



Morton Michel

The Childcare Insurance Specialist



Non-Registered
Childminder

Policy Wording

Arranged by **Morton Michel** and insured by **QBE UK Limited**
under the **Home Childcare** policy

Made possible
 **QBE**

1. Policy Contents

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2. Policy Guide

2.1. Your policy

- a) The **policy** is made up of this document and the **schedule** (including any substitution schedule) and endorsements.
- b) Together these documents form the **policy** and set out the scope of this insurance.
- c) **Your policy** is a legally binding insurance contract. Please read all parts carefully and if **you** require clarification of the terms, conditions or exclusions, please contact **your** broker.
- d) If **you** wish to make adjustments to **your policy**, or **you** believe that it does not meet **your** needs, please return it to **your** broker for alteration.
- e) All headings in the **policy** are included in bold. Other than in the headings, words in bold carry specific meanings which are set out in the 'General Definitions' or within any definitions specific to and contained within any **section** or **sub-section** of this **policy**.
- f) Words importing the singular will include the plural and vice versa and words importing the masculine will import the feminine and the neuter. References to 'a person' will be construed to include any individual, company, partnership or other legal entity.
- g) Any reference to legislation or regulations or industry guidance or standards in the **policy** extends to apply to any, or any subsequent, amending or replacement legislation or regulations, guidance or standards and to other legislation or regulation, guidance or standards of similar intent if applicable.
- h) Any reference to the United States of America includes its territories and possessions.

2.2. Navigation

- a) Each **section** sets out the extent of cover, how the indemnity under this **policy** may be limited or excluded and other relevant terms and conditions applicable to that **section**. Cover is subject to the terms, conditions, limitations and exclusions of the **policy**.
- b) Certain terms that may apply to a **section** or may apply to the whole **policy** are also set out in:
 - i General Definitions;
 - ii General Exclusions;
 - iii Claims Conditions and Requirements;
 - iv General Terms; and
 - v How to Complain.
- c) Unless expressly stated otherwise elsewhere in the **policy** **sums insured, limits of indemnity, limits of liability, maximum amounts payable** and **compensation limits** are set out in the **schedule** and operate in accordance with the relevant provisions in the relevant specific **sections**, the 'General Definitions' **section** and/or the 'General Terms' **section** of the **policy**.
- d) The 'Legal Expenses' **section** includes its own terms and conditions which take precedence in the event of any conflict with any other **section** of the **policy**.

2.3. Fair presentation

- a) It is important that **you** have made a fair presentation of the risks insured by the **policy**, in accordance with the terms of the Insurance Act 2015.
- b) **Your** obligations in this regard, and **our** rights, are as set out in the Insurance Act 2015. **We** would advise **you** to obtain full details from **your** broker.
- c) If **you** have failed to make a fair presentation of the risk, this could lead to a reduction in the amount for which **we** will indemnify **you**, no payment being made under the **policy**, or the **policy** being treated as never having come into force in the first place, depending on the circumstances.

2.4. Conditions precedent

- a) The **policy** contains a number of terms which are conditions precedent to **our** obligation to indemnify **you** under the **policy**. These terms are specifically identified where they appear in the **policy** by the words "CONDITIONS PRECEDENT" which appear in capitals next to the title of the term.
- b) The consequences for breach of conditions precedent are serious. Unless **you** can demonstrate that any non-compliance with the requirements of these clauses has caused no prejudice to **us** in relation to a claim under the **policy**, **we** will have no liability for such claim.
- c) Additional terms may also be included in any endorsements to the **policy**, and **you** should check these carefully as they may also be conditions precedent to **our** obligation to indemnify **you** under the **policy**.

2.5. Sums insured, limits of indemnity, limits of liability, maximum amounts payable and compensation limits

- a) The **sums insured, limits of indemnity, limits of liability, maximum amounts payable** and **compensation limits** (as applicable) act as a cap on the amount for which **we** will indemnify **you** under this **policy**. The way these provisions operate is set out in the relevant specific **sections**, the 'General Definitions' **section** and/or the 'General Terms' **section** of the **policy**.
- b) It is essential that the applicable **sums insured, limits of indemnity, limits of liability, maximum amounts payable** and **compensation limits** (where applicable) are adequate for **your** needs. If a claim against **you** exceeds the **sums insured, limits of indemnity, limits of liability, maximum amounts payable** and **compensation limits** **you** will face uninsured liability and costs.
- c) It is **your** responsibility to request appropriate **sums insured, limits of indemnity, limits of liability, maximum amounts payable** and **compensation limits**. If **you** are in any doubt as to the adequacy of any **sums insured, limits of indemnity, maximum amounts payable** and **compensation limits** contained in the **policy**, **you** should contact **your** broker and seek advice.

2.6. Setting your sums insured

- a) For cover under the 'Property Damage' **section** where you are required to have **sums insured** it is important that **you** check that all **sums insured** stated in the **schedule** are correct. The **sum insured** should be set at the maximum amount for which **we** could indemnify **you** under the 'Basis of Settlement' conditions applicable to the 'Property Damage' **section** were the item of **business equipment** or **personal possessions** to be entirely destroyed. If **you** are in any doubt **you** should ask **your** broker for advice.
- b) **Sums insured** are subject to the 'Average' condition in the 'Property Damage' **section**. This means that if at the time of any loss the total **sum insured** specified in the **schedule** is less than eighty-five percent (85%) of the total value of the **business equipment** or **personal possessions** the amount **you** are able to claim under this **section** will be reduced and **we** will bear only that proportion of the loss which the total **sum insured** bears to the total of the **business equipment** or **personal possessions**. For example, if the **sum insured** for **business equipment** or **personal possessions** is £1,000, but the **sum insured** ought to have been £2,000, **we** will only pay fifty percent (50%) of the valid claim. The way that this works is explained in the 'Average' condition in the 'Property Damage' **section**. Please note that any underinsurance within the margin of error afforded by the 'Average' condition does not relieve **you** of **your** obligation to make a fair presentation under the Insurance Act 2015.

2.7. Premium payment

- a) **We** will indemnify **you** in accordance with and subject to the terms of the **policy**, in consideration of the payment to **us** of the premium set out in the **schedule** for the **period of insurance**.
- b) Unless expressly stated otherwise in a separate written agreement, if **you** do not pay any premium or premium instalment plus applicable taxes/levies to Morton Michel or **us**, **we** may give **you** written notice cancelling the **policy** with effect from the seventh (7th) day after the notice has been served on **you**.
- c) The **policy** will continue if the late premium instalment and any other remaining premium instalments are paid and accepted before the cancellation takes effect.

- d) Notice of cancellation is deemed to be served on the third (3rd) day after being posted by pre-paid letter to the correspondence address set out in the **schedule**.
- e) In the event of cancellation, premium is due to **us** on a pro rata basis for the period that **we** are on risk. However, the full contract premium shall be payable to **us** in the event of a loss or occurrence prior to the date of termination, which gives rise to a valid claim under this contract.
- f) **We** may, at **our** discretion, deduct overdue unpaid premium from claims settlements but shall not set off or deduct premium that is not overdue. Pursuant to **your** and **our** obligations under any relevant compulsory insurance legislation, **we** shall not set off or deduct premium from any amounts payable under the 'Employers' Liability' **section**.

2.8. Cooling off period

- a) **You** may cancel this **policy** by giving written notice to **us**, quoting **your policy** number, within fourteen (14) days from the inception day of the **policy**. **You** have the right to cancel the **policy** free of charge and to receive full refund of premium under this **policy**, provided that there have been;
 - i no claims made under the **policy** for which **we** have made a payment;
 - ii no claims made under the **policy** which are still under consideration;
 - iii no incident likely to give rise to a claim but is yet to be reported to **us**;
 during the current **period of insurance**.
- b) This termination will be without prejudice to **your** or **our** rights or claims incurred prior to the expiration of such notice. If a claim has been submitted or there has been any incident likely to give rise to a claim during the current **period of insurance** no refund for the unexpired portion of the premium will be given.
- c) Please refer to the 'Your Rights to Cancel the Policy' condition in the 'General Terms' **section** for full details of **your** rights where **you** wish to cancel this **policy** including after fourteen (14) days from the inception day of the **policy**.

2.9. Notifications

Non-claims notifications

- a) Other than for claims and complaints and unless stated otherwise in the **policy**, in the first instance please contact Morton Michel with all notifications and reporting required in accordance with the **policy** terms and conditions. Morton Michel can be contacted by:

telephone: 0330 058 9861

email: customerservice@mortonmichel.com

post: Morton Michel, 6th Floor, Knollys House, 17 Addiscombe Road, Croydon CR0 6SR

Notification of claims

- b) **We** pride ourselves on placing effective management and handling of claims at the heart of **our** business. **Our** claims teams have the skills and expertise to ensure that claims are processed effectively and in a timely manner.

Claim notification contact details are explained in this wording booklet in the 'Claim Notification' **section**. Claim notification procedures are explained in the 'Claims Conditions and Requirements' **section**. Please ensure that **you** are familiar with those procedures. **Your** claim may not be paid in full or part if **you** do not follow the correct procedure or comply with the applicable claims conditions and requirements.

Please ensure that **you** are also familiar with the claim notification contact details and procedure for notifying a claim under the 'Legal Expenses' **section** of the **policy**, which has its own claim notification contact details and procedures.

Complaints

- c) To make a complaint please use the applicable complaint contact details provided in the 'How to Complain' **section**.

2.10. Legal Expenses section and Helpline services

- a) The 'Legal Expenses' **section** of your **policy** is administered by ARAG plc ("ARAG"). The insurer of the 'Legal Expenses' **section** is HDI Global Specialty SE.
- b) The 'Legal Expenses' **section** Helpline services are provided by ARAG.

2.11. Registration and Regulatory Information

a) Insurers under the policy

QBE UK Limited is the insurer under this **policy** except under the 'Legal Expenses' **section**.

The insurer of the 'Legal Expenses' **section** is HDI Global Specialty SE.

b) QBE UK Limited

QBE UK Limited is registered in England number 01761561. Registered Office: 30 Fenchurch Street, London, EC3M 3BD, United Kingdom. QBE UK Limited is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. The Financial Conduct Authority and Prudential Regulation Authority are independent watchdogs that regulate financial services. **Our** Financial Services Registration Number is 202842. **You** can check this on the Financial Services Register by visiting the Financial Conduct Authority website www.fca.org.uk/register.

c) ARAG plc

ARAG plc is registered in England number 02585818. Registered address: 9 Whiteladies Road, Clifton, Bristol BS8 1NN.

ARAG plc is authorised to administer the 'Legal Expenses' **section** of this **policy** on behalf of the insurer HDI Global Specialty SE. Registered address: Roderbruchstraße 26, 30655 Hannover, Germany.

HDI Global Specialty SE is authorised and regulated by Bundesanstalt für Finanzdienstleistungsaufsicht. Deemed authorised by the Prudential Regulation Authority and subject to regulation by the Financial Conduct Authority and limited regulation by the Prudential Regulation Authority.

d) Morton Michel

This **policy** is arranged for **you** by Morton Michel Limited. Morton Michel Limited ('Morton Michel') is a private company limited by shares incorporated in England and Wales number 5120835. Registered Office is PIB Group, Rossington's Business Park, West Carr Road, Retford, Nottinghamshire DN22 7SW. Morton Michel is authorised and regulated by the Financial Conduct Authority. It appears on the Financial Services Register under number 527300. **You** can check this on the Financial Services Register by visiting the Financial Conduct Authority website www.fca.org.uk/register.

3. Claim Notification

Please refer to the 'Claims Conditions and Requirements' **section** in addition to any claims conditions applicable to a **section** of cover set out in the **section** of cover for details of when to notify a claim.

3.1. Claim notification contact details for all sections except the Legal Expenses section

You may contact **us** to notify a claim by using the following claims notification contact details (for all **sections** except the 'Legal Expenses' **section**).

We will be able to deal with **your** claim promptly and more effectively if you provide **your policy** number when first contacting **us** about a claim.

By post: **QBE Claims, Acclaim House, Central Park, New Lane, Leeds LS11 5UF**

Property Damage and Personal Accident sections:

By telephone: **+ 44 (0)800 0853 187**

By email: **newclaim.property@uk.qbe.com**

Public and Products Liability and Employers' Liability sections:

By telephone: **+ 44 (0)800 876 6399**

By email: **ukadminnewclaims@uk.qbe.com**

Professional Indemnity section:

By telephone: **+ 44 (0)20 7105 4000**

By email: **CoreFSM@@uk.qbe.com**

3.2. Claim notification contact details for the Legal Expenses section

If **you** need to make a claim under the 'Legal Expenses' **section** **you** must notify ARAG as soon as possible.

A claim form can be downloaded at www.arag.co.uk/newclaims or requested by telephoning **0330 303 1955** between 9am and 5pm weekdays (except bank holidays).

If an **insured person** instructs their own solicitor or accountant without telling ARAG, they will be liable for costs that are not covered by this **policy**.

4. Legal Expenses Helplines

These Helpline services are provided by ARAG in conjunction with the 'Legal Expenses' section. Helplines are subject to fair and reasonable use and will only incur the cost of the call (unless otherwise stated). To help ARAG check and improve service standards, all inbound and outbound calls will be recorded, except those to the counselling helpline.

Legal and Tax Advice

If **you** have a legal or tax problem relating to **your business**, we recommend **you** call ARAG's confidential legal and tax advice helpline. Legal advice is available 24 hours a day, 365 days of the year, and tax advice is available between 9am and 5pm on weekdays (except bank holidays).

The advice covers professional and business-related legal matters within UK and EU law and tax matters within the UK. **Your** query will be dealt with by a qualified specialist experienced in handling legal and tax-related matters. Use of this service does not constitute reporting of a claim. **To contact the above services, phone 0330 303 1466 quoting Morton Michel policy and your policy number.**

Redundancy Assistance

If **you** are planning redundancies and need extra legal support, ARAG can arrange specialist consultancy assistance for **you**. Redundancy assistance will help **you** to implement a fair selection process and ensure that the redundancy notices are correctly served. The service offers document review and telephone or written advice and is subject to a charge. If **you** would like to arrange Redundancy Assistance, please call ARAG between 9am and 5pm on weekdays (except bank holidays). **To contact the above service, phone 0330 303 1955 quoting Morton Michel policy and your policy number.**

Crisis Communication

Following an event that has attracted negative publicity which could affect **your business**, **you** can access professional public relations support from ARAG's Crisis communication experts at any time. In advance of any actual adverse publicity, where possible, initial advice for **you** to act upon will be provided over the phone. If **your** circumstances require professional work to be carried out at that time, ARAG can help on a consultancy basis and subject to **you** paying a fee. Where an event has led to actual publicity online, in print or broadcast, that could damage **your** business, **you** are insured against the costs of crisis communication services under Insured event 11 Crisis communication when **you** use this helpline. **To contact the above service, phone 0344 571 7964 quoting Morton Michel policy and your policy number.**

Counselling Assistance

ARAG's qualified counsellors will provide free confidential support and advice by phone to **you**, any **employees** **you** have and family members who are suffering from emotional upset or feeling worried and anxious about a personal or work-related problem. **To contact the service, phone 0333 000 2082. The counselling service helpline is open 24 hours a day, seven days a week.**

Identity Theft Resolution

This service is available to the principal, executive officers, directors and partners of **your business** and to self employed professionals, between 9am and 5pm on weekdays (except bank holidays). ARAG will provide advice to help keep executives'/professionals' personal identity secure. Where identity theft is suspected, specialist caseworkers can help the victim to correspond with their card issuer, bank or other parties to restore their credit rating. Callers can claim for expenses incurred to put things right when using this helpline.

To contact the service, phone 0333 000 2083 quoting Morton Michel policy and your policy number.

Customer Services

Business Legal Service

Register today at www.araglegal.co.uk by entering the code below to set up **your** user access to a business law guide and business legal documents such as employment documentation and letters to chase debts.

Business Voucher Code - **ARAG753BIZ**

Consumer Legal Services

Register today at www.araglegal.co.uk by entering the code below to set up **your** user access to a consumer law guide and useful legal documents and letters to help with consumer legal matters. For example **you** can get a free will or read about how the law protects **you** when **you** are an employee or when **you** enter into a contract to buy goods and services.

Consumer Voucher Code - **ARAG697CON**

5. General Definitions

The following definitions, when used in bold typeface, apply to the **sections** of the **policy** in which they are used, unless specified to apply to a particular **section** or **sections** only, or unless an alternative definition for any of the terms below is provided for within a specific **section**, in which case that definition shall apply. Where undefined terms are used in the **policy** (i.e. not in bold) they are to be given their ordinary meaning.

Where a term with more than one definition is used within another general definition, the term shall have the meaning given to it that is applicable to the **section** to which it relates.

5.1. Act of terrorism

Means any act, or preparation in respect of action, or threat of action designed to influence the government de jure or de facto of any nation or any political division thereof, or in pursuit of political, religious, ideological or similar purposes to intimidate the public or a section of the public of any nation by any person or group(s) of persons whether acting alone or on behalf of or in connection with any organisation(s) or government(s) de jure or de facto, and which:

- a) endangers life other than that of the person committing the action;
- b) involves violence against one or more persons;
- c) involves **damage** to property;
- d) creates a risk to health or safety of the public or a section of the public; or
- e) is designed to interfere with or to disrupt an electronic system.

5.2. Bodily injury

Means death, disease, illness, physical or mental injury of or to an individual.

5.3. Business

Means the business activities as stated in the **schedule** conducted solely within the **territorial limits** and including:

- a) participation in exhibitions trade fairs conferences and the like;
- b) the ownership, repair and maintenance of the **premises**.

5.4. Computer system

For all **sections** other than the 'Terrorism' **section**, means any computer, hardware, software, communications system, electronic device (including, but not limited to, smart phone, laptop, tablet, wearable device), server, cloud or microcontroller including any similar system or any configuration of the aforementioned and including any associated input, output, data storage device, networking equipment or back up facility, owned or operated by **you** or any other party at the **premises** or elsewhere.

5.5. Costs and expenses

Means:

- a) claimants' legal costs for which **you** are legally liable;
- b) all **defence costs** incurred with **our** written consent in defending any claim;
- c) the solicitor's fees incurred with **our** written consent for representation at proceedings in any court of summary jurisdiction in respect of any alleged act causing or relating to any occurrence which may be the subject of indemnity under this **policy** or at any coroner's inquest or fatal accident inquiry.

5.6. Cyber act

Means an unauthorised, malicious or criminal act or series of related unauthorised, malicious or criminal acts, regardless of time and place, or the threat or hoax thereof involving access to, processing of, use of or operation of any **computer system**.

5.7. Cyber event

Means any programming or operator error whether by **you** or any other person or persons, or any unintentional

or unplanned whole or partial outage of **your** computer system not directly caused by physical loss or damage; affecting access to, processing of, use of or operation of any computer system.

Where a **cyber event** is caused by, contributed to by, resulting from, arising out of or in connection with a **cyber act** including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any **cyber act**, the **cyber event** will be considered to be a **cyber act**.

5.8. Cyber incident

Means:

- a) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **computer system**; or
- b) any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **computer system**.

5.9. Cyber loss

Means any loss, **damage**, liability, claim, cost or expense of whatsoever nature caused by, contributed to by, resulting from, arising out of or in connection with:

- a) any error or omission or series of related errors or omissions involving access to, processing of, use of or operation of any **computer system** or any partial or total unavailability or failure or series of related partial or total unavailability or failures to access, process, use or operate any **computer system**; or
- b) any **cyber act**.

5.10. Damage

Means physical loss of, physical destruction of or physical damage to tangible property unless otherwise excluded.

5.11. Data

Means information, facts, concepts, code or any other information of any kind that is recorded or transmitted in a form to be used, accessed, processed, transmitted or stored by a **computer system**.

5.12. Data processing media

Means any **property insured** on which **data** can be stored but not the **data** itself.

