicator that such an award as described in v) above is payable give the Underwriters every assistance in instituting legal proceedings (or arbitration if applicable in accordance with the **Insured's** contract) in order to challenge reopen stay the enforcement of or overturn such adjudicator's decision or otherwise to recover such award if the Underwriters deem it appropriate

The Underwriters shall have sole conduct of all such proceedings

b. Conditions relating to contracts

Any provisions relating to adjudications pursuant to the Act in any contract entered into by the **Insured** shall

i. provided that the adjudicator must be independent of the parties to the contract

ii. not allow for any decision of the adjudicator to be binding or to determine any dispute finally

iii. not allow the adjudicator to disregard the legal entitlements of the parties in order to reach a decision based on commercial considerations

iv. not prohibit the assistance or representation by advisers or representatives (whether legally qualified or not) at any adjudication

v. not place any conditions upon the timing of commencement of legal or arbitration proceedings (other than adjudications pursuant to the Act)

Any dispute or difference arising hereunder between the **Insured** and the Underwriters shall be referred to the arbitration of a Queen's Counsel to be agreed upon by both parties or in the absence of agreement by a QC nominated by the Chairman of the Bar Council The Underwriters agree to pay the costs of such referral except where indemnity has been denied by the Underwriters and the QC upholds such decision

4. Overseas Personal Liability

The indemnity provided by this Policy shall apply to

a. the Policyholder

b. at the request of the Policyholder

i. any director official or **Employee** of the Policyholder

ii. any spouse or child of the persons stated in a) or b) i) above who are accompanying such persons

in respect of liability incurred by such persons in a personal capacity in connection with an occurrence happening during the Period of Insurance in any country whilst on a temporary visit to such country in connection with the **Business**

Provided that

1. any person entitled to indemnity under this Extension shall as though they were the **Insured** be subject to the terms conditions and limitations of this Policy insofar as they can apply

2. nothing in this Extension shall increase the liability of the Underwriters to pay any amount exceeding the Limit of Indemnity regardless of the number of persons claiming to be indemnified

3. the Underwriters shall not provide indemnity against

a. contractual Liability

b. liability for which indemnity is provided by any other insurance

c. liability in respect of loss of or damage to property belonging to or in the custody or under the control of any person entitled to indemnity under this Extension

d. liability in respect of **Bodily Injury** (as defined for Sections 1A & 1B) to any person entitled to indemnity under this Extension

e. liability caused by or arising from

i. the ownership or occupation of land or buildings

ii. the carrying on of any business profession trade or employment

iii. the ownership possession or use of animals other than horses or domestic dogs or cats

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 Underwriters in connection with a claim in respect of which the Policyholder is entitled to indemnity under this Section the Underwriters will provide compensation to the Policyholder at the following rates per day for each day on which attendance is required

a. any director or partner of the Policyholder £500

b. any **Employee** £250

All General Extensions are subject otherwise to the Policy terms Conditions Limitations and Exclusions

SECTION 3A CONTRACTORS ALL RISKS

OPERATIVE CLAUSE

The Underwriters will indemnify the **Insured** as stated in the Schedule by payment or at Underwriters option reinstatement or repair in respect of physical loss or physical damage arising from any cause not otherwise excluded and occurring anywhere within the **Territorial Limits** during the Period of Insurance to property which is being used or is intended for use in connection with the works on any contract site which is the subject of this Policy such property shall include

1. The works whether permanent or temporary materials incorporated or for incorporation therein other than property insured by item 2. below being the property of the **Insured** or for which the **Insured** are responsible including all transits in respect of any contract or work undertaken whether such contract or work was commenced during the Period of Insurance. The Sum Insured by this Section is subject to **Average**
2. Contractors` plant tools and equipment demountable and temporary buildings and/or caravans and/or other items of a like nature and materials and/or stores and/or any other property of whatsoever nature used or intended for use in connection with any contract works being undertaken by the **Insured** and insured under this Policy all being the property of the **Insured** or hired by the **Insured** under the Contractors Plant Association conditions or conditions no more onerous including transit by road rail or inland waterways. The Sum Insured by this section is subject to **Average** with the exception of plant Hired in by the **Insured**

EXCLUSIONS TO SECTION 3A

No indemnity is provided in respect of

1. consequential loss of use penalties for delay or non-completion or liquidated damages
2. loss of or damage to
   a. aircraft aero spatial devices or hovercraft
   b. waterborne craft or vessels other than safety boats non-self-propelled craft or other craft up to 20 feet in length on or about the contract site
3. loss of or damage to mechanically propelled vehicles other than
   a. vehicles designed primarily to operate as tools of trade (which shall be deemed to include any plant primarily designed to operate on or about a contract site)
   b. other vehicles brought on to a site for use only on such site
4. All costs rendered necessary by defects of material workmanship design plan or specification and should damage occur to any portion of the Property Insured containing any of the said defects the cost of replacement or rectification which is hereby excluded is that cost which would have been incurred if replacement or rectification of the Insured Property had been put in hand immediately prior to the said damage.

