



# Property Owners Protector Policy

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We welcome you as a Policyholder of Argus Insurance Company (Europe) Limited a locally incorporated Company associated with the Argus Insurance Group offering you an extensive insurance service.

Please read this Policy Booklet together with your Schedule. These set out the cover you have chosen, plus any limits that apply. If you are not satisfied with the details or the policy does not cover your needs, please return the Schedule to your insurance adviser.

## **THE CONTRACT OF INSURANCE**

This policy is a contract between you and Argus Insurance Company (Europe) Limited and is based on the information you gave us when you applied for this insurance. In return for your premium, we will provide the cover shown in the Schedule during the period of insurance.

## **THE LEGAL DEFINITION**

In return for payment by you, we will provide insurance in accordance with the policy cover shown in the policy schedule in respect of accident, injury, loss or damage occurring within the territorial limits (or in the course of transit between any ports therein including the processes of loading and unloading) during the period of insurance.

## **LAW APPLICABLE TO CONTRACT**

You and the insurer are free to choose the law to this contract but in the absence of agreement to the contrary, the law of the country in which you reside at the date of the contract (or, in case of a business, the law of the country in which the registered office or principle place of business is situated) will apply. If you are not resident (or, in the case of a business, the registered office or principle place of business is not situated) in Gibraltar, the law which will apply is the law of Gibraltar.

## **USE OF LANGUAGE**

Unless otherwise agreed, the contractual terms and conditions and other information relating to this contract will be in English.

## **CHANGES WE NEED TO KNOW ABOUT**

Please tell your insurance adviser immediately if there are any changes which may affect this insurance for example:

- The people to be insured;
- The sums insured are not adequate;
- Change of vehicle;
- Criminal convictions or cautions of the people insured.

Any change in circumstances may result in revised terms and conditions of this policy from the date of the change. If you do not tell us about any change, it may affect any claim you make.

Signed on behalf of the Insurer



**Tyrone Montovio**  
Authorised Signatory

## OUR SERVICE TO YOU, COMPLAINTS PROCEDURE AND OUR PROMISE OF SERVICE

We are committed to delivering a first class quality service to all our customers, we do however realise that occasionally things can go wrong. We take any complaint seriously and aim to resolve any problems as soon as possible.

To ensure that we provide the kind of service you expect, we always welcome your feedback to make sure that we continually improve our service to you.

What will happen if you make a complaint?

- We will acknowledge your complaint within 5 working days of receiving it.
- We will aim to resolve complaints, following assessment and investigation as soon as possible.

Most concerns can be resolved quickly, but sometimes we will need to go into more detail. If this looks likely we will keep you updated about the situation and let you know when you can expect to hear from us.

If you are unhappy with any aspect of the handling of your insurance, your first point of contact should be your insurance advisor or your usual Argus Insurance point of contact. You can write to us or telephone us, whatever suits you best, and ask your contact to review your problem.

If you are unhappy with the decision you receive from us, you should write to, The General Manager, Argus Insurance Company (Europe) Limited, PO Box 45, Regal House, 3 Queensway, Gibraltar.

If you are dissatisfied with our final decision, you can refer the matter to the Department of Consumer Affairs, 10 Governor's Lane, Gibraltar.

## DATA PROTECTION AND HOW WE PROCESS DATA

Processing of personal data is regulated by the General Data Protection Regulation EU 2016/679 together with other laws which relate to privacy and electronic communications. In this clause, we refer to these laws as "Data Protection Law".

During the course of our engagement with you, it will be necessary for you to disclose certain personal data to us in order that we may provide our services to you and to enable us to discharge the services agreed, to comply with related legal and regulatory obligations and for other related purposes including updating and enhancing client records and analysis for management purposes. This will require us to obtain, use, disclose and otherwise process personal data about you and, if applicable, your organisation, its shareholders, members and/or officers and employees.

For clarity, Data Protection Law contemplates various grounds which may render processing of personal data lawful, including where it is necessary for a contract, mandated by law, if it is in our or your legitimate interest (and does not override your privacy), and/or if you give us your consent. Our Privacy Notice (which can also be accessed at [www.argus.gi](http://www.argus.gi)) or provided to you in hard copy upon request, explains how we process personal data. In providing our services we act as an independent data controller and are, therefore, responsible for complying with Data Protection Law in respect of any personal data we process. You are responsible for complying with Data Protection Law in respect of the personal data you process and, accordingly, where you disclose personal data to us you confirm and warrant that such disclosure is fair and lawful, that where applicable and necessary you have obtained lawful consent from others for you to pass on their personal data to us, to the Argus Group and third-parties to whom we disclose personal data (and for the Argus Group and said third-parties to share the personal data with us), and otherwise it does not contravene Data Protection Law. Nothing within this document relieves you of your own direct responsibilities and liabilities under Data Protection Law. Terms used in this clause bear the same meanings as are ascribed to them in Data Protection Law. This clause does not apply to the extent that we act as a data processor for you, in which case specific data protection instructions are to be signed between us.

## POLICY DEFINITIONS

The following definitions apply to this Policy (unless amended by Section Definitions) and are denoted by a capital first letter throughout this Policy.

### ALL OTHER CONTENTS

Any contents that are not Contents of Common Parts, including:

- deeds, documents, manuscripts and business books, but only for the cost of the materials and clerical labour expended in reproducing such records
- computer systems records, but only for the cost of the materials and of clerical labour and computer time expended in reproducing such records, for an amount not exceeding £10,000 in total

and so far as they are not otherwise insured

- partners', directors' and employees' personal effects of every description (other than motor vehicles) whilst at the Premises, for an amount not exceeding £500 for any one person.

### BUILDING/BUILDINGS

The buildings at the Premises being, unless more specifically described, built mainly of brick, stone, concrete or other non-combustible materials, including:

- landlord's fixtures and fittings (including communal television and radio receiving aerials, satellite dishes and related fittings on or in residential Premises), fixed glass, fixed sanitaryware and walls, gates and fences in, on or pertaining to the buildings
- telephone, gas, water and electric instruments, meters, piping, cabling and the like and their accessories in, on or pertaining to the buildings including such property in adjoining yards or roadways or underground at the Premises extending to the public mains
- fuel tanks and their ancillary equipment, pipework and the like at the Premises
- small outside buildings, annexes, gangways, conveniences and other small structures at the Premises
- roads, car parks, yards, paved areas, hard-surfaced areas, pavements and footpaths at the Premises.

### BUSINESS

The business description stated in the Schedule.

### CONTENTS

Contents of Common Parts and All Other Contents

### CONTENTS OF COMMON PARTS

Fitted carpets, furnishings and other contents in reception and storage areas and other communal parts of the Buildings including:

- the contents of fuel tanks at the Premises
- portable communal property in the open grounds of and used in connection with the buildings.

### EXCESS

The first part of each and every claim, for which the Insured is responsible

### FLAT/FLATS

A self contained unit of residential accommodation forming part of the Building.

### INSURED

The insured named and shown in the Schedule

### INSURER

Argus Insurance Company (Europe) Limited.

### PERIOD OF INSURANCE

The period from the Effective Date to the Renewal Date as shown in the Schedule

## **SUM INSURED**

The maximum amount the Insurer will pay for each item insured under any Section.

## **TOTAL SUM INSURED**

The total amount payable by the Insurer under any Section

## **UNOCCUPIED**

Any Building, part of any Building or Flat that is unfurnished, untenanted or no longer in active use.

## **SECTION 1 - PROPERTY DAMAGE**

The following definitions apply to this Section in addition to the Policy Definitions

### **DEFINITIONS**

#### **PREMISES**

The Buildings at the address or addresses shown in the Schedule, including their grounds, all within the boundaries for which the Insured are responsible and being, unless more specifically described in the Schedule, occupied solely by the Insured for the purpose of the Business.

#### **COVER**

The Insurer will pay the Insured for Damage to Property Insured at the Premises caused by any of the Events operative under this Policy and not otherwise excluded occurring during the Period of Insurance.

### **EVENTS**

#### **1. Fire**, excluding Damage caused

- a. by explosion resulting from fire
- b. by earthquake or subterranean fire
- c. by its own spontaneous fermentation or heating, or its undergoing any heating process or any process involving the application of heat
- d. to any particular piece of electrical apparatus or fitting which has caused a fire due to self-ignition, over running, excessive pressure, short circuiting, self-heating or leakage of electricity

Lightning

Explosion

- a. of boilers
- b. of gas

used for domestic purposes only, but excluding any Damage caused by earthquake or subterranean fire.

#### **2. Explosion, excluding Damage**

- a. caused by or consisting of the bursting by steam pressure of a boiler (not being a boiler used for domestic purposes only), economiser or other vessel, machine or apparatus belonging to the Insured or under the control of the Insured, in which internal pressure is due to steam only

b. in respect of and originating in any vessel, machinery or apparatus or its contents, belonging to the Insured or under the control of the Insured, which requires to be examined to comply with any statutory regulations, unless there is in force a policy of insurance or other contract providing the required inspection service.

**3. Aircraft** or other aerial devices or articles dropped from them

**4. Riot, Civil Commotion, Strikers, Locked Out Workers, Persons Taking Part in Labour Disturbances or Malicious Persons** excluding

- a. Damage arising from nationalisation, confiscation, requisition, seizure or destruction by the Government or any public authority
- b. Damage arising from cessation of work
- c. Damage
  - i by theft or attempted theft
  - ii in respect of any building which is Unoccupied

directly caused by malicious persons not acting on behalf of or in connection with any political organisation, but the Insurer will pay for such Damage caused by fire or explosion

**5. Earthquake**

**6. Subterranean Fire**

**7. Storm, Tempest or Flood,** excluding

- a. Damage attributable solely to change in the water table level
- b. Damage by frost, subsidence, ground heave or landslip
- c. Damage in respect of fences, gates or moveable property in the open
- d. Damage to open-fronted or open-sided Buildings or to Property contained therein.

**8. Escape of Water from any Tank, Apparatus or Pipe,**

excluding

- a. Damage by water discharged or leaking from any automatic sprinkler installation
- b. Damage in respect of any Building which is Unoccupied.

**9. Impact by any road vehicle or animal**

**10. Sprinkler Leakage**

Accidental escape of water from any automatic sprinkler installation in the Premises not caused by

- a. freezing whilst the Building in so far as it is in the Insured's ownership or tenancy is Unoccupied
- b. explosion, earthquake, subterranean fire or heat caused by fire

**11. Theft or Attempted Theft** involving forcible and violent entry to or exit from the Buildings or hold-up by violence or threat of violence to the Insured or any partner, director, employee of the Insured or members of their families or any other person who has a legal right to be on the Premises excluding Damage

- a. expedited or in any way brought about by the Insured or any partner, director or employee of the Insured or any other person who has a legal right to be on the Premises



- b. to Money, deeds, securities, jewellery, precious stones or precious metals, bullion, furs, curiosities, works of art or rare books unless such property is specifically described in the Schedule
- c. to Property in the open or in open sided or fronted buildings or in buildings not on permanent foundations unless such buildings are specifically described in the Schedule.

**12. Subsidence, Ground Heave or Landslip** of any part of the Premises on which the Property Insured stands excluding Damage caused by

- a. collapse, cracking, shrinkage, expansion or settlement of Buildings or any part thereof
- b. coastal or river erosion
- c. defective design or workmanship or the use of defective materials including inadequate construction of foundations
- d. settlement or movement of made up ground
- e. the normal settlement or bedding down of new structures
- f. Damage to solid floor slabs or resulting from their movement unless the foundations beneath the external walls of the Buildings are Damaged at the same time and from the same cause
- g. Damage to yards, car parks, roads, pavements, landlords fixtures and fittings, security lighting and cameras, walls, gates, fences, fixed fuel oil tanks and fixed diesel tanks, piping, ducting, cables, wires and associated control gears and accessories, paved areas or footpaths unless a Building insured by this Section is Damaged by the same cause at the same time
- h. which originates prior to the inception of this cover
- i. demolition, construction, structural alteration or repair to any Buildings or groundworks or excavation at the same Premises
- j. Events 1, 2, 5, 6 or 8.

**Special Condition**

The Insured shall notify the Insurer immediately they become aware of any demolition, groundworks, excavation or construction being carried out on the same or any adjoining site. The Insurer shall then have the right to vary the terms or cancel cover in respect of subsidence, ground heave or landslip.

**13. Accidental Damage**, (if specified in the schedule) excluding

- a. Damage caused by or consisting of or arising from or attributable to
  - i any of the Events
  - ii any of the exclusions to the Events

specified in Events 1-12 and 14, whether Events 1-12 and 14 are insured or not

- b. Damage caused by or consisting of inherent vice, latent defect, gradual deterioration, wear and tear, frost, its own faulty or defective design or materials but this shall not exclude Damage which itself results from a cause not otherwise excluded
- c. Damage caused by or consisting of faulty or defective workmanship, operational error or omission by the Insured or any employee of the Insured

but this shall not exclude

- i such Damage not otherwise excluded which itself results from an insured Event
- ii subsequent Damage which itself results from a cause not otherwise excluded

- d. Acts of fraud or dishonesty by any partner, director or employee of the Insured but this shall not exclude such Damage not otherwise excluded which itself results from Events 1-12 and 14
- e. Damage caused by or consisting of corrosion, rust, wet or dry rot, shrinkage, evaporation, loss of weight, dampness, dryness, marring, scratching, vermin or insects, change in temperature, colour, flavour, texture or finish but this shall not exclude
  - i such Damage not otherwise excluded which itself results from Events 1 to 12 and 14
  - ii subsequent Damage which itself results from a cause not otherwise excluded
- f. Damage consisting of
  - i joint leakage, failure of welds, cracking, fracturing, collapse or overheating of boilers, economisers, super heaters, pressure vessels or any range of steam and feed piping connected to them
  - ii mechanical or electrical breakdown or derangement in respect of the particular machine, apparatus or equipment in which such breakdown or derangement originates

but this shall not exclude such Damage which itself results from other Damage and is not otherwise excluded, or subsequent Damage which itself results from a cause not otherwise excluded

- g. Damage caused by disappearance, unexplained or inventory shortage or the misfiling or misplacing of information
- h. Damage caused by normal settlement or bedding down of new structures
- i. Damage to any Building or structure caused by its own collapse or cracking, but this shall not exclude such Damage resulting from other Damage in so far as it is not otherwise excluded
- j. Damage in respect of fences, gates and moveable Property in the open caused by wind, rain, hail, sleet, snow or dust
- k. Damage to any Property resulting from its undergoing any process of production, packing, treatment, testing, commissioning, service or repair
- l. Damage in respect of
  - i jewellery, precious stones or precious metals, bullion, furs, curiosities, works of art or rare book
  - ii property in transit
  - iii glass (other than fixed glass), sanitaryware (other than fixed sanitaryware), china, earthenware, marble or other fragile or brittle objects
  - iv Money, bonds or securities of any description

but this shall not exclude other Damage in so far as it is not otherwise excluded

- m. Damage to
  - i vehicles licensed for road use (including accessories on them), caravans, trailers, railway locomotives, rolling stock, watercraft or aircraft
  - ii property or structures in course of construction or erection and materials or supplies in connection with all such property or structures
  - iii land, roads, pavements, piers, jetties, bridges, culverts or excavations
  - iv livestock, growing crops or trees

but this shall not exclude such Property specifically described in the Schedule

- n. theft or attempted theft

**14. Escape of Oil** from any fixed heating installation excluding

- a. Damage in respect of any Building or Property Insured in any Building which is Unoccupied
- b. Damage unless caused by a sudden identifiable unintended and unexpected incident which has taken place in its entirety at a specific time and place during the Period of Insurance
- c. the value of the oil lost

## **BASIS OF SETTLEMENT**

1. The Insurer will pay the Insured the value of the Property Insured at the time of its Damage, or at the Insurer's option will reinstate or replace such Property or any part of such Property.
2. The most the Insurer will pay for any one claim is the Total Sum Insured, or for each item its individual Sum Insured, or any other limit of liability in this Section whichever is the less at the time of Damage.
3. Any Excess will be deducted from the amount payable after the application of all terms and conditions of this Section and the Policy including any Average (Underinsurance) Basis of Settlement Adjustment. The Excess applies to each separate Premises.

