



# WESTFIELD SPECIALTY

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### **EMPLOYERS' LIABILITY INSURANCE POLICY**

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## Welcome to Westfield

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We are dedicated to providing you with a high-quality service.

This **policy** is designed to provide you with employers' liability cover. You can identify the cover you have purchased by looking at the **policy's schedule**. This **policy** will form the contract between **you** as the insured and **us, your** insurers, subject to the terms and conditions detailed below.

The headings used in this **policy** are for ease of reference and identification purposes only. Any **endorsement** or other variation which relates to this **policy** is subject to the terms and conditions below. Words and phrases in bold have been given specific meanings and can be found in the definitions section of the **policy**.

## Duty of fair presentation

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1. Before this **policy** is entered into, **you** must make a fair presentation of the risk to **us**, in accordance with Section 3 of the Insurance Act 2015. In summary, **you** must:
  - a) Disclose to **us** every material circumstance which **you** know or ought to know. Failing that, **you** must give **us** sufficient information to put a prudent insurer on notice that it needs to make further enquiries in order to reveal material circumstances. A matter is material if it would influence the judgement of a prudent insurer as to whether to accept the risk, or the terms of the insurance (including premium);
  - b) Make the disclosure in clause (1)(a) above in a reasonably clear and accessible way; and
  - c) Ensure that every material representation of fact is substantially correct, and that every material representation of expectation or belief is made in good faith.
2. For the purposes of clause (1)(a) above, **you** are expected to know the following:
  - a) If **you** are an individual, what is known to the individual and anybody who is responsible for arranging his or her insurance.
  - b) If **you** are not an individual, what is known to anybody who part of the Insured's senior management is; or anybody who is responsible for arranging the Insured's insurance.
  - c) Whether **you** are an individual or not, what should reasonably have been revealed by a reasonable search of information available to **you**. The information may be held within **your** organisation, or by any third party (including but not limited to subsidiaries, affiliates, the broker, or any other person who will be covered under the insurance). If **you** are insuring subsidiaries, affiliates or other parties, **we** expect that **you** will have included them in its enquiries, and that **you** will inform **us** if it has not done so. The reasonable search may be conducted by making enquiries or by any other means.

3. If, prior to entering into this **policy**, **you** shall breach the duty of fair presentation, the remedies available to **us** are set out below.
  - a) If **your** breach of the duty of fair presentation is deliberate or reckless:
    - i) **We** may void the **policy**, and refuse to pay all claims; and,
    - ii) **We** need not return any of the premiums paid.
  - b) If **your** breach of the duty of fair presentation is not deliberate or reckless, **our** remedy shall depend upon what **we** would have done if **you** had complied with the duty of fair presentation:
    - i) If **we** would not have entered into the **policy** at all, **we** may void the **policy** and refuse all claims, but must return the premiums paid.
    - ii) If **we** would have entered into the **policy**, but on different terms (other than terms relating to the premium), the **policy** is to be treated as if it had been entered into on those different terms from the outset, if **we** so require.
    - iii) In addition, if **we** would have entered into the **policy**, but would have charged a higher premium, **we** may reduce proportionately the amount to be paid on a claim (and, if applicable, the amount already paid on prior claims). In those circumstances, **we** shall pay only X% of what **we** would otherwise have been required to pay, where  $X = (\text{premium actually charged} / \text{higher premium}) \times 100$ .
4. If, prior to entering into a variation to this **policy**, **you** shall breach the duty of fair presentation, the remedies available to **us** are set out below.
  - a) If **your** breach of the duty of fair presentation is deliberate or reckless:
    - i) **We** may by notice to **you** treat the **policy** as having been terminated from the time when the variation was concluded; and,
    - ii) **We** need not return any of the premiums paid.
  - b) If **your** breach of the duty of fair presentation is not deliberate or reckless, **our** remedy shall depend upon what **we** would have done if **you** had complied with the duty of fair presentation:
    - i) If **we** would not have agreed to the variation at all, **we** may treat the **policy** as if the variation was never made but must in that event return any extra premium paid.
    - ii) If **we** would have agreed to the variation to the **policy**, but on different terms (other than terms relating to the premium), the variation is to be treated as if it had been entered into on those different terms, if **we** so require.