   For the purposes of this Section and not merely this Exclusion the Property Insured shall not be regarded as lost or damaged solely by virtue of the existence of any defect in design plan specification materials or workmanship in the Property Insured or any part thereof
5. the cost of making good
   a. mechanical or electrical breakdown or derangement
   b. wear tear gradual deterioration
   c. damage directly or indirectly caused by poor storage of materials incorporated into the works whether permanent or temporary howsoever arising

   but this Exclusion shall be limited to the parts immediately affected and shall not apply to accidental loss or damage arising in consequence thereof
6. the cost of making good any form of corrosion erosion rust oxidation mildew mould fungus spores or mycotoxins howsoever the same may arise from any damage directly or indirectly caused by corrosion erosion rust oxidation mildew mould fungus spores or mycotoxins
7. loss of or damage to stock and materials in trade and/or materials for incorporation into the contract works whilst away from any contract site unless in transit
8. loss of or damage to cash notes postal and/or money orders cheques stamps or negotiable instruments of whatsoever nature or other securities for money
9. loss of or damage to any part of the property insured arising out of the works being taken into use or occupation (except for testing and commissioning when applicable) unless the **Insured** shall give notice to Underwriters as soon as possible and

shall agree to pay such additional premium as Underwriters may reasonably require

This Exclusion shall not apply

a. to the use of any property as a show house with a value up to GBP 250,000 and contents with a value up to GBP 5,000

b. during the period of 14 days from the date of issue by the Engineer of a Certificate of Completion when a contract is subject to the Standard Conditions of Contract of the Institute of Civil Engineers or equivalent conditions of contract

10. any loss of property either by disappearance or by shortage if such disappearance or shortage is only revealed when a routine inventory is made or is not traceable to an individual event or occurrence

11. destruction or damage directly occasioned by pressure waves caused by aircraft and other aerial devices travelling at sonic or supersonic speeds

12. loss or damage for which the **Insured** is relieved of responsibility under the terms of any contract

13. loss or damage arising from directional drilling operations unless otherwise agreed

14. the cost of normal upkeep or normal making good

15. loss or damage which under the terms or conditions of the contract is the responsibility of the Employer unless the **Insured** has agreed under the terms or conditions of the said contract to accept responsibility to indemnify or to arrange insurance on the Employer's behalf in respect of such liability loss or damage

16. loss or damage caused by the wilful act or wilful negligence of the **Insured**

17. loss or damage to existing structures and/or existing property being worked upon unless otherwise agreed

18. loss or damage arising from transits by sea or air

19. loss or damage caused by contamination of asbestos or asbestos dust

20. loss or damage arising from **Terrorism** as follows

Notwithstanding any provision to the contrary within this Policy or any endorsement thereto unless an endorsement is issued that expressly overrides the provisions contained herein the Policy does not provide indemnity

a. for loss destruction of or damage to any property whatsoever or any loss or cost or expense of whatsoever nature resulting or arising therefrom or any consequential loss

b. against any legal liability of whatsoever nature

directly or indirectly caused by resulting from or contributed to by or arising from or in connection with

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

ii. any action taken in controlling preventing suppressing or in any way relating to any act of **Terrorism**

If the Underwriters allege that by reason of this Exclusion any loss liability damage cost or expense or consequential loss is not covered by this Policy the burden of proving the contrary shall be upon the **Insured**

21. loss or damage arising from contracts involving work in on over or adjacent to tidal waters tunnels (but not cut and cover) galleries with an estimated contract value greater than GBP 25,000 unless specifically agreed

22. Theft:

1. from unattended vehicles at the **Insured**'s premises unless the vehicle is in a locked building or secure compound

2. from unattended vehicles otherwise away from any contract site unless

a) in respect of items carried inside any such vehicle or contained within vehicle storage boxes

i) the vehicle is secured by all factory fitted locks and alarm/immobiliser (where fitted) and

ii) any externally mounted vehicle storage boxes are locked and

iii) the keys have been removed from the vehicle

or the vehicle is garaged in a locked building or parked in a secure compound

b) in respect of items carried upon or attached to any such vehicle

i) the vehicle is garaged in a locked building or parked in a secure compound or

ii) the vehicle is in transit other than where parked overnight and the keys have been removed from the vehicle

3. of plant and equipment when not in use unless

a) the item is secured by all factory fitted locks and alarm/immobiliser (where fitted) and

b) the keys have been removed from the item

23. loss or damage to any contract or plant or equipment within the High Radio Active Zone (HRZ) of any nuclear installation