## **AUTOMATIC REINSTATEMENT**

In the absence of written notice by the Insured or the Insurer to the contrary, in consideration of Sums Insured or limits of liability not being reduced by the amount of any claim from the date of the Damage, the Insured will pay the appropriate additional premium due for the period from the date of Damage to expiry of the Period of Insurance, but this shall not apply in respect of theft or attempted theft.

## **BASIS OF SETTLEMENT ADJUSTMENTS**

Subject to the terms, conditions, exclusions and limits of this Section, in calculating the most the Insurer will pay for any one claim, adjustments shall be made in accordance with the following clauses.

### **1. Reinstatement (Day One Basis)**

- a. Subject to the Special Conditions set out below, the basis on which the amount payable for Buildings and Contents is to be calculated will be the reinstatement of the Property Damaged.

For this purpose "reinstatement" means

- i the rebuilding or replacement of Property Damaged

which, provided the Insurer's liability is not increased, may be carried out

1. in any manner suitable to the requirements of the Insured
2. on another site

- ii the repair or restoration of Property Damage

in either case to a condition equivalent to, or substantially the same as, but no better or more extensive than its condition when new.

- b. The Declared Value having been stated in writing by the Insured, has been used to calculate the premium.

"Declared Value" means the assessment by the Insured of the cost of reinstatement of Property Insured arrived at in accordance with paragraph 1ai of the Basis of Settlement Adjustments at the level of costs applying at inception of the Period of Insurance (ignoring inflationary factors which may subsequently operate), together with, to the extent that cover provides, due allowance for

- i any additional cost of reinstatement to comply with Public Authorities regulations, bye-laws or stipulations
- ii professional fees
- iii removal of debris costs.

## **Reinstatement (Day One Basis) Special Conditions**

1. At the inception of each Period of Insurance, the Insured shall notify the Insurer of the Declared Value of Property Insured. In the absence of such declaration the last amount declared by the Insured will be taken as the Declared Value for the new Period of Insurance, appropriately adjusted for Index Linking where applicable.

For the purposes of this Condition, Index Linking shall be calculated in the following manner.

Sums Insured and/or Declared Values will be adjusted in accordance with current indexation percentages in the appropriate index and renewal premiums will be based on the adjusted Sums Insured and/or Declared Values.

The percentage changes will continue to be applied between the date of any Damage and the date when replacement or repair has been completed.

2. If at the time of Damage the Declared Value of the Property is less than the cost of reinstatement (as defined in paragraph 1ai of the Basis of Settlement Adjustments) at inception of the Period of Insurance, the amount payable by the Insurer will be proportionately reduced.
3. The Insurer's liability for the repair or restoration of Property Damaged in part only, shall not exceed the amount which would have been payable if such Property had been wholly destroyed.
4. No payment beyond the amount the Insurer would have paid in the absence of this clause will be made
  - a. unless reinstatement commences and proceeds without unreasonable delay
  - b. until the cost of reinstatement has actually been incurred
  - c. where Property Insured at the time of Damage is covered by any other insurance effected by the Insured, or on behalf of the Insured, which is not on the same basis of reinstatement.
5. All the terms and conditions of this Section and the Policy shall apply
  - a. to any claim payable under the provisions of this clause, other than where they are expressly varied by the terms of this clause
  - b. where claims are payable as if this clause had not been incorporated, except that Sums Insured will be limited to Declared Values.

## **2. Average (Underinsurance)**

The Sums Insured by

- a. any items for Buildings or Contents subject to the Reinstatement (Day One Basis) clause are declared to be separately subject to Average as described in Special Condition 2 of such clause
- b. any other items of Property Insured (other than any Sum Insured applying solely to rent, fees, removal of debris or private dwellings) are declared to be separately subject to Average. This means if at the time of Damage the Sum Insured for any item is less than the value of the item covered by such Sum Insured, the amount payable by the Insurer will be proportionately reduced.

## **3. Contribution and Average**

If at the time of Damage any other insurance has been effected by or on behalf of the Insured covering any of the Property Damaged, the Insurer's liability under this Section shall be limited to the Insurer's rateable proportion of such Damage.

If such other insurance is subject to Average (Underinsurance), this Section if not already subject to Average shall be subject to

Average in like manner.

If such other insurance is subject to any provision which excludes it from ranking concurrently with this Section, either in whole or in part, or from contributing rateably, the liability of the Insurer under this Section shall be limited to that proportion of the Damage which the Sum Insured for this Section bears to the value of the Property.

#### **4. Public Authorities**

Subject to the Public Authorities Special Conditions set out below, cover for Buildings and Contents includes an amount in respect of any additional cost of reinstatement which is incurred solely by reason of the necessity to comply with building or other regulations under or framed in pursuance of any Act of Parliament, with bye-laws of any public authority or to comply with the stipulations of European Union legislation, in consequence of Damage, excluding

1. the cost incurred in complying with such regulations, bye-laws or stipulations
  - a. in respect of Damage occurring prior to the granting of this cover
  - b. in respect of Damage not insured by this Section
  - c. under which notice has been served upon the Insured before the date of the Damage
  - d. in respect of undamaged Property or undamaged portions of Property, other than foundations (unless specifically excluded) of that portion of the Property Damaged
2. the additional cost that would have been required to make good the Property Damaged to a condition equal to its condition when new, had the necessity to comply with such regulations, bye-laws or stipulations not arisen
3. the amount of any charge or assessment arising out of capital appreciation, which may be payable in respect of the Property, by reason of compliance with any such regulations, bye-laws or stipulations.

#### **Public Authorities Special Conditions**

1. The work of reinstatement must be commenced and carried out without unreasonable delay and in any case must be completed within twelve (12) months after the Damage, or within such further time as the Insurer may allow, and may be carried out upon another site (if such regulations, bye-laws or stipulations so necessitate), subject to there being no resulting increase in the liability of the Insurer.
2. If the liability of the Insurer is reduced by the application of any of the terms and conditions of this Section or the Policy (other than as a result of this clause), the liability of the Insurer under this clause will be reduced in proportion.
3. All the terms and conditions of this Section and the Policy shall apply to any claim payable under the provisions of this clause, other than where they are expressly varied by the terms of this clause.

#### **5. Services**

Cover includes telephone, gas, water and electric instruments, meters, piping, cabling and the like and their accessories, including similar property in adjoining yards or roadways or underground, all pertaining to Buildings or Contents insured by this Section, being the property of the Insured or for which the Insured are responsible.

#### **6. Alterations and Additions**

To the extent that they are not otherwise insured, Buildings and Contents items include

- a. alterations, additions and improvements (but not appreciation in value in excess of Sums Insured) to Buildings, machinery and plant
- b. any newly acquired or newly erected Buildings, machinery or plant

each item covered, or £250,000 in total, whichever is the less, at any one Premises or at any one newly acquired address elsewhere than at the Premises, provided that the Insured shall give details of such alterations and additions to the Insurer within ninety (90) days of the commencement date of the Insured's responsibility, effect specific cover retrospective to such date and pay the appropriate additional premium.

## **7. Professional Fees**

Sums insured and/or Declared Values for Buildings and Contents include an amount in respect of architects', surveyors', legal and consulting engineers' fees, other than where an item covering such fees is specifically described in the Schedule.

Cover applies only to those fees necessarily and reasonably incurred in consequence of Damage, in the reinstatement or repair of Property Insured.

## **8. Removal of Debris Costs**

Sums insured and/or Declared Values for Buildings, Contents and Stock include an amount in respect of removal of debris costs, other than where an item covering such costs is specifically described in the Schedule.

Cover applies only to those costs necessarily and reasonably incurred in consequence of Damage, in

- a. removing debris
- b. dismantling and demolishing
- c. shoring up or propping
- d. clearing, cleaning and/or repairing drains, gutters, sewers and the like for which the Insured are responsible.

The Insurer will not pay for any costs or expenses

- a. incurred in removing debris other than from the site of such Property Damage and the area immediately adjacent to such site
- b. arising from pollution or contamination of Property not insured by this Section.

## **9. Temporary Removal**

Property Insured (other than Stock) is covered whilst temporarily removed for cleaning, renovation, repair or similar purposes to any address elsewhere than at the Premises, including whilst in transit, within Gibraltar.

The Insurer will not pay for

- a. such property more specifically insured
- b. Damage to vehicles licensed for road use, in so far as they are insured by this Section, occurring elsewhere than at the Premises from which such vehicles are removed
- c. more than 10% of the sum insured for each item covered, for Damage occurring elsewhere than at the Premises.

## **10. Temporary Removal - Documents**

If deeds and other documents (including stamps on them), manuscripts, plans and writings of every description, books and other business records are included in the Property Insured, such items are covered whilst temporarily removed to any address elsewhere than at the Premises, including whilst in transit within Gibraltar.

The Insurer will not pay for

- a. such items more specifically insured
- b. more than 10% of the figure stated within the definition of contents for computer systems records
- c. more than 10% of the total value of such items.

## **11. Contract Price**

In respect only of goods sold but not delivered, for which the Insured remain responsible under the terms of a contract of sale, where such contract of sale is cancelled following Damage by reason of its conditions, either wholly or to the extent of the Damage, cover will be based on the contract price.

For the purpose of this clause the value of all goods to which this basis of settlement could apply in the event of Damage will also be ascertained on this basis.

## **12. Rent**

Where an item covering rent is specifically described in the Schedule, cover applies only if a Building in respect of which rent is payable by or to the Insured, or any part of it, is unfit for occupation in consequence of Damage. The Insurer will not pay for more than the proportion of the Sum Insured on rent that the period necessary for reinstatement bears to the term of rent covered.

## **13. Dismantling and Re-erection Costs**

Cover includes the cost of dismantling, re-erection, fitting and fixing of Contents following Damage.

## **14. Fixed Glass and Neon/Illuminated Signs**

Cover extends to include Damage to fixed glass, glass shelves, showcases and counter cases, mirrors and neon/illuminated signs.

Following Damage to fixed glass or neon/illuminated signs the Insurer will pay the cost of

- a. any necessary boarding up or temporary glazing pending full replacement
- b. replacing alarm foil, lettering, painting, embossing, silvering or other ornamental work on glass
- c. Damage to Contents or Stock caused by broken glass
- d. Removing and re-fixing window fittings and other obstacles to replacing broken glass

The Insurer will not pay for Damage

1. in respect of neon and illuminated signs
  - i arising from adjustment, repair, dismantling or erection of any part of the sign, or whilst such sign is removed from its normal working position
  - ii arising from mechanical breakdown of the sign or any part of the sign
  - iii to any part of the sign by its own ignition electrical breakdown or burn out
  - iv to tubes unless the glass is fractured
2. existing prior to the inception of this Section

## **15. Fire Extinguishers, Sprinklers and Security Equipment**

The Insurer will pay the reasonable costs incurred by the Insured in

- a. re-filling, recharging or replacing any fire extinguishers, local or fixed fire suppression or gas flooding systems, sprinkler installations and sprinkler heads
- b. having any fire and/or intruder alarms and closed circuit television equipment re-set in consequence of Damage,

provided that

- i the Insured maintain all such equipment under contract and in accordance with the manufacturer's instructions with a maintenance company acceptable to the Insurer
- ii the Insurer shall not be liable in respect of any costs and expenses recoverable from the maintenance company or from the fire service
- iii the liability of the Insurer in respect of any one claim shall not exceed £10,000.

## 16. Metered Utilities

Cover includes additional water, gas, electricity, oil or other metered supply charges incurred by the Insured up to an amount of £5,000 any one Period of Insurance, in consequence of Damage, but the Insurer will not pay for such charges incurred in respect of any Building which is Unoccupied.

The basis on which the amount payable is to be calculated will be the amount of the suppliers' charges for the period during which Damage occurs, less the charge paid by the Insured for the corresponding period in the preceding year, adjusted for charges in the suppliers' charges and for variations affecting consumption of the Insured during the intervening period.

## 17. Exhibitions

Property Insured is covered whilst at any exhibition within Gibraltar including whilst in transit to and from such exhibition for a period not exceeding fifteen (15) days.

The most the Insurer will pay in respect of any one exhibition is £15,000.

## 18. Trace and Access

In the event of Damage in consequence of escape of water or fuel oil from any tank, apparatus or pipe, the Insurer will pay costs necessarily and reasonably incurred by the Insured in locating the source of such Damage, and in the subsequent making good of Damage caused as a consequence of locating such source, up to an amount of £5,000 any one Period of Insurance.

## 19. Seventy Two Hours (72) Clause

Damage occurring within seventy two (72) consecutive hours of and arising from Event 7 (Storm, tempest or flood) is deemed to be one claim.

The Insured have the right to select the moment from which the seventy two (72) hour period shall be deemed to have commenced within the terms of this Section, provided that such Damage occurred prior to expiry of the Period of Insurance.

## 20. Interested Parties

The Insurer agrees

- a. that without prejudice to rights and liabilities of the Insured or the Insurer, if at the time of Damage the Insured have contracted to sell their interest in any Building covered, and the purchase has not been but shall afterwards be completed, the purchasers on completion of the purchase shall be entitled to benefit under this Section until completion, except in so far as such Building is more specifically insured by or on behalf of the purchaser
- b. to note the interest of any party notifying their interest in any of the Property Insured in writing, the nature and extent of such interest to be disclosed in the event of Damage.

## 21. Landscaped Grounds

Cover includes costs incurred by the Insured in consequence of Damage to Property Insured at the Premises, up to an amount of £2,500 any one Period of Insurance, in restoring landscape grounds to their original appearance when first laid out and planted, but the Insurer will not pay for costs arising due to the failure of trees, shrubs, plants, turf and the like to germinate or become established.

## 22. Locks and Keys

The Insurer will pay the cost of replacing locks and keys necessary to keep the Premises secure if keys are stolen using force and violence up to an amount of £1,000 any one claim.

## 23. Seasonal Increase

The Sum Insured in respect of Stock shall be increased by 25% during:

- a. the months of November and December
- b. a period of 14 days preceding and succeeding any Bank Holiday other than a Bank Holiday occurring during November and December

## 24. Damage to the Premises

In the event that Buildings at the Premises are not covered by this Section of the Policy, the Insurer will pay costs for which the Insured are responsible, necessarily and reasonably incurred by the Insured to repair Damage to the Premises in consequence of theft or attempted theft (as insured by this Section).



The Insurer will also pay the cost of any temporary boarding-up or making good necessary to keep the Premises secure.

## **25. Moulds, Tools and Dies**

Cover includes moulds, tools, and dies belonging to the Insured or for which the Insured are responsible whilst at the Premises and whilst elsewhere than at the Premises at any premises within the Gibraltar not occupied by the Insured, including whilst in transit thereto and therefrom by road, rail or inland waterway, provided that the liability of the Insurer in respect of any one claim shall not exceed £5,000.

## **26. Unauthorised Use of Supplies**

Cover includes water, gas, electricity, oil or other metered supply charges incurred by the Insured and for which the Insured are legally responsible, due to unauthorised use by persons taking possession of, keeping possession of or occupying any Premises without the written consent of the Insured, providing that

- a. the Insured shall take all practicable steps to terminate such unauthorised use as soon as it is discovered
- b. the Insured has advised the Insurer of such unauthorised use immediately on becoming aware of it
- c. Policy Condition 17 Unoccupied Buildings has been complied with by the Insured
- d. the liability of the Insurer shall not exceed £5,000 in respect of any one claim and any one Period of Insurance

## **27. Reinstatement to Match - Computer Equipment**

Where computer equipment has suffered Damage to the extent that repair is impractical and replacement by similar property in a condition equal to but not better or more extensive than when new is impossible, then the Insured may replace, repair or restore the Property with equivalent property which employs current technology and replacement, repair or restoration with such property for the purposes of this Section shall not be regarded as being better or more extensive than when new

Cover also extends to include

- i the cost of replacement or modification of undamaged computer equipment insofar as it is necessary to adapt it to operate in conjunction with Damaged Property which has been replaced, repaired or restored
- ii the cost of replacement, repair or modification of undamaged parts of computer equipment that form part of a matching set of articles, or suite of common design or function where the Damage is restricted to a clearly identifiable area or to a specific part.