- iii) If **we** would have increased the premium by more than it did or at all, then **we** may reduce proportionately the amount to be paid on a claim arising out of events after the variation. In those circumstances, **we** shall pay only X% of what **we** would otherwise have been required to pay, where  $X = (\text{premium actually charged} / \text{higher premium}) \times 100$ .
- iv) If **we** would not have reduced the premium as much as it did or at all, then **we** may reduce proportionately the amount to be paid on a claim arising out of events after the variation. In those circumstances, **we** shall pay only X% of what **we** would otherwise have been required to pay, where  $X = (\text{premium actually charged} / \text{reduced total premium}) \times 100$ .

## **Cancelling this policy**

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This policy has a cooling off period of fourteen (14) days which starts from either of the below dates, whichever comes later:

- a) the date you received this documentation; or
- b) the start of the period of insurance.

You can cancel this policy within the fourteen (14) day cooling off period by writing to Westminster Insurance. Provided you have not made a claim, you will be entitled to a full refund of any premium paid and the policy will be cancelled with effect from the start date of the period of insurance, and treated as if it never existed.

After the fourteen (14) day cooling off period you may cancel this policy at any time by writing to Westminster Insurance.

We can cancel this policy by giving you 30 days' written notice. We will only do this for a valid reason, for example, due to:

- a) non-payment of premium;
- b) changes in the risk which means that we can no longer provide you with insurance cover;
- c) your non-cooperation or failure to supply information or documentation we request; or
- d) threatening or abusive behaviour or the use of threatening or abusive language by you.

If this policy is cancelled after the fourteen (14) day cooling off period or following notice of cancellation by us, provided you have not made a claim, you will be entitled to a refund of any premium paid, subject to a deduction for any time for which you have been covered. This will be calculated on a pro rata basis based on the number of days covered.

If we pay any claim, in whole or in part, then no refund of premium will be allowed.

If we have agreed that you can pay us the premium by instalments and we have not received an instalment 14 days after the due-date, we may cancel the policy. In this event, the period of insurance will equate to the period for which premium instalments have been paid to us. The cancellation and amended period of insurance will be confirmed in writing by us.

## **How to notify a claim**

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You shall, as soon as practicable and prior to expiry of the period of insurance, provide Westminster Insurance with written notice of any claim made against you. Furthermore, every letter, demand, writ summons and legal process relating to such claim shall be forwarded to us as soon as practicable after receipt.

Claims Director  
Westminster Insurance Ltd  
Westminster House  
5 Allberry Gardens  
WEYMOUTH  
DT3 6SQ

Phone: 01305 839 939 (please note that phone calls may be recorded)

E-mail: [claims@westminster.global](mailto:claims@westminster.global)

**For any occurrence or RIDDOR incident you and any person acting on your behalf must:**

- i. not admit responsibility, liability, make an offer or promise, nor offer payment or indemnity without **our** written consent;
- ii. not incur any expense without **our** consent;
- iii. give all such information, assistance and forward all **documents** to enable **us** to investigate, settle or resist any claim as **we** may require;
- iv. provide such proofs and information with respect to the claim as may reasonably be required together with (if demanded) a statutory declaration of the truth of the claim and any matters connected with the claim
- v. not destroy evidence or supporting information or documentation without **our** prior consent; nor destroy any plant or other property relating to an **occurrence**, loss or suit that may give rise to a claim under this **policy**.
- vi. not incur any expense without **our** consent;
- vii. give all such information, assistance and forward all **documents** to enable **us** to investigate, settle or resist any claim as **we** may require;
- viii. provide such proofs and information with respect to the claim as may reasonably be required together with (if demanded) a statutory declaration of the truth of the claim and any matters connected with the claim
- ix. not destroy evidence or supporting information or documentation without **our** prior consent; nor destroy any plant or other property relating to an **occurrence**, loss or suit that may give rise to a claim under this **policy**.