24. any:

a) "Cyber Loss"

b) loss damage liability claim cost expense of whatsoever nature directly or indirectly caused by contributed to by resulting from arising out of or in connection with any loss destruction misuse misrepresentation corruption unauthorised appropriation loss of use modification unauthorised transmission reduction in functionality repair replacement restoration or reproduction of or unauthorised access to any "Data", including any amount pertaining to the value of such "Data"

regardless of any other cause or event contributing concurrently or in any other sequence thereto

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

For the purpose of this Exclusion:

"Cyber Loss" means any loss damage liability claim cost or expense of whatsoever nature directly or indirectly caused by contributed to by resulting from arising out of or in connection with any "Cyber Act" or "Cyber Incident" including but not limited to any action taken in controlling, preventing suppressing or remediating any "Cyber Act" or "Cyber Incident"

"Cyber Act" means an unauthorised malicious or criminal act or series of related unauthorised malicious or criminal acts regardless of time and place or the threat or hoax thereof involving access to processing of use of or operation of any "Computer System"

"Cyber Incident" means any error or omission or series of related errors or omissions involving access to processing of use of or operation of any Computer System or any partial or total unavailability or failure or series of related partial or total unavailability or failures to access process use or operate any Computer System

"Computer System" means any computer hardware software communications system electronic device (including but not limited to smart phone laptop tablet wearable device) server cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input output "Data" storage device networking equipment or back up facility

"Data" means information facts concepts code or any other information of any kind that is recorded or transmitted in a form to be used accessed processed transmitted or stored by a "Computer System

25. any loss damage liability claim cost or expense of whatsoever nature directly or indirectly caused by contributed to by resulting from arising out of or in connection with a "Communicable Disease" or the fear or threat (whether actual or perceived) of a "Communicable Disease" regardless of any other cause or event contributing concurrently or in any other sequence thereto provided that subject to the other terms conditions and exclusions contained herein this Policy shall cover physical loss of or damage to the property insured where such physical loss or damage is directly caused by or arising from fire lightning explosion aircraft or vehicle impact power failure or surge falling objects windstorm rainstorm hail tornado cyclone typhoon hurricane earthquake seaquake seismic and/or volcanic disturbance/eruption tsunami flood storm surge water damage liquefaction freeze ice storm sleet weight of snow or ice avalanche smoke sprinkler leakage meteor/asteroid impact landslip landslide mudslide sinkhole collapse bush fire forest fire riot riot attending a strike looting civil commotion vandalism and malicious mischief or theft

For the purpose of this Exclusion Communicable Disease means any disease which can be transmitted by means of any substance or agent from any organism to another organism where:

i. the substance or agent includes but is not limited to a virus, bacterium parasite or other organism or any variation thereof whether deemed living or not and

ii. the method of transmission whether direct or indirect includes but is not limited to airborne transmission bodily fluid transmission transmission from or to any surface or object solid liquid or gas or between organisms and

iii. the disease substance or agent can cause or threaten damage to human health or human welfare or can cause or threaten damage to deterioration of loss of value of marketability of or loss of use of property

26. loss or damage arising from contracts originally scheduled to be of longer duration than 36 months (exclusive of the maintenance period)

SECTION 3B TOOLS

OPERATIVE CLAUSE

The Underwriters will indemnify the **Insured** as stated in the Schedule by payment or at Underwriters option reinstatement or repair in respect of physical loss or physical damage arising from any cause not otherwise excluded and occurring anywhere within the **Territorial Limits** during the Period of Insurance to property which is being used or is intended for use in connection with the works on any contract site which is the subject of this Policy such property shall include

Employees Tools and Effects for which the **Insured** is responsible whilst on any site or for which the **Insured** is responsible under the terms of any joint working agreement. Our liability in respect of the amount payable to any one Insured Person shall not exceed:

1. the Sum Insured stated in the Schedule

2. £500 in respect of any one **Tool**

The Sum Insured by this section is subject to **Average**

EXCLUSIONS TO SECTION 3B

No indemnity is provided in respect of

1. indirect loss of any kind

2. Damage to **Tools** due or attributable to

   b. wear tear rust corrosion mildew or other gradual deterioration or vermin or insect

   c. any process of cleaning repair or restoration

   d. its own mechanical electrical or electronic breakdown failure or derangement

3 Physical loss or damage which is not traceable to an identifiable occurrence or which is caused by deception

4. Theft

   1. from unattended vehicles at the **Insured**'s premises unless the vehicle is in a locked building or secure compound

   2. from unattended vehicles otherwise away from any contract site unless

      a) in respect of items carried inside any such vehicle or contained within vehicle storage boxes

      i) the vehicle is secured by all factory fitted locks and alarm/immobiliser (where fitted) and

      ii) any externally mounted vehicle storage boxes are locked and

      iii) the keys have been removed from the vehicle

      or the vehicle is garaged in a locked building or parked in a secure compound

      b) in respect of items carried upon or attached to any such vehicle

      i. the vehicle is garaged in a locked building or parked in a secure compound or

      ii. the vehicle is in transit other than where parked overnight and the keys have been removed from the vehicle