Provided that

- a. the total liability of the Insurer is not increased beyond the amount
  - i that would otherwise have been payable for the replacement, repair or restoration of the Property Damaged in its original form
  - ii that would have been payable for replacement, repair or modification of the whole Property forming a set of articles, or suite of common design or function if such Property had been wholly destroyed
- b. the Insurer shall be liable only for the amount sufficient to enable the Insured to resume operations in substantially the same manner as before the Damage
- c. where Property is damaged in part only, the Insurer will not pay more than the amount representing the cost which the Insurer would have paid for repair, restoration or replacement if such property had been wholly destroyed
- d. if Damage to computer equipment results in undamaged computer records being incompatible with replacement computer equipment the Insurer will pay the costs of
  - i modifying the computer equipment

or

- ii replacing computer records with reinstatement of programmes and/or information (but not for the value of the information to the Insured)

whichever is the less

## **28. Theft Damage to Buildings**

Cover includes Damage to Building(s) insured under this Section caused by theft or attempted theft excluding

- a. Damage
  - i to any Unoccupied Building
  - ii expedited or in any way brought about by the Insured or any partner, director or employee of the Insured or any other person who has a legal right to be on the Premises, unless such theft or attempted theft involved the threat of or assault or violence to the Insured or any partner, director or employee of the Insured or any other person who has a legal right to be on the Premises
  - iii to Property which is more specifically or otherwise insured
- b. the first £250 of each and every claim
- c. any amount exceeding £25,000

Cover also includes the cost of any temporary boarding-up and making good in consequence of such Damage necessary to keep the Premises secure.

Exclusion in of event 13 of this Section does not apply to this Basis of Settlement Adjustment.

## **29. Alternative Accommodation**

If you are insuring a block of flats on behalf of individual owners or lessees and any flat is damaged and made uninhabitable due a valid claim for an insured peril, we will pay the reasonable additional expenses necessarily incurred by such owner or lessee for alternative accommodation subject to a maximum of 15% of the Buildings Sum Insured.

## **EXCLUSIONS**

The Policy Exclusions apply to this Section and in addition the Insurer will not pay for

1. Property which at the time of the happening of Damage is insured by or would but for the existence of this Section be insured by any marine policy or policies, but the Insurer will pay for any excess beyond the amount which would have been payable under such marine policy or policies had this Section not been effected.
2. any Property more specifically insured by or on behalf of the Insured.
3. Damage to paintings, prints and works of art with a value in excess of £10,000 any one item unless specifically described in the Schedule.
4. consequential loss or Damage of any kind or description
5. the Excess.

## **CONDITIONS**

The Policy Conditions apply to this Section and in addition the following:

1. Alteration
  - Unless the Insurer agrees in writing, cover under this Section shall be avoided for any of the Property Insured in regard to which there is any alteration after the commencement of this Section
    - a. by removal

- b. by Buildings or parts of Buildings described in the Schedule as occupied becoming Unoccupied, or as Unoccupied becoming occupied
- c. which increases the risk of Damage
- d. which results in the interest of the Insured ceasing other than by will or operation of law.

## 2. Reinstatement

If any Property is to be reinstated or replaced by the Insurer, the Insured shall at their own expense provide all plans, documents, books and information as may reasonably be required. The Insurer shall not be bound to reinstate exactly, but only as circumstances permit and in a reasonably sufficient manner.

## SECTION 2 - LOSS OF RENT

The following definitions apply to this Section in addition to the Policy Definitions

### DEFINITIONS

#### CALCULATED RENT

- a. For occupied Premises or occupied parts of Premises

The amount of the actual annual Rent at commencement of the Period of Insurance plus increases as a result of rent reviews known to be due during such Period of Insurance, proportionately increased when the Maximum Indemnity Period exceeds 12 months.

- b. For Premises or parts of Premises that are Unoccupied for a period exceeding 30 consecutive days

A professional valuation, based upon leases expected to be signed or in course of negotiations and upon rent of similar premises in the same locality, estimating at commencement of the Period of Insurance the amount of Rent to be payable during such Period of Insurance and during related subsequent Periods of Insurance when the Maximum Indemnity Period exceeds 12 months.

#### DAMAGE

Loss or destruction of or damage to Property Insured at Premises used by the Insured for the purpose of the Business.

#### INDEMNITY PERIOD

- a. For occupied Premises or occupied parts of Premises

The period beginning with the occurrence of the Damage and ending not later than the Maximum Indemnity Period thereafter during which the results of the Business shall be affected in consequence of the Damage.

- b. For Premises or parts of Premises that are Unoccupied for a period exceeding 30 consecutive days

The period beginning with the date upon which but for the Damage rent would have commenced to be payable and ending not later than the Maximum Indemnity Period thereafter during which the results of the Business shall be affected in consequence of the Damage.

#### MAX INDEMNITY PERIOD

The period shown in the Schedule.

#### PREMISES

The Buildings at the address or addresses stated in the Schedule, including their grounds, all within the boundaries for which the Insured are responsible.

#### RENT

The money paid or payable to the Insured by Residents for accommodation provided and services rendered at the Premises.

## COVER

The Insurer will pay the Insured for Loss of Rent in consequence of Damage

Provided that, other than in respect of Extensions 1-6 of this Section,

- a. such Damage is covered under Section 1 - Property Damage of this Policy
  - b. i payment shall have been made or liability admitted under Section 1 - Property Damage
- or
- ii payment would have been made or liability admitted under Section 1 - Property Damage but for the operation of an Excess.
- c. the most the Insurer will pay for any one claim is in the whole the Total Sum Insured, or any other limit of liability stated in this Section, whichever is the less.

## BASIS OF SETTLEMENT

The Insurer will pay the Insured, in respect of each Item covered, the amount of their claim for Loss of Rent.

## AUTOMATIC REINSTATEMENT

In the absence of written notice by the Insurer to the contrary, in consideration of Sums Insured or limits of liability not being reduced by the amount of any claim, the Insured will pay the appropriate additional premium on the amount of the claim from the date of the Damage to expiry of the Period of Insurance, but this shall not apply in respect of theft or attempted theft.

The Insurer will pay the Insured as indemnity in consequence of Damage for

- a. Loss of Rent
- including
- b. Increased in Cost of Working
- and
- c. Re-letting Costs.

Loss of Rent means the amount by which the Rent during the Indemnity Period falls short of the Rent which but for the Damage would have been received.

Increased in Cost of Working means the additional expenditure necessarily and reasonably incurred for the sole purpose of avoiding or diminishing the Loss of Rent which but for that expenditure would have taken place during the Indemnity Period.

Re-letting Costs means the expenditure necessarily and reasonably incurred in consequence of Damage in Re-letting Premises, including legal fees or other charges incurred solely in consequence of such re-letting.

## BASIS OF SETTLEMENT ADJUSTMENTS

The Insurer will not pay the Insured for

- a. Increase in Cost of Working exceeding the amount of Loss of Rent thereby avoided
- b. legal fees or other charges payable by any new tenant acquired in re-letting Premises in consequence of Damage
- c. any amounts saved during the Indemnity Period in respect of any of the charges and expenses of the Business payable out of Rent that may cease or be reduced.

In calculating the amounts the Insurer will pay the Insured as indemnity, adjustments shall be made in accordance with the following clauses.

## 1. Average

If the Sum Insured by any item on Rent is less than the Calculated Rent for that Item, the amount payable will be proportionately reduced.

## 2. Accountants' Charges

If the professional accountants of the Insured produce any particulars or details required by the Insurer from the Insured's books of account or other business books or documents, or any other proofs information or evidence under the terms of Condition 2 of this Section, the Insurer will pay the Insured the reasonable charges payable by the Insured to their professional accountants, provided that the maximum amount payable under this adjustment shall not exceed 5% of the Rent Sum Insured in respect of each Premises.

## 3. Rent Review

Where Rent is subject to a rent review during the Period of Insurance, the rent amount payable may be automatically increased, subject to a maximum rent review increase of 20%. This does not include any increases in Rent resulting from alterations, additions, extensions or improvements to the Buildings insured or in respect of newly erected buildings.

## 4. Alterations and Additions

Cover includes Rent in respect of

- a. alterations, additions and improvements to Premises
- b. newly acquired or newly erected Premises

within Gibraltar, for no more than 20% of the Total Sum Insured or £50,000 whichever is the less, at any one Premises, provided that the Insured shall

- i give details to the Insurer within ninety days of the commencement date of the Insured's interest in such Rent
- ii effect specific cover retrospective to such date, and
- iii pay the appropriate additional premium.

## 5. Seventy Two Hours Clause

Damage occurring within seventy two (72) consecutive hours of and arising from Event 7 of Section 1 - Property Damage is deemed to be one claim. The Insured have the right to select the moment from which the seventy two (72) hour period shall be deemed to have commenced within the terms of this Section, provided that such Damage occurred prior to expiry of the Period of Insurance.

## 6. Value Added Tax

All terms in this Section shall be exclusive of value added tax to the extent that the Insured are accountable to the tax authorities for such tax.

## 7. Payments on Account

The Insurer will make payments on account during the indemnity Period, if the Insured so request, subject to any necessary adjustment at the end of the Indemnity Period.

## **EXTENSIONS (Subject to the terms, limits, conditions and exclusions of this Section and the Policy)**

Any claim resulting from interruption of or interference with the Business in consequence of:

- a. in respect of Extensions 1-4, loss or destruction of or damage to any Property shown below resulting from an Event operative under Section 1 - Property Damage of this Policy , or
- b. In respect of Extension 5, any Contingency shown

within Gibraltar, shall be understood to be Damage as covered by this Section, provided that after the application of all other terms, conditions and provisions of this Section the liability of the Insurer shall not exceed in the whole the Total Sum Insured, or the amount shown as the maximum limit of liability in respect of any of the Extensions, whichever is the less.

## 1. Managing Agents' Premises

Property of the Insured's managing agents at the premises of such managing agents, up to 20% of the Rent Sum Insured or £20,000 whichever is the less.

## 2. Denial of Access

Property of the immediate vicinity of the Premises which prevents or hinders the use of or access to the Premises for a period greater than 24 hours, whether the Premises or property in them is Damaged or not.

## 3. Supply Undertakings

Property at any

- a. generating station or sub-station of the electricity supply undertaking
- b. land based premises of the gas supply undertaking or of any natural gas producer linked directly therewith
- c. waterworks or pumping station of the water supply undertaking
- d. land based premises of the telecommunications undertaking

from which the Premises obtain electricity, gas, water or telecommunications services.

## 4. Documents

Documents belonging to the Insured or held by the Insured in trust, whilst at premises not being the Insured's Premises, or in transit by road, rail or inland waterway.

## 5. Specified Illnesses

### Contingencies

- a. any occurrence of a Specified Illness at the Premises, except where the Premises is a Private Dwelling
- b. any discovery of an organism at the Premises likely to result in the occurrence of a Specified Illness, except where the Premises is a Private Dwelling
- c. any occurrence of Legionellosis at the Premises
- d. the discovery of vermin or pests at the Premises
- e. any accident causing defects in the drains or other sanitary arrangements at the Premises

which causes restrictions on the use of the Premises on the order or advice of the competent local authority.

### Special Provisions

1. 'Specified Illness' shall mean illness sustained by any person resulting from
  - a. food or drink poisoning, or
  - b. Acute Encephalitis, Acute Poliomyelitis, Anthrax, Chickenpox, Cholera, Diphtheria, Dysentery, Leptospirosis, Malaria, Measles, Meningococcal Infection, Mumps, Ophthalmia Neonatorum, Paratyphoid Fever, Plague, Rabies, Rubella, Scarlet Fever, Smallpox, Tetanus, Tuberculosis, Typhoid Fever, Viral Hepatitis, Whooping Cough or Yellow Fever, an outbreak of which the competent local authority has stipulated shall be notified to them.
2. 'Legionellosis' shall mean illness sustained by any person resulting from any discharge release or escape of legionella from water tanks, water systems, air-conditioning plants cooling towers and the like at the Premises.
3. For the purpose of this Extension 'Indemnity Period' shall mean the period during which the results of the business shall be affected in consequence of the damage beginning with the date from which the restrictions on the Premises are applied and ending not later than 3 months thereafter.

4. The Insurer shall not be liable under this clause for any costs incurred in cleaning, repair, replacement, recall or checking of Property.
5. The Insurer shall only be liable for loss arising at the Premises which are directly subject to the incident.
6. The Insured in so far as it is reasonable practical shall ensure compliance with the Health and Safety Commissions Approved Code of Practice, " The Prevention and Control of Legionellosis (including Legionnaires Disease)" or any supplementary replacement or amending Code of Practice.
7. Notwithstanding Special Provision 4 the insurance by this Extension extends to include costs and expenses necessarily incurred with the consent of the Insurer in
  - a. cleaning and decontamination of Property used by the Insured for the purpose of the Business (other than stock in trade)
  - b. removal and disposal of contaminated stock in trade

at or from the Premises, the use of which has been restricted on the order or advice of the competent local authority solely in consequence of the incident as defined above, provided that the liability of the Insurer shall not exceed £25,000 in any one Period of Insurance, after the application of all other terms and conditions of this Section and of the Policy.

## **6. Loss of Attraction**

Property in the immediate vicinity of the Premises causing a fall in the number of tenants attracted to the Premises, provided that for the purpose of this Extension Damage shall exclude obstruction of roads, streets and the like by weather or climatic conditions

- a. The Maximum Indemnity Period shall not exceed 3 months
- b. the liability of the Insurer in any one Period of Insurance shall not exceed 5% of the sum insured or £100,000 whichever is the less, after the application of all other terms and conditions of this Section and of the Policy

## **SECTION EXCLUSIONS**

The Policy Exclusions apply to this Section and in addition the Insurer will not pay for:

### **1. Pollution or Contamination**

Loss resulting from pollution or contamination, but the Insurer will pay for such loss resulting from destruction of or damage to property used at the Premises for the purpose of the Business not otherwise excluded caused by

- a. pollution or contamination at the Premises which itself results from an insured Event
- b. any insured Event which itself results from pollution or contamination.

### **2. Computer Date Recognition**

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

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

But in respect of Section 1 Property Damage only the insurance will pay for any subsequent Damage which is not otherwise excluded and which itself results from events 1 to 8 of Section 1 Property Damage.

## SECTION CONDITIONS

The Policy Conditions apply to this Section and in addition the following:

### 1. Alteration

Unless the Insurer agrees in writing, cover under this Section shall be avoided for any of the Property Insured in regard to which there is any alteration after the commencement of this insurance

- a. where the Business is wound up or carried on by a liquidator or receiver or permanently discontinued
- b. where any alteration is made in the Business or in the Premises or property in them which increases the risk of any Event as insured by this Section
- c. where the interest of the Insured ceases other than by death
- d. in respect of subsidence, ground heave or landslip by any demolition, construction, ground works or excavation work being carried out on any adjoining site.

### 2. Additional Claims Conditions

In the event of Damage, in consequence of which the Insured make or may make a claim under this Section, the Insured shall at their own expense deliver to the Insurer not later than 30 days after expiry of the Indemnity Period, or such further time that the Insurer may allow, full information in writing of the particulars of the claim, together with details of all other policies covering the Premises for the purpose of the Business or any party of the Business, and the amount of any resulting Damage.

Particulars or details contained in the Insured's books of account or other business books or documents, which may be required by the Insurer for the purpose of investigating or verifying any claim under this Section, may be produced by professional accountants if at the time they are regularly acting for the Insured. Their report shall be prima facie evidence of the particulars and details to which such report relates.

The Insurer will not pay for any claim unless the terms of this condition have been complied with, and any payment on account already made shall be repaid to the Insurer.

## SECTION 3 - PROPERTY OWNERS LIABILITY

The following definitions apply to this Section in addition to the Policy Definitions

### DEFINITIONS

#### ASBESTOS

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

#### BUSINESS

The Business specified in the Schedule conducted solely from Gibraltar and including

- a. the ownership, maintenance and repair of premises used in connection therewith
- b. the provision and management of canteen, social, sports or welfare organisations for the benefit of Employees and the ambulance, first aid, fire and medical and security services of the Insured
- c. the execution of private duties by Employees for any partner, director or senior official of the Insured



## **EMPLOYEE**

- a. any person under a contract of service or apprenticeship with the Insured
- b. any of the following persons whilst working for the insured in connection with the Business
  - i any labour master or labour only subcontractor or person supplied by him
  - ii any self-employed person providing labour only
  - iii any trainee or person providing labour only
  - iv any voluntary helper
  - v any person who is borrowed by or hired to the Insured.