## Legal defence and settlement

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- i. **We** are entitled but not obliged to assume the legal defence of any claim covered under this **policy** in **your** name. We shall have full discretion in managing any negotiation or proceedings as to the resolution of such claim.
- ii. **We** shall be entitled to select and appoint the lawyers and other representatives that will defend and represent **you** in respect of any claim.
- iii. Subject to the General Conditions of this **policy**, **we** shall be entitled to settle a claim if **we** choose;
- iv. You agree in relation to any claim or **occurrence** not to admit liability for or settle any such **claim**, make any admission, offer payment or assume any obligation or incur any costs without **our** consent;
- v. **You** must not disclose the nature or terms of this Insurance to any person unless required to do so by law or in compliance with the rules of your regulatory body. When negotiating a contract with any client you must request **our** consent to such disclosure in writing;
- vi. **We** shall not be liable for any settlement, costs, admission, offer, payment or assumed obligation that you have agreed without **our** consent. **You** must request **our** consent before **you** reach any agreement;
- vii. **We** may at any time pay to **you** the **limit of indemnity** (having deducted any sums already paid) or any lesser amount for which such claim may be settled and having paid such sum **we** shall relinquish the control of such claim and be under no further liability in connection with the claim except for **defence costs and expenses** incurred prior to the date of such payment and for which we may be responsible under this agreement for matters arising prior to the date of payment;
- viii. Prior to settling any claim within the **excess** as stated in the **policy**, **you** shall obtain from the claimant a signed form of discharge in full and final settlement of the claim and **you** shall advise us of the final amount for which the claim was settled or resolved.

## Employers' Liability Tracing Office Notice

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Certain information relating to your insurance certificate or **policy**, namely:

- a) the policy number(s),
- b) employers' names and addresses (including subsidiaries and any relevant changes of name),
- c) coverage dates, and

(if relevant) the employer's reference numbers provided by His Majesty's Revenue and Customs and Companies House Reference Numbers will be provided to the Employers' Liability Tracing Office, (the "ELTO") and added to the Employers' Liability Database (ELD).

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

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

## How we use personal information

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Your insurance cover includes cover for individuals who are either insureds or beneficiaries under the policy (**individual insureds**). We collect and use relevant information about individual insureds to provide you with your insurance cover and to meet our legal obligations.

This information includes individual insureds' details such as their name and address and may include more sensitive details such as information about their health and criminal convictions.

We will process individual insureds' details, as well as any other personal information you provide to us in respect of your insurance cover, in accordance with our **full privacy notice**, a copy of which is available online at <https://www.westfieldinsurance.com/privacy-promise> or on request.

### Information notices

To enable us to use individual insureds' details in accordance with current data protection laws, we need you to provide those individuals with certain information about how we will use their details in connection with your insurance cover. You agree to provide to each individual insured our Short Form Information Notice for employees set out below on or before the date that the individual becomes an individual insured under your insurance cover or, if earlier, the date that you first provide information about the individual to us.



## **Consent**

Under current data protection laws, we need you to make sure that you have obtained the consent of individual insureds to use their personal information in connection with your insurance cover. You agree to obtain the consent of each individual insured in connection with your insurance cover on or before the date that the individual becomes an individual insured under your insurance cover or, if earlier, the date that you first provide information about the individual to us.

We will assume that you have obtained the necessary consent from each individual insured unless you tell us otherwise. If you have not obtained the necessary consent from an individual insured, or the individual insured withdraws their consent, then this will impact our ability to provide you with your insurance cover in relation to the individual – and may even prevent us from providing cover for that individual.

## **Minimisation and notification**

We are committed to using only the personal information we need to provide you with your insurance cover. To help us achieve this, you should only provide to us information about individual insureds that we ask for from time to time. You must promptly notify us if an individual insured contacts you about how we use their personal details in relation to your insurance cover so that we can deal with their queries.

## **Short form information notice for Employees**

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### **Your personal information**

#### ***The basics***

You benefit from insurance cover that we provide to your employer. We collect and use relevant information about you to provide the insurance cover and to meet our legal obligations.

This information includes details such as your name and address and may include more sensitive details such as information about your health and any criminal convictions you may have.

The way insurance works means that your information may be shared with and used by a number of third parties in the insurance sector – but only in connection with the insurance cover from which you benefit.

#### ***We need your consent***

We need your consent to use your personal information in connection with the insurance cover. Your employer will ask you for your consent on our behalf.