   3. of plant and equipment when not in use unless

      a) the item is secured by all factory fitted locks and alarm/immobiliser (where fitted) and

      b) the keys have been removed from the item

5. Physical loss or damage to **Tools**

   a) occurring while lent to or being used by anyone other than an Insured Person or an **Employee**

   b) while hired out

6. Damage to ladders generators transformers or any other equipment or **Tool** not designed to be applied directly to the work by hand

7. Physical loss or damage to portable computers and ancillary equipment and/or portable telecommunication equipment

MEMORANDA TO SECTION 3A & 3B

1. PROFESSIONAL FEES

This Section includes architects' surveyors' consulting engineers' and other professional fees necessarily incurred in connection with the reinstatement of property insured

Provided that

a. such fees shall not exceed those authorised under the scale of the appropriate professional body or institute regulating such charges subject to a maximum of 15% of the estimated contract value or GBP 250,000 whichever is the less

b. the Underwriters shall not provide indemnity against any fees incurred in preparing or pursuing any claim

2. DEBRIS REMOVAL

This Section includes costs and expenses necessarily incurred in respect of removal of debris dismantling demolition (including off site storage) shoring propping and clearance of drains and sewers following loss or damage insured up to 10% of the amount of the loss

3. SPECULATIVE HOUSING

In the event of speculative housing being completed but unsold cover under this Section shall continue for a period of three months unless otherwise agreed from the date of practical completion but the Underwriters liability shall not exceed GBP 250,000 any one occurrence

4. PLANS

The property insured by Paragraph 1. of the Operative Clause shall be deemed to include plans and specifications or other contract documentation of the works or temporary works but only for the cost of reproducing such plans specifications and documentation up to maximum limit of GBP 10,000

5. GENERAL INTEREST

This Section duly notes the interest of any Bank Finance Company Building Society and any other institution or concern that have a financial interest in the property insured by this Section

6. MAINTENANCE

Where required by contract this Section includes physical loss or physical damage

a. occurring during the maintenance period (not exceeding twenty four months unless otherwise agreed) from a cause arising before the issue of a certificate of practical completion

b. occasioned by the **Insured** in the course of fulfilling his obligations during the maintenance period as required by the terms of the contract

7. OCCURRENCE

The word "occurrence" shall mean all individual losses arising out of and directly occasioned by one event However the duration and extent to any "occurrence" so defined shall be limited to

72 consecutive hours as regards hurricane typhoon windstorm rainstorm hailstorm and/or tornado

72 consecutive hours as regards earthquake seaquake tidal wave and/or volcanic eruption

8. EMPLOYEES EFFECTS DEFINITION

It is understood and agreed that for the purpose of this Section the **Insured's Employees** effects shall include physical loss of or physical damage to tools clothing and personal effects (but not furs money and jewellery) belonging to any

a. director or **Employee** of the **Insured**

b. clerk of works resident engineer or his **Employee**

whilst on or about any contract site

9. ADJUDICATION AWARDS CLAUSE

a. The Underwriters will indemnify the **Insured** against an award (or any part thereof) made in respect of a construction dispute and resulting from an adjudication procedure which complies with the provisions of the Housing Grants Construction and Regeneration Act 1996

   i. indemnity shall only apply to the extent that such an award relates to loss damage or liability for which an indemnity is provided by this Section

   ii. any payment made by the Underwriters in respect of such an award shall be made without prejudice to any other rights of the Underwriters under this Section

b. It is a condition precedent to any liability of the Underwriters to make any payment under this Memorandum where there is a construction contract dispute relating to loss damage or liability for which an indemnity is or may be provided by this Memorandum

   i. any notice received by the **Insured** from any party of intention to refer such a dispute for adjudication shall be forwarded to the Underwriters within five days of receipt

   ii. the **Insured** shall provide prior notice to the Underwriters of any intention by them to refer any such dispute for adjudication

   iii. the **Insured** shall not accept any award made by an adjudicator to such a dispute as being final without the prior agreement of the Underwriters

10. JOINT CODE OF PRACTICE

In respect of all contracts or work whose estimated value (including free issue materials) exceeds GBP 1,000,000 the **Insured** undertakes to comply with the Joint Code of Practice on the Protection from Fire of Construction Sites and Buildings Undergoing Renovation Fifth Edition dated January 2000 (the Joint Code) or any subsequent edition thereof

The appointed representative of the Underwriters shall have the right at all reasonable times to enter and inspect any such contract site for the purpose of ensuring that the conditions of such sites or work in all respects comply with the Joint Code

For the purpose of Paragraph 6.3 of the Joint Code any building site including those where demolition alterations fitting out renovations refurbishment or repair work is carried out whose estimated value (including free issue materials) exceeds GBP 20,000,000 shall be deemed to be a “Large Project”