5.13. Defence costs

Means the reasonable and necessary costs and expenses which **you** incur with **our** written consent for:

- a) the investigation, adjustment, defence or settlement of a **claim** which is insured by the **operative sections** of the **policy**; and
- b) legal representation at a Coroner's Court or Fatal Accident Inquiry in respect of death which could give rise to a claim under the **policy**;

excluding costs and expenses which:

- i are recoverable from **you** by any claimant or investigating or prosecuting authority;
- ii are contributed to by the deliberate act or omission of **you** or an **employee**, but **we** will not exclude reasonable and necessary costs and expenses **you** incur with **our** consent which are contributed to by the deliberate act or omission of an **employee** not authorised, agreed or consented to by **you** before or after the act or omission, or which **you** are aware of or ought to have been aware of at the time of such act or omission and did not and have not taken all reasonable steps to prevent or mitigate the consequences of such act or omission;
- iii relate to improvement or prohibition notices, remedial or publicity orders or steps required to be taken by such orders;
- iv relate to attendance or representation at a public inquiry; or
- v are covered wholly or partly by another insurance.

Defence costs do not include and there is no indemnity for **your** own internal costs and expenses, management time or employee time or any adjusters' fees.

5.14. **Electronic data**

Means facts, concepts, and information converted to a form useable for communications, interpretation or processing by electronic and electromechanical data processing or electronically controlled equipment and includes programmes, software and other coded instructions for the processing and manipulation of data or the direction and manipulation of such equipment.

5.15. **Employee**

Means in connection with **your business** any person:

- a) engaged under a contract of service or apprenticeship with **you**; or
- b) who works for **you** in the course of **your business** including but not limited to:
 - i persons on secondment from another company who are not an insured under the **policy**;
 - ii labour masters or persons supplied by them;
 - iii labour-only subcontractors;
 - iv self-employed persons providing labour only;
 - v persons engaged under work experience, training, study, exchange or similar schemes;
 - vi any officer, member or voluntary helper of the organisations or services stated in the **business**;
 - vii voluntary workers, helpers and instructors;
 - viii persons a court in the **United Kingdom**, Channel Islands or Isle of Man deems to be an **employee**.

5.16. **Excess**

Means the first amount payable by **you** which shall apply to each and every claim unless stated otherwise in the **schedule**, as ascertained after the application of all other terms and conditions of this **policy**.

5.17. **Family**

Means **your** spouse, children, parents and any other relations permanently living with **you**.

5.18. **Great Britain**

Means England and Wales and Scotland but not the territorial seas adjacent thereto as defined by the Territorial Sea Act 1987 or the Isle of Man nor the Channel Islands.

5.19. **Legionella**

Means any discharge release or escape of legionella bacteria from water tanks, water systems, air-conditioning plants, cooling towers and the like.

5.20. **Limit of indemnity**

Means the amount shown in the **schedule** as the 'Limit of indemnity' for the applicable **section** or **sub-section** to which it relates.

5.21. **Limit of liability**

Means the amount shown in the **schedule** as the 'Limit of Liability' for the applicable **section** or **sub-section** or 'Item Description' to which it relates.

5.22. **Maximum amount payable**

Means the amount shown in the **schedule** as the 'Maximum Amount Payable' for an extension or **sub-section**.

5.23. Operative section

Means any **section** of cover which **you** have selected and for which cover is provided by this **policy**. **Sections** that are operative sections will be shown in the **schedule** as “Insured”. **Sections** that are not operative sections will be shown in the **schedule** as “Not Insured”.

5.24. Period of insurance

Means the time period which commences and ends on the dates specified in the **schedule**.

5.25. Period of insurance

Means the time period which commences and ends on the dates specified in the **schedule**.

5.26. Personal injury

For the purpose of the Employers’ Liability’ and ‘Public and Products Liability’ **sections** means:

- a) bodily injury;
- b) death and resulting losses which become payable under the Fatal Accidents Act 1976 and the Damages (Scotland) Act 2011;
- c) physical illness and disease; and
- d) medically diagnosed psychiatric condition,

which results directly and solely from an **occurrence**.

5.27. Policy

Means this document, the **schedule** (including any substitution **schedules**) and any endorsements.

5.28. Pollutants

Means any solid, liquid, gaseous or thermal irritant or contaminant, including but not limited to smoke, vapour, soot, fumes, acid, alkalis, chemicals and waste (including materials to be recycled, reconditioned or reclaimed).

5.29. Pollution

Means:

- a) the actual, alleged or threatened discharge, seepage, migration, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapour, soot, dust, fumes, acids, alkalis, chemicals or waste (including materials to be recycled, reconditioned or reclaimed) at any time but not including any discharge release or escape of airborne or waterborne pathogens from water tanks, water systems, air conditioning plants, cooling towers or similar except in respect of **legionella**; and
- b) any cost, expense, claim or suit arising out of any request, demand or order arising from actual, alleged or threatened discharge, seepage, migration, dispersal, release or escape of any solid, liquid, gaseous or thermal irritant or contaminant including smoke, vapour, soot, dust, fumes, acids, alkalis, chemicals or waste (including materials to be recycled, reconditioned or reclaimed) at any time that **you** or an **official** test for, monitor, clean up, remove, contain, treat, detoxify or neutralise or in any way respond to or assess the effects of such pollutants.

5.30. Premises

Means the domestic premises at which **you** are contracted to provide the **business**.

5.31. Schedule

Means this provides details of **you**, the **period of insurance**, the **operative sections** of the **policy** with the **sums insured**, **limits of indemnity**, **limits of liability**, **maximum amounts payable**, **compensation limit** and **excesses** and any endorsements that apply.

5.32. Section, sub-section

Means a section of the **policy** or sub-section of a section (including extensions) that forms part of the **policy** but only if included in the **schedule**.

5.33. State

Means sovereign state.

5.34. Sum insured

Means the amount shown in the **schedule** as the 'Sum Insured' for the applicable **section** of cover or 'Item Description' to which it relates.

Sums insured are shown in the **schedule** under the **sections** of cover to which they apply. Where sums insured appear in the **schedule** next to an 'Item Description' within a **section** of cover the sum insured applies to the item described.

5.35. Territorial limits

Means the **United Kingdom**, the Isle of Man and the Channel Islands.

5.36. United Kingdom

Means **Great Britain** and Northern Ireland.

5.37. War

Means:

- a) the use of physical force by a **state** against another **state** or as part of a civil war, rebellion, revolution, insurrection; and/or
- b) military or usurped power or confiscation or expropriation nationalisation or requisition or destruction of or damage to property by or under the order of any government or public or local authority;

whether war be declared or not, but not including an **act of terrorism**.

5.38. We, us, our

Means for all **sections** except the 'Legal Expenses' **section** QBE UK Limited.

Means for the 'Legal Expenses' **section**, ARAG plc.

5.39. You, your, yours, policyholder

Means for all **sections** the person or entity stated in the **schedule** as the **policyholder**, including the person, persons or company or the management committee for the time being of the **business** named as the "Insured" in the **schedule**.

6. Public and Products Liability

Cover under this **section** is only provided if it is shown in the **schedule** as an **operative section**.

6.1. Public and Products Liability Definitions

In addition to the defined terms contained in the 'General Definitions' **section**, the following definitions apply only to this **section**. These definitions replace any equivalent definition contained in the 'General Definitions' **section** where they are used in this **section**, unless an alternative definition is stated to apply.

6.1.1. Emergency

Means sudden and unforeseen circumstances which are beyond **your** control and which require immediate action.

6.1.2. Extended reporting period

Means an additional period of thirty (30) days commencing on the date of expiry of the **policy** within which **you** are entitled to notify **us** of a claim or claims resulting directly and solely from an **occurrence** that commenced before the end of the **period of insurance**.

This definition will not increase the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section** or extend the **period of insurance** and any claim(s) notified to **us** during this period will be deemed to have been notified on the last day of the **period of insurance**.

6.1.3. Occurrence

Means an accident, including continuous and repeated exposure to substantially the same general harmful conditions, which gives rise to liability insured by this **section**. All accidents attributable to one original source or cause will be considered as a single occurrence.

6.1.4. Minded adult

Means a person aged 18 years or over **you** are contracted to look after.

6.1.5. Minded child

Means a person aged under 18 years **you** are contracted to look after.

6.1.6. Minded person

Means any **minded adult** or **minded child**.

6.1.7. Official

Means **you** or any director, partner or **employee** of the **business**.

6.1.8. Parent

Means person with legally recognised parental or guardian responsibility.

6.1.9. Products

Means any goods, including containers, packaging, labelling and instructions for use, sold, supplied, processed, delivered, installed, tested, repaired, serviced, altered, treated or hired out by **you** in connection with the **business** and no longer in **your** possession or control.

6.1.10. Tube feeding

Means the delivery of a nutritionally complete feed, directly into the stomach, duodenum or jejunum via a tube entering the body through the nose, the mouth, or directly through the abdominal wall.

6.2. Public and Products Liability Cover

We will indemnify **you** in accordance with the terms of this **section** in respect of:

- a) all amounts which **you** become legally liable to pay as damages and claimant costs; and
- b) **defence costs**

in respect of:

- i **personal injury** to any person;
- ii accidental **damage** to material property;
- iii accidental obstruction, accidental trespass or accidental nuisance resulting in interference with or loss of enjoyment of material property;
- iv false arrest, malicious prosecution, unlawful detention or imprisonment, wrongful eviction of a person from a room, dwelling or **premises** that the person occupies, invasion of the right of privacy;

resulting directly and solely from an **occurrence** taking place:

- (a) during the **period of insurance**;
- (b) within the **territorial limits**;
- (c) elsewhere in the world in respect of any journey or temporary visit in connection with the **business** by **you** or your directors, partners or employees normally resident within the **territorial limits**, provided such journey or visit is not for the purpose of performing manual work;
- (d) anywhere in the world caused by **products**;

involving the conduct of **your business** (Public Liability) or a **product** (Product Liability).

6.3. Public and Products Liability Extensions

The following Extensions apply to this **section**.

6.3.1. Compensation for Court Attendance

We will indemnify **you** in respect of the costs of attendance at court to act as a witness at **our** request in connection with any claim for which **you** are entitled to be paid under this **section** up to the **maximum amount payable** stated in the **schedule** for this extension for each day on which attendance is required.

6.3.2. Consumer Protection and Food Safety Acts – Legal Defence Costs

We will indemnify **you** and at **your** request any director, partner or **employee** of **yours** for legal costs incurred with **our** written consent in connection with the defence of proceedings or an appeal against conviction arising from such proceedings brought for a breach of the Consumer Protection Act 1987 and the Food Safety Act 1990 committed or alleged to have been committed in the course of the **business** during the **period of insurance**, provided that:

- a) **our** maximum liability during the **period of insurance** for all claims under this extension will not exceed the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section**;
- b) where **we** have already made a payment in respect of any legal costs or expenses incurred in connection with the defence of any criminal proceedings including appeals against conviction arising from such criminal proceedings brought under the Consumer Protection Act 1987 and the Food Safety Act 1990 arising out of the same **occurrence** which give rise to such proceedings any amount paid or payable by **us** will be deducted from the amount payable under this **section**;
- c) **we** agree in writing to the appointment of solicitors or counsel who is to act on **your** behalf prior to their appointment.

We will not indemnify **you** under this extension for:

- (a) the payment of fines or penalties;
- (b) proceedings or appeals in respect of deliberate acts or omissions;
- (c) costs and expenses insured by any other insurance.

6.3.3. Contingent Motor Liability (Non-owned Vehicles)

We will indemnify **you** for all amounts **you** become legally liable to pay for damages and claimant costs for **personal injury** or **damage** during the **period of insurance** resulting directly and solely from a motor vehicle that **you** do not own, provide, loan, lease, hire or rent being used by **an employee** in the course of the **business**, provided that **we** will not indemnify **you**:

- (a) for loss of or destruction of or **damage** to such vehicle or to goods carried in or on it;
- (b) for **personal injury** to any person or loss of goods or property when the vehicle is being driven by **you** or by any person who to **your** knowledge does not hold a valid licence to drive such vehicle;
- (c) in respect of liability more specifically insured wholly or partly by any other insurance;
- (d) in respect of liability arising outside the **territorial limits**.

Our maximum liability during the **period of insurance** for all claims under this extension will not exceed the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section**.

6.3.4. **Corporate Manslaughter**

We will indemnify **you** in respect of:

- a) **defence costs** incurred with **our** prior written consent; and
- b) prosecution costs awarded against **you**;

in the defence of a criminal proceedings, including an appeal against a conviction, arising from such proceedings brought under The Corporate Manslaughter and Corporate Homicide Act 2007 as a result of any death to any person other than an **employee** caused by an **occurrence** taking place during the **period of insurance** in the course of **your business** and which may be the subject of payment under this **section**, provided that:

- i **our** maximum liability during the **period of insurance** for all claims under this extension will not exceed the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section**;
- ii where **we** have already made a payment in respect of any legal costs or expenses incurred in connection with the defence of any criminal proceedings including appeals against a conviction arising from such criminal proceedings brought under the Corporate Manslaughter and Corporate Homicide Act 2007 arising out of the same occurrence which give rise to such proceedings any amount paid or payable by **us** will be deducted from the amount payable under this **section**;
- iii **we** agree in writing to the appointment of any solicitor or counsel who is to act on **your** behalf prior to their appointment.

We will not indemnify **you** under this extension for:

- (a) any fines or penalties or the cost of implementing any remedial order or publicity order;
- (b) an appeal against any fines penalties remedial order or publicity order;
- (c) any costs incurred which result from the failure to comply with any remedial order or publicity order;
- (d) costs and expenses in connection with any appeal unless advice has been obtained from solicitors or counsel approved by **us** that there are strong prospects of success;
- (e) costs and expenses in connection with the defence of any criminal proceedings resulting from any deliberate or intentional criminal act or omission by **you** or any other director, partner or **employee** of **yours**;
- (f) costs and expenses provided by any other source or any other insurance or which but for the existence of this extension would have been provided by such source or insurance;
- (g) costs and expenses in connection with the defence of any criminal proceedings unless such proceedings are brought against **you** in a court of law in **Great Britain**, Northern Ireland, the Isle of Man or the Channel Islands.

6.3.5. **Defective Premises Act 1972**

We will indemnify **you** in respect of any legal liability to pay damages and claimant costs for **personal injury** or **damage** under section 3 of the Defective Premises Act 1972 or section 5 of the Defective Premises (Northern Ireland) Order 1975.

We will not indemnify **you** under this extension for liability which is contributed to by any of the following:

- (a) **premises** which **you** own, lease, occupy or possess;

- (b) if at the date of disposal by **you** such buildings were not insured by this **policy** or any other insurances in respect of which this **policy** has been issued in substitution;
- (c) defective workmanship;
- (d) the costs of remedying a **defect** or alleged **defect** in **premises**; or
- (e) liability which is covered wholly or partly by another insurance.

Our maximum liability during the **period of insurance** for all claims under this extension will not exceed the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section**.

6.3.6. **General Data Protection Regulations**

We will indemnify **you** in respect of legal liability to pay damages and claimant costs for a breach in the course of **your business** of:

- a) sections 168 and 169 of the Data Protection Act 2018, (the "DPA"); or
- b) article 82 of the Regulation (EU) 2016/679 (the "General Data Protection Regulation" or the "GDPR");

provided that the breach first occurs during the **period of insurance** and **you** notify the claim to **us** during the **period of insurance** or **extended reporting period**.

At **your** request **we** will indemnify any director, partner or **employee**.

We will also indemnify **you** for **defence costs** within the **maximum amount payable** shown in the **schedule** for this extension.

We will not indemnify **you** under this extension for legal liability which comprises or is contributed to by:

- (a) an unauthorised, malicious or criminal act, or series of related unauthorised, malicious or criminal acts, or the threat or hoax of such acts, involving the use or operation of, or access to, any **computer system** or **data**;
- (b) a deliberate act or omission of any party entitled to indemnity under the **policy**, the effect of which would knowingly or foreseeably result in liability under the **DPA** or the **GDPR**;
- (c) a circumstance notified to a previous insurer or which is known to **you** at the commencement of the **period of insurance**;
- (d) liability which is covered wholly or partly by another insurance;
- (e) liability for claims or proceedings brought against **you** outside the **United Kingdom**;
- (f) distress or loss of control over personal data unless also involving **bodily injury**;
- (g) the recording, processing or provision of data for reward or to determine the financial status of a person;
- (h) the cost of replacing, reinstating, rectifying or erasing any personal data;
- (i) the cost of investigating or reporting a data breach to an authority or to data subjects; or
- (j) the payment of fines and penalties.

We will not indemnify **you** under this extension unless **you** have registered, **you** are exempt from registration or **you** applied to register with the Information Commissioner's Office and **your** application has not been refused or withdrawn.

The maximum **we** will pay during any one **period of insurance** for all claims under this extension will not exceed the **maximum amount payable** shown in the **schedule** per **occurrence** and in the aggregate.

6.3.7. **Duties Outside the UK**

In respect of **your business** as a Registered Nanny, Non-Registered Nanny, Doula, Maternity Nurse or Childminder exempt from compulsory registration, the **territorial limits** under this **section** are extended to apply to:

- a) countries of the European Union for a maximum period of one hundred and eighty (180) consecutive days in any one **period of insurance**;

- b) anywhere in the world, for a maximum period of ninety (90) consecutive days in any one **period of insurance**;

provided that:

- i) the **minded persons** cared for outside the **territorial limits** are such **minded persons** that **you** contracted to look after within the **territorial limits**;
- ii) prior to any trip written permission for the trip must be obtained from the **minded adult's parent** where it is required;
- iii) the **minded child's parent** must accompany **you** on the trip;
- iv) **you** have travel insurance in force for the complete duration of the trip which includes cover for any legal liability **you** incur in a personal capacity.

6.3.8. **Health and Safety at Work etc. Act 1974**

We will indemnify **you** and at **your** request any director, partner or **employee** in respect of **defence costs** incurred, with **our** written consent, in the defence of any criminal proceedings brought in respect of a breach of the Health and Safety at Work etc. Act 1974 or similar legislation in Northern Ireland, the Channel Islands or the Isle of Man, committed or alleged to have been committed during the **period of insurance**, including legal costs and expenses incurred with **our** written consent in an appeal against a conviction arising from such proceedings, provided that:

- a) **our** maximum liability during the **period of insurance** for all claims under this extension will not exceed the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section**;
- b) where **we** have already made a payment in respect of any legal costs or expenses incurred in connection with the defence of any criminal proceedings including appeals against a conviction arising from such criminal proceedings brought under Health and Safety at Work etc. Act 1974 or similar legislation in Northern Ireland, the Channel Islands or the Isle of Man arising out of the same **occurrence** which give rise to such proceedings any amount paid or payable by **us** will be deducted from the amount payable under this **section**;
- c) **we** agree in writing to the appointment of solicitors or counsel to act on **your** behalf prior to their appointment.

We will not indemnify **you** under this extension for:

- (a) any fines or penalties or the cost of implementing any remedial order or publicity order;
- (b) an appeal against any fines, penalties, remedial order or publicity order;
- (c) costs and expenses provided by any other source or any other insurance or which but for the existence of this extension would have been provided by such source or insurance;
- (d) proceedings arising out of any deliberate act or omission by **you**.