## **INJURY**

- a. bodily injury, death, disease, illness, mental injury or nervous shock
- b. invasion of the right of privacy, false arrest, false imprisonment, false eviction or malicious prosecution of any person.

## **OFFSHORE INSTALLATIONS**

- a. Any installation in the sea or tidal waters which is intended for underwater exploitation of mineral resources or exploration with a view to such exploitation
- b. any installation in the sea or tidal waters which is intended for the storage or recovery of gas
- c. any pipe or system of pipes in the sea or tidal waters
- d. any installation which is intended to provide accommodation for persons who work on or from the locations specified in Definition 4.a., 4.b. or 4.c. above.

## **POLLUTION OR CONTAMINATION**

- a. all pollution or contamination of buildings or other structures or of water or land or the atmosphere; and
- b. all Injury or Damage directly or indirectly caused by such pollution or contamination.

All Pollution or contamination, which arises out of or in connection with one incident, shall be deemed to have occurred at the time such incident takes place.

## **PRODUCTS**

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

## **TERRITORIAL LIMITS**

- a. Gibraltar
- b. any one member country of the European Union
- c. elsewhere in the world in respect of Injury or Damage caused by or arising from
  - i non-manual activities of any partner, director or Employee of the Insured normally resident within the territories specified in Definition above and occurring during and journey or temporary visit
  - ii Products.

## COVER

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

- a. Injury to any person
- b. Damage to material property
- c. nuisance, trespass, obstruction or interference with any right of way, light, air or water

occurring within the Territorial Limits during the Period of Insurance in connection with the Business.

## COSTS AND EXPENSES

The insurer will also pay costs and expenses incurred by the Insurer or with the written consent of the Insurer

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

which may be the subject of indemnity under this Section.

## LIMIT OF INDEMNITY

A The Insurer's liability for all compensation payable in respect of

1. any one occurrence or all occurrences of a series consequent on or attributable to one source or original cause
2. all Injury, loss or damage sustained by all claimants occurring during any one Period of Insurance and caused by and arising from Products
3. all Pollution or Contamination which is deemed to have occurred during any one Period of Insurance shall not exceed the Limit of Indemnity.

B In respect of all claims against the Insured made within the legal jurisdiction of the United States of America or Canada or any dependency or trust territory the Limit of Indemnity shall be inclusive of the amount of all

- i claimants' costs and expenses
- ii costs and expenses incurred by the Insurer or with the written consent of the Insurer in connection with the defence of such claims.

Provided that

- a. in respect of an Act of Terrorism the Limit of Indemnity shall not exceed the Limit of Indemnity stated in the Schedule or £5,000,000 (whichever is the lesser). If the Insurer alleges that by reason of this limitation any loss damage cost or expense is not covered the burden of proving the contrary shall be upon the Insured.
- b. in respect of Injury, loss or damage occurring during any one Period of Insurance directly or indirectly caused by arising from in consequence of or in any way involving Asbestos the Limit of Indemnity under this Section shall not exceed the Limit of Indemnity shown in the Schedule or £5,000,000 (whichever is the lesser) inclusive of all costs and expenses.

- c. in respect of the indemnity provided under this Section for Extension 12 - Corporate Manslaughter and Corporate Homicide Legislation - Legal Defence Costs
  - i the liability of the Insurer shall not exceed £5,000,000 or the Limit of Indemnity (whichever is lesser) in any one Period of Insurance
  - ii all amount payable will form part of and not be in addition to the Limit of Indemnity
  - iii where the Insurer has already indemnified the Insured in respect of legal costs or expenses incurred in connection with the defence of criminal proceedings (including appeals against conviction arising from such proceedings) arising out of the same cause or occurrence which gave rise to said proceedings under another Section of the Policy the amount paid under that Section shall contribute to the maximum amount payable under this Section.

## **EXTENSIONS (Subject to the terms, limits, conditions and exclusions of this Section and the Policy)**

### **1. Indemnity to Other Parties**

If the Insured so request the Insurer will indemnify the following parties

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

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

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

Provided that

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

### **2. Joint Insured - Cross Liabilities**

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

### **3. Overseas Personal Liability**

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

### **4. Motor Contingent Liability**

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

- a. in respect of damage to such vehicle
- b. arising out of any such use in any country outside the European Union
- c. incurred by any party other than the Insured
- d. incurred by any party identified in Extension 1 - Indemnity to Other Parties other than an Employee.

For the purpose of this cover Exclusion1 - Injury to Employees does not apply.

## **5. Health and Safety at work - Legal Defence Costs**

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

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

in connection with criminal proceedings or an appeal against conviction arising from such proceedings brought in respect of any offence under the Health and Safety at Work legislation committed or alleged to have been committed during the Period of Insurance in connection with the Business.

Provided that

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

The Insurer will not pay for

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

## **6. Data Protection**

The Insurer will indemnify the Insured and at the Insured's request any partner, director or Employee of the Insured against the sums which the Insured or any director, partner or Employee of the Insured become(s) legally liable to pay as compensation, under Data Protection legislation for damage or distress caused in connection with the Business during the Period of Insurance provided that the Insured is

- i a registered user in accordance with the terms of the Act
- ii not in business as a computer bureau.

The total amount payable including all costs and expenses under this paragraph, in respect of all claims occurring during any one Period of Insurance, is limited to £100,000.

The Insurer will not pay for

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

## **7. Defective Premises Legislation**

The Insurer will indemnify the Insured in the terms of this Section against liability incurred by the Insured under Section 3 of the Defective Premises legislation in connection with premises or land disposed of by the Insured.

Provided that this Extension does not cover

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

#### **8. Consumer Protection and Food Safety legislation -Legal Defence Costs**

The Insurer will indemnify the Insured and if the Insured so request any partner, director or Employee of the Insured in the terms of this Section in respect of legal costs and expenses incurred with the written consent of the Insurer in connection with the defence of any criminal proceedings or an appeal against conviction arising from proceedings brought in respect of any offence under any consumer protection and food safety legislation committed or alleged to have been committed during the Period of Insurance in connection with the Business

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

The Insurer will not pay for

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

#### **9. Court Attendance Compensation**

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

- |    |                         |             |
|----|-------------------------|-------------|
| i  | any director or partner | <b>£500</b> |
| ii | any Employee            | <b>£250</b> |

#### **10. Contractual Liability**

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

Provided that the Insurer shall not in any event provide indemnity

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

#### **11. Legionellosis Liability**

Exclusion 4.b. shall not apply to any discharge, release, or escape of Legionella or other air-borne pathogens from water tanks, water systems, air conditioning plants, cooling towers and the like.

Provided that

- a. the Insurer will only indemnify the Insured
  - i in respect of claims arising from Pollution or Contamination which arise out of or as a consequence of any discharge, release or escape of Legionella or other air-borne pathogens from water tanks, water systems, air-conditioning plants, cooling towers and the like first made in writing to the Insured during the Period of Insurance

or

- ii if the first notification of a circumstance which has caused or is alleged to have caused Injury or Damage and can be reasonably expected to give rise to a claim arising from Pollution or Contamination which arises out of or as a consequence of any discharge, release or escape of Legionella or other air-conditioning plants, cooling towers and the like is notified to the Insurer during the Period of Insurance or within thirty (30) days after expiry of the same Period of Insurance
- b. the liability of the Insurer under this Extension for all compensation (including interest thereon) and claimants costs' and expenses payable shall not exceed £500,000 and for all claims arising from Pollution or Contamination shall not exceed the Limit of Indemnity as stated in the Schedule
- c. this Extension shall not apply to any claim arising from Pollution or Contamination which arises out of or as a consequence of any discharge, release or escape of Legionella or other air-borne pathogens from water tanks, water systems, air-conditioning plants, cooling towers and the like if before the Period of Insurance the Insured had become aware of circumstances which have given or may give rise to such Pollution or Contamination.

## **12. Corporate Manslaughter and Corporate Homicide legislation - Legal Defence Costs**

The Insurer will indemnify the Insured in respect of

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

in connection with the defence of any criminal proceedings (including any appeal against conviction arising from such proceedings) brought under any Corporate Manslaughter and Corporate Homicide or any equivalent legislation in the Gibraltar in respect of any fatal injury sustained and caused during the Period of Insurance in the course of the Business and which may be subject to indemnity under this Section

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

The Insurer will not pay for

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

## **SECTION EXCLUSIONS**

The Policy Exclusions 2 and 3 apply to this Section and in addition the Insurer will not pay for:

### **1. Injury to Employees**

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

### **2. Work on Offshore Installations**

Liability in respect of Injury or loss or damage arising in connection with visiting, working on or travel to or from offshore Installations.

### **3. Fines, penalties, liquidated, punitive, exemplary or aggravated damages**

Liability in respect of

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

### **4. Pollution or Contamination**

Liability in respect of

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

### **5. Mechanically Propelled Vehicles**

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

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

except where more specifically insured by any other policy.

### **6. Vessels or Craft**

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

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

### **7. Property in the charge or control of the Insured**

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

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

### **8. Damage to Goods Supplied**

Liability in respect of

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

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

1. any alteration, repair or servicing work executed
2. any other goods or property sold, supplied, delivered, installed or erected

by the Insured under a separate contract.

## 9. Products

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

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

## 10. Advice and Design

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

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

Liability in respect of loss or damage to any property

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

## 12. Manual Work

Liability arising from or as a consequence of any manual work carried out away from any premises belonging, leased, rented or hired to the Insured other than delivery or collection.

## 13. Slings and Cradles

Liability for Injury or loss or damage arising out of the operation of a sling and/or cradle.

## 14. Computer Date Exclusion

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

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



## SECTION CONDITIONS

The Policy Conditions 1 to 11 inclusive apply to this Section and in addition the following:

### 1. Bona fide Subcontractors

In respect of work commencing within the Period of Insurance, it is a condition precedent to any liability of the Insurer in respect of Injury, loss, destruction or damage arising out of or caused by work undertaken on behalf of the Insured by bona fide subcontractors, that the Insured obtain and retain a written record that such subcontractors have in force throughout the duration of any work undertaken by them for the Insured insurance as follows:

- a. Employers Liability insurance in accordance with any law relating to compulsory insurance of liability to employees
- b. Public Liability insurance covering legal liability for injury to any person other than liability described in a above and loss, destruction or damage to property with a Limit of Indemnity not less than £2,000,000.

This condition does not apply where bona fide subcontractors are engaged to carry out work on behalf of the Insured in an emergency and there is insufficient time to obtain written evidence of insurance provided that the Insured shall obtain verbal confirmation from such subcontractors that insurance as described in a and b above is in force and confirm such conversation in writing and retain a copy as a written record.

### 2. Other Insurance

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

## SECTION 4 - EMPLOYERS LIABILITY

The following definitions apply to this Section in addition to the Policy Definitions

### DEFINITIONS

#### ACT OF TERRORISM

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

#### BUSINESS

The business specified in the Schedule conducted solely from Gibraltar and including

1. the ownership, maintenance and repair of Premises used in connection therewith
2. the provision and management of canteen, social, sports or welfare organisations for the benefit of Employees and the ambulance, first aid, fire, medical and security services of the Insured
3. the execution of private duties by Employees for any partner, director or senior official of the Insured.

#### EMPLOYEE

1. any person under a contract of service or apprenticeship with the Insured
2. any of the following persons whilst working for the Insured in connection with the Business
  - a. any labour master or labour only subcontractor or person supplied by him
  - b. any self-employed person providing labour only

- c. any trainee or person undergoing work experience
- d. any voluntary helper
- e. any person who is borrowed by or hired to the Insured.

#### **INJURY**

Bodily injury, death, disease, illness, mental injury or nervous shock.

#### **LIMIT OF INDEMNITY**

Limit of indemnity specified in the Schedule.

#### **OFFSHORE INSTALLATIONS**

1. any installation in the sea or tidal waters which is intended for underwater exploitation of mineral resources or exploration with a view to such exploitation
2. any installation in the sea or tidal waters which is intended for the storage or recovery of gas
3. any pipe or system of pipes in the sea or tidal waters
4. any installation which is intended to provide accommodation for persons who work on or from the locations specified in 1, 2 or 3 of this definition.

#### **TERRITORIAL LIMITS**

1. Gibraltar
2. elsewhere in the world in respect of Injury sustained by any Employee resident within Gibraltar and caused whilst such Employee is temporarily employed outside these territories provided that any action for compensation in respect of such Injury is brought in a court of law within the said territories or any other member country of the European Union.

#### **COVER**

The Insurer will indemnify the Insured against legal liability to pay compensation and claimants' costs and expenses in respect of Injury sustained by any Employee arising out of and in the course of the employment or engagement of such person by the Insured in connection with the Business and caused within the Territorial Limits during the Period of Insurance.

#### **COSTS AND EXPENSES**

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

1. in connection with the defence of any claim
2. for representation of the Insured
  - a. at any coroner's inquest or fatal accident inquiry in respect of death
  - b. at proceedings in any court of summary jurisdiction or on indictment in any higher court in respect of any alleged breach of statutory duty resulting in Injury

which may be the subject of indemnity under this Section.

#### **LIMIT OF INDEMNITY**

The Insurer's liability for all compensation, costs and expenses payable in respect of any one claim or series of claims arising out of one occurrence shall not exceed the Limit of Indemnity stated in the Schedule.

Provided that

In respect of the indemnity provided under this Section for Extension 5 - Corporate Manslaughter and Corporate Homicide Legal Defence Costs

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

## **EXTENSIONS (Subject to the terms, limits, conditions and exclusions of this Section and the Policy)**

### **1. Indemnity to Other Parties**

If the Insured so request the Insurer will indemnify the following parties

- a. any officer or committee member or other member of the Insured's canteen, social, sports or welfare organisations or ambulance, first aid, fire, medical or security services against liability incurred in such capacity
- b. any partner, director or Employee of the Insured against liability incurred in such capacity and in respect of which the Insured would have been entitled to indemnity under this Section if the claim had been made against the Insured as though each party was individually named as the Insured in this Section
- c. any principal for whom the Insured have agreed to execute work under contract or agreement against liability arising out of the performance of such work by the Insured and in respect of which the Insured are legally liable and would have been entitled to indemnity under this Section if the claim had been made against the Insured

Provided that

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

### **2. Health and Safety at Work- Legal Defence Costs**

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

- a. costs and expenses incurred with the Insurer's written consent
- b. costs and expenses of the prosecution awarded against any such party and in connection with criminal proceedings or an appeal against conviction arising from such proceedings brought in respect of any offence under the Health and Safety at Work legislation committed or alleged to have been committed during the Period of Insurance in connection with the Business

Provided that

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

the Insurer will not pay for

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

### 3. Unsatisfied Court Judgements

If a judgement for compensation or costs in respect of Injury sustained by any Employee arising out of and in the course of employment or engagement by the Insured in connection with the Business and caused within the Territorial Limits during the Period of Insurance

- a. is obtained by such Employee in any court situate within Gibraltar against any person or corporate body domiciled or operating from premises within such territories and
- b. remains wholly or partly unsatisfied six (6) months after the date of such judgement

the Insurer will if the Insured so request pay to the said Employee the amount of any such compensation and costs to the extent that they remain unsatisfied

Provided that

- i there is no appeal outstanding
- ii the Employee shall have assigned the judgement to the Insurer
- iii this Section was shown in the Schedule and operative at the time of the Injury.

### 4. Court Attendance Compensation

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

- a. any director or partner      **£500**
- b. any Employee                      **£250**

### 5. Corporate Manslaughter and Corporate Homicide Legal Defence Costs

The Insurer will indemnify the Insured in respect of

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

in connection with the defence of any criminal proceedings (including any appeal against conviction arising from such proceedings) brought under Corporate Manslaughter and Corporate Homicide or any equivalent legislation in Gibraltar in respect of any fatal injury sustained and caused during the Period of Insurance in the course of the Business and which may be subject to indemnity under this Section

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

The Insurer will not pay for

- i any fines or penalties imposed on the Insured or the cost of implementing any remedial order or publicity order
- ii legal costs and expenses in connection with an appeal unless a solicitor or counsel advise that there are strong prospects of succeeding in the appeal or recovering costs awarded against the Insured at all times throughout the appeals process.