In the event of a breach of the Joint Code the Underwriters may inform the Employer and management of the **Insured** the nature of the breach and may specify the required remedial measures (the Remedial Measures) and the reasonable period of time in which such Remedial Measures are to be completed If the **Insured** should fail to complete such Remedial Measures within the specified time the Underwriters may confirm the same by notice in writing given by actual delivery or by registered post or by recorded delivery to both the Employer and the **Insured** at their respective addresses nominated by the **Insured** at the inception of cover or as otherwise subsequently amended

Such notice shall at the discretion of the Underwriters either suspend or cancel the Policy from the date named in the notice which shall not be less than 30 days from the date of delivery of such notice it being understood the Policy may be reinstated with effect from the date on which the Underwriters are satisfied that the Remedial Measures have been completed

This Memorandum shall prejudice waive or remove the rights of the Underwriter or the **Insured** under the terms exceptions and conditions of this Section

11. PUBLIC AUTHORITIES REQUIREMENTS

The Underwriters will indemnify the **Insured** for such additional costs of reinstatement of the works as may be incurred with the Underwriters written consent in complying with the stipulations of legislation or building or other regulations under or framed in pursuance of any Act of Parliament or bye-laws of any public authority first imposed upon the **Insured** following damage provided that the reinstatement is completed within twelve months of the occurrence of the loss or damage or within such further time as the Underwriters may in writing allow

Provided that the Underwriters shall not be liable in respect of costs for

a) requirements relating to any undamaged part of the works other than foundations (unless foundations are specifically excluded from this Section)

b) any rate tax duty development or other charge or assessment which may arise out of capital appreciation as a result of complying with any of the regulations or requirements referred to

12. EXPEDITING EXPENSES

In the event of loss of or damage to Items 1 and 3 of the property insured the cost of repair reinstatement or replacement admitted under this Section shall subject to the consent of the Underwriters include the additional costs of overtime weekend shift working plant hire charges express delivery (including air freight) necessarily and reasonably incurred in expediting repair reinstatement or replacement of such loss or damage (but excluding any such costs to expedite the completion of any construction erection or installation of property not lost or damaged) provided that the liability of the Underwriters shall not exceed GBP 50,000 in respect of each and every loss or series of losses arising out of one originating cause

13. CONTINUING HIRE CHARGES

Cover under this Section is extended to indemnify the **Insured** in respect of their legal liability for the payment of hiring charges in respect of plant hired in by the **Insured** under Contractors Plant Association and/or British Crane Hire Corporation Conditions of Hire or conditions imposing similar liability whilst such plant is out of use following loss or damage for which an indemnity is provided by this Section (or which would be provided thereunder but for the application of an Excess Clause)

The Underwriters will not be liable under this extension for

a. liability for a period longer than three months or GBP 50,000 whichever is the least

b. the first 7 days such plant is out of use

14. NEGLIGENT BREAKDOWN

The Underwriters will indemnify the **Insured** in respect of liability assumed under Clause 9(d) of the Model Conditions for the Hiring of Plant of the Construction Plant-Hire Association or any similar liability assumed under the Scottish Plant Owners Association Conditions or other Conditions no more onerous than these

15. IMMOBILISED PLANT

In the event of constructional plant and/or equipment becoming unintentionally immobilised in any physical situation in or about the site of an insured contract the necessarily incurred cost of recovery and/or withdrawal shall be "damage" within the meaning of this Section

Always provided that the total liability in respect of the actual damage and the recovery cost shall not exceed the total value of the item at the time of the damage

No indemnity shall be provided hereon in respect of the cost of recovery and/or withdrawal following electrical or mechanical breakdown or derangement where such is the sole reason for the recovery and/or withdrawal

16. INCREASE

If during the Period of Insurance the actual reinstatement value of the property insured shall be in excess of the sum insured stated in the Schedule then the sum insured shall be deemed to be increased by the amount of such excess but not exceeding in all 20% of the sum insured stated in the Schedule

17. PILING CONDITION

Notwithstanding anything contained herein to the contrary it is a condition of this Policy that the Underwriters shall not be liable to indemnify the Insured in respect of

1) foundation piles and/or casings and/or sheet pile constructions which are

a) misplaced and/or misaligned

b) lost or damaged during driving and/or extraction

c) the subject of individual or block disconnection or declutching

For the purpose of this Policy loss or damage to foundation piles and/or casings and/or sheet pile constructions shall be deemed to have occurred during driving extraction disconnection or declutching unless the Insured can produce satisfactory evidence to demonstrate otherwise

2) the cost of repair replacement or rectification of piling work necessitated by leakage or infiltration of liquid fluids or material at seams joints connections and/or beneath sheet pile constructions or into casings unless such leakage or infiltration is a direct consequence of other physical loss or physical damage for which indemnity is provided by this Policy