6.3.9. **Indemnity to Other Persons**

We will indemnify at **your** request:

- a) any of **your** directors, partners or **employees**;
- b) any officer, committee member or other person employed by **your** catering, social, sports, educational or welfare organisations or first-aid, medical, ambulance, fire or security services;
- c) any bona fide member of **your** organisation;
- d) any director, partner or official for whom with **your** consent an **employee** is undertaking private work;
- e) any principal or public or local authority as far as is necessary to meet the requirements of any contract or agreement entered into by **you** for the performance of work;
- f) the owner of plant hired by **you** but only to the extent of the conditions of hire;
- g) any legal representative of any of the above in the event of their death;

for amounts which they are legally liable in respect of which **you** would have been entitled to indemnity under this **section** if the claim had been made against **you**, provided that:

- i any person is not entitled to be paid under any other insurance;
- ii any person will be subject to and will observe and fulfil the applicable terms and conditions of this **policy**;
- iii **we** will retain the sole conduct and control of any claim;
- iv the total amount **we** will pay in the aggregate in respect of any one occurrence for damages to **you** and any such persons will not exceed the maximum amount payable.

6.3.10. Premises Leased, Hired, Rented or in Custody or Control

We will indemnify **you** in respect of any amount **you** become legally liable for following **damage** to premises including fixtures and fittings leased, hired or rented to **you** or those in **your** custody or control.

Our maximum liability during the **period of insurance** for all claims under this extension will not exceed the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section**.

6.4. Maximum Amount Payable

- a) The maximum amount **we** will pay under the 'Public Liability' cover provided by this **section** in any one **period of insurance** for any one **occurrence** will not exceed the 'Public Liability' **limit of indemnity** stated in the **schedule**.
- b) The maximum amount **we** will pay in respect of liability arising out of **products** in any one **period of insurance** per **occurrence** and in the aggregate will not exceed the 'Products Liability' **limit of indemnity** stated in the **schedule**.
- c) **We** will pay for **defence costs** provided that where payment exceeding the **limit of indemnity** has to be made to dispose of a claim, **our** liability for **defence costs** will be limited to such proportion of the said **defence costs** as the **limit of indemnity** bears to the total amount paid to dispose of the claim.
- d) Where indemnity is provided for liability in respect of claims brought in the United States of America or Canada or their dependencies or trust territories the applicable **limit of indemnity** shown in the **schedule** for this **section** shall be the maximum amount **we** will pay inclusive of all **costs and expenses**.
- e) Unless expressly stated elsewhere in this **policy** or the **schedule** the maximum amount **we** will pay inclusive of **defence costs** in respect of any applicable extensions provided by this **section** shall be within and not in addition to the maximum amount **we** will pay in accordance with this condition.

6.5. Other Public and Products Liability Terms and Conditions

The following conditions apply to this **section** in addition to the 'General Terms' and 'Claims Conditions and Requirements'.

6.5.1. Activity Condition – CONDITIONS PRECEDENT

We will only indemnify **you** if **you** comply with the following conditions precedent whenever trampolines, climbing frames, garden swimming pools, bouncy castles and similar inflatable play equipment are used **you** must:

- a) comply with the manufacturers'/suppliers' instructions regarding use, safety and recommended numbers of **minded persons** at all times;
- b) obtain written permission that the **minded person** is to be allowed to use such equipment from:
 - i the **minded child's parent**;
 - ii where required, the **minded adult's parent**.

6.5.2. Checks and Investigations for Employees – CONDITIONS PRECEDENT

We will only indemnify **you** if **you** comply with the following conditions precedent.

- a) **you** must:

- i carry out all investigations recommended by Ofsted or any other competent authority on all current and prospective **employees**;
- ii where **you** are required to do so by law, obtain all necessary criminal records and barred list checks in respect of all relevant current and prospective **employees**;

and act reasonably in response to the information obtained;

- b) while **you** are awaiting the outcome of criminal records and barred list checks on an **employee** that **you** are required by law to obtain, **you** must ensure that such **employee** will be supervised at all times (while engaged in the **business**) by **you** or an **employee** for whom criminal records and barred list checks have been obtained.

6.5.3. **Cross Liabilities**

Where there is more than one person named as the 'Insured' in the **schedule** this **section** will apply separately to each named insured as if each is insured by a separate policy, provided always that **our** maximum liability in the aggregate for damages to all parties insured will not exceed the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section**.

6.5.4. **Discharge of Liability**

At any time **we** may pay to **you** in connection with any claim or series of claims:

- a) a sum equal to the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section** less any amount **we** have already paid;
- b) any lesser amount for which such claim or series of claims can be settled.

On payment **we** will then cease to have the conduct and control of any negotiations, actions or proceedings and **we** will be under no further liability for the claim other than for costs and expenses incurred prior to the date of final payment.

6.5.5. **Handling and Moving – CONDITIONS PRECEDENT**

We will only indemnify **you** if **you** comply with the following conditions precedent that prior to moving **mind**ed persons as a result of their impaired mobility **you** must have:

- a) completed specific training in respect of:
 - i moving and handling people including the use of hoists and other handling aids;
 - ii any specific handling aids **you** use in the delivery of care **you** provide;
 - iii how to implement individual handling plans;
- b) completed and documented:
 - i risk assessments for all settings at which **you** provide care;
 - ii individual risk assessments which consider any specific moving and handling needs of care service users and which form part of such care service users' care plan;

Such risk assessments must be periodically reviewed and updated whenever circumstances change to ensure they remain current.

6.5.6. **Treatment – Drugs and Medicines – CONDITIONS PRECEDENT**

We will only indemnify **you** if **you** comply with the following conditions precedent in respect of the administration of drugs or medicines. The administration of drugs or medicines must take place only under the following conditions:

- a) in all cases:
 - i the:
 - (a) **parent** of each **mind**ed child; and
 - (b) each **mind**ed adult or the **parent** of each **mind**ed adult if applicable;

must provide details of any known allergy to medication suffered by the **mind ed person**. Such details to be recorded by **you** or **your employees** in the drugs/medicine register and consulted before any emergency administration of drugs or medicines;

- ii for prescribed drugs or medicines, the drug or medicine must have been:
 - (a) prescribed by the **mind ed person's** General Practitioner or consultant;
 - (b) given to **you** by the **mind ed child's parent**, the **mind ed adult** or the **mind ed adult's parent** or their General Practitioner or consultant;
 - iii for non-prescribed drugs or medicines:
 - (a) they must only be administered with the permission of the **mind ed child's parent**, the **mind ed adult** or the **mind ed adult's parent** or their General Practitioner or consultant;
 - (b) records of permissions given must be kept confirming the permission that has been given;
 - (c) they must only be of a type that is available over the counter in the United Kingdom;
 - iv the drug or medicine must be kept in a secure place with access only by authorised persons;
 - v a clear label, with the **mind ed person's** name, must be attached to the drugs or medicine;
 - vi a drugs/medicine register must be kept showing:
 - (a) the **mind ed person's** name;
 - (b) type of drug/medicine administered;
 - (c) date and time administered;
 - (d) dosage;
 - (e) name and signature of person administering the drug/medicine;
 - (f) name and signature of a witness, if present;
 - (g) time of notification to the **mind ed person's parent** when an administration of drug or medicine has been given in an **emergency**;
 - (h) note of any known allergy to medication suffered by **mind ed persons** attending the **business**;
 - vii **you** must familiarise yourself and comply with all relevant requirements of **your** statutory registering authority if applicable concerning the administration of drugs and medicines;
 - viii **you** must have a letter of authorisation from the **mind ed child's parent** or the **mind ed adult** or the **mind ed adult's parent** if applicable containing clear instructions for the administration of nonprescribed drugs or medicines, prescribed oral medication or asthma inhalers;
- b) in cases where occasional, regular or emergency medication is required such as epinephrine auto-injectors (EpiPens), hypodermic injections, insulin pumps, tube-administered or stent-administered medication (but not including nonprescribed drugs or medicines, prescribed oral medication or asthma inhalers, which are dealt with under paragraph 6.5.6. a) above), **you** must comply with paragraphs 6.5.6. a) i to vii above and in addition **you** must;
- i have a letter from the **mind ed child's parent** or the **mind ed adult** or the **mind ed adult's parent** if applicable providing specific consent for **officials** to administer the medication;
 - ii have a letter from the **mind ed person's** General Practitioner or consultant stating:
 - (a) what condition the drug or medicine is for with its name;
 - (b) how and when the drug or medicine is to be given;
 - (c) what training of personnel is required, if any;
 - (d) any other relevant information;

- iii **you** must ensure that any **official** administering the drug or medicine has the training specified by the **mind ed person's** General Practitioner or consultant and, if required, **you** must provide proof of such training.

6.5.7. **Treatment - Supplementary Healthcare Procedures – CONDITIONS PRECEDENT**

We will only indemnify **you** if **you** comply with the following conditions precedent in respect of the administration or provision of oxygen, **tube feeding**, cleaning and changing of **tube feeding** or tracheostomy/tracheotomy tubes and emptying/changing stoma. **You** must:

- a) have a letter from the **mind ed person's** General Practitioner or consultant stating:
 - i the **mind ed person's** condition and the health support procedures required;
 - ii the training of personnel which is required;
 - iii the medical experience which is required;
 - iv any other relevant information;
- b) have a letter from the **mind ed child's parent** or the **mind ed adult** or the **mind ed adult's parent** if applicable providing specific consent for **officials** to administer/provide the health support procedures required;
- c) ensure that any **official** administering/providing the required health support procedures has the medical experience and training specified by the **mind ed person's** General Practitioner or consultant and, if required, **you** must provide proof of such training;
- d) familiarise yourself and comply with all relevant requirements of **your** statutory registering authority if applicable concerning the administration/provision of the health support procedures.

6.6. **Exclusions and limitations applying to the Public and Products Liability section**

In addition to the limitations and exclusions in the 'General Exclusions' **section**, **we** will not indemnify **you** under this **section** in respect of:

- a) **personal injury** to any **mind ed person** whilst not under **your** direct care and custody other than whilst left temporarily in the care and custody of:
 - i a carer providing that:
 - (a) prior to their appointment **you** have checked they have their own Public Liability insurance covering the **business**, effective and with a Limit of indemnity of at least £5,000,000;
 - (b) they have at least two years experience in providing the **business**;
 - ii an adult during an **emergency**;
- b) **personal injury** to:
 - i any member of **your family**; or
 - ii any **employee** arising out of and in the course of their employment in the **business**;
- c) **personal injury** to any person or **damage** to property arising from the ownership possession or use by **you** or on **your** behalf of:
 - i any aircraft, aerospace device, hovercraft or watercraft other than hand propelled watercraft and other watercraft not exceeding seven (7) metres in length;
 - ii any lift, elevator, hoist, crane, steam boiler or other apparatus operating under steam pressure, for which a statutory inspection certificate is required but which is not in force;
 - iii any mechanically propelled vehicle or plant or trailer attached in circumstances in respect of which insurance or security is necessary to meet the requirements of road traffic legislation other than as insured under the 'Contingent Motor Liability (Non-owned Vehicles)' extension of this **section**;
- d) the manufacture, mining, processing, use, installation, storage, removal, stripping out, demolition, disposal, distribution, inspection, accidental discovery of, testing of or exposure to **asbestos**;
- e) **damage** to:

- i property owned by or leased, hired or rented to **you** other than as insured under the 'Premises Leased, Hired, Rented or in Custody or Control' extension of this **section**;
 - ii property belonging to **you** or held in **your** care, custody or control other than:
 - (a) personal property of directors, partners or **employees**;
 - (b) the property of customers or visitors temporarily on or about the **premises**;
 - (c) as insured under the 'Premises Leased, Hired, Rented or in Custody or Control' extension of this **section**;
 - iii property owned by or in the custody or control of **your family**;
- f) legal liability under a contract unless legal liability would have attached to **you** in the absence of such contract;
- g) liability arising from or caused by **damage** to property, buildings or land caused by vibration or by the removal or weakening of support;
- h) **damage** to **products** or the cost of making good or recalling such **products** nor the cost of rectifying defective work including but not limited to expenditure, whether incurred by **you** or others, for the withdrawal, recall, disposal, removal, repair, adjustment, alteration, reconditioning, replacement or reinstatement of any **product** or part thereof (or any other product or part thereof of which **your product** forms, or is intended to form, a part or ingredient) and **financial loss** necessary for such withdrawal, recall, disposal, removal, repair, adjustment, alteration, reconditioning, replacement or reinstatement;
- i) **damage** to any property or any costs incurred in rectifying property (including any part of the property) which suffers from a known or suspected **defect**;
- j) **damage** to
- i property which **you** or any of **your employees** are or have been working on where the **damage** is the direct result of such work;
 - ii materials, parts or equipment furnished in connection with performance of such **work**.
- We will not indemnify you** for liability for;
- (a) the cost of rectifying defective work; and
 - (b) any property required to be insured in joint names under a contract;
- k) fines, penalties or liquidated, punitive or exemplary damages;
- l) legal liability arising from or caused by:
- i the provision of advice or any plan, design, formula or specification given separately for a fee or for which a fee is normally charged;
 - ii the making up, sale or supply of any drug or medical preparation, syringes, dressings or medical supplies or equipment of any kind whatsoever;
 - iii the making up sale or supply of animal feeds, seeds, fertilisers, insecticides, or pesticides;
 - iv any **products** manufactured, constructed or prepared in accordance with their plan, design, formula or specification failing to perform the function for which they are intended by **you**;
 - v the use of solaria, sunbeds, saunas and hydro-massage facilities;
- m) liability arising from or caused by or contributed to the provision or administering of any treatment other than:
- i first aid treatment;
 - ii the administration of drugs and medicines strictly in accordance with the 'Treatment - Drugs and Medicines – CONDITIONS PRECEDENT' condition in the 'Other Public and Products Liability Terms and Conditions' of this **section**;
 - iii the administration or provision of oxygen, **tube feeding**, cleaning and changing of **tube feeding** or tracheotomy/tracheostomy tubes and emptying/changing stoma bags strictly in accordance

with the 'Treatment - Supplementary Healthcare Procedures – CONDITIONS PRECEDENT' condition in the 'Other Public and Products Liability Terms and Conditions' of this **section**:

- n) any **products** which with **your** knowledge are:
 - i exported directly or indirectly to the United States of America or Canada;
 - ii used in the aircraft, space, petro-chemical, gas, offshore, ship building and repair or nuclear industries;
 - iii to be used in the motor industry other than those not affecting the safety, stability, steering or braking of the vehicle;
- o) liability caused by or arising from **products** where the action is brought against **you** in any country not being part of the **United Kingdom, Channel Islands, Isle of Man** or a member of the European Union where **you** have a branch or a parent or a subsidiary company or are represented by a person or company holding **your** Power of Attorney;
- p) any judgment, award, payment, **defence costs** or settlement delivered, made or incurred within countries which operate under the laws of the United States of America or Canada.

This exclusion will not apply to visits made in the course of **your business** to undertake non-manual work, but **we** will not indemnify **you** for liability:

- i under any agreement that would not have attached in the absence of such agreement;
- ii in connection with the ownership, maintenance, operation or use of any mechanically propelled vehicle or watercraft;
- iii contributed to by **pollution**; and
- iv to pay punitive, multiple or exemplary damages.

We will not indemnify any entity based in, operating in or domiciled in the United States of America or Canada.

- q) i **personal injury** or **damage**, occurring within the United States of America and Canada, but this exclusion will not apply to non-manual visits as specified in exclusion 8.6 q); or
 - ii **pollution** taking effect wholly or partly in the United States of America or Canada.
- r) liability which comprises or is **contributed** to by **pollution**, nuisance, defects or **damage**, affecting any premises (including land or water within or below the boundaries of such land or premises) that are presently or were at any time previously owned, leased, hired or rented by you or were otherwise in **your** care, custody or control;
- s) liability which comprises or is **contributed** to by **pollution**, unless caused by a sudden, identifiable, unintended and unexpected incident that takes place in its entirety at a specific moment in time and place and arising out of the **business** specified in the **schedule** or escape of **legionella**;
- t) **defence costs** connected with any alleged breach of statutory duty or any allegation of manslaughter, corporate manslaughter or corporate homicide. This exclusion will not apply in respect of and to the extent of the indemnity provided by the 'Consumer Protection and Food Safety Acts – Legal Defence Costs', 'Corporate Manslaughter', 'Defective Premises Act 1972', 'General Data Protection Regulations' and 'Health and Safety at Work etc. Act 1974' extensions;
- u) liability which comprises or is **contributed** to by any **fungal pathogens** whether directly or indirectly, regardless of any other cause or event contributing concurrently or in any sequence to a loss or liability;
- v) liability which in any way:
 - i results directly or indirectly from; or
 - ii is contributed to wholly or partly by; or
 - iii the risk is increased by;

war or an **act of terrorism** during the **period of insurance**.

7. Professional Indemnity

Cover under this section is only provided if it is shown in the schedule as an operative section.

7.1. Professional Indemnity Definitions

In addition to the defined terms contained in the 'General Definitions' **section**, the following definitions apply only to this **section**. These definitions replace any equivalent definition contained in the 'General Definitions' **section** where they are used in this **section**, unless an alternative definition is stated to apply.

7.1.1. Business services

Means those services provided for a client as specified in the **schedule** in the conduct of **your** business.

7.1.2. Circumstance

Means information or facts or matters of which **you** are aware are likely to give rise to a claim against **you** which **you** could become legally liable to pay and which arises out of the exercise and conduct of the **business**.

7.1.3. Defence costs

Means all costs and expenses incurred in the investigation, defence or settlement of any claim or **circumstance** notified under the terms of this **section** and/or the cost of representation at any enquiry or other proceedings which have a direct or indirect relevance to such investigation, defence or settlement of any matter notified under the terms of this **section**.

7.1.4. Documents

Means project models or displays, deeds, wills, agreements, maps, plans, records, photographs or negatives, written or printed books, letters, certificates or written or printed documents of any nature whatsoever and shall include computer software and systems records (electronic data shall be deemed to be physical property for the purposes of this **section**) but excluding bearer bonds, coupons, bank or currency notes and other negotiable paper.

7.1.5. Letter of claim

Means the letter of claim as detailed in any applicable Pre-Action Protocol.

7.1.6. You, your, yours

Means:

- a) the **policyholder**;
- b) any natural person who was, is or during the **period of insurance** becomes a trustee, committee member, volunteer, director or officer of the **policyholder**;
- c) any **employee** or former **employee**;
- d) the estates, heirs or legal representatives of a), b) and c) above who has died or become incapacitated, insolvent or bankrupt.

7.2. Professional Indemnity Cover

We will indemnify **you** in accordance with the terms of this **section** for **your** legal liability to pay:

- a) compensatory damages;
- b) claimants' legal costs;

incurred in connection with the conduct of the **business** within the **territorial limits** for any claim first made against **you** during the **period of insurance** and arising out of any actual or alleged;

- i negligent breach of professional duty, negligent act, negligent error, negligent omission;
- ii defamation or other tort related to disparagement of character, including libel or slander;
- iii any form of invasion, infringement or interference of rights of privacy or publicity;

- iv infringement of intellectual property rights; or
- v any other civil liability.

7.3. Professional Indemnity Extensions

The following extensions apply to this **section**.

7.3.1. Compensation for Court Attendance

We will indemnify **you** for the costs of attendance at court of any witnesses that **we** require to attend court to act as a witness in the defence of a claim for which **you** are entitled to indemnity under this **section**.

The maximum **we** will pay under this extension will not exceed the maximum amounts per day shown in the **schedule** for this extension for each day on which attendance is required.

7.3.2. Consultants

Within the **limit of indemnity** shown in the **schedule** for this **section we** will indemnify **your** former partners, former directors or former **employees** who have continued as consultants to **you** and any persons who were formerly consultants to **you** in respect of any claim for any negligent act, negligent error or negligent omission first made against them and notified to **us** during the **period of insurance** which arises out of the conduct of the **business**.

However **we** will not indemnify **you** under this extension for any claim which is covered by any other insurance.

7.3.3. Defence Costs

Following any event which is or may be the subject of indemnity under this **section we** agree to indemnify **you** for **defence costs**, reasonably and necessarily incurred provided that if the **limit of indemnity** is exhausted by the payment or settlement of any claim or loss **our** liability to pay **defence costs** in respect of that **claim** or loss shall be limited to such proportion of those **defence costs** as the **limit of indemnity** available for payment or settlement of that claim or loss bears to the total payment (including where applicable claimants' costs) required to dispose of that claim or loss.