You do not have to give your consent and you may withdraw your consent at any time. But if you do not give consent, or you withdraw your consent, then this will impact our ability to provide the insurance cover from which you benefit – and may even prevent us from providing cover for you.

***Want more details?***

For more information about how we use your personal information please see our ***full privacy notice***, a copy of which is available online at <https://www.westfieldinsurance.com/privacy-promise> or on request.

***Contacting us and your rights***

You have rights in relation to the information we hold about you, including the right to access your information. Please contact our Data Protection Officer at Westfield Specialty, Camomile Court, 23 Camomile Street, London, EC3A 7LL if you wish to exercise your rights, discuss how we use your information or request a copy of our full privacy notice.

## General Definitions

The following words or expressions shall carry the meaning shown below wherever they appear in bold in the **policy, schedule**, any **endorsement** or any **proposal** or statement of fact. Where the defined words are shown in the plural they take the same meaning as shown below in the plural;

<b>Word or term</b>	<b>Specific Meaning</b>
<b>Advertising Injury</b>	<ul style="list-style-type: none"> <li>a) libel, slander or defamation;</li> <li>b) any infringement of copyright or of title or of slogan;</li> <li>c) piracy or unfair competition or idea misappropriation under an implied contract;</li> <li>d) any invasion of right of privacy;</li> <li>e) any of the foregoing alleged by any other name:</li> </ul> <p>committed or alleged to have been committed during the period of insurance in any advertisement, publicity article, broadcast or telecast by or on your behalf and arising out of your business.</p>
<b>Bodily injury</b>	means bodily injury, sickness, disability or disease. Bodily injury shall also mean mental injury, mental anguish, shock or death if directly resulting from bodily injury, sickness, disability or disease.
<b>Business</b>	means the business as specified in the schedule and/or declared in the proposal.
<b>Defence costs and expenses or defence costs</b>	any fees, expenses, costs and disbursements incurred in investigating, adjusting, settling or defending a claim that may be covered by this policy. Your internal or overhead expenses or the cost of your time is not included.
<b>Documents</b>	deeds, wills, agreements, maps, plans, books, letters, policies, certificates, forms and other documents of any nature, whether printed, written or reproduced by any method including computer records and electronically stored data but does not mean bonds or coupons, stamps, bank or currency notes, money or any negotiable instrument.
<b>Employee</b>	any person employed by you under a contract of service or apprenticeship during the period of insurance.
<b>Endorsement</b>	a change to the terms of the policy.
<b>Extension</b>	any additional cover selected under this policy

<b>Limit of indemnity</b>	<p>the amount stated in the schedule which is the maximum amount of our liability for any one claim regardless of the number of:</p> <ul style="list-style-type: none"> <li>i. insureds; or</li> <li>ii. persons or organisations bringing claims; or</li> <li>iii. Occurrences or claims of a series consequent upon or attributable to one source or original cause;</li> </ul> <p>Where two or more insured sections are subject to a combined single limit, then the combined single limit is the maximum we will pay for any insured event to which insured sections apply in combination, and where a limit of indemnity is stated in the schedule as in the aggregate, that aggregate is the maximum we will pay for all insured events during the period of insurance. Sub limit of indemnity means the same save in respect to a specified section of this policy.</p>
<b>Occurrence</b>	<p>an event, including continuous or repeated exposure to substantially the same general conditions, which results in bodily injury, advertising injury, property damage, pollution or any liability covered under any selected extension, that is neither expected nor intended by you.</p>
<b>Period of insurance</b>	<p>the time for which this policy is in force as stated in the schedule.</p>
<b>Policy</b>	<p>this policy wording, the schedule and any endorsements noted as included in the schedule.</p>
<b>Pollution or Pollutants</b>	<p>any substance, solid, liquid, gaseous or thermal irritant or contaminant including but not limited to smoke, vapours, soot, fumes, acids, alkalis, chemicals and waste materials. Waste materials include, but are not limited to, recycled, reconditioned or reclaimed materials. However, pollution shall not include asbestos or radiation or contamination as described.</p>
<b>Premium</b>	<p>the amount stated against the premium in the schedule.</p>
<b>Product</b>	<p>any property after it has left your custody or control which has been designed, specified, formulated, manufactured, constructed, installed, sold, supplied, distributed, treated, serviced, altered or repaired by you or on behalf. Any food or drink supplied by or on your behalf primarily to your employees as a staff benefit is not a product.</p>
<b>Property damage</b>	<p>physical injury to tangible property, including all resulting loss of use, possession or control of that property. All such loss of use shall be</p>