3) any abandoned piling work unless such abandonment is a direct consequence of other physical loss or physical damage for which indemnity is provided by this Policy

4) piles which have failed to pass a load test or to reach the required bearing load unless such failure is a direct consequence of physical loss or damage for which indemnity is provided by this Policy

5) loss or damage to any property directly resulting from the failure of piles or piling work which were known by the Insured to fail

to meet the specification prior to the occurrence of the loss or damage unless the specification had been amended to allow for this weakness

18. AUTOMATIC REINSTATEMENT

In consideration of the sum insured not being reduced by the amount of any loss or damage the **Insured** shall pay the appropriate additional premium calculated at pro rata of the applicable rate on the amount of the loss or damage from the date thereof to the expiry of the period of insurance

19. OFFSITE STORAGE

notwithstanding Exclusion 7 Underwriters will indemnify the **Insured** in respect of physical loss of or physical damage to finished materials or goods designated for and awaiting incorporation into specific contract works while such goods are temporarily held In store away from the contract site but not while such materials or goods are being worked upon subject to a limit of GBP 5,000 any one occurrence

EXCLUSIONS TO ALL SECTIONS

No indemnity is provided

1.

a. in respect of liability or loss of or damage to property directly or indirectly occasioned by 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

b. in respect of liability or loss of or damage to property directly or indirectly caused by or contributed to or arising from

i. ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel

ii. the radioactive toxic explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof but as far as concerns Section 2 this Exclusion will only apply where such legal liability is

1) that of any principal

2) accepted under agreement and would not have attached in the absence of such agreement

2. for the amount of any excess shown in the Schedule including costs and expenses

3. in respect of liability arising in connection with
   a) any work of demolition involving
      i. ball and chain
      ii. a method designed and/or intended to demolish any structure or part thereof in one sudden and uninterrupted process
      iii. the use of explosives
   b) the construction or structural alteration or repair of transport tunnels
   c) the construction or structural alteration or repair of basements
   d) the construction or critical maintenance of hydroelectric or reservoir dams
   e) the construction alteration or repair of blast furnaces
   f) work in connection with rail signalling equipment or the laying maintenance or repair of railway track other than private sidings
   g) any shipbuilding or ship repairing other than contractors working on board a vessel unless such work is critical to the safety of the vessel
   h) work on the structure or controls of any aircraft
   i) work on motor vehicles licensed for road use where such work is critical to the safety of the vehicle
   j) tree felling and/or tree climbing
   k) cavity wall insulation works when such works have been performed on an existing property building or structure
   l) kitchen extract duct-work canopy cleaning degreasing and/or removal of fat

4. in respect of liability directly or indirectly arising out of the failure to adequately remove, treat or control invasive species of vegetation

5. any work undertaken **Offshore**

6. any manual work undertaken in the United States of America

7. the operations of any incorporated entity in the United States of America or the ownership of any property or physical assets in the United States of America

8. any travel to any location which is contrary to Foreign Commonwealth Office advice

9. loss of or damage to property lifted and/or moved by cranes or other lifting devices

Sanction Limitation and Exclusion Clause

Underwriters will not provide cover be liable to pay any claim or provide any benefit if to do so would expose Underwriters (or any parent company direct or indirect holding company of Underwriters) to any penalty or restriction (including extraterritorial penalties or restrictions so far as such do not contradict laws applicable to the Underwriters) arising out of any trade and economic sanctions laws or regulations which are applicable to Underwriters

CONDITIONS APPLICABLE TO ALL SECTIONS

(Conditions 1. 2. and 15. are precedent to Underwriters' liability to provide indemnity under this Policy)

1. Claims Procedure

The **Insured** shall give written notice to the Underwriters as soon as reasonably practicable of any incident that may give rise to a claim under this Policy and shall give all such additional information as the Underwriters 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 Underwriters 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 Underwriters or their appointed agents to allow the Underwriters 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

In the event of any occurrence giving rise to loss or damage under Section 3 of this Policy the **Insured** shall take such immediate action as is necessary to minimise the loss and in the case of property which has been lost stolen maliciously or wilfully damaged the **Insured** shall give immediate notice to the Police and take all practicable steps to recover property lost and to discover the person or persons responsible for such loss or damage If Condition 19 of this Policy is operative the **Insured** shall notify The Equipment Register Office 2 H/I, Wessex House, 40 Station Road, Westbury, Wiltshire BA13 3JN Tel No: 01225464599 https://www.ter-europe.org in respect of any theft of any plant or equipment

No admission offer promise or payment shall be made or given by or on behalf of the **Insured** without written consent of the Underwriters who shall be entitled to take over the 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 Underwriters may reasonably require