7.3.4. Joint Venture/Consortium

We will indemnify **you** within the **limit of indemnity** shown in the **schedule** for this **section** for any claim first made against **you** and notified to **us** during the **period of insurance** which **you** may become legally liable to pay, whether jointly or severally, which arises solely from **business services** acts of **you** in the conduct of the **business** whilst **you** are member of a joint venture or consortium whether or not the joint venture or consortium is conducted through a separate legal entity, provided that:

- a) the joint venture or consortium and the turnover/fees of the joint venture or consortium (not just **your** proportion) has been declared to and agreed by **us**;
- b) **our** liability will be proportionate to the lesser of:
 - i the percentage of the share capital of the joint venture or consortium owned by **you**, or
 - ii the percentage of the voting control of the joint venture exercised by **you**;
- c) **we** will only indemnify **you** under this extension and no other member of the joint venture or consortium or any other third party shall have any rights under this **policy** and **we** will not be liable to pay a contribution to an insurer of any other member of the joint venture or consortium.

7.3.5. Legal Representation

We will indemnify **you** within the **limit of indemnity** shown in the **schedule** for this **section** in respect of reasonable costs and expenses necessarily incurred with **our** written consent for representation at any official examination, enquiry, investigation or other proceedings ordered or commissioned by a body legally empowered to investigate **your** affairs which is first instigated against **you** and notified to **us** during the **period of insurance** and which may otherwise be the subject of indemnity under this **section**.

Our maximum liability under this extension will not exceed the **maximum amount payable** shown in the **schedule** for this extension in the aggregate during any one **period of insurance**.

7.3.6. Loss of or Damage to Documents

In the event of **damage** to **documents** suffered and notified to **us** during the **period of insurance**, **we** will indemnify **you** within the **limit of indemnity** shown in the **schedule** for this **section** for any claim or reasonable and necessary costs and expenses incurred in replacing, restoring or reconstituting any **documents** which are **your** property or are in **your** care, custody or control.

Our maximum liability under this extension will not exceed the **maximum amount payable** shown in the **schedule** for this extension in any one **period of insurance**.

7.4. Maximum Amount Payable

The maximum amount **we** will pay under this **section** for:

- a) compensatory damages; and
- b) claimants' legal costs for which **you** are legally liable;

in respect of all claims made against **you** during any one **period of insurance** shall not exceed the **limit of indemnity** shown in the **schedule** for this **section**.

7.5. Other Professional Indemnity Terms and Conditions

The following conditions apply to this **section** in addition to the 'General Terms' and 'Claims Conditions and Requirements'.

7.5.1. Conduct of Claims – CONDITIONS PRECEDENT

We will only indemnify **you** if **you** comply with the following conditions precedent following notification of any claim or **circumstance**:

- a) **we** will be entitled to take over and conduct in **your** name the investigation, defence or settlement of any such matter.
- b) **You** must pay the **excess** on demand of **us** or our appointed agents or **your** duly appointed representatives to comply with any settlement agreed by **us**.

If **you** and **we** are unable to agree a course of action to take with regard to the contesting of any legal proceedings covered by this **section**, the dispute will be resolved by the 'Insurance Disputes' condition in this **section**.

7.5.2. Discharge of Liability

At any time **we** may pay to **you** in connection with any claim or series of claims:

- a) the amount of the **limit of indemnity**; or
- b) any lesser amount for which such claim or series of claims can be settled less any sum or sums already paid as compensatory damages.

On payment **we** shall relinquish the conduct and control of and **we** will be under no further liability in connection with such claim or claims except for the payment of costs and expenses incurred prior to the date of such payment.

7.5.3. Discovery of a Claim or Circumstance – CONDITIONS PRECEDENT

We will only indemnify **you** if **you** comply with the following conditions precedent during the **period of insurance**. If **you**:

- a) receive notice of any claim that is indemnifiable under this **section** other than any claim received through a **letter of claim**, **you** must give notice in writing to **us** as soon as practicable, but not later than thirty (30) days from receipt of any claim or notice of an intention to make a claim, but in any event within seven (7) days after the expiry of the **period of insurance**;
- b) receive a **letter of claim**, **you** must give notice in writing to **us** as soon as practicable and in any event within seven (7) working days from receipt of such **letter of claim** and not later than the expiry of the **period of insurance**;
- c) become aware of any **circumstance**, **you** must give notice to **us** in writing of such **circumstance** as soon as practicable but in any event before expiry of the **period of insurance**.

We agree that any **circumstance** notified to **us** during the **period of insurance** which subsequently gives rise to a claim after expiry of this insurance will be deemed to be a claim first made during the **period of insurance**.

7.5.4. Insurance Disputes

This insurance is governed by the laws of England and Wales. If any dispute arises between **you** and **us** as to the course of action to take in respect of the legal proceedings covered by this **section**, such dispute will be referred to a King's Counsel (or Solicitor with at least 20 years' experience in the field of insurance law) to be mutually agreed between the parties (or in default of agreement to be nominated by the President of the Law Society) whose decision will be final. In the event of conflict between any parties insured under this **policy** separate representation will be arranged for each party.

7.5.5. Other Insurance

If a claim or loss would but for the existence of this **section** be insured by any other valid and collectable insurance **we** will only be liable for any amount above that collectable under such other insurance.

7.5.6. Subrogation

If any payment is made by **us**, **you** grant to **us** all rights of recovery against any parties from whom a recovery may be made and **you** will take all reasonable steps to preserve such rights and **you** and any person acting on **your** behalf must not waive any rights of recourse or recovery against any other person.

You or any other party insured by the **policy** must, at **our** request and expense undertake such acts as may be required for the purpose of enforcing any rights and remedies whether or not **we** have indemnified **you**.

We agree to waive any rights of recovery against any of **your employees** or former **employees**, self employed persons or consultants unless liability has resulted in whole or part from any act or omission by them which is dishonest, fraudulent, criminal or malicious.

7.6. Exclusions and limitations applying to the Professional Indemnity section

In addition to the limitations and exclusions in the 'General Exclusions' **section**, **we** will not indemnify **you** under this **section** in respect of:

- a) any claim arising from **asbestos** or any materials containing asbestos in whatever form or quantity, or in any way involving **asbestos** or such materials;
- b)
 - i **bodily injury**, sickness, disease or death or loss, **damage** or loss of use of property directly or indirectly caused by **pollution** or contamination; and/or
 - ii the cost of removing nullifying or cleaning-up seeping, polluting or contaminating substances;
- c) any liability for, directly or indirectly arising out of, or in any way involving the ownership, possession or use by or on behalf of **you** of any aircraft, watercraft, hovercraft, motor vehicle or trailer or any buildings, structures, premises or land or that part of any building leased, occupied or rented by **you** or any of **your** property;
- d) any liability, duty or obligation incurred or assumed by **you** which is not incurred or assumed in the normal conduct of **your business services**;
- e) any bodily or psychological injury, sickness, disease or death of any **employee** or any claim arising out of any dispute between **you** and any present or former **employee** or any person who has been offered employment with **you**;
- f) any liability for, directly or indirectly arising out of, or in any way involving the manufacture, construction, alteration, repair, servicing or treating of any goods or products sold, distributed or supplied including the sale and/or supply of hardware and/or software by **you**;
- g) any act, error or omission of any of **your** partner(s) or director(s) which is dishonest, fraudulent, criminal or malicious, or any claim where any person has committed a dishonest, fraudulent, criminal or malicious act after discovery by **you** of reasonable cause for suspicion that such act has been committed;
- h) any claim made against **you** by either:
 - i any entity in which **you** exercise a controlling interest; or

- ii any entity exercising a controlling interest over **you** by virtue of having a financial or executive interest in **your** operation;

unless such claim is made against **you** for an indemnity or contribution in respect of a claim made by an independent party against the said entities detailed in 7.6. h) i or 7.6. h) ii) above and arises out of the exercise and conduct of the **business**;

- i) any claim in respect of liquidated damages or penalties due to liability assumed by **you** under any contract or agreement where such liability would not have existed in the absence of such contract or agreement;
- j) any work or activities undertaken by **you** outside of the **United Kingdom**, Channel Islands, Isle of Man and Member States of the European Union;
- k) any claim brought (or the enforcement of any judgement or award entered against **you**) outside the courts of the **United Kingdom**, Channel Islands, Isle of Man and Member States of the European Union;
- l) fines, penalties, punitive, multiple or exemplary damages;
- m) any claim arising from the exercise and conduct of the **business** prior to the retroactive date stated in the **schedule** (if applicable);
- n) an **insolvency event**;
- o) **damage to documents** which are stored on magnetic or electrical media unless such **documents** are duplicated on magnetic or electrical media with the intention that in the event of loss or damage the duplicate can be used as the basis for restoring the **documents** to their original status;
- p) **damage to negotiable money**;
- q) any claim arising from being a director, officer or trustee of **yours** (as opposed to those duties and functions carried out in furtherance of the **business**) or from the acceptance of any directorship or trusteeship in any other company not forming part of **you**;
- r)
 - i any claim made, threatened or intimated against **you** prior to the **period of insurance**; or
 - ii circumstances notified or which ought reasonably to have been notified to any previous insurer (including the insurer in respect of any previous period of insurance) or circumstances known, or which ought reasonably to have been known, by **you** prior to the **period of insurance**;
- s) acts, errors or omissions committed by **you** after the date of any take-over or merger unless otherwise agreed by **us**;
- t) any claim or **circumstance** that may give rise to a claim which has been notified and accepted by insurers in respect of any other insurance attaching prior to the inception of this insurance or as disclosed as a material fact to us which formed the basis of this insurance or any claim or **circumstance** that may give rise to a claim of which **you** were or should have been aware prior to the inception of this insurance;
- u) any trading losses or trading liabilities incurred by any business managed or carried on by **you** including loss of any client account or business;
- v) any consequential loss arising from **your** failure to arrange and/or maintain insurance and/or finance;
- w)
 - i any depreciation or loss of investment when such depreciation or loss arises from fluctuations in any financial stock or commodity or other markets, and any express or implied warranty or guarantee relating to the financial return of any investment or portfolio of investments;
 - ii any investment advice given or services performed which have not been authorised where such authorisation is required under any statutory regulation by an appropriate statutory authority;
- x) any liability for, or directly or indirectly arising out of, or in any way involving **you** acting in the capacity of trustee, fiduciary or administrator of any employer-sponsored pension or superannuation scheme or superannuation programme;
- y) any claim arising out of:

- i bodily or psychological injury, sickness, disease or death of any person(s);
 - ii **damage** to property other than as provided under the 'Loss of or Damage to Documents' extension of this **section**;
- z) any claim arising out of **your** contractual liability unless such liability would have existed in the absence of such a contract or agreement;
- aa) any claim or **circumstance** or **defence costs** arising from actual or attempted sexual relations, sexual contact or intimacy, sexual harassment or sexual exploitation whether under the guise of treatment or not, or in the course of treatment or not;
- bb) any claim either directly or indirectly or in connection with or in any way involving medical malpractice;
- cc) any claim which arises out of any statement which **you** knew, or ought reasonably to have known, was libellous or slanderous at the time it was made or any claim arising from personal spite or ill will towards any claimant or arising from reckless behaviour;
- dd) liability arising out of **your** involvement in any joint venture, consortium or other profit sharing scheme other than as provided under the 'Joint Venture/Consortium' extension of this **section**;
- ee) the relevant **excess** stated in the **schedule**;
- ff)
 - i save as expressly provided in this clause, or by other restrictions in the **policy** specifically relating to the use of, or inability to use, a **computer system**, no cover otherwise provided shall be restricted solely due to the use of, or inability to use, a **computer system**;
 - ii there shall be excluded from this **section** any loss, damage, liability, claim, costs, expense, fines, penalties, mitigation costs or any other amount directly caused by, directly resulting from or directly arising out of:
 - (a) a **cyber act**; or
 - (b) any partial or total unavailability of any **computer system**;

provided the **computer System** is owned or controlled by **you** or any other party acting on **your** behalf in either case;

 - (c) the receipt or transmission of malware, malicious code or similar by **you** or any other party acting on **your** behalf;
 - iii there shall be excluded from this **section** any loss, damage, liability, claim, costs, expense, fines, penalties, mitigation costs or any other amount directly or indirectly caused by, directly or indirectly resulting from or directly or indirectly arising out of any failure or interruption of service provided:
 - (a) to **you** or any other party acting on **your** behalf by an internet service provider, telecommunications provider or cloud provider but not including the hosting of hardware and software owned by **you**;
 - (b) by any utility provider, but only where such failure or interruption of service impacts a **computer System** owned or controlled by **you** or any other party acting on **your** behalf;
 - iv there shall be excluded from this **section** any loss, damage, liability, claim, costs, expense, fines, penalties, mitigation costs or any other amount for actual or alleged breach of Data Protection Law by **you** or any other party acting on **your** behalf;
 - v any cover in this **section** for costs of reconstituting or recovering lost, inaccessible or damaged **documents** owned or controlled by **you** or any other party acting on **your** behalf shall not apply to **data**.

8. Legal Expenses

Cover under this **section** is only provided if it is shown in the **schedule** as an **operative section**.

8.1. Legal Expenses Definitions

In addition to the defined terms contained in the 'General Definitions' **section**, the following definitions apply only to this **section**. These definitions replace any equivalent definition contained in the 'General Definitions' **section** where they are used in this **section**, unless an alternative definition is stated to apply.

8.1.1. Appointed advisor

Means the:

- a) solicitor, accountant, or other advisor (who is not a mediator), appointed by **us** to act on behalf of the **insured person**;
- b) mediator appointed by **us** to provide impartial dispute resolution in relation to a claim accepted by **us**.

8.1.2. Collective conditional agreement

Means a legally enforceable agreement entered into on a common basis between the **appointed advisor** and **us** to pay their professional fees:

- a) in full where the **insured person's** claim is successful; or
- b) in part or not at all where the **insured person's** claim is unsuccessful.

8.1.3. Conditional fee agreement

Means a legally enforceable agreement between the **insured person** and the **appointed advisor** for paying their professional fees:

- a) in full where the **insured person's** claim is successful; or
- b) in part or not at all where the **insured person's** claim is unsuccessful.

8.1.4. Employee

Means a worker who has or alleges they have entered into a contract of service with **you**.

8.1.5. Insured person

Means **you** and **your** directors, partners, managers, **employees** and any other individuals declared by **you** to **us**.

8.1.6. Insurer

Means HDI Global Specialty SE (commercial register number: HRB 211924), (FRN: 659331).

8.1.7. Legal costs & expenses

Means:

- a) reasonable legal costs and disbursements reasonably and proportionately incurred by the **appointed advisor** on the standard basis and agreed in advance by **us**. The term "standard basis" can be found within the Courts' Civil Procedure Rules Part 44.3;
- b) in civil claims, other side's costs, fees and disbursements where the **insured person** has been ordered to pay them or pays them with **our** agreement;
- c) reasonable accountancy fees reasonably incurred under Insured Event 4. Tax Disputes by the **appointed advisor** and agreed by **us** in advance;
- d) an **insured person's** basic wages or salary under Insured Event 8. Loss of Earnings in the course of their employment with **you** while attending court or tribunal at the request of the **appointed advisor** or whilst on jury service where lost wages or salary cannot be claimed back from the court or tribunal;

- e) the professional fees and expenses of an **appointed advisor** selected by **us** to reduce the actual adverse or negative publicity or media attention directed towards **you** under Insured Event 11. Crisis Communication.

8.1.8. Occurrence date

Means:

- a) for a civil claim will be the date of:
 - i the event; or
 - ii the first in a series of events that arise from the same original cause that leads to a claim;
- b) for criminal cases will be the date the **insured person** began, or is alleged to have begun, to commit an offence;
- c) for HMRC enquiries and compliance disputes, will be the date the **insured person** disagrees with the outcome of an HMRC Internal Review where the matter is appealable; or otherwise the date when the **insured person** receives notification of the enquiry, or when a non-compliance is raised by the HMRC;
- d) for an appeal against the terms imposed by a Statutory Notice will be the date **you** received the Statutory Notice;
- e) for investigations or disciplinary hearings by a professional or regulatory body (other than as in paragraph 8.1.8. f) below) will be the date the **insured person** is alleged to have committed a regulatory breach or act of misconduct;
- f) for personal identity theft shall be the date that the person claiming became aware that they were a victim of personal identity theft;
- g) for the **insured person's** attendance at Public Childcare Proceedings or Public Law Childcare Proceedings will be the date the **insured person** receives a request to attend the proceedings;
- h) for an appeal against the decision of a licensing or registration authority will be the date the **insured person** became aware of the relevant authority's decision against which they wish to appeal;
- i) for Crisis Communication will be the date of publication or public broadcast of material that could cause damage to **your business** reputation.

8.1.9. Reasonable prospects of success

Means:

- a) other than set out in paragraphs 8.1.9. b) and c) below, a greater than fifty percent (50%) chance of the **insured person** successfully pursuing or defending the claim and, if the **insured person** is seeking damages or compensation, a greater than fifty percent (50%) chance of enforcing any judgement that might be obtained.
- b) in criminal prosecution claims where the **insured person**:
 - i pleads guilty, a greater than fifty percent (50%) chance of reducing any sentence or fine; or
 - ii pleads not guilty, a greater than fifty percent (50%) chance of that plea being accepted by the court;
- c) in all claims involving an appeal, a greater than fifty percent (50%) chance of the **insured person** being successful;

where it has been determined that **reasonable prospects of success** as set out in paragraphs 8.1.9. a), b) and c) above do not exist, the **insured person** will be liable to pay any legal costs incurred should they pursue or defend their claim irrespective of the outcome.

8.1.10. Territorial limits

Means:

- a) for Insured Event 5. Legal defence and 12. Contract & Debt Recovery the United Kingdom, Channel Islands, Isle of Man, Norway, Switzerland and countries in the European Union;

b) for all other Insured Events the United Kingdom, Channel Islands and the Isle of Man.

8.1.11. **We, us, our**

Means ARAG plc who is authorised under a binding authority agreement on behalf of the **insurer**.

8.2. **Legal Expenses Cover**

Following an Insured Event the **insurer** will pay **legal costs & expenses** including the cost of appeals (and compensation awards under Insured Event 2. Employment Compensation Awards) up to the limit of indemnity specified in **your schedule** (£1,000,000 aggregate limit per annum applies under Insured Event 2. Employment Compensation Awards) for all claims related by time or originating cause including the cost of appeals.

All of the following requirements apply.

- a) Unless otherwise stated in this **section**, the Insured Event arises in connection with **your business** and occurs within the **territorial limits** with an **occurrence date** during the **period of insurance**.
- b) The claim:
 - i always has **reasonable prospects of success**; and
 - ii is reported to **us** as soon as the **insured person** first becomes aware of circumstances which could give rise to a claim.
- c) Unless there is a conflict of interest, the **insured person** always agrees to use the **appointed advisor** chosen by **us** in any claim:
 - i to be heard by an Employment Tribunal; and/or
 - ii before proceedings have been or need to be issued.
- d) Any dispute will be dealt with through mediation or by a court, tribunal, Advisory Conciliation and Arbitration Service or a relevant regulatory or licensing body.

A claim is considered to be reported to **us** when **we** have received the **insured person's** fully completed claim form.

8.3. **Insured Events**

1. **Employment**

- a) A dispute between **you** and **your** employer (or ex-employer) arising from a contract of employment **you** have entered into to provide **your business** services. **You** must co-operate fully with ACAS regarding early conciliation and not do anything that hinders a successful outcome.
- b) A dispute between **you** and **your employee**, ex-**employee**, or a prospective **employee**, arising from a breach or an alleged breach of their:
 - i Contract of service with **you**;
 - ii related legal rights.