Any change to such prospect of success during the appeals process may result in cover being removed

- iii costs and expenses provided by another source or any other insurance or where but for the existence of this Extension would have been provided by such source or insurance
- iv costs and expenses in connection with the defence of any criminal proceedings brought in any country other than Gibraltar
- v costs and expenses in connection with the defence of any criminal proceedings resulting from any deliberate or intentional criminal act or omission by the Insured or any partner or director of the Insured or any Employee.

## EXCLUSIONS

Policy Exclusion 3 applies to this Section and in addition the Insurer will not pay for:

### 1. Mechanically Propelled Vehicles

liability in respect of Injury to any Employee arising out of the ownership possession or use by or on behalf of the Insured of any mechanically propelled vehicle or trailer attached thereto if such liability is required by any road traffic legislation to be the subject of compulsory insurance or other security.

### 2. Offshore Installations

liability in respect of Injury to any Employee who is working on visiting or travelling to or from Offshore Installations.

## CONDITIONS

The Policy Conditions 1-11 and 13 apply to this Section and in addition the following Section Conditions:

### Alteration

If at any time anything shall occur or be done which materially affects the risk insured the Insured shall give immediate notice in writing to the Insurer.

## SECTION 5 - PERSONAL ACCIDENT

The following definitions apply to this Section in addition to the Policy Definitions

## DEFINITIONS

### ACCIDENTAL BODILY INJURY/INJURIES

Bodily injury caused by

1. accidental violent external and visible means or
2. exposure to the elements following a mishap to any vehicle, vessel or aircraft in which the Member is travelling

### LOSS OF HEARING

Total and permanent loss of hearing which has lasted three (3) consecutive months of the Member's lifetime and is at the end of that period in the opinion of an independently qualified medical referee beyond hope of improvement.

### LOSS OF LIMB

Total and permanent loss

- a. by physical separation or
- b. of use

of a hand, at or above the wrist or a foot at or above the ankle.

### LOSS OF SIGHT

Total and permanent loss of sight will be considered as having occurred:

1. in both eyes if the member's name has been added to the Register of Blind persons on the authority of a fully qualified ophthalmic specialist  
or
2. in one eye if the degree of sight remaining after correction is 3/60 or less on the Snellen Scale

which has lasted three (3) consecutive months of the Member's lifetime and is at the end of that period in the opinion of an independent optician (acceptable to the Insurer) beyond hope of improvement.

**OPERATIVE TIME OF COVER**

The time and circumstances when cover under this Policy is effective within the Period of Insurance shown in the Schedule.

**AIRCRAFT ACCUMULATION LIMIT**

The Insurer's maximum liability in total under this and any other group personal accident and/or business travel policies issued or to be issued by the Insurer to the Insured for all Losses involving any Scheduled Air Transport as shown in the Schedule.

**ANNUAL SALARY**

The Annualised gross salary (excluding bonus payments) payable per annum by the Insured Person as at the date of occurrence of the accident giving rise to Accidental Bodily Injury.

**ASSOCIATED ILLNESS**

Sickness or disease (except any psychological condition or disorder) that results directly from the Insured Person sustaining Accidental Bodily Injury that would not otherwise have arisen and had not previously arisen.

**BENEFIT**

The Sum or sums of money that the Insurer has agreed to pay the Insured or, as applicable, the Insured Person as shown in the Schedule.

**BUSINESS OF THE INSURED**

The Business of the Insured as shown in the Schedule.

**CAPITAL SUM BENEFIT**

A Benefit that is not payable at a weekly rate.

**CONTAMINATION**

Contamination or poisoning of people by nuclear and/or chemical and/or biological substances that cause illness and/or disablement and/or Death.

**DEATH**

Death caused by Accidental Bodily Injury.

**EMPLOYEE**

Any employee of the Insured or any other person acting in the capacity of an employee whilst working for the Insured in connection with the Business of the Insured.

**EVENT ACCUMULATION LIMIT**

The Insurer's maximum liability in total under this and any other group personal accident and/or business travel issued or to be issued by the Insurer to the Insured for all Losses not involving air travel as shown in the Schedule.

**EXCESS PERIOD**

The first period of Temporary Total Disablement or Temporary Partial Disablement for which no Benefit is payable as shown in the Schedule.

**ILLNESS**

Any disease, medical complaint or condition which is not Accidental Bodily Injury.

**INSURED PERSON**

Those persons specified in the Schedule as being Insured Persons.

**LOSS**

A loss or series of losses arising out of or consequent upon or contributed to directly or indirectly by one originating event.

**LOSS OF INTERNAL ORGAN**

Total and permanent:

- a. loss by removal or
- b. effective loss of use

**LOSS OF SPEECH**

Total and permanent loss of the ability to speak or communicate verbally

**MAXIMUM BENEFIT**

The Maximum amount of Benefit payable, as shown in the Scale(s) of Compensation in the Schedule.

**MAXIMUM BENEFIT PERIOD**

The maximum length of time for which a Benefit is payable after the Excess Period has expired as shown in the Schedule.

**NON-SCHEDULED AIR ACCUMULATION LIMIT**

The Insurer's maximum liability in total under this and any other group personal accident and/or business travel policies issued or to be issued by the Insurer to the Insured for all Losses involving air travel other than Scheduled Air Transport as shown in the Schedule.

**OCCUPATIONAL**

- a. While an Insured Person is carrying out their occupational duties for the Insured or while travelling between:
  - i an Insured Person's place of residence and place of work
  - ii between places of work

where the travel is at the expense of the Insured.

- b. At any time where Accidental Bodily Injury is the direct result of an unprovoked physical assault by another person.

**INSURED PERSON**

Any partner, proprietor or working director of the Insured between the ages of 16 and 65 years unless agreed by the company in writing.

**PERMANENT TOTAL DISABLEMENT**

Any permanent disablement other than

- a. Loss of Sight
- b. Loss of Hearing
- c. Loss of Limb
- d. Loss of Internal Organ
- e. Loss of Speech

which having lasted without interruption for at least 12 months, has no reasonable prospect of improving, and in the opinion of an independent qualified medical referee acceptable to the Insurer, will in all probability permanently, completely and continuously prevent the Insured Person from engaging in or giving attention to:

- i their Usual Occupation if in gainful employment
- ii business profession or occupation of each and every kind if the Insured Person is not in gainful employment
- iii business schooling profession or occupation of each and every kind if the Insured Person is under 16 years of age or under 18 years of age and in full time education for the remainder of their life.

**PERMANENT PARTIAL DISABLEMENT**

Means Loss of Sight, Loss of Hearing, Loss of Speech, Loss of Limb, Loss of Internal Organ.

**SCALE(S) OF COMPENSATION**

The scale of Benefits as shown in the Schedule.

**SCHEDULED AIR TRANSPORT**

A registered fixed wing aircraft which flies from an internationally recognised airport on a published schedule and which has more than 18 seats.

**TEMPORARY PARTIAL DISABLEMENT**

Disablement that completely prevents a Member from performing more than 50% of the functions of their Usual Occupation.

**TEMPORARY TOTAL DISABLEMENT**

A disablement which wholly prevents the Member from performing each and every function of his/her Usual occupation but is not Permanent Total Disablement.

**USUAL OCCUPATION**

The tasks, duties and other functions which the Insured normally pays the Member to perform in connection with the Business of the Insured.

**TERRORISM**

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

**WAR**

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

**WEEKLY BENEFIT**

The amount shown in the Schedule that the Insured will pay to the Insurer for each complete working week, during any period of Temporary Total Disablement or Temporary Partial Disablement of an Insured Person.

**WEEKLY WAGE**

The gross basic weekly amount (or in the case of salaried employees 1/52nd of the Annual Salary) normally paid (excluding bonus payments) by the Insured to the Insured Person as at the date of occurrence of the accident giving rise to Accidental Bodily Injury for their Usual Occupation.

**MEDICAL EXPENSES**

Means medical expenses arising out of accidental bodily injury covered under this policy.

**COVER**

The Insurer will pay the Insured compensation in accordance with the Scale(s) of Compensation specified in the Schedule if any Insured Person suffers Accidental Bodily Injury during the Period of Insurance and Operative Time of Cover which, within 12 months thereof solely, directly and independently of any other cause results in the:

- a. Death
- b. Permanent Total Disablement
- c. Temporary Total Disablement
- d. Temporary Partial Disablement

of an Insured Person.



In addition the Insurer will pay (if specified in the Schedule) Medical Expenses arising out of Accidental Bodily Injury in respect of:

1. The fees of a registered medical practitioner and the fees of any surgeon radiologist and other specialist to whom the registered medical referee has referred the case
2. The cost of drugs or appliances prescribed by such medical referee or specialist as mentioned in 1 above
3. Maintenance and attendance in hospital pay beds or nursing home and home nursing in bed by a qualified resident or daily nurse
4. The Cost of emergency transport necessarily incurred in connection with events covered by this section within the country where the event occurs
5. The cost of transport of body or ashes of an Insured Person to his/her country of usual domicile.

#### **Excluding**

The Section does not cover claims arising from:

1. Treatment and maintenance in a mental home in excess of six weeks in all for any one Insured Person during the duration or cover under this Section
2. Normal dental treatment and provision of false teeth or dentures normal eye tests and the provision of visual aids normal ear tests and provision of hearing aids
3. Treatment of children under 10 years of age in respect of Chicken Pox Diphtheria German Measles Mumps Scarlet Fever or Whooping Cough
4. Cosmetic Surgery and associated treatment
5. The first £200 of all admissible expenses incurred in respect of any one claim
6. Any operation of treatment pending at the time of inception of cover

## BASIS OF SETTLEMENT

Compensation will be paid in accordance with the following percentages subject to a maximum total of 100% of the Sum Insured in the aggregate.

Percentage payment

1. Death	<b>100%</b>
2. Permanent Total Disablement	<b>100%</b>
3. Loss of Limb	<b>100%</b>
4. a. Loss of Sight	<b>100%</b>
b. Loss of Hearing	<b>50%</b>
c. Loss of Hearing in one ear	<b>10%</b>
5. Permanent loss by physical separation of	
a. one thumb	
i both phalanges	<b>20%</b>
ii one phalange	<b>7%</b>
b. one index finger	
i three phalanges	<b>9%</b>
ii two phalanges	<b>6%</b>
iii one phalanges	<b>3%</b>
c. one other finger	
i three phalanges	<b>7%</b>
ii two phalanges	<b>5%</b>
iii one phalanges	<b>2%</b>
d. one great toe	
i two phalanges	<b>6%</b>
ii one phalanges	<b>3%</b>
e. one other toe	
i three phalanges	<b>3%</b>
ii two phalanges	<b>2%</b>
iii one phalanges	<b>1%</b>

which the Member has survived for at least one (1) month

## LIMITATIONS

In respect of each Insured Person:

1. this Section shall cease to be in force immediately after the occurrence of any Accidental Bodily Injury qualifying for payment under percentage payment 1, 2 or 3 or 4a.
2. Weekly Compensation in respect of one or more Accidental Bodily Injuries occurring in any one period of Insurance will not be paid for more than 104 weeks in total.
3. Weekly Compensation will be paid at the end of each period of four (4) consecutive weeks disablement.
4. Weekly Compensation will not be paid for the first two (2) weeks of each period of Temporary Total disablement.

## EXCLUSIONS

The Policy Exclusions apply to this Section

In addition the Insurer will not be liable to make any payment in respect of injury or disablement of any Member

1. sustained whilst or consequent upon or contributed to directly or indirectly by the member engaging in
  - a. motor cycling (other than in respect of mopeds or scooters up to 50cc), hunting, winter sports (other than curling or skating), mountaineering or rock climbing (necessitating the use of ropes or guides), pot-holding, caving, any underwater activities involving the use of external breathing apparatus, armed or unarmed combat sports, riding or driving in any kind of race or endurance test (or practice therefore)
  - b. aviation other than as a passenger (not as a member of the crew nor for the purpose of undertaking any trade or technical operation) in a fully licensed passenger-carrying aircraft
  - c. any gainful occupation outside the Business.
2. arising as a consequence of the suicide, intentional self-injury or insanity of or the influence of alcohol or drugs (other than drugs taken in accordance with the treatment prescribed and directed by a qualified medical practitioner but not for the treatment of drug addiction)
3. caused or contributed to directly or indirectly by
  - a. pregnancy or childbirth
  - b. sexually transmitted diseases
  - c. HIV (Human Immunodeficiency Virus) and/or any HIV related illness including AIDS (Acquired Immune Deficiency Syndrome) and/or any mutant derivative or variations thereof however caused
4. arising from travel to or from or work on Offshore Installations
5. arising out of or consequent upon service in the Armed Forces of any Nation or International Authority or other such organisation
6. arising out of or consequent upon or contributed directly or indirectly by any member(s) committing a criminal act or taking part or whilst engaged in civil commotions or riots of any kind
7. arising out of Accidental Bodily Injury, death or disablement as a result of or contributed to by
  - a. sickness or disease
  - b. any naturally occurring condition or gradually operating cause.

## 8. Accumulation Limits

The Insurer's maximum liability for all accepted claims in total in respect of all Insured Persons involved in the same Loss shall not exceed the Aircraft Accumulation Limit, Event Accumulation Limit, Non-schedule Air Accumulation Limit or Contamination by Terrorism Accumulation Limit as applicable. Where the total of all individual claims exceeds the limit applicable the individual claim shall be reduced proportionately until the total of all individual claims does not exceed the limit applicable in the Schedule.

9. as a result of any event directly or indirectly arising out of any nuclear, chemical or biological Contamination due to any act of Terrorism regardless or any other cause or any other event contributing at the same time or in any other sequence to such event.

For the purpose of this Exclusion:

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

**Contamination** means contamination or poisoning of people by nuclear and/or biological substances which cause illness and/or disablement and/or death.

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

10. travel to a country or area that the Foreign Office Travel Advice Unit has advised against all travel unless agreed in writing by the Insurer.
11. any claim in excess of the Event Accumulation Limit, Non-scheduled Air Accumulation Limit, Aircraft Accumulation Limit whichever shall be the lower.
12. any claim in respect of any Benefit during the Excess Period

## CONDITIONS

The Policy conditions 1-6 and 11-15 apply to this Section and in addition the following Section Conditions

### 1. Claims

No claim will be paid unless the Insured and where applicable the Member complies strictly with these conditions:

- a. The Insured or the Member must give notice to the Insurer as soon as possible and in any event within 30 days after the happening of any loss damage or occurrence which may result in a claim under this Policy.
- b. The Insured or the Member must provide the Insurer with all information and evidence which the Insurer may reasonably require at no cost to the Insurer.
- c. The Insured or the Member must at the Insurer's request provide a medical examination report in respect of any Accidental Bodily Injury where the insured requires the Insurer to consider a claim under this policy for which the Insurer will pay the cost of the medical examination fee.
- d. The Insured must ensure that as soon as possible after the occurrence of any Accidental Bodily Injury the Member obtains and follows the advice of a registered medical practitioner.

The Insurer will not be liable for any bodily injury or medical condition which is worsened or prolonged or any other consequences which arise as a result of the Member's failure to obtain and follow such advice and to use such treatment remedies or appliances as may be prescribed.

- e. In the event of the Death of an the Member the Insurer will be entitled to have a post-mortem examination carried out at its expense.
- f. For the Insured to claim for Weekly Benefits under this policy the Member must have no other weekly benefits insurance in force except as declared to and accepted by the Insurer during the Period of Insurance.

## 2. Material Facts

The Insured shall give the Insurer notice in writing of any material alteration affecting the risk insured and of any variation in the Business, occupation or activities or the health of any Member. This Section shall continue in force until expiry of the current Period of Insurance notwithstanding any variation in the health of any Member during such period, but in the event of any other alteration or variation in the risk insured the Insurer shall not be liable to make any payment under this Section unless the Insurer has agreed in writing to maintain the Section in force following such alteration or variation.

## 3. Maximum Sum Insured for Temporary Total Disablement

The maximum sum insured for Temporary Total Disablement should in no instance exceed 100% of the Member's normal weekly wage. It is the duty of the insured and Member(s) to inform the Insurer if any claim payment does exceed these limits and payment will be proportionately reduced until these limits are not exceeded.

## 4. Age Limitation

Unless otherwise agreed by the Insured and specifically noted in this Section no person aged 65 or over at commencement of the Period of Insurance will be covered by this Section.