	deemed to occur at the time of the physical injury that caused it. For the purposes of this insurance, electronic data is not tangible property.
Proposal	the written proposal made by you to us together with any other related particulars and statements that have been supplied to us and which have been taken into consideration by us when deciding whether to provide this Insurance and upon what terms.
Prosecution costs	costs incurred by the prosecution in prosecuting a criminal action against you and caused directly by a breach (or alleged breach) of the named statutes in the Statutory Defence cover extension.
Retroactive date	the date specified against the Retroactive date in the schedule. If no retroactive date is stated in the schedule, the retroactive date will be the date the policy incepts.
RIDDOR	an event that gives rise to your duty to report an incident under the Reporting of <i>Injuries, Diseases and Dangerous Occurrences Regulations 2013</i> .
Schedule	the document attaching to or incorporated into this policy wording and headed schedule and bearing the policy number applicable to this insurance.
Territorial Limits	the territory or location specified in the schedule. If the territorial limits are not stated in the schedule then the territorial limits will be the territory where you are domiciled.
Terrorism	an act of terrorism including but limited to the use of force or violence and/or the threat thereof, of any person or group of persons, whether acting alone or on behalf of or in connection with any organisation or government, 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.
We, us, our	Westfield Specialty Managing Agency Ltd trading as Syndicate 1200 at Lloyd's, Camomile Court, 23 Camomile Street, London, EC3A 7LL
You, your	<ul style="list-style-type: none"> <li>a) the insured specified in the schedule as named insured;</li> <li>b) the named insured subsidiaries, owned or controlled companies which have been declared to and accepted by us, other than any Joint Ventures in which such subsidiary, owned or controlled company has an interest;</li> </ul>

	<ul style="list-style-type: none"><li>c) any director or employee of the insured but only for acts within the scope of their employment;</li><li>d) with regard to any Joint Venture in which the named insured or a subsidiary, owned or controlled company of the named insured has an interest and which interest has been declared to and accepted by us, your interest in any joint venture is subject always to the following:</li><li>e) Our liability under this policy shall be limited to (a) your percentage interest in the joint venture and (b) the total limit of liability afforded to you by this policy. Where your percentage interest in the joint venture is not set out in writing, the percentage to be applied shall be that which would be imposed by law at the inception of the joint venture. Such percentage shall not be increased by the insolvency of others interested in the joint venture; and</li><li>f) Your officers, committee and members of the canteen, social, sports, medical, firefighting and welfare organisations in their respective capacity as such, provided that you have selected the Additional Persons Insured extension;</li><li>g) Your legal or personal representative(s) in their capacity as such, in respect of liability incurred by you, provided that if cover is extended to any such party, that party shall be subject to the terms of this policy so far as they can apply.</li></ul>
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## Employers' Liability

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1. **We** agree to cover **you** against **your** legal liability to pay damages, including claimants' costs for **bodily injury** to an **employee** in the course of employment which occurs during the **period of insurance** arising out of an **occurrence**, provided that;
  - a) **Our** total liability applies over and above any **excess** (as set out in the **schedule**); and
  - b) The cover under this section is in accordance with the provisions of law relating to compulsory insurance of liability to **employees**, but **you** shall repay to **us** all sums paid by **us** which **we** would not have been liable to pay but for the provisions of such law.
2. **We** shall cover **you** for all **Defence costs and expenses**.
3. **Our** total liability under this **policy** shall not exceed the **limit of indemnity** stated in the **schedule** for all **occurrences** of a series consequent upon or attributable to one source or original cause;
4. If any **occurrence** applies to more than one cover under this **policy**, **our** total liability for all claims and **occurrences** of a series consequent upon or attributable to one source or original cause, shall not exceed the **limit of indemnity** stated in the **schedule**.