You can claim under paragraph 1 a) and b) above as soon as internal procedures as set out in the:

- a) ACAS Code of Practice for Disciplinary and Grievance Procedures; or
- b) Labour Relations Agency Code of Practice on Disciplinary and Grievance Procedures in Northern Ireland have been or ought to have been concluded.

The **insurer** will not be liable for any claim arising from or relating to:

1.
 - a) the defence of an action brought against **you** by **your** employer or ex-employer; or
 - b) the pursuit of an action by **you** other than an appeal against the decision of a court or tribunal;
2. costs **you** incur to prepare for an internal disciplinary hearing, grievance or appeal.

2. **Employment Compensation Awards**

Following a claim **we** have accepted under Insured Event 1 b). Employment, the **insurer** will pay any:

- a) basic and compensatory award; or
- b) an amount agreed by **us** in settlement of a dispute.

Provided that compensation is:

- a) agreed through mediation, conciliation or under a settlement approved by **us** in advance; or
- b) awarded by a tribunal judgement after full argument unless given by default.

The **insurer** will not be liable for any claim arising from or relating to:

- 1. money due to an **employee** under a contract or a statutory provision relating thereto;
- 2. compensation awards or settlements relating to:
 - i trade union membership, industrial or labour arbitration or collective bargaining agreements;
 - ii civil claims or statutory rights relating to trustees of occupational pension schemes.

3. Tax Disputes

- a) A formally notified enquiry into **your business** tax.
- b) A dispute about **your** compliance with HMRC regulations relating to **your employees**, workers or payments to contractors.
- c) A dispute with HMRC about Value Added Tax.

Provided that:

- a) **you** keep proper records in accordance with legal requirements; and
- b) in respect of any appealable matter **you** have requested an Internal Review from HMRC where available.

The **insurer** will not be liable for any claim arising from or relating to:

- 1. tax returns which are submitted late or for any other reason, result in HMRC imposing a penalty, or which contain careless and/or deliberate misstatements or omissions;
- 2. an investigation by the Fraud Investigation Service of HMRC;
- 3. where the Disclosure of Tax Avoidance Scheme Regulations apply or should apply to **insured person's** financial arrangements;
- 4. any enquiry that concerns assets, monies or wealth outside of **Great Britain** and Northern Ireland;
- 5. **your** failure to register for VAT.

4. Property

A dispute relating to material property which **you** own or is **your** responsibility:

- a) following an event which causes physical **damage** to **your** material property;
- b) following a public or private nuisance or trespass.

The **insurer** will not be liable for any claim arising from or relating to:

- 1. a contract between **you** and a third party;
- 2. compulsory purchase, demolition restrictions, controls or permissions placed on land or property by any government, local or public authority.

5. Legal Defence

- a) A criminal investigation and/or enquiry by:
 - i the police; or
 - ii other body with the power to prosecute;where it is suspected that an offence may have been committed that could lead to the **insured person** being prosecuted.

- b) The charge for an offence or alleged offence which leads to the **insured person** being prosecuted in a court of criminal jurisdiction.
- c) A motor prosecution brought against **your** directors and/or partners that arises from the use of any vehicle for personal, social or domestic purposes or to commute to or from their place of work.

The **insurer** will not be liable for any claim relating to a parking offence.

6. Compliance & Regulation

- a) Receipt of a Statutory Notice that imposes terms against which **you** wish to appeal.
- b) Notice of a formal investigation or disciplinary hearing by any professional or regulatory body.
- c) A civil action:
 - i alleging wrongful arrest arising from an allegation of theft; or
 - ii unlawful discrimination - by you where **you** are an individual, or by **your employees** if **your business** is a commercial entity.
- d) A claim against **you** for compensation under the Data Protection Act 2018 provided that:
 - i **you** have paid the data protection fee to the Information Commissioner's Office;
 - ii **you** are able to evidence that **you** have in place a process to:
 - (a) investigate complaints from data subjects regarding a breach of their privacy rights;
 - (b) offer suitable redress where a breach has occurred and that **your** complaints process has been fully engaged.
- e) A civil action alleging that an **insured person** has:
 - i committed an act of unlawful discrimination; or
 - ii failed to correctly exercise their fiduciary duty as a trustee of a pension fund set up for the benefit of **your employees**.
- f) Receipt of a request to attend Public Childcare Proceedings/Public Law Children Order proceedings (as a respondent or intervener) by a Local Authority or the NSPCC under the Children Act 1989 or Children (Northern Ireland) Order 1995: arising from care provided by an **insured person** to a child(ren) in the **insured person's** professional capacity as a childminder/childcare provider.

Note - Public Childcare Proceedings/Public Law Children Order proceedings are convened when it is considered that a child(ren) is suffering or is likely to suffer significant harm if they remain in the care of the primary care givers. Anyone included in the potential pool of perpetrators of alleged non-accidental injury could be asked to attend any/all of the following:

- a) a Case Management Hearing;
- b) a Further Case Management Hearing;
- c) a Fact Finding hearing;
- d) a Final Hearing.

The 'Registration' condition in the 'General Terms' section will be waived for the purpose of applying insurance under this Insured Event.

The **insurer** will not be liable for any claim arising from or relating to:

1. the pursuit of an action by **you** other than an appeal;
2. a routine inspection by a regulatory authority;
3. an enquiry, investigation or enforcement action by HMRC;
4. a claim brought against **your business** where unlawful discrimination has been alleged.

7. Licence Appeals

An appeal against a decision by the relevant authority to alter, suspend, revoke or refuse to renew **your**:

- a) compulsory registration;
- b) voluntary registration relating to **your** activities as either a childminder or nanny.

8. Loss of Earnings

The **insured person's** absence from work to attend court, tribunal, arbitration, regulatory proceedings or a professional body's disciplinary hearing or regulatory proceedings at the request of the **appointed advisor** or whilst on jury service which results in loss of earnings.

The **insurer** will not be liable for any sum which can be recovered from the court or tribunal.

9. Personal Injury

An event that causes bodily injury to, or the death of, an **insured person**.

Note - where **you** are injured it is not necessary for the injury to have arisen from **your business**.

The **insurer** will not be liable for any claim relating to:

- a) a condition, illness or disease which develops gradually over time;
- b) clinical negligence.

10. Identity Theft Protection

A dispute arising from the use of **your** personal information without **your** permission in order to commit fraud or other crimes provided that **you** contact our Identity Theft Advice and Resolution Service as soon as **you** suspect that **your** identity may have been stolen.

11. Crisis Communication

Following an event which causes significant adverse publicity or reputational damage which is likely to have a widespread financial impact on **your business**, we will:

- a) liaise with **you** and **your** solicitor (whether the solicitor is an **appointed advisor** under this **section**, or acts on **your** behalf under any other **section** of this **policy**), to draft a media statement or press release;
- b) arrange, support and represent the **insured person** at an event which the media will be reporting;
- c) support the **insured person** by taking phone calls/emails and managing interaction with media outlets;
- d) prepare communication for **your** staff/customers/suppliers and/or a telephone or website script or social media messaging;
- e) support and prepare the **insured person** for media interviews;

provided that **you** have sought and followed advice from **our** Crisis Communication helpline.

The **insurer** will not be liable for any claim relating to:

1. matters that should be dealt with through **your** normal complaints procedures;
2. a matter that has not actually resulted in adverse publicity appearing online, in print or broadcast;
3. costs incurred in excess of £25,000.

12. Contract & Debt Recovery

A breach or alleged breach of an agreement or alleged agreement which has been entered into by **you** or on **your** behalf to:

- a) provide business services;
- b) buy goods or services in connection with **your business**;
- c) buy or hire consumer goods;
- d) privately sell goods.

The **insurer** will not be liable for any claim arising from or relating to:

1. an amount which is less than £100;
2. the sale, purchase, letting, leasing or licensing of land or buildings;
3. loans, mortgages, endowments, pensions or any other financial product;
4. a contract involving a motor vehicle;
5. a breach or alleged breach of a professional duty by an **insured person**;
6. the settlement payable under an insurance **policy**;
7. a dispute relating to an **employee** or **ex-employee** under a contract of service with **you**;
8. adjudication or arbitration.

8.4. Other Legal Expenses Terms and Conditions

The following conditions apply to this **section** in addition to the 'General Terms' and 'Claims Conditions and Requirements'.

8.4.1. Arbitration

If any dispute between the **insured person** and **us** arises from this **section**, the **insured person** can make a complaint to **us** (ARAG) and **we** will try to resolve the matter. If **we** are unable to satisfy the **insured person's** concerns and the matter can be dealt with by the Financial Ombudsman Service the **insured person** can ask them to arbitrate over the complaint.

If the dispute cannot be dealt with by the Financial Ombudsman Service, it can be referred for independent arbitration to a qualified person agreed upon by both parties. The loser of the dispute will be liable to pay the costs incurred.

If **we** fail to agree on a suitable person to arbitrate the matter **we** will ask the President of the relevant Law Society to nominate. The arbitration will be subject to the Arbitration Acts and the arbitrator's decision will be binding on the parties.

8.4.2. Barrister's Opinion

We may require the **insured person** to obtain and pay for an opinion from a barrister if a dispute arises regarding the merits or value of the claim. If the opinion supports the **insured person**, then the **insurer** will reimburse the reasonable costs of that opinion. If that opinion conflicts with advice obtained by **us**, then the **insurer** will pay for a final opinion which will be binding on the **insured person** and **us**. This does not affect the **insured person's** right under Condition 1. Arbitration.

8.4.3. Consent

- a) The **insured person** must agree to **us** having sight of the **appointed advisor's** file relating to the **insured person's** claim. The **insured person** is considered to have provided consent to **us** or **our** appointed agent to have sight of their file for auditing and quality and cost control purposes.
- b) An **insured person** must have **your** agreement to claim under this **policy**.

8.4.4. Freedom to Choose an Appointed Advisor

- a) In certain circumstances as set out in paragraph 8.4.4. b) below the **insured person** may choose an **appointed advisor**. In all other cases no such right exists and **we** will choose the **appointed advisor**.
- b) If:
 - i a suitably qualified advisor considers that it has become necessary to issue proceedings or proceedings are issued against an **insured person**; or
 - ii there is a conflict of interest;

the **insured person** may choose a qualified **appointed advisor** except where the **insured person's** claim is to be dealt with by the Employment Tribunal where **we** will always choose the **appointed advisor**.

- c) Where the **insured person** wishes to exercise the right to choose, the **insured person** must write to **us** with their preferred representative's contact details.
- d) Where the **insured person** chooses to use their preferred representative, the **insurer** will not pay more than **we** agree to pay a solicitor from **our** panel and will pay only the costs that the **insurer** would have been liable to pay.
- e) If the **insured person** dismisses the **appointed advisor** without good reason, or withdraws from the claim without **our** written agreement, or if the **appointed advisor** refuses with good reason to continue acting for an **insured person**, the **insurer's** liability in respect of that claim will end immediately.
- f) In respect of pursuing a claim relating to Insured Event 12. Contract & Debt Recovery **you** must enter into a **conditional fee agreement** (unless the **appointed advisor** has entered into a **collective conditional fee agreement**) where legally permitted.

8.4.5. **Settlement**

- a) The **insurer** can settle the claim by paying the reasonable value of the **insured person's** claim.
- b) The **insured person** must not negotiate, or settle the claim without **our** written agreement.
- c) If the **insured person** refuses to settle the claim following advice to do so from the **appointed advisor** the **insurer** reserves the right to refuse to pay further costs.

8.4.6. **The Insured's Responsibilities**

An **insured person** must:

- a) tell **us** immediately of anything that may make it more costly or difficult for the **appointed advisor** to resolve the claim in the **insured person's** favour;
- b) cooperate fully with **us**, give the **appointed advisor** any instructions required, and keep them updated with progress of the claim and not hinder them;
- c) take reasonable steps to claim back **legal costs & expenses** and, where recovered, pay them to the **insurer**;
- d) keep **legal costs & expenses** as low as possible;
- e) allow the **insurer** at any time to take over and conduct in the **insured person's** name, any claim.

8.5. **Exclusions and limitations applying to the Legal Expenses section**

In addition to the exclusions in the 'General Exclusions' **section**, this **section** does not cover and the **policy insured person** is not covered for any claim arising from or relating to:

- a) costs or compensation awards incurred without **our** consent;
- b) any actual or alleged act, omission or dispute happening before, or existing at the start of the insurance provided under this **section** of this **policy**, and which the **insured person** knew or ought reasonably to have known could lead to a claim;
- c)
 - i assault, violence, malicious falsehood or defamation;
 - ii indecent or obscene materials;
 - iii the use of alcohol or its unauthorised or unregulated manufacture, unlicensed dealing in alcohol or dealing in or using illegal drugs;
 - iv illegal immigration;
 - v money laundering or bribery offences, breaches of international sanctions, fraud, or any other financial crime activities;
 except in relation to Insured Event 11. Crisis Communication;
- d) defending a claim in respect of damages for personal injury (other than injury to feelings in relation to Insured Event 1. Employment), or loss or **damage** to property owned by the **insured person**;
- e) National Minimum Wage and/or National Living Wage Regulations;

- f) patents, copyright, passing-off, trade or service marks, registered designs and confidential information;
- g) a dispute with any subsidiary, parent, associated or sister company or between shareholders or partners;
- h) franchise or agency agreements;
- i) a judicial review;
- j) a dispute with **us**, the **insurer**, Morton Michel or the party who arranged this cover not dealt with under Condition 1. Arbitration;
- k) the payment of fines, penalties or compensation awarded against the **insured person** (except as covered under Insured Event 2. Employment Compensation Awards);
- l) the **insurer** will not cover a claim where the **insured person's** failure to notify **us** of within a reasonable time of the **occurrence date** adversely affects the **reasonable prospects of success** of the claim or **we** consider the **insurer's** position has been prejudiced.

8.6. How We Use Your Information

This is a summary of how **we** may collect, use, share and store personal information. To view **our** full privacy statement please see **our** website - www.arag.co.uk

The insurer's full privacy notice may be found at the following link: www.hdi-specialty.com/int/en/legals/privacy

8.6.1. Collecting personal information

ARAG may be required to collect certain personal or sensitive information which may include name, address and date of birth and if appropriate medical information. **We** will hold and process this information in accordance with all relevant data protection regulations and legislation. Should **we** ask for personal or sensitive information, **we** undertake that it shall only be used in accordance with **our** privacy statement.

We may also collect information for other parties such as suppliers **we** appoint to process the handling of a claim.

8.6.2. Using personal or sensitive information

The reason **we** collect personal or sensitive information is to fulfil **our** contractual and regulatory obligations in providing this insurance product, for example to process premium or handle a claim. To fulfil these obligations, **we** may need to share personal or sensitive information with other organisations.

We will not disclose personal or sensitive information for any purpose other than the purpose for which it was collected. Please refer to **our** full privacy statement for full details.

8.6.3. Keeping personal information

We shall not keep personal information for any longer than necessary.

8.6.4. Your rights

Any person insured by this **section** of the **policy** has a number of rights in relation to how **we** hold personal data including; the right to a copy of the personal data **we** hold; the right to object to the use of personal data or the withdrawal of previously given consent; the right to have personal data deleted. For a full list of privacy rights and when **we** will not be able to delete personal data, please refer to **our** full privacy statement.

9. Property Damage

Cover under this **section** is only provided if it is shown in the **schedule** as an **operative section**.

9.1. Property Damage Definitions

In addition to the defined terms contained in the 'General Definitions' **section**, the following definitions apply only to this **section**. These definitions replace any equivalent definition contained in the 'General Definitions' **section** where they are used in this **section**, unless an alternative definition is stated to apply.

9.1.1. Business equipment

Means unspecified items of equipment used by **you** in connection with the **business** belonging to **you** or for which **you** are legally responsible.

9.1.2. Overnight

Means between the hours of 9pm and 6am.

9.1.3. Personal possessions

Means furniture, furnishings, computing, audio and visual equipment, photographic equipment, domestic equipment, books, personal grooming and hygiene equipment, toiletries, clothing, jewellery, watches, pedal cycles and any other property advised by **you** all belonging to **you** or for which **you** are legally responsible, but excluding property more specifically insured elsewhere.

9.1.4. Unattended vehicle

Means any **vehicle** without **you** or one of **your employees** or a responsible adult authorised by **you** remaining in or on such **vehicle** or where the vehicle is not kept under observation by **you** or one of **your employees** or a responsible adult authorised by **you** to prevent any attempt by any person to interfere with such **vehicle**.

9.1.5. Vehicle

Means any road vehicle including trailers and containers.

9.1.6. Working day of the driver

Means the period in any day during which a **vehicle** is being used for purposes in connection with the **business**.

9.2. Property Damage Cover

9.2.1. Third Party Property

We will indemnify **you** for reasonable costs and expenses incurred by **you** with **our** consent in respect of accidental **damage** to:

- a) the personal property of a **minded person** whilst in **your** care;
- b) property by a **minded person** whilst in **your** care;
- c) property by **you** in connection with **your business**;

provided that **we** will not be liable for **damage** to:

- i buggies and pushchairs;
- ii toys whilst in use or play other than toys or play equipment on loan to **you** from a toy library;
- iii property owned by or leased, hired or rented to **you** or **your family**.

9.2.2. Business Equipment

If shown as included on your **schedule** **we** will pay for accidental **damage** to **business equipment** occurring within the **territorial limits**.

9.2.3. Personal Possessions

If shown as included on your **schedule** **we** will pay for accidental **damage** to **personal possessions** occurring at the **premises**.

9.3. Maximum Amount Payable

The maximum **we** will pay will not exceed:

- a) the **sum insured** stated against each item listed in the **schedule** in respect of any one occurrence;
- b) fifty percent (50%) of the cost of replacing any undamaged item or parts of undamaged items forming part of a set, suite or other article of a uniform nature, colour or design when **damage** occurs within a clearly identifiable area or to a specific part and replacements cannot be matched in respect of **personal possessions**.

9.4. Basis of Settlement Clauses

9.4.1. Basis of Settlement

In the event of accidental **damage** to **business equipment** or **personal possessions** insured by this **section** and subject to the 'Maximum Amount Payable' condition in this **section** **we** will pay the cost of repairing or replacing the property equal to its condition when new, provided that:

- a) repair or replacement is carried out without delay and in the most economical manner;
- b) when property is partially lost, destroyed or damaged **our** maximum liability will not exceed the estimated replacement cost which would have been payable had it been wholly lost or destroyed;
- c) until replacement has been carried out no payment will be made for more than the amount which would be payable if an allowance were made for wear, tear or depreciation;
- d) following accidental **damage** to household linen, clothing, pedal cycles and any items which are not repaired or replaced **we** may make a deduction for wear, tear or betterment.

9.4.2. Average

If at the time of any loss the total **sum insured** specified in the **schedule** is less than 85% of the total value of each item in respect of **business equipment** or **personal possessions** **we** will bear only that proportion of the loss which the total **sum insured** bears to the total value of the **business equipment** or **personal possessions**.