## 5. Disappearance

Death of any Insured Person shall not be assumed by reason of their disappearance. If after a reasonable period of time has elapsed the Insurer having examined all the evidence available has no reason to suppose other than that the Insured Person has sustained an accident during the operative Time of Cover resulting in their Death, the disappearance of such Insured Person shall be deemed to constitute Death by accident for the purposes of this Policy.

## SECTION 6 - MACHINERY BREAKDOWN

### DEFINITIONS

The following definitions apply to this Section in addition to the Policy Definitions

#### TERRITORIAL LIMITS

Gibraltar

#### INSURED PROPERTY

All plant and machinery (or as more specifically described in the Schedule) owned by or leased to the Insured at the Location and ready for use in connection with the Business.

Insured Property shall not include

- a. foundations masonry brickwork chimneys or refractory linings
- b. materials being processed by or contained in the Insured Property
- c. office machinery computers or other electronic data processing equipment
- d. plant or machinery which prototype experimental or untried
- e. plant machinery pipes or cables situated underground

unless specifically described in the Schedule.

#### PRESSURE PLANT

- a. boiler plant
- b. plant subject to internal steam pressure
- c. plant used to contain fluids under pressure or vacuum

forming part of the Insured Property.

## **SCHEDULE**

The Policy Schedule and Plant Schedule forming part of the Policy.

## **BREAKDOWN**

- a. the actual breaking distortion or burning out of any part of the Insured Property while in use arising from mechanical or electrical defects in the Insured property causing sudden stoppage
- b. fracturing of any item of the Insured Property by frost

which necessitates repair or replacement before it can resume normal working.

## **EXPLOSION**

The sudden and violent rending of the Pressure Plant by force of internal fluid pressure (other than pressure of chemical action or ignition of the contents or of ignited flue gases) causing bodily displacement of any part of the Pressure Plant together with forcible ejection of the contents.

## **COLLAPSE**

The sudden and dangerous distortion (whether or not attended by rupture) of any part of the Pressure Plant caused by crushing stress by force of steam or other fluid pressure (other than pressure of chemical action or ignition of the contents or of ignited flue gases).

## **COVER OPTIONS**

The Insurer will pay the Insured for

### **Cover One**

#### **Sudden and unforeseen damage**

Sudden and unforeseen damage (including Breakdown Explosion and Collapse and defined) to the Insured Property occurring during the period of Insurance at any Location specified in the Schedule within the territorial Limits.

### **Cover Two**

#### **Own Surrounding Property (Pressure Plant)**

Damage to property belonging to or held by the Insured in their care custody or control directly consequent upon and solely due to damage to Pressure Plant insured by cover Option One.

## **LIMIT OF LIABILITY**

The liability of the Insurers under this Policy shall not exceed

- a. Cover One

Sum Insured shown in the Schedule

- b. Cover Two

Limit of Liability shown in the Schedule

And in addition

- c. any amount shown in the Extensions

in respect of any one accident or series of accidents arising from one occurrence of loss or damage.

## **EXTENSIONS (subject to the terms, limits, conditions and exclusions of this Section and the Policy)**

### **1. Additional Plant**

Additional items of plant and machinery of the same class or type as insured under this Policy following completion of successful testing and commissioning and where required statutory inspection and certification.

Provided that so far as the Insured is aware the plant and machinery is free from any material defect.

### **2. Temporary Removal**

Loss of or damage to the Insured Property occurring within the Territorial Limits or while it is

- a. temporarily located at any other premises or
- b. in transit

for the purposes of repair service or maintenance.

Loss or damage arising from fire or fire extinguishing fluid explosion lightning earthquake storm tempest flood inundation water aircraft or other aerial devices or articles dropped therefrom theft or attempted theft shall not be excluded while the Insured Property is in transit.

Provided that the total liability of the Insurers under this Policy for loss of or damage to Insured Property which is in transit or temporarily located at other premises shall not exceed the limit of liability stated in the schedule.

### **3. Debris Removal**

The cost necessarily and reasonably incurred by the Insured with the consent of the Insurers in the removal of Insured Property following damage insured by this policy.

Provided that the total liability of the Insurers for the cost of rectification of damage and the removal of Insured Property shall not exceed the Limit of Liability stated in the Schedule.

### **4. Additional Cost**

Necessary and reasonable cost incurred by the Insured following damage insured by this Policy

- a. in effecting a temporary repair or expediting a permanent repair.

Provided that the liability of the Insured shall not exceed 50% of the normal repair cost.

- b. in respect of increased cost of working

incurred to prevent or minimise interruption to the business in consequence of the damage excluding the cost incurred in the 48 hours immediately following the occurrence of the damage

Provided that the liability of the Insurers shall not exceed 10% of the sum insured.

### **5. Claims Preparation Cost**

Necessary and reasonable costs incurred in producing and certifying any particulars of details required by the Insurers in connection with an event for which liability has been accepted but limited to

- a. additional costs incurred by employees of the Insured.
- b. additional fees charged by the usual auditors of the Insured
- c. the cost of materials used in furnishing the requirements of the Insured

Provided that the liability of the Insurers shall not exceed 10% of the sum insured.

## 6. Avoidance of Impending Damage

The cost incurred by the Insured in taking exceptional measures that are reasonable to avoid or reduce impending loss or damage which would have resulted in a claim under this Policy.

Provided that

- a. the impending damage did not arise from any defect in the Insured Property
- b. the impending damage did not arise from a reasonably foreseeable cause
- c. the damage would have been the natural outcome to be expected in the absence of the measures taken
- d. the insurers are satisfied that damage which would have been insured under this Policy has been avoided or reduced in consequence of the measures taken
- e. the liability of the Insurers shall not exceed the cost which would have been incurred had the measures not been taken and damage insured by this Policy has occurred.

## 7. Payments on Account

Payment as agreed between the Insured and the Insurers in advance of final settlement of a claim under this Policy where the Insurers have admitted liability.

## 8. Hired in Plant

The legal liability of the Insured under the terms of their hiring agreement or otherwise to pay

- a. compensation for loss of or damage to Hired Plant while at or while in transit (other than by sea or air) to and from any Location specified in the Schedule and
- b. continuing hire charges as a result of loss of damage to Hired in Plant for which indemnity is provided by a above.

In addition the Insurers will pay all legal expenses for which the Insured may become liable where legal proceedings have been defended with the written consent of the Insurers.

Hired in Plant means plant or machinery with a replacement value not more than hired by the Insured by not plant on the hire purchase or subject to a lease agreement or on free loan.

Provided that

- a. the terms of any hiring agreement shall be no more onerous than the Model Conditions for the hiring of plant approved by the construction Plant-hire Association
- b. where the hire charges paid during the Period of Insurance exceed £2,000 the Insured shall declare the hire charges paid and shall pay the additional premium requested by the Insurers
- c. the liability of the Insurers under this Extension shall not exceed 10% of the sum insured.

Exclusion 2 does not apply to this extension of cover.

## 9. Fuel Storage Tanks Loss of Contents

- a. loss of the contents of and
- b. the cost incurred by the Insured in cleaning up the spilled or leaked contents from

Fuel Storage Tanks insured by this Policy directly and solely due to sudden and unforeseen damage for which indemnity is provided by this policy.



Provided that

- a. the liability of the Insurers under this extension shall not exceed 10% of the sum insured in connection with any one occurrence regardless of the number or amount of claims resulting from the occurrence
- b. the value of the contents does not exceed 10% of the sum insured.

This Extension does not cover

- a. loss of contents by evaporation seepage contamination or any form of trade loss
- b. the cost of releveling Fuel Storage Tanks unless resulting from sudden and unforeseen damage insured by this Policy
- c. the cost of cleaning up any spillage or leakage in area outside the boundaries of the Insured's premises or to other property not belonging to the Insured
- d. damage by or in consequence of the process of cleaning up the Fuel Storage Tanks
- e. liability for cleaning up or making good any pollution or contamination of the water table Fuel or any water course or property of any party other than the Insured.

#### **Definition**

For the purposes of this Extension Fuel Storage Tanks shall mean tanks (or similar containers) designed and used to store oil and other fossil fuels or liquid propane gas.

#### **10. Claims Investigation Cost**

Necessary and reasonable costs (including the cost of consultants fees) incurred in conducting investigations and tests in respect of possible repair or replacement options following damage insured by this Policy

Provided that

- a. the liability of the Insurers under this Extension shall not exceed 10% of the sum insured in connection with any one occurrence regardless of the number or amount of claims resulting from the occurrence
- b. the prior consent of the Insurers has been obtained.

## **REINSTATEMENT AND PUBLIC AUTHORITIES**

In the event of damage to:

Insured Property and/or

Other Property damaged by Explosion of Pressure Plant

for which liability is accepted the basis on which the amount payable is to be calculated shall be the reinstatement of the Insured Property or Other Property.

Reinstatement shall mean

- a. where the Insured Property or Other Property is destroyed
  - i if a building the rebuilding of the property
  - ii if not a building its replacement by similar plant or property

in either case to a condition equal to but not better or more extensive than its condition when new

- b. where the Insured Property or Other Property is damaged the repair of the damaged portion to a condition substantially the same as but not better or more extensive than its condition when new

- c. additional work solely necessary to comply with European Union legislation or building or other regulations under or framed in pursuance of any Act of Parliament or bye-laws of any municipal or local authority.

Provided that

1. the liability of the Insurers shall not exceed the Limits of Liability under this Section
2. where the Insured Property or Other Property is damaged or destroyed in part only the liability of the Insurers shall not exceed the amount which would have been payable had the Insured Property or Other Property been totally destroyed.
3. where the parts necessary for repair of Insured Property or Other property are not available at manufacturers listed prices the Insurers shall be liable to pay for the cost of an equivalent repair to similar property for which parts are available at manufacturers listed prices
4. no payment beyond that which would have been payable if this clause had not been included shall be made
  - i unless the work of reinstatement is commenced carried out without unnecessary delay or
  - ii if at the time of any loss or damage the Insured Property or Other Property shall be covered by any other insurance effected by or on behalf of the Insured which is not on a reinstatement basis
5. the Insurers shall not be liable for the cost incurred in complying with any of the legislation or regulations under c
  - i in respect of damage occurring prior to the introduction of this clause
  - ii under which notice has been served on the Insured prior to the happening of the damage
  - iii in respect of undamaged property
  - iv in respect of any tax duty development of other charge which may be payable for compliance with any regulations
6. where the Insured Property is
  - i used for the generation of electricity (other than standby reciprocating engine and generator sets up to one mega watt per set)
  - ii glass lined vessels (other than spray lined boilers)
  - iii mainly used or installed outdoors (other than Insured Property used in connection with supplying utilities and other similar services)

the basis of settlement will be indemnity and no payment beyond that which would have been payable if this clause had not been included shall be made.

Where by reason of the above provisions no payment is to be made beyond the amount which would have been payable if this clause had not been incorporated the rights and liabilities of the Insurers and the Insured in respect of the destruction or damage shall be subject to the terms of this Section as if this clause had not been incorporated.

#### **Definition**

Other Property means property belonging to the Insured or for which they are responsible but not Insured Property or anything sold supplied processed serviced or manufactured or stored in the course of the trade or business of the Insured.

## EXCLUSIONS

The Policy Exclusions apply to this Section and in addition the Insurers will not pay for

### 1. Excess

The amount stated in the Schedule as the Excess in respect of each and every occurrence for which the Insured is indemnified by this policy.

### 2. Perils

Loss or damage by

- a. fire however caused
- b. fire extinguishing fluid
- c. explosion other than specifically insured by this Policy
- d. lightning earthquake storm tempest flood inundation water aircraft or other aerial devices or articles dropped therefrom
- e. subsidence or other ground movement or displacement
- f. theft or attempted theft
- g. riot strike lockout and civil commotion.

### 3. Maintenance faulty Workmanship or Application of Tools

The cost of

- a. maintenance
- b. rectification of faulty workmanship occurring during the execution of repairs

but not damage resulting from a or b unless otherwise excluded

- c. damage by direct application of tools.

### 4. Wear And Tear or Gradual Deterioration

The cost of rectification of

- a. inevitable wear and tear erosion corrosion or other deterioration caused by or naturally resulting from ordinary work use or exposure
- b. gradually developing flaws or fractures which do not necessitate immediate stoppage

but not damage insured by this Policy resulting from a or b unless otherwise excluded.

### 5. Excluded Parts and Components

Cutters bits tools moulds dies heating elements driving belts and chains and similar items that require periodic replacement.

If as a result of other damage insured by this policy these items are damaged beyond repair then the Insurers shall indemnify the Insured for any remaining residual value.

### 6. Safety or Protective Devices

Damage to safety or protective devices by their functioning.

### 7. Multiple Lifting Operations

Damage arising during any lifting or lowering operation in which a load is shared between two or more machines unless the prior consent of the Insurers has been obtained.

### 8. Vessels craft Vehicles devices Rigs or Platforms

Loss of or damage to any

- a. vessel craft vehicle or device designed to float on in or travel under or through water air or space
- b. marine rig or marine platform
- c. equipment mounted on and fixed to such vessel craft vehicle device rig or platform.

#### **9. Other Consequential Loss**

Liquidated damages penalties for delay or detention or in connection with guarantees of performance or efficiency or loss of use or any form of consequential loss not specifically insured by this Policy.

#### **10. Installation or Removal**

Damage to any item of Insured property arising during

- a. its initial installation erection its final removal
- b. its final testing or commissioning.

#### **11. Overloading or Abnormal conditions**

Damage to any item of Insured property caused by or arising from the imposition of abnormal conditions deliberate overloading or overload testing.

#### **12. Scratching**

Scratching of painted or polished surfaces unless accompanied by other indemnifiable damage to the item.

## **SPECIAL CONDITIONS**

The Policy Conditions apply to this Section and in addition the following Special Condition

1. Maintenance
  - a. The insured machines shall be maintained in good working order.
  - b. The insured machines shall not be overloaded.
  - c. All Government or other regulations relating to the condition or inspection of such machines shall be observed.
  - d. The Inured shall at their own expense arrange for a contract to be in place providing for approved and competent specialists to thoroughly examine the insured machines at intervals of not more than six months and shall forward to the company copies of the reports on request.

## **SECTION 7 - DIRECTORS' AND OFFICERS' LIABILITY FOR RESIDENTS' ASSOCIATIONS**

### **DEFINITIONS**

For the purposes of this Section:

#### **DEFENCE COSTS**

Defence costs are part of financial loss and shall mean fees, costs, charges and expenses, other than remuneration payable to any director or officer or employees of the residents' association, incurred with our written consent (such consent not to be unreasonably withheld) in the investigation, defence, adjustment, settlement or appeal of any claim or civil or criminal proceedings made or brought against any director or officer, and in the representation of any director or officer at any official examination, enquiry, investigation or other proceedings ordered or commissioned at the behest of a body legally empowered to investigate the affairs of the residents' association.

## **DIRECTOR OR OFFICER**

Director or officer shall mean:

- i any natural person presently or previously appointed or elected by the residents' association as a director or officer or subsequently appointed or elected during the Period of Insurance whilst acting in such capacity on behalf of the residents' association and
- ii the legal heirs or representatives of any director or officer with respect to wrongful acts committed prior to the death, incapacity, insolvency or bankruptcy of the director or officer provided that such legal heirs or representatives shall observe and be subject to the terms and conditions of this policy in so far as they can apply and
- iii any employee of the residents' association who is named as a co-defendant with any director or officer.
- iv director or officer shall not include any auditor, liquidator, administrator or receiver appointed to the residents' association.

## **FINANCIAL LOSS**

Financial loss shall mean:

Damages, judgments or settlements that any director or officer or the residents' association becomes legally liable to pay

Defence costs in connection with any claim under this policy

## **LIMIT OF LIABILITY**

Limit of liability as stated in the schedule shall mean our maximum liability in the aggregate payable under this Policy in any one Period of Insurance for all financial loss arising from all claims made against any directors or officers and the residents' association.

## **PERIOD OF INSURANCE**

Period of Insurance is that period of time shown in the schedule to this policy including any extension thereto agreed in writing by us or extended reporting period provided by Item 2.1 if purchased by you.