## Automatic extensions

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### Extension 1: Additional Persons Insured

**We** agree to cover **your** named directors, officers, members of your sports, social, welfare organisation, fire, security, first aid, medical or ambulance services in their respective capacities as such, but not medical practitioners while working in a professional capacity. Each will be insured subject to the terms and conditions of this **policy** as if the claim had been made by **you**.

### Extension 2: Cross Liabilities

Each named company, legal entity or subsidiary set out in the **schedule** will be separately indemnified in respect of claims made against any of them by any other, subject to **our** total liability not exceeding the stated **limit of indemnity**.

### Extension 3: Statutory Defence Costs

**We** agree to cover **you** in respect of **defence costs and expenses** incurred with **our** prior consent in defending:

- a) any alleged breach of statutory duty or criminal proceedings brought under the legislation below in clauses (i) to (ix); and / or
- b) any allegations (whether under common law or statute) of manslaughter, corporate manslaughter or corporate homicide made against **you**;

Provided that the prosecution or proceedings relate to:

- i. an offence alleged to have been committed during the **period of insurance** and in the course of **business**; and

**We** will also cover **you** for:

- i. **Defence costs and expenses** of an appeal including appeal against improvement and prohibition notices incurred with **our** prior consent;
- ii. **Prosecution costs** awarded against **you**.

But cover under this **extension** excludes;

- i. fines or penalties of any kind;
- ii. where cover is provided by any other insurance;
- iii. **Defence costs and expenses** and **prosecution costs** in excess of the sub-limit of indemnity stated in the **schedule**.

The following statutes are included within the statutes or regulations contemplated for which **defence costs and expenses** are covered by this clause;

- i. Health and Safety at Work, etc. Act 1974, but only sections 2 to 8,
- ii. Health and Safety at Work (Northern Ireland) Order 1978,
- iii. The Trade Description Act 1968
- iv. Part II of the Consumer Protection Act 1987
- v. Part II of the Food Safety Act 1990.
- vi. Corporate Manslaughter Act 2007
- vii. Consumer Protection Act 1987
- viii. Part II of the Data Protection Act 1998
- ix. Defective Premises Act 1972, section 3.

#### **Extension 4: Compensation for court attendance**

**We** will indemnify **you** for the cost of attendance at a formal hearing or formal interview in connection with a claim notified to **us** where such attendance is considered by **us** as necessary and beneficial to reduce liability which may result in a payment under this **policy**. The formal hearing or formal interview will be at the behest of a third party not acting either on behalf of **you** or **us**. The indemnity is subject to;

- a) **Us** having given **our** consent to the attendance. **Our** consent will not be unreasonably withheld;
- b) Cover for costs under this extension is restricted to GBP 250 per person per day for any director or partner, and GBP 150 per day for any **employee**;
- c) **Our** maximum liability under this extension will be GBP 10,000 for each claim, such amount being within the total **limit of indemnity** available under this **policy**.



## Important conditions

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### 1. Assignment

Assignment of interest under this **policy** will not bind **us** unless **we** have consented in writing.

### 2. Contract (Rights of Third Parties) Act 1999

This **policy** does not confer or create any right enforceable under the *Contracts (Rights of Third Parties) Act 1999* or any amending or subsequent legislation by any person who is not named as an insured and both **you** and **us** may amend, cancel or lapse this insurance without giving notice to, or requiring the consent of, any other third party. However, this will not preclude rights enforceable under the *Third Parties (Rights against Insurers) Act 2010*.

### 3. Inspection and audit

**We** will be permitted but not obligated to inspect **your** property and operations at any time on giving **you** reasonable notice. **Our** right to make inspections or any report produced does not constitute an undertaking for **your** benefit or others to determine or warrant that such property, product or operations are safe.

### 4. Records

**We** may hold documents relating to this insurance and any claims under it in electronic form and may destroy the originals. An electronic copy of any such document will be admissible in evidence to the same extent as, and carry the same weight as, the original.

### 5. Representation

Where more than one entity is designated as an insured, the first named insured will act on **your** behalf and other parties covered under this **policy** with respect to the giving and receiving of any notices from **us** including any notice of cancellation. The payment to the first named insured of any return **premium** that may be payable under this **policy** will satisfy **our** obligations to return **premium** to any other party covered by this insurance.