9.5. Exclusions and limitations applying to the Property Damage section

In addition to the limitations and exclusions in the 'General Exclusions', **we** will not indemnify **you** under this **section** in respect of:

- a) **damage** caused by or consisting of:
 - i wear, tear or depreciation or diminution in value;
 - ii inherent vice, latent defect, defective design, plan or specification or the use of faulty materials;
 - iii faulty or defective workmanship, operational error or omission on the part of **you** or any of **your employees**;
 - iv marring, scratching, denting, mechanical or electrical defect, failure, breakdown or derangement;
 - v any gradually operating cause, including (but not restricted to) atmospheric or climatic conditions, dry or wet rot, fungus, rust, corrosion, woodworm, moths, insects, vermin or pest;
 - vi any process involving heating, drying, cleaning, dyeing, staining, repairing, restoring, renovating, fitting, installation, testing, commissioning, alteration or maintenance of any property;
 - vii use of any article contrary to manufacturers' instructions;
 - viii storm or flood unless the property is contained in an enclosed vehicle or in a building;
 - ix change in temperature, colour, flavour, texture or finish;
- b) **damage** or loss caused by mould, mildew or other microorganism of any type, including but not limited to any substance whose presence poses an actual or potential threat to human health;

- c) **damage** by theft or attempted theft to property insured under the 'Third Party Property' cover provided by this **section**;
- d) **damage** by theft or attempted theft to **business equipment** or **personal possessions** from any:
 - i **unattended vehicle overnight** or after the completion of any **working day of the driver**; or
 - ii **unattended vehicle** at any other time unless:
 - (a) all windows and other openings have been closed, all doors have been secured and any other protective devices put into full and effective operation; and
 - (b) the property insured is secured within either the:
 - (i) closed glove compartment of the **vehicle**; or
 - (ii) locked boot of a saloon car; or
 - (iii) luggage space at the rear of an estate car or hatchback under the top cover and out of view; or
 - (iv) enclosed storage compartment of a van of a fully enclosed and rigid type;
 - (c) unattended building which does not involve forcible and violent entry to or exit from the building;
- e) losses not directly associated with the incident that caused **you** to claim;
- f) breakage of brittle articles unless forming part of photographic equipment;
- g) the relevant **excess** stated in the **schedule**.

10. Personal Accident (optional)

Cover under this **section** is only provided if it is shown in the **schedule** as an **operative** section.

10.1. Personal Accident Definitions

In addition to the defined terms contained in the 'General Definitions' **section**, the following definitions apply only to this **section**. These definitions replace any equivalent definition contained in the 'General Definitions' **section** where they are used in this **section**, unless an alternative definition is stated to apply.

10.1.1. Accident

Means a single sudden and unexpected event, which occurs at an identifiable time and place.

10.1.2. Compensation limit

Means the amount shown in the **schedule** for the 'Personal Accident' **section** as 'Compensation'.

10.1.3. Healthcare practitioner

Means a qualified licensed member of the medical or dental profession as approved by the governing medical or dental association and who is not a member of **your** family, or otherwise **your employee** or director, partner or officer.

10.1.4. Loss of limb

Means total and permanent loss:

- a) by physical separation;
- b) of use;

of a hand, arm, leg or foot.

10.1.5. Loss of sight, hearing or speech

Means total and irrecoverable loss of:

- a) sight in one or both eyes;
- b) hearing;
- c) speech.

10.1.6. Medical expenses

Means all reasonable medical costs necessarily incurred for (i) medical, surgical or other remedial treatment prescribed by a **healthcare practitioner**; and (ii) hospital, nursing home or ambulance charges in connection with death, **loss of limb**, **loss of sight, hearing or speech**, **permanent total disablement** or **temporary total disablement**.

10.1.7. Normal occupation

Means **your** main occupation in connection with the **business** at the date of the **accident**.

10.1.8. Permanent total disablement

Means irrecoverable disablement caused by **loss of limb** or **loss of sight, hearing or speech** which permanently and totally incapacitates **you** from participating in your **normal occupation** for a continuous period of twelve (12) months and in relation to which **you** are medically determined by a **healthcare practitioner**, and to **our** satisfaction, to have no likelihood of improvement sufficient to enable **you** to participate in **your normal occupation** ever again.

10.1.9. Temporary total disablement

Means temporary and absolute inability to engage in usual occupation.

10.2. Personal Accident Cover

We will pay to **you** or **your** legal personal representative an amount up to the relevant **compensation limit** shown in the **schedule**, including directly connected **medical expenses**, if:

- a) **you** sustain accidental **bodily injury** during the **period of insurance** solely and directly caused solely and directly by an **accident** of violent external and visible means; and
- b) such accidental **bodily injury** solely, independently and directly of any other cause results within twelve (12) months of the **accident** in death, **loss of limb, loss of sight, hearing or speech, permanent total disablement** or **temporary total disablement**.

10.3. Personal Accident Extensions

The following extensions apply to this **section**.

10.3.1. Medical Expenses Cover

We will indemnify **you** for **medical expenses** necessarily incurred and arising from treatment following accidental **bodily injury** to **you** which is covered by this **section**.

The maximum **we** will pay under this extension will not exceed the **maximum amount payable** shown in the **schedule** as a percentage of the total amount paid as compensation for:

- a) death, **loss of limb, loss of sight, hearing or speech** and **permanent total disablement**;
- b) **temporary total disablement**.

10.4. Other Personal Accident Terms and Conditions

The following conditions apply to this **section** in addition to the 'General Terms' and 'Claims Conditions and Requirements'.

10.4.1. Claims Evidence

Any claimant will as often as required submit to a medical examination on **our** behalf at **our** expense and in the case of death **we** will be entitled to have a post mortem examination at **our** expense.

10.4.2. Compensation Payment

- a) Compensation will not be payable for more than one of: death, **loss of limb, loss of sight, hearing or speech, permanent total disablement**;
- b) compensation for **temporary total disablement** will not be payable:
 - i until the end of the period of disablement but **we** will on request make interim payments not more frequently than at four (4) weekly intervals;
 - ii for more than one hundred and four (104) weeks from the date of sustaining the **bodily injury** in respect of any one **bodily injury** that is the subject of the claim;
- c) the amount payable as compensation for **temporary total disablement** will be deducted from any compensation becoming payable in respect of death, **loss of limb, loss of sight, hearing or speech, permanent total disablement** that follows from the same cause.

10.5. Exclusions and limitations applying to the Personal Accident section

In addition to the limitations and exclusions in the 'General Exclusions', **we** will not indemnify **you** under this **section** in respect of:

- a) Death, **loss of limb, loss of sight, hearing or speech, permanent total disablement** or **temporary total disablement** caused by:
 - i suicide or attempted suicide;
 - ii intentional self-inflicted **bodily injury**;
 - iii **bodily injury** caused by **your** own reckless act (other than to save human life);
 - iv sickness, illness or disease (not directly and solely resulting from the **bodily injury**);
 - v any naturally occurring cause or condition;
 - vi any degenerative condition;
 - vii any gradually operating process or cause;

- viii any mental, psychological or psychiatric condition including post-traumatic stress disorder;
 - ix engaging in air travel as a pilot or crew member;
 - x engaging in or taking part in naval, military or air force service or operations;
 - xi participation in any criminal act or civil commotion by **you**;
 - xii **you** being under the influence of or being affected by intoxicating liquor or drugs except drugs taken in accordance with proper medical prescription and directions but not for the treatment of drug addiction;
 - xiii **you** engaging in or taking part in a hazardous activity including but not limited to abseiling, activities necessitating the use of underwater breathing equipment, armed or unarmed combat sports, bungee jumping, climbing necessitating the use of ropes or guides, flying of any kind (other than as a passenger in a fully licensed passenger carrying aircraft), hunting, ice hockey, motor cycling other than by power assisted pedal cycle, parachuting, polo, pot holing or similar underground activities, professional sport, riding or driving in any kind of race, speed or duration test or practice therefor or winter sports;
 - xiv pregnancy or childbirth;
 - xv any medical, surgical or other remedial attention, treatment or appliances unless given or prescribed by a **healthcare practitioner**;
 - xvi any medical expenses which are recoverable from any other source, including another insurance.
- b) If the consequences of accidental **bodily injury** caused solely and directly by an **accident** of violent external and visible means are aggravated by any condition or physical disability which existed before the **bodily injury** occurred, the amount of any compensation payable under this insurance in respect of the consequences of the **bodily injury** shall be the amount which it is reasonably considered would have been payable if such consequences had not been so aggravated.

11. Employers' Liability (optional)

Cover under this **section** is only provided if it is shown in the **schedule** as an **operative section**.

11.1. Employers' Liability Definitions

In addition to the defined terms contained in the 'General Definitions' **section**, the following definitions apply only to this **section**. These definitions replace any equivalent definition contained in the 'General Definitions' **section** where they are used in this **section**, unless an alternative definition is stated to apply.

11.1.1. Occurrence

Means an accident, including continuous and repeated exposure to substantially the same general harmful conditions, which gives rise to liability insured by this **section**. All accidents attributable to one original source or cause will be considered as a single occurrence.

11.2. Employers' Liability Cover

We will indemnify **you** in accordance with the terms of this **section** in respect of

- a) **your** legal liability to pay damages and claimant costs to an **employee**; and
- b) **defence costs**;

in respect of **personal injury** sustained by an **employee** resulting directly and solely from an **occurrence** taking place during the **period of insurance** arising out of and in the course of employment by the **business**:

- i within the **territorial limits**; or
- ii outside of the **territorial limits**, only if the injured **employee** is
 - (a) ordinarily employed by **you** within the **territorial limits** and normally a resident within the in the **territorial limits**;
 - (b) is working abroad in connection with the **business** for a contracted period not exceeding twelve (12) months;
 - (c) due to return at the end of the period.

11.3. Employers' Liability Extensions

The following extensions apply to this **section**.

11.3.1. Compensation for Court Attendance

We will indemnify **you** in respect of the costs of attendance at court to act as a witness at **our** request in connection with any claim for which **you** are entitled to be paid under this **section** and up to the maximum amounts per day stated in the **schedule** for each day on which attendance is required.

11.3.2. Corporate Manslaughter

We will indemnify **you** in respect of:

- a) legal costs and expenses incurred with **our** prior written consent; and
- b) prosecution costs awarded against **you**;

in the defence of criminal proceedings including an appeal against a conviction arising from such criminal proceedings brought under the Corporate Manslaughter and Corporate Homicide Act 2007 as a result of any death to an employee caused by an **occurrence** taking place during the **period of insurance** in the course of **your business** during the **period of insurance** and which may be the subject of payment under this **section**, provided that:

- i **our** maximum liability during any one **period of insurance** for all claims under this extension will not exceed the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section**;
- ii where **we** have already made a payment in respect of any legal costs or expenses incurred in connection with the defence of any criminal proceedings including appeals against conviction arising

from such criminal proceedings brought under the Corporate Manslaughter and Corporate Homicide Act 2007 arising out of the same occurrence which give rise to such proceedings any amount paid or payable by **us** will be deducted from the amount payable under this **section**;

- iii **we** agree in writing to the appointment of solicitors or counsel on **your** behalf prior to their appointment.

We will not indemnify **you** under this extension for:

- (a) any fines or penalties or the cost of implementing any remedial order or publicity order;
- (b) an appeal against any fines penalties remedial order or publicity order;
- (c) any costs incurred which result from the failure to comply with any remedial order or publicity order;
- (d) costs and expenses in connection with any appeal unless advice has been obtained from solicitors or counsel approved by **us** that there are strong prospects of success;
- (e) costs and expenses in connection with the defence of any criminal proceedings resulting from any deliberate or intentional criminal act or omission by **you** or any other director, partner or **employee** of **yours**;
- (f) costs and expenses provided by any other source or any other insurance or where but for the existence of this extension would have been provided by such source or insurance;
- (g) costs and expenses in connection with the defence of any criminal proceedings unless such proceedings are brought against **you** in a Court of Law in **Great Britain**, Northern Ireland, the Isle of Man or the Channel Islands.

11.3.3. **Health and Safety at Work etc. Act 1974**

We will indemnify **you** and at **your** request any director, partner or **employee** against legal costs and expenses incurred, with **our** written consent, in the defence of any criminal proceedings brought in respect of a breach of the Health and Safety at Work etc. Act 1974 committed or alleged to have been committed during the **period of insurance** in the course of **your business**, including legal costs and expenses incurred with **our** written consent in an appeal against a conviction arising from such proceedings.

- a) **our** maximum liability during the **period of insurance** for all claims under this extension will not exceed the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section**;
- b) where **we** have already made a payment in respect of any legal costs or expenses incurred in connection with the defence of any criminal proceedings including appeals against a conviction arising from such criminal proceedings brought under Health and Safety at Work etc. Act 1974 or similar legislation in Northern Ireland, the Channel Islands or the Isle of Man arising out of the same **occurrence** which give rise to such proceedings any amount paid or payable by **us** will be deducted from the amount payable under this **section**;
- c) **we** agree in writing to the appointment of solicitors or counsel to act on **your** behalf prior to their appointment.

We will not indemnify **you** under this extension for:

- (a) any fines or penalties or the cost of implementing any remedial order or publicity order;
- (b) an appeal against any fines, penalties, remedial order or publicity order;
- (c) costs and expenses provided by any other source or any other insurance or, which but for the existence of this extension, would have been provided by such source or insurance;
- (d) proceedings arising out of any deliberate act or omission by **you**.

11.3.4. **Indemnity to Other Persons**

We will indemnify at **your** request:

- a) any of **your** directors, partners or **employees**;

- b) any officer, committee member or other person employed by **you** catering, social, sports, educational or welfare organisations or first-aid, medical, ambulance, fire or security services;
- c) any director, partner or official for whom with **you** consent an **employee** is undertaking private work;
- d) any principal or public or local authority as far as is necessary to meet the requirements of any contract or agreement entered into by **you** for the performance of work;
- e) the owner of plant hired by **you** but only to the extent of the conditions of hire;
- f) any legal representative of any of the above in the event of their death;

for amounts which they are legally liable in respect of which **you** would have been entitled to indemnity under this **section** if the claim had been made against **you**, provided that:

- i any person is not entitled to be paid under any other insurance;
- ii any person will be subject to and will observe and fulfil the applicable terms and conditions of the **policy** as far as they can apply;
- iii **we** will retain the sole conduct and control of any claim;
- iv the total amount **we** will pay for damages to **you** and any such persons will not exceed the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section** .

11.3.5. Unsatisfied Court Judgments

In the event that damages or costs awarded to an **employee** who has obtained a judgment for damages, in a court of law except a court operating under the laws of the United States of America or Canada, during the **period of insurance** which remains unsatisfied in whole or in part six (6) months after the date of such judgment **we** will indemnify **you** for the unpaid damages and awarded costs only if:

- a) the damages awarded are for a **personal injury** to the **employee** that arises out of their employment by **you** in the course of **your business**;
- b) the damages are awarded against a person operating from premises in the **United Kingdom** or European Economic Area;
- c) there is no appeal outstanding; and
- d) the judgment relates to **personal injury** which would otherwise be indemnified by this **section**.

At **your** request **we** will pay the amount of damages or costs awarded to the **employee** or their personal representatives.

We will be entitled to take over and prosecute for **our** own benefit any claim against any other person and **you**, the **employee** or the personal representatives of the **employee** must give **us** all the information and assistance **we** may require.

11.4. Maximum Amount Payable

The maximum amount **we** will pay under this **section** in respect of damages (including interest), claimant costs and **defence costs** in connection with any one **occurrence** during the **period of insurance** will not exceed:

- a) £5,000,000 for **personal injury** which is directly or indirectly caused by, contributed to by, results from or arises out of or in connection with any act of **war** or **act of terrorism** or any action taken in controlling, preventing, suppressing, retaliating against responding to or in any way relating to any act of **war** or **act of terrorism** during the **period of insurance**;
- b) in respect of any other **personal injury**, the **limit of indemnity** stated in the **schedule** for this **section**.

Unless expressly stated elsewhere in this **policy** or the **schedule** the maximum amount **we** will pay in respect of any applicable extensions provided by this **section** shall be within and not in addition to the maximum amount **we** will pay in accordance with this condition.

11.5. Other Employers' Liability Terms and Conditions

The following conditions apply to this **section** in addition to the 'General Terms' and Claims 'Conditions and Requirements'.

11.5.1. Certificate of Employers' Liability Insurance

If this **policy** or this **section** is cancelled then any Certificate of Employers' Liability insurance issued by **us** is deemed to be cancelled at the same time.

11.5.2. Cross Liabilities

Where there is more than one person named as the 'Insured' in the **schedule** this **section** will apply separately to each named person as if each is insured by a separate **policy**, provided always that **our** maximum liability in the aggregate for damages to all parties insured will not exceed the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section**.

11.5.3. Discharge of Liability

At any time **we** may pay to **you** in connection with any claim or series of claims:

- a) a sum equal to the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section** less any amount **we** have already paid;
- b) any lesser amount for which any such claim or series of claims can be settled.

On payment **we** will then cease to have the conduct and control of any negotiations, actions or proceedings and will be under no further liability for the claim or series of claims other than for costs and expenses incurred prior to the date of final payment provided that such costs and expenses do not exceed the maximum amount **we** will pay in accordance with the 'Maximum Amount Payable' condition in this **section**.

11.5.4. Our Right of Recovery

The indemnity granted by this **section** is deemed to comply with the provisions of the Employers' Liability (Compulsory Insurance) Act 1969 and the Employers Liability (Compulsory Insurance) Regulations 1998 or similar legislation in Northern Ireland, the Isle of Man and the Channel Islands.

We will indemnify an employee where any term of the policy is prohibited by the legislation or regulations cited above, provided that you must repay to us that part of our indemnity for which we would not otherwise have been liable under the policy.

11.5.5. Tracing Office database

We will add **your** details and those of any subsidiary companies to the Employers' Liability Tracing Office database where **we** provide an indemnity under the Employers' Liability (Compulsory Insurance) Regulations 1998.

You must supply **us** with **your** details and those of any subsidiary companies as required by the Employers' Liability Tracing Office at inception of the **policy** and promptly thereafter following any acquisition, disposal or creation of any **subsidiary company**.

11.6. Exclusions and limitations applying to the Employers' Liability section

In addition to the limitations and exclusions in the 'General Exclusions' **section**, **we** will not indemnify **you** under this **section** in respect of:

- a) liability for **personal injury** to any **employee** arising out of the ownership, possession or use by or on **your** behalf of any mechanically propelled vehicle or trailer if liability is required by any road traffic legislation to be the subject of compulsory insurance or other security;
- b) liability arising from **personal injury** to any **employee** working in or on any offshore installation or any support vessel for any offshore installation or whilst in transit to or from any offshore installation or support vessel.
- c) fines, penalties or liquidated, punitive or exemplary damages or any additional damages resulting from the multiplication of compensatory damages or other non-compensatory damages;
- d) any liability which is insured by or would but for the existence of this **section** be insured by any other policy except in respect of any excess beyond the amount payable under such other policy had this insurance not been effected;
- e) employment practice disputes involving **your employees** including but not limited to:
 - i wrongful unfair or constructive dismissal;

- ii denial of natural justice, defamation, misleading representation or advertising;
- iii refusal to employ a suitably qualified applicant or failure to promote; and
- iv coercion, demotion, evaluation, relocation, punishment, slander, humiliation, harassment, bullying or discrimination.

This exclusion will not apply in respect of compensatory damages for **personal injury** required by the Employers' Liability (Compulsory insurance) Regulations 1998.

- f) **defence costs** connected with any alleged breach of statutory duty or any allegation of manslaughter, corporate manslaughter or corporate homicide.

12. General Exclusions

The following 'General Exclusions' apply to all **sections** and **sub-sections** of this **policy** including any extensions, unless otherwise expressly provided either in this **section** or in another **section** of the **policy**.

In some cases a 'General Exclusion' has particular relevance to the cover provided under an extension and so it is highlighted in the extension. However, in such cases (i) the extension in question remains subject to all other general exclusions and (ii) the exclusion so highlighted remains applicable to all other parts of the **policy** and not just the extension where it is highlighted.

Defined terms (in bold text) in the **sub-sections** below may be found within the 'General Definitions' **section** and/or within the specific definitions within other **section(s)** (to which the individual **sub-sections** below may relate). Where a term is defined in both the 'General Definitions' **section** and/or in one or more other **sections**, **the** specific definition relevant to the **section** will prevail.