If any difference shall arise as to the amount to be paid under this Policy (liability being otherwise admitted) such difference shall be referred to an Arbitrator to be appointed by the parties in accordance with the statutory provisions for the time being in force Where any difference is by this Condition to be referred to arbitration the making of an Award shall be a condition precedent to any right of action against the Underwriters

2. Alterations in Risk

The **Insured** is required to notify the Underwriters of all material facts or alterations in the risk which come to his knowledge or arise during the currency of this Policy

3. Choice of Law Clause

It is hereby agreed between Underwriters and the **Insured** that indemnity provided by this Policy shall apply only to judgements of first instance against the **Insured** in the Courts of Law of Great Britain Northern Ireland the Isle of Man and the Channel Islands and not to judgements obtained elsewhere nor to judgements or orders obtained in the said courts for the enforcement of foreign judgements whether by way of reciprocal agreements or otherwise unless the **Insured** has requested that there shall be no such limitation and has accepted the terms offered by Underwriters in granting such cover which offer and acceptance must be signified by specific endorsement to this Policy

4. Discharge of liability

The Underwriters 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 Indemnity applies the amount of such Limit (after deduction of any sums already paid) or any lesser amount for which such claims can be settled and upon such payment being made the Underwriters shall relinquish the conduct and control of and be under no further liability in connection with such claims

5. Apportionment of Defence Costs

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

6. Policy Interpretation

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

7. Other Insurance

If any claim covered by this Policy is also covered in whole or in part by any other insurance Underwriters shall have no liability to contribute to such claim

8. Fraudulent Claims

If the **Insured** shall make any claim knowing the same to be fraudulent or false as regards the amount or otherwise (including the provision of false or fraudulent documents or statements) then

Underwriters will:

a. refuse to pay the whole of the claim and

b. recover from the **Insured** any sums that it has already paid in respect of the claim

Underwriters may also notify the **Insured** that it will be treating all sections of this policy as having terminated with effect from the date of the earliest of any of the fraudulent act In that event the **Insured** will

a. have no cover under the Policy from the date of termination and

b. not be entitled to any refund of premium

9. Cancellation Clause

Underwriters may cancel this Policy by sending thirty days written notice to the Policyholder's last known address whereupon the Policyholder shall become entitled to a refund of a proportionate part of the premium

10. Precautions

The **Insured** shall take all reasonable precautions or steps

a. to observe and comply with all Statutory or local authority laws obligations and requirements

b. in the selection of **Employees** or sub-contractors

c. to see that construction plant equipment and machinery are substantial and sound and in proper order and fit for the purposes for which they are used

11. Temporary Precautions

If any defect in the Contract Works or construction plant equipment and machinery shall be discovered the **Insured** shall until such defect has been made good cause temporary precautions to be taken as the circumstances may require

The **Insured** shall at all times take all reasonable precautions to prevent accidents injury loss or damage

12. Subrogation

Any claimant under this Policy shall at the request and at the expense of the Underwriters do and concur in doing and permit to be done all such acts and things as may be necessary or reasonably required by the Underwriters for the purpose of enforcing any rights and remedies of or obtaining relief or indemnity from other parties to which the Underwriters shall be or would become entitled or subrogated upon its paying for or making good any damage insured by this Policy whether such acts and things shall be or become necessary or required before or after their indemnification by the Underwriters

13. Contracts (Rights of Third Parties) Act 1999 Clarification Clause

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

14. Policy Disputes Clause

Any dispute concerning the interpretation of the terms Conditions Limitations or Exclusions contained herein is understood and agreed by both the **Insured** and the Underwriters 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

15. Premium Payment

It is a condition precedent to liability that all Premiums due to Underwriters are paid within 60 days of inception of this Policy. Non-receipt by Underwriters of such Premiums by midnight of the Premium Due Date shall render this Policy void with effect from inception

16. Due Observance

If the **Insured** does not comply with any part of any condition which makes payment of any claim conditional upon such compliance Underwriters will not pay the claim except where:

1. compliance would tend to reduce the risk of loss of a particular kind or at a particular time or location and
2. the **Insured** has demonstrated that the non-compliance could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred

17. No claims discount

A discount will be allowed in calculating premiums for this Policy in accordance with the following discount scale subject to no claims having been made resulting in payment or still being outstanding

Discount Scale

Number of claim free years	Discount
1 year	5%
2 consecutive years	10%
3 consecutive years	15%
4 or more consecutive years	20%

Any claim made will result in the discount earned being reduced to nil.

18. Alteration in the number of workers

We must be advised within 14 days if the number of workers exceeds the number specified in the Schedule and any additional premium paid unless such workers are temporary Employees and You are indemnified as agreed in the Temporary Employees Clause of this Policy.