## **PROPOSAL**

Proposal shall mean the proposal form and any attachments thereto and any supplements, statements or material supplied to us.

In the event that this policy replaces a previous policy issued by us proposal shall mean the proposal form and any attachments thereto and any supplements, statements or material supplied to us at the commencement of the first period of insurance from which cover has been provided continuously by us, and any renewal declaration and attachments thereto and any supplements, statements or material supplied to us in connection with a renewal.

## **RESIDENTS' ASSOCIATION**

Residents' association shall mean:

- i you; and
- ii any subsidiary of you.

## **SUBSIDIARY**

Subsidiary shall mean

- a. any entity in which you:
  - i hold directly or indirectly more than 50% of the voting rights, or
  - ii appoint a majority of the Board of Directors.
- b. any previously owned entity which would at the time of the wrongful act have complied with the requirements of paragraph 5.9.1 and is not at the time of notification of any claim insured by any other valid and collectable policy.

## **WRONGFUL ACT**

Wrongful act shall mean actual, alleged or attempted breach of duty, breach of trust, breach of contract, breach of warranty of authority, neglect, error misstatement, misleading statement, wrongful trading or any other wrongful acts or omissions committed or attempted by or allegedly committed or attempted by the residents' association or any director or officer whilst acting in this capacity on behalf of the residents' association or solely by reason of holding such office on behalf of the residents' association but not whilst acting as a director or officer of an entity other than the residents' association.

Cover under this section is on a claim made basis and covers only claims first made during this period of insurance.

## **COVER**

In consideration of the payment of the premium and subject to all the terms, conditions and limitations of this policy we agree with you and any director or officer that:

- a. we will pay on behalf of any director or officer such financial loss as arises from any claim first made against him or her jointly or severally during the Period of Insurance by reason of any wrongful act.
- b. payment of defence costs will be made in accordance with Section 3 of this policy.

## **Extended reported period**

- a. In the event of non-renewal of this policy you shall have the right upon payment of 50% of the premium stated in Item 4 of the Schedule to an extension of the Period of Insurance in respect of any claim or claims made against any director or officer during the 365 days after the expiry date of the Period of Insurance but only in respect of any wrongful act committed prior to the expiry date.
- b. The right contained in Section 2.1 shall terminate unless written notice of your intention to purchase the extended reporting period is given to us within 30 days of the expiry date. The additional premium shall be paid promptly.
- c. The offer by us of terms, conditions, limits of liability or premiums at the expiry date of the policy different from those of the expiring policy shall not constitute a refusal to renew.

## **Defence costs and settlements**

It shall be the duty of any director or officer against whom a claim is made to take all reasonable steps to defend such claim and not to do anything to prejudice our position.

- a. We shall have no duty to defend any claim made against any director or officer but shall have the right to be provided with all such information concerning such claim as we shall reasonably require and shall be kept fully informed as to all matters relating to or concerning the investigation, defence and settlement of any such claim as may potentially be covered by this policy and shall have the right to receive copies of all relevant documentation relating thereto whensoever created.
- b. No director or officer shall be required by us to contest any legal proceedings which may be brought against him or her unless a suitable legal advisor, mutually agreed upon by the director or officer and us, shall advise that the claim should be contested in which event the director or officer shall provide all such assistance to those persons representing them in the course of such legal proceedings or as may reasonably be necessary to contest such legal proceedings.
- c. We will make payments of defence costs as and when such defence costs fall due. Any payments of defence costs which have been made by us shall be repaid to us by the person on whose behalf such payments have been made in the event and to the extent that it is established that such person had no entitlement to payment of financial loss under the terms and conditions of this policy. No defence costs shall be incurred and no legal representative shall be retained to defend any director or officer or to take any step in connection with any legal proceedings as may potentially be covered by this policy and no settlement of any such claim shall be made without our consent, such consent not to be unreasonably withheld.
- d. In the event that a claim is made against the residents' association and any director or officer and/or any uninsured defendants and/or includes both financial loss which is covered and financial loss (including defence costs) which is not covered we, the residents' association and the director or officer shall use all reasonable endeavours to determine a fair allocation between financial loss which is covered and financial loss (including defence costs) which is not covered and between the residents' association, the director or officer and any uninsured defendants.

## EXCLUSIONS

We shall not be liable under this policy to make any payment for financial loss in respect of any claim made against any director or officer.

1. Arising from, based upon, attributable to or as a consequence of:
  - a. any director or officer having gained in fact profit or advantage to which he, she or they had no legal entitlement
  - b. any intentionally dishonest or fraudulent act or omission or any wilful violation of any statute, regulation or law by any director or officer if a judgment or other final decision establishes such an intentionally dishonest or fraudulent act or omission.

In respect of Exclusion 5.1 the wrongful act of any director or officer shall not be imputed to any other director or officer for the purposes of determining the availability of cover under this policy

2. Arising from, based upon, attributable to or as a consequence of any litigation or any official examination, enquiry, investigation or other proceedings ordered or commissioned at the behest of a body legally empowered to investigate the affairs of the residents' association initiated prior to or pending at the date specified in Item 6 of the schedule or alleging or deriving from the same or essentially the same facts as alleged in such prior or pending litigation, official examination, enquiry, investigation or other proceedings
3. Arising from, based upon, attributable to or as a consequence of circumstances prior to the Period of Insurance and which have been reported to any previous insurer
4. Arising from, based upon, attributable to or as a consequence of any wrongful act committed outside the Gibraltar or in respect of any action brought outside the Gibraltar jurisdiction
5. Arising from the infringement of obligations imposed by any statute, regulation or common law including but not limited to the Pensions Act, 1995 whilst acting in the capacity of trustee of any pension or superannuation scheme established or maintained by the residents' association for the benefit of its employees
6. For bodily injury, sickness, disease, death or emotional distress or other impairment of health of any person or for loss of or damage to or destruction of material property or loss of its use. Material property shall include information stored on computer.
7. For
  - a. taxes, fines or penalties imposed by law
  - b. any governmental regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise pollutants or any action taken in contemplation or anticipation of any such regulation, order, direction or request.

'Pollutants' means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapour, soot, fumes, acids, alkalis, chemicals and waste and any other similar substance of any kind or nature whatsoever including electromagnetic fields. 'Waste' includes materials which are intended to be or have been recycled, reconditioned or reclaimed.

## CONDITIONS

### 1. Claim notification

You or any director or officer or the residents' association as a condition precedent to payment under this Policy shall provide written notice to us as soon as is reasonably practicable of:

- a. any claim made against any director or officer
- b. notice from any person or entity of an intention to make such a claim

The date of notification to us will be deemed to be the date upon which the resultant claim is first made under this policy.

Should a director or officer or the residents' association become aware of any circumstances which could give rise to a claim at a later date then written notice to us of such circumstances will be accepted as the date of notification of a claim. Such circumstances

shall make reference to the wrongful act which may give rise to a claim and the material facts which give rise to the belief that a claim may be made.

Written notice shall include but not limited to a description of the claim or circumstances, the nature of the alleged or potential claimants and the date and manner in which the director or officer or the residents' association first became aware of the claim or circumstances.

## **2. Claims series**

When more than one claim arises from one wrongful act or a series of wrongful acts each connected causally with another or which shall be by any means interrelated or interconnected there shall be deemed to have arisen one claim alone notwithstanding the number of claims which may be asserted (a 'Claims series') and each such claim shall be attributed to the Period of Insurance during which the first claim of any Claim series has been asserted or made.

## **3. Contractual right of renewal (tacit)**

If you pay the premium to us using our Direct Debit instalment scheme, we will have the right (which we may choose not to exercise) to renew the policy each year and continue to collect premiums using this method. We may vary the terms of the policy (including the premium) at renewal, if you decide that you do not want us to renew the policy, provided you tell us (or your insurance intermediary) before the next renewal date, we will not renew it.

## **4. Representations**

In granting cover under this policy to any director or officer we have relied upon the declarations, statements and attachments to the proposal for cover which shall be considered as incorporated in and constituting part of this policy

The proposal for cover shall be construed to be a separate application for cover for each director or officer. In respect of the declarations and statements contained in the proposal form, no statement in the proposal form or knowledge possessed by any director or officer, other than knowledge or information possessed by the director or officer actually signing the proposal form, shall be imputed to any other director or officer for the purpose of determining the availability of cover under this policy.

## **5. Sanctions**

Notwithstanding any other terms of this policy we will be deemed not to provide cover nor will we make any payment or provide any service or benefit to you or any other party to the extent that such cover, payment, service or benefit would violate any applicable trade or economic sanctions law or regulation.

## **6. Subrogation**

Upon payment of any claim we shall assume all rights of recovery available to any director or officer or the residents' association and all reasonable assistance shall be rendered to us in the prosecution of such rights by such director or officer or the residents' association.

## **7. Arbitration**

In the event that there shall arise any dispute or difference between us, the director or officer and/or the residents' association with respect to any of the matters referred to in this policy then such dispute or difference shall be referred to the final and binding resolution of a suitably qualified independent legal adviser (for example a member of Her Majesty's Counsel in England and Wales) who shall be provided with all such information as he or she may request in order to achieve a resolution of such difference or dispute.

Such legal expert shall have sole discretion as to the conduct of any reference to him or her and as to the awarding of any costs or expenses incurred in connection therewith.

## **SECTION 8 - TERRORISM**

The following definitions apply to this Section in addition to the Policy Definitions

### **DEFINITIONS**

#### **ACT OF TERRORISM**

Acts of persons acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force or violence, of the government in Gibraltar or any other government de jure or de facto.



## **EVENT**

All individual losses arising in respect of a continuous period of 72 hours of which the proximate cause is the same Act of Terrorism. The date and time that any such period of 72 hours shall commence shall be set the Insurer.

## **TERRITORIAL LIMITS**

Gibraltar

## **GENERAL COVER POLICY**

a. This Policy

or

b. where the Cover by this Policy is limited to the Terrorism Insurance Section only, the policy or policies specified in the Terrorism Section of the Schedule to this Policy.

## **PROPERTY INSURED**

Property as detailed in the Schedule to any General Cover Policy but excluding

1. property insured under a
  - a. Marine, Aviation or Transit policy
  - b. Motor Insurance policy
  - c. Road Risks Section of a Motor Trade policy
  - d. reinsurance policy or agreement

whether such policy or agreement includes cover for an Act of Terrorism or not

2. any land or building which is insured in the name of an individual and is occupied by that individual and is occupied by that individual for residential purposes, unless
  - a. insured under the same policy as the remainder of the building which is not a private residence
  - b. the building is a block of flats
3. any Nuclear Installation or Nuclear Reactor.

## **DAMAGE**

Loss or destruction of or damage to Property Insured.

## **CONSEQUENTIAL LOSS**

Loss resulting from interruption of or interference with the Business carried on by the Insured at the Premises in consequence of loss or destruction of loss or destruction of or damage to property used by the Insured at the Premises for the purpose of the Business.

## **NUCLEAR INSTALLATION**

Any installation of such class or description as may be prescribed by regulations made by the relevant Secretary of State from time to time by statutory instrument, being an installation designed for or adapted for

1. the production or use of atomic energy
2. the carrying out of any process which is preparatory or ancillary to the production or use of atomic energy and which involves or is capable of causing the emission of ionising radiations
3. the storage, processing or disposal of nuclear fuel or of bulk quantities of other radioactive matter, being matter which has been produced or irradiated in the course of the production or use of nuclear fuel.

## **NUCLEAR REACTOR**

Any plant (including any machinery, equipment or appliance, whether affixed to land or not) designed or adapted for the production of atomic energy by a fission process in which a controlled chain reaction can be maintained without an additional source of neutrons.

## **VIRUS OR SIMILAR MECHANISM**

Program code, programming instruction or any set of instructions intentionally constructed with the ability to damage, interfere with or otherwise adversely affect computer programs, data files or operations, whether involving self-replication or not. The definition of Virus or Similar Mechanism includes but is not limited to Trojan horses, worms and logic bombs.

## **HACKING**

Unauthorised access to any computer or other equipment or system or item which processes, stores, transmits or retrieves data, whether the property of the Insured or not.

## **DENIAL OF SERVICE ATTACK**

Any actions or instructions constructed or generated with the ability to damage, interfere with or otherwise affect the availability of networks, network services, network connectivity or information systems. Denial of Service Attacks include, but are not limited to, the generation of excess traffic into network addresses, the exploitation of system of network weaknesses, and the generation of excess or non-genuine traffic between and amongst networks.

## **COVER**

The Insurer will pay the Insured for

- a. Damage, or
- b. Consequential Loss

occasioned by or happening through or in consequence of an Act of Terrorism within the Territorial Limits

Provided always that the insurance by this Section

- a. is not subject to the General Exclusions of the General Cover Policy
- b. is subject otherwise to all the terms and conditions of the General Cover Policy except where expressly varied within the Section
- c. is subject to a maximum Period of Insurance of 12 months from the Effective Date or any Subsequent renewal Date of this Policy

Any subsequent period of cover of 12 months, or part thereof, provided by this Section is deemed to constitute a separate Period of Insurance, provided that

- i no subsequent Period of Insurance by this Section shall extend beyond the next renewal Date of this Policy
- ii the renewal premium due in respect of this Section has been received by the Insurer
- d. is not subject to any Long term Undertaking applying to the General Cover Policy
- e. is not subject to any terms in the General Cover Policy which provide for adjustments of premium.

## **BASIS OF SETTLEMENT**

As described in and subject to the terms, definitions, provisions, exclusions and conditions of any General Cover Policy in respect of Damage or Consequential Loss.

The most the Insurer will pay for any one Event is

- a. the Total Sum Insured, or
- b. for each item its individual Sum Insured, or
- c. any other limit of liability

in the General Cover Policy, whichever is the less, except where the liability of the Insurer exceeds the Total Sum Insured, or for each item its individual Sum Insured, or any other limit of liability in the General Cover Policy, where such excess is solely in respect of any cover Extension as provided for in the General Cover Policy.

## SECTION EXCLUSIONS

The Insurer will not pay for

### 1. Digital and Cyber risk Exclusion

Any losses whatsoever directly or indirectly caused by or contributed to by or arising from or occasioned by or resulting from

Damage to any computer or other equipment or component or system or item which processes, stores, transmits or receives data or any part thereof whether tangible or intangible (including but without limitation any information or programs or software) and whether the property of the Insured or not, where such Damage is caused by Virus or Similar Mechanism of Hacking or Denial of Service Attack.

or

Consequential Loss directly or indirectly caused by or arising from Virus or Similar Mechanism or Hacking or Denial of Service Attack.

### 2. Riot, Civil Commotion and War

Any losses whatsoever occasioned by riot, civil commotion, war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power

### 3. Radio Active Contamination, Chemical, Biological, Biochemical and Electromagnetic Weapons

Any losses directly or indirectly caused by or arising from:

- a. Ionising radiations from 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 or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
- c. Any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter
- d. The radioactive, toxic explosive or other hazardous or contaminating properties of any radioactive matter. The exclusion in this sub-clause does not extend to radioactive isotopes, other than nuclear fuel, when such isotopes are being prepared, carried, stored, or used for commercial, agricultural, Medical, scientific, or other similar peaceful purposes.
- e. Any chemical, biological, bio-chemical or electromagnetic weapon.

### 4. Territorial Limits

Any losses whatsoever arising directly or indirectly from any cover or extension of Premises provided by the General Cover Policy to locations outside the Territorial Limits.

## SECTION CONDITIONS

### 1. Burden of Proof

In any action suit or other proceedings where the Insurer alleges that any damage or loss resulting from damage is not covered by the General Cover Policy, the burden of proving that such damage or loss is covered shall be upon the Insured.

## POLICY CONDITIONS

This The following Policy Conditions apply to all Sections unless otherwise stated to the contrary under the conditions contained in each Section

### 1. Policy Voidable

This Policy shall be voidable in the event of misrepresentation, misdescription or non-disclosure of any material particular.

### 2. Reasonable Precautions

The Insured shall take all reasonable care

- a. to prevent accident and any Injury or Damage
- b. to observe and comply with statutory or local authority laws, obligations and requirements
- c. in the selection and supervision of employees
- d. to maintain the Property Insured used in connection with the Business in efficient and safe working order
- e. to make good or remedy any defect or danger which becomes apparent and take such additional precautions as the circumstances may require.