### 6. Sanction limitation and exclusion

**We** will not be liable to pay any claim or provide any benefit to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose **us** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

### 7. Subscribing insurer

**Our** obligations under this **policy** are severable and not joint and are limited solely to the extent of **our** individual subscription. The insurers are not responsible for the subscription of any co-subscribing insurer who for any reason does not satisfy all or part of its obligations.

## 8. Working at height

If any of your **employees** work at heights exceeding 3 meters above floor level you must ensure that;

- a) They use fall-arrest equipment consisting of a full-body harness, shock absorbing lanyard and connecting hook, carabiner or ring; or
- b) They use a work positioning system that prevents a fall from height consisting of a waist belt, full-body or chest harness, rope or web lanyard and connecting hook, carabiner or ring or;
- c) They are undertaking roped access work in accordance with the provisions of the Code of Practice For the Use of Rope Access Methods For Industrial Purposes BS7985 2002.

In any event, you must;

- a) Maintain a formal record of the equipment supplied to and received by them;
- b) Ensure the equipment conforms to BS EN standards.

## 9. Reasonable precautions

**You**, or **your** risk manager or senior management shall take all reasonable precautions to prevent an insured event or loss arising or continuing. **You** will act in a manner so as not to promote a loss arising or continuing from the deliberate, conscious or intentional disregard by **you** of the need to take reasonable care. **You** will comply fully with all induction programmes when entering controlled areas including but not limited to building sites and power plants.

## 10. Subrogation

Unless there is a 'Waiver of subrogation' clause, for each and every claim, **you** must not waive any rights of recourse or recovery against any other person which may give rise to an action under this **policy**;

- i. **You** will, at **our** request and expense, allow **us** to enforce any rights and remedies.
- ii. In the event of any payment under this insurance, **we** will act in concert with all other interested persons (including **you**) concerned in the exercise of any rights of recovery.
- iii. The apportioning of any amounts which may be recovered will follow the principle that any interested persons (including **you**) who will have paid an amount over and above any payment hereunder will first be reimbursed up to the amount paid by them; **we** are then to be reimbursed out of any balance then remaining up to the amount paid; lastly, the interested persons (including **you**) to whom this coverage is in excess shall be entitled to claim the residue, if any.
- iv. Expenses necessary to the recovery of any such amounts will be apportioned between the interested parties concerned in the ratio of their respective recoveries as finally settled.

**11. Timing of bodily Injury or damage (Only applicable where a retroactive date has been inserted in the schedule)**

Where it is not possible to ascertain the timing of **bodily injury** or **damage**, then for the purpose of determining the cover granted by this **policy**, **bodily injury** will be deemed to have occurred when the claimant first consulted a qualified medical practitioner regarding such **bodily injury**, whether or not it was correctly diagnosed at that time. If no consultation took place then the **bodily injury** will be deemed to have occurred when **you** first became aware of the circumstance or received the claim, whichever is the earlier.

## General exclusions

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The cover provided by this **policy** excludes;

### 1. **Cyber liability**

Liability arising directly or indirectly from, or in connection with, or consisting of any loss, destruction or damage, failure or loss of data resulting directly or indirectly from or in connection with:

- i. **virus or similar mechanism,**
- ii. **denial of service attack,**
- iii. unauthorised access to or use of **computer and electronic equipment,**
- iv. the failure of any equipment to correctly recognise the date or change of date.

The following definitions are relevant to this exclusion;

**Virus or similar mechanism** means program code, programming instruction or any set of instructions with the ability to damage, interfere with, or otherwise adversely affect Computer and Electronic Equipment or Data, whether involving self-replication or not, including, but not limited to trojan horses, worms and logic bombs.

**Denial of service attack** means any actions or instructions with the ability to damage, interfere with, or otherwise affect the availability of Computer and Electronic Equipment or Data, including but not limited to the generation of excess traffic into network addresses, the exploitation of system or network weaknesses, and the generation of excess or non-genuine traffic within, between or amongst networks.

**Computer and electronic equipment** means all computers, computer installations and systems, microchips, integrated circuits, microprocessors, embedded systems, hardware, and any electronic equipment, data processing equipment, information repository, telecommunication equipment, computer controlled or programmed machinery, equipment capable of processing data and/or similar devices, whether physically or remotely connected thereto.