19. The National Plant & Equipment Register

It is a Condition of this Policy that all Construction Plant Tools Machinery and Equipment with an individual value in excess of GBP 25,000 must be registered with The Equipment Register Office 2 H/I, Wessex House, 40 Station Road, Westbury, Wiltshire BA13 3JNTel No: 01225464599 https://www.ter-europe.org/ within 60 days of inception Failure to do so will mean cover provided under Item No. 3) of the Schedule is cancelled

NOTICE

The **Insured** must make a fair presentation of the risk at inception renewal and variation of this Policy

If the **Insured** fails to make such a fair presentation of the risk

a. Underwriters may avoid this Policy and refuse all claims if

   i. such failure was deliberate or reckless and/or

   ii. Underwriters would not have entered into this Policy on any terms if the **Insured** had made a fair presentation of the risk

Should Underwriters avoid the Policy Underwriters shall return the premium paid to the **Insured** unless such failure was deliberate or reckless

b. if Underwriters would have entered into the Policy but on different terms had the **Insured** made a fair presentation of the risk Underwriters may

   i. reduce proportionately the amount to be paid on any claim if Underwriters would have charged a higher premium calculated by applying the percentage that the actual premium charged bears to the premium that would have been charged had the **Insured** made a fair presentation of risk and/or

   ii. treat the Policy as entered into on any such different terms (other than relating to the premium) that Underwriters would have entered into had the **Insured** made a fair presentation of risk

CLAIMS

All claims and enquiries should be addressed to:

Moorhouse Group Ltd Claims Department

Barclay House

2-3 Sir Alfred Owen Way

Caerphilly

CF83 3HU

Telephone: 02920 881599

Email: claims@moorhouseinsurance.co.uk

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

Compliance Officer

Tokio Marine HCC

The St Botolph

Building,

138-139

Houndsditch,

London,

EC3A 7BT

The Financial Ombudsman Service (FOS)

Should you be dissatisfied with the outcome of your complaint, you may have the right to refer your complaint to the Financial Ombudsman Service. The FOS is an independent service in the UK for settling disputes between consumers and businesses providing financial services. Contacting the FOS does not affect your right to take legal action.

The FOS's contact details are as follows:

Financial Ombudsman Service

Exchange Tower

London | E14 9SR
Email: complaint.info@financial-ombudsman.org.uk Telephone: +44(0)30-0123-9123 Website: www.financial-ombudsman.org.uk

DATA PROTECTION NOTICE

Tokio Marine HCC respects your right to privacy. In our Privacy Policy (available at https://www.tmhcc.com/en/legal/privacy-policy) we explain who we are, how we collect, share and use personal information about you, and how you can exercise your privacy rights. If you have any questions or concerns about our use of your personal information, then please contact DPO@tmhcc.com.

We may collect your personal information such as name, email address, postal address, telephone number, gender and date of birth. We need the personal information to enter into and perform a contract with you. We retain personal information we collect from you where we have an ongoing legitimate business need to do so (please note that reference to "you" or "your" herein encompasses non-exhaustively "you, your company, employees and / or customers").

We may disclose your personal information to:

- our **group companies;**
- **third party services providers and partners** who provide data processing services to us or who otherwise process personal information for purposes that are described in our Privacy Policy or notified to you when we collect your personal information;
- any **competent law enforcement body, regulatory, government agency, court or other third party** where we believe disclosure is necessary (i) as a matter of applicable law or regulation, (ii) to exercise, establish or defend our legal rights, or (iii) to protect your interests or those of any other person;
- a **potential buyer** (and its agents and advisers) in connection with any proposed purchase, merger or acquisition of any part of our business, provided that we inform the buyer it must use your personal information only for the purposes disclosed in our Privacy Policy; or
- any **other person with your consent** to the disclosure.

Your personal information may be transferred to, and processed in, countries other than the country in which you are resident. These countries may have data protection laws that are different to the laws of your country. We transfer data within the Tok io Marine group of companies by virtue of our Intra Group Data Transfer Agreement, which includes Standard Contractual Clauses.

We use appropriate technical and organisational measures to protect the personal information that we collect and process about you. The measures we use are designed to provide a level of security appropriate to the risk of processing your personal information.

You are entitled to know what data is held on you and to make what is referred to as a **Data Subject Access Request ('DSAR').** You are also entitled to request that your data be corrected in order that we hold accurate records. In certain circumstances, you have other data protection rights such as that of requesting **deletion, objecting to processing, restricting processing** and in some cases **requesting portability**. Further information on your rights is included in our Privacy Policy. You can opt-out of marketing communications we send you at any time. You can exercise this right by clicking on the "unsubscribe" or "opt-out" link in the marketing e-mails we send you. Similarly, if we have collected and processed your personal information with your consent, then you can **withdraw your consent** at any time. Withdrawing your consent will not affect the lawfulness of any processing we conducted prior to your withdrawal, nor will it affect processing of your personal information conducted in reliance on lawful processing grounds other than consent. You have the **right to complain to a data protection** authority about our collection and use of your personal information