Unless expressly provided otherwise, **we** will not indemnify **you** for any loss, or liability which is caused or contributed to by any of the following:

12.1. General Exclusions applicable to all Sections

We will not indemnify you for loss or damage to any property whatsoever or any claim, cost or expense whatsoever resulting or arising therefrom or any consequential loss or any liability of whatsoever nature directly or indirectly caused by or contributed to by or arising from:

12.1.1. Aircraft travelling at supersonic speeds

pressure waves caused by aircraft or other aerospace devices travelling at sonic or supersonic speeds.

12.1.2. Confiscation

confiscation, nationalisation, requisition or expropriation of property by any acts of any government or public, municipal, local or customs authority regardless of any other cause or event contributing concurrently or in any other sequence thereto.

12.1.3. Cyber risks – Public and Products Liability and Employers' Liability Sections

in respect of the 'Public and Products Liability' and 'Employers' Liability' **sections** only:

- a) **cyber act** or **cyber incident** including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any **cyber act** or **cyber incident**; or
- b) loss of use, reduction in functionality, repair, replacement, restoration, reproduction, loss or theft of any **data**, including any amount pertaining to the value of such **data**;

regardless of any other cause or event contributing concurrently or in any other sequence thereto, and subject to the provisions below.

Paragraph 12.1.3.. a) above will not apply in respect of any actual or alleged liability for:

- i any ensuing third party bodily injury, death, physical illness or disease; or
- ii any ensuing physical **damage** to or destruction of third party property;

caused by a **cyber incident**, unless that **cyber incident** is contributed to by a **cyber act**.

This exclusion will not apply to:

- a) the 'General Data Protection Regulations' extension in the 'Public and Product Liability' **section** only if the 'Public and Product Liability' **section** is specified as 'Insured' in the **schedule**; or
- b) any consequent **personal injury**, for which cover is expressly provided elsewhere in the **policy** and if specified as 'Insured' in the **schedule**.

We will not indemnify **you** for any action taken in controlling, preventing, suppressing or remediating a **cyber incident** or a **cyber act**.

12.1.4. Cyber risks – Property Damage and Personal Accident Sections

in respect of the 'Property Damage' and 'Personal Accident' **sections**:

- a) **cyber loss** including, but not limited to, any action taken in controlling, preventing, suppressing or remediating any **cyber loss**; and
- b) **damage**, loss, interruption or interference, liability, claim, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, or arising out of or in connection with any loss of use, reduction in functionality, repair, replacement, restoration or reproduction of any **data**, including any amount pertaining to the value of such **data**;
 regardless of any other cause or event contributing concurrently or in any other sequence thereto, and subject to the provisions below.

However paragraph 12.1.4. a) above will not apply to any **damage to property insured** under this **policy** caused by any fire or explosion directly and solely caused by a **cyber event** although paragraph 12.1.4. a) will continue to apply where the **cyber event** is itself caused by a **cyber act**;

Paragraph 12.1.4. b) above will be subject to the proviso that, should **data processing media** owned or operated by **you** suffer **damage** insured by this **policy**, then this **policy** will cover the cost to repair or replace the **data processing media** itself plus the costs of copying the **electronic data** from back-up or from originals of a previous generation. These costs will not include research and engineering nor any costs of recreating, gathering or assembling the **electronic data**. If such media is not repaired, replaced or restored the basis of valuation will be the cost of the blank **data processing media**. However, this **policy** excludes any amount pertaining to the value of **electronic data**, to **you** or any other party, even if such **electronic data** cannot be recreated, gathered or assembled.

12.1.5. **Radioactive Contamination and Weapons**

- a) ionising radiations from or contamination by radioactivity from any irradiated nuclear fuel or from any nuclear waste from the combustion of nuclear fuel;
- b) the radioactive, toxic, explosive or other hazardous 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, but the exclusion in this paragraph (d) shall 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.

As far as concerns **personal injury** caused to any **employee** of yours if such **personal injury** arises out of and in the course of employment or engagement of such person by **you** this exclusion shall apply only in respect of:

- i the liability of any principal;
- ii liability assumed by **you** under agreement and which would not have attached in the absence of such agreement.

12.1.6. **War and Terrorism**

- a) any act of **war** or **act of terrorism**;
- b) any action controlling, preventing, suppressing, retaliating against or responding to any act of **war** or **act of terrorism**;

regardless of any other cause or event contributing concurrently or in any other sequence thereto, and subject to the provisions below.

In any action, suit or other proceedings where **we** allege that by reason of this exclusion any **damage**, loss, interruption or interference or **personal injury** or **bodily injury** is not covered by the **policy**, the burden of proving that such loss is covered will be upon **you**.

This exclusion will not apply to the extent that if it did not apply, any claim would be covered by the 'Employers' Liability' **section** if shown as 'Insured' in the **schedule**.

This exclusion does not apply to the 'Public and Product Liability' **section** which contains a separate exclusion in relation to **war** and **act of terrorism**.

12.2. General Exclusions applicable to the Property Damage and Personal Accident Sections

We will not indemnify you for any loss, damage or any claim, cost or expense of whatsoever nature directly or indirectly caused by, contributed to by, resulting from, arising out of or in connection with:

12.2.1. Communicable Disease

- a)
 - i a **communicable disease**; or
 - ii the fear or threat (whether actual or perceived) of a **communicable disease**;regardless of any other cause or event contributing concurrently or in any other sequence thereto.
The above Exclusion includes, without limitation to the scope of the foregoing:
 - (a) any cost to clean up, detoxify, remove, monitor or test:
 - (i) for a **communicable disease**; or
 - (ii) any property insured hereunder that is affected by such **communicable disease**, and
 - (b) any measures or actions taken, restrictions imposed or advice or instructions given by any **competent authority** (including but not limited to the Police, national or local governmental, public or other authority, statutory bodies or **professional or regulatory bodies** or any other person) in connection with the investigation, prevention, suppression, mitigation, cleaning or removal of any **communicable disease**.
- b) However, paragraph 12.2.1. a) shall not apply to physical loss or destruction of, or physical damage to, property and any resulting consequential loss, to the extent that **you** establish that such physical loss, destruction or damage was directly caused by:
 - i an **act of terrorism**; or
 - ii a **defined peril**, as described below;where specifically insured by this **policy**.

All other terms, conditions and exclusions of the insurance remain the same.

The following definitions apply to this exclusion:

"communicable disease" means any type of disease or illness which can be transmitted by means of any substance or agent from any organism to another organism where:

- a) the substance or agent includes, but is not limited to, any pathogen, virus, bacterium, parasite or other organism or any variation thereof, whether deemed living or not; and
- b) the method of transmission, whether direct or indirect, includes but is not limited to, airborne transmission, bodily fluid transmission, transmission from or to any surface or object, solid, liquid or gas, or between organisms; and
- c) the disease, illness, substance or agent can cause or threaten damage to human health or human welfare or can cause or threaten damage to, deterioration of, loss of value of, marketability of or loss of use of property of any type";

"defined peril" means one of the following perils if specifically insured by this insurance:

fire (howsoever caused); lightning; explosion; aircraft and aerial devices dropped from them; riot; civil commotion; strikers; damage caused by malicious persons; windstorm; rainstorm; hail; tornado; cyclone; typhoon; hurricane; earthquake; seaquake; seismic and/or volcanic disturbance/eruption; flood (howsoever caused); freeze; ice storm; weight of snow or ice; avalanche; meteorite or asteroid impact; landslip; landslide; mudslide; escape of water, oil or hydraulic fluid from any tank, apparatus or pipe; sprinkler leakage; impact by any road vehicle or animal; theft or attempted theft; mechanical or electrical breakdown; subsidence; heave; implosion; or collapse";

12.2.2. Gradually Operating Causes

wear, tear or any gradually operating cause.

12.2.3. Northern Ireland

riot, civil commotion and (except in respect of **damage** or any expense caused by fire or explosion) strikers, locked out workers or persons taking part in labour disturbances or malicious persons happening in Northern Ireland.

12.2.4. Pollution

pollution not otherwise excluded unless such **pollution** is caused by a sudden, identifiable, unintended and unexpected event which occurs in its entirety at a specific time and place during the **period of insurance** and arising out of the **business** specified in the **schedule**.

12.2.5. Process of Heat

property undergoing any process involving the application of heat.

12.2.6. Theft by Principals

theft or attempted theft where **you** or any director, partner or **employee** of **yours** or any member of **your family** or household be concerned as principal or accessory.

12.2.7. Unexplained Losses

disappearance, unexplained loss, inventory shortage, misfiling or misplacing of information.

12.2.8. Vacant Premises

theft or attempted theft, malicious damage, leakage of water following bursting or overflowing of water pipes, water apparatus or water tanks or from any automatic sprinkler installation, leakage of oil or breakage of glass and sanitary ware:

- a) during any period when the **business** has ceased to trade whether the **premises** are unfurnished or otherwise;
- b) whilst the buildings are insufficiently furnished for normal trading purposes or not lived in by any adult person with **your** permission.

12.3. General Exclusions applicable to the Public and Products Liability and Professional Indemnity Sections

We will not indemnify you for any cost, expense or legal liability directly or indirectly caused by, contributed to by, resulting from or arising out of or in connection with any of the following regardless of any other cause or event contributing concurrently or in any other sequence to the loss:

12.3.1. Asbestos

- a) any liability arising directly or indirectly out of exposure to, inhalation of, or fears of the consequences of exposure to or inhalation of asbestos, asbestos fibres or any derivatives of asbestos;
- b) the cost of cleaning up, or removal of, or damage to property or any product arising out of any asbestos, asbestos fibres or any derivatives of asbestos (except where expressly stated elsewhere in this **policy**).

12.3.2. Electronic Risk

- a) authorised or unauthorised transmission of **electronic data**;
- b) the content of any website, **your** email, intranet or extranet;
- c) erasure, loss, distortion, corruption or alteration of **electronic data** or any loss of use resulting in reduction of functionality;
- d) failure of electronic, electromechanical data processing or electronically controlled equipment or **electronic data** to correctly recognise any given date or to process data or to operate properly due to a failure to recognise any given date.

12.3.3. Pollution

- a) **Personal injury** or **bodily injury** or financial loss of, **damage** to or loss of use of property directly or indirectly arising out of the discharge, dispersal, release or escape of **pollution** not otherwise

excluded unless caused by a sudden, identifiable, unintended and unexpected event which occurs in its entirety at a specific time and place during not more than one **period of insurance** and arising out of the **business** specified in the **schedule**;

- b) the cost of removing, nullifying or cleaning up of **pollution** not otherwise excluded unless caused by a sudden, identifiable, unintended and unexpected event which occurs in its entirety at a specific time and place during not more than one **period of insurance** and arising out of the **business** specified in the **schedule**.

13. Claims Conditions and Requirements

Defined terms (in bold text) in the **sub-sections** below may be found within the 'General Definitions' **section** and/or within the specific definitions within other **section(s)** (to which the individual **sub-sections** below may relate). Where a term is defined in both the 'General Definitions' **section** and/or in one or more other **sections**, the specific definition relevant to the **section** will prevail.

Unless expressly stated elsewhere in this **policy** the conditions and requirements of this **section** apply to all **sections** of this **policy**. If non-compliance with the conditions of this **section** increases the amount **we** may be liable to pay for a claim under this **policy** **we** may not pay the amount of the claim that is increased by the non-compliance with this **section**.

13.1. Claim notification

Please refer to the 'Claim Notification' **section** (section 3) for claims notification contact details.

13.2. Claim notification – CONDITIONS PRECEDENT

We will only indemnify **you** if you comply with the following claim conditions precedent.

Compliance with this term is not a condition precedent for the purpose of the 'Employers' Liability' **section**.

13.2.1. All sections except Legal Expenses section

Notification and procedure

You must

- a) notify us as soon as reasonably possible on becoming aware of:
 - i a verbal or written communication addressed to **you** which seeks to hold **you** liable for loss, or expresses an intention to do so;
 - ii an **occurrence** or circumstance which may give rise to a claim under the **policy**, including but not limited to:
 - (a) an inquest, fatal accident inquiry, prosecution, public inquiry or other proceedings;
 - (b) **personal injury** to an **employee** in the course of employment by **your business**;
 - (c) a **RIDDOR** incident involving any person;
 - (d) an Industrial Tribunal hearing which includes allegations of **personal injury** or **damage**;
 - (e) **personal injury** or **damage** sustained by anyone on any premises which are owned or occupied by **you**;
 - (f) **personal injury** or **damage** sustained by any of **your** direct or indirect customers involving **your products**;
 - (g) any **bodily injury** to **you**;
 - iii any other circumstance which may give rise to a claim under the **policy**;
- b) notify **us** within twenty-one (21) days of the event in the case of **damage** caused by riot, civil commotion, strikers, locked outworkers, persons taking part in labour disturbances or malicious persons;
- c) give immediate notice to the police authority of **damage** caused by theft or malicious persons, and take all practical steps to discover any guilty person or persons and recover the property lost;
- d) follow the claim procedures applicable for the **section** of cover under which a claim is notified (if applicable);

Notice under 13.2.1. a) and b) must include full particulars and be provided by telephone or email using the applicable claims notification contact details for the **section** under which the claim is being notified. The applicable claims notification contact details are provided in the 'Claim Notification' **section**.

13.2.2. Legal Expenses section

If **you** need to make a claim under the 'Legal Expenses' **section you** must notify ARAG as soon as possible.

- a) If an **insured person** instructs their own solicitor or accountant without telling ARAG, they will be liable for costs that are not covered by this **policy**.
- b) A claim form can be downloaded at **www.arag.co.uk/newclaims** or requested by telephoning **0330 303 1955** between 9am and 5pm weekdays (except bank holidays).
- c) The completed claim form and supporting documentation can be returned by email, post or fax. Further details are set out in the claim form itself.
- d) ARAG will send the **insured person** a written acknowledgment by the end of the next working day after receiving their claim form.
- e) Within five (5) working days of receiving all the information needed to assess the availability of cover under the 'Legal Expenses' **section**, ARAG will write to **you** either:
 - i confirming cover under the terms of this **policy** and advising the **insured person** of the next steps to progress their claim; or
 - ii if the claim is not covered, ARAG will explain in full the reason why and advise whether they can assist in another way.

When a representative is appointed they will try to resolve your dispute without delay, arranging mediation whenever appropriate. Sometimes matters cannot always be resolved quickly particularly if the other side is slow to cooperate or a legal timetable is decided by the courts.

13.3. General Claims Conditions

13.3.1. Your Duties

For every claim **you** and every person acting on **your** behalf must:

- a) on the occurrence of any **incident**, accident, event, **circumstance**, loss or **damage** act with due diligence and undertake or permit to be undertaken all tasks reasonably practicable to minimise the loss;
- b) provide **us** or **our** appointed agent with copies of any legal documents relating to an occurrence within three (3) business days of receipt;
- c) not admit or repudiate liability without **our** written consent;
- d) always act honestly;
- e) give **us** all information, assistance and forward all documents to enable **us** to investigate, settle or resist any claim as **we** may require;
 - i within twenty one (21) days of **damage** caused by riot civil commotion, strikers, locked outworkers, persons taking part in labour disturbances or malicious persons;
 - ii within thirty (30) days after **damage** (or expiry of the **indemnity period** in the case of business interruption, loss of registration certificate or loss of licence) with a written account of those articles or portions of **property insured damaged**, the amount of the **damage** based on the value at the time it took place, and full details of any business interruption loss together with supporting accounts and financial information;
 - iii in accordance with any other timescales set out in the **section** of cover for which the claim is notified;
unless **we** have agree in writing to a different timescale for the provision of such information, assistance and documents;
- f) in a timely manner provide all evidence and information in respect of the claim as **we** may reasonably require together with (if **we** ask for it):
 - i a statutory declaration of the truth of the claim and any matters connected with it;
 - ii authorisation to obtain relevant information held by third parties, including medical records;

- g) co-operate with **us** or **our** appointed agents to allow compliance with any relevant practice directions and pre-action protocols and recoveries;
- h) have, operate and maintain adequate internal systems, which allow for ready access to material information;
- i) not destroy evidence or supporting information or documentation without **our** prior written consent;
- j) not destroy any property that may give rise to a claim;
- k) allow **us** to enter any building where **damage to property insured** by this **policy** has occurred and to take possession of and deal with any salvage in a reasonable manner. No property may be abandoned to us;
- l) comply with any reporting obligations provided for under data protection law; and
- m) pay any applicable **excess** on demand to comply with any settlement agreed by **us**.

You will provide **us** with all details, information and evidence **we** require at **your** own expense unless cover for such expense is expressly provided for by this **policy**.

13.3.2. **No admission of liability – CONDITIONS PRECEDENT**

We will only indemnify **you** if **you** comply with the following claim condition precedent.

For every claim **you** and every person acting on **your** behalf must not admit responsibility, liability, make an offer or promise, or offer payment or indemnity without **our** prior written consent.

Compliance with this term is a condition precedent to **our** liability under all **sections** of the **policy** except the 'Employers' Liability' section.

13.3.3. **Fraudulent Claims**

For the purposes of this condition the definition of **you**, **your**, **yours**, **policyholder** will also include any person who is entitled to benefit from the **policy** to the extent that a claim is made by or on their behalf.

If **you** or anyone acting on **your** behalf makes a claim which is in any way fraudulent **we**:

- a) will not pay the claim;
- b) may recover from **you** any sums already paid by **us** in respect of the claim;
- c) may notify **you** that **we** are treating this **policy** as having terminated with effect from the time of the fraudulent act. Where **we** treat this **policy** as having terminated **you** will have no cover under this **policy** from the date of termination and will not be entitled to any refund of premium.

Where a fraudulent claim is made by or on behalf of a person who is not the **policyholder** this condition applies only to that person's claim and references to 'this **policy**' should be read as if they were references to the cover for that person alone and not to the **policy** as a whole.

Fraudulent claims include but are not limited to:

- i making a claim which is fraudulent, fictitious or known to be false;
- ii intentionally exaggerating or inflating a claim;
- iii supporting a claim with false or forged documents, information or statements;
- iv wilfully causing loss, **damage** or injury.

13.3.4. **Other Insurances**

Unless stated otherwise elsewhere in this **policy** where **damage**, loss or liability which is the subject of a claim under this **policy** is covered by any other insurance **we** will only pay **our** rateable proportion of the claim.

13.3.5. **Our rights**

For every **claim**:

- a) **We** will have conduct of any potential insured claim which may be subject to an indemnity and may take over the defence or settlement of any claim in **your** name.

- b) **We** may at any time pay the applicable **limit of indemnity, limit of liability, maximum amount payable or compensation limit** (after deduction of any sums already paid) or such lesser sum for which the claim can be settled and on payment **we** will relinquish the conduct and control of the claim and thereafter be under no further liability except (where payable under the relevant **section**) for payment of **defence costs** incurred prior to the date of payment.
- c) **We** may at any time require **you** to reimburse **us** for payments made under the **sections** that do not exceed the **excess**.
- d) **You** must reimburse **us** for any **defence costs** and paid damages including claimant costs recoverable from **you** and incurred in connection with such insured event where any settlement figure does not exceed the **excess**.

13.3.6. Subrogation

- a) Except where expressly provided otherwise elsewhere in the **policy**, **you** and any person acting on **your** behalf must not waive any rights of recourse or recovery against any other person relating to an occurrence, claim, loss or suit that may give rise to a claim.
- b) **We** will be entitled to undertake in **your** name or on **your** behalf:
 - i the defence or settlement of any claim;
 - ii steps to enforce rights against any other party before or after payment is made by **us**.
- c) **You** or any other party insured by the **policy** must, at **our** request and expense undertake such acts as may be required for the purpose of enforcing any rights and remedies whether or not **we** have indemnified **you**. If **you** have any uninsured losses that are properly recoverable against a third party which **we** intend to pursue by way of a subrogated claim, **we** will, at **your** request, include **your** uninsured losses in the subrogated claim. **We** will have sole control over the conduct, strategy, management and settlement of the subrogated claim and **we** will fund all legal costs. **We** will pay **you** any recovery from the subrogation proceedings, less expenses incurred by **us** in such proceedings, in the proportion that the amount that:
 - i any applicable **excess**; and
 - ii any provable and recoverable uninsured loss;
 bears to the whole loss amount.