### 2. **Fees for intervention**

Any payments raised under the *Health and Safety (Fees) Regulations 2012* relating to 'fees for intervention'.

### 3. **Limit of Indemnity**

Liability in excess of the **limit of indemnity** stated in the **schedule** and any extension stated in the **schedule**.

4. **North American Jurisdiction**

- a) Liability in respect of any judgment, award, payment, defence costs or settlement delivered, made or incurred within countries which operate under the laws of North America (or any order made anywhere in the world to enforce such judgment, award, payment, defence costs or settlement either in whole or in part) unless otherwise stipulated in the **schedule**;
- b) Liability in respect of **bodily injury, property damage**, occurring within North America but this exclusion shall not apply to visits to North America in the course of **your business** to undertake non-manual work including but not limited to clerical work, sales and promotional activities and conference attendance providing that, in such circumstances:
  - i. **we** will not be liable to indemnify any entity based in, operating in or domiciled in North America; and
  - ii. **we** will not be liable to indemnify for any liability that arises under any agreement or contract that would not arise in the absence of any agreement or contract;
  - iii. **we** will not be liable to indemnify for liability arising directly or indirectly from the ownership, maintenance, operation or use of any mechanically propelled vehicle or watercraft;
  - iv. **we** will not be liable to indemnify for liability arising directly or indirectly from **pollution or advertising injury**;
  - v. **defence costs** are inclusive and form part of the **limit of indemnity**.

5. **Overseas operations**

**Your** subsidiary companies, branch offices or representatives with power of attorney that are domiciled outside of the United Kingdom.

6. **Prior knowledge**

Any liability under this **policy** in respect of any;

- a) Claims or losses (including **defence costs and expenses**) first made, threatened or intimated against **you** prior to the **period of insurance**;
- b) Circumstances of which **you** first became aware prior to the **period of insurance** or which **you** ought reasonably to have been aware of prior to the **period of insurance** which may give rise to a liability under this **policy** and which was known or ought to have been known to **you** prior to the **period of insurance**.

7. **Retroactive date**

Liability arising directly or indirectly out of **bodily injury, property damage, advertising injury** or other cover provided by an extension to this **policy** occurring or alleged to have occurred prior to the **retroactive date**;

8. **Motor liability**

Liability for which compulsory motor insurance or security is required under any road traffic legislation within the **territorial limits**;

9. **Workers' compensation**

Any liability arising under workers compensation social security or health insurance legislation save for any compensation recovery unit payments that may be required by the Social Security Act 1989 and 1990.

10. **War and terrorism**

Any liability directly or indirectly caused by or contributed to or arising from war, invasion, act of foreign enemy hostilities (whether war has been declared or not) civil war, rebellion, revolution, insurrection, military or usurped power or any act of **terrorism**. This Exclusion shall apply to the extent that it is necessary to comply with the minimum requirements of the law in the United Kingdom of Great Britain and Northern Ireland including the Channel Islands and the Isle of Man relating to compulsory insurance of liability to **employees** and provided that the maximum **limit of indemnity** for all **occurrences** of a series consequent upon or attributable to one source or original cause shall not exceed the **limit of indemnity**.

## Governing Law and Disputes Clause

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Any dispute between **you** and the **insurer** arising out of or in connection with this **policy** shall be referred to arbitration before a sole arbitrator (to be mutually agreed upon by **you** and **us** or failing agreement to be appointed by the Chairman for the time being of the Bar Council) whose decision shall be final and binding on both parties.

As an alternative to the above paragraph, disputes arising from or in connection with this **policy** may be referred to a recognised mediation service if the parties to this contract agree in writing.

Disputes arising from or in connection with this **policy** shall be subject to the jurisdiction and law of England and Wales.

## Interpretation

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In this **policy**;

- a) reference to any Act, statute or statutory provision shall include a reference to that provision as amended, re-enacted or replaced from time to time whether before or after the date of the inception of this **policy**;
- b) if any term, condition, exclusion or **endorsement** or part is found to be invalid or unenforceable the remainder shall be in full force and effect;
- c) headings are for reference only and shall not be considered when determining the meaning of this **policy**.