### 3. Claims - Action by the Insured

The Insured shall in the event of any injury, loss, destruction, damage or consequential loss as a result of which a claim is or may be made under this Policy or any Section of it, and again upon receipt by the Insured in writing of any notice of any claims or legal proceeding

- a. notify the Insurer within 30 days, or 7 days in the case of loss, destruction, damage or consequential loss by riot, civil commotion, strikers, locked-out workers, persons taking part in labour disturbances, malicious persons or theft, or such further time as the Insurer may allow
- b. notify the Insurer immediately upon being advised of any prosecution, inquest or enquiry connected with any injury, loss, destruction, damage or consequential loss which may form the subject of a claim under this Policy
- c. notify the police as soon as it becomes evident that any loss, destruction, damage has been caused by theft or malicious persons
- d. pass immediately, and unacknowledged, any letter of claim to the Insurer
- e. carry out and permit to be taken any action which may be reasonably practicable to prevent further loss, destruction, damage or consequential loss
- f. retain unaltered and unrepaired anything in any way connected with the injury, loss, destruction, damage or consequential loss for as long as the Insurer may reasonably require
- g. furnish with all reasonable despatch at the Insured's expense
  - i. such further particulars and information as the Insurer may reasonably require
  - ii. if required, a statutory declaration of the truth of the claim
  - iii. details of any other insurance covering the subject matter of the claim under this Policy and any matters connected with it
- h. make available at the Insured's expense any documents required by the Insurer with regard to any letter of claim
- i. not pay offer or agree to pay any money or make any admission of liability without the previous consent of the Insurer

- j. allow the Insurer in the name of and on behalf of the Insured to take over and, during such periods as the Insurer thinks proper, to have control of all negotiations and proceedings which may arise in respect of any claims and the settlement thereof and co-operate fully with the Insurer for that purpose

No claim under this Policy shall be payable and any payment on account of a claim already made shall be repaid to the Insurer, if the terms of this Policy Condition are not complied with.

#### **4. Claims - The Rights of the Insurer**

In respect of loss, destruction or damage for which a claim is made, the Insurer and any person authorised by the Insurer may without incurring any liability or diminishing any of the Insured's rights in respect of the cover under this Policy, enter premises where such loss, destruction or damage has occurred, and take possession of or require to be delivered to the Insurer any Property insured, and to deal with such Property for all reasonable purpose and in any reasonable manner.

No Property may be abandoned to the Insurer, whether taken possession of by the Insurer or not.

The Insurer will not pay for any claim unless the terms of this condition have been complied with.

#### **5. Cancellation**

##### **Insured's Cancellation Rights**

The Insured has the right to cancel the cover within fourteen (14) days from the commencement of cover or the receipt of Policy documentation, whichever is the later (this period is referred to as the "cooling off period"). The Insured should exercise this right by contacting their insurance adviser or otherwise the Insurer.

If the Insured does exercise their right to cancel during the "cooling off period", they will be entitled to a return of premium. Any return of premium will be calculated on a proportionate basis, less an administration charge of £25 to cover operational costs. The amount of premium to be refunded under this condition will be reduced by all unpaid premiums or unpaid premium instalments due.

If the Insured does not exercise their right to cancel during the "cooling off period", the Policy premium becomes due, they may not be entitled to a refund of premium and the Policy may run for its full term.

If the "cooling off period" has expired, the Insured may cancel the Policy during the Period of Insurance by giving fourteen (14) days' notice in writing to their insurance adviser. Provided no claim has been made or incident has arisen which is likely to give rise to a claim during the current Period of Insurance they will be entitled to a proportionate return of the premium paid, less an administration charge of £25 to cover operational costs. The amount of any premium to be refunded under this condition will be reduced by all unpaid premiums or unpaid premium instalments due.

In the event of cancellation the Insured must return to the Insurer the current Certificate(s) of Employers Liability Insurance.

##### **Insurer's Cancellation Rights**

The Insurer may cancel this Policy by giving the Insured fourteen (14) days' notice in writing sent to the Insured's last known address. Provided no claim has been made or incident has arisen which is likely to give rise to a claim during the current Period of Insurance the Insured may be entitled to a proportionate return of the premium in respect of the unexpired Period of Insurance. The amount of premium to be refunded under this condition will be reduced by all unpaid premiums or unpaid premium instalments due.

In the event of cancellation the Insured must return to the Insurer the current Certificate(s) of Employers Liability Insurance.

#### **6. Fraud**

If the Insured or anyone acting on behalf of the Insured makes any false or fraudulent claim or supports a claim by false or fraudulent document, device or statement, this Policy shall be void and the Insured will forfeit all rights under the Policy. In such circumstances, the Insurer retains the right to keep the premium and to recover any sums paid by way of benefit under the Policy.

#### **7. Subrogation**

Any claimant under this Policy shall, at the Insurer's request and expense, take or permit to be taken all necessary steps for enforcing rights against any other party in the name of the insured, before or after the Insurer makes any payment.

The Insurer agrees to waive any such rights to which the Insurer might become entitled by subrogation against any company standing in relation of parent to subsidiary (or subsidiary to parent to the Insured or against any company which the Insured are themselves a subsidiary, in each case within the meaning of the Companies Act or Companies (Gibraltar) Order Current at the time of loss, destruction or damage.

## **8. Arbitration**

If any difference arises as to the amount to be paid under this Policy (liability being otherwise admitted by the Insurer), such difference shall be referred to an arbitrator to be appointed by the Insured and the Insurer in accordance with statutory provisions.

Where any difference is referred to this arbitration in accordance with this condition, the making of an award shall be a condition precedent to any right of action against the Insurer.

## **9. Law Applicable and Jurisdiction**

Unless agreed otherwise by the Insurer:

- a. the language of the Policy and all communications relating to it will be English; and,
- b. all aspects of the Policy including negotiation and performance are subject to Gibraltar law and the decision of the Gibraltar courts.

## **10. Rights of Third Parties**

A person or company who was not a party to this Policy has no right under the Contracts (Rights of Third Parties) Act 1999 or any subsequent legislation 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 such Act.

## **11. Non Invalidation**

This Policy shall not be invalidated by

- a. any act or omission or by any alteration or neglect unknown to or beyond the control of the Insured by which the risk of loss, destruction or damage is increased, provided that the Insured shall give notice to the Insurer (and pay an additional premium if required) immediately they become aware of such act, omission, alteration or neglect
- b. workmen on the Premises carrying out repairs, general maintenance work or minor structural or other alterations of a contract value not exceeding £25,000. Alterations of a contract value above this amount should be referred to the Insurer for acceptance prior to such work commencing.

If the premium for the Policy is paid by instalments, please refer to the instalment agreement for details of the cancellation procedure that will apply.

## **12. Discharge of Liability**

The Insurer may at any time pay to the Insured in connection with any claim or series of claims

- a. the Limit of Indemnity, or
- b. the Sum Insured, or
- c. a lesser amount for which such claim or claims can be settled

after deduction of any sums already paid and less the amount of any Excess.

The Insurer will not make any further payment in respect of such claim or claims except for costs and expenses which the Insurer has already agreed to bear and which were incurred prior to such payment.

## **13. Unoccupied Buildings**

When any Building or more than 25% of the Flats forming any Building at any Premises described in the Schedule as occupied become(s) Unoccupied for a period exceeding 30 consecutive days, or any such building described as Unoccupied for a period exceeding 30 consecutive days become(s) occupied, the Insured must give immediate notice of such change of occupancy to the Insurer, or cover under this Policy shall be avoided.

In respect only of Buildings that have been Unoccupied for a period exceeding 30 consecutive days or Buildings where more than 25% of the flats are Unoccupied for a period exceeding 30 consecutive days

- a. Events 7, 8, 10, 11 and 13 specified in Section 1 - Property Damage and Section 2 - Loss of Rent are not insured
- b. the following action must be taken by the Insured in respect of any Unoccupied parts of the building
  - i the mains electricity, gas and water services are to be turned off and the water system is to be drained, except when
    - A electricity is needed to maintain any automatic fire or intruder alarm system in operation, or
    - B electricity and water are needed to maintain any automatic sprinkler system in operation
  - ii the Buildings or Flats are to be inspected thoroughly both internally and externally at least weekly (the Insured may appoint a responsible person for this purpose), a record is to be kept of such inspections, and internal or external accumulations of combustible materials are to be removed at the time of such inspections
  - iii the Buildings or Flats are to be secured against unlawful entry by closing all doors and windows and setting all security locking mechanisms, setting any alarm systems, and setting any other protective devices to be fully operative.

#### **14. Survey and Risk Improvement Condition**

If this Policy has been issued or renewed subject to the Insurer completing a survey or surveys of the Premises or of any other location(s) as specified by the Insurer, then pending completion of such survey(s) Cover is provided by the Insurer on the terms, conditions, provisions, exclusions and limits as specified in the Policy and in the Sections of the Policy.

In the event that a survey should show that a risk or any party of it is not satisfactory in the opinion of the Insurer, then the Insurer reserves the right to either alter the terms and conditions of the Cover or to suspend or withdraw Cover from the date Cover was incepted or renewed or for any other period specified by the Insurer. It is a condition of the Insurer that the Insured must comply with all survey risk improvements required by the Insurer within completion time scales specified by the Insurer.

In the event that a risk improvement is not completed or risk improvement procedures are not introduced within the completion time scales specified by the Insurer, then the Insurer reserves the right to either continue Cover subject to alteration of the terms and conditions of such Cover, or to suspend or withdraw Cover effective

- a. from the date Cover was incepted or renewed or
- b. from the expiry of any time period specified by the Insurer for completion/introduction of the required survey risk improvements, or
- c. for any other period specified by the Insurer

If the terms or conditions of Cover are amended by the Insurer, then the Insured will have fourteen (14) days to accept or reject the revised basis of Cover.

If the Insured elect to reject the revised basis of Cover, then the Insured may be entitled to a refund of premium in respect of such period that Cover is suspended or for any period beyond the effective date from which Cover is withdrawn, provided that no claim has been made during the current Period of Insurance.

Except in so far as they are expressly varied by this condition, all of the terms, conditions, provisions, exclusions and limits of the Policy and of the Sections of the Policy shall continue to apply until the Insurer advises otherwise.

To the extent that this condition conflicts with any other cancellation condition, this condition shall prevail.

#### **15. Other Insurances**

If at the time of any loss, destruction or damage there is any other insurance covering such incidents, the Insurer will only pay their rateable proportion of such loss.

#### **16. Change of Risk**

This insurance shall cease to be in force if there is any alteration in the Business or at the Premises which increases the risk of injury or Damage, unless such alteration is agreed in writing by the Insurer.

## POLICY EXCLUSIONS

The following Policy Exclusions apply to all Sections unless otherwise stated and in addition to the Exclusions contained in each Section

The Policy does not cover

### 1. Territorial Limits

Loss, destruction, damage, injury or liability arising out of any occurrence outside Gibraltar, except where stated to the contrary.

### 2. War (not applicable to the Employers' Liability Section)

Loss, destruction, damage, death, injury, disablement or liability or any consequential loss occasioned by war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, rebellion, revolution, insurrection or military or usurped power.

### 3. Radioactive Contamination

Loss or destruction of or damage to any property whatsoever or any loss or expense whatsoever resulting or arising therefrom or any consequential loss or any legal liability of whatsoever nature directly or indirectly caused by or contributed to or arising from

- a. ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel
- b. the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof
- c. any weapon or other device utilizing radioactive material and/or matter and/or ionising radiation and/or atomic or nuclear fission and/or fusion or other like reaction
- d. the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter

Exclusion a and b do not apply to Section 4 - Employers Liability other than in respect of

- i the liability of any principal
- ii liability assumed by the Insured under a contract or agreement which would not have attached in the absence of such contract or agreement.

Exclusions c and d do not apply to

Section 3 - Property Owners Liability

Section 4 - Employers Liability and

Section 5 - Personal Accident.

### 4. Sonic Bangs

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

### 5. Changes in Water Table

Loss, destruction or damage attributable solely to changes in the water table level.

### 6. E-Risks

- a. loss or destruction of or damage to any Computer Equipment (as defined below) consisting of or caused directly or indirectly by:
  - i programming or operator error whether by the Insured or any other person
  - ii Virus or Similar Mechanism (as defined below)



- iii Hacking (as defined below)
- iv malicious persons
- v failure of external networks

unless, in respect of i, ii and iii above, such loss or destruction or damage results from a concurrent or subsequent cause not excluded by this or any other policy exclusion

- b. any financial loss or expense of whatsoever nature, including but not limited to business interruption, resulting directly or indirectly from the type of loss or destruction or damage described in paragraph a of this Exclusion unless, in respect of a. i, ii or iii above, the financial loss or expense results from a concurrent or subsequent cause not excluded by this or any other policy exclusion
- c. loss or destruction of or damage to any property other than Computer Equipment where it arises directly or indirectly out of loss or destruction of or damage to any Computer Equipment of the type described in paragraph a of this Exclusion unless, in respect of loss or damage to other property arising from a i, ii or iii above, resulting from a concurrent or subsequent cause not excluded by this or any other policy exclusion
- d. loss or destruction of or damage either to Computer Equipment or any other property where it consists of or arises directly or indirectly out of:
  - i the erasure, loss, distortion, corruption or unauthorised access to or modification of information on computer systems or other records, programs or software by rioters, strikers, locked-out workers, persons taking part in labour disturbances or civil commotions, or malicious persons
  - ii the erasure, loss, distortion, corruption or unauthorised access to or modification of information on computer systems or other records, programs or software due to any cause not included in d i above
  - iii any misinterpretation, use or misuse of information on computer systems or other records, programs or software

unless, in respect of d ii and iii above, such loss, destruction or damage results from a concurrent or subsequent cause not excluded by this a concurrent or subsequent cause not excluded by this or any other policy exclusion.

For the purpose of this Exclusion:

**Computer Equipment** - means computer equipment, component, system or item which processes, stores, transmits or retrieves data, or any part thereof, whether the property of the Insured or not, whether tangible or intangible and including without limitation any information, programs or software.

**Virus or Similar Mechanism** - means any program code, programming instruction or other set of instruction intentionally constructed with the ability to damage, interfere with or otherwise adversely affect computer programs, data files or operations (whether involving self replication or not), including but not limited to 'Trojan Horses', 'Worms' or 'Logic Bombs'.

**Hacking** - means unauthorised access to any computer or computer equipment, component, system or item, whether the property of the Insured or not, which processes, stores, transmits or retrieves data.

## 7. Terrorism

- a. in respect of Gibraltar but not the territorial seas adjacent thereto

loss or destruction or damage or consequential loss of whatsoever nature, directly or indirectly caused by, resulting 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 such Act of Terrorism
- ii any action taken in controlling, preventing or suppressing any Act of Terrorism, or in any other way related to such Act of Terrorism

In respect of a above an Act of Terrorism

(Terrorism) means:

Acts of persons acting on behalf of, or in connection with, any organisation which carries out activities directed towards the overthrowing or influencing, by force or violence, of Her Majesty's government in the United Kingdom or any other government de jure or de facto.

b. in respect of territories other than those stated In a above:

loss or destruction or damage or any consequential loss of whatsoever nature, directly or indirectly caused by resulting 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 such act of Terrorism
- ii any action taken in controlling, preventing or suppressing any act of Terrorism, or in any way related to such act of Terrorism

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

In any action suit or other proceedings where the Insurer alleges that by reason of this exclusion any loss or destruction or damage or any consequential loss is not covered (or is covered only up to a specified limit of liability), the burden of proving to the contrary shall be upon the Insured.

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

## **POLICY**

The document described in the Introduction

## **PROPERTY/PROPERTY INSURED**

Buildings, Contents of Common Parts, All Other Contents and other Property belonging to the Insured or for which the Insured is responsible, as shown and/or described in the Schedule.

The Insurer agrees to accept the heading under which any Property or other item has been entered in the books of the Insured.

## **RESIDENT**

The owner, lessee or tenant of any Flat and/or members of their household.

## **SCHEDULE**

The part of this Policy that details information forming the basis of this contract and that shows the Sections of this Policy selected

## **SECTION/SECTIONS**

The Parts of this Policy that detail the insurance cover provided for each individual section of this Policy



# Property Owners Protector Policy

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**Argus Insurance Company (Europe) Limited**

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