13.3.7. Terms not Relevant to Actual Loss

If payment of a claim is conditional upon compliance with any term of this **policy** **we** will not pay for any claim where there has been non-compliance with any term of this **policy**, other than a term that defines the risk as a whole and compliance with such term would tend to reduce the risk of loss:

- a) of a particular kind; and/or
- b) at a particular location; and/or
- c) at a particular time;

where **we** will pay for claims if **you** can prove that non-compliance with the term could not have increased the risk of loss, **damage**, injury or liability which occurred in the circumstances in which it occurred.

14. General Terms

The following 'General Terms' apply to all **sections** and **sub-sections** of this **policy** including any extensions, unless otherwise expressly provided.

Defined terms (in bold) in the **sub-sections** below may be found within the 'General Definitions' **section** and/or within the specific definitions within other **section(s)** (to which the individual **sub-sections** below may relate). Where a term is defined in both the 'General Definitions' **section** and/or in one or more other **sections**, the specific definition relevant to the **section** will prevail.

14.1. Applicable law and jurisdiction

The law applying to the **policy** will be the law applying in that part of the **United Kingdom**, Channel Islands or Isle of Man where **you** have **your** principal place of business.

Any dispute or legal proceedings between **you** and **us** in connection with the **policy** will be subject to the exclusive jurisdiction of the courts of England and Wales.

14.2. Application of Excess

Where an **excess** is stated in the **policy** or **schedule you** will be responsible for paying an **excess** in relation to each and every claim made by **you** under this **policy**. This amount shall not be deducted from the applicable **sums insured, limits of indemnity, limits of liability, maximum amounts payable** and **compensation limits** in order to calculate the amount of the indemnity we will pay you under the **policy**.

Where more than one **excess** could be applied to a claim or loss resulting from the same cause at the same time under any **section** or **sections** of the **policy**, only the single highest **excess** will be applied.

14.3. Assignment

Assignment of interest under the **policy** will not bind **us** unless and until **our** written consent is endorsed hereon.

14.4. Cancellation

Your rights to the cancel the policy

You may cancel this **policy** by giving written notice of cancellation to **us**, quoting **your policy** number:

- a) within fourteen (14) days from the inception day of the **policy**. **You** have the right to cancel the **policy** free of charge and to receive full refund of premium under this **policy**,
- b) after fourteen (14) days from the inception day of the **policy**. **We** may refund any unearned premium calculated pro-rata to the annual premium;

provided that there have been;

- i no claims made under the **policy** for which **we** have made a payment;
- ii no claims made under the **policy** which are still under consideration;
- iii no incident likely to give rise to a claim but is yet to be reported to **us**;

during the current **period of insurance**.

If **you** cancel this **policy** after fourteen (14) days from the inception day of the **policy**, there will be an additional charge of £40 to cover the administrative cost of providing the insurance.

This termination will be without prejudice to **your** or **our** rights or claims incurred prior to the expiration of such notice. If a claim has been submitted or there has been any incident likely to give rise to a claim during the current **period of insurance** no refund for the unexpired portion of the premium will be given.

Our rights to cancel the policy

We or any agent appointed by **us** and acting with **our** authority have the right to cancel **your policy** at any time during the **period of insurance**, where there is a valid reason for doing so.

Where **we** have not been able to collect premium and **you** have not paid a premium when it is due **we** may give **you** written notice cancelling the **policy** with effect from the seventh (7th) day after the notice has been

served on **you**. Notice of cancellation is deemed to be served on the third (3rd) day after being posted by pre-paid letter to the latest correspondence address **we** have for **you** shown on the schedule.

Where **we** cancel the **policy** for any other valid reason **we** will give **you** fourteen (14) days' notice of cancellation in writing, by recorded delivery, to the latest address **we** have for **you** shown on the **schedule**.

We will set out **our** reason for cancellation in **our** notice of cancellation. Valid reasons may include but are not limited to:

- a) where **you** are required to co-operate with **us** or provide **us with** information or documentation and **you** fail to do so in a way that materially affects **our** ability to process the **policy** or **our** ability to defend **our** interests;
- b) where **you** materially fail to take all reasonable precautions to prevent or minimise **damage**, accident or injury as required by the 'Minimisation of risk' condition of the 'General Terms' **section** of this **policy**;

and fail to put this right when **we** ask **you** to by sending **you** seven (7) days written notice to **your** latest address **we** have for **you** shown on the **schedule**;

- c) where **we** reasonably suspect fraud;
- d) use of threatening or abusive behaviour or language, or intimidation or bullying of **our** staff or suppliers.

If **we** cancel **your policy**, **we** will refund the premium for the exact number of days left on the **policy** unless a claim or an incident likely to give rise to a claim has occurred during the current **period of insurance**. No refund will be given if a claim has been submitted or there have been any incidents likely to give rise to a claim during the current **period of insurance**.

14.5. Change of Risk or Interest

This **policy** will be avoided if:

- a) **your** interest ceases other than by death;
- b) the **business** is wound up or carried on by a liquidator or receiver or permanently discontinued;

at any time after the commencement of this insurance unless **we** have accepted the change.

Nothing contained in this **policy** will give any right against **us** to any person other than **you** except to a transferee approved by **us**.

14.6. Compliance with policy terms

You and anyone acting on **your** behalf must each comply with every applicable provision of the **policy**.

To the extent this insurance provides a benefit to any other party, **you** must arrange for each insured party to comply with every applicable provision of the **policy**.

If **you** or anyone acting on **your** behalf breaches any provision of the **policy**, **we** may, without prejudice to any of **our** other rights, reject or reduce sums payable to the extent that **our** liability under the **policy** has been incurred or increased by reason of the breach. If the breached term is a condition precedent, **we** will not indemnify **you** for any part of **your** claim.

If **we** have paid any sums to **you** or anyone acting on **your** behalf for which **we** were not liable (whether by reason of breach of any provision of the **policy** by **you** or anyone acting on **your** behalf or for any other reason) **you** must promptly repay such sums to **us**.

To the extent **we** waive all or some of **our** rights in relation to any obligation on **you**, this will not prevent **us** from relying on any provisions in the future and any delay in reliance or any partial reliance by **us** will not prevent **us** from relying on any such provisions, in whole or in part, in the future.

14.7. Contracts (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 the Contract (Third Party Rights) (Scotland) Act 2017 by any person who is not named as the **insured** and both **you** and **us** may amend, cancel or terminate 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.

14.8. Data privacy notice

Any personal data provided to **us** will be processed in compliance with all applicable laws and regulations and in accordance with the privacy notice which can be found at <https://qbeeurope.com/privacy-policy/>. Alternatively the **you** may contact **us** by writing to the Data Protection Officer to request a copy of the full privacy notice by email: dpo@uk.qbe.com or by writing to the: Data Protection Officer, QBE European Operations, 30 Fenchurch Street, London EC3M 3BD.

14.9. EU Coverage

a) Any automatic coverage provided by this **policy** for:

- i entities acquired by, merged with, or established by, **you**;
- ii property or other interests acquired by **you**; or
- iii additional insureds;

will not apply to the extent that, as a result of the **United Kingdom's** withdrawal from the European Union, **we** are not permitted by applicable law or regulation to provide that coverage and/or would become exposed to legal or regulatory sanction as a consequence of providing that coverage.

b) In the case of any grant or exclusion or restriction of coverage in respect of **your** liability under or compliance with European Union law or regulation, following the United Kingdom's withdrawal from the European Union, any reference in this **policy** to European Union law or regulation will include equivalent domestic laws of England & Wales, Scotland and/or Northern Ireland or equivalent **United Kingdom** regulation.

c) If this clause conflicts with any other clause in the **policy**, the terms of this clause will prevail.

14.10. Exchange rate

In the event of a payment being made under the **policy** in any other currency than pounds sterling (GBP), for the purposes of the 'Employers' Liability and 'Public and Products Liability' **sections** only the exchange rate applicable will be the free rate of exchange at the date that settlement is agreed and for all other **sections**, the exchange rate applicable for each month that the loss accrues will be the exchange rate at the mid-point of each month during the accrual of the loss.

14.11. Fair Presentation of the Risk

You must make a fair presentation of the risk when **you** first take out this **policy** and also whenever **you** renew it or ask **us** to change **your** cover.

14.11.1. Remedies for breach of the duty of fair presentation - proposing for this insurance

If **you** or anyone acting on your behalf breaches **your** duty of fair presentation then **our** remedies shall be as follows:

a) if such breach is deliberate or reckless, **we** may:

- i treat this **policy** as having been terminated from its inception; and
- ii retain the premium;

b) if such breach is not deliberate or reckless and **we** would not have entered into this **policy** but for the breach, **we** may by notice to you treat this **policy** as having been terminated from its inception in which case **we** shall return the premium; and

c) in all other cases if, but for the said breach, **we** would have entered into this **policy** but:

- i on different terms (other than terms relating to the premium), **we** may require that this **policy** is treated as if it had been entered into on those different terms from the outset; or

- ii 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 $X = (\text{premium actually charged/higher premium}) \times 100$.

14.11.2. Remedies for breach of the duty of fair presentation - Variation

If **you** or anyone acting on **your** behalf breaches **your** duty of fair presentation in relation to a variation of this **policy**, **our** remedies shall be as follows:

- a) if such breach is deliberate or reckless, **we** may:
 - i treat this **policy** as having been terminated from the time when the variation was concluded; and
 - ii retain the premium;
- b) if such breach is not deliberate or reckless and **we** would not have entered into the variation but for the breach, **we** may by notice to **you** treat this **policy** as having been terminated from the time when the variation was concluded in which case **we** shall return the relevant premium; and
- c) in all other cases if, but for the said breach, **we** would have entered into the variation but:
 - i on different terms (other than terms relating to the premium), **we** may require that the variation is treated as if it had been entered into on those different terms from the outset;
 - ii would have increased the premium by more than **we** did or at all, **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 $X = (\text{premium actually charged/higher premium}) \times 100$; or
 - iii would not have reduced the premium by as much as **we** did or at all, **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 $X = (\text{premium actually charged/reduced total premium}) \times 100$.

In respect to conditions 14.11.1 and 14.11.2, where this **policy** provides benefits to individuals who would, if they had taken out similar insurance in their own name, have done so for purposes wholly or mainly unconnected with their trade, business or profession, **we** will not rely on this condition if the failure to make a fair presentation of the risk concerns only facts or information which relate to that particular individual, unless the individual (or **you** on their behalf) makes a careless misrepresentation, in which case **we** may rely on this condition as against that particular individual as if a separate insurance contract had been issued to them leaving the remainder of the **policy** unaffected.

14.12. Inspection and audit

We or **our** representative will be permitted to inspect **your** property and operations with reasonable notice. Such inspections do not warrant that the property or operations are safe.

14.13. Insurance Act 2015

Nothing in the **policy** is intended to vary the provisions of the Insurance Act 2015.

14.14. Legislation and other requirements

All Acts of Parliament, laws, regulations, standard form contracts and permits (in each case, as applicable) referred to in this **policy** will include any deriving rule, order, regulation, permit, contract or instrument and will include any subsequent amendment, replacement, consolidation or reenactments.

14.15. Material changes during the policy period

You must notify **us** as soon as reasonably practicable and in any event within thirty (30) days of any material change to **you**, **your business** or the risks insured if indemnity under this **policy** is sought in relation to any such change.

We will not indemnify **you** for any liability arising out of a material change for which indemnity would otherwise have been available under this **policy** unless **we** have received notification from **you** of the material change

and **we** have provided valid confirmation of cover, whether by an express term of the **policy**, endorsement, written confirmation or otherwise and **you** have paid any additional premium that **we** require.

If the risk is unacceptable to **us** **we** may cancel the **policy** in accordance with 'Our Rights to Cancel the **Policy**' in the 'Cancellation' condition in this **section**.

If **you** do not tell **us** about a material change to **you**, **your business** or the risks insured by this **policy**, **we** may:

- a) terminate the **policy** back to the date when the change occurred, if **we** would have cancelled the **policy** had **you** told **us** of the change in risk;
- b) proportionately reduce the amount payable in respect of a claim; and/or
- c) treat the **policy** as if it contained such different terms (other than relating to the premium) that **we** would have applied to the **policy** had **you** told **us** of the change in risk.

Any reduction in claims payments or application of different terms will take effect from the date on which the change in risk occurred.

Where **we** elect to proportionately reduce the amount payable in respect of a claim, **we** will pay a percentage of the claim, calculated by comparing the premium which **you** actually paid with the premium which **we** would have charged had **you** told **us** about the change in risk. For example, if the premium which **you** actually paid is fifty percent (50%) of the premium **we** would have charged, **we** will only pay fifty percent (50%) of any claim.

14.16. Minimisation of risk

You must:

- a) take all reasonable steps at **your** own expense to prevent an accident, event, occurrence, loss or **damage** or injury arising or continuing;
- b) maintain the **premises**, machinery equipment and furnishings in a good state of repair;
- c) exercise due care in the selection and supervision of **employees**;
- d) comply with all relevant statutory requirements, manufacturers' recommendations and other regulations relating to the use, inspection and safety of property and the safety of persons.

You must take such steps at **your** own expense to the extent that cover under the **policy** has not been confirmed by **us**.

Upon the happening of any accident, event, occurrence, loss or **damage** or injury and at all times thereafter occurrence and at all times thereafter, **you** must act as a prudent uninsured and take all reasonable measures as are appropriate to avoid or minimise any claims which arise or may arise.

Any failure by **you** to take such steps will reduce or extinguish **our** liability to indemnify **you** under the **policy** to the extent that such failure has increased the claim under this **policy**.

14.17. Other parties

The interest of such other parties, including lessors, mortgagees, banks and hire purchase companies, is noted in this **policy** but only to the extent of their financial interest in the **property insured**.

In the event of any claim:

- a) **you** must immediately declare to **us** the names of such interested parties; and
- b) **we** will consult with such declared interested parties as regards the manner and method of any indemnity to protect the direct financial interests of such parties.

14.18. Premium adjustment

- a) Where the premium in whole or part is provisionally based on estimates provided by **you**, **you** will keep accurate records and provide such information as **we** require within three (3) months of the expiry of the **period of insurance**. The premium will then be adjusted, and any difference paid by **you**.
- b) At **our** request **you** must supply an auditor's certificate attesting to the accuracy of any calculations.

14.19. Records

We may hold documents relating to this **policy** 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.

14.20. Recovery of benefits

Where **your** liability in damages is reduced owing to the application of benefits and/or charges under the Compensation Recovery Unit, **your** liability in **damages** will be deemed to include such benefits and/or charges.

14.21. Registration – CONDITIONS PRECEDENT

We will only indemnify **you** if **you** comply with the following condition precedent. Before undertaking any **business** activities which require **you** to be registered, **you** shall be registered with the appropriate Registering Authority and comply with the terms of **your** registration at all times.

14.22. Reinstatement of Sum insured

In the event of **damage** under this **policy**, unless **we** provide written notice to the contrary, **we** will automatically reinstate the **sum insured**, provided that **you**:

- a) undertake to pay the **us** any additional premium **we** require; and
- b) implement any recommendations **we** make to prevent further **damage** within a timescale **we** reasonably require and effect all repair or replacement work without delay.

14.23. Representation

Where more than one entity is designated as 'Insured' the first named insured on the **schedule** will act on behalf of all named insureds and other parties covered under the **policy** with respect to the giving and receiving of any notices from us or their representatives including any notice of cancellation. The payment to the first named insured of any return premium that **we** may pay under the **policy** will satisfy our obligations to return premium to any other party covered by this **policy**.

14.24. Risk survey

- a) **We** reserve the right to carry out a survey at any time. **We** may choose to impose one or more risk improvement requirements as conditions or conditions precedent should they be of sufficient importance to **us**. **We** retain the right to cancel suspend or alter the terms of the insurance provided by this **policy** should the survey show the risk or any part thereof to be unacceptable to **us** or requiring improvement.
- b) Under no circumstances will a survey relieve **you** of **your** obligations to comply with all of the **policy** terms, conditions, conditions precedent and requirements and **you** should not assume that because a breach has not been raised during or following a risk survey that **we** are aware of it and have decided to accept it.
- c) **Your** compliance with risk improvement requirements imposed during previous **policy** years will continue to be required.

14.25. Sanctions limitation and exclusion

We will not provide cover nor indemnify **you** for any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose **us** or any member of **our** group to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of any country.

14.26. Tracing office database

We will add **your** details and those of any subsidiary companies to the Employers' Liability Tracing Office ("ELTO") database where **we** provide an indemnity under the Employers' Liability (Compulsory Insurance) Regulations 1998.

You must supply **us** with **your** details and those of any subsidiary companies as required by the ELTO at inception of the **policy** and promptly thereafter following any acquisition, disposal or creation of any subsidiary company.

The ELTO database assists claimants that have suffered an employment related injury or disease arising out of the course of their employment in the United Kingdom whilst working for employers carrying on, or who carried on, business in the United Kingdom and that are covered by the employers' liability insurance of their employers to identify: (i) which insurer(s) is (or are) or was (or were) providing employers' liability insurance to an employer during the relevant periods of employment; and (ii) the relevant employers' liability insurance policies. The ELTO database and the data stored on it may be accessed and used by claimants, their appointed representatives, insurers with potential liability for United Kingdom commercial lines employers' liability insurance and any other persons or entities permitted by law. The ELTO database will be managed by the ELTO and further information can be found on the ELTO website: www.elto.org.uk

15. How to Complain

15.1. Complaints to QBE and ARAG

You can complain about this **policy** by contacting **your** broker or by contacting **us**.

15.1.1. Non-Legal Expenses complaint

Where **your policy** is insured by QBE UK Limited or QBE Europe SA/NV (UK Branch) **you** can complain about the **policy** by contacting **us** using the following details.

By post: **Customer Relations, QBE European Operations, 30 Fenchurch Street, London EC3M 3BD**

By telephone: **+44 (0)20 7105 5988**

By email: **CustomerRelations@uk.qbe.com**

15.1.2. Legal Expenses complaint

If **your** complaint relates to the 'Legal Expenses' **section**, please contact ARAG plc using the following details.

By post: **The Customer Relations Department ARAG plc, 9 Whiteladies Road, Clifton, Bristol BS8 1NN**

By telephone: **0117 917 1561**

By email: **customerrelations@arag.co.uk**

Calls may be recorded for training and evidential purposes. (Hours of operation are 9am-5pm, Mondays to Fridays excluding bank holidays).

Using these services does not affect **your** right to take legal action.

Please be ready to provide all relevant details of **your policy** and in particular **your policy** or claim number (if allocated) to help **your** enquiry or complaint to be dealt with speedily.

You can also register a complaint with the European Union's Online Dispute Resolution (ODR) Platform. Their website is <http://ec.europa.eu/consumers/odr/>

The ODR will pass **your** complaint to the Financial Ombudsman Service.

15.2. UK Financial Ombudsman Service (UK FOS)

If **you** feel that **your** complaint has not been satisfactorily resolved, **you** may be eligible to contact the UK FOS to review the complaint.

Information about the eligibility criteria is available on the UK FOS website: <https://www.financial-ombudsman.org.uk/consumers/how-to-complain>.

You can contact the UK FOS via its website, or write to Exchange Tower, London E14 9SR, Tel: +44 (0)800 023 4567.

15.3. Financial Services Compensation Scheme (FSCS)

You may be entitled to compensation from the FSCS if **we** are unable to meet **our** obligations under the **policy**. Further information is available from www.fscs.org.uk, or **you** can write to the Financial Services Compensation Scheme, PO Box 300, Mitcheldean, GL17 1DY